

1997-98 SESSION  
COMMITTEE HEARING  
RECORDS

Committee Name:

Joint Committee for  
Review of  
Administrative Rules  
(JCR-AR)

Sample:

- Record of Comm. Proceedings
- 97hrAC-EdR\_RCP\_pt01a
- 97hrAC-EdR\_RCP\_pt01b
- 97hrAC-EdR\_RCP\_pt02

➤ Appointments ... Appt

➤

➤ Clearinghouse Rules ... CRule

➤

➤ Committee Hearings ... CH

➤

➤ Committee Reports ... CR

➤

➤ Executive Sessions ... ES

➤ 97hr\_JCR-AR\_ES\_pt09

➤ Hearing Records ... HR

➤

➤ Miscellaneous ... Misc

➤

➤ Record of Comm. Proceedings ... RCP

➤

September 24, 1997

Executive Session

Honorable Richard Grobschmidt  
Honorable Glenn Grothman  
Page Two

Analysis

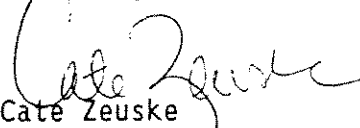
Sections Tax 11.05(2)(s) and 11.86(6) state that landscaping services (e.g., planting, mowing, and fertilizing grass) are only taxable when they are performed in developed areas. Similar services performed in undeveloped areas (e.g., along highways) were determined by the department to not be landscaping services and therefore, the sale of such services was not subject to sales or use tax.

In the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue* (8/29/96 and 4/4/97, Docket #93-S-569), the Wisconsin Tax Appeals Commission held that there was no statutory basis for the distinction made by the department that certain services performed in developed areas were landscaping while the same services performed in undeveloped areas were not landscaping.

The emergency rule was therefore promulgated to remove any threat of estoppel arguments and revenue loss to the state as a result of information contained in these rules that implies planting, mowing, fertilizing, and similar services performed in undeveloped areas are not taxable.

Thank you for your consideration in this matter.

Sincerely,

  
Cate Zeuske  
Secretary of Revenue

CZ:MPW:c11  
CKRUL/529

Enclosure

ORDER OF THE DEPARTMENT OF REVENUE  
ADOPTING AN EMERGENCY RULE

The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.52(2)(a)20., Stats., pursuant to the Wisconsin Tax Appeals Commission decision in the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue*.

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Analysis by the Department

Statutory authority: s. 227.24, Stats.

Statute interpreted: s. 77.52(2)(a)20., Stats.

SECTIONS 1 AND 2. Tax 11.05(2)(s) is amended and Tax 11.86(6) is repealed and recreated to reflect the Wisconsin Tax Appeals Commission decision in the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue*. The Commission held that whether grass seed, flowers, shrubs, etc. were planted, fertilized, etc. in developed areas or in undeveloped areas did not impact on whether such services were landscaping services under s. 77.52(2)(a)20., Stats.

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FINDING OF EMERGENCY

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

Sections Tax 11.05(2)(s) and 11.86(6), Stats., state that landscaping services (e.g., planting, mowing, and fertilizing grass) are only taxable when they are performed in developed areas. Similar services performed in undeveloped areas (e.g., along highways) were determined by the department to not be landscaping services and therefore, the sale of such services was not subject to sales or use tax.

In the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue* (8/28/96 and 4/4/97, Docket #93-S-569), the Wisconsin Tax Appeals Commission held that there was no statutory basis for the distinction made by the department that certain services performed in developed areas were landscaping while the same services performed in undeveloped areas were not landscaping.

It is necessary to promulgate this rule order to remove any threat of estoppel arguments and revenue loss to the state as a result of information contained in these rules that implies planting, mowing, fertilizing, and similar services performed in undeveloped areas are not taxable.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

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SECTION 1. Tax 11.05(2)(s) is amended to read:

Tax 11.05(2)(s) The gross receipts from landscaping and lawn maintenance services, including weed cutting in lawn, ~~and garden and other developed areas and along highways, streets and walkways~~, but not charges for damages described in sub. (3)(c).

SECTION 2. Tax 11.86(6) is repealed and recreated to read:

Tax 11.86(6) LANDSCAPING SERVICES. Gross receipts from landscaping and lawn maintenance services are taxable. Except as provided in sub. (5)(a), landscaping and lawn maintenance services include:

- a. Landscape planning and counseling.
- b. Lawn and garden services, such as planting, mowing, spraying and fertilizing.
- c. Shrub and tree services.
- d. Spreading topsoil and installing sod or planting seed where trenches have been dug or sump pump, transmission and distribution lines have been buried in residential, business, commercial and industrial locations, cemeteries, golf courses, athletic fields, stadiums, parking lots and other areas and along highways, streets and walkways.

Note to Revisor: Remove the example that follows sub. (6).

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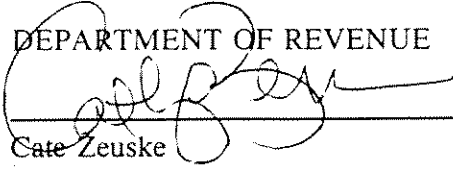
The rules contained in this order shall take effect upon publication in the official state newspaper as provided in s. 227.22(2)(c), Stats.

Dated :

Mar 13 1997

By:

DEPARTMENT OF REVENUE

  
Cate Zeuske  
Secretary of Revenue

**EMERGENCY RULE**

**1997 Session**

**FISCAL ESTIMATE  
DOA-2048 N(R10/94)**

- ORIGINAL                       UPDATED  
 CORRECTED                       SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.
<b>TAX 11.05 and 11.86</b>
Amendment No. If Applicable

**Subject**                      **Sales and Use Tax Treatment of Landscaping Services**

**Fiscal Effect**  
**State:**  No State Fiscal Effect  
 Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation

<input type="checkbox"/> Increase Existing Appropriation	<input type="checkbox"/> Increase Existing Revenues	<input type="checkbox"/> Increase Costs - May be Possible to Absorb Within Agency's Budget <input type="checkbox"/> Yes <input type="checkbox"/> No  <input type="checkbox"/> Decrease Costs
<input type="checkbox"/> Decrease Existing Appropriation	<input type="checkbox"/> Decrease Existing Revenues	
<input type="checkbox"/> Create New Appropriation		

**Local:**  No Local Government Costs

1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory  2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory  4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory	5. Types of Local Governmental Units Affected:  <input type="checkbox"/> Towns <input type="checkbox"/> Villages <input type="checkbox"/> Cities <input type="checkbox"/> Counties <input type="checkbox"/> Others _____  <input type="checkbox"/> School Districts <input type="checkbox"/> WTCS Districts
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<b>Fund Sources Affected</b>	<b>Affected Ch. 20 Appropriations</b>
<input type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S	

**Assumptions Used in Arriving at Fiscal Estimate**

The emergency rule updates the Wisconsin Administrative Code with respect to the sales and use tax treatment of landscaping services. The rule reflects a Wisconsin Tax Appeals Commission decision [*Straight Arrow Construction Company v. Department of Revenue*] that the distinction made by the Department between landscaping services performed in developed areas and similar services performed in undeveloped areas has no statutory basis. This rule change conforms to current law and, therefore, has no fiscal effect.

**Long-Range Fiscal Implications**

<b>Agency/Prepared by: (Name &amp; Phone No.)</b>	<b>Authorized Signature/Telephone No.</b>	<b>Date</b>
Wisconsin Department Of Revenue Craig D. Kammholz, (608) 261-8984	Yeang-Eng Braun (608) 266-2700 <i>Yeang-Eng Braun</i>	3/12/97

Tommy G. Thompson  
Governor

Linda Stewart  
Secretary



State of Wisconsin

Department of Workforce Development

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OFFICE OF THE SECRETARY  
201 East Washington Avenue  
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<http://www.dwd.state.wi.us/>

August 22, 1997

The Honorable Richard Grobschmidt  
Room 404, 100 North Hamilton Street  
Madison, Wisconsin 53702

The Honorable Glenn Grothman  
125 West, State Capitol  
Madison, Wisconsin 53702

Dear Senator Grobschmidt and Representative Grothman:

Administrative rule DWD 12, relating to the Wisconsin Works (W-2) program, was promulgated as an emergency rule on March 1, 1997, under s. 49.143 to 49.157, 49.26(1)(h)1.as. and 1m.c. and 103.005(1), Stats.

The Wisconsin Legislative Council assigned Clearinghouse Rule number 97-054 to DWD 12.

Public hearings were held on DWD 12 on May 21 and 28, 1997, and the deadline for written testimony was held open until June 4, 1997. The rule was submitted to the presiding officers of the Legislature on July 1, 1997.

The first 60 day extension, granted on 7/17/97, will expire on September 26, 1997.

This letter is a request for a second 60-day extension of the emergency rule. The Department expects to file the permanent rule in September to become effective on November 1, 1997.

If this emergency rule is not extended, the administrative rules will conflict with the statutory provisions of 1995 Wisconsin Act 289. On the basis of this emergency rule, the Wisconsin Works (W-2) program was implemented in Fond du Lac and Pierce Counties. W-2 will be implemented statewide in September 1997. Failure to extend the emergency rule would cause confusion and disruption in the implementation of the Wisconsin Works program.

Thank you for your consideration of this request. Please contact Katie Mnuk, the Department's Legislative Liaison, at 7-3200, if you have any questions concerning this request.

Sincerely,

A handwritten signature in black ink that reads "Linda Stewart". The signature is written in a cursive, flowing style.

Linda Stewart  
Secretary

Attachments



ORDER OF THE  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
RENUMBERING AND CREATING RULES

The Legislature in s.275(3) of 1995 Wisconsin Act 289 permitted the Department to promulgate the rules required under ss. 49.143 to 49.157, Stats., as created by Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency. These are the rules. They will take effect on March 1, 1997.

Analysis Prepared by the Department of Workforce Development

Wisconsin Works (W-2), the replacement program for the Aid to Families with Dependent Children (AFDC) program, is based squarely on work. Rather than offering welfare checks to those who do not work, as AFDC does currently, W-2 offers participants the opportunity to move into the work world and become self-sufficient through employment.

These rules provide the administrative framework under which the Department will implement a W-2 pilot program in two counties, Fond du Lac and Pierce, effective March 1, 1997. As the pilot counties for the Work Not Welfare program which began January 1, 1995, these two counties have had experience in implementing major welfare reform efforts. The W-2 program includes work opportunities, job-access loans, education and training activities to enhance employability, intensive case management, child care and child support enforcement and other employment supports such as transportation assistance and access to health care services under the Medical Assistance program.

Wisconsin Works (W-2) was authorized through enactment of 1995 Wisconsin Act 289 which Governor Thompson signed into law on April 25, 1996. Under s.49.141(2)(b), Stats., if a federal waiver is granted or federal legislation is enacted, the Department of Workforce Development could begin to implement W-2 no sooner than July 1, 1996 and must fully implement the W-2 program statewide in September 1997. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which ends the entitlement program under Title IV-A of the Social Security Act and creates a block grant program under which states receive monies to provide cash and other benefits to help needy families support their children while at the same time requiring families to participate in work program activities which will help them become self-sufficient. In general, a state may not use any part of the TANF grant to provide assistance to a family for more than 60 months.

States must ensure, under section 114 of P.L. 104-193, that families who meet the AFDC eligibility requirements in effect on July 16, 1996, have access to Medical



Assistance. Wisconsin has not yet obtained the necessary waivers or federal legislation that would allow the implementation of the W-2 health plan. Therefore, W-2 participants who meet the July 16, 1996, AFDC eligibility requirements or are eligible under s.49.46 or 49.47, Stats., and the implementing administrative rules, Chs. HFS 101-108, administered by the Department of Health and Family Services, may apply and be determined eligible for Medical Assistance.

Under W-2, there will be a place for everyone who is willing to work to their ability. The program is available to parents with minor children, low assets and low income who need assistance in becoming self-sufficient through employment. The W-2 program provides cash benefits only for those individuals who participate in W-2 employment and training activities. W-2 agencies have the option, for participants in a community service job or a transitional placement, to aggregate education and training hours for approved programs to allow an individual to participate in education and training activities for more than 10 or 12 hours per week within the first few months of participation. Each eligible W-2 applicant will meet with a Financial and Employment Planner (FEP) who will help the individual develop a self-sufficiency plan and determine their place on the W-2 employment ladder. The ladder consists of four levels of employment options, in order of preference: unsubsidized employment; subsidized employment through a trial job for those participants who need minimal assistance but where unsubsidized employment is not available; a community service job for those participants who need to practice work habits and skills necessary to move into unsubsidized employment; and transitional placement for those unable to perform independent, self-sustaining work. Individuals placed in a trial job will receive wages from an employer. Individuals placed in a community service job will receive a monthly benefit of \$555 and individuals placed in a transitional placement will receive a monthly benefit of \$518. W-2 participants are limited to 24 months in a single subsidized employment position category. Extensions may be granted on a limited basis when local labor market conditions preclude opportunities or when the participant has significant barriers which prevent him or her from obtaining unsubsidized employment. Child care is available for those individuals who have children under the age of 13 and need child care in order to work or participate in a W-2 employment position. The W-2 program will be administered by contracted agencies which may include counties, tribal agencies and private agencies in geographic areas determined by the Department.

These are the rules for implementation of the Wisconsin Works program. The rules include eligibility requirements for those individuals applying for a W-2 employment position or child care, time-limited benefits for participants in W-2 employment positions, good cause for failure or refusal to participate in W-2 employment positions or other required employment and training activities, how sanctions are applied for failure to meet the W-2 employment position participation requirements, and school attendance requirements under the Learnfare program for the children of W-2 employment position participants.

## ORDER

Pursuant to authority vested in the Department of Workforce Development in ss. 49.143 to 49.157, 49.26(1)(h)1.as. and 1m.c. and 103.005(1), Stats., the Department of Workforce Development hereby renumbers and creates rules interpreting ss.49.26 and 49.141 through 49.161, Stats., as follows:

SECTION 1. HSS 215 is renumbered DWD 15.

SECTION 2. Chapter DWD 12 is created to read:

### CHAPTER DWD 12 WISCONSIN WORKS

DWD 12.01	Authority and purpose	DWD 12.16	Work programs
DWD 12.02	Applicability	DWD 12.17	Job access loan
DWD 12.03	Definitions	DWD 12.18	W-2 employment position wages and benefits
DWD 12.04	Department responsibilities	DWD 12.19	Payment procedures
DWD 12.05	W-2 agency responsibilities	DWD 12.20	Determination of good cause
DWD 12.06	Application for Wisconsin works	DWD 12.21	Sanctions
DWD 12.07	Access to information	DWD 12.22	Review of agency decisions
DWD 12.08	Request for information	DWD 12.23	Recovery of overpayments
DWD 12.09	Eligibility for Wisconsin works	DWD 12.24	Noncustodial, minor and other custodial parents
DWD 12.10	Temporary absence	DWD 12.25	Learnfare
DWD 12.11	Verification	DWD 12.26	Child care
DWD 12.12	Eligibility date		
DWD 12.13	Review of eligibility		
DWD 12.14	Employer criteria		
DWD 12.15	Case management		

DWD 12.01 AUTHORITY AND PURPOSE. This chapter is adopted pursuant to ss. 49.141 through 49.161, Stats., to provide rules for the administration of the Wisconsin works program.

DWD 12.02 APPLICABILITY. This chapter applies to any private or public agency that administers the Wisconsin works program and to all applicants for and participants in the Wisconsin works program.

ORDER OF THE  
DEPARTMENT OF WORKFORCE DEVELOPMENT  
RENUMBERING AND CREATING RULES

The Legislature in s.275(3) of 1995 Wisconsin Act 289 permitted the Department to promulgate the rules required under ss. 49.143 to 49.157, Stats., as created by Act 289, by using emergency rulemaking procedures but without having to make a finding of emergency. These are the rules. They will take effect on March 1, 1997.

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These rules provide the administrative framework under which the Department will implement a W-2 pilot program in two counties, Fond du Lac and Pierce, effective March 1, 1997. As the pilot counties for the Work Not Welfare program which began January 1, 1995, these two counties have had experience in implementing major welfare reform efforts. The W-2 program includes work opportunities, job access loans, education and training activities to enhance employability, intensive case management, child care and child support enforcement and other employment supports such as transportation assistance and access to health care services under the Medical Assistance program.

Wisconsin Works (W-2) was authorized through enactment of 1995 Wisconsin Act 289 which Governor Thompson signed into law on April 25, 1996. Under s.49.141(2)(b), Stats., if a federal waiver is granted or federal legislation is enacted, the Department of Workforce Development could begin to implement W-2 no sooner than July 1, 1996 and must fully implement the W-2 program statewide in September 1997. The federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (P.L. 104-193) was signed into law on August 22, 1996. It creates the Temporary Assistance for Needy Families (TANF) program which ends the entitlement program under Title IV-A of the Social Security Act and creates a block grant program under which states receive monies to provide cash and other benefits to help needy families support their children while at the same time requiring families to participate in work program activities which will help them become self-sufficient. In general, a state may not use any part of the TANF grant to provide assistance to a family for more than 60 months.

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These are the rules for implementation of the Wisconsin Works program. The rules include eligibility requirements for those individuals applying for a W-2 employment position or child care, time-limited benefits for participants in W-2 employment positions, good cause for failure or refusal to participate in W-2 employment positions or other required employment and training activities, how sanctions are applied for failure to meet the W-2 employment position participation requirements, and school attendance requirements under the Learnfare program for the children of W-2 employment position participants.

DWD 12.03 DEFINITIONS. In this chapter:

(1) "AFDC" means aid to families with dependent children, a public assistance program under Title IV-A of the Social Security Act of 1935, as amended, and ss. 49.19 to 49.41, Stats.

(2) "Assessment" means the process under which the Wisconsin works agency evaluates each Wisconsin works participant's skills, prior work experience and employability.

(3) "CARES" means the client assistance for re-employment and economic support, the department's automated system which, using data provided by applicants, electronically determines eligibility for Wisconsin works, calculates community service jobs and transitional placement benefit amounts and electronically retains data in historical files.

(4) "Case management" means the family-centered and goal-oriented process for assessing the needs of a Wisconsin works group member and his or her family for employment, training and supportive services and assisting the Wisconsin works group member in obtaining services to achieve self-sufficiency.

(5) "Community rehabilitation program" means a program that provides directly or facilitates the provision of vocational rehabilitation to individuals with disabilities and that enables an individual with a disability to maximize opportunities for employment.

(6) "Community service job" or "CSJ" means a work component of Wisconsin works administered under s. 49.147(4), Stats.

(7) "Component of Wisconsin works" means a trial job, community service job, transitional placement or unsubsidized employment.

(8) "Custodial parent" means, with respect to a dependent child, a parent who resides with that child and, if there has been a determination of legal custody with respect to the dependent child, has legal custody of that child. For the purposes of this subsection, "legal custody" has the meaning given in s. 767.001(2)(a), Stats.

(9) "Department" means the Wisconsin department of workforce development.

(10) "Dependent child" means a person who resides with a parent and who is under the age of 18 or, if the person is a full-time student at a secondary school or a vocational or technical equivalent and is reasonably expected to complete the program before attaining the age of 19, is under the age of 19.

(11) "Domestic abuse" has the meaning given in s. 968.075(1), Stats.

(12) "Employability plan" means a written plan developed by a financial and employment planner in consultation with a participant which includes a specific Wisconsin works employment position assignment.

(13) "Financial and employment planner" or "FEP" means a caseworker employed by a Wisconsin works agency who provides financial or employment counseling services to a participant.

(14) "Food stamp program" means the assistance program under 7 USC 2011 to 2029.

(15) "Incapacitated" means having a medically-determined physical or mental impairment which has been verified by the department's division of vocational rehabilitation or other similar agency or business and which prevents the person from temporarily or permanently holding full-time unsubsidized employment or participating in a CSJ.

(16) "Job access loan" means a loan under s. 49.147(6), Stats., to address an immediate and discrete financial crisis in order to obtain or continue employment.

(17) "Job center" means a site for employers to meet workforce needs and job seekers to obtain career planning, job placement and training.

(18) "Jobnet" means the department's computerized listing of jobs available by region and throughout Wisconsin which includes the employer requirements necessary for applicants to obtain these jobs.

(19) "JOBS" means the job opportunities and basic skills training program established under 42 USC 682 and s.49.193, Stats., for the purpose of assisting AFDC recipients to develop marketable skills and obtain gainful employment.

(20) "Learnfare" means the program established under s. 49.26, Stats., which requires that all preteens living in a pilot county designated by the department and teenagers attend school.

(21) "Medical assistance" means the assistance program operated by the department of health and family services under ss. 49.43 to 49.497, Stats., and chs. HFS 101 to 108.

(22) "Migrant worker" has the meaning given in s. 103.90(5), Stats.

(23) "Minor parent" means an individual who is under age 18 and is a custodial parent.

(24) "Minimum wage" means the state minimum hourly wage under ch. 104 or the federal minimum hourly wage under 29 USC 206 (a)(1), whichever is applicable.

(25) "Noncustodial parent" means, with respect to a dependent child, a parent who is not the custodial parent.

(26) "Nonmarital coparent" means, with respect to an individual and a dependent child, a parent who is not married to the individual, resides with the dependent child and is either an adjudicated parent or a parent who has signed and filed with the state registrar under s. 69.15(3)(b)3., Stats., a statement acknowledging paternity.

(27) "Parent" means either a biological parent, a person who has consented to the artificial insemination of his wife under s. 891.40, Stats., or a parent by adoption.

(28) "Participant" means an individual who participates in any component of the Wisconsin works program.

(29) "Poverty line" has the meaning prescribed under s.49.001(5), Stats.

(30) "Protective payment" means a money payment to a payee designated by the agency as the receiver of a participant's total or partial W-2 benefit.

(31) "Reasonable promptness" means as soon as possible, but no later than 30 days after the date the agency receives a signed application completed to the best of the applicant's ability.

(32) "Strike" has the meaning provided in 29 USC 142(2).

(33) "Transitional placement" means a work component of Wisconsin works administered under s. 49.147(5), Stats.

(34) "Trial job" means a work component of Wisconsin works administered under s. 49.147(3), Stats.

(35) "Unsubsidized employment" means employment for which the Wisconsin works agency provides no wage subsidy to the employer including self-employment and entrepreneurial activities.

(36) "Vendor payment" means a money payment made in behalf of a participant directly to a provider of goods or services.

(37) "Wisconsin works" or "W-2" means the assistance program for families with dependent children, administered under ss. 49.141 to 49.161, Stats.

(38) "Wisconsin works agency" means a person, county agency, tribal governing body, or a private agency contracted under s. 49.143, Stats., by the department to administer the Wisconsin works program under ss. 49.141 to 49.161, Stats., and this chapter. If no contract is awarded under s. 49.143, Stats., Wisconsin works agency means the department.

(39) "Wisconsin works employment position" means a trial job, community service job or transitional placement.

(40) "Wisconsin works group" means an individual who is a custodial parent, all dependent children with respect to whom the individual is a custodial parent and all dependent children with respect to whom the individual's dependent child is a custodial parent. "Wisconsin works group" includes any nonmarital coparent or any spouse of the individual who resides in the same household as the individual and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent. "Wisconsin works group" does not include any person who is receiving relief block grant benefits under s. 49.027(3)(b), Stats.

DWD 12.04 DEPARTMENT RESPONSIBILITIES. (1) GENERAL. The department shall maintain oversight responsibility for administration of the Wisconsin works program by contracted administrative agencies.

(2) GEOGRAPHICAL AREAS. The department shall determine the geographical area in which a Wisconsin works agency will administer the Wisconsin works program.

(3) CONTRACT REQUIREMENTS. The department shall contract under s. 49.143, Stats., with providers to administer the Wisconsin works program in a geographical area. If a Wisconsin works agency does not meet the performance standards established by the department, the department may withhold any or all payment from the Wisconsin works agency or terminate the contract.

(4) REQUESTS FOR INFORMATION. The department may request from any Wisconsin works agency any information that the department determines appropriate and necessary for the overall administration of Wisconsin works. A Wisconsin works agency shall provide the department with the requested information through written reports, CARES reports and through other appropriate forms as prescribed by the department.

(5) INSPECTION OF RECORDS. The department may inspect at any time any Wisconsin works agency's records as the department determines is appropriate and necessary for the overall administration of Wisconsin works.



(6) CERTIFICATION AND TRAINING REQUIREMENTS. The department shall ensure that a financial and employment planner employed by a W-2 agency meets certification and training requirements established by the department and that appropriate training is provided by the W-2 agency.

DWD 12.05 W-2 AGENCY RESPONSIBILITIES. In administering the W-2 program, the W-2 agency shall:

(1) Comply with s.49.141 to 49.161, Stats., this chapter and related program procedures.

(2) Make available all records necessary for the department's exercise of its supervisory functions under s.49.35, Stats.

(3) Provide the department with requested information through written reports, CARES reports and through other appropriate forms as prescribed by the department.

(4) Establish a community steering committee in accordance with s.49.143(2)(a), Stats.

(5) Establish a children's services network in accordance with s.49.143(2)(b), Stats.

(6) Establish a referral relationship with other employment and training programs for participants to make use of varied education and training opportunities available through job centers, such as pre-employment workshops, jobnet, and job clubs.

(7) Encourage employers to make training sites available on the business site for participants.

(8) Work with the department of commerce to coordinate the provision of training to participants in conjunction with employers eligible for the development zone program under subch. VI of ch. 560, Stats.

(9) Ensure that no W-2 employment position is operated so as to do any of the following:

(a) Have the effect of filling a vacancy created by an employer terminating a regular employe or otherwise reducing its work force for the purpose of hiring an individual into a W-2 employment position.

(b) Fill a position when any other person is on layoff or strike from the same or a substantially equivalent job within the same organizational unit.

(c) Fill a position when any other person is engaged in a labor dispute regarding the same or a substantially equivalent job within the same organizational unit.

(10) Refer individuals who have been determined eligible for a child care subsidy under s.DWD 12.26 to the county child care agency under s.46.215, 46.22 or 46.23, Stats., for child care assistance.

(11) Refer all cases involving paternity and child support to the county child support agency.

(12) Provide, refer or facilitate transportation arrangements to enable participants to participate in W-2 activities. The W-2 agency shall limit any financial assistance granted to a W-2 participant to financial assistance for public transportation if a form of public transportation that meets the needs of the participant is available.

(13) Recover any overpayment of W-2 wages or benefits as required under s.49.161, Stats., and s.DWD 12.23.

(14) Investigate, or refer to the appropriate agency for investigation, suspected cases of fraud.

DWD 12.06 APPLICATION FOR WISCONSIN WORKS. (1) RIGHT TO APPLY. Any individual may apply for Wisconsin works. Application for Wisconsin works shall be made on a form prescribed by the department and available from a Wisconsin works agency.

(2) WHERE APPLICATION IS MADE. Application shall be made in the geographical area specified by the department under s. 49.143(6), Stats., in which the individual lives.

(3) SIGNING THE APPLICATION. Each application form shall be signed by the applicant or the applicant's responsible relative, legal guardian or authorized representative; or, where the applicant is incompetent or incapacitated, someone acting responsibly for the applicant. The application shall be re-signed in the presence of any agency representative in accordance with s. 49.84, Stats. Two witnesses' signatures shall be required when the application is signed with a mark.

(4) DECISION DATE. (a) As soon as possible, but no later than 5 working days after the date the agency receives a signed application, completed to the best of the applicant's ability, the W-2 agency shall schedule and hold a personal interview with the applicant.

(b) The W-2 agency shall give the applicant 7 working days to provide requested verification.

(c) Following the interview and after verifying eligibility information, the W-2 agency shall make a decision as to the appropriate placement in a W-2 employment position.

**DWD 12.07 ACCESS TO INFORMATION.** (1) Individuals inquiring about or applying for W-2 shall be given the following information by the W-2 agency in written form, and orally as appropriate: coverage, conditions of eligibility, scope of the program and related services available, and participant rights and responsibilities. Bulletins or pamphlets developed for this purpose shall be available at the agency.

(2) Individuals may examine program manuals and policy issuances which affect the public, including rules and regulations governing eligibility, participants' rights and responsibility and services offered. These documents may be examined at agency offices or the department's state or regional offices on regular work days during regular office hours.

(3) An individual or his or her authorized representative may review his or her entire case record to verify that the content accurately reflects statements and documentation of facts. No part of the record may be withheld during preparation for a review of an agency decision under s.49.152, Stats. When the request is not related to preparation for review of an agency decision under s.49.152, Stats., it is not required that the entire record be shown unless the reason for seeing the record requires the full record.

**DWD 12.08 REQUEST FOR INFORMATION.** (1) A Wisconsin works agency may request from any person any information that it determines appropriate and necessary for the administration of Wisconsin works. Any person in this state shall provide this information within 7 days after receiving a request under this paragraph. The Wisconsin works agency may extend the 7-day time limit for an individual for whom compliance with that limit would be unduly burdensome, as determined by the agency. The Wisconsin works agency may disclose information obtained under this subsection only in the administration of Wisconsin works.

(2) The Wisconsin works agency shall keep all information that it receives regarding victims of domestic abuse strictly confidential, except to the extent needed to administer Wisconsin works.

**DWD 12.09 ELIGIBILITY FOR WISCONSIN WORKS.** (1) GENERAL ELIGIBILITY. In order to be eligible for Wisconsin works employment positions and job access loans for any month, an individual shall meet the eligibility requirements under subs. (2) and (3).

(2) **NONFINANCIAL ELIGIBILITY REQUIREMENTS.** An individual is eligible for a Wisconsin works employment position and a job access loan in a month only if all of the following nonfinancial eligibility requirements are met:

(a) The individual is a custodial parent.

(b) The individual has attained the age of 18.

(c) The individual is a U.S. citizen or a qualified alien. In this paragraph, "qualified alien" means an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act, an alien who is granted asylum under section 208 of such Act, a refugee who is admitted to the United States under section 207 of such Act, an alien who is paroled into the United States under section 212(d)(5) of such Act for a period of at least 1 year, an alien whose deportation is being withheld under section 243(h) of such Act, or an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act as in effect prior to April 1, 1980.

(d) The individual has resided in Wisconsin for at least 60 consecutive days immediately prior to applying under s. DWD 12.06 and, unless the person is a migrant worker, has demonstrated an intent to continue to reside in Wisconsin.

(e) 1. Subject to subd. 2., the individual fully cooperates in efforts directed at establishing the paternity of the dependent child and obtaining support payments or any other payments or property to which that individual and the dependent child may have rights. Such cooperation shall be in accordance with federal law and this paragraph. The parent shall cooperate with the local child support agency in identifying or locating the absent parent, in obtaining support payments or any other payments or property and in establishing paternity. If the parent refuses to cooperate, the parent is not eligible unless it is determined under s.DWD 15.03 that there is good cause for the parent to refuse cooperation.

2. An individual who fails 3 times without good cause to meet the requirements under subd. 1. remains ineligible until the individual cooperates or for a period of 6 months, whichever is later.

(f) The individual furnishes the Wisconsin works agency with any relevant information that the Wisconsin works agency determines is necessary within 7 working days after receiving a request for the information from the Wisconsin works agency. The Wisconsin works agency may extend the 7 working day time limit for an individual for whom compliance with that limit would be unduly burdensome, as determined by the agency.

(g) The individual has made a good faith effort, as determined by the Wisconsin works agency on a case-by-case basis, to obtain unsubsidized employment and has not refused any bona fide offer of employment within the 180 days immediately preceding application for a W-2 employment position.

(h) If the individual has applied for Wisconsin works within the 180 days immediately preceding the current application, the individual has cooperated with the efforts of a Wisconsin works agency to assist the individual in obtaining unsubsidized employment.

(i) The individual is not receiving supplemental security income under 42 USC 1381 to 1383c or state supplemental payments under s. 49.77, Stats.

(j) The individual is not receiving social security disability insurance under 42 USC 401 to 433.

(k) On the last day of the month, the individual is not participating in a strike.

(l) The individual applies for or provides a social security account number.

(m) The individual reports any change in circumstances that may affect his or her eligibility to the Wisconsin works agency within 10 days after the change.

(n) Beginning on the date on which the individual has attained the age of 18, the total number of months in which the individual has actively participated in the job opportunities and basic skills program under s. 49.193, Stats., or has participated in a Wisconsin works employment position or both does not exceed 60 months. The months need not be consecutive. Participation in the job opportunities and basic skills program under s. 49.193, Stats., begins to count toward the 60-month limit beginning on October 1, 1996. A Wisconsin works agency may extend the time limit only if the Wisconsin works agency determines that unusual circumstances exist that warrant an extension of the participation period. The department may review, approve or overturn a W-2 agency's decision related to an extension of the 60-month limit. In this paragraph, "unusual circumstances" means any of the following:

1. A W-2 participant is unable to work because of personal disability or incapacitation, or is needed as determined by the agency to remain at home to care for a member of the W-2 group whose incapacity is so severe that without constant in-home care provided by the W-2 participant, the incapacitated W-2 group member's health and well-being would be significantly affected.

2. A W-2 participant has significant limitations to employment such as:

a. Low achievement ability, learning disability or emotional problems of such severity that they prevent the individual from obtaining or retaining unsubsidized employment, but are not sufficient to meet the criteria for eligibility for supplemental security income under 42 USC 1381 to 1383c or social security disability insurance under 42 USC 401 to 433.

b. Family problems of such severity that they prevent the W-2 participant from obtaining or retaining unsubsidized employment.

3. The W-2 participant has made all appropriate efforts to find work and is unable to find employment because local labor market conditions preclude a reasonable job opportunity. In this paragraph, "reasonable job opportunity" means a job that pays minimum wage, and conforms to all applicable federal and state laws.

(o) No other individual in the W-2 group is a participant in a W-2 employment position. This paragraph does not apply to an individual applying for a job access loan.

(p) The individual cooperates in providing information needed to verify enrollment information or good cause for the Learnfare program under s.49.26, Stats., and s.DWD 12.25.

(q) The individual cooperates in the requirement to search for unsubsidized employment throughout his or her participation in a W-2 employment position.

(r) The individual cooperates in applying for other public assistance programs or resources that the FEP believes may be available to the individual.

(s) The individual cooperates with providing eligibility information for other members of the W-2 group.

(3) FINANCIAL ELIGIBILITY REQUIREMENTS. An individual is eligible for a W-2 employment position and a job access loan only if all of the following financial eligibility requirements are met:

(a) Resource limitations. The individual is a member of a W-2 group whose assets do not exceed \$2,500 in combined equity value. In determining the combined equity value of assets, the W-2 agency shall exclude the equity value of vehicles up to a total equity value of \$10,000, and one home that serves as the homestead for the W-2 group. In this paragraph, "equity value of vehicles" means the wholesale value as given in a standard guide on motor vehicle values or the value as estimated by a sales representative at a local car dealership minus any encumbrances which are legally debts.

(b) Income limitations. 1. The individual is a member of a W-2 group whose gross income is at or below 115% of the poverty line. In this subdivision, "gross income" does not include any payments or benefits made under any federal law that specifically exempts such payments or benefits from being considered in determining eligibility for any federal means-tested program.

2. Except as provided in subd. 1, in calculating gross income, the W-2 agency shall include all of the following:

a. All earned and unearned income of the individual except any federal earned income credit received under section 32 of the internal revenue code as defined in s.71.01(6), Stats., any state earned income credit received under s.71.07(9e), Stats., any federal earned income credit payment made by an employer under section 3507 of the internal revenue code, and any W-2 employment position wages or benefits under s.49.148, Stats.

b. Child support benefits received on behalf of a child who is a member of the W-2 group.

c. The income of a nonmarital coparent or of the individual's spouse, if the spouse resides in the same home as the dependent child.

DWD 12.10 TEMPORARY ABSENCE. (1) DENIAL OF ASSISTANCE FOR A DEPENDENT CHILD WHO IS ABSENT FROM THE HOME FOR A SIGNIFICANT PERIOD. A dependent child may be absent from the custodial parent's home but still be considered under the care of the custodial parent if the following conditions are met:

(a) The dependent child will not be or has not been continuously absent for more than 3 months and the child is expected to return to the custodial parent's home;

(b) The absence is not the result of removal of the child under a dispositional order issued under s.48.355, Stats., which places custody of a child outside the home for an indefinite period or a period of 3 months or more; and

(c) The custodial parent continues to exercise responsibility for the care and control of the child. A dependent child who is receiving kinship care under s.48.57(3m), Stats., is not considered under the care and control of the custodial parent.

(2) DENIAL OF ASSISTANCE FOR CUSTODIAL PARENT WHO FAILS TO NOTIFY THE W-2 AGENCY OF ABSENCE OF CHILD. A custodial parent of a dependent child who fails to notify the Wisconsin works agency of the absence of the dependent child from the home for the period specified in sub.(1)(a), by the end of the 5-day period that begins with the date that it becomes clear to the custodial parent that the dependent child will be absent for such period so specified or provided for, is not eligible for W-2.

DWD 12.11 VERIFICATION. (1) The W-2 agency shall verify that an individual meets nonfinancial and financial eligibility criteria under s.DWD 12.09(2) and (3) prior to placing an individual in a W-2 employment position, nonfinancial and financial eligibility criteria under s.DWD 12.26(2) prior to providing a child care subsidy or other appropriate eligibility criteria prior to providing any other W-2 benefit or service.

(2) If the individual does not have the power to produce verification, or requires assistance to do so, the W-2 agency shall proceed immediately to seek the verification. No eligibility shall exist when an individual has the power to produce required verification as determined by the W-2 agency but refuses or fails to do so.

DWD 12.12 ELIGIBILITY DATE. The eligibility date for a W-2 employment position wage or benefit payment is the date the applicant has met all W-2 eligibility requirements and has begun participating in a W-2 employment position.

DWD 12.13 REVIEW OF ELIGIBILITY. A W-2 agency shall periodically review an individual's eligibility. A W-2 employment position participant remains eligible under s.DWD 12.09(3) until the W-2 group's assets exceed the asset limits for at least 2 months or until the income of the W-2 group is expected to exceed the income limits for at least 2 consecutive months.

DWD 12.14 EMPLOYER CRITERIA. The W-2 agency shall ensure that an employer providing a Wisconsin works employment position meets criteria as specified under subs. (1) to (3) in order to employ a participant in a W-2 employment position. An employer that does not meet the criteria established under this section is ineligible to receive any subsidy for any position provided to a participant.

(1) TRIAL JOB. A trial job employer shall agree to:

(a) Pay the participant the amount established by contract but not less than minimum wage for every hour actually worked.

(b) Make a good faith effort to retain the participant as a permanent unsubsidized employe after the wage subsidy is terminated.



(c) Provide worker's compensation and unemployment compensation to the same extent as unsubsidized employees as required by federal and state law.

(d) Inform the participant of his or her possible eligibility for federal and state earned income credit and process a participant's request for advance payments of federal earned income credit under section 3507 of the internal revenue code.

(e) Provide the same education and training opportunities as that provided to similar, unsubsidized employees and consider providing or arranging for additional education and training opportunities as appropriate.

(f) Provide a grievance procedure for regular employees of the worksite to resolve complaints related to displacement under s.DWD 12.05(9).

**(2) COMMUNITY SERVICE JOB AND TRANSITIONAL PLACEMENT EMPLOYERS.** A CSJ or transitional placement employer shall agree to:

(a) Provide a structured work environment which includes close supervision and a willingness to mentor and coach CSJ and transitional placement employees to succeed in the workplace.

(b) Provide a position which replicates actual conditions of work and provides responsibilities and expectations similar to unsubsidized employees considering the participant's barriers including need for child care or transportation or level of ability.

(c) Cooperate with the W-2 agency by providing verification of the participant's hours of participation and missed hours.

(d) Provide a grievance procedure for regular employees of the worksite to resolve complaints related to displacement under s.DWD 12.05(9).

**DWD 12.15 CASE MANAGEMENT.** (1) **ASSESSMENT.** The W-2 agency shall make an initial assessment of the skills, prior work experience, and employability of each applicant for and participant in a W-2 employment position.

(2) **EMPLOYABILITY PLAN.** The FEP shall, in consultation with the W-2 participant, develop a written employability plan for a W-2 participant which includes the participant's W-2 employment position placement, required activities and an identified unsubsidized employment goal.

DWD 12.16 WORK PROGRAMS. (1) UNSUBSIDIZED EMPLOYMENT. (a) Job search, orientation and training activities. 1. An individual who applies for a Wisconsin works employment position may be required by the Wisconsin works agency to search for unsubsidized employment during the period that his or her application is being processed as a condition of eligibility.

2. The FEP shall determine satisfactory search efforts for unsubsidized employment for each participant on a case by case basis. Activities that count towards meeting this requirement may include contacts with employers, submitting job applications and participating in job interviews. The FEP may deny eligibility for placement in a W-2 employment position for an applicant who fails to complete required unsubsidized employment search activities or to accept a bona fide offer of employment.

3. A Wisconsin works agency may require an applicant for a Wisconsin works employment position to participate in job orientation during the period that his or her application is being processed as a condition of eligibility. In this subdivision, "job orientation" means activities designed to help applicants prepare for work by learning general workplace expectations, work behavior and attitudes necessary to successfully compete in the labor market, help an applicant build self-esteem and increase an applicant's self-confidence.

4. A Wisconsin works agency may require a participant in a Wisconsin works employment position to engage in training activities included in the W-2 participant's employability plan.

(b) Job search assistance. A Wisconsin works agency shall assist a participant in his or her search for unsubsidized employment. In determining an appropriate placement for a participant, a Wisconsin works agency shall give priority to placement in unsubsidized employment over placements under subs. (2) to (4).

(2) TRIAL JOBS. (a) In determining an appropriate placement for a participant, a Wisconsin works agency shall give priority to placement in a trial job over a placement in a community service job or transitional placement under subs. (3) and (4).

(b)1. A Wisconsin works agency shall pay a wage subsidy to an employer that employs a participant in a trial job and agrees to make a good faith effort to retain the participant as a permanent unsubsidized employe after the wage subsidy is terminated.

2. The wage subsidy for full-time employment of a participant may not exceed the amount provided under s.49.147(3)(a), Stats. For less than full-time employment of a participant during a month, the wage subsidy may not exceed a dollar amount

determined by multiplying the amount provided under s.49.147(3)(a), Stats., for full-time employment of a participant by a fraction, the numerator of which is the number of hours worked by the participant in the month and the denominator of which is the number of hours which would be required for full-time employment in that month.

(c) Education or training activities. A trial job includes education and training activities, as prescribed by the employer as an integral part of work performed in the trial job employment.

(d) Worker's compensation. The employer shall provide the participant with worker's compensation coverage as provided under s.DWD 12.14(1)(c).

(e) Time-limited participation. 1. A W-2 participant may participate in a trial job for a maximum of 3 months, with an opportunity for a 3-month extension under circumstances determined by the Wisconsin works agency. A participant may participate in more than one trial job, but may not exceed a total of 24 months of participation under this subsection. The months need not be consecutive.

2. The department or, with the approval of the department, the Wisconsin works agency may grant an extension of the 24-month limit on a case-by-case basis if the participant has made all appropriate efforts to find unsubsidized employment and has been unable to find unsubsidized employment because local labor market conditions preclude a reasonable job opportunity for that participant, as determined by a Wisconsin works agency and approved by the department.

(3) COMMUNITY SERVICE JOB. (a) In determining an appropriate placement for a participant, a Wisconsin works agency shall give placement in a community service job priority over a transitional placement under sub. (4). After each 6 months of an individual's participation under this subsection and at the conclusion of each assignment under this subsection, a Wisconsin works agency shall reassess the individual's employability.

(b) Education or training activities. A CSJ participant may be required to participate in education and training activities assigned as part of an employability plan developed by the Wisconsin works agency. Permissible education and training activities shall include:

1. A course of study meeting the standards established under s. 115.29(4), Stats., for the granting of a declaration of equivalency of high school graduation.
2. Technical college courses.
3. Educational courses that provide an employment skill.

4. English as a 2nd language courses that the Wisconsin works agency determines would facilitate an individual's efforts to obtain employment.

5. Adult basic education courses that the Wisconsin works agency determines would facilitate an individual's efforts to obtain employment.

(c) Required hours. 1. Except as provided in par. (d), a Wisconsin works agency may require a participant placed in a community service job program to work not more than 30 hours per week in a community service job. Except as provided in subd. 2, a Wisconsin works agency may require a participant placed in the community service job program to participate in education or training activities under par. (b) for not more than 10 hours per week.

2. A W-2 agency may aggregate education and training activities hours in combination with work activities to allow participants access to approved training programs which may require more than 10 hours per week within the first months of participation in a CSJ. The FEP shall modify the participant's employability plan to reflect the aggregated education and training activities hours. Failure to participate in the aggregated education and training activities hours without good cause as determined by the FEP may result in application of a sanction under s.DWD 12.18(1)(b).

(d) Motivational training. A Wisconsin works agency may require a CSJ participant, during the first 2 weeks of participation under this subsection, to participate in an assessment and motivational training program identified by the community steering committee under s. 49.143(2)(a)10, Stats. The Wisconsin works agency may require not more than 40 hours of participation per week under this paragraph in lieu of the participation requirement under par. (c).

(e) Time-limited participation. 1. An individual may participate in a community service job for a maximum of 6 months, with an opportunity for a 3-month extension under circumstances approved by the department. An individual may participate in more than one community service job, but may not exceed a total of 24 months of participation under this subsection. The months need not be consecutive.

2. The department or, with the approval of the department, the Wisconsin works agency may grant an extension to the 24-month limit on a case-by-case basis if the Wisconsin works agency determines that the individual has made all appropriate efforts to find and accept unsubsidized employment and has been unable to find unsubsidized employment because local labor market conditions preclude a reasonable employment opportunity in unsubsidized employment for that participant, as determined by a Wisconsin works agency and approved by the department, and if the Wisconsin works agency determines, and the department agrees, that no trial job opportunities are available in the specified local labor market.

(f) Worker's compensation. A participant under this subsection is an employe of the Wisconsin works agency for purposes of worker's compensation coverage, except to the extent that the person for whom the participant is performing work provides worker's compensation coverage.

(4) TRANSITIONAL PLACEMENT. (a) Additional eligibility criteria. An individual is eligible to participate in a transitional placement under this subsection if, in addition to meeting the eligibility requirements under s.DWD 12.09(2) and (3), the W-2 agency determines that any of the following conditions is met with respect to the individual:

1. The individual is incapable of performing a trial job or community service job.
2. On the basis of an independent assessment by the division of vocational rehabilitation or similar agency or business, that the individual has been incapacitated, or will be incapacitated, for a period of at least 60 days.
3. The individual is needed in the home because of the illness or incapacity of another member of the Wisconsin works group.

(b) Assignment to activities. 1. The Wisconsin works agency shall assign a transitional placement participant to work activities such as a community rehabilitation program, work experience and training activities similar to those included under s.DWD 12.16(3) or a volunteer activity.

2. A Wisconsin works agency may require a participant under this subsection to participate in any of the following:

a. An alcohol and other drug abuse evaluation, assessment and treatment program.

b. Mental health activities. In this subparagraph, "mental health activities" means activities prescribed by an appropriate mental health care professional including evaluation by a health professional, therapy and medication management.

c. Counseling or physical rehabilitation activities.

d. Other activities that the Wisconsin works agency determines are consistent with the capabilities of the individual.

(c) Time-limited participation. An individual may participate in a transitional placement for a maximum of 24 months. The months need not be consecutive. This period may be extended on a case-by-case basis by the department or by the Wisconsin works agency with the approval of the department.

(d) Education or training activities. 1. The Wisconsin works agency may require a transitional placement participant to participate in education and training activities assigned as part of an employability plan developed by the Wisconsin works agency.

2. Permissible education and training shall include the following:

a. A course of study meeting the standards established under s. 115.29(4), Stats., for the granting of a declaration of equivalency of high school graduation.

b. Technical college courses.

c. Educational courses that provide an employment skill.

d. English as a 2nd language courses that the Wisconsin works agency determines would facilitate an individual's efforts to obtain employment.

e. Adult basic education courses that the Wisconsin works agency determines would facilitate an individual's efforts to obtain employment.

(e) Required hours. 1. Except as provided in par. (f), a Wisconsin works agency may require a participant placed in a transitional placement to engage in activities under par. (b) 1. for up to 28 hours per week. Except as provided in subd. 2, in addition to the 28 hours, a Wisconsin works agency may require a participant placed in a transitional placement to participate in education or training activities under par. (d) for not more than 12 hours per week.

2. A W-2 agency may aggregate education and training activities hours in combination with work activities to allow participants access to approved training programs which may require more than 12 hours per week within the first months of participation in a transitional placement. The FEP shall modify the participant's employability plan to reflect the aggregated education and training activities hours. Failure to participate in the aggregated education and training activities hours without good cause as determined by the FEP may result in application of a sanction under s.DWD 12.18(1)(c).

(f) Motivational training. A Wisconsin works agency may require a participant, during the first 2 weeks of participation under this subsection, to participate in an assessment and motivational training program identified by the community steering committee under s. 49.143(2)(a)10, Stats. The Wisconsin works agency may require not more than 40 hours of participation per week under this paragraph in lieu of the participation requirement under par. (e).

(g) Worker's compensation. A participant under this subsection is an employee of the Wisconsin works agency for purposes of worker's compensation coverage, except to the extent that the person for whom the participant is performing work provides worker's compensation coverage.

DWD 12.17 JOB ACCESS LOAN. (1) ELIGIBILITY CRITERIA. An individual is eligible to receive a job access loan if, in addition to meeting the eligibility requirements under s.DWD 12.09(2) and (3), all of the following conditions are met with respect to the individual:

(a) The individual needs the loan to address an immediate and discrete financial crisis. The crisis may not be the result of the individual's failure to accept a bona fide offer of employment or the individual's termination of a job without good cause.

(b) The individual needs the loan to obtain or continue employment. Fulfillment of this requirement includes a loan that is needed to repair a vehicle that is needed to obtain or continue employment.

(c) The individual is not in default with respect to the repayment of any previous job access loan or repayment of any grant or wage overpayments under this section.

(d) The individual is not a migrant worker.

(2) TERMS. (a)1. W-2 agencies shall issue a job access loan to an eligible individual in an amount not less than \$25 and not more than \$1600 in any 12 month period. The W-2 agency shall ensure that the average of all amounts loaned in any 12 month period does not exceed \$800.

2. The maximum allowable amount for all loans and the maximum allowable outstanding balance for each individual receiving a job access loan shall be \$1600.

(b) The Wisconsin works agency shall establish and maintain procedures that will expedite eligibility determinations and make emergency payments within 24 to 96 hours of loan approval, when necessary.

(c) The loan applicant shall present to the Wisconsin works agency for approval a repayment plan for each loan which incorporates the maximum level of cash repayment and the shortest repayment period that the Wisconsin works agency determines feasible.

(d) Repayment. 1. a. The participant may repay a job access loan in cash or through a combination of cash and volunteer in-kind community work approved by the W-2 agency valued at the higher of the state or federal minimum wage rate. At least 25 percent of the loan amount shall be repaid in cash. Participants whose repayment plan

includes volunteer work shall find the volunteer opportunity, obtain prior authorization from the Wisconsin works agency and arrange and pay for any needed child care.

b. The W-2 agency shall determine a minimum monthly repayment amount for each loan. Repayment plans may be renegotiated by the agency if there is a significant change of circumstances of the borrower.

2. The participant shall repay a job access loan within a 12 month period except that the repayment period may be extended to a maximum of 24 months if the participant requests an extension and the W-2 agency determines that it is appropriate.

3. The Wisconsin works agency shall provide monthly notices to clients of payments received and the outstanding balance.

(4) MINOR CUSTODIAL PARENTS. An individual who would be eligible for a job access loan under sub. (1), except that the individual has not attained the age of 18, is eligible under this subsection if the individual meets the following requirements:

(a) The individual is in one of the following supervised, alternative living arrangements:

1. Kinship care under s.48.57(3m), Stats.
2. Foster home as defined under s.48.02(6), Stats.
3. Group home as defined under s.48.02(7), Stats.
4. An adult supervised independent living arrangement approved by the W-2 agency.

(b) The individual has graduated from high school or has met the standards established by the department of public instruction for the granting of a declaration of equivalency of high school graduation under s. 115.29(4), Stats.

(c) The individual will be 18 years old within 2 months after applying for the job access loan.



DWD 12.18 W-2 EMPLOYMENT POSITION WAGES AND BENEFITS. (1) BENEFIT LEVELS FOR PARTICIPANTS IN EMPLOYMENT POSITIONS. A participant in a Wisconsin works employment position shall receive the following wages or benefits:

(a) Trial jobs. For a participant in a trial job, the amount established in the contract between the Wisconsin works agency and the trial job employer, but not less than minimum wage for every hour actually worked in the trial job, not to exceed 40 hours per week paid by the employer. Hours spent participating in education and training activities under s.DWD 12.16(2)(c) shall be included in determining the number of hours actually worked

(b) Community service jobs. For a participant in a community service job, a monthly grant in the amount provided under s.49.148(1)(b), Stats. For every hour that the participant misses work or education or training activities without good cause, the Wisconsin works agency shall reduce the grant amount by the amount provided under s.49.148(1)(b), Stats. Good cause shall be determined by the financial and employment planner as provided under s.DWD 12.20.

(c) Transitional placements. For a participant in a transitional placement, a monthly grant in the amount provided under s.49.148(1)(c), Stats. For every hour that the participant fails to participate in any required activity without good cause, including any activity under s.DWD 12.16(4)(b)2., the Wisconsin works agency shall reduce the grant amount by the amount provided under s.49.148(1)(c), Stats. Good cause shall be determined by the financial and employment planner as provided under s.DWD 12.20.

(2) CUSTODIAL PARENT OF INFANT. (a) A custodial parent of a child who is 12 weeks old or less and who meets the eligibility requirements under s. DWD 12.09(2) and (3) may receive a monthly grant in the amount provided under s.49.148(1m), Stats. A Wisconsin works agency may not require a participant under this subsection to participate in a trial job, CSJ or transitional placement. Receipt of a grant under this subsection does not constitute participation in a Wisconsin works employment position for purposes of the 60 month time limit under s.DWD 12.09(2)(n) and time limits for participation in a particular W-2 employment position under s.DWD 12.16(4)(e), (5)(e) or (6)(c), if the child is born to the participant not more than 10 months after the date that the participant was first determined to be eligible for AFDC or for a Wisconsin works employment position.

(b) Receipt of a grant under this subsection constitutes participation in a Wisconsin works employment position for purposes of the 60 month time limit under s.DWD 12.09(2)(n) and time limits for participation in a particular W-2 employment position under s.DWD 12.16(4)(e), (5)(e) or (6)(c), if the child is born to the participant more than 10 months after the date that the participant was first determined to be eligible for AFDC or for a Wisconsin works employment position unless the child was conceived as a result of a sexual assault in violation of s. 940.225(1), (2) or (3), Stats.,

in which the mother did not indicate a freely given agreement to have sexual intercourse or of incest in violation of s. 944.06 or 948.06, Stats., and that incest or sexual assault has been reported to a physician and to law enforcement authorities.

DWD 12.19 PAYMENT PROCEDURES. (1) DESIGNATION OF PAYEE. CSJ or transitional placement benefits shall be made payable as appropriate to:

- (a) The participant.
- (b) Spouse of the participant. The spouse shall be living in the home unless designated as protective payee or appointed by a court to be legal representative.
- (c) Guardian or conservator of the Wisconsin works participant.

(2) PROTECTIVE AND VENDOR PAYMENTS. (a) In this paragraph, "protective payment" means a money payment to a payee designated by the agency as the recipient of the participant's total or partial monthly CSJ or transitional placement benefit. In this paragraph, "vendor payment" means a money payment made on behalf of a participant directly to a provider of goods or services.

(b) If continued mismanagement of funds is a threat to the health and safety of the child as determined by the FEP, all or part of the CSJ or transitional placement benefit may be a protective payment or part of the CSJ or W-2 T benefit may be a direct payment and part a protective or vendor payment or both. The agency shall investigate reports of mismanagement before instituting protective or vendor payments.

(c) The W-2 agency shall document in the case record the reason for the authorization of protective or vendor payment and shall show the name of the eligible participant, the name of the protective or vendor payee, and the amount and form of payment authorized.

DWD 12.20 DETERMINATION OF GOOD CAUSE. The FEP shall determine if a W-2 employment participant had good cause for not complying with the W-2 participation requirements. In making such a determination the FEP may require that the W-2 employment position participant provide written documentation that good cause existed. No good cause shall exist unless the participant provides timely notification of the good cause reason to the FEP. Good cause for failing to comply with the W-2 participation requirements shall be any of the following circumstances:

(1) A required court appearance which shall include a required court appearance for a victim of domestic abuse.

(2) Child care was necessary for the W-2 participant to participate or accept employment, child care was unavailable and the W-2 agency was unable to provide or refer for alternate child care arrangements.

(3) Other circumstances beyond the control of the participant but only as determined by the FEP.

DWD 12.21 SANCTIONS. (1) REFUSAL TO PARTICIPATE. (a) A participant who refuses without good cause to participate 3 times in any Wisconsin works employment position component is ineligible to participate in that component. A participant whom the Wisconsin works agency has determined is ineligible under this section for a particular Wisconsin works employment position component may be eligible to participate in any other Wisconsin works employment position component in which the participant has not refused to participate 3 times.

(b) A participant refuses to participate in a Wisconsin works employment position component if the participant does any of the following:

1. Expresses verbally or in writing to a Wisconsin works agency that he or she refuses to participate.
2. Fails to appear for an interview with a prospective employer or, if the participant is in a Wisconsin works transitional placement, fails to appear for an assigned activity, including an activity under s.DWD 12.16(4)(b)(2), without good cause under s.DWD 12.20, as determined by the Wisconsin works agency.
3. Voluntarily leaves appropriate employment or training without good cause, as determined by the Wisconsin works agency.
4. Loses employment as a result of being discharged for cause.
5. Refuses to accept a bona fide offer of employment.

(c) Demonstrates through other behavior or action, as determined by the FEP, that he or she refuses to participate in a Wisconsin works employment position.

(2) INTENTIONAL PROGRAM VIOLATIONS. If a court finds or it is determined after an administrative hearing that an individual who is a member of a Wisconsin works group applying for or receiving benefits under ss. 49.141 to 49.161, Stats., for the purpose of establishing or maintaining eligibility for those benefits or for the purpose of increasing the value of those benefits, has intentionally violated, on 3 separate occasions, any provision in ss. 49.141 to 49.161, Stats., or this chapter, the Wisconsin works agency may permanently deny benefits under ss. 49.141 to 49.161, Stats., to the individual.

DWD 12.22 REVIEW OF AGENCY DECISIONS. (1) PETITION FOR REVIEW. Any individual whose application for Wisconsin works under s. 49.147(1) to (5), Stats., is not acted upon by the Wisconsin works agency with reasonable promptness after the filing of the application, or is denied in whole or in part, whose benefit is modified or canceled, or who believes that the benefit was calculated incorrectly, may petition the Wisconsin works agency for a review of such action. Review is unavailable if the action by the Wisconsin works agency occurred more than 45 days prior to submission of the petition for review.

(2) REVIEW. (a) Upon a timely petition under sub. (1), the Wisconsin works agency shall give the applicant or participant reasonable notice and opportunity for a review. The Wisconsin works agency shall render its decision as soon as possible after the review and shall send a certified copy of its decision to the applicant or participant. The Wisconsin works agency shall deny a petition for a review or shall refuse to grant relief if the petitioner does any of the following:

1. Withdraws the petition in writing.

2. Abandons the petition. Abandonment occurs if the petitioner fails to appear in person or by representative at a scheduled review without good cause under s.DWD 12.20.

(b) The department may review a decision of a Wisconsin works agency under par. (a) if any of the following occurs:

1. Within 15 days of receiving the decision of the Wisconsin works agency, the applicant or participant petitions the department for a review of that decision.

2. The Wisconsin works agency requests the department to review the decision of the Wisconsin works agency.

(c) The department shall review a Wisconsin work's agency decision to deny an application based solely on the determination of financial ineligibility if any of the following occurs:

1. Within 15 days after receiving the decision of the Wisconsin works agency, the applicant petitions the department for a review of the decision.

2. The Wisconsin works agency requests the department to review the decision of the Wisconsin works agency.

(3) FAIR HEARINGS. When a Wisconsin works agency receives a petition for a fair hearing under s.49.21(1), Stats., the Wisconsin works agency shall conduct the review described in sub. (2) as a fact-finding procedure preceding a fair hearing and

shall attempt to resolve the matter upon agreement of all parties. If the matter is not resolved by agreement, the Wisconsin works agency shall promptly forward its fact-finding results to the department and the department shall conduct a fair hearing upon petition.

DWD 12.23 RECOVERY OF OVERPAYMENTS. The W-2 agency shall promptly recover all overpayments as follows:

(1) TRIAL JOB OVERPAYMENTS. For any overpayment of benefits paid under s.DWD 12.18(1)(a) from an individual who receives or has received trial job benefits paid under s.DWD 12.18(1)(a). The value of the benefit liable for recovery under this subsection may not exceed the amount that the W-2 agency paid in wage subsidies with respect to the participant while the participant was ineligible to participate. The W-2 agency shall ask a former participant in a trial job to voluntarily repay the overpayments. If a former participant refuses to repay voluntarily, the W-2 agency shall refer the former participant for collection or court action.

(2) COMMUNITY SERVICE JOBS AND TRANSITIONAL PLACEMENTS OVERPAYMENTS. (a) Except as provided in sub. (3), the W-2 agency shall recover an overpayment of benefits paid under s.DWD 12.18(1)(b) and (c) from an individual who continues to receive CSJ or transitional benefits by reducing the amount of the individual's benefit amount by no more than 10%.

(b) The CSJ or transitional participant may make a voluntary repayment in addition to the amount withheld from the CSJ or transitional benefit under par. (a).

(c) The W-2 agency shall ask a former CSJ or transitional placement participant to voluntarily repay any overpayment. If a former participant refuses to pay voluntarily, the W-2 agency shall refer the former participant for collection or court action.

(3) OVERPAYMENTS CAUSED BY INTENTIONAL PROGRAM VIOLATIONS. If an overpayment under sub. (1) or (2) is the result of an intentional violation of ss. 49.141 to 49.161 or this chapter, the W-2 agency shall recover the overpayment by deducting an amount as provided under s.49.161(3)(a) to (d), Stats., from the benefits received under s.DWD 12.18(1)(a), (b) or (c), until the overpayment is recovered.

DWD 12.24 NONCUSTODIAL, MINOR AND OTHER CUSTODIAL PARENTS.

(1) NONCUSTODIAL PARENTS. An individual who would be eligible under s. 49.145, Stats., and this chapter except that the individual is the noncustodial parent of a dependent child, is eligible for services provided by the W-2 agency if the dependent child's custodial parent is a participant and if the individual is subject to a child support order. The Wisconsin works agency may provide job search assistance

and case management designed to enable eligible noncustodial parents to obtain and retain employment.

(2) **MINOR CUSTODIAL PARENTS.** A custodial parent who is under the age of 18 is eligible, regardless of that individual's or that individual's parent's income or assets, to meet with a financial and employment planner. The financial and employment planner may provide the individual with information regarding Wisconsin works eligibility, available child care services, employment and financial planning, family planning services, community resources, eligibility for food stamps and other food and nutrition programs.

(3) **OTHER CUSTODIAL PARENTS.** A custodial parent in a Wisconsin works group in which the other custodial parent is a participant in a Wisconsin works employment position is eligible for employment training and job search assistance services provided by the Wisconsin works agency.

(4) **PREGNANT WOMEN.** A pregnant woman whose pregnancy is medically verified who would be eligible under s. 49.145, Stats., except that she is not a custodial parent of a dependent child, is eligible for employment training and job search assistance services provided by the Wisconsin works agency.

DWD 12.25 LEARNFARE. (1) **AUTHORITY AND PURPOSE.** This section is adopted under the authority of s. 49.26(1)(h)1.as. and 1m.c., Stats., to provide rules for the administration of learnfare, a program that requires that all teenagers whose custodial parent is a participant in a W-2 employment position, who are parents or who are residing with a natural or adoptive parent and who have not graduated from high school or received a high school equivalency diploma attend school to meet Wisconsin works participation requirements, and that all preteens living in a pilot county designated by the department, whose custodial parent is a participant in a W-2 employment position, who are parents or who are residing with a natural or adoptive parent and who have not graduated from high school or received a high school equivalency diploma attend school to meet Wisconsin works participation requirements.

(2) **APPLICABILITY.** This section applies to:

(a) All school districts and all county, tribal, and W-2 agencies;

(b) All teenagers included in a W-2 group who are parents or who are residing with a natural or adoptive parent and all W-2 groups which include a teenager who is a parent or who is residing with a natural or adoptive parent; and

(c) In a pilot county designated by the department all preteens included in a W-2 group who are parents or who are residing with a natural or adoptive parent and all W-2 groups which include a preteen who is a parent or who is residing with a natural or adoptive parent.

(3) DEFINITIONS. In this section:

(a) "Ceased to attend" means that the preteen or the teenager has 20 consecutive full school days of unexcused absences.

(b) "Dropout" means a preteen or a teenager who has ceased to attend school, has not graduated from high school or received a high school equivalency diploma and does not have an acceptable excuse under s. 118.15(1)(b) to (d) or (3), Stats.

(c) "Excused absence" means that the reason for the absence meets the school district's definition of a valid reason for the preteen or the teenager not to attend school.

(d) "Habitual truant" means a pupil who is absent from school without an acceptable excuse under ss. 118.15 and 118.16, Stats., for any of the following:

1. Part or all of 5 or more days out of 10 consecutive days on which school is held in a semester.
2. Part or all of 10 or more days on which school is held during a school semester.

(e) "High school equivalency diploma" means a certificate of educational achievement issued under s. 115.29(4), Stats., and ch. PI 5 following completion of a course of study.

(f) "Learnfare" means the program established under s. 49.26, Stats., which requires that all preteens living in a pilot county designated by the department and all teenagers attend school to meet Wisconsin works participation requirements.

(g) "Learnfare case management" means intervention for the purpose of assessing family needs, incorporating a plan to further school attendance into the employability plan and assisting in the implementation of the plan for the purpose of furthering regular school attendance and career preparation by the preteen or the teenager.

(h) "Monthly attendance requirement" means that the preteen or the teenager has no more than 2 full or part days of unexcused absences in a calendar month.

(i) "Preteen" means a person who is 6 to 12 years of age, lives in a pilot county as determined by the department, is a member of an W-2 group and is a parent or residing with his or her natural or adoptive parent.

(j) "School" has the meaning prescribed in s. 49.26(1)(a)2, Stats., namely, any one of the following:

1. A public school, as described in s. 115.01(1), Stats.
2. A private school, as defined in s. 115.001(3r), Stats.
3. A technical college pursuant to a contract under s. 118.15(2), Stats.
4. A course of study meeting the standards established by the state superintendent of public instruction under s. 115.29(4), Stats., for the granting of a declaration of equivalency of high school graduation.

(k) "School attendance officer" has the meaning prescribed in s. 118.16(1)(b), Stats., namely, an employee designated by the school board to deal with matters relating to school attendance and truancy.

(l) "School district" means the territorial unit for school administration as specified in s. 115.01(3), Stats.

(m) "Teenager" means a person who is 13 to 19 years of age, a member of an W-2 group and a parent or residing with his or her natural or adoptive parent.

(n) "Unexcused absence" means that the reason for the absence does not meet the school district's definition of a valid reason for the preteen or the teenager not to attend school.

(4) PARTICIPATION IN LEARNFARE. (a) A preteen or a teenager shall attend school full or part time except that a preteen or a teenager who has graduated from high school or received a high school equivalency diploma is exempt from the school attendance requirement under this section.

(b) A preteen or a teenager who is required to participate in learnfare under this section shall be considered to have failed to have met the school attendance requirements under the following circumstances:

1. The individual is either not enrolled in school or is a habitual truant.
2. During the immediately preceding semester the individual was either not enrolled in school or was a habitual truant.



3. A preteen or a teenager who is habitually truant from school during the current or immediately preceding semester or who was a dropout and returned to school during the semester under review or who is unable to verify previous attendance shall comply with the monthly attendance requirement.

4. If the school that the preteen or the teenager is currently enrolled in does not keep daily attendance records, the preteen or the teenager shall be considered to be meeting the school attendance requirement if the school verifies the continuing enrollment of the preteen or the teenager in the semester under review.

5. The preteen or the teenager is not required to comply with the monthly attendance requirements when the school the preteen or the teenager is attending is not in regular session, including during the summer.

(c) The preteen, teenager or the W-2 participant shall cooperate in providing information needed to verify enrollment information or good cause under sub. (7). If none of these individuals cooperates, no eligibility for a W-2 employment position exists.

(d) The preteen or the teenager who is a dropout or the W-2 participant shall notify the agency of the preteen's or teenager's nonattendance at school in compliance with s.DWD 12.09(2)(m).

(5) AGENCY RESPONSIBILITIES. (a) The W-2 agency shall review attendance information at all initial eligibility determinations and at all reviews under s.DWD 12.16(2) to (4).

(b) The W-2 agency shall inform the W-2 employment position participant that the signature of the participant on the W-2 application constitutes permission for the release of school attendance information by the school district.

(c) 1. The W-2 agency shall request information from the school attendance officer in the preteen's or the teenager's school district about the preteen's or teenager's attendance in the school district's current or most recently completed semester of attendance.

2. If information about the preteen's or the teenager's current or previous school attendance is not available or cannot be verified, the W-2 agency shall require the preteen or teenager to meet the monthly attendance requirement for one semester or until the information is obtained.

(d) The W-2 agency shall use the attendance information provided by a school to verify attendance for a preteen or a teenager.

(e) The W-2 agency shall review a preteen's or a teenager's claim that he or she has a good cause reason under sub. (7) for not attending school, and shall determine if a preteen should be referred to learnfare case management under sub. (8).

(f) The W-2 agency shall administer child care and transportation funds available to parents under age 20 under s. 49.26(1)(e), Stats. Payment for the cost of transportation to and from the child care provider shall be in the amount equal to the cost of transportation by the most appropriate means as determined by the department or the W-2 agency, applying the appropriate co-payment.

(6) SCHOOL DISTRICT RESPONSIBILITIES. (a) The school attendance officer shall provide information to the agency about the attendance of a preteen or a teenager who is enrolled in the public school in the school district within 5 working days after the date of receipt of the written request from the agency.

(b) The requirement under 20 USC 1232g and s. 118.125(2), Stats., that written consent be given for a school district to make available the attendance records of a pupil shall be met in the case of a preteen or a teenager in an W-2 group by the signature of the parent, guardian, caretaker or pupil on the W-2 application for initial eligibility or eligibility redetermination.

(c) The school district shall define how many hours of attendance count as a full and part day and shall provide that definition, upon request, to the agency.

(7) GOOD CAUSE CRITERIA. (a) A preteen or a teenager who is required to attend school to meet the learnfare participation requirements under s.49.26, Stats., shall comply except when there is good cause which shall be demonstrated by any of the following circumstances:

1. The preteen or the teenager is the caretaker of a child who is less than 45 days old;
2. The preteen or the teenager is the caretaker of a child who is 45 to 89 days old and child care for the preteen's or the teenager's child is required but:
  - a. There is no on-site day care at the school;
  - b. The school has no home instruction program; or
  - c. The preteen or the teenager has a physician's excuse; or
3. The preteen or the teenager is the caretaker of a child who is 90 or more days old and the preteen or the teenager has a physician's excuse;

4. Child care services for the preteen's or the teenager's child are necessary for the preteen or the teenager to attend school but child care licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established under s. 120.13(14), Stats., is not available. Child care shall be considered unavailable if there is no space available for the child in day care licensed under s. 48.65, Stats., certified under s. 48.651, Stats., or established under s. 120.13(14), Stats., within reasonable travel time and distance;

5. Transportation to and from child care is necessary for the preteen's or the teenager's child and there is no public or private transportation available;

6. The preteen or the teenager is temporarily excused from school attendance by the school district under s. 118.15(3), Stats.;

7. The preteen or the teenager is prohibited by the school district from attending school and an expulsion under s. 120.13(1), Stats., is pending. This exemption no longer applies once the preteen or the teenager has been formally expelled;

8. The preteen or the teenager is unable to attend school because he or she was expelled under s. 120.13(1), Stats., and another school is not available because:

a. There is no public or private school within reasonable travel time or distance which will accept the preteen or the teenager;

b. There is no public or private transportation available to another school; or

c. There is a public or private school which will accept the preteen or the teenager but the tuition charge is prohibitive and the preteen's or the teenager's school district refuses to pay the tuition; or

9. The preteen or the teenager failed to attend school for one or more of the following reasons:

a. Illness, injury or incapacity of the preteen or the teenager or a member of the preteen's or the teenager's family. In this subparagraph, "member of the preteen's or the teenager's family" means a spouse, child, parent or other dependent relative who lives with the preteen or the teenager;

b. Court-required appearance or temporary incarceration;

c. Medical or dental appointments for the preteen or the teenager or his or her child;

d. Death of a relative or a friend;

- e. Observance of a religious holiday;
- f. Family emergency;
- g. Breakdown in transportation;
- h. Suspension; or
- i. Any other circumstance beyond the control of the preteen or the teenager.

(b) Additional good cause criteria may be defined by the department through the review of agency decision process under s.DWD 12.22.

(8) **LEARNFARE CASE MANAGEMENT.** The first time that a preteen or a teenager fails to meet the attendance requirements under sub. (4), the W-2 agency shall send a written notice offering case management services to the individual and his or her family. The notice shall include information regarding the components of learnfare case management services including assessment and implementation and monitoring of the plan to further regular school attendance and career preparation by the preteen or the teenager.

(9) **CRITERIA FOR APPLYING A SANCTION.** (a) 1. Except as provided under subd. 2, a preteen who fails to meet the attendance requirements under sub. (4) without good cause under sub. (7) may be sanctioned under sub. (10) if all of the following apply:

- a. The W-2 agency has offered case management services to the preteen and his or her family;
- b. The W-2 participant fails or refuses to respond to or rejects an offer of case management or fails or refuses to participate in an assessment or the development of a learnfare case management plan, or the preteen or the preteen's family fails or refuses to engage in any activities identified by the case manager in the learnfare case management plan as being necessary to improve the preteen's school attendance; and
- c. The preteen, without first complying with the attendance requirement under sub. (4)(b)1., fails without good cause under sub. (7) to meet the attendance requirements under sub. (4)(b)2. in a subsequent month.

2. No sanction may be imposed and any existing sanction shall be removed in the next possible payment month in which a sanction is not already being applied for the preteen under any of the following circumstances:

a. The agency has not made a case manager available to a preteen who has failed to meet the attendance requirements under sub. (4);

b. The preteen or preteen's family is unable to comply with the learnfare case management plan because a service identified is not available and no appropriate alternative service as determined by the learnfare case manager is available; or

c. A good cause reason under sub. (7)(a)9 precluded the preteen or preteen's family from cooperating under subd. 1.b.

(b) A teenager who fails to meet the attendance requirements under sub. (4) without good cause under sub. (7) may be sanctioned or fined under sub. (10) as long as he or she continues to do so or a good cause reason under sub. (7) is verified.

(10) SANCTIONS OR FINES FOR NOT PARTICIPATING. (a) Notice. Upon determining that a sanction or fine is proper under sub. (9), the agency shall send written notice to the W-2 participant which specifies:

1. That the CSJ or transitional benefit will be reduced or the trial job participant will be fined, in the amount of \$50 per month per child not to exceed \$150 per W-2 group per month, in the next possible payment month because the preteen required to attend school has failed to meet attendance requirements and has failed to participate in learnfare case management or the teenager required to attend school has failed to meet attendance requirements.

2. The beginning date of the sanction or fine, and the preteen or the teenager to whom the sanction or fine applies;

3. How the W-2 participant can contact the school district for information regarding the children at risk program under s. 118.153, Stats.; and

4. The preteen's, teenager's or W-2 participant's right to request a review under par. (b).

(b) Review of agency decision. The preteen, teenager or W-2 participant may request a review of an agency decision in accordance with s.49.26, Stats., and s.DWD 12.22 on the W-2 agency's determination that a sanction or fine is proper under sub. (9).

(c) Failure to meet monthly attendance requirement. If the preteen, teenager or W-2 participant does not request a review under par. (b) or if, after a review has been held, the W-2 agency affirms that a sanction or fine is proper under sub. (9), the agency shall impose a sanction or fine and reduce the CSJ or transitional placement benefit beginning in the next possible payment month or fine the trial job participant, in the amount of \$50 per month per child not to exceed \$150 per W-2 group per month.

(d) Effective period of sanction or fine for failure to meet monthly attendance requirement. A sanction or fine applied under par. (c) shall be effective until the preteen meets the monthly attendance requirement and participates in case management or the teenager meets the monthly attendance requirement.

(e) Dropping out of school. 1. If the preteen, teenager or W-2 participant does not request a review under par. (b) or if, after a review has been held, the W-2 agency affirms that the preteen is a dropout and has failed to participate in learnfare case management or the teenager is a dropout, the W-2 agency shall impose the sanction or fine in the next possible payment month after the preteen or the teenager dropped out to the preteen or the teenager who has ceased to attend school.

2. If the review finds against the preteen or the teenager or if the preteen or the teenager failed to comply with the reporting requirements under s.DWD 12.09(2)(m), the month or months the W-2 group was not sanctioned or fined but the preteen did not meet the school attendance requirements and failed to participate in learnfare case management or the W-2 group was not sanctioned or fined but the teenager did not meet the school attendance requirements shall be considered an overpayment under s.49.161, Stats.

(f) Effective period of sanction for dropping out of school. A sanction applied under par. (e) shall be effective for a preteen who is a dropout and who has failed to participate in case management until the preteen provides verification from the case manager that he or she is no longer failing to participate in learnfare case management, provides written verification from the school district that he or she has re-enrolled and has met the monthly attendance requirement under sub. (4) for one calendar month or a good cause reason under sub. (7) for failing to attend school is verified. In this paragraph, "no longer failing to participate in learnfare case management" means that the preteen's family accepts the offer of case management, participates in an assessment and development of a learnfare case management plan

and begins to engage in the activities identified as being necessary to improve the preteen's school attendance. A sanction or fine applied under par. (e) shall be effective for a teenager who is a dropout until the teenager provides written verification from the school district that he or she has re-enrolled and has met the monthly attendance requirement under sub. (4) for one calendar month or a good cause reason under sub. (7) is verified. For either a preteen or a teenager, any month in which school is in session at least 10 days during that month may be used to meet the attendance requirement under sub. (4). This includes attendance at summer school. The sanction shall be removed in the next possible payment month.

DWD 12.26 CHILD CARE. (1) DEFINITIONS. In this section:

(a) "Level I certified family day care provider" means a day care provider certified under s. 48.651(1)(a), Stats.

(b) "Level II certified family day care provider" means a day care provider certified under s. 48.651(1)(b), Stats.

(2) ELIGIBILITY. An individual may receive a subsidy for child care for a child who has not attained the age of 13 if the individual meets all of the following conditions:

(a) The individual is a custodial parent of a child who is under the age of 13, or is a kinship care provider under s. 48.57(3m), Stats., and is providing care and maintenance for a child who is under the age of 13, and child care services for that child are needed in order for the individual to do any of the following:

1. Meet the learnfare attendance requirement under s. 49.26 (1)(ge), Stats., and s.DWD 12.25.

2. Work in an unsubsidized job, including training provided by an employer during the regular hours of employment.

3. Work in a Wisconsin works employment position, including participation in education or training activities under s.DWD 12.16(2)(c), (3)(b) or (4)(d).

4. Participate in other employment skills training, including an English as a 2nd language course, if the Wisconsin works agency determines that the course would facilitate the individual's efforts to obtain employment; a course of study meeting the standards established by the department of public instruction under s. 115.29 (4), Stats., for the granting of a declaration of equivalency of high school graduation, a

course of study at a technical college; or participation in educational courses that provide an employment skill, as determined by the department. An individual may receive aid under this subdivision for up to one year. An individual may not receive aid under this subdivision unless the individual meets at least one of the following conditions:

a. The individual has been employed in unsubsidized employment for 9 consecutive months and continues to be so employed.

b. The individual is a participant in a Wisconsin works employment position.

(b) The individual meets the eligibility conditions under s.DWD 12.09(2)(c) to (f) and (3)(a), except that an individual may be eligible for a child care subsidy under this section regardless of the number of days the individual has resided in Wisconsin prior to applying for the child care subsidy.

(c) The gross income of the W-2 group is at or below 165% of the poverty line for a family the size of the individual's family. In calculating the gross income of the family, the Wisconsin works agency shall include income described under s.DWD 12.09(3)(b).

(d) In two-parent families, both parents shall meet the eligibility criteria under this subsection.

(4) CHOICE OF PROVIDER. An eligible individual shall choose whether the child care will be provided by a day care center licensed under s. 48.65, a level I certified family day care provider, a level II certified family day care provider or a day care program provided or contracted for by a school board under s. 120.13 (14), Stats.

SECTION 3. DWD 56.04(1)(i) is created to read:

DWD 56.04(1)(i) Wisconsin works child care under s.49.155, Stats.



The rules contained in this order shall take effect as emergency rules on March 1, 1997.

Wisconsin Department of  
Workforce Development

Dated:

By: \_\_\_\_\_  
Linda Stewart  
Secretary

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

- ORIGINAL
- CORRECTED
- UPDATED
- SUPPLEMENTAL

Subject

WISCONSIN WORKS (W-2), UNDER SS. 49.141 THROUGH 49.161, STATS., AS CREATED BY  
1995 WISCONSIN ACT 289

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

Assumptions Used in Arriving at Fiscal Estimate

This is the rule to implement Wisconsin Works (W-2), under ss. 49.141 through 49.161, Stats., as created by  
1995 Wisconsin Act 289.

All costs to the Department and local governments for operation of Wisconsin Works (W-2) were included in  
the fiscal notes to 1995 Wisconsin Act 289. There are no additional costs for state government or local  
governments from promulgation of the administrative rule to implement Wisconsin Works (W-2).

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)  
DWD/DES Bonnie Kendell 1-6971

Authorized Signature/Telephone No.

*Linda Stewart*

Date

2/26/97

**FISCAL ESTIMATE WORKSHEET**

**1995 Session**

Detailed Estimate of Annual Fiscal Effect  
DOA-2047 (R10/94)

ORIGINAL     UPDATED  
 CORRECTED      
SUPPLEMENTAL

LRB or Bill No./Adm. Rule No.  
**DWD 12**

Amendment No.

Subject

Wisconsin Works (W-2) under ss. 49.141 to 49.161, Stats., as created by 1995 Wisconsin Act 289

I. One-time Costs or Revenue Impacts for State and/or Local Government (do not include in annualized fiscal effect):

II. Annualized Costs:		Annualized Fiscal impact on State funds from:	
		Increased Costs	Decreased Costs
<b>A. State Costs by Category</b>			
State Operations - Salaries and Fringes		\$	\$ -
(FTE Position Changes)		( FTE)	(- FTE)
State Operations - Other Costs			-
Local Assistance			-
Aids to Individuals or Organizations			-
<b>TOTAL State Costs by Category</b>		\$	\$ -
<b>B. State Costs by Source of Funds</b>			
GPR		\$	\$ -
FED			-
PRO/PRS			-
SEG/SEG-S			-
<b>III. State Revenues -</b> Complete this only when proposal will increase or decrease state revenues (e.g., tax increase, decrease in license fee, etc.)			
GPR Taxes		\$	\$ -
GPR Earned			-
FED			-
PRO/PRS			-
SEG/SEG-S			-
<b>TOTAL State Revenues</b>		\$	\$ -

**NET ANNUALIZED FISCAL IMPACT**

STATE

LOCAL

CHANGE IN COSTS

\$ SEE TEXT

\$ SEE TEXT

NET CHANGE IN REVENUES

\$ SEE TEXT

\$ SEE TEXT

Agency/Prepared by: (Name & Phone No.)

Authorized Signature/Telephone No.

Date

DWD/DES Bonnie Kendall 1-6971

*Lynda Stewart*

2/26/97

# Memo

**To:** Members, Wisconsin Legislature  
**From:** Rep. Glenn Grothman  
**Date:** August 28, 1997  
**Re:** PECFA

---

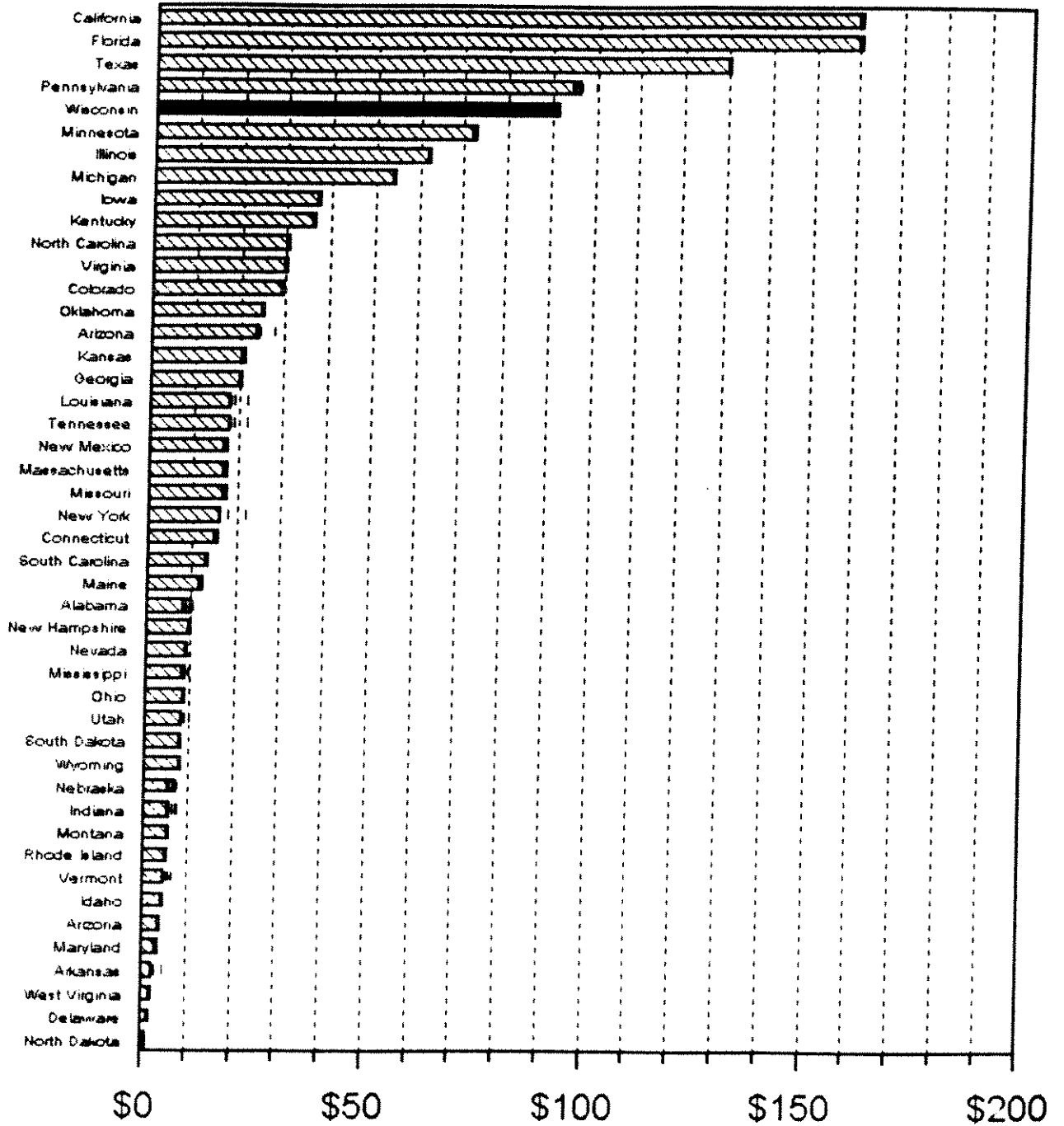
I recently received copies of the attached graphs relating to state expenditures on the PECFA program.

As you can see, Wisconsin ranks first in the nation in annual funds expended per citizen on this environmental cleanup initiative. We rank third in millions of dollars of costs incurred to date. We rank fifth in total annual spending on the program. And finally and most shockingly, we outstrip every other state in the union in total claims incurred per state citizen to date, exceeding the runner up by more than 100%!

The Joint Committee for Review of Administrative Rules held a hearing on the issue of runaway PECFA costs in May. The Joint Committee received a variety of useful recommendations, a summary of which I have also attached for your perusal.

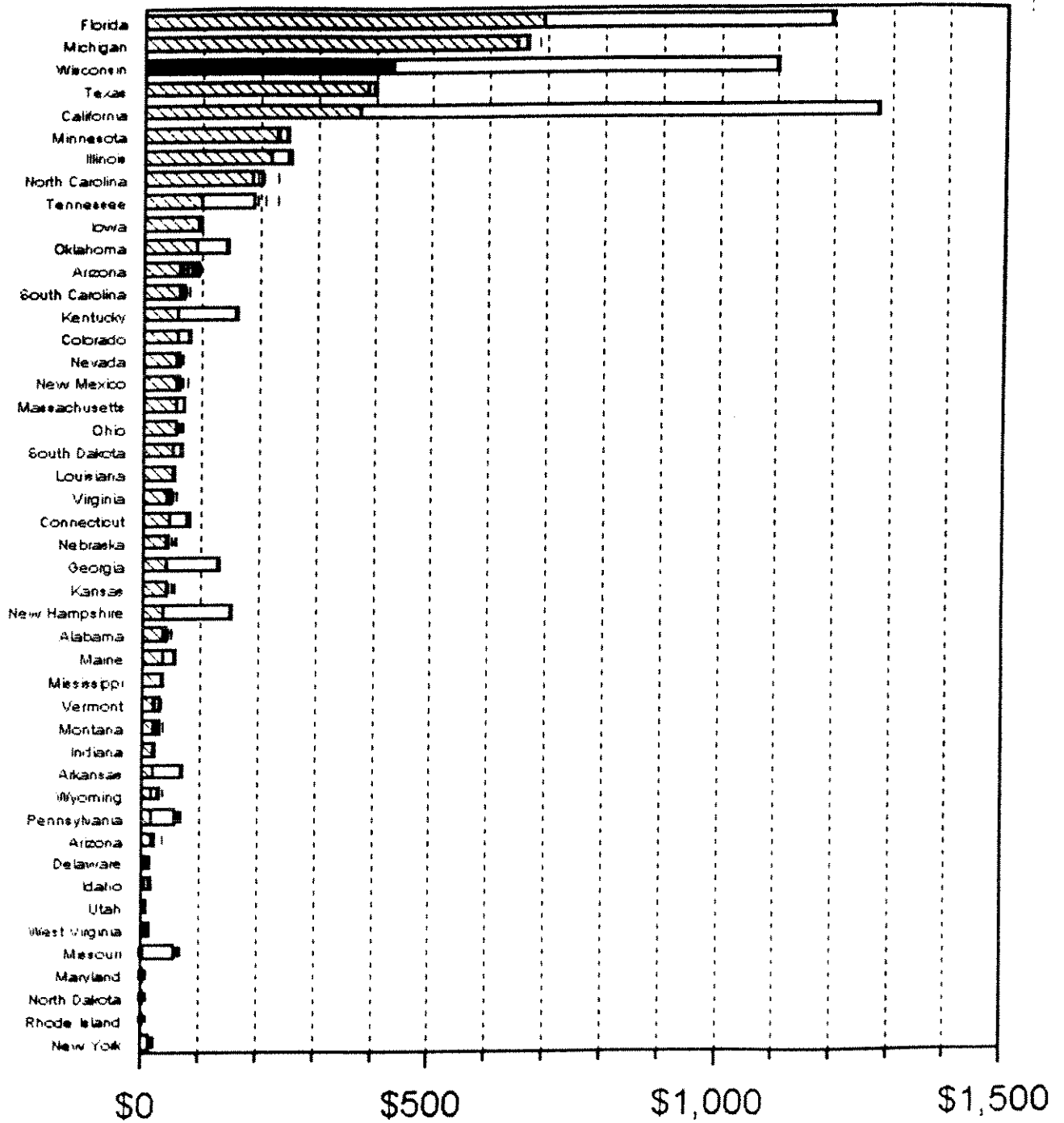
I think that the enclosed information underscores the need for meaningful, immediate reform in this area. As the PECFA program continues to expand and even upgraded tanks are made eligible for future claims, prompt changes will be the only way to assure the solvency of the program into the future.

# Total Annual Spending (millions)

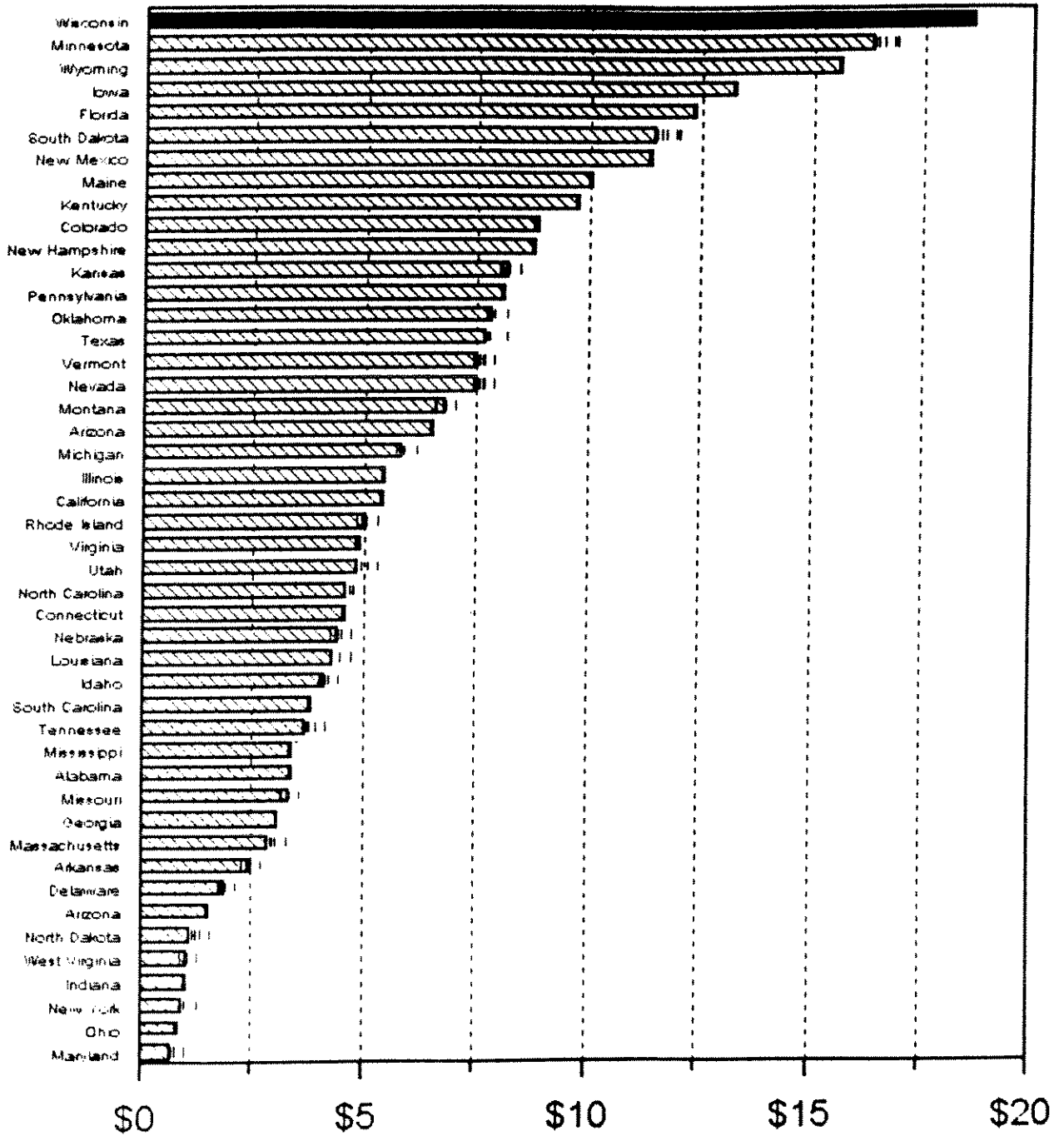


# Total Costs Incurred to Date (millions)

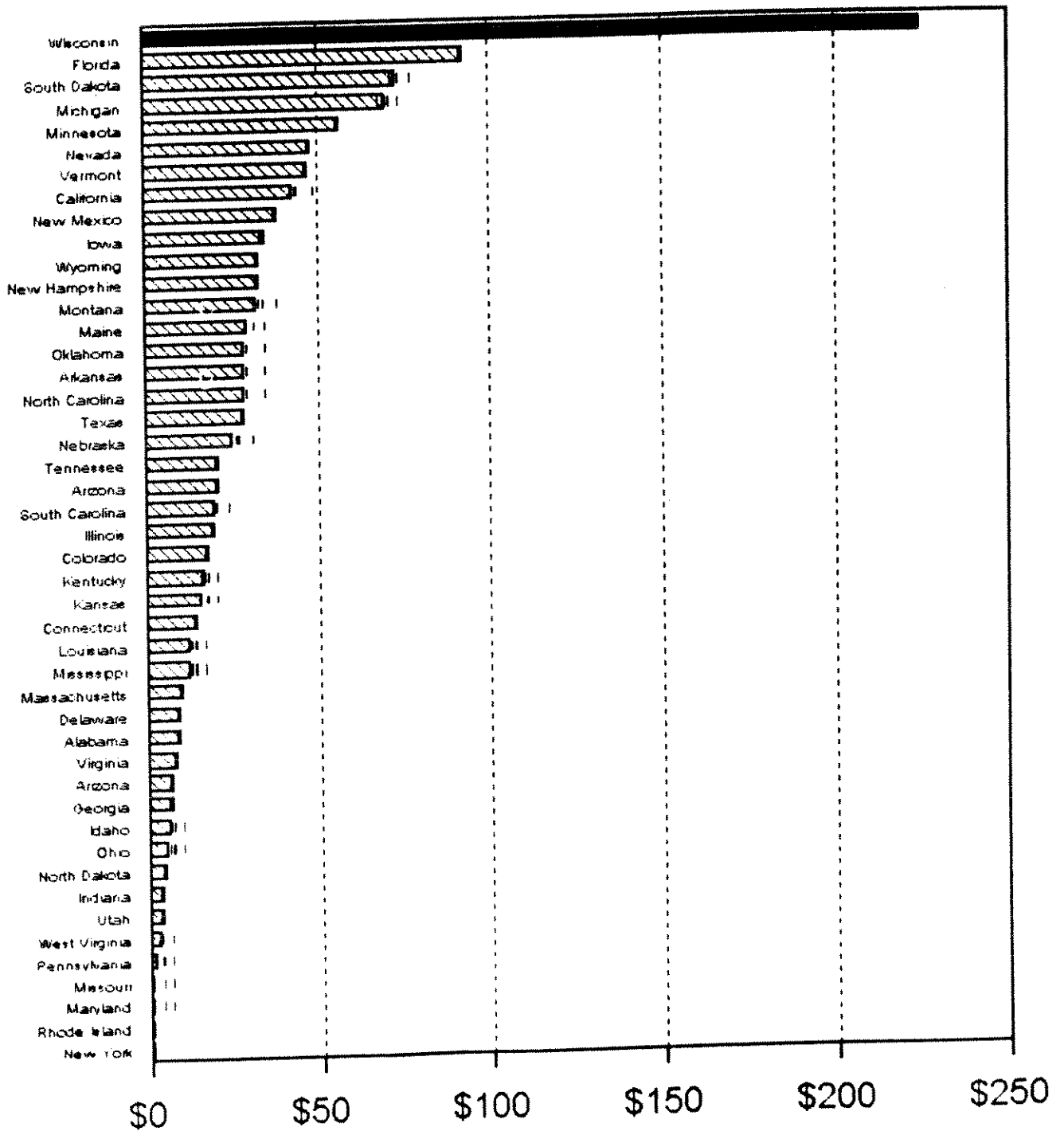
*(including accrued claim backlogs)*



# Annual Funds Expended per State Citizen



# Total Incurred to Date per State Citizen (including accrued claim backlogs)





# Memo

**To:** File, JCRAR  
**From:** Steve Krieser, Clerk  
**Date:** August 28, 1997  
**Re:** May 27, 1997 JCRAR Hearing: PECFA

---

Several people testified at the May 27, 1997 hearing on the PECFA program. The following were the recommendations for change as offered by some of the more high-profile witnesses.

John Alberts, Department of Commerce

- Creation of a "no further action" letter (similar to closure letter) on sites where geology is acting to contain petroleum pollution which exceeds the preventative action limits.
- Establish a system of competitive bidding for LUST site cleanups, instead of allowing site owner to choose remediation firm. Under this scenario, the site evaluation would be performed by a consultant of the site owner's choice. Then, bids would be let by the state on the basis of that evaluation, and the bid winner held to that bid for the duration of the project.
- Begin the use of "bundled" services for the collection of core and water samples at geographically clustered sites. Under the current system, a contractor, subcontractor, or consultant who holds contracts at several scattered sites may make long trips to these disparate areas to collect core samples as needed, charging the PECFA fund for exorbitant mileage and other costs on these trips. Under the proposed change, the Department of Natural Resources (or Commerce) would direct these activities, so that the nearest available contractor would collect the samples, or so that contractors might gather all needed samples in a specific region. This would save on mileage costs.
- Institute a 5% or 10% co-payment, such as was in place when the program began. This gives owners of sites the impetus to work to control costs. Owners will be more likely to scrutinize billings from contractors.

Laurie Egge

- Institute new rules to make landspreading of contaminated soils easier than it is now. Perhaps this should be coupled with the preemption of local landspreading prohibition ordinances.
- Implement the Risk-Based Corrective Action (RBCA) standards which are already written into the Administrative Code.

### Boyd Possin

- 90% of all LUST sites pose no threat to the environment or to human health. That is because petroleum tends to be self-remediating. This is unlike many other toxic compounds.
- Do not change Administrative Code; simply apply the code which is already in place.
- According to s. 160.13(2)(b)4, stats, pollution standards must kick in at the point at which a person drinking 2 liters of the polluted water each and every day for 70 years would run a 1:1,000,000 risk of developing cancer from the exposure. Change this standard – it results in infinitesimally low tolerance limits which are extremely costly to achieve in cleanups.
- Different standards could be established for groundwater contamination in the city, where pavement prevents rainwater infiltration and groundwater is not used as drinking water, and rural areas where those mitigating factors are not present.

### Mark Malander

- Engage in staff re-training to eliminate the “cultural” problem among DNR field staff which results in cleanups which are unnecessarily complex and costly.

### Dave Jenkins

- Allow ILHR 67 Code Committee to complete its work before taking any action on PECFA changes.
- Be careful of environmental activists, landfill interests, on landspreading reforms.

### James Gordon

- Expand use of landspreading. Perhaps pass landspreading prohibition preemption legislation.
- Increase PECFA tax or issue bonds to become current on money owed to claimants.
- Change statutes if needed to allow for site-specific standards on cleanup sites. Eliminate standards which treat sand sites the same as clay sites. They are not the same.
- Use the most inexpensive means possible to perform the initial investigation at LUST sites. Then use natural attenuation or containment with immediate site closure unless there is evidence of migration or groundwater pollution. In other words, create an assumption that a site is “closeable” unless there is obvious evidence to the contrary.



State of Wisconsin ● DEPARTMENT OF REVENUE

125 SOUTH WEBSTER STREET ● P.O. BOX 8933 ● MADISON, WISCONSIN 53708-8933 ● (608) 266-1911 ● FAX (608) 261-6240

SEP 11 1997

September 8, 1997

✓  
Honorable Richard Grobschmidt  
Co-Chair, Joint Committee for Review  
of Administrative Rules  
100 N. Hamilton, Room 404  
P.O. Box 7882  
Madison, WI 53707-7882

Honorable Glenn Grothman  
Co-Chair, Joint Committee for Review  
of Administrative Rules  
Room 125 West, State Capitol  
P.O. Box 8952  
Madison, WI 53708

Re: Request for 46-Day Extension Under s. 227.24(2)(a), Stats., of Emergency  
Rule Revising Tax 11.05 and 11.86

Dear Senator Grobschmidt and Representative Grothman:

To provide for additional time necessary to promulgate a permanent rule, I am requesting a 46-day extension of the emergency rule revising Tax 11.05 and 11.86, relating to the sales and use tax treatment of landscaping services. This extension will help to prevent any lapse in coverage until the permanent rule becomes effective. This emergency rule expires October 16, 1997.

A permanent rule has been developed and has been reviewed by the Legislative Council Rules Clearinghouse. A public hearing was held July 29, 1997, on both the emergency and permanent rules. The permanent rule is being reviewed by Legislative committees at this time. However, since the permanent rule cannot be in place before the emergency rule expires, a 46-day extension of the emergency rule is necessary.

A copy of the initial Order of the Department of Revenue Adopting An Emergency Rule is attached, for your information. A brief analysis explaining the need for the rule follows.

Honorable Richard Grobschmidt  
Honorable Glenn Grothman  
Page Two

Analysis


Sections Tax 11.05(2)(s) and 11.86(6) state that landscaping services (e.g., planting, mowing, and fertilizing grass) are only taxable when they are performed in developed areas. Similar services performed in undeveloped areas (e.g., along highways) were determined by the department to not be landscaping services and therefore, the sale of such services was not subject to sales or use tax.

In the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue* (8/29/96 and 4/4/97, Docket #93-S-569), the Wisconsin Tax Appeals Commission held that there was no statutory basis for the distinction made by the department that certain services performed in developed areas were landscaping while the same services performed in undeveloped areas were not landscaping.

The emergency rule was therefore promulgated to remove any threat of estoppel arguments and revenue loss to the state as a result of information contained in these rules that implies planting, mowing, fertilizing, and similar services performed in undeveloped areas are not taxable.

Thank you for your consideration in this matter.

Sincerely,

  
Cate Zeuske  
Secretary of Revenue

CZ:MPW:c11  
CKRUL/529

Enclosure

ORDER OF THE DEPARTMENT OF REVENUE  
ADOPTING AN EMERGENCY RULE

The Wisconsin Department of Revenue hereby adopts an emergency rule interpreting s. 77.52(2)(a)20., Stats., pursuant to the Wisconsin Tax Appeals Commission decision in the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue*.

---

Analysis by the Department

Statutory authority: s. 227.24, Stats.

Statute interpreted: s. 77.52(2)(a)20., Stats.

SECTIONS 1 AND 2. Tax 11.05(2)(s) is amended and Tax 11.86(6) is repealed and recreated to reflect the Wisconsin Tax Appeals Commission decision in the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue*. The Commission held that whether grass seed, flowers, shrubs, etc. were planted, fertilized, etc. in developed areas or in undeveloped areas did not impact on whether such services were landscaping services under s. 77.52(2)(a)20., Stats.

---

FINDING OF EMERGENCY

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

Sections Tax 11.05(2)(s) and 11.86(6), Stats., state that landscaping services (e.g., planting, mowing, and fertilizing grass) are only taxable when they are performed in developed areas. Similar services performed in undeveloped areas (e.g., along highways) were determined by the department to not be landscaping services and therefore, the sale of such services was not subject to sales or use tax.

In the case of *Straight Arrow Construction Company, Inc. v. Wisconsin Department of Revenue* (8/28/96 and 4/4/97, Docket #93-S-569), the Wisconsin Tax Appeals Commission held that there was no statutory basis for the distinction made by the department that certain services performed in developed areas were landscaping while the same services performed in undeveloped areas were not landscaping.

It is necessary to promulgate this rule order to remove any threat of estoppel arguments and revenue loss to the state as a result of information contained in these rules that implies planting, mowing, fertilizing, and similar services performed in undeveloped areas are not taxable.

This rule is therefore promulgated as an emergency rule and shall take effect upon publication in the official state newspaper. Certified copies of this rule have been filed with the Secretary of State and the Revisor of Statutes, as provided in s. 227.24, Stats.

---

SECTION 1. Tax 11.05(2)(s) is amended to read:

Tax 11.05(2)(s) The gross receipts from landscaping and lawn maintenance services, including weed cutting in lawn, and garden and other developed areas and along highways, streets and walkways, but not charges for damages described in sub. (3)(c).

SECTION 2. Tax 11.86(6) is repealed and recreated to read:

Tax 11.86(6) LANDSCAPING SERVICES. Gross receipts from landscaping and lawn maintenance services are taxable. Except as provided in sub. (5)(a), landscaping and lawn maintenance services include:

- a. Landscape planning and counseling.
- b. Lawn and garden services, such as planting, mowing, spraying and fertilizing.
- c. Shrub and tree services.
- d. Spreading topsoil and installing sod or planting seed where trenches have been dug or sump pump, transmission and distribution lines have been buried in residential, business, commercial and industrial locations, cemeteries, golf courses, athletic fields, stadiums, parking lots and other areas and along highways, streets and walkways.

Note to Revisor: Remove the example that follows sub. (6).

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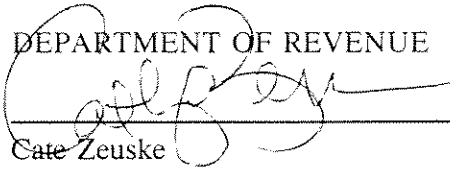
The rules contained in this order shall take effect upon publication in the official state newspaper as provided in s. 227.22(2)(c), Stats.

Dated :

May 13 1997

By:

DEPARTMENT OF REVENUE

  
Cate Zeuske  
Secretary of Revenue

EMERGENCY RULE

1997 Session

LRB or Bill No./Adm. Rule No.

TAX 11.05 and 11.86

Amendment No. if Applicable

FISCAL ESTIMATE  
DOA-2048 N(R10/94)

- ORIGINAL
- UPDATED
- CORRECTED
- SUPPLEMENTAL

Subject  
Sales and Use Tax Treatment of Landscaping Services

Fiscal Effect

State:  No State Fiscal Effect

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

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

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

Decrease Costs

Local:  No Local Government Costs

1.  Increase Costs  
 Permissive  Mandatory

3.  Increase Revenues  
 Permissive  Mandatory

5. Types of Local Governmental Units Affected:

2.  Decrease Costs  
 Permissive  Mandatory

4.  Decrease Revenues  
 Permissive  Mandatory

Towns  Villages  Cities  
 Counties  Others \_\_\_\_\_

School Districts  WTCS Districts

Fund Sources Affected

- GPR  FED  PRO  PRS  SEG  SEG-S

Affected Ch. 20 Appropriations

Assumptions Used in Arriving at Fiscal Estimate

The emergency rule updates the Wisconsin Administrative Code with respect to the sales and use tax treatment of landscaping services. The rule reflects a Wisconsin Tax Appeals Commission decision [*Straight Arrow Construction Company v. Department of Revenue*] that the distinction made by the Department between landscaping services performed in developed areas and similar services performed in undeveloped areas has no statutory basis. This rule change conforms to current law and, therefore, has no fiscal effect.

Long-Range Fiscal Implications

Agency/Prepared by: (Name & Phone No.)

Wisconsin Department Of Revenue

Craig D. Kammholz, (608) 261-8984

Authorized Signature/Telephone No.

Yeang-Eng Braun

(608) 266-2700

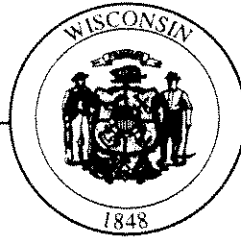
*Yeang Eng Braun*

Date

5/12/97

SENATOR RICHARD GROBSCHMIDT  
CO-CHAIRMAN

ROOM 404 • 100 NORTH HAMILTON  
MADISON, WI 53707  
(608) 266-7505



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIRMAN

ROOM 125 WEST • STATE CAPITOL  
MADISON, WI 53702  
(608) 264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

September 24, 1997

Linda Stewart, Secretary  
Department of Workforce Development  
201 East Washington Avenue  
Madison, WI 53707-7946

Dear Secretary Stewart:

The Joint Committee for the Review of Administrative Rules met in Executive Session on September 24, 1997 and adopted the following motion:

**Emergency Rule DWD 12**

**Relating to the Wisconsin Works program. Submitted by the Department of Workforce Development.**

September 24, 1997

EXECUTIVE SESSION HELD

Moved by Senator Grobschmidt, seconded by Senator Welch that, pursuant to s. 227.24(2)(a), stats., the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule DWD 12 by 60 days, at the request of the Department of Workforce Development.

Ayes: (9) Representatives Grothman, Gunderson, Seratti, and Kreuser; Senators Grobschmidt, Wirch, Potter, Welch, and Schultz.

Noes: (1) Representative R. Young.

Absent: (0) None.

Motion Carried: Extension Granted.  
9 Ayes, 1 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,

RICHARD GROBSCHMIDT  
Senate Co-Chair

GLENN GROTHMAN  
Assembly Co-Chair

RG:GSG:swk

cc: Secretary of State La Follette  
Revisor of Statutes Gary Poulson



SENATOR RICHARD GROBSCHMIDT  
CO-CHAIRMAN

Room 404 • Hamilton  
Madison, WI 53707  
Phone: 608-266-7505



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIRMAN

Room 125 West • State Capitol  
Madison, WI 53703  
Phone: 608-264-8486

## JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

### Committee Meeting Attendance Sheet

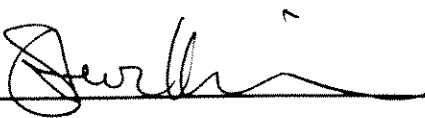
#### *Joint Committee for Review of Administrative Rules*

Date September 24, 1997 Meeting Type Exec. Session

Location Room LL2, 119 Martin Luther King, Jr. Blvd.

COMMITTEE MEMBER	PRESENT	ABSENT	EXCUSED
1. Senator GROBSCHMIDT	✓		
2. Senator WIRCH	✓		
3. Senator POTTER	✓		
4. Senator WELCH	✓		
5. Senator SCHULTZ	✓		
6. Representative GROTHMAN	✓		
7. Representative GUNDERSON	✓		
8. Representative SERATTI	✓		
9. Representative YOUNG	✓		
10. Representative KREUSER	✓		
Totals	10	0	0

s:\comclerk\attend

  
\_\_\_\_\_  
John Sumi / Steve Krieser, Committee Clerk

SENATOR RICHARD GROBSCHMIDT  
CO-CHAIRMAN

Room 404 • Hamilton  
Madison, WI 53707  
Phone: 608-266-7505



REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIRMAN

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Madison, WI 53703  
Phone: 608-264-8486

JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES

*Joint Committee for Review of Administrative Rules  
Emergency Rule Extension Motion*

DATE 9-24-97 EXECUTIVE SESSION  PUBLIC HEARING  C-HOUSE RULE

MOVED BY Grobschmidt SECONDED BY Welch

MOTION that, pursuant to s. 227.24(2)(a), stats., the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule DWD 12 by 60 days, at the request of the Department / Office of Workforce Development.

LEGISLATOR	AYE	NO	ABSENT
Senator GROBSCHMIDT	✓		
Senator WIRCH	✓		
Senator POTTER	✓		
Senator WELCH	✓		
Senator SCHULTZ	✓		
Representative GROTHMAN	✓		
Representative GUNDERSON	✓		
Representative SERATTI	✓		
Representative YOUNG		✓	
Representative KREUSER	✓		
Totals	9	1	0

MOTION CARRIED

MOTION FAILED

SENATOR RICHARD GROBSCHMIDT  
CO-CHAIRMAN

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Madison, WI 53707  
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REPRESENTATIVE GLENN GROTHMAN  
CO-CHAIRMAN

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Madison, WI 53703  
Phone: 608-264-8486

JOINT COMMITTEE FOR  
REVIEW OF ADMINISTRATIVE RULES

*Joint Committee for Review of Administrative Rules  
Emergency Rule Extension Motion*

DATE 9-24-97 EXECUTIVE SESSION  PUBLIC HEARING  C-HOUSE RULE

MOVED BY Grobschmidt SECONDED BY R. Young

MOTION that, pursuant to s. 227.24(2)(a), stats., the Joint Committee for Review of Administrative Rules extend the effective period of emergency rule Tax 11.05 by 46 days, at the request of the Department / Office of Revenue.

LEGISLATOR	AYE	NO	ABSENT
Senator GROBSCHMIDT	✓		
Senator WIRCH	✓		
Senator POTTER	✓		
Senator WELCH		✓	
Senator SCHULTZ		✓	
Representative GROTHMAN		✓	
Representative GUNDERSON		✓	
Representative SERATTI		✓	
Representative YOUNG	✓		
Representative KREUSER	✓		
Totals	5	5	0

MOTION CARRIED

MOTION FAILED