

STATE OF WISCONSIN
Senate Journal
Ninety–Eighth Regular Session

THURSDAY, September 11, 2008

The Chief Clerk makes the following entries under the above date.

CHIEF CLERK'S ENTRIES

The Chief Clerk makes the following entries dated Friday, August 29, 2008.

**REFERRALS AND RECEIPT OF COMMITTEE REPORTS
CONCERNING PROPOSED ADMINISTRATIVE RULES**

Senate Clearinghouse Rule 08–044

Relating to grants for national teacher certification and master educator licensure.

Submitted by Department of Public Instruction.
Report received from Agency, August 29, 2008.
Referred to committee on **Education**, August 29, 2008.

Senate Clearinghouse Rule 08–045

Relating to the sex offender registration fee to bring the rule into compliance with s. 301.45 (10), Stats., as amended by 2007 Wisconsin Act 20, section 3132.

Submitted by Department of Corrections.
Report received from Agency, August 29, 2008.
Referred to committee on **Judiciary, Corrections, and Housing**, August 29, 2008.

The committee on **Commerce, Utilities and Rail** reports and recommends:

Senate Clearinghouse Rule 08–028

Relating to boilers, pressure vessels and mechanical refrigeration and affecting small businesses.

No action taken.

JEFFREY PLALE
Chairperson

The Chief Clerk makes the following entries dated Tuesday, September 2, 2008.

**REFERRALS AND RECEIPT OF COMMITTEE REPORTS
CONCERNING PROPOSED ADMINISTRATIVE RULES**

Senate Clearinghouse Rule 07–095

Relating to community–based residential facilities, and affecting small businesses.

Submitted by Department of Health and Family Services.
Report received from Agency, August 29, 2008.
Referred to committee on **Public Health, Senior Issues, Long Term Care and Privacy**, September 2, 2008.

Senate Clearinghouse Rule 08–036

Relating to the training and certification of individuals performing regulated asbestos abatement activities, the certification of companies providing regulated asbestos activities, the accreditation of asbestos training courses, the approval of asbestos training instructors, and the responsibilities of designated school asbestos coordinators, and affecting small businesses.

Submitted by Department of Health and Family Services.
Report received from Agency, August 29, 2008.

Referred to committee on **Health, Human Services, Insurance, and Job Creation**, September 2, 2008.

Senate Clearinghouse Rule 08–050

Relating to occupational therapist supervision of occupational therapy assistants.

Submitted by Department of Regulation and Licensing.
Report received from Agency, August 29, 2008.

Referred to committee on **Health, Human Services, Insurance, and Job Creation**, September 2, 2008.

Senate Clearinghouse Rule 08–073

Relating to creating and increasing fees for tattooing and body piercing establishments, recreational and educational camps, campgrounds, hotels, motels, and tourist rooming houses, restaurants, bed and breakfast establishments, vending of food, and affecting small businesses.

Submitted by Department of Health Services.
Report received from Agency, August 29, 2008.

Referred to committee on **Health, Human Services, Insurance, and Job Creation**, September 2, 2008.

Senate Clearinghouse Rule 08–077

Relating to securities definitions, securities registration procedures and registration exemptions, registration of securities broker–dealers and investment advisers, fraudulent practices, general provisions, administrative procedure and forms, and relating to franchise law disclosure document requirements.

Submitted by Department of Financial Institutions.
Report received from Agency, August 29, 2008.

Referred to committee on **Veterans and Military Affairs, Biotechnology and Financial Institutions**, September 2, 2008.

The Chief Clerk makes the following entries dated Thursday, September 4, 2008.

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Office of the Senate President**

September 4, 2008

The Honorable, the Senate:

Pursuant to Senate Rule 46 (2) (b), I am writing to direct that **Clearinghouse Rule 08–073** be withdrawn from the

committee on **Health, Human Services, Insurance and Job Creation**, and rereferred to committee on **Public Health, Senior Issues, Long Term Care and Privacy**.

Sincerely,
FRED A. RISSER
Senate President

The Chief Clerk makes the following entries dated Wednesday, September 10, 2008.

**INTRODUCTION, FIRST READING, AND
REFERENCE OF PROPOSALS; REFERENCE OF APPOINTMENTS**

**State of Wisconsin
Office of the Governor**

September 5, 2008

The Honorable, The Senate:

I am pleased to nominate and with the advice and consent of the Senate, do appoint RUPNOW, SUE, of Wausau, as a member of the State Fair Park Board, to serve for the term ending May 1, 2012.

Respectfully Submitted,
JIM DOYLE
Governor

Read and referred to committee on **Transportation and Tourism**.

PETITIONS AND COMMUNICATIONS

**State of Wisconsin
Groundwater Coordinating Council**

August, 2008

The Honorable, The Legislature:

The Groundwater Coordinating Council (GCC) is pleased to release its 2008 Report to the Legislature. The GCC was formed in 1984 to help state agencies coordinate non-regulatory activities and exchange information on groundwater. For the past 24 years, the GCC has served as a model for interagency coordination and cooperation among state agencies, the Governor, local and federal government, and the university. It is one of the few groups in the nation to effectively coordinate groundwater activities in its state from an advisory position.

This report summarizes GCC and agency activities related to groundwater protection and management in FY 08 (July 1, 2007 to June 30, 2008) and provides an overview of the condition of the groundwater resource. See the *Executive Summary* for highlights and the GCC's recommendations in *Directions for Future Groundwater Protection*. The full report will be made available online at <http://dnr.wi.gov/org/water/dwg/gcc/rtl/gccreport.htm>.

Highlights of the State's groundwater protection activities this past year include:

- The second year of implementation of [2003 Wisconsin Act 310](#) – the Groundwater Quantity Law – resulted in a Groundwater Advisory Council report to the Legislature identifying issues and making recommendations related to management of groundwater resources within Groundwater Management Areas.
- Key groundwater information and education efforts including a DATCP publication on Agricultural Chemicals in Groundwater, groundwater teacher workshops, several WRI

publications highlighting the Groundwater Research and Monitoring Program and a USGS website making groundwater information available for those working on comprehensive plans.

We hope you will find this report to be a useful reference in protecting Wisconsin's valuable groundwater resource.

Sincerely,
TODD AMBS
Chair

Referred to committee on **Environment and Natural Resources**.

**State of Wisconsin
Office of the Governor**

August 20, 2008

The Honorable, The Legislature:

As required by Article V, Section 6 of the Wisconsin Constitution, I am submitting the annual Executive Clemency Report to the Legislature, covering those clemency cases upon which final disposition were rendered for applicants during the 2007 calendar year. Below are the eighteen applicants who received a full pardon in 2007:

Roger Boyd, (date of birth April 4, 1942) convicted on or about January 22, 1962, of Sexual Intercourse with a Female Minor and sentenced to two years probation. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4–2. Following the Board's recommendation, Mr. Boyd was granted a pardon on August 10, 2007, based on the length of time since the offense and the lack of other criminal justice system contacts.

David Davis, (date of birth March 3, 1945) convicted on or about July 28, 1969, of Burglary & Theft, for approximately 3 televisions from an appliance store, and sentenced to three years probation and convicted on or about March 2, 1972, of Forging a Prescription, for cough syrup containing codeine, and sentenced to three years probation. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6–0. Following the Board's recommendation, Mr. Davis was granted a pardon on August 10, 2007, based on the length of time since the crimes, substantial need and support from both the Judge and the District Attorney in the county of conviction.

Lois Foster, (date of birth September 23, 1957) convicted on or about December 19, 1979, of Prostitution (dates unknown, records were destroyed), and convicted on or about January 25, 1982, of Misdemeanor Theft by Fraud, for attempting to purchase a television using a fake name, and sentenced to three months in the House of Corrections and one year probation. The Governor's Pardon Advisory Board split 3–3. Following the Board's split decision, Ms. Foster was granted a pardon on January 5, 2007, based on the length of time since the crimes and Ms. Foster's positive adjustment.

Jeffrey Gabel, (date of birth March 24, 1966) convicted on or about April 15, 1986, of Party to the Crime of Burglary, for stealing liquor and food from the Vets Club, and sentenced to two years probation, thirty days in jail and restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6–0. Following the Board's recommendation, Mr. Gabel was granted a pardon on August 10, 2007, based on of the length of time since the crime, his positive adjustment and support from the District Attorney in the county of conviction.

Richard Gordon, (date of birth October 26, 1970) convicted on or about October 29, 1990, of five counts of Delivery of THC, and sentenced to four years probation each count (served concurrent), sixty days jail for each count (served concurrent),

forty hours community service each count, and ordered to pay a fine and restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6-0. Following the Board's recommendation, Mr. Gordon was granted a pardon on August 10, 2007, on the basis of the non-violent nature of the crime, the length of time since the crime, the support of the District Attorney in the county of conviction, his positive adjustment, and valid job concerns.

Maurice Horton, (date of birth November 25, 1968) convicted on or about August 10, 1995, of two counts of Delivery of Cocaine, for less than ten grams, and sentenced three years in prison and convicted on or about August 10, 1995, of Bail Jumping, and sentenced on two years in prison (served concurrently). The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6-0. Following the Board's recommendation, Mr. Horton was granted a pardon on August 10, 2007, on the basis of extensive personal growth, his commitment to improving the Racine community through his work with youth, and the support from both the District Attorney and the Judge in the county of conviction.

Merle Lewis, (date of birth October 17, 1956) convicted on or about January 17, 1984, of Possession of Cocaine with Intent to Deliver and Possession of Marijuana with Intent to Deliver, for acting as a middleman between his roommate and his roommate's friend, and sentenced to thirty days in jail and three years probation each count (served concurrent). The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4-1. Following the Board's recommendation, Mr. Lewis was granted a pardon on January 5, 2007, based on the length of time since the crimes, the non-violent nature of the crimes and the support from the District Attorney in the county of conviction.

Daniel Lokken, (date of birth August 10, 1956) convicted on or about November 29, 1978, of Possession of an Explosive Compound with the Intent to Use the Explosive to Commit a Crime, for helping create a pipe bomb and lighting it outside a friend's house, and sentenced to three years probation and forty-five days in jail. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4-2. Following the Board's recommendation, Mr. Lokken was granted a pardon on August 10, 2007, based on the length of time since the crime and the support from the Judge in the county of conviction.

James Miller, (date of birth December 31, 1942) convicted on or about March 6, 1961, of Burglary, for stealing a car battery and \$32 in cash from a car garage shop, and sentenced to two years probation, two years in prison and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6-0. Following the recommendation of the Board, Mr. Miller was granted a pardon on August 10, 2007, based on the length of time since the offense and his positive adjustment.

Elva Ross, (date of birth July 2, 1950) convicted on or about November 15, 1985, of False Representation to Obtain Public Assistance, for applying for welfare under a false name and receiving \$1193.00 in public assistance, and sentenced to three months in jail, three years probation and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4-0. Following the Board's recommendation, Ms. Ross was granted a pardon on January 5, 2007, based on the length of time since the crime, her positive adjustment and support from the Judge in the county of conviction.

Paul Rusch, (date of birth October 14, 1951) convicted on or about December 29, 1975, of Burglary, for breaking into a business and fleeing once the alarm was set off, and sentenced to five years probation and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6-0. Following the Board's recommendation, Mr.

Rusch was granted a pardon on August 10, 2007, based on the non-violent nature of the crime, the length of time since the offense and his positive adjustment.

Michael Saucke, (date of birth October 22, 1949) convicted on or about July 2, 1991, of Issuing of Worthless Checks, for writing checks to Main Appliance for \$540, and sentenced to two years probation, seventy-five hours of community service and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4-2. Following the Board's recommendation, Mr. Saucke was pardoned on August 10, 2007, based on the length of time since the offense, his positive adjustment and substantial need.

James Schiesl, (date of birth June 7, 1952) convicted on or about September 21, 1978, of Delivery of a Controlled Substance of three grams of heroine, and sentenced to five years probation, four months in jail and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 3-2. Following the Board's recommendation, Mr. Schiesl was granted a pardon on January 5, 2007, based on the length of time since the crime, the non-violent nature of the crime and his positive adjustment.

Nicholas Schultz, (date of birth August 13, 1979) convicted on or about July 9, 1997, of two counts of Burglary-Building or Dwelling (Party to a Crime), for seven offenses on the same day, and sentenced to three years probation, thirty days in jail, seventy-five hours of community service and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 6-0. Following the Board's recommendation, Mr. Schultz was granted a pardon on August 10, 2007, based on the non-violent nature of the crime, the length of time since the crime, his positive adjustment, and his extensive personal growth and development.

David Spencer, (date of birth November 8, 1971) convicted on or about March 10, 1992, of Delivery of Marijuana, for one quarter of an ounce, and sentenced to three years probation. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 5-0. Following the Board's recommendation, Mr. Spencer was granted a pardon on January 5, 2007, based on his extensive personal growth, the non-violent nature of the crime, valid job concerns, and the support of both the Judge and the District Attorney in the county of conviction.

Robert Stankiewicz, (date of birth April 20, 1952) convicted on or about March 22, 1978, of Aid and Abet Burglary, for driving to a store and waiting for his friend to steal clothing then driving away, and sentenced to eighteen months probation and to pay restitution. The Governor's Pardon Advisory Board split 3-3 on their recommendation. After the Board's split decision, Mr. Stankiewicz was granted a pardon on August 10, 2007, based on the length of time since the offense and substantial need.

Benjamin Sykora, (date of birth March 19, 1978) convicted on or about June 8, 1998, of Possession with Intent to Deliver-THC, for acting as a middleman, and sentenced to thirty months probation, forty-five days in jail, fifty hours of community service, to pay a fine, and six month license revocation. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 4-1. Following the Board's recommendation, Mr. Sykora was granted a pardon on January 5, 2007, based on his personal growth and development and positive adjustment.

Kelvis Thompson, (date of birth October 21, 1960) convicted on or about November 5, 1990, of Failure to Report Receipt of Income (Party to a Crime), for receiving an over grant of \$6,103.00, and was sentenced to one year in prison, four years probation and to pay restitution. The Governor's Pardon Advisory Board recommended granting a pardon by a vote of 5-1. Following the Board's recommendation, Mr.

Thompson was pardoned on August 10, 2007, based on the length of time since the offense, the non-violent nature of the crime and valid job concerns.

Respectfully Submitted,
JIM DOYLE
Governor

**State of Wisconsin
Investment Board**

August 26, 2008

The Honorable, The Senate:

Pursuant to s. 1.11(2) (j), Stats., please distribute this notice to members of the Senate. The State of Wisconsin Investment Board did not consider any proposals or major actions in Wisconsin during fiscal year 2008 that would have significantly affected the quality of the human environment. Accordingly, the agency was no required to prepare any environmental assessments or impact statements under s. 1.11, Stats.

Please contact Sandy Drew at 261-0182 if you have any questions concerning this report.

Sincerely,
KEITH BOZARTH
Executive Director

**State of Wisconsin
Department of Administration**

August 29, 2008

The Honorable, The Legislature:

This report is transmitted as required by s. 20.002(11)(f), Wisconsin Statutes, (for distribution to the appropriate standing committees under s. 13.172(3), Wisconsin Statutes) and confirms that the Department of Administration has found it necessary to exercise the "temporary reallocation of balances" authority provided by this section in order to meet payment responsibilities and cover resulting negative cash balances during the month of July 2008.

On July 1, 2008, the Injured Patients and Families Compensation Fund cash balance closed at a negative \$163.3 million. This negative balance continued through July 31, 2008, when the fund's cash balance closed at a negative \$156.0 million. The Injured Patients and Families Compensation Fund cash balance reached its intra month low of a negative \$170.7 million on July 10, 2008. The negative balance was due to the transfer of \$200 million to the Medical Assistance Trust Fund per 2007 Wisconsin Act 20, and the pending liquidation of fund securities necessary to offset this shortfall.

On July 9, 2008, the University Trust Fund – Principal cash balance closed at a negative \$1.2 million. This negative balance continued through July 31, 2008, when the fund's cash balance closed at a negative \$4.2 million (its intra-month low). The negative balance was due to an accounting error that was corrected in August.

The Injured Patients and Families Compensation Fund, and University Trust Fund Principal shortfalls were not in excess of the statutory interfund borrowing limitations and did not exceed the balances of the funds available for interfund borrowing.

The distribution of interest earnings to investment pool participants is based on the average daily balance in the pool and each fund's share. Therefore, the monthly calculation by

the State Controller's Office will automatically reflect the use of these temporary reallocations of balance authority, and as a result, the funds requiring the use of the authority will effectively bear the interest cost.

Sincerely,
MICHAEL L. MORGAN
Secretary

**State of Wisconsin
Department of Children and Families**

September 3, 2008

The Honorable, The Senate:

Pursuant to Section 46.014(4) of the Wis. Stats., the Department of Children and Families is required to submit an annual report to the Legislature concerning the activities of the Community Action agencies under 46.30, and their effectiveness in promoting social and economic opportunities for low-income persons.

The attached report describes the uses of the Community Services Block Grant funding and its support of the services provided by the Community Action agencies and Limited Purpose agencies in order to reduce poverty, revitalize low-income communities and empower low-income individuals and families to become economically self-sufficient.

If you have any questions or need additional information, please contact Gregory Markle, CSBG Coordinator at (608) 267-5149 or gregorymarkle@wi.gov.

Sincerely,
REGGIE BICHA
Secretary

Referred to committee on **Health, Human Services, Insurance, and Job Creation.**

**State of Wisconsin
Legislative Audit Bureau**

September 11, 2008

The Honorable, The Legislature:

We have completed a best practices review of local government operations, as directed by s. 13.94(8), Wis. Stats. This review focuses on efforts by Wisconsin's public school districts to reduce truancy, which is the unexcused absence from school of children under the age of 18. In the 2006-07 school year, 9.3 percent of pupils in kindergarten through grade 12 were classified as habitual truants because they had five or more unexcused absences in a semester, although rates in individual school districts ranged from 0 in 47 districts to 58.2 percent in the Menominee Indian School District.

Efforts to reduce truancy are guided by a statutory framework that requires school districts to establish plans and policies, collaborate with local officials within their counties, and notify parents and guardians of their children's trancies. Districts have also established a variety of programs consistent with nationally developed best practices, which include involving parents in improving school attendance and working with human services and law enforcement agencies to provide services to pupils and to enforce local ordinances.

We have identified several best practices to assist school districts and the Department of Public Instruction (DPI) in monitoring, assessing, and reducing truancy.

We appreciate the courtesy extended to us by DPI, school district officials, other state and local government officials, and officials representing private-sector agencies that provided information for our review.

Respectfully Submitted,
JANICE MUELLER
State Auditor

REFERRALS AND RECEIPT OF COMMITTEE REPORTS CONCERNING PROPOSED ADMINISTRATIVE RULES

The committee on **Commerce, Utilities and Rail** reports and recommends:

Senate Clearinghouse Rule 08-054

Relating to amusement rides and affecting small business.
No action taken.

JEFFREY PLALE
Chairperson

The committee on **Education** reports and recommends:

Senate Clearinghouse Rule 08-018

Relating to four-year old kindergarten grants.
No action taken.

JOHN LEHMAN
Chairperson

Motions Under Senate Rule 98 and Joint Rule 7 for the Month of August 2008

A certificate of commendation by the Wisconsin Legislature on the motion of Senator Darling, for the Village of Bayside, on the occasion of being the recipients of the GFOA Distinguished Budget Presentation Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Sullivan, for Matthew C. Berggruen, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Grothman, for Matthew Edward Bromley, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Grothman, for Timothy John Chapman, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendation by the Wisconsin Senate on the motion of Senator Erpenbach, for Matthew J. Frey, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendation by the Wisconsin Legislature on the motion of Senator Darling, for Robert M. Gehrke, on the occasion of his retirement from the Fire Department and the Department of Public Works in the Village of Thiensville after 42 years of dedicated service.

A certificate of condolence by the Wisconsin Senate on the motion of Senator Taylor, for the family and friends of Mary Jean Johnson, on the occasion of extending our deepest sympathies to her family and friends.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Cowles, for Alex Kasel, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendation by the Wisconsin Senate on the motion of Senator Kreitlow, for J. William "Bill" Leinenkugel, on the occasion of the celebration of his 87th Birthday shared with family and friends.

A certificate of commendation by the Wisconsin Senate on the motion of Senator Taylor, for Bernard Jeffrey McCullough "Bernie Mac," on the occasion of honoring his memory, life, work and legacy.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Sullivan, for Chellsie Memmel, on the occasion of her performance in the 2008 Olympics in Beijing as part of the United States Gymnastics team.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Kanavas, for Justin Meyer, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Grothman, for Marlene Morgan, on the occasion of her 30 years of dedicated and devoted service to Portal Industries, Inc.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Sullivan, for Stuart Mott, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Lazich, for the Muskego Water Bugs Water Ski Team, on the occasion of being invited to represent the United States at the 2008 Sina-American Water Ski Competition in China.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Lazich, for New Berlin Redi-Mix, on the occasion of celebrating their 50th anniversary.

A certificate of congratulations by the Wisconsin Legislature on the motion of Senator Schultz, for the Potosi Fire Department, on the occasion of their 160th Anniversary as the oldest volunteer Fire Department in the State of Wisconsin.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Hansen, for Joseph Skalecki, on the occasion of his many years of service to the Village of Howard.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Grothman, for Carole Stuebe, on the occasion of her 20 years of dedicated and devoted service to Portal Industries, Inc.

A certificate of congratulations by the Wisconsin Senate on the motion of Senator Grothman, for John Robert Williams, on the occasion of earning and attaining the rank of the Eagle Scout Award.

A certificate of commendation by the Wisconsin Senate on the motion of Senator Risser, for the Wisconsin Supreme Court, on the occasion of recognizing the month of September as "Juror Appreciation Month."