

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

APR 03 2003

4.10
April 2, 2003

The Honorable Alan Lasee
Senate President
State Capitol Building, Room 220 South
Madison, WI 53702

The Honorable John Gard
Assembly Speaker
State Capitol Building, Room 211 West
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on April 2, 2003 and adopted the following motion:

Moved by JCRAR, that pursuant to §227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Emergency Rule Nursing 4.10 for 60 days at the request of the Board of Nursing.

Motion Carried 10 Ayes, 0 Noes.

Pursuant to s. 227.24(2)(c), stats., as treated by 1997 Wisconsin Act 185, please forward a copy of this notice to the chairperson of the standing committee in your respective house most likely to have jurisdiction over the Clearinghouse Rule corresponding to this emergency rule.

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

April 2, 2003

APR 02 2003

Department of Regulation and Licensing
Wayne Austin
1400 East Washington Avenue
Madison, WI 53708-8935

Dear Mr. Austin:

The Joint Committee for the Review of Administrative Rules met in Executive Session on April 2, 2003 and adopted the following motion:

Moved by JCRAR, that pursuant to §227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extend the effective date of Emergency Rule Nursing 4.10 for 60 days at the request of the Board of Nursing.

Motion Carried 10 Ayes, 0 Noes.

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

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

Nursing Board – Affects N 4.10

SECTION 1. N 4.10 is created to read:

N 4.10 Malpractice insurance coverage. (1) Nurse-midwives shall maintain in effect malpractice insurance evidenced by one of the following:

- (a) Personal liability coverage in the amounts specified in s. 665.23 (4), Stats.
 - (b) Coverage under a group liability policy providing individual coverage for the nurse-midwife in the amounts set forth in s. 655.23 (4), Stats.
- (2) Notwithstanding sub. (1), malpractice insurance is not required for any of the following:
- (a) A nurse-midwife who practices as an employee of this state or a governmental subdivision, as defined under s. 180.0103, Stats.
 - (b) A nurse-midwife who practices as an employee of the federal public health service under 42 USC 233 (g).
 - (c) A nurse-midwife who does not provide care for patients.
- (3) A nurse-midwife shall submit to the board satisfactory evidence that he or she has in effect malpractice insurance required by sub. (1) at the time established for credential renewal under s. 440.08 (2) (a) 50., Stats.

Jim Doyle
Governor

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

1400 E Washington Ave
PO Box 8935
Madison WI 53708-8935
Email: web@drl.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

Donsia Strong Hill
Secretary



April 1, 2003

The Honorable Joseph Leibham
Senate Co-Chair
Joint Committee for Review of Administrative Rules
409 South, State Capitol
Madison, WI 53707

The Honorable Glenn Grothman
Assembly Co-Chair
Joint Committee for Review of Administrative Rules
15 North, State Capitol
Madison, WI 53707

Re: Emergency Rule

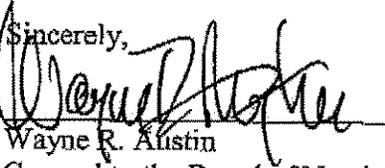
Dear Senator Leibham and Representative Grothman:

Pursuant to legislative authority set forth in 2001 Wisconsin Act 52, the Board of Nursing in October, 2002, promulgated emergency rules establishing minimum requirements for malpractice insurance for registered nurse-midwives. The emergency rule was to take effect on November 1, 2002. The companion rule, identified as Clearinghouse Rule 03-009, is currently in the promulgation process. However, due to some early delays in that process, it has not yet been submitted for legislative review.

It has now come to our attention that the emergency rule is due to expire within the next two days. In order to ensure continuity until the Clearinghouse Rule takes effect, the Board of Nursing requests that the Joint Committee approve an extension of the deadline for expiration of the emergency rule under § 227.24(2), Stats. for the maximum period of 60 days.

Thank you for the Committee's consideration of this request.

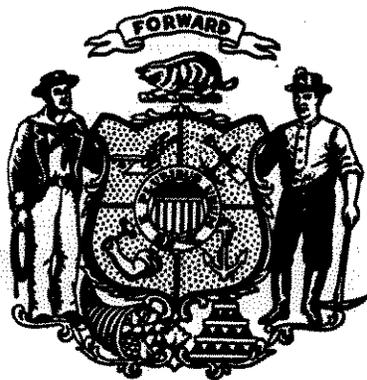
Sincerely,


Wayne R. Austin

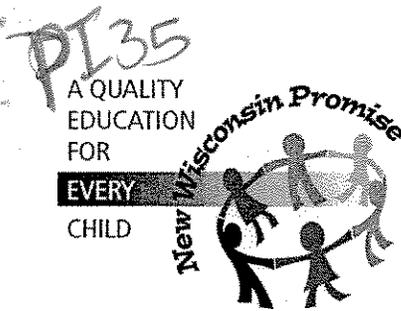
Counsel to the Board of Nursing

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END



END



State of Wisconsin Department of Public Instruction

Elizabeth Burmaster, State Superintendent

October 27, 2004

OCT 27 2004

The Honorable Joe Leibham, Co-Chair
Joint Committee for the Review of Administrative Rules
Room 409 South
State Capitol
Madison, WI 53702

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

Dear Senator Leibham and Representative Grothman:

The Department of Public Instruction is submitting this letter as a petition to extend for 60 days the effective period of the emergency rule relating to financial reporting requirements under the Milwaukee Parental Choice Program (MPCP). 2003 Wisconsin Act 155 made a number of changes to the MPCP, under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The Act requires participating private schools to:

- Provide the department with evidence of financial viability.
- Provide the department with evidence of sound fiscal practices.
- Provide proof that the administrator has participated in a fiscal management training program approved by the department.

The Act also gives the state superintendent the authority to:

- Withhold aid if a participating private school is not in compliance with program requirements.
- Under certain circumstances, issue an order prohibiting a private school from participating in the program in the current year.
- Immediately terminate a private school's participation in the program if conditions at the school present an imminent threat to the health and safety of pupils.

Whenever the state superintendent issues an order terminating a school's participation, she must notify the parent or guardian of each pupil at that school.

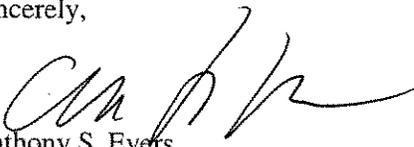
The rule sets forth the process by which the department will implement the provisions under the Act, which is effective starting in the 2004-05 school year. The rule also specifies the responsibilities of auditors and the department in determining if the school is meeting the requirements under the Act.

The rule was developed based on a review of fiscal practices contained in policy manuals for non-governmental organizations affiliated with MPCP private schools, recommended practices by national organizations, requirements that other state agencies have for private and non-profit organizations, and internal control practices contained in professional accounting and auditing literature. Financial practices and audit requirements included in the rule are similar to those required for school districts, charter schools, other state agency requirements for non-profit and for-profit organizations, and are consistent with generally accepted national standards. An overview of rule items was provided to interested parties, but discussion was limited due to the short implementation timeframe imposed under 2003 Wisconsin Act 155.

The emergency rule will expire November 27, 2004. The proposed permanent rule was submitted to the Legislative Council Rules Clearinghouse on July 9, 2004. The department held a public hearing on the emergency and proposed permanent rules on September 13, 2004, in Milwaukee. Pursuant to s. 227.19 (2), Stats., notice of rules in final draft form will not be submitted to the presiding officers of each house of the legislature until January 2005. In the meantime, the department continues to work with interested parties to determine how the emergency rule will be implemented until the permanent rule is in place. We hope to have permanent rules effective by April 1, 2005.

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

Sincerely,



Anthony S. Evers
Deputy State Superintendent

lls

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

The state superintendent of public instruction hereby rennumbers and amends PI 35.045 (1) (d) and (e) and PI 35.05 (2); amends PI 35.02 (2), PI 35.04 (4), PI 35.045 (1) (intro.), (b) and (c), PI 35.045 (3) (b) 4., PI 35.05 (3) (b) (intro.), and PI 35.05 (3) (b) 2. to 5.; repeals and recreates PI 35.046 and creates PI 35.02 (7m), (8m), (9m), (9r), (10m), and (17m), PI 35.04 (9), PI 35.045 (1) (d) and (e), PI 35.045 (3) (b) 5., PI 35.047 and PI 35.048, PI 35.05 (2) (b) to (d), and PI 35.05 (10) to (12), relating to financial reporting requirements under the Milwaukee Parental Choice Program.

ANALYSIS BY THE DEPARTMENT OF PUBLIC INSTRUCTION

Statute interpreted: s. 119.23 (7) and (10), Stats.

Statutory authority: s. 119.23 (7) (am) 2. and (d) 2., (10) (a) 3., and (11), Stats.

Plain language analysis:

2003 Wisconsin Act 155 made a number of changes to the Milwaukee Parental Choice Program (MPCP), under which certain low-income pupils who reside in the city of Milwaukee may attend participating private schools in the city at state expense. The Act requires participating private schools to:

- Provide the department with evidence of financial viability.
- Provide the department with evidence of sound fiscal practices.
- Provide proof that the administrator has participated in a fiscal management training program approved by the department.

The Act also gives the state superintendent the authority to:

- Withhold aid if a participating private school is not in compliance with program requirements.
- Under certain circumstances, issue an order prohibiting a private school from participating in the program in the current year.
- Immediately terminate a private school's participation in the program if conditions at the school present an imminent threat to the health and safety of pupils.

Whenever the state superintendent issues an order terminating a school's participation, he or she must notify the parent or guardian of each pupil.

The proposed rules set forth the process by which the department will implement the provisions under the Act, which is effective starting in the 2004-05 school year. The proposed rules also specify the responsibilities of auditors and the department in determining if the school is meeting the requirements under the Act.

Agency contact person: (including email and telephone)

Dennis Hanson, School Finance Auditor, 608/267-1291, dennis.hanson@dpi.state.wi.us

SECTION 1. PI 35.02 (2) is amended to read:

PI 35.02 (2) "Auditor" or "certified public accountant" means a ~~person~~ firm licensed as a certified public accountant accounting firm by the accounting examining board under ch. 442, Stats.

SECTION 2. PI 35.02 (7m), (8m), (9m), (9r), (10m) and (17m) are created to read:

PI 35.02 (7m) "Educational programming" means the providing of instruction and related services to pupils enrolled in the private school.

(8m) "Financial viability" means the ability of the private school to pay for goods, services, make debt service payments, and pay other obligations as they become due.

(9m) "Generally accepted auditing standards" means the auditing standards prescribed by the accounting examining board under Accy 1.202, Wis. Admin. Code.

(9r) "Generally accepted government auditing standards" means the auditing standards issued by the comptroller general of the United States.

(10m) "Less-than-a- arms-length transaction" means a transaction where one party to the transaction is able to control or substantially influence the actions of the other. Such transactions include but are not limited to those between any of the following:

(a) Administrative and operating locations of the private school.

(b) The private school and other organizations under common control through common officers, directors, or members.

(c) The private school and a director, trustee, officer, or key employee of the private school or immediate family either directly or through corporations, trusts, or similar arrangements in which they hold a controlling interest.

(17m) "Related parties" has the meaning given in generally accepted auditing standards.

SECTION 3. PI 35.04 (4) is amended to read:

PI 35.04 (4) A private school under this section shall notify each applicant and the applicant's parent or guardian of acceptance or nonacceptance, in writing, within 60 days after receiving the application. The private school shall retain all notices given under this section and all original applications, both accepted and nonaccepted, submitted under this chapter. The private school shall submit, with the continuing eligibility report under s. PI 35.03 (5) (b), the number of accepted and nonaccepted applications for the choice program for that school year. All corrections to applications shall be made by a single strike-through the information to be corrected with the corrected information written in indelible ink next to the stricken item. Any correction made under this subsection shall be initialed and dated by the parent or guardian and the school administrator or his or her designee. Any application not corrected as required by this subsection shall be considered an ineligible application until such time a properly completed application is obtained and a copy is provided to the department as required under this section.

SECTION 4. PI 35.04 (9) is created to read:

PI 35.04 (9) (a) The private school shall engage the auditor providing the opinion statement required under s. PI 36.046 (1) (a), or another auditor, to separately audit the private school's current enrollments as reported under s. PI 35.04

(6) (a). The auditor's report shall identify ineligible pupils for whom the private school has received payment, the amount of payment received for each such pupil, and additional eligible pupils qualifying the private school for a payment. The auditors' report required under this subsection shall be provided to the department by the following December 1 for the third Friday in September enrollment, and by the following September 1 for the second Friday in January enrollment.

(b) The private school shall provide the auditor with a listing of all kindergarten through grade 12 pupils enrolled in the school by grade level and original classroom records the auditor requires to audit enrollment under this subsection. The listing provided under this paragraph shall identify pupils participating in the choice program.

(c) The auditor engaged for an enrollment audit under this subsection shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall be made in accordance with professional standards and include all the procedures specified in this subsection and such other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to audits under this subsection for at least 3 years from the date of the department's certification of the financial audit report under s. PI 35.045 (1) (g) 3.

(d) The auditor shall perform all the following and other procedures agreed upon by the auditor and the department in auditing the private school's enrollment:

1. Verify totals used to compile reported enrollment and tracing totals to original classroom records.
2. Reconcile the enrollment the private school reported to the department under s. 115.30 (3), Stats., with the pupil listing provided by the private school under par. (b). If necessary, the private school shall amend the filed report under s. 115.30 (3), Stats., to correctly report enrollment.
3. Verify enrollment reported on the membership report under s. PI 35.04 for all choice program pupils against the private school's official attendance records.
4. Determine that the private school has an original application as required by s. PI 35.04 (4) for all pupils identified as participating in the choice program. Any pupil for whom an application cannot be provided or contains a correction not complying with the requirements of s. PI 35.04 (4) shall be considered an ineligible pupil and disclosed in the auditor's report required under par. (a).
5. Verify that all choice program pupils included on the private school's official enrollment records against original classroom records and determine that they meet the requirements of sub. (7).
6. Select a sample of at least 60 other pupils identified as not participating in the choice program from original classroom records and determine that selected pupils were included in reported membership enrollments under s. PI 35.04 (6). The sample shall include records from each classroom. If an exception is identified, extend the sample test in increments of 60 records until no additional exceptions are found or all classroom records have been verified as properly included in reported enrollments.

7. If the private school is reporting pupils enrolled in a 4-year-old kindergarten program as permitted by s. 121.004 (7) (cm), Stats., verify that the 4-year-old kindergarten program included at least 87.5 hours of outreach activities as documented by teacher logs.

8. Reconcile tuition revenues and tuition waiver pupils against listings of pupils identified as not participating in the choice program.

9. If the private school has operated a summer school program, the auditor, as part of the third Friday in September enrollment audit, shall review for clerical accuracy documentation maintained by the school supporting summer school membership reports filed with the department.

(e) Failure of the private school to provide original classroom records as required under this subsection shall be considered a scope limitation and the auditor engaged to provide the enrollment audit under s. PI 35.04 (9) or the opinion statement required under s. PI 35.046 (1) (a) shall disclaim expression of an opinion.

(f) Upon review of the third Friday in September enrollment audit report, the department shall certify an amount due from the private school for payments made to the school for ineligible pupils or additional payments due the school for qualifying pupils. The private school shall refund to the department the amount certified due the department within 60 days of certification. The department shall make additional payments for eligible pupils within 60 days of notification.

(g) The private school shall retain all pupil records required for audits under this subsection for at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless requested to retain the records longer by the department or a law enforcement agency. The private school shall provide the department access to original records referenced in the auditor's working papers and provide copies thereof as requested by the department.

SECTION 5. PI 35.045 (1) (intro.), (b) and (c) are amended to read:

PI 35.045 (1) (intro.) Annually, by September 1 following a school year of operation under this program, a private school participating in the Milwaukee parental choice program shall submit, on a form provided by the department, a financial audit information report accompanied by the auditor's opinion statement required under s. PI 35.046 (1) (a) containing the following information for the previous school year:

(b) ~~Asset and liability balances~~ A statement of net program assets at the start and end of the school fiscal year.

(c) Enrollment and full-time equivalent membership for all pupils and for pupils participating in the Milwaukee parental choice program based on audited enrollments required under s. PI 35.04 (9).

SECTION 6. PI 35.045 (1) (d) and (e) are renumbered PI 35.045 (1) (f) and (g) and as renumbered, PI 35.045 (1) (g) 3. is amended to read:

PI 35.045 (1) (g) 3. The private school's membership of pupils participating in the Milwaukee parental choice program shall be multiplied by the lesser of the amount determined under s. 119.23 (4) (b) 2., Stats., or the private school's per pupil cost under s. 119.23 (4) (b) 1., Stats. If the result is greater than the amount of the choice program payments retained by the school, an adjustment payment shall be made to the private school within 60 days of the financial

audit information report certified by the department. If the result is less than the amount of the choice program payments retained by the private school, the private school shall refund the amount of any overpayment to the department within 60 days of notification.

SECTION 7. PI 35.045 (1) (d) and (e) are created to read:

PI 35.045 (1) (d) A statement of cash flows.

(e) Such other information necessary for the fair determination of educational programming cost.

SECTION 8. PI 35.045 (3) (b) 4. is amended to read:

PI 35.045 (3) (b) 4. Debt principal and interest payments to the private school's owners, sponsoring organization, ~~or other related parties,~~ as a result of internal financing from other funds of the school, or other less-than-a-arms-length transaction. Borrowing from an endowment fund or from individuals serving on a board of directors or in an advisory capacity who do not have a proprietary interest in the school are not subject to the requirements under this subdivision. The interest rate on such borrowings may not exceed the published prime rate on the borrowing date.

SECTION 9. PI 35.045 (3) (b) 5. is created to read:

PI 35.045 (3) (b) 5. All loans from an individual to the private school must result in a cash deposit to the school's depository account required under s. PI 35.047 (5) (a). Unpaid reimbursements due related parties or employees of the private school shall not be considered a loan.

SECTION 10. PI 35.046 is repealed and recreated to read:

PI 35.046 Financial audit requirements. (1) A private school under this chapter shall do all of the following:

(a) Annually by September 1 following a school year in which the private school participated in the program under this section, the private school shall submit to the department an independent financial audit of the private school conducted by a certified public accountant accompanied by the auditor's opinion statement that the financial information report required under s. PI 35.045 is free from material misstatement and the private school's per pupil cost and any payment adjustment is fairly presented. The audit under this subdivision shall be limited in scope to those records that are necessary for the department to make payments under s. 119.23 (4) and (4m), Stats.

(b) Have a written engagement agreement, a copy of which shall be provided to the department upon request, with any auditor providing services required by this chapter. The written agreement shall contain all of the following:

1. State that the auditor shall comply with generally accepted auditing standards, generally accepted government auditing standards, and the requirements of this chapter.
2. Identify the responsibilities of the private school and the auditor in meeting the requirements of this chapter.
3. Identify any other services in addition to those required by this chapter that the auditor is providing to the private school.
4. Contains the auditor's acknowledgement that the auditor is aware that the department will rely on the work of the auditor in fulfilling its requirements under this chapter.
5. The auditor's compensation for the services the auditor is providing the private school.

(c) Close and balance the financial accounting system required under s. PI 35.047 (1) and provide the auditor with a trial balance of account balances after closing.

(d) Furnish all other financial and pupil records the auditor considers necessary to provide the audit opinion statement.

(e) Approve and post adjusting entries recommended by the auditor to the private school's financial accounting records.

(f) Retain all financial records relating to the report required under s. PI 35.045 for at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless required to retain such records longer by the department or a law enforcement agency.

(g) Provide the department access to original records referenced in the auditor's working papers and provide copies thereof as requested by the department.

(2) The auditor engaged by the private school to provide the opinion statement under sub. (1) shall develop a written audit program identifying the steps and procedures followed in conducting the audit. The audit program shall include all the procedures specified in sub. (3) and such other procedures agreed upon by the auditor and the department, and any other procedures the auditor considers necessary to fulfill professional responsibilities. The auditor shall retain working papers relating to audits under this section at least 3 years from the date of the department's certification of the financial information report under s. PI 35.045 (1) (g) 3. unless requested to retain the working papers longer by the department or a law enforcement agency.

(3) (a) The auditor shall determine that the financial report is free from material misstatement by performing procedures that in the auditor's judgment, provide reasonable assurance that the report does not contain misapplications of accounting requirements, departures from fact, or other errors or omissions. The auditor, in performing audit procedures to determine the report required under s. PI 35.045 (1) is free from material misstatement, shall consider account balances and total non-payroll related transactions with any one party to be significant if they exceed the following:

1. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is less than \$100,000, account balances or total non-payroll transactions with any one party of at least 4% of the net eligible educational programming cost shall be considered significant.

2. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$100,000 but less than \$1,000,000, account balances or total non-payroll transactions with any one party of at least 1% of the net eligible educational programming cost, but no more than \$7,500 shall be considered significant.

3. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is at least \$1,000,000 but less than \$3,000,000, account balances or total non-payroll transactions with any one party of at least 1% of the net eligible educational programming cost, but no more than \$10,000, shall be considered significant.

4. If the private school's net eligible educational programming cost as determined under s. PI 35.045 (1) (g) is greater than \$3,000,000, account balances or total non-payroll transactions with any one party of at least .5% of the net eligible educational programming cost, but no more than \$15,000, shall be considered significant.

(b) The auditor shall perform tests of account balances and an examination of transactions identified under par. (a) and other procedures considered necessary to conclude such items do not contain misstatements whose effect, when aggregated with misstatements in other balances and transactions, would cause a material misstatement in educational programming cost.

(c) Determine that fees charged pupils are allowed as specified under s. PI 35.03 (6) (a).

(d) Perform all of the following regarding the private school's cash and investment balances:

1. Confirm the private school's cash and investment account balances with depositories.

2. Prepare or obtain and examine a reconciliation of confirmed cash and investment account balances to the private school's accounting records. The reconciliation shall include the following:

a. Depository balances at the beginning of the fiscal period reconciled to the private school's accounting records.

b. Receipts per depository statement reconciled to the private school's accounting records.

c. Disbursements per depository statements reconciled to the private school's accounting records.

d. Depository balances at the end of the fiscal period reconciled to the private school's accounting records.

(e) Prepare or obtain and examine a reconciliation of payroll withholdings to remittances to authorized agencies or taxing authorities.

(f) Trace all entries on the financial information report required under s. PI 35.045 (1) to the trial balance provided by the school under s. PI 35.046 (1) (c).

SECTION 11. PI 35.047 and PI 35.048 are created to read:

PI 35.047 Sound fiscal practices. (1) A private school under this chapter shall use a double entry financial accounting system that is organized in such a manner that it will enable preparation of the report required under s. PI 35.045 (1) and provide such other information to fiscally manage the private school. The accounting system shall identify all the sources of funding used in the private school's operation specifically identifying the following:

(a) Revenue for pupils participating in the choice program.

(b) Revenue for parent or other private-paid tuition pupils.

(c) Revenue from payments made to or due the private school from the school district for instruction provided pupils enrolled in the private school.

(d) Revenue from payments made to or due the private school from the school district for transportation of the private school's pupils.

(e) Revenue from federal, state and local governments for instructional programs, food service and facility acquisition.

(2) (a) Annually, prior to the start of the private school's fiscal year, the administrator of the private school shall prepare, on a form provided by the department, a budget for the ensuing fiscal year using revenue and expenditure classifications used in the report required under s. PI 35.045 (1), and accompanied by anticipated cash flow schedules. The budget shall identify contingent funding sources the private school will use should actual enrollments be less than expected.

(b) A private school filing an initial notice of intent to participate in the program under s. PI 35.03 (1), shall by the following August 1, provide the department with the information required in par. (a).

(c) Annually, by October 15, a private school participating in the program under this chapter shall revise the information required in par. (a) to reflect revenues resulting from the school's actual third Friday in September enrollment and related required budget changes. A private school filing an initial notice of intent to participate in the choice program under s. PI 35.03 (1), shall by the following November 1, submit to the department the revised information required by this paragraph.

(3) The private school shall make payment of all the following within 30 days of receipt of invoice or payment request or as per written agreement:

(a) Payments to vendors for services provided.

(b) Reimbursements to employees and other individuals for expenses incurred on behalf of the private school. The employee or related party shall request reimbursement within 30 days of incurring the related expense. All reimbursements shall be made on the basis of original receipts that shall be retained by the private school in support of the paid reimbursement.

(4) The private school shall make payments to employees based on written agreements specifying compensation and dates for payment.

(5) The private school shall have an adequate system of financial internal controls that includes all of the following:

(a) Depositing all receipts and pay all disbursements from a depository account or accounts maintained solely for the private school's purposes. The depository account or accounts used by the private school shall be located within the state of Wisconsin.

(b) Maintaining a record of all receipts using a sequential numbering system.

(c) Depositing intact and separate from all other receipts of the school, payments received for choice program pupils. The private school shall maintain a record of the deposit date for all individual payments received for the choice program pupils.

(d) Using pre-numbered checks for all school disbursements, except those from a petty cash fund.

(e) Maintaining on file original invoices and payment requests supporting disbursements.

(f) Using internal control practices recommended in previous fiscal practices reports required under sub. (14).

(6) The private school or its operating organization shall be current with all of the following:

(a) Filing and withholdings payment requirements of the federal Internal Revenue Service. If the private school or its operating organization is required to file annual information return form 990 or form 990-EZ, a copy of the filed return along with accompanying schedule A is to be provided to the department by the private school within 30 days after filing.

(b) Filing and withholdings payment requirements of the Wisconsin department of revenue.

(c) Filing requirements of the Wisconsin department of workforce development.

(d) Filing requirements of the Wisconsin department of financial institutions.

(e) Filing requirements of the Wisconsin department of regulation and licensing.

(f) Auditing requirements of federal, state and local government agencies. The private school shall provide the department with a copy of audit reports issued or revisions thereof, within 30 days of submission to the requiring government agency.

(7) The private school shall have worker's compensation, liability, and errors and omissions insurance coverage for incidents resulting from actions of the private school's owners, directors or employees. All coverage shall be on an occurrence form except for errors and omission coverage. Minimum coverage shall be as per recommendations of a qualified risk manager or insurance consultant or as follows:

(a) Worker's compensation.

1. For bodily injury – accident, minimum coverage in the amount of \$100,000 each accident.

2. For bodily injury – disease, minimum coverage in the amount of \$100,000 per employee.

3. A policy limit, minimum coverage in the amount of \$500,000.

(b) Commercial general liability.

1. For each occurrence, minimum coverage in the amount of \$1,000,000.

2. A personal injury limit, minimum coverage in the amount of \$1,000,000.

3. Medical expense, minimum coverage in the amount of \$10,000.

(c) Umbrella excess liability.

1. For each occurrence, minimum coverage in the amount of \$5,000,000.

2. For general aggregate, minimum coverage in the amount of \$5,000,000.

(d) Auto liability, a combined single limit minimum coverage of \$1,000,000 for each accident.

(e) Errors and omissions for school leaders, an aggregate limit minimum coverage of \$1,000,000.

(8) If the private school operates or contracts for the operation of school buses with an organization other than a Wisconsin school district, the private school or the contracted operator shall have school bus insurance as required by s. 121.53 (1), Stats. The private school may not contract for the school bus operation with an organization other than a Wisconsin school district unless the operator has provided the private school with a certificate of insurance meeting the requirements of s. 121.53 (1), Stats.

(9) If the private school is providing or contracting for pupil transportation in vehicles other than school buses as permitted by s. 121.555 (1), Stats., the private school shall determine that any motor vehicle so used complies with the conditions specified under s. 121.555 (2), Stats.

(10) The private school shall, at least once every 3 years, have a risk management and insurance evaluation by a qualified individual or firm.

(11) The private school shall have a fidelity bond indemnifying the state of Wisconsin against loss resulting from dishonesty, malfeasance, or neglect by owners, officers or employees.

(13) The administrator of a private school filing an initial notice of intent to participate in the choice program under s. PI 35.03 (1), shall by the following August 1, or by May 1 if the private school begins participating in the program during summer school, participate in a fiscal management training program approved by the department.

(14) The private school shall engage an auditor to provide a report to the department by December 1 attesting to the private school's compliance or non-compliance with the fiscal and internal control practices required by this section. The internal audit staff of an organization affiliated with the private school may, with prior approval of the department, provide the report required by this subsection if the internal audit staff meets independence standards identified in generally accepted government auditing standards. The report under this subsection shall meet all of the following requirements:

(a) The report shall be prepared in accordance with professional standards and identify the procedures agreed upon by the auditor and the department that were used in determining compliance or non-compliance. In making such a determination, the auditor may not rely on oral or written representations of the school's administration or staff.

(b) The report shall contain the private school's response as to its reasons for non-compliance with the requirements of this section and corrective action the school is taking.

PI 35.048 Financial viability. (1) The following shall be considered indicators that a private school under this chapter may not have the financial viability to continue as a going concern:

(a) The budget and statement of cash flows required under s. PI 35.047 (2) shows the private school has inadequate revenues and other financial resources to fund current operations.

(b) The audit required by s. PI 35.046 (1) contains a qualification as to the private school's ability to continue as a going concern.

(c) Failure to make payments as required by s. PI 35.047 (3) or s. PI 35.047 (4) as identified in the report required by s. PI 35.047 (14) or a written communication from a vendor or employee.

(d) Failure to make filings with or withholdings payments to the federal internal revenue service as required by s. PI 35.047 (6) (a), to the Wisconsin department of revenue as required in s. PI 35.047 (6) (b), or to the Wisconsin department of workforce development as required by s. PI 35.047 (6) (c) is identified in a written communication from these agencies or in the report required by s. PI 35.047 (14).

(e) Audit reports provided as required in s. PI 35.047 (6) (f) contain questioned costs or compliance findings that may affect the private schools ability to continue as a going concern.

(f) Failure of the private school to make payment to the department as required by s. PI 35.045 (1) (g) 3. or by s. PI 35.04 (9) (g).

(2) The private school shall provide to the department any information the department requires to determine the ability of the private school to continue as a financially viable entity and shall promptly notify the department of impairments in the private school's ability to finance its operations.

(3) A private school participating in the choice program shall notify the department of the ceasing of educational program operations within 5 days of occurrence.

SECTION 12. PI 35.05 (2) is renumbered PI 35.05 (2) (a) and is amended to read:

PI 35.05 (2) (a) The department shall collect audits and reports under ~~s. PI 35.046~~ this chapter including those of membership eligibility of any or from all of the private schools participating under this chapter. The department shall rely on the information contained in audits and reports received under this chapter in its administration of the Milwaukee parental choice program and may make inquiries considered necessary to ascertain the accuracy of information contained in such audits or reports.

SECTION 13. PI 35.05 (2) (b) to (d) are created to read:

PI 35.05 (2) (b) An auditor engaged by the private school under this chapter shall respond directly to inquiries from the department and permit the department to review audit working papers prepared in support of the enrollment audits under s. PI 35.04, financial audit requirements under s. PI 35.046, and the report on fiscal practices under s. PI 35.047. The auditor shall provide copies of working papers as requested by the department. The auditor shall notify the private school of any such inquiries or requests and the auditor's response thereto.

(c) Information contained in auditor working papers and copies, or information provided the department by the private school under s. PI 35.046 (1) (g) shall be confidential and not open to public inspection. The department may only disclose information contained in the working papers or copies thereof to the following:

1. The department of regulation and licensing as part of a referral for investigation as to the auditor's compliance with professional standards.

2. The appropriate staff of a district attorney or a law enforcement agency for the purposes of investigation or prosecution.

(d) An auditor who fails to timely and properly fulfill auditing and reporting requirements under ss. PI 35.04, 35.046 and 35.047 may not be engaged for any purpose required under this chapter by a private school participating in the choice program in succeeding years until such time the auditor provides evidence acceptable to the department that the auditor has made procedural changes and has had professional development training that will enable the auditor to comply with the requirements identified in this subsection.

SECTION 14. PI 35.05 (3) (b) (intro.) is amended to read:

PI 35.05 (3) (b) (intro.) The amount per pupil to be paid to the private school shall be determined as specified in s. 119.23 (4), Stats. No aid may be paid to a private school for a pupil unless the private school is currently operating and providing educational programming and has met the requirements under ss. PI 35.03, 35.04, 35.043, 35.045, ~~and 35.046,~~ 35.047 and 35.048. The payment schedule is as follows:

SECTION 15. PI 35.05 (3) (b) 2. to 5. are amended to read:

PI 35.05 (3) (b) 2. The November payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on October 1 under s. PI 35.04 (6) and the amount per pupil determined under s. 119.23 (4), Stats., multiplied by 50%, less the September payment. The November payment shall include any payments from the state for summer school instruction for choice program pupils at the school in the immediately preceding summer, as calculated under s. PI 35.043, divided by the number of pupils reported on the October 1 membership report. No November payment may be made to a private school that has ceased educational programming prior to the payment date.

3. The February payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 (6) and the amount per pupil as determined under s. 119.23 (4), Stats., multiplied by 25%. No February payment may be made to a private school that has ceased educational programming prior to the payment date.

4. The May payment shall be based on the number of pupils reported on the membership report and the accepted, eligible applications for those pupils submitted on February 1 under s. PI 35.04 (6) and the amount per pupil as determined under s. 119.23 (4), Stats., multiplied by 25%. No May payment may be made to a private school that has ceased educational programming prior to the end of its scheduled school term.

5. Any payment adjustment shall be made as specified under s. PI 35.045 (1) ~~(e)~~ (g) after the department has received and reviewed the audit opinion statement under s. PI 35.046 (1) (a).

SECTION 16. PI 35.05 (10) to (12) are created to read:

(10) (a) The state superintendent shall review information provided under s. PI 35.048 and make a determination as to the financial viability of the private school to continue to provide educational services to pupils enrolled under the Milwaukee parental choice program.

(b) The state superintendent shall notify a private school of a determination that the school is not financially viable.

(c) If the state superintendent determines that the private school is not financially viable, that private school may not be permitted to participate in the choice program in the following school year until the school provides acceptable information that it is financially viable to the state superintendent and the school's administrator has participated in fiscal management training as required by the department in addition to that specified in s. PI 35.047 (13).

(11) The department may provide to, or participate in the providing of, training to private school staff and their auditors. The department may charge a reasonable fee for such training or participation in such training.

(12) (a) The state superintendent may issue an order barring a private school from participating in the program under this section in the current school year if the state superintendent determines that the private school has done any of the following:

1. Misrepresented information required under s. 119.23 (7) (d), Stats.
2. Failed to provide the notice required under s. 119.23 (2) (a) 3., Stats.
3. Failed to provide the information required under s. 119.23 (7) (am), Stats.
4. Failed to provide the information required under s. 119.23 (7) (d), Stats.
5. Failed to refund to the state any overpayment made under s. 119.23 (4) (b) or (4m), Stats., by the date specified under ss. PI 35.04 (8), (9) (g) or 35.045 (1) (g) 3.
6. Failed to meet at least one of the standards under s. 119.23 (7) (a), Stats., by the date specified under s. PI 35.03 (5).

(b) The state superintendent may issue an order immediately terminating a private school's participation in the choice program if the state superintendent determines that conditions at the private school present an imminent threat to the health or safety of pupils.

(c) Whenever the state superintendent issues an order under this section, the state superintendent shall immediately notify the parent or guardian of each pupil attending the private school.

(d) The state superintendent may withhold payment from a parent or guardian under ss. 119.23 (4) and (4m), Stats., if the private school attended by the child of the parent or guardian violates s. 119.23, Stats.

FINDING OF EMERGENCY

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

Per 2003 Wisconsin Act 15, the provisions under the rule must take effect beginning in the 2004-05 school year. Because some of the reporting requirements must be made by August 1, the rule must be in place as soon as possible to give the private schools enough notice to meet such requirements.

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

Dated this 30th day of June, 2004



Elizabeth Burmaster
State Superintendent

FISCAL ESTIMATE <input checked="" type="checkbox"/> ORIGINAL <input type="checkbox"/> UPDATED)	LRB or Bill No./Adm. Rule No. Chapter PI 35
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DOA-2048 (R10/92) <input type="checkbox"/> CORRECTED <input type="checkbox"/> SUPPLEMENTAL	Amendment No. If Applicable
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Subject: Milwaukee Parental Choice Program (MPCP) – Financial Reporting Requirements

<p>Fiscal Effect</p> <p>State: <input type="checkbox"/> No State Fiscal Effect Check columns below only if bill makes a direct appropriation or affects a sum sufficient appropriation</p> <p><input type="checkbox"/> Increase Existing Appropriation <input type="checkbox"/> Increase Existing Revenues <input type="checkbox"/> Decrease Existing Appropriation <input type="checkbox"/> Decrease Existing Revenues <input type="checkbox"/> Create New Appropriation</p>	<p><input checked="" type="checkbox"/> Increase Costs-May be possible to Absorb Within Agency's Budget <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p><input type="checkbox"/> Decrease Costs</p>
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<p>Local: <input checked="" type="checkbox"/> No local government costs</p> <p>1. <input type="checkbox"/> Increase Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>2. <input type="checkbox"/> Decrease Costs <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>3. <input type="checkbox"/> Increase Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p> <p>4. <input type="checkbox"/> Decrease Revenues <input type="checkbox"/> Permissive <input type="checkbox"/> Mandatory</p>	<p>5. Types of Local Governmental Units Affected:</p> <p><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"/> VTAE Districts</p>
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<p>Fund Sources Affected</p> <p><input checked="" type="checkbox"/> GPR <input type="checkbox"/> FED <input type="checkbox"/> PRO <input type="checkbox"/> PRS <input type="checkbox"/> SEG <input type="checkbox"/> SEG-S</p>	<p>Affected Ch. 20 Appropriations</p>
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Assumptions Used in Arriving at Fiscal Estimate

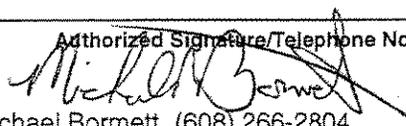
The proposed rules establish how private schools participating in the MPCP program will meet the new financial reporting requirements established under 2003 Wisconsin Act 155.

In January 2004, there were 106 private schools participating in the MPCP, with a total enrollment of 12,231 students in the program. It is anticipated that the private school financial audit requirements will have a fiscal effect since many of the participating schools currently have limited audit procedures in place. Auditing costs for small public school districts range from \$2,000 - \$5,000 annually. It is assumed that auditing costs to participating private schools will fall within the higher end of the \$2,000 - \$5,000 range and are not considered significant. The actual costs will vary depending on the number of financial transactions and expertise of the private school's accounting staff. The status of the financial records maintained by the private school staff will directly affect the time involved in auditing those records.

The Act and the rules have additional administration requirements for the program that will have a fiscal effect on the department. It is assumed such costs could be absorbed within the agency's operating budget.

The rules will not have a fiscal effect on the Milwaukee Public Schools.

Long-Range Fiscal Implications

<p>Agency/Prepared by: (Name & Phone No.) Department of Public Instruction Lori Slauson (608) 267-9127</p>	<p>Authorized Signature/Telephone No.  Michael Bormett (608) 266-2804</p>	<p>Date 6/28/04</p>
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CONSTITUENT CONTACT FORM

Date:

11/22, 2004

Name:

Judd Schimmel

Address:

Madison, WI

Phone:

9204-0790

e-mail:

Summary of Concern:

WI Council of Religions & Indep. Schools
1/2 Choice schools -
supportive of extension

Action by Office:

Further action required by Office:



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

1 motion -
Emergency Rule Extension Motion Form

November 23, 2004
300 SE
State Capitol

Moved by Crothman, Seconded by LaZich

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules recommends extension of Emerg. Rule PI 35 for a period of 60 days. *+ RL Rule.*

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM	✓		
2. Senator LAZICH	✓		
3. Senator REYNOLDS	✓		
4. Senator ROBSON	✓		
5. Senator COGGS			
6. Representative GROTHMAN	✓		
7. Representative SERATTI			
8. Representative GUNDERSON	✓		
9. Representative BLACK	✓		
10. Representative HEBL	✓		
Totals			

Motion Carried

Motion Failed



2025 North Summit Avenue, Suite 103, Milwaukee, WI 53202 • Phone 414 319-9160 • Fax 414 765-0220

Board of Directors

Paul Petitjean, Board Chair
Kern Family Foundation

Margaret Farrow
Pewaukee, WI

Dr. Howard Fuller
Institute for the Transformation of Learning

Alvaro Garcia-Velez
Notre Dame Middle School

Reverend John McVicker
Christ the King Church

Susan Mitchell
School Choice Wisconsin

William Oberndorf
SPO Partners

November 23, 2004

TO: Committe Members
Joint Committee for Review of Administrative Rules

FROM: Susan Mitchell
President

RE: DPI Request to Extend Emergency Rules

I write on behalf of School Choice Wisconsin and the Alliance for Choices in Education. Both organizations work to advance educational options for parents.

Our organizations helped the Department of Public Instruction develop and then strongly supported the legislative proposal that became Act 155.

We also support administrative rules that will give DPI effective and practical tools to address problems of fiscal soundness and financial viability of schools in the Milwaukee Parental Choice Program. We have formed a working group of auditors and school representatives to work with DPI to that end.

DPI is aware that many schools will be unable to comply with all of the provisions of the emergency rules and that we continue to question the need for certain provisions. DPI has assured us that, aside from serious infractions that it will of course address, it will use the fiscal reports filed by schools under these rules to gather information to help develop permanent rules.

Based on those assurances, we support the extension requested by DPI.

It is of paramount importance that permanent rules be developed as soon as possible. This will alleviate the substantial uncertainty now facing schools and auditors and it will allow ACT 155 to be implemented in a way that achieves widely agreed-to goals. We appreciate DPI's willingness to work with us to reach that objective.

Thank you for your consideration.

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 24, 2004

The Honorable Alan Lasee
Senate President
State Capitol Building, Room 220 South
Madison, WI 53702

The Honorable John Gard
Assembly Speaker
State Capitol Building, Room 211 West
Madison, WI 53702

Dear President Lasee and Speaker Gard:

The Joint Committee for the Review of Administrative Rules met in Executive Session on November 23, 2004 and adopted the following motion:

The Joint Committee for Review of Administrative Rules, pursuant to s. 227.24(2)(a), Stats., recommends the extension of the following emergency rules for a period of 60 days:

Emergency Rule PI 35 Relating to the financial reporting requirements under the Milwaukee Parental Choice Program.

Emergency Rule RL 31.035 (1m) and 31.036 (1m); RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09
Relating to criminal background investigations of applicants.

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 24, 2004

Elizabeth Burmaster, Superintendent
Department of Public Instruction
125 S. Webster Street
Madison, WI 53707

Dear Superintendent Burmaster:

The Joint Committee for the Review of Administrative Rules met in Executive Session on November 23, 2004 and adopted the following motion:

Emergency Rule PI 35 Relating to the financial reporting requirements under the Milwaukee Parental Choice Program.

Motion Carried 10 Ayes, 0 Noes

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

Sincerely,

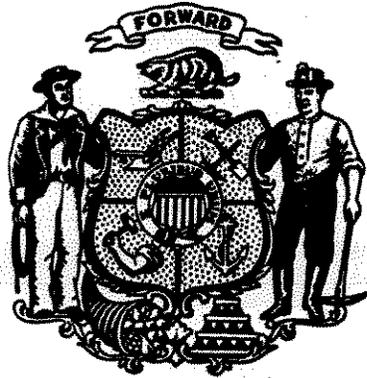
Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv

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

END



END

WISCONSIN DEPARTMENT OF
REGULATION & LICENSING

RL
H.01
Jim Doyle
Governor



1400 East Washington Avenue
PO Box 8935
Madison WI 53708-8935
Email: dorl@drl.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

November 15, 2004

Senator Joseph Leibham, Co-Chairperson
Joint Committee for Review of Administrative Rules
409 South, State Capitol
Madison, WI 53702

Representative Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
15 North, State Capitol
Madison, WI 53702

RE: Request for Extension of Emergency Rule

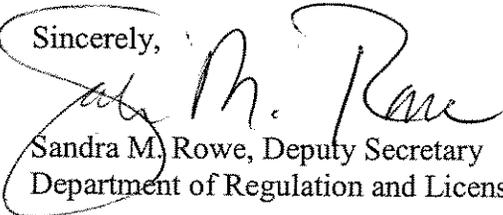
Dear Sen. Leibham and Rep. Grothman:

I am writing to request an extension of the emergency rule relating to 2003 Wisconsin Act 151, which requires rule-making by the Department in order to continue conducting criminal background checks of applicants for professional licensure as well as in order to continue investigations of whether current credential holders have been charged with or convicted of a crime.

The public hearing on both the emergency rule and the regular rule was held on October 1, 2004. The emergency rule expires on November 27, 2004. Since the rules may not be considered until the next regular session of the legislature for the purposes of determining the running of time periods for legislative committee review, the Department is requesting an extension of the emergency rule to cover the period of time this rule will be under legislative committee review. The Department is requesting a 60 day extension, with an additional 60 day extension, given that the rule will need to be reviewed by the legislative standing committees for a 30 day period.

Thank you.

Sincerely,


Sandra M. Rowe, Deputy Secretary
Department of Regulation and Licensing

STATE OF WISCONSIN
DEPARTMENT OF REGULATION AND LICENSING

IN THE MATTER OF RULE-MAKING	:	
PROCEEDINGS BEFORE THE	:	ORDER ADOPTING
DEPARTMENT OF REGULATION	:	EMERGENCY RULES
AND LICENSING	:	

ORDER

An order of the Department of Regulation and Licensing to repeal RL 31.035 (1m) and 31.036 (1m); and to create RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09 relating to criminal background investigations of applicants.

Analysis prepared by the Department of Regulation and Licensing.

ANALYSIS

Statutes authorizing promulgation: s. 227.11(2), Stats., and s. 440.03 (13) (a), Stats., as renumbered and amended by 2003 Wisconsin Act 151, and s. 440.03 (13) (b) and (c), Stats., as created by 2003 Wisconsin Act 151.

Statutes interpreted: s. 440.03 (13) (a), (b) and (c), Stats.

This emergency rule is promulgated pursuant to 2003 Wisconsin Act 151. Act 151 was created in response to federal Public Law 92-544, which required authorization by state statute to continue the FBI's policy of honoring state requests for criminal background reports.

Act 151 modifies the authority of the Department of Regulation and Licensing to conduct criminal background checks of applicants and requires rule-making by the Department to conduct investigations whether an applicant for or holder of any credential issued by the Department has been charged with or convicted of a crime. The emergency rule preserves the ability of the Department to continue its practice of conducting criminal background investigations of applicants and credential holders.

Section RL 4.01 (3g) creates a definition for "credential."

Section RL 4.01 (3r) creates a definition for "credentialing authority."

Section RL 4.01 (5m) creates a definition for "investigate."

Section RL 4.07 authorizes the Department of Regulation and Licensing to continue to conduct investigations to determine whether an applicant for a credential issued by the department, an attached examining board, affiliated credentialing board or board having authority to issue or deny a credential has been charged with or convicted of a crime.

Section RL 4.09 authorizes the Department of Regulation and Licensing to continue to conduct investigations to determine whether a holder of a credential issued by the department, an attached examining board, affiliated credentialing board or board having authority to issue or deny a credential has been charged with or convicted of a crime.

Sections RL 31.035 (1m) and 31.036 (1m) are repealed, as s. 440.03 (13), Stats., as amended, eliminates the ability of the Department to exempt peace officers from the finger printing requirement for credentialing as a private detective or private security person.

TEXT OF RULE

SECTION 1. RL 4.01 (3g), (3r) and (5m) are created to read:

RL 4.01 (3g) "Credential" means a license, permit, or certificate of certification or registration that is issued under chs. 440 to 480, Stats.

(3r) "Credentialing authority" means the department or an attached examining board, affiliated credentialing board or board having authority to issue or deny a credential.

(5m) "Investigate" means to determine the arrest and conviction record of an applicant or holder of a credential, including but not limited to:

(a) Determining whether an applicant or holder of a credential has been charged with or convicted of a crime.

(b) Determining the facts and circumstances surrounding an arrest, criminal charges, or convictions.

(c) Determining the outcome and status of an arrest, criminal charges or conviction record, including completion of sentence imposed, probationary terms or parole.

SECTION 2. RL 4.07 is created to read:

RL 4.07 Applicant charges or convictions The department may investigate whether an applicant for any of the following credentials has been charged with or convicted of a crime for the purposes of determining whether the circumstances of the charge or conviction substantially relate to the circumstances of the credentialed activity. Investigation may include requiring disclosure of arrest or conviction record by an applicant.

- (1) Accountant, certified public.
- (2) Acupuncturist.
- (3) Advanced practice nurse prescriber.
- (4) Aesthetician.
- (5) Aesthetics instructor.
- (6) Appraiser, real estate, certified general.
- (7) Appraiser, real estate, certified residential.
- (8) Appraiser, real estate, licensed.
- (9) Architect.

- (10) Athletic agent.
- (11) Athletic trainer.
- (12) Auctioneer.
- (13) Audiologist.
- (14) Barber or cosmetologist.
- (15) Barbering or cosmetology instructor.
- (16) Barbering or cosmetology manager.
- (17) Boxer.
- (18) Cemetery preneed seller.
- (19) Cemetery salesperson.
- (20) Chiropractor.
- (21) Dental hygienist.
- (22) Dentist.
- (23) Designer of engineering systems.
- (24) Dietitian.
- (25) Drug distributor.
- (26) Drug manufacturer.
- (27) Electrologist.
- (28) Electrology instructor.
- (29) Engineer, professional.
- (30) Fund-raising counsel.
- (31) Funeral director.
- (32) Hearing instrument specialist.
- (33) Home inspector.
- (34) Landscape architect.

- (35) Land surveyor.
- (36) Manicuring instructor.
- (37) Manicurist.
- (38) Marriage and family therapist.
- (39) Massage therapist or bodyworker.
- (40) Music, art or dance therapist.
- (41) Nurse, licensed practical.
- (42) Nurse, registered.
- (43) Nurse-midwife.
- (44) Nursing home administrator.
- (45) Occupational therapist.
- (46) Occupational therapy assistant.
- (47) Optometrist.
- (48) Perfusionist.
- (49) Pharmacist.
- (50) Physical therapist.
- (51) Physical therapist assistant.
- (52) Physician.
- (53) Physician assistant.
- (54) Podiatrist.
- (55) Private detective.
- (56) Private practice school psychologist.
- (57) Private security person.
- (58) Professional counselor.
- (59) Professional fund-raiser.
- (60) Professional geologist.

- (61) Professional hydrologist.
- (62) Professional soil scientist.
- (63) Psychologist.
- (64) Real estate broker.
- (65) Real estate salesperson.
- (66) Registered interior designer.
- (67) Respiratory care practitioner.
- (68) Social worker.
- (69) Social worker, advanced practice.
- (70) Social worker, independent.
- (71) Social worker, independent clinical.
- (72) Speech-language pathologist.
- (73) Time-share salesperson.
- (74) Veterinarian.
- (75) Veterinary technician.

SECTION 3. RL 4.09 is created to read:

RL 4.09 Credential holder charges or convictions The department may investigate whether a holder of any of the credentials set forth in s. RL 4.07 has been charged with or convicted of a crime for the purposes of determining whether disciplinary action against the credential holder is warranted.

SECTION 4. RL 31.035 (1m) is repealed.

SECTION 5. RL 31.036 (1m) is repealed.

FINDING OF EMERGENCY

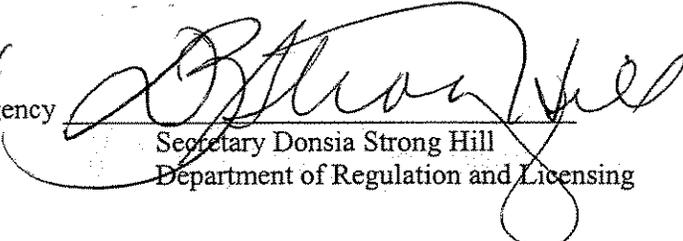
SECTION 4, Nonstatutory provisions., of 2003 Wisconsin Act 151 states: "(1) The department of regulation and licensing may, using the procedure under section 227.34 of the statutes, promulgate the rules under section 440.03 (13) (b) of the statutes, as created by this act, for the period before permanent rules become effective, but not to exceed the period authorized under section 227.24 (1) (c) and (2) of the statutes. Notwithstanding section 227.24 (1) (a), (2) (b), and (3) of the statutes, the department is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace,

health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.”

FISCAL ESTIMATE

The promulgation of this rule should produce no significant impact on the private sector. The Department of Regulation and Licensing will incur \$500 in costs for staff to print and distribute the rule change.

The rules adopted in this order shall take effect on July 1, 2004.

Dated 29 June 04 Agency 
Secretary Donsia Strong Hill
Department of Regulation and Licensing

I:\DRL\emergencyrules062404.doc



P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

Emergency Rule Extension Motion Form

November 23, 2004
300 SE
State Capitol

Moved by _____, Seconded by _____

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules recommends extension of Emerg. Rule RL 31.035 (1m) and 31.036 (1m); RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09 for a period of 60 days.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM			
2. Senator LAZICH			
3. Senator REYNOLDS			
4. Senator ROBSON			
5. Senator COGGS			
6. Representative GROTHMAN			
7. Representative SERATTI			
8. Representative GUNDERSON			
9. Representative BLACK			
10. Representative HEBL			
Totals			

Motion Carried

Motion Failed

SENATOR JOSEPH LEIBHAM
Co-Chair



REPRESENTATIVE GLENN GROTHMAN
Co-Chair

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MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 24, 2004

Sandra M. Rowe, Deputy Secretary
Department of Regulation & Licensing
1400 East Washington Avenue
Madison, WI 53708

Dear Dept. Secretary Rowe:

The Joint Committee for the Review of Administrative Rules met in Executive Session on November 23, 2004 and adopted the following motion:

Emergency Rule RL 31.035 (1m) and 31.036 (1m); RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09
Relating to criminal background investigations of applicants.

Motion Carried, 10 Ayes, 0 Noes

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv

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

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
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P.O. Box 8952
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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

November 24, 2004

Sandra M. Rowe, Deputy Secretary
Department of Regulation & Licensing
1400 East Washington Avenue
Madison, WI 53708

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Emergency Rule RL 31.035 (1m) and 31.036 (1m); RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09
Relating to criminal background investigations of applicants.

Motion Carried, 10 Ayes, 0 Noes

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv

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

SENATOR JOSEPH LEIBHAM
Co-CHAIR



REPRESENTATIVE GLENN GROTHMAN
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MADISON, WI 53707-7882
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JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

November 24, 2004

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1400 East Washington Avenue
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Emergency Rule RL 31.035 (1m) and 31.036 (1m); RL 4.01 (3g), (3r) and (5m), 4.07 and 4.09
Relating to criminal background investigations of applicants.

Motion Carried, 10 Ayes, 0 Noes

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

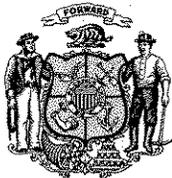
Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pv

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

**WISCONSIN DEPARTMENT OF
REGULATION & LICENSING**

Jim Doyle
Governor



1400 East Washington Avenue
PO Box 8935
Madison WI 53708-8935
Email: dorl@drl.state.wi.us
Voice: 608-266-2112
FAX: 608-267-0644
TTY: 608-267-2416

December 13, 2004

Senator Joseph Leibham, Co-Chairperson
Joint Committee for Review of Administrative Rules
127 South, State Capitol
Madison, WI 53702

Representative Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
15 North, State Capitol
Madison, WI 53702

RE: Request for Extension of Emergency Rule

Dear Sen. Leibham and Rep. Grothman:

I am writing to request a second extension of the emergency rule relating to 2003 Wisconsin Act 151, which requires rule-making by the Department in order to continue conducting criminal background checks of applicants for professional licensure as well as in order to continue investigations of whether current credential holders have been charged with or convicted of a crime.

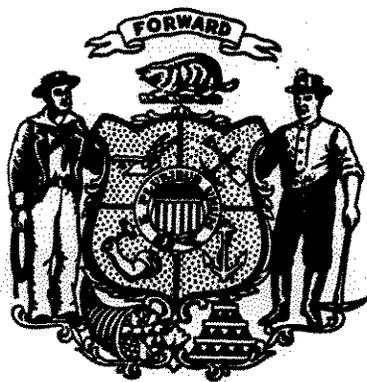
The public hearing on both the emergency rule and the regular rule was held at the Department of Regulation and Licensing on October 1, 2004. The emergency rule expires on November 27, 2004. On November 23, 2004, the Joint Committee for Review of Administrative Rules held a public hearing and a 60 day extension was granted. Since the rules may not be considered until the next regular session of the legislature for the purposes of determining the running of time periods for legislative committee review, the Department is requesting a second extension of the emergency rule to cover the period of time this rule will be under legislative committee review, given that the rule will need to be reviewed by the legislative standing committees for a 30 day period.

Thank you.

Sincerely,

Sandra M. Rowe, Deputy Secretary
Department of Regulation and Licensing

END



END

SENATOR JOE LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIRMAN

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

December 17, 2004

Department of Regulation and Licensing
Attn: Steve Gloe
1400 East Washington Avenue
Madison, WI 53708-8935

Dear Mr. Gloe:

The Joint Committee for the Review of Administrative Rules met in Executive Session on December 16, 2004 and adopted the following motion:

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rule RL 31.035 (1m) et al for 60 days at the request of the Department of Regulation and Licensing.

Motion Carried 10 Ayes, 0 Noes

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

Sincerely,

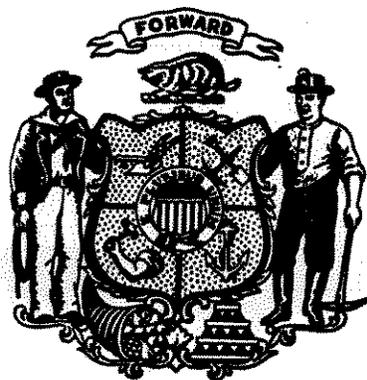
Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

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

END



END

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

P.O. Box 8952
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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

December 17, 2004

Mike Morgan, Secretary
Department of Revenue
Madison, WI 53708

Dear Secretary Morgan:

The Joint Committee for the Review of Administrative Rules met in Executive Session on December 16, 2004 and adopted the following motions:

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules Tax 2.99 and Tax 3.04 for 60 days at the request of the Department of Revenue.

Motion Carried 10 Ayes, 0 Noes

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

Sincerely,

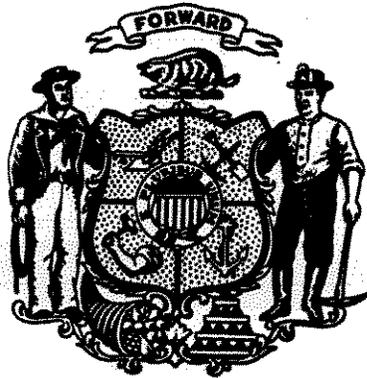
Senator Joseph Liebham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:mjd

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

END



END



VETERANS AFFAIRS

STATE OF WISCONSIN, DEPARTMENT OF VETERANS AFFAIRS

30 West Mifflin Street, P.O. Box 7843, Madison, WI 53707-7843

PHONE: (608) 266-1311 1-800-947-8387 (WIS VETS)

WEB SITE: dva.state.wi.us

E-MAIL: Headquarters@dva.state.wi.us

FAX: (608) 267-0403

Jim Doyle, Governor
Raymond G. Boland, Secretary

January 28, 2003

Senator Joseph Leibham, Co-Chairperson
Joint Committee for Review of Administrative Rules ✓
Room 409 South, Capitol Building
Madison, WI 53702

Representative Glenn Grothman, Co-Chairperson
Joint Committee for Review of Administrative Rules
Room 15 North, Capitol Building
Madison, WI 53702

RE: Extension of Emergency Rule - VA 12.02 (7) and (16)

Dear Senator Leibham and Representative Grothman:

The purpose of this letter is to request a second 60-day extension of the enclosed emergency rule. The extended emergency rule will expire on March 3, 2003. The permanent rule was submitted to the Legislature on January 2, 2003. Allowing for the required 30-day review period by the legislative committees and publication requirements, it is likely that the permanent rule could not be effective until April 1, 2003.

As a result of the increased limit, the Department has loaned additional proceeds of approximately \$2,000,000. Demand is still strong and any interruption of the increased lending authority would create hardship for veterans seeking the funds and reduce long-term revenues for the veterans' trust fund. Accordingly, I respectfully request that the Committee approve a further extension of the emergency rule under s. 227.24 (2), Stats.

If you require additional information or have any questions, please contact this Department's chief legal counsel, John Rosinski, at 266-7916.

Sincerely,
DEPARTMENT OF VETERANS AFFAIRS


Raymond G. Boland, Secretary

**ORDER OF THE DEPARTMENT
OF VETERANS AFFAIRS
ADOPTING EMERGENCY RULES**

The Wisconsin Department of Veterans Affairs adopts an order to amend VA 12.02(7) and (16), relating to the maximum loan amount under the personal loan program.

Analysis prepared by the Department of Veterans Affairs.

Statutory authority: ss. 45.356(2), (3), and (7)(c), Stats.

Statutes interpreted: ss. 45.356(2) and (3), Stats.

The amendment of VA 12.02(7) and (16) will enable the Department to make larger individual loans under the personal loan program. The loans will be underwritten under current underwriting standards so that creditworthy applicants will be identified. However, applicants who can justify the need for a loan up to \$15,000 under any statutory purpose will be able to secure that amount rather than arbitrarily restricting the loan amount to \$10,000.

Text of the Rule

SECTION 1 VA 12.02(7) is amended to read:

(7) MAXIMUM AMOUNT AND USE OF LOAN. A person may have more than one personal loan program loan at the same time. Except as provided under s. VA 12.02(16), a person's indebtedness to the department may not exceed ~~\$10,000~~ \$15,000 under the personal loan program. Except as provided under s. VA 12.02(16), a person's total indebtedness to the department may not exceed \$15,000 under the personal loan program, the economic assistance loan program under s. 45.351(2), 1995 Stats., and the veterans trust fund stabilization program under s. 45.356, 1995 Stats. A personal loan program loan may not be used to refinance any portion of an existing personal loan program loan or a veterans trust fund stabilization loan under s. 45.356, 1995 Stats.

SECTION 2 VA 12.02(16) is amended to read:

(16) INDEBTEDNESS OF MARRIED VETERANS. Notwithstanding the limitations of s. VA 12.02(7), eligible veterans who are married to each other may have indebtedness to the department in an amount up to ~~\$20,000~~ \$30,000 under the personal loan program and total indebtedness to the department up to \$30,000 under the personal loan program, the economic assistance loan program under s. 45.351(2), 1995 Stats., and the veterans trust fund stabilization loan program under s. 45.356, 1995 Stats., subject to the indebtedness limitations for an individual veteran delineated at ss. 45.356(2) and 45.356(8), Stats.

Finding of Emergency

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

The Department administers a personal loan program that may be used by veterans and their dependents for various statutory purposes. The purposes include debt consolidation, payment of delinquent child support,

education expenses, and medical and funeral expenses, and the purchase of a mobile home or business property. The current maximum loan amount, set by the Department at sec. VA 12.02(7), Wis. Adm. Code, is \$10,000. The permissible statutory maximum loan amount may be \$15,000, as set by the Department by administrative rule.

The Department proposes to raise the amount to the statutory maximum for several compelling reasons. Raising the maximum loan amount will help stimulate the economy by providing additional resources for veterans and their families. Due to the state of the economy, veterans and their families have a significant need for financial assistance in the form of below market interest rate loans. Additionally, the personal loan program is the primary source of revenue for the veterans trust fund. Immediate infusion of additional assets in the form of personal loans will provide significant financial support for the trust fund. It is expected that increasing the maximum loan amount will result in approximately \$4,000,000 of new loan assets over the 8-month period in which it would take to promulgate this rule change using the regular promulgation procedure.

This rule shall take effect on the date of publication in the official state newspaper, as provided in s. 227.24(1)(c), Stats.

Dated at Madison, Wisconsin, July 23, 2002.



Raymond G. Boland, Secretary
Wisconsin department of Veterans Affairs

SENATOR JOSEPH LEIBHAM
CO-CHAIR



REPRESENTATIVE GLENN GROTHMAN
CO-CHAIR

P.O. Box 7882
MADISON, WI 53707-7882
(608) 266-2056

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

JOINT COMMITTEE FOR REVIEW OF ADMINISTRATIVE RULES

February 19, 2003

Raymond G. Boland, Secretary
Department of Veterans Affairs
30 West Mifflin Street
P.O. Box 7843
Madison, WI 53707-7843

Dear Secretary Boland:

The Joint Committee for the Review of Administrative Rules met in Executive Session on February 19, 2003 and adopted the following motion:

Emergency Rule VA 12.02(7) and (16) Relating to the maximum loan amount under the personal loan program.

Moved by Representative Grothman, seconded by Representative Gunderson that, pursuant to s. 227.24(2)(a), Stats., the Joint Committee for Review of Administrative Rules extends VA 12.02(7) and (16) at the request of Department of Veterans Affairs by 60 days.

Motion Carried 10 Ayes, 0 Noes.

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

Sincerely,

Senator Joseph Leibham
Senate Co-Chair

Representative Glenn Grothman
Assembly Co-Chair

JKL:GSG:pvs



P.O. Box 7882
MADISON, WI 53707-7882
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P.O. Box 8952
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**JOINT COMMITTEE FOR
REVIEW OF ADMINISTRATIVE RULES**

Emergency Rule Extension Motion Form

February 19, 2003
Room 400 SE
State Capitol

Moved by _____, Seconded by _____

THAT, pursuant to s. 227.24(2)(a), stats. the Joint Committee for Review of Administrative Rules extends the effective period of emergency rules VA 12.02(7) and (16) for 60 days at the request of the Department of Veterans Affairs.

COMMITTEE MEMBER	Aye	No	Absent
1. Senator LEIBHAM			
2. Senator WELCH			
3. Senator LAZICH			
4. Senator ROBSON			
5. Senator CARPENTER			
6. Representative GROTHMAN			
7. Representative SERATTI			
8. Representative GUNDERSON			
9. Representative BLACK			
10. Representative HEBL			
Totals			

Motion Carried

Motion Failed

NR 20.20

• Concern is with virus -

- infecting game fish & bait
(northern pike) (minnows)

VA 12.02

John + Bill DVA

63.7 million loaned out

7.7 million back in (interest)

5% (w/ mortgage)

6% (w/ guarantor)

> interest ~~rate~~ ^{loan} period
are for 10 years