

State of Minnesota

STATE REGISTER

Department of Administration—Documents Division

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STATE REGISTER

Judicial Notice Shall Be Taken of Material Published in the *State Register*

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

Volume 12 Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
48	Monday 16 May	Monday 23 May	Monday 30 May
49	Monday 23 May	Friday 27 May	Monday 6 June
50	Friday 27 May	Monday 6 June	Monday 13 June
51	Monday 6 June	Monday 13 June	Monday 20 June

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

Rudy Perpich, Governor

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Department of Administration**

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Minnesota Documents Division**

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

Contact: Senate Public Information Office
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Session Summary—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

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NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION —** Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce

Proposed Permanent Rules Relating to Petroleum Tank Release Compensation Board

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, 115C.07 subd. 3. The sole purpose of these amendments is to conform to *Minnesota Statutes* 115C and *Minnesota Statutes*, section 514.673.

All persons have 30 days to submit comments in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change.

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

Persons who wish to submit comments or a written request for a public hearing should submit them to:

Heidi Almquist
Executive Director
Petroleum Tank Release Compensation Board
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-3238

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Heidi Almquist.

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Heidi Almquist.

F. P. Troutwine
Chair

Rules as Proposed**2890.0010 DEFINITIONS.**

Subpart 1. to 5. [Unchanged.]

Subp. 6. **Responsible person.** "Responsible person" means a person who is an owner or operator of a tank at any time during or after the release, except as provided in *Minnesota Statutes*, section 115C.021, subdivision 2.

2890.0060 REIMBURSEMENT OF COSTS.

Subpart 1. **Generally.** Each responsible person who has taken corrective action and incurred costs after June 4, 1987, in response to a release reported on or after June 4, 1987, may apply to the board for partial reimbursement of eligible costs.

Subp. 2. and 3. [Unchanged.]

Subp. 4. **Eligibility of other persons.** Notwithstanding *Minnesota Statutes*, section 115.09, subdivisions 1 to 3, the board shall provide full reimbursement to a person who has taken corrective action if the board determines that:

A. the person took the corrective action in response to a request or order of the commissioner made under *Minnesota Statutes*, chapter 115C;

B. the commissioner has determined that the person was not a responsible person under *Minnesota Statutes*, section 115C.02;
and

C. the costs for which reimbursement is requested were actually incurred and were reasonable.

2890.0130 ACTION ON NOTICE OF LIEN FILING.

In accordance with *Minnesota Statutes*, section 514.673, the commissioner shall send written notice of intent to file an environmental lien notice to each board member. If a regular meeting of the board is to be held within 30 days of receipt of the commissioner's notice, the approval of the lien filing must be considered at the next regular meeting. If no regular meeting is scheduled within the 30-day period, a special meeting to consider approval of the lien filing shall be scheduled at the request of at least one board member. If the board takes no action on the matter within the 30-day period, the commissioner may file the lien notice.

Department of Jobs and Training

Proposed Permanent Rules Relating to Unemployment Compensation; Employer Taxes

Notice of Intent to Adopt Rules Without a Public Hearing and Notice of Intent to Adopt Rules With a Public Hearing If Twenty-Five or More Persons Request a Hearing

Notice is hereby given that the State Department of Jobs and Training proposes to adopt the above-entitled rules without a public hearing following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28.

The proposed rules interpret those parts of *Minnesota Statutes*, section 268.03 to 268.24, which impose taxes on employers for purposes of the Unemployment Compensation Program. These rules have been developed as authorized by *Minnesota Statutes*, section 268.021, which permits the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

Persons interested in these rules will have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules and comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON JULY 22, 1988, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. **Strike outs** indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION —** Underlining indicates additions to proposed rule language. **Strike outs** indicate deletions from proposed rule language.

Proposed Rules

STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF JOBS AND TRAINING. To verify whether a hearing will be held, please call the Department of Jobs and Training between July 18, 1988, and July 20, 1988, at 612/296-3736.

Persons who wish to submit comments or a written request for a public hearing must submit such comments or requests to:

Richard Yurek, Director
Tax Branch
Unemployment Insurance Division
4th Floor, 390 North Robert Street
St. Paul, MN 55101

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on July 1, 1988.

The proposed rules may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rules as noticed.

In 1936, the Minnesota Legislature passed the Minnesota Unemployment Compensation Law to implement the federal Wagner-Peyser Act. The 1936 law is the basis for the current statutes governing employer taxes.

The proposed rules amend the existing rules in *Minnesota Rules*, parts 3315.0100 to 3315.6200. Most portions of the present rules have been incorporated into the proposed rules, although certain portions have been changed, added or repealed.

The proposed rules differentiate taxpaying employers from reimbursing employers. The rules provide clarification of the specific types of employment that are excluded from the law. Employer record keeping and reporting requirements are clarified under the rules. The procedures for adjusting and refunding taxpaying accounts is addressed in the rules. The effect of acquisitions on employer liability is covered by these rules.

A copy of these rules are available for your review from:

Roger Sorbel
Policy Development Office
Lower Level, 390 North Robert Street
St. Paul, MN 55101
Telephone: 612/296-6874

A fiscal note will not be prepared. The authority for these proposed rules, the Minnesota Unemployment Compensation Law of 1936, was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency has a reasonable estimate of the total cost to all local public bodies in the state for reimbursing the trust fund for benefits paid. The agency's estimate of the cost of reimbursement under the proposed rules for the two years immediately following adoption is \$8.3 million in 1989 and \$8.4 million in 1990. These costs do not represent an increase over the amounts currently being paid other than normal yearly fluctuations. The estimated totals are the anticipated yearly costs of reimbursement after the proposed rules have been implemented.

If no hearing is required upon adoption of the rules, the rules and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General.

Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rules, must submit the written request to Roger Sorbel.

Joe Samargia, Commissioner
Department of Jobs and Training

Notice of Hearing and Notice of Intent to Cancel Hearing If Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held at 500 Rice Street, 1st Floor, St. Paul, MN 55155 on July 22, 1988, commencing at 9:30 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rules hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS STATE REGISTER AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF JOBS AND TRAINING. To verify whether a hearing will be held, please call the Department of Jobs and Training between July 18, 1988, and July 20, 1988, at 612/296-3736.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to: Peter C. Erickson, Administrative Law Judge, Office of Administrative Hearings, 500 Flour Exchange Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7606, either before the hearing or within five days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period, the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in *Minnesota Statutes*, sections 14.15 and 14.50. The rules hearing is governed by *Minnesota Statutes*, section 14.14 to 14.20 and by *Minnesota Rules*, parts 14500.0200 to 1400.1200. Questions about procedures may be directed to the Administrative Law Judge.

The proposed rules interpret those parts of *Minnesota Statutes*, sections 268.03 to 268.24, which impose taxes on employers for purposes of the Unemployment Compensation Program. These rules have been developed as authorized by *Minnesota Statutes*, section 268.021, which permits the Commissioner of the Department of Jobs and Training to adopt rules governing programs the Commissioner administers under *Minnesota Statutes*, chapter 268.

In 1936, the Minnesota Legislature passed the Minnesota Unemployment Compensation Law to implement the federal Wagner-Peyser Act. The 1936 law is the basis for the current statutes governing employer taxes.

The proposed rules amend the existing rules in *Minnesota Rules*, parts 3315.0100 to 3315.6200. Most portions of the present rules have been incorporated into the proposed rules, although certain portions have been changed, added or repealed.

The proposed rules differentiate taxpaying employers from reimbursing employers. The rules provide clarification of the specific types of employment that are excluded from the law. Employer record keeping and reporting requirements are clarified under the rules. The procedures for adjusting and refunding taxpaying accounts is addressed in the rules. The effect of acquisitions on employer liability is covered by these rules.

A fiscal note will not be prepared. The authority for these proposed rules, the Minnesota Unemployment Compensation Law of 1936 was enacted before July 1, 1985. Therefore, these proposed rules need not include a fiscal note under exceptions provided by *Minnesota Statutes*, section 3.983, subdivision 3. Pursuant to *Minnesota Statutes*, section 14.11, subdivision 1, the agency has a reasonable estimate of the total cost to all local public bodies in the state for reimbursing the trust fund for benefits paid. The agency's estimate of the cost of reimbursement under the proposed rules for the two years immediately following adoption is \$8.3 million in 1989 and \$8.4 million in 1990. These costs do not represent an increase over the amounts currently being paid other than normal yearly fluctuations. The estimated totals are the anticipated yearly costs of reimbursement after the proposed rules have been implemented.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to: Roger Sorbel, Policy Development Office, Lower Level, 390 North Robert Street, St. Paul, Minnesota 55101, 612/296-6874.

Additional copies will be available at the hearing. If you have any questions on the content of the rules, contact Roger Sorbel.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you desire to be notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge. Any person may request notification of the date on which the rules were filed. If you want to be notified, you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the secretary of state.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is now available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be reviewed at the agency or the Office of Administrative Hearings and copies may be obtained from the Office of Administrative Hearings at the cost of reproduction.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Proposed Rules

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.01 subdivision 11, as any individual:

(a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials; or

(b) who spends more than \$250, not including travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communication or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612/296-5615.

These proposed rules may affect small businesses as defined in *Minnesota Statutes*, section 14.115, subdivision 1. Pursuant to *Minnesota Statutes*, section 14.115, subdivision 2, five methods were considered by the department to reduce the impact of the proposed rules on small businesses. A discussion of these methods can be found in the Statement of Need and Reasonableness.

Joe Samargia, Commissioner
Department of Jobs and Training

Rules as Proposed

3315.0100 DEFINITIONS.

Subpart 1. **Scope.** Unless the context otherwise requires, terms used in this chapter shall be construed in the sense in which they are defined in *Minnesota Statutes*, sections 268.03 to 268.24, or in these or other rules of the department.

Subp. 2. **Pay period Tax.** "Pay period" means that period of time during which the wages due on any regular pay day were earned. If the period exceeds 31 days, then 31 days shall be deemed to constitute a pay period "Tax" is that part of contributions arrived at by multiplying taxable wages by an assigned contribution rate.

Subp. 3. Tax report. "Tax report" is the combination of the contribution report and the wage detail report which is due on a quarterly basis from taxpaying employers.

WAGES

3315.0200 WAGES PURPOSE.

Subpart 1. **Purpose.** Parts 3315.0200 to ~~3315.0600~~ 3315.0220 further define "wages" as defined in *Minnesota Statutes*, section 268.04, subdivision 25, and used in *Minnesota Statutes*, sections 268.03 to 268.24; ~~parts 3315.0200 to 3315.6200~~ this chapter; interpretations; forms; and other official pronouncements issued by the department.

Subp. 2. to 4. [See Repealer.]

3315.0201 DEFINITIONS.

Subpart 1. Scope. As used in this chapter, the following terms have the meanings given them.

Subp. 2. Remuneration paid. "Remuneration paid" means wages that have been actually or constructively delivered to or for the benefit of an employee.

Subp. 3. Remuneration payable. "Remuneration payable" means wages that have been earned but that were not paid when due. Wages are considered due on the established payday of an employer. If a corporation does not have an established payday for its officers or have references to one in the corporate minutes, the wages of its corporate officers shall be considered due when paid, or if the corporate minutes specify an amount to be paid each period, such as a week, month, or year, without specifying an exact payday, the wages for a period shall be considered due no later than the end of the period.

3315.0202 REMUNERATION AS WAGES.

Remuneration paid or payable for services performed is "wages." The remuneration may be based on production; a percentage of profits; time, such as hourly, daily, weekly, monthly, or annually; or any other measure of performance and may be paid in cash or any medium of exchange other than cash.

3315.0210 TYPES OF WAGES, GENERALLY.

Wages include the monetary value of:

A. Dwelling unit rent, utilities, meals, exchange of services, or other goods or services that are to compensate for an employee's services.

B. Vacation pay or payment in lieu of vacation.

C. Termination, severance, or dismissal payment or payment in lieu of notice whether notice is required or not.

D. That portion of the payment which compensates for services rendered received in the form of an award or allowance in accordance with a contractual agreement or settlement reached through any arbitrator, regulatory agency, or court.

E. "S" corporation profits, sometimes referred to as dividends, other than those designated as capital gain distributions or return of capital, distributed or allocated to officers and shareholders who perform services for the corporation. The distribution or allocation of undistributed profits is reportable at the time it is received by, or credited to the account of, the officers and shareholders. An "S" corporation is a corporation that is organized under the rules of subchapter S of the Internal Revenue Code of 1986.

F. The value of any consideration, award, bonus, or prize which accrues before separation from employment.

G. Payments for accrued sick leave when not related to a specific absence due to sickness or injury, regardless of whether or not the employer maintains a sick pay plan as defined in Minnesota Statutes, section 268.04, subdivision 25.

H. Idle time or standby compensation paid by an employer for a guaranteed minimum number of hours of employment per week when employees are to be available for a specific period of time and payment is made to them for idle time even if they do not render services for the minimum number of hours.

I. Advances or draws against future earnings, when paid, unless the payments are designated as a loan or return of capital on the books of the employer at the time of payment.

J. Amounts paid to corporate shareholders or officers, although designated as loans, where repayments are not made pursuant to a payoff schedule, lack business purpose, and fail to provide for the payment of reasonable interest, if the shareholders or officers perform services for the corporation for remuneration below that which would approximate reasonable compensation for services.

K. Payments made directly or indirectly to an individual to perform or assist in performing the work of any employee of the employer provided that the employer had actual or constructive knowledge that the work was being performed.

L. Payments made for services as a caretaker. Unless there is a contract or other proof to the contrary, remuneration shall be considered as being equally received by a married couple where the employer makes payment to only one spouse, or by all tenants of a household who perform services where two or more individuals share the same dwelling and the employer makes payment to only one individual.

M. Payments made for services by a migrant family. Where services are performed by a married couple or a family and an employer makes payment to only one individual each worker shall be considered as having received an equal share of the remuneration unless there is a contract or other proof to the contrary.

N. An employer's vehicle furnished to an employee to the extent the vehicle is used for personal purposes. If the employee has use of the vehicle without charge, the amount deemed to be wages shall be \$200 per month or, if for less than a calendar month, \$7 for each day that the employee has use of the vehicle for personal purposes. If the employee reimburses the employer for the use of the vehicle, the amount deemed to be wages shall be determined as follows:

(1) if the employee reimburses the employer at an established rate of less than 20 cents per mile for each mile of personal use, the amount deemed to be wages shall be the difference, if any, between the amount reimbursed and 20 cents per mile; or

(2) if the employee reimburses the employer at an established daily, weekly, or monthly rate, the amount deemed to be wages shall be the difference, if any, between the amount reimbursed and \$200 per month or, if for less than a month, \$7 for each day that the employee has use of the vehicle for personal purposes.

O. Payments made for an unexpired portion of an employment contract.

3315.0300 TIPS AND GRATUITIES AS WAGES.

Subpart 1. **Accounted for to the employer.** Tips and gratuities are accounted for to the employer in various manners or forms including when they are:

A. to C. [Unchanged.]

D. reported to the employer in compliance with the Internal Revenue Code of ~~1954~~ 1986.

Subp. 2. [Unchanged.]

3315.0400 VALUING NONCASH REMUNERATION.

Except as parts 3315.0200 to 3315.0600 may otherwise provide be provided in this chapter, the cash value of remuneration for personal services payable in any medium other than cash shall be:

A. to C. [Unchanged.]

Proposed Rules

If the commissioner determines that the reasonable fair market value is other than as determined by the employer ~~he~~ the commissioner shall, after affording the employer reasonable opportunity for the submission of relevant information, determine the reasonable cash value of board, rent, housing, meals, or similar advantage.

3315.0500 EMPLOYEE EQUIPMENT AND VEHICLES.

Subpart 1. **Trucks, bulldozers, tractors.** The wages remuneration of the operator and supplier of a ~~truck~~, bulldozer, tractor, or similar equipment, and trucks other than truck owner-operators excluded under part 3315.0525, whose remuneration includes wages for personal services as well as the cost of operating and hiring the equipment ~~shall, in the absence of an agreement between the parties, be determined as follows:~~

A. the value of that part of the total remuneration received which is wages for personal services shall not be less than the prevailing wage scale for similar services by operators of equipment of the same size and type in the locality where the services are performed; or

B. if there is no prevailing wage in the locality in which the services are performed, 40 percent of the total remuneration received from the employer shall constitute wages are wages unless the amount attributable to wages is separately identified either by making separate payments; or, if both wages and equipment hire are combined in a single payment, by a prearranged written agreement or by specifically indicating the separate amounts at the time of each payment.

Subp. 2. and 3. [Unchanged.]

CONTRIBUTING RATES AND RATIOS

3315.0600 EXEMPT WAGES.

Except as provided under Minnesota Statutes, section 268.04, subdivision 25, paragraph (k), the term "wages" shall not include:

A. and B. [Unchanged.]

C. ~~moneys~~ money allowed to employees for reimbursement of meal expenses when employees are required to perform work after their regular hours;

D. any payment made to or on behalf of an employee by the employer into a trust or plan for purposes of providing legal or dental service plans services if provided for all employees generally or for a class or classes of employees;

E. payments for periods of sickness or injury after the end of six calendar months after the calendar month in which the employee last worked for the employer, if the payments are made by an employer who does not maintain a regular sick pay plan as defined in Minnesota Statutes, section 268.04, subdivision 25, clause (2) the value of parking facilities provided or paid for by an employer, in whole or in part, if provided for all employees generally or for a class or classes of employees;

F to I. [Unchanged.]

J. any payment to or on behalf of an employee under a plan or system established by an employer, which makes provisions for ~~his~~ employees generally or for a class or classes of ~~his~~ employees for the supplementation of unemployment benefits under the written terms of an agreement, contract, trust arrangement, or other instrument if the plan or system provides benefits which are only supplemental to, and does not replace or duplicate any state or federal unemployment compensation. The plan or system must provide that funds are to be used solely for the supplementation of state unemployment benefits. Potential recipients of the plan or system must be required to file for unemployment benefits in accordance with state law. The plan or system shall not allow the assignment of benefits or the payment of any consideration in lieu of any benefit upon the employee's withdrawal from the plan or system, ~~his~~ or termination of employment or the termination of the plan or system. The plan ~~or~~ system must not be designed for the purpose of avoiding the payment of unemployment taxes on ~~moneys~~ money disbursed from its plan or system.

3315.0810 UNMANUFACTURED STATE.

Minnesota Statutes, section 268.04, subdivision 12, clause (15), (a), (4), requires that the services described in that clause be in connection with commodities that are in their unmanufactured state. A commodity that loses its original identity is considered in a manufactured state and services relating to the manufactured product are not agricultural. The following products are considered as being in a manufactured state: cheese; butter; yogurt; ice cream; dried or powdered milk; dried fruits or vegetables; juices, oils, and syrups derived from fruits and vegetables; and dried or powdered eggs.

3315.0915 NONDOMESTIC SERVICE IN HOME.

If service performed by an employee in or around the private home of an employing unit is not domestic service within the meaning of parts 3315.0901 to 3315.0920, it is subject to the other provisions of Minnesota Statutes, section 268.04, subdivision 12.

3315.1000 EVIDENCE OF CONTROL.

Subpart 1. **Determination Evidence of control.** Subparts 2 to 14 describe criteria for determining if ~~there is~~ the employing unit

has control over the method of performing or executing services. The total circumstances must be considered to determine if control is present.

Subp. 2. to 7. [Unchanged.]

Subp. 8. **Right to discharge.** The right to discharge is a very important factor indicating that the right to control exists particularly if the individual may be terminated with little notice, without cause, or for failure to follow specified rules or methods. An independent worker generally cannot be terminated without the firm being liable for damages if he ~~produces an end result which measures up~~ or she is producing according to his or her contract specifications. Contracts which provide for termination upon notice or for specified acts of nonperformance or default are not solely determinative of the right to control. That a right to discharge is restricted because of a contract with a labor union or with other entities does not mean there is ~~not~~ no control.

Subp. 9. to 14. [Unchanged.]

3315.1100 INDEPENDENT CONTRACTOR OR EMPLOYEE, FACTORS TO CONSIDER.

Subpart 1. [See Repealer.]

Subp. 2. ~~Availability to public~~ Additional factors considered. Additional factors to be considered are those listed in subparts 2a to 9.

Subp. 2a. ~~Independent status~~ Availability to public. That an individual makes ~~his~~ services available to the general public on a continuing basis is usually indicative of independent status. An individual may offer ~~his~~ services to the public in a number of ways including having ~~his own~~ an office and assistants, displaying a sign in front of ~~his~~ the home or office, holding a business license, having a listing in a business directory or a business listing in a telephone directory, or advertising in a newspaper, trade journal, or magazine.

Subp. 3. to 9. [Unchanged.]

3315.1200 ~~INDEPENDENT~~ DETERMINING WORKER STATUS, ~~DETERMINATION.~~

When determining if an individual is in employment or is an independent contractor the factors considered must be weighed to make a determination of the relationship under the facts of the particular case. There are five essential factors to be considered. The two most important are those:

A. and B. [Unchanged.]

The other essential factors to be considered are: the mode of payment; ~~refurnishing~~ furnishing of materials and tools; and control over the premises where the work is performed.

Other factors, including some not specifically identified in ~~parts 3315.0700 to 3315.2200~~ this part, may be considered if a determination is inconclusive when applying the essential factors, and the degree of their importance may vary depending upon the occupation or work situation being considered and why the factor is present in the particular situation.

3315.1301 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of Minnesota Statutes, section 268.06 and parts 3315.1305 to 3315.1315, the following terms have the meanings given them.

Subp. 2. **Chargeable.** "Chargeable" means the potential of benefit charges to an employer's experience rating account and is not contingent upon benefits actually claimed or paid.

Subp. 3. **Experience.** "Experience" means the factors within an experience rating account that are used in the computation of an experience ratio and rate.

Subp. 4. **Factors.** "Factors" means the benefits charged and the taxable wages credited to an employer's experience rating account during the experience rate period.

Subp. 5. **Experience rating account.** "Experience rating account" is the record maintained for each employer of the factors used for the computation of an experience ratio and rate.

Subp. 6. **Experience rate period.** "Experience rate period" is the period that is used for the computation of experience ratios and rates when employers have been subject to the law for the required period of time.

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Proposed Rules

3315.1310 CORRECTION OF DEPARTMENT ERRORS.

Minnesota Statutes, section 268.06, subdivision 20, provides the commissioner with the authority to rectify department errors that result in erroneous charges against an employer's account or that result in the incorrect computation of the employer's contribution rate. This includes errors occurring in the:

A. use of wages, benefit charges, taxes, and voluntary contributions in the computation of ratios and rates as well as errors that occur in the computation of ratios and rates;

B. transfer of experience rating accounts; and

C. department's failure to take appropriate action on a timely raised issue or a timely filed protest.

3315.1315 EXPERIENCE RATES.

Subpart 1. When chargeability begins. For the purpose of Minnesota Statutes, section 268.06, subdivision 6, and this part, an employer's experience rating account first becomes chargeable with benefits on the first day services were performed in covered employment.

Subp. 2. Effect of unpaid taxes on experience rates. An employer's experience rate shall not be reduced below the applicable benefit cost rate if no taxes were paid before November 1 of the year preceding the effective year of the experience rate on payroll attributable to the calendar quarters within the experience rate period.

Subp. 3. Effect of partial payment of taxes on experience rates. The amount of payroll on which taxes are paid and not the actual payroll shall be used in the computation of the employer's experience rate. Part 3315.1650, subpart 5, determines the calendar quarter in which the partial payment is applied. The proportionate amount of payroll used in the computation is determined by dividing the amount of tax paid by the assigned experience rate.

Subp. 4. Previously liable employing unit. An employing unit that ceases to be a liable employer as a result of its business being transferred or discontinued or as a result of the business entity being granted termination of coverage under Minnesota Statutes, section 268.11, shall regain its previous experience rating account if it should once again become subject to the law and if:

A. the account contains taxable payroll in the experience rate period applicable at the time it again becomes subject to the law;

B. during the period that the employing unit was not subject to the law, it had not paid wages for employment that would have been covered employment except for the fact that the employing unit was not a liable employer at the time the wages were paid; and

C. all of the experience had not been transferred to a successor.

3315.1400 IN EMPLOYMENT BY FEDERAL LAW.

An individual is in employment if he or she performs services which are subject to section 3300 of the Internal Revenue Code of 1954 1986 (Federal Unemployment Tax Act) or performs services which are required by federal law to be covered employment by state law.

3315.1500 ~~IN~~ EMPLOYMENT, GENERAL INCLUSIONS.

The following services described in items A to C are considered to be in employment:

A. and B. [Unchanged.]

C. Services performed by factory demonstrators who are placed by a manufacturer or distributor in stores and other locations to aid in the sale of products, who are hired by, who are paid directly or indirectly by, and who work under the direction of the manufacturer or distributor, although this direction may be delegated to the retailer, are in the employment of the manufacturer or distributor making the placement. If the retailer, not acting as an agent for the manufacturer or distributor, hires, directs, and pays the demonstrator directly, the retailer is the employer. If the wages are paid in part by the manufacturer or distributor, and in part by the retailer, the demonstrator is in the employment of both. Each is required to pay contributions on the part of the remuneration which it pays, provided that it is an employer under Minnesota Statutes, sections 268.03 to 268.24. If the demonstrator is referred to the job through a placement agency that is in the business of providing demonstrators to clients, the placement agency is the employer unless the placement agency neither pays nor receives, directly or through an agent, the salary or wages of the demonstrator, but is compensated on a fee basis by the demonstrator or the client for whom the service is performed.

3315.1600 CASUAL LABOR NOT IN THE COURSE OF EMPLOYING UNIT'S TRADE OR BUSINESS.

Subpart 1. **Considered employment.** Casual labor not in the course of the employing unit's trade or business, although excluded from the term employment by Minnesota Statutes, section 268.04, subdivision 12, clause (15)(b), is conditionally included as employment under the provisions of chapter 23, section 3300 of the Internal Revenue Code of 1954 1986 (federal Unemployment

Tax Act). *Minnesota Statutes*, section 268.04, subdivision 12, clause (6) provides that the term employment shall include any service which is deemed to be employment under the Federal Unemployment Tax Act; therefore, casual labor is considered employment unless it meets the exclusionary provisions of that act. The exclusionary provisions of that act are in subpart 2.

Subp. 2. [Unchanged.]

3315.1650 CONTRIBUTIONS, TAXPAYING ACCOUNTS.

Subpart 1. Tax payments, general. Taxes with respect to wages paid or payable, as defined in part 3315.0201, shall accrue on a calendar quarter basis and shall become due and be paid on or before the last day of the month immediately following the calendar quarter in which they accrue as illustrated in items A to D.

A. The first calendar quarter is due and payable on or before April 30.

B. The second calendar quarter is due and payable on or before July 31.

C. The third calendar quarter is due and payable on or before October 31.

D. The fourth calendar quarter is due and payable on or before January 31 of the following calendar year.

If the due date falls on a Saturday, Sunday, or legal holiday, the payment is due on the next department business day. Failure to receive forms from the department is not a valid reason for not paying the tax on or before the due date. Each check or other order for the payment of money tendered to the department that is dishonored shall not constitute payment until the funds are paid to the department.

Subp. 2. New employers. The first tax payment of any employing unit that becomes an employer at any time during a calendar year shall become due on and shall be paid on or before the normal due date of the quarter in which the employing unit becomes an employer. The first payment shall include taxes accrued for the entire period beginning January 1 of the calendar year up to and including the calendar quarter in which the employing unit becomes an employer.

Subp. 3. Employing units electing coverage. The first tax payment with respect to services not previously covered by the law for an employing unit or employer that has the approval of the commissioner to voluntarily elect coverage for nonsubject services shall be paid on or before the last day of the month immediately following the calendar quarter in which the election became effective or was approved, whichever is later. The payment shall include taxes with respect to all wages for services covered by the election that were paid on or after the effective date of the election through the close of the last completed calendar quarter preceding the due date for the tax.

Subp. 4. Due date upon demand. If the commissioner believes that the collection of any tax under the law will be jeopardized by delay, the commissioner shall, notwithstanding the due date established in subparts 1 and 2, immediately assess the tax that shall become immediately due and payable and make immediate notice and demand for payment. Interest and penalties will be assessed if the tax is not paid upon demand.

Subp. 5. Late payments. Except for an indebtedness that has been reduced to judgment, payments received from an employer who is indebted to the department shall be applied to the indebtedness pertaining to the oldest calendar quarter unless the payment is clearly intended to be applied to a specific tax report or indebtedness.

3315.1700 LOCALIZED MULTISTATE EMPLOYMENT.

If an employee works in more than one state, it is necessary to determine if the employment is localized in and reportable to Minnesota. In making this determination, only the ~~regular services for which the employee was hired, and not those characterized as incidental, temporary, transitory, or an isolated transaction~~ employee's regular services are to be considered. "Regular" services refers to the primary duties of the employee. For example, a salesperson's regular duties are limited to services directly involved in selling, so a salesperson's regular duties do not include commuting. An employee's services are considered localized in Minnesota in any calendar quarter in which 80 percent or more of his or her regular services are performed in Minnesota.

Regular services include those services performed in an office located in the home of the employee if all of the following conditions are met: the employer does not provide other facilities; the office meets the requirements of the Internal Revenue Code of 1954 1986 for the deduction of business related expenses; and the services performed are an integral part of the employee's regular duties.

~~Incidental, temporary, transitory, and isolated~~ Nonregular services include:

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Proposed Rules

A. attending periodic meetings or returning to one's residence which is located outside his or her area or territory, by salespersons or others who normally perform services within a given area or territory; and

B. any other services which are apart from or not a permanent part of an employee's regular duties, are temporary or transitory in nature, or are incidental to an employee's regular duties.

3315.1800 MULTISTATE EMPLOYMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Base of operations.** If an individual's services are not localized in any state and some services, other than those determined to be ~~incidental, temporary, transitory, or isolated transactions~~ nonregular, are performed in Minnesota and the base of operations is in Minnesota, the employee's entire services are reportable to Minnesota. "Base of operations" means the place, usually permanent in nature, from which the employee starts his or her work, to which he or she customarily returns, and to which the employer may direct instructions to the employee. A branch office of the employer or the place of residence of the employee could be a base of operations.

Subp. 3. **Direction and control.** If an individual's services are not localized in any state and the base of operations test does not apply, all of the services are reportable to Minnesota if Minnesota is the state from which the employer exercises general direction and control over the employee, and if some services, other than those determined to be ~~incidental, temporary, transitory, or isolated services~~ nonregular, are performed in Minnesota.

Subp. 4. **Residence.** If an individual's services are not localized within any state and the base of operations and the direction and control tests do not apply, the individual's entire services are reportable to Minnesota if the individual's residence is located in Minnesota and some services, other than those determined to be ~~incidental, temporary, transitory, or isolated transactions~~ nonregular are performed in Minnesota.

Subp. 5. [Unchanged.]

3315.1900 EMPLOYMENT PARTIALLY ~~EXEMPT~~ EXCLUDED WITHIN A PAY PERIOD; 50 PERCENT RULE.

Minnesota Statutes, section 268.04, subdivision 12, clause (15)(p) does not apply to an individual who performs services as an independent contractor and in employment within the same pay period, but does apply to all employment defined in *Minnesota Statutes*, section 268.04, subdivision 12, except clauses (10)(a) and (b), relating to certain employees of religious organizations.

If an individual's services within the pay period consist of more than 50 percent ~~or more~~ of excluded employment none of that individual's services for that pay period are taken into account nor does any of that individual's remuneration for that pay period constitute wages. If 50 percent or more of the individual's services within the pay period are not excluded, all of the services are covered employment and all of the individual's remuneration for that pay period are wages.

Although not applicable to services by an individual referred to in *Minnesota Statutes*, section 268.04, subdivision 12, clauses (10)(a) and (b), other services performed by the same individual are subject to all other provisions of *Minnesota Statutes*, sections 268.03 to 268.24.

3315.2010 ADJUSTMENTS AND REFUNDS, TAXPAYING ACCOUNTS.

Subpart 1. Overpayments. Tax reports, other than those lacking proper signature, will not be returned to employers for correction. Whenever an erroneous report is submitted that results in a tax overpayment, the employer may obtain a credit allowance or refund if the payment was made within the current or preceding four calendar years. A request for adjustment must show the total wages, excess wages, taxable wages, and tax as previously reported and as corrected for the period involved. If the adjustment changes the total wages reported, the request must also include the social security number, name, wages, and weeks worked as previously reported and as corrected for each individual whose wages were changed. The department's form, Employer's Application for Wage Adjustment, may be used for this purpose. The credit allowance or refund shall be reduced by any indebtedness due the department by the employer and by the amount of benefits paid to a claimant as a direct result of the employer's erroneous report. This subpart does not apply to overpayments of voluntary contributions.

The commissioner may, upon request of the employer or employing unit or upon the commissioner's own initiative, issue a refund covering the overpayment. Lacking specific instructions from the employer, the commissioner shall issue a credit statement and mail it to the employer at the employer's last known address. If the employer fails to use the credit, the commissioner may cancel it and issue a refund covering the overpayment.

Subp. 2. Underpayments. If the tax report first submitted by an employer understates the amount of taxable wages resulting in an understatement of the tax due and owing for a given period, the employer shall file the department's form, Employer's Application for Wage Adjustment, and make remittance covering the additional tax due. The information provided to the department shall include the total wages, excess wages, taxable wages, and tax as previously reported and as corrected for the period involved. If the adjustment changes the total wages reported, the request must also include the social security number, name, wages, and weeks worked as previously reported and as corrected for each individual whose wages were changed.

Subp. 3. Wages reported to another state in error. Wages for services determined to be reportable to Minnesota but reported to another state in error shall be reported and the tax paid to Minnesota. This does not apply to wages paid more than four calendar years before the year of the determination or paid beyond the refunding state's statute of limitations, whichever is less.

3315.2100 EMPLOYMENT, GENERAL EXCLUSIONS.

Subpart 1. Work relief and work training programs. Minnesota Statutes, section 268.04, subdivision 12, clause (10)(d) excludes services which are performed as part of a program designed to relieve unemployment, if the specific program, and not just the employing unit, is assisted or financed by any federal agency or an agency of a state or political subdivision thereof. "Assistance" may be in the form of supervision, advice in organizing and operating the program, but it must be substantial and continuing. Occasional, intermittent, or incidental services would not be sufficient to invoke the exclusion. Where other than incidental physical facilities or material are furnished the program by a federal agency, the state or any of its political subdivisions, the program has been "assisted or financed."

Subp. 2. Ministers and members of religious orders. Minnesota Statutes, section 268.04, subdivision 12, clause (10), paragraph (b), excludes from employment the service of a minister in the exercise of his or her ministry and services performed by members of religious orders when the services are required by their order. The term "exercise of his or her ministry" includes:

A. the conduct of religious worship and the ministration of sacerdotal functions;

B. services performed in the control, conduct, and maintenance of:

(1) a religious organization under the authority of a religious body constituting a church or church denomination; or

(2) an organization operated as an integral agency of a religious organization or of a church or church denomination;

C. services performed for an organization described in Minnesota Statutes, section 268.04, subdivision 12, clauses (7), (8), and (9), under an assignment or designation by a church. This does not include cases in which a church merely helps a minister by recommending the minister for a position involving nonministerial services for an organization not connected with the church; and

D. missionary service or administrative work in the employ of a missionary organization.

As used in item B, "control, conduct, and maintenance" of an organization does not include services such as operating an elevator, or being a janitor, but includes services performed in the directing, management, or promotion of the activities of the organization. Accordingly, service of a clergyman as a chaplain and the services of members of a teaching or nursing order who are engaged in teaching or nursing are excluded. In the case of a member of a religious order, the criterion to determine if the employment is excluded is whether the order requires the performance of the services.

Subp. 3. Convention or association of churches. Minnesota Statutes, section 268.04, subdivision 12, clause (10), provides that service performed in the employ of a church or convention or association of churches is excluded from employment. "Convention or association of churches" means a formal or informal group of churches whose purpose is concerned with religious and denominational matters of the group represented.

Subp. 4. Policy-making or advisory positions with the state of Minnesota, its instrumentalities, and political subdivisions. Minnesota Statutes, section 268.04, subdivision 12, clause 10, (f), (v)(a), (b), and (c), excludes from employment services performed for the state of Minnesota, its instrumentalities, and political subdivisions if performed by an individual in a policy-making position that ordinarily does not require more than eight hours per week in the performance of the duties; or in a major nontenured policy-making or advisory position and that, if performed for the state of Minnesota, is in the unclassified service. The word "major" in the phrase "major nontenured policy-making or advisory position" refers to high level governmental positions usually filled by appointment by the chief executive or the executive's designee. An individual in a policy-making position is one who determines the direction, emphasis, and scope of action in the development and the administration of governmental programs. An individual in an advisory position is one who advises governmental agencies and officers with respect to policy, program, and administration without having authority to implement its recommendations. For the state of Minnesota and political subdivisions that do not have authority to enact ordinances without recourse to the state legislature, the position must be designated as policy-making or advisory by state law or local ordinance enacted under state law. Political subdivisions may enact an ordinance creating or designating one of its positions as policy-making or advisory, provided the ordinance is under authority of the laws of the state. If a law or ordinance does not clearly and specifically so label a position, other pertinent factors used in determining whether a position is advisory or policy-making include:

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- A. job descriptions;
- B. qualifications required of individuals for the position; and
- C. responsibilities involved.

The most important factor in the application of Minnesota Statutes, section 268.04, subdivision 12, clauses (10), (f), (v)(a) and (c), is whether a particular position is designated as a major nontenured policy-making or advisory position under state law. If an agency or department is covered by a merit system, the provisions of this exclusion apply only to individuals that are nontenured. "Nontenured" means that the position is not covered by a merit system or civil service law or rules with respect to duration of service or appointment.

Subp. 5. Temporary employees hired for emergencies. Minnesota Statutes, section 268.04, subdivision 12, clause (10), (f), (iv), applies to employees who are pressed into service during an existing or imminent emergency. The exclusion does not apply to any services performed in the prevention or detection of a disaster nor to permanent employees, such as volunteer firefighters whose usual responsibilities include emergency situations.

Subp. 6. Students employed by school, college, or university. Minnesota Statutes, section 268.04, subdivision 12, clause (15), (g), (2), excludes from employment the services of students in the employ of a school, college, or university if the student is enrolled and is regularly attending classes at the school, college, or university. "Regularly attending classes" means meeting the minimum attendance required for a student's course of study in pursuit of a degree and that the course of study is not by correspondence, part of an extension course, or a continuing education course required by an employer as a condition to employment.

3315.2200 EMPLOYMENT, SPECIAL EXCLUSION.

In the trucking industry, an owner-operator of a vehicle which is licensed and registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory agency is an independent contractor, not an employee, while performing services in the operation of his or her truck, if each of the following factors is substantially present:

- A. the individual owns the equipment or holds it under a bona fide lease arrangement;
- B. the individual is responsible for the maintenance of the equipment;
- C. the individual bears the principal burdens of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road;
- D. the individual is responsible for supplying the necessary personal services to operate the equipment;
- E. the individual's compensation is based on factors related to the work performed including a percentage of any schedule of rates or lawfully published tariff and not on the basis of the hours or time expended;
- F. the individual generally determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper; and
- G. the individual enters into is a party to a written contract that specifies the relationship to be that of an independent contractor and not that of an employee.

3315.2410 VOLUNTARY CONTRIBUTIONS.

Subpart 1. Purpose and scope. Subparts 2 to 6 further explain the requirements for making a voluntary contribution to obtain a reduced experience ratio and rate as permitted under Minnesota Statutes, section 268.06, subdivision 24.

Subp. 2. Time limit. A voluntary contribution made after the expiration of the first 120 days of the calendar year in which the subject rate is effective shall not be used in the computation of a new experience ratio if the employer had been subject to the law for the entire 120-day period. When an employer becomes subject to the law after January 1, the 120-day period shall commence with the day the employer has its first covered employment.

Subp. 3. Partial voluntary contribution. A partial voluntary contribution is first applied to the most recent benefit charges in the experience period. A partial voluntary contribution is not used to reduce any specific claimant's charges. If any benefit charges are subsequently removed from an employer's experience rating account the department shall not credit the employer's account or issue a refund for any portion of a voluntary contribution unless the removal of the charges creates a negative balance in the account, in which case the credit or refund shall be limited to the amount necessary to eliminate the negative balance.

Subp. 4. Payment of surcharge required. Except as provided in subpart 5, the surcharge of 25 percent of benefit charges required by Minnesota Statutes, section 268.06, subdivision 6, to be added to an employer's experience rating account, must be proportionately included with a voluntary contribution. Eighty percent of a voluntary contribution will be used to remove benefit charges and the remaining 20 percent will be applied to the corresponding surcharge.

Subp. 5. Surcharge cancellation. The law provides for the cancellation of a surcharge that is attributable to benefit charges that are the result of unemployment caused by damages to an employer's business by fire, flood, wind, or other act of God if a voluntary

contribution is made to remove the corresponding benefit charges. Notwithstanding subpart 3, a partial voluntary contribution will be first used to reduce charges attributable to the unemployment caused by the damages. Surcharge attributable to benefit charges not removed by voluntary contribution will remain in the employer's experience rating account for ratio and rate computation.

Subp. 6. Status of benefit charges not reimbursed. Benefit charges not removed by a voluntary contribution will remain a factor in ratio and rate computation for as long as they are in the experience period.

3315.2610 NONPROFIT ORGANIZATIONS.

Subpart 1. Proof of exemption. A nonprofit organization described in section 501(c)(3) of the Internal Revenue Code and exempt from federal unemployment tax under section 3306(c)(8) of the code, must provide the department with a copy of the exempt determination if Minnesota Statutes, sections 268.04, subdivision 12, clause (10), and 268.06, subdivision 28, are to be applicable to the organization.

Subp. 2. Timely election to reimburse in lieu of paying tax. Nonprofit organizations meeting the provisions of subpart 1 will be installed as taxpaying accounts unless they elect the reimbursement method. Notice of election to change the method of payment not filed within the time limits specified in Minnesota Statutes, section 268.06, subdivision 28, shall be considered for approval in a subsequent year, unless rescinded by the employer before its implementation.

3315.2700 CROP PURCHASE AGREEMENTS; FARMS; AGRICULTURAL LABOR.

Subpart 1. and 2. [Unchanged.]

Records, and Reports, and Payments

3315.2750 GOVERNMENT ACCOUNTS.

The state of Minnesota, its wholly owned instrumentalities, political subdivisions, and its instrumentalities must be installed as reimbursing accounts unless they elect the taxpaying method. An election to be taxpaying in lieu of reimbursing must be made in writing and filed with the commissioner within 30 days immediately following the first day of the year in which the election is to be effective.

3315.2810 REIMBURSING ACCOUNTS.

Subpart 1. Eligibility. Reimbursement of benefits in lieu of paying tax is an option available to the state of Minnesota and its wholly owned instrumentalities; political subdivisions and their instrumentalities; and nonprofit organizations referred to in part 3315.2610. All other employers are required to be taxpaying.

Subp. 2. Change in method of payment. An employer that changes from reimbursing to taxpaying shall continue to be liable to reimburse the fund for benefits that are paid based on wages paid during the effective period of the employer's election to make payments in lieu of taxes. All benefit charges based on wages paid after the effective date of the approval of the change to taxpaying shall be charged to the employer's experience rating account. When an employer changes from taxpaying to reimbursing, benefit charges in the employer's experience rating account shall be used in future rate computations if the employer reverts back to taxpaying and the benefit charges are within the experience rate computation period in effect at the time of the change.

Subp. 3. Payment due date. Employers who reimburse the fund in lieu of paying taxes shall submit full payment as indicated on the notice of benefits charged. Payment is due on or before the last day of the month following the month in which the notice of benefits charged is mailed to the employer. If the due date falls on a Saturday, Sunday, or legal holiday, the payment shall be due on the next department business day.

Subp. 4. Application of partial payments. Except for an indebtedness that has been reduced to judgment, payments received without specific instructions and which are not clearly intended for a specific benefit charge or indebtedness shall be applied to remove all benefit charges and interest beginning with the oldest calendar quarter.

3315.3210 DEFINITIONS.

Subpart 1. Scope. For the purpose of parts 3315.3210 to 3315.3220 and Minnesota Statutes, sections 268.04 and 268.11, the following terms have the meanings given them.

Subp. 2. Assets. "Assets" means tangible and intangible business resources, except real estate, including but not limited to accounts and notes receivable, good will, licenses, lease agreements, trademarks, copyrights, and contracts.

Subp. 3. Business. "Business" refers to the distribution or production of products or services on the supply side of the market.

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Subp. 4. Organization. "Organization" refers to the structural outline that defines the relationship, communications, and lines of authority of a business or trade.

Subp. 5. Substantially all of the assets. "Substantially all of the assets" means at least 70 percent of the market value of the assets defined in subpart 2.

Subp. 6. Trade. "Trade" means the clientele of a business.

3315.3220 ACQUISITIONS.

Subpart 1. Scope. Subparts 2 to 4 clarify Minnesota Statutes, section 268.04, subdivision 10, clause (2), relative to the effect that an acquisition has on the liability status of a successor who acquired substantially all of the assets or any part of the organization, trade, or business of an employing unit that is an employer subject to the law at the time of the acquisition.

Subp. 2. Types of acquisitions. An acquisition can occur through licensing, leasing, franchising (including dealerships), forfeiture, foreclosure, or by court order. An acquisition can also occur when:

- A. there is an outright sale or transfer between individuals or other legal entities;
- B. individuals form partnerships or corporations;
- C. individuals acquire the organization, trade, or business from a corporation or partnership; or
- D. there is a merger, consolidation, or other form of reorganization that results in the change of a legal entity.

Subp. 3. Employers of domestic employees. In the event of the death of a married employer of domestic employees, the account shall be changed to the name of the surviving spouse and shall not be treated as a change in legal entity.

Subp. 4. Liability of successor, special situation. Notwithstanding any other provision of this part, a successor shall not be held immediately subject to the law due to an acquisition if:

A. the predecessor is eligible for termination of coverage under Minnesota Statutes, section 268.11, subdivision 2; or

B. the combined employment of the predecessor and successor, when treated as a single account, satisfies the requirements of Minnesota Statutes, section 268.11, subdivision 2.

3315.3600 SCOPE.

Parts 3315.3600 to 3315.4100 clarify an employing unit's duty with regard to records, and reports, and payments as required under Minnesota Statutes, sections 268.06, subdivision 1; 268.11, subdivisions 2 and 3; and 268.12, subdivision 8 chapter 268.

3315.3700 NOTIFICATION.

Subpart 1. Establishment of new business or change in existing business. Each employing unit shall notify the department within 30 days of a change in legal entity, or of the start, transfer, sale, acquisition, or termination of a business conducted in Minnesota, in whole or in part, insofar as the transaction results in the creation of a new or different employing unit or affects the establishment of employer accounts, the assignment of rates, or the transfer of experience records as provided in Minnesota Statutes, section 268.06. If the information as submitted is incomplete, subsequent requests for additional information required in determining liability, modifying an existing account, and assigning or transferring of experience rates must be completed, signed, and returned to the department in accordance with the instructions on the form or accompanying correspondence. When the forms require the address of business establishments, the employing unit must furnish a complete street and city address if one exists. Post office box numbers or similar addresses that do not show the actual location of the business will not be acceptable except as a mailing address.

Subp. 2. and 3. [Unchanged.]

3315.3800 RECORDS.

Each employing unit shall establish, maintain, and preserve records with respect to individuals performing personal services for it, including individuals who perform or assist in performing the work of any employee of the employer if the employer had actual or constructive knowledge that the work was being performed. The records shall be preserved for a period of not less than five eight years after the calendar year in which the remuneration for the services was paid or payable. The records, and shall show for each individual the following:

- A. name;
- B. social security number;
- C. days in which the individual performed personal services;
- D. location where services were performed;
- E. wages paid and wages due but not paid for personal services, showing separately:

- (1) money wages, excluding special payments;
- (2) wages paid and wages due but not paid, in any medium other than money, excluding special payments;
- (3) special payments such as bonuses, gifts, and prizes, showing separately money payments, other special payments, and the character of the payments; and
- (4) days for which sick pay was paid; and
- ~~(5)~~ tips and gratuities paid to an employee by a customer and accounted for by the employee to the employer as defined in part 3315.0300, subparts 1 and 2;
- F rate and base unit of pay;
- G. amounts paid as allowances or reimbursement for travel or other activity pertaining to the furtherance of the employing unit's business which were not included as wages. The account shall show each item of expense incurred during each pay period or calendar month;
- H. the date of separation and the reason, in detail, for the termination;
- I. the complete resident address of the employee; and
- J. for each pay period:
 - (1) the beginning and ending dates of the period;
 - (2) the total amount of wages paid and wages due but not paid for personal services performed; and
 - (3) the date of payment; and
- K. for each calendar month or, if less, the established pay period of the employer, the hours spent performing services in employment and the hours spent performing excluded services, by each employee for which the provisions of part 3315.0535 apply.

3315.4100 FILING REPORTS.

Subpart 1. Contribution Tax report filing requirements. An employer's tax report must be filed on a form prescribed by the department, or a reasonable facsimile thereof, ~~not later than the due date for payment of quarterly contributions of the form on or before the last day of the month immediately following the end of the calendar quarter. If the due date falls on a Saturday, Sunday, or legal holiday, the report is due on the next department business day. A tax report must be filed even though no wages were paid or no tax is due for the quarter.~~ Failure to receive forms from the department shall not constitute a valid reason for not filing reports on or before the due date thereof or for not paying any contribution due. Consolidated reports of corporations having common ownership shall be recognized or permitted only if expressly allowed under parts 3315.4200 to 3315.6000. If the report first submitted is erroneous, the employer shall promptly submit the corrected information on forms prescribed by the department and make any additional payment due. Each tax report must include only the wages paid, as the term is defined in Minnesota Statutes, section 268.04, subdivision 25a, for the quarter being reported. Corrections of errors made on previously submitted reports must be submitted separately.

Subp. 2. Signature requirements on contribution reports. Contribution reports must be signed by the owner, partner, corporate officer, or a designated representative of the employer. If the employer appoints a designated representative who is not an employee, a power of attorney authorizing the designated representative to sign the reports must be filed with the department. Unsigned or improperly signed reports that are returned to the employer for proper signature will not be considered valid or filed until they are properly signed and returned to the department.

Subp. 3. Employer responsible for reporting wages. Each employer must report the wages paid to its own employees regardless of who actually makes the payment to the employee unless the wages are properly reported by a common paymaster in accordance with the consolidated reporting provisions of part 3315.1020.

Subp. 4. Wage detail reporting requirements. Employers who have to report 250 or more employees in any calendar quarter must file their quarterly wage detail report on magnetic media using a format prescribed by the department. A magnetic media report may contain information from more than one employer. Employers with less than 250 employees to report in a calendar quarter may elect to use magnetic reporting. Absent such an election, the employer must strictly adhere to the department's prescribed format for reporting the information on paper. Reports that contain extraneous information, are incomplete, or are

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otherwise prepared improperly are not acceptable and will be returned and subject to the penalties prescribed in Minnesota Statutes, section 268.16, subdivision 2, paragraph (c).

3315.5100 JOINT ACCOUNT.

A joint account application shall be on forms prescribed by the department. A joint account shall be maintained as a separate unit of the employer account of the common paymaster until that account is terminated or notification is received regarding a change of the common paymaster. A joint account ~~cannot~~ generally will not be made retroactive prior to January 1 of the year preceding the year in which the application is received. However, the commissioner may for good cause extend the retroactive period when it is in the best interest of the department to do so.

3315.6100 PAYMENTS OF INTEREST.

Subpart 1. **Scope.** This part ~~establishes the conditions upon which interest on contributions due may be waived as provided for in~~ governs the Department of Jobs and Training in its administration of Minnesota Statutes, section 268.16, subdivision 1.

Subp. 2. **Waiver.** The commissioner ~~may~~ shall waive all or the appropriate part of the interest charges on contributions or reimbursements that are not paid by the due date if: the late payment was caused by ~~department error or misinformation; or the late payment was the result of unreasonable delay not attributable to the employer~~ unreasonable delay attributable to the department, its agents, or the postal service, or if the contributions were timely paid to another state unemployment fund in error.

Subp. 3. **Delays attributable to the department or its agents.** If the department does not respond within 30 days of the receipt of information from the employer, the delay in excess of the first 30 days shall be considered unreasonable. For the purpose of this part, "respond" means notifying an employer of its liability status or the status of a specific class or classes of workers, the assignment of experience rates, or requesting additional information when the information received is incomplete or incorrect. This subpart does not apply to delays attributable to the department's hearing process.

Subp. 4. **Application.** Each application for waiver of interest under this part must be made in writing by the employer or his authorized representative, except that the commissioner may on his own motion waive interest if in the best interest of the state of Minnesota.

Subp. 5. **Substantiation required.** If the employer alleges that any of the extenuating circumstances listed in subpart 2 are directly responsible for the untimely payment of contributions or reimbursements, the particulars must be submitted for review by the commissioner. If the commissioner determines that the employer's allegations are substantiated, the commissioner shall waive the portion of the interest attributable to the delay. The portion of the interest charges not attributable to these extenuating circumstances shall remain payable by the employer.

REVISOR'S INSTRUCTION. Renumber the part numbers in Column A with the part numbers in column B. Correct internal references in existing and proposed rules in accordance with the following renumbering instruction.

Column A

3315.0300

3315.0400

3315.0500

3315.0600

3315.0700

3315.0800

3315.0900

3315.1000, subpart 1

3315.1000, subpart 2

3315.1000, subpart 3

3315.1000, subpart 4

3315.1000, subpart 5

3315.1000, subpart 6

3315.1000, subpart 7

3315.1000, subpart 8

3315.1000, subpart 9

3315.1000, subpart 10

3315.1000, subpart 11

3315.1000, subpart 12

3315.1000, subpart 13

3315.1000, subpart 14

3315.1100, subpart 2

3315.0211

3315.0213

3315.0212

3315.0220

3315.0501

3315.0555, subpart 5

3315.0555, subpart 4

3315.0555, subpart 3

3315.0555, subpart 3, item A

3315.0555, subpart 3, item B

3315.0555, subpart 3, item C

3315.0555, subpart 3, item D

3315.0555, subpart 3, item E

3315.0555, subpart 3, item F

3315.0555, subpart 3, item G

3315.0555, subpart 3, item H

3315.0555, subpart 3, item I

3315.0555, subpart 3, item J

3315.0555, subpart 3, item K

3315.0555, subpart 3, item L

3315.0555, subpart 3, item M

3315.0555, subpart 2

3315.1100, subpart 2a
3315.1100, subpart 3
3315.1100, subpart 4
3315.1100, subpart 5
3315.1100, subpart 6
3315.1100, subpart 7
3315.1100, subpart 8
3315.1100, subpart 9
3315.1200
3315.1300
3315.1400
3315.1500
3315.1600
3315.1700
3315.1800, subpart 1
3315.1800, subpart 2
3315.1800, subpart 3
3315.1800, subpart 4
3315.1800, subpart 5
3315.1900
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3315.2800
3315.2900
3315.3000
3315.3100
3315.3200
3315.3300
3315.3400, subpart 2
3315.3400, subpart 3
3315.3400, subpart 4
3315.3400, subpart 5
3315.3400, subpart 6
3315.3400, subpart 7
3315.3400, subpart 8
3315.3400, subpart 9
3315.3400, subpart 10
3315.3500
3315.3600
3315.3700
3315.3800
3315.3900
3315.4000
3315.4100
3315.4200

3315.0555, subpart 2, item A
3315.0555, subpart 2, item B
3315.0555, subpart 2, item C
3315.0555, subpart 2, item D
3315.0555, subpart 2, item E
3315.0555, subpart 2, item F
3315.0555, subpart 2, item G
3315.0555, subpart 2, item H
3315.0555, subpart 1
3315.0515
3315.0510
3315.0520
3315.0545
3315.0550, subpart 1
3315.0550, subpart 2
3315.0550, subpart 3
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3315.0535
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3315.0910, subpart 1
3315.0910, subpart 2
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3315.0910, subpart 6
3315.0910, subpart 7
3315.0910, subpart 8
3315.0910, subpart 9
3315.0920
3315.1001
3315.1005
3315.1010, subpart 1
3315.1010, subpart 2
3315.1010, subpart 3
3315.1015
3315.1020, subpart 1

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<u>3315.4300</u>	<u>3315.1020, subpart 2</u>
<u>3315.4300, subpart 2, item A</u>	<u>3315.1020, subpart 2, item A, subitem (1)</u>
<u>3315.4300, subpart 2, item B</u>	<u>3315.1020, subpart 2, item A, subitem (2)</u>
<u>3315.4300, subpart 2, item C</u>	<u>3315.1020, subpart 2, item A, subitem (3)</u>
<u>3315.4300, subpart 2, item D</u>	<u>3315.1020, subpart 2, item A, subitem (4)</u>
<u>3315.4300, subpart 3</u>	<u>3315.1020, subpart 2, item B</u>
<u>3315.4300, subpart 4</u>	<u>3315.1020, subpart 2, item C</u>
<u>3315.4300, subpart 5</u>	<u>3315.1020, subpart 2, item D</u>
<u>3315.4400</u>	<u>3315.1020, subpart 3</u>
<u>3315.4500</u>	<u>3315.1020, subpart 4</u>
<u>3315.4600</u>	<u>3315.1020, subpart 5</u>
<u>3315.4700</u>	<u>3315.1020, subpart 6</u>
<u>3315.4800</u>	<u>3315.1020, subpart 7</u>
<u>3315.4900</u>	<u>3315.1020, subpart 8</u>
<u>3315.5000</u>	<u>3315.1020, subpart 9</u>
<u>3315.5100</u>	<u>3315.1020, subpart 10</u>
<u>3315.5200</u>	<u>3315.1020, subpart 11</u>
<u>3315.5300</u>	<u>3315.1020, subpart 12</u>
<u>3315.5400</u>	<u>3315.1020, subpart 13</u>
<u>3315.5500</u>	<u>3315.1020, subpart 14</u>
<u>3315.5600</u>	<u>3315.1020, subpart 15</u>
<u>3315.5700</u>	<u>3315.1020, subpart 16</u>
<u>3315.5800</u>	<u>3315.1020, subpart 17</u>
<u>3315.5900</u>	<u>3315.1020, subpart 18</u>
<u>3315.6000</u>	<u>3315.1020, subpart 19</u>
<u>3315.6100</u>	<u>3315.2210</u>
<u>3315.6200, subpart 1</u>	<u>3315.1305</u>

REPEALER. *Minnesota Rules*, parts 3310.0400; 3310.0500; 3315.0200, subparts 2, 3, and 4; 3315.1100, subpart 1; 3315.3400, subpart 1; and 3315.6200, subpart 2, are repealed.

Board of Teaching

Proposed Permanent Rules Relating to Teachers of American Indian Language and American Indian History and Culture

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Board of Teaching intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, section 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 125.05, subd. 1, section 125.185, subd. 4, and *Minnesota Session 1988*, Chapter 718, Article 3, Sec. 8, Subd. 1.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.131 to 14.20.

Comment or written requests for a public hearing must be submitted to:

Kenneth L. Peatross
Executive Secretary
Minnesota Board of Teaching
608 Capitol Square

550 Cedar Street
St. Paul, Minnesota 55101
612/296-2415

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kenneth L. Peatross, Executive Secretary, Minnesota Board of Teaching, 608 Capitol Square, 550 Cedar Street, St. Paul, MN 55101, upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Kenneth L. Peatross, Executive Secretary, Minnesota Board of Teaching, 608 Capitol Square, 550 Cedar Street, St. Paul, Minnesota 55101.

Dated: 30 May 1988

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching

Rules as Proposed

8700.5200 TEACHERS OF AMERICAN INDIAN LANGUAGE AND AMERICAN INDIAN HISTORY AND CULTURE.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **License application.** An application for a license authorized by this part may be submitted by persons on their own behalf or may be submitted by the superintendent or other authorized official of a school district, ~~or a nonsectarian, nonpublic, tribal or alternative school offering a curriculum reflective of participating school as defined in Minnesota Statutes, section 126.47, subdivision 4, or an American Indian culture school,~~ on behalf of a person who has demonstrated competence in an American Indian language and/or knowledge and understanding of an American Indian history and culture. The application shall specify the language, and/or the history and culture, and grade levels to be taught by the applicant and shall also include the following:

A. and B. [Unchanged.]

Subp. 4. [Unchanged.]

Subp. 5. and 6. [See Repealer.]

Subp. 7. Continuing licensure. A continuing license shall be issued and renewed according to rules of the Board of Teaching governing continuing education relicensure.

REPEALER. Minnesota Rules, part 8700.5200, subparts 5 and 6, are repealed.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

If an adopted rule is identical to its proposed form as previously published, a notice of adoption and a citation to its previous *State Register* publication will be printed.

If an adopted rule differs from its proposed form, language which has been deleted will be printed with strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Labor and Industry

Adopted Permanent Rules Relating to Occupational Safety and Health Standards

Rules as Adopted

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

The Minnesota Department of Labor and Industry Occupational Safety and Health Codes and rules are amended by incorporating and adopting by reference, and thereby making a part thereof, Title 29 of the *Code of Federal Regulations* as follows:

Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978 and corrected in Volume 43, No. 216 on November 7, 1978 which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes made prior to ~~December 1, 1987~~ April 1, 1988:

Federal Register, Vol. 52, No. 186, dated September 25, 1987; "Servicing of Single Piece and Multi-Piece Rim Wheels at Marine Terminals (1917.44)"; Final Rule."

Federal Register, Vol 52, No. 187, dated September 28, 1987; "Revision of Telecommunications Training Records (1910.268)"; Final Rule."

Federal Register, Vol. 52, No. 187, dated September 28, 1987; "Revision of Construction Industry Test and Inspection Records (1926.550, 1926.552, and 1926.903)"; Final Rule."

Federal Register, Vol. 52, No. 233, dated December 4, 1987; "Occupational Exposure to Formaldehyde (1910.1048)"; Final Rule."

Federal Register, Vol. 52, No. 251, dated December 31, 1987; "Grain Handling Facilities (1910.272)"; Final Rule."

Federal Register, Vol. 53, No. 41, dated March 2, 1988; "Occupational Exposure to Formaldehyde; Approval of Information Collection Requirements, Technical Amendment (1910.1048)."

Federal Register, Vol. 53, No. 49, dated March 14, 1988; "Presence Sensing Device Initiation of Mechanical Power Presses (1910.211, 1910.217)"; Final Rule."

Part 1915: Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982 and subsequent changes made prior to December 31, 1986, which consolidates Part 1915 and Part 1916, and subsequent changes made prior to December 31, 1986:

Federal Register, Vol. 51, No. 188, dated September 29, 1986; "Record Keeping Requirements for Tests, Inspections, and Maintenance Checks (1915.113 and 1915.172)"; Final Rule."

Part 1917: Safety and Health Standards for Marine Terminals as published in Volume 48, No. 129 of the *Federal Register* on July 5, 1983; and subsequent changes made prior to April 1, 1988:

Federal Register, Vol. 52, No. 186, dated September 25, 1987; "Servicing of Single Piece and Multi-Piece Rim Wheels at Marine Terminals (1917.44)"; Final Rule."

Federal Register, Vol. 52, No. 251, dated December 31, 1987; "Grain Handling Facilities (1917.1 and 1917.72-[removed])"; Final Rule."

Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979 which incorporates changes, additions, deletions and corrections made up to October 17, 1978 and includes General Industry Occupational Safety and Health Standards (29 CFR Part 1910) which have been identified as applicable to construction work; and subsequent changes made prior to ~~December 31, 1986~~ April 1, 1988:

Federal Register, Vol. 45, No. 222, dated 11/14/80; "Guarding Low-Pitched Roof Perimeters During Performance of Built-Up Roofing Work."

Federal Register, Vol. 51, No. 119, dated 6/20/86; "Occupational Exposure to Asbestos, Tremolite, Anthophyllite, and Actinolite (1926.58 and 1910.1001); Final Rules."

Federal Register, Vol. 51, No. 133, dated 7/11/86; "Electrical Standards for Construction, Part 1926, Subpart K."

Federal Register, Vol. 52, No. 187, dated September 28, 1987; "Revision of Construction Industry Test and Inspection Records (1926.500, 1926.552, and 1926.903); Final Rule."

Federal Register, Vol. 52, No. 233, dated December 4, 1987; "Occupational Exposure to Formaldehyde—1926.55."

Bureau of Mediation Services

Adopted Permanent Rules Relating to Public Employees; Exclusive Representatives; Right to Strike

The rules proposed and published at *State Register*, Volume 12, Number 23, pages 1184-1186, December 7, 1987 (12 S.R. 1184) are adopted with the following modifications:

Rules as Adopted

5510.2310 CHANGE IN EXCLUSIVE REPRESENTATIVE STATUS.

Subpart 1. **Change or transfer of exclusive representative.** When an incumbent exclusive representative is replaced by a new exclusive representative as a result of a representation election or the transfer of status from one organization to another, the new exclusive representative assumes all rights and responsibilities as an exclusive representative effective the day following certification, except as otherwise provided by this part.

B. Except in the case of a transfer, the employer shall terminate all payroll deduction of dues and fair share fees for the prior exclusive representative effective with the first payroll period following the certification of the new exclusive representative. Payroll deduction of dues for the new exclusive representative may begin with the first payroll period following certification, if the new exclusive representative has submitted signed authorizations for the deductions from affected employees. Payroll deduction of fair share fees for the new exclusive representative may begin once the requirements of part 5510.1410 have been satisfied. Where a new exclusive representative has been certified as the result of a transfer, the employer shall continue previous payroll deductions of dues and fair share fees and transmit such deductions to the person or place designated by the new exclusive representative.

Board of Nursing

Adopted Permanent Rules Relating to Registration Fees

The rules proposed and published at *State Register*, Volume 12, Number 34, pages 1737-1738, February 22, 1988 (12 S.R. 1737) are adopted with the following modifications:

Rules as Adopted

6310.2900 REGISTRATION RENEWAL PROCEDURES.

Subp. 6a. **Conversion period.** Licensees holding registration certificates with an expiration date unrelated to their month of birth will be registered in the following manner during a conversion period.

B. Licensees will be charged a renewal fee for the six- to 29-month conversion registration period which is prorated at \$1.04 a month from May June 1, 1988 to August 1, 1988, and \$1.08 thereafter and rounded to the nearest dollar according to the length of each licensee's conversion registration period.

6310.3600 REGISTRATION FEES.

Subpart 1. **Amount.** The amount of fees shall be as follows:

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Adopted Rules

- A. registration renewal, \$25 per registration period effective ~~May~~ June 1, 1988, and \$26 effective August 1, 1988;
- B. late application, \$20 effective ~~May~~ June 1, 1988;
- C. replacement license, \$20 effective ~~May~~ June 1, 1988;
- D. replacement registration certificate, \$20 effective ~~May~~ June 1, 1988;
- E. verification of licensure status, \$20 effective ~~May~~ June 1, 1988;
- F. verification of examination scores, \$20 effective ~~May~~ June 1, 1988;
- G. a copy of licensure application materials, \$20 effective ~~May~~ June 1, 1988; and

Public Utilities Commission

Adopted Permanent Rules Relating to Certificates of Need for Power Plants and Transmission Lines

The rules proposed and published at *State Register*, Volume 12, Number 28, pages 1396-1403, January 11, 1988 (12 S.R. 1396) are adopted with the following modifications:

Rules as Adopted

4220.2700 PEAK DEMAND AND ANNUAL ELECTRICAL CONSUMPTION FORECAST.

Subp. 5. **Assumptions and special information.** The applicant shall discuss each essential assumption made in preparing the forecast, including the need for the assumption, the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumptions.

The applicant shall discuss the assumptions made regarding:

- E. the effect of ~~existing and future~~ energy conservation programs ~~under federal or state legislation~~ on long-term electrical demand; and

4220.2900 CONSERVATION PROGRAMS.

An application must include:

- A. the name of the committee, department, or individual responsible for the applicant's energy conservation and efficiency programs, including load management;

A- B. to E. [Unchanged.]

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Minnesota Board on Aging

Public Comment Sought on Proposed Policies and Procedures for Area Planning and Community Services and Ombudsman for Older Minnesotans

Notice is hereby given that the Minnesota Board on Aging invites public comment on the Proposed Policies and Procedures for (1) Area Planning and Community Services; and (2) Ombudsman for Older Minnesotans in accordance with the Older Americans Act of 1965, as Amended and the accompanying Federal Regulations. Copies of Proposed Policy were released on May 20, 1988. Single copies may be obtained by mail or in person at Suite 204 Metro Square Building, 121 East 7th Street, St. Paul, MN 55101.

The comment period will extend until 4:00 p.m., July 20, 1988. Written comments may be sent to:

Gerald A. Bloedow, Executive Secretary
Minnesota Board on Aging
204 Metro Square Bldg.
121 E. 7th St.
St. Paul, MN 55101

All comments will be considered by the Board in establishing final policy.

Final approval will take place at the Board on Aging's September 23rd meeting.

Emergency Response Commission

Announcement of Appointments to Local Emergency Planning Committees

Notice is hereby given that the Commission has appointed members representing emergency responders, regulated facilities, elected officials, community groups, and broadcast and print media to Local Emergency Planning Committees.

As required by the Federal "Emergency and Community Right-to-Know Act (Title III)," the Commission has established seven Local Emergency Planning Committees within the state of Minnesota. These committees will review emergency plans for hazardous materials prepared by counties and municipalities within each of their districts. Committees must also process requests from the public for Title III information. The committees will begin meeting in July, 1988. Contact the Commission for a list of committee members and information about meeting dates.

Minnesota Emergency Response Commission
State Capitol Building
Room B-5
St. Paul, Minnesota 55155
612/296-0481

EMERGENCY RESPONSE COMMISSION

Meeting Notice and Preliminary Agenda

1. Approval of minutes of previous agenda
2. Introduction of new agenda items
3. Subcommittee Reports
 - a. Reporting and Public Requests
 - b. Emergency Plan Review
 - c. Legislative
 - d. Local Committee Appointments
 - e. Education and Training
4. Open-New Business

Meeting dates and locations are:

June 9, 1988	Meeting Cancelled
July 14, 1988	Room 500N State Office Building
August 11, 1988	Room 500N State Office Building
September 8, 1988	Room 500N State Office Building
October 13, 1988	To be determined
November 10, 1988	To be determined
December 8, 1988	To be determined

All meetings will be held at 10:00 a.m. Contact the Commission for additional information (612/296-0481)

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **ADOPTED RULES SECTION** — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

Department of Health

Social Work and Mental Health Boards Board of Marriage and Family Therapy

Outside Information or Opinions Sought Regarding Proposed Emergency Rules Governing the Licensure of Marriage and Family Therapists

Minnesota Statutes 1987, Sections 148B.29-148B.39 establish the State of Minnesota Board of Marriage and Family Therapy ("Board"). The Board shall, among other things, adopt and enforce rules for marriage and family therapy licensing, which shall be designed to protect the public; develop by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified; issue licenses to individuals who are qualified; study and investigate the practice of marriage and family therapy within the state of Minnesota in order to improve the standards imposed for the licensing of marriage and family therapists; formulate and implement a code of ethics for all licensed marriage and family therapists; and establish continuing education requirements for marriage and family therapists.

Notice is hereby given that the State Board of Marriage and Family Therapy is seeking information or opinions from sources outside the Board in preparing to propose the adoption of Emergency rules governing the licensure of marriage and family therapists, including but not limited to procedures and standards relating to the licensing requirement, the scope of authorized practice, fees, continuing education requirements, rules of conduct and disciplinary procedures. The adoption of the rules is authorized by *Minnesota Statutes*, Section 148.31, which requires the Board to adopt and enforce rules for marriage and family therapy licensing.

The State Board of Marriage and Family Therapy requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Deborah Mancheski
Executive Director
Board of Marriage and Family Therapy
2700 University Avenue West, Suite 225
St. Paul, Minnesota 55114

Oral statements will be received during regular business hours over the telephone at 612/643-2580 and in person at the above address.

All statements of information and opinions shall be accepted until June 25, 1988. Any written material received by the State Board of Marriage and Family Therapy shall become part of the rulemaking record to be submitted to the attorney general in the event that the rules are adopted.

Dated: 20 May 1988

Deborah Mancheski
Executive Director

Department of Health

Social Work and Mental Health Boards Board of Social Work

Outside Information or Opinions Sought Regarding Proposed Emergency Rules Governing the Licensure of Social Work

Minnesota Statutes 1987, Sections 14.29-14.385 establish the State of Minnesota Board of Social Work ("Board"). The Board shall, among other things, adopt and enforce rules for licensure of social workers, which shall be designed to protect the public; develop by rule appropriate techniques, including examinations and other methods, for determining whether applicants and licensees are qualified; establish standards for professional conduct, including a code of professional ethics; and develop continuing education requirements for licensees.

Notice is hereby given that the State Board of Social Work is seeking information or opinions from sources outside the Board in preparing to propose the adoption of Emergency rules governing the licensure of social workers; including but not limited to procedures and standards relating to the licensing requirements, the scope of authorized practice, fees, continuing education requirements, rules of conduct, and disciplinary procedures. The adoption of rules is authorized by *Minnesota Statutes*, Section 14.29, which requires the Board to adopt and enforce rules for social work licensing.

The state Board of Social Work requests information and opinions concerning the subject matter of the rules. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Mary Ann Murphy
Executive Director
Board of Social Work
2700 University Avenue West, Suite 225
St. Paul, Minnesota 55114

Oral statements will be received during regular business hours over the telephone at 612/643-2580 and in person at the above address.

All statements of information and opinions shall be accepted until July 15, 1988. Any written material received by the State Board of Social Workers shall become part of the rulemaking record to be submitted to the attorney general in the event that the rules are adopted.

Dated: 22 May 1988

Mary Ann Murphy
Executive Director

Department of Health

Maternal & Child Health Division

Services for Children with Handicaps Clinic Fees

The following fees will become effective at Services for Children with Handicaps Clinics on 7/1/88.

<u>Type of Clinic/Provider</u>	<u>Fees</u>	<u>Type of Patient Seen</u>	<u>Type of Service</u>
<u>Speech and Hearing</u>			
Audiologist	\$35	All	—
Otologist	55	New	Intermediate
Otologist	35	Established	Intermediate
Speech Pathologist	45	All	—
<u>Facial/Dental</u>			
Audiologist	35	All	—
Oral Surgeon	30	All	—
Orthodontist	30	All	—
Otologist	55	New	Intermediate
Otologist	35	Established	Intermediate
Pediatric Surgeon	230	New	Extended
Pediatric Surgeon	200	Established	Extended
Pediatric Dentist	30	All	—
Plastic/Reconstructive Surgeon	230	New	Extended
Plastic/Reconstructive Surgeon	200	Established	Extended
Prosthodontist	30	All	—
Psychologist	80		
Registered Dietitian	20	All	—
<u>Comprehensive</u>			
Orthopedist	55	New	Intermediate
Orthopedist	40	Established	Intermediate
Pediatrician	75	New	Intermediate
Pediatrician	50	Established	Intermediate
Physiatrist	60	New	Extended
Physiatrist	45	Established	Extended

Official Notices

Physiatrist	100	New	Comprehensive
Physiatrist	80	Established	Comprehensive
Registered Dietitian	20	All	
<u>Developmental Learning</u>			
Occupational Therapist	25	All	—
Pediatrician	150	New	Intermediate
Pediatrician	100	Established	Intermediate
Psychologist	80	All	—
Speech Pathologist	45	All	—
<u>Cardiac</u>			
Cardiologist	170	New	Comprehensive
Cardiologist	125	Established	Comprehensive
Registered Dietitian	20	All	—
<u>Orthopedic</u>			
Orthopedist	65	New	Extended
Orthopedist	50	Established	Extended
<u>Other Services</u>			
Dental Hygienist	10	All	—
Geneticist	70	All	—
Pediatric Nurse Associate	25	New	Brief
Pediatric Nurse Associate	20	Established	Brief
Physical Therapist	25	All	—

Department of Human Services

Notice of Hospital Cost Index

Minnesota Statutes, section 256.969, subdivision 1 and *Minnesota Rules*, part 9500.1120 require the establishment of a Hospital Cost Index (HCI) for rate setting purposes for inpatient hospital services under the General Assistance Medical Care and Medical Assistance Programs. The inflation forecasts provided below were obtained from the Data Resources, Inc. Health Care Costs as published in the fourth quarter of 1987 using the percent moving average. The cost category weights were provided by the Minnesota Hospital Association. *Minnesota Statutes* 256.969, subd. 2 limits the annual increase in pass-through cost payments for depreciation, rents and leases, and interest expense to the HCI. This provision is effective for fiscal years beginning on or after July 1, 1988. The HCI listed below will be used to adjust the rates of hospitals with fiscal years beginning during the third quarter of 1988.

Comments concerning the HCI may be forwarded to the following address:

Paul Olson, Supervisor
Hospital Reimbursement Section
Audit Division
520 Lafayette Road
St. Paul, Minnesota 55101

<u>Cost Category</u>	<u>Weight</u>	<u>Percent</u>	<u>Weighted Percent</u>
Salaries	.530	4.9	2.60
Employee Benefits	.091	4.2	.38
Medical Fees	.031	7.3	.27
(Medical Care Service)			
Raw Food	.014	4.2	.06
Medical Supplies	.106	3.7	.39
(Medical Commodities)			
Pharmaceuticals	.041	3.7	.15

Utilities	.028	4.8	.13
Repairs/Maintenance	.015	4.0	.06
Insurance*	.014	4.0	.06
Other Operating	<u>.130</u>	4.0	<u>.52</u>
	1.000		4.62

Technology = 1.00
HCI = 5.6%

*Excludes Malpractice

State Board of Investment and Investment Advisory Council

Meeting Notices

The State Board of Investment will meet on Thursday, June 9, 1988 at 9:00 a.m. in Room 118, State Capitol, Saint Paul, MN.

The Investment Advisory Council will meet on Tuesday, June 7, 1988 at 2:00 p.m. in Conference Room "A", MEA Building, 41 Sherburne Avenue, Saint Paul, MN.

Labor and Industry Labor Standards Division

Notice of Certified Prevailing Wage Rates

On June 1, 1988 the commissioner will certify prevailing wage rates for commercial and highway/heavy construction projects in the following Minnesota counties:

ANOKA	BENTON	BIG STONE
CARVER	CHIPPEWA	CHISAGO
DAKOTA	DOUGLAS	GRANT
HENNEPIN	ISANTI	KANABEC
KANDIYOHI	MCLEOD	MEEKER
MILLE LACS	MORRISON	PINE
POPE	RAMSEY	SCOTT
SHERBURNE	STEARNS	STEVENS
SWIFT	TODD	TRAVERSE
WASHINGTON	WRIGHT	

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Ray Bohn, Commissioner
Department of Labor and Industry

Office of Social Work and Mental Health Boards

Board of Unlicensed Mental Health Providers

Outside Information or Opinions Sought Regarding Proposed Emergency Rules Governing the Practice of Unlicensed Mental Health Services

Notice is hereby given that the State Board of Unlicensed Mental Health Providers is seeking information or opinions from sources outside the agency in preparing to propose the adoption of rules governing the practice of Unlicensed Mental Health Services,

Official Notices

including the definition of mental health service provider. The adoption of rules is authorized by *Minnesota Statutes*, Section 14.29 to 14.385 and Section 148B.17, Section 148B.41 Subdivision 4, and Section 148B.47, which permits the Board to adopt emergency rules governing the practice of Unlicensed Mental Health Services.

The State Board of Unlicensed Mental Health Providers requests information and opinions concerning the subject matter of concern in writing or orally. Written statements should be addressed to:

Robert Sullivan
Board of Unlicensed Mental Health Providers
2700 University Ave. W. #225
St. Paul, MN 55114

Oral statements will be received during regular business hours over the telephone at (612) 649-5490 and in person at the above address.

All statements of information and opinions shall be accepted for 30 days from the date of this publication. Any written material received by the State Board of Unlicensed Mental Health Providers shall become part of the rulemaking record to be submitted to the attorney general in the event that the rules are adopted.

Dated: 16 May 1988

Robert Sullivan
Executive Director
Board of Unlicensed Mental
Health Providers

Regional Planning Committee for Radio Frequencies

Initial Meeting of the Regional Planning Committee for Radio Frequencies in the 821-824/866-869 MHz Band for Use by Public Safety and Special Emergency Radio Services Within the State of Minnesota, Region 22

Having been duly certified to the Federal Communications Commission (FCC) by the Associated Public Safety Communications Officers, Inc. (APCO) as the Convenor of an initial meeting of representatives of parties eligible for radio authorizations in the Public Safety and Special Emergency Radio Services to establish a Regional Planning Committee within the State of Minnesota, Region 22 as designated by the FCC, I hereby give Public Notice that such an initial meeting will be held on:

Date: July 13, 1988
Time: 1:00 P.M.
Place: Anoka County Activity Center
550 Bunker Lake Blvd., N.W.
Andover, Mn.

The responsibility of this Regional Planning Committee will be to develop a Plan for the utilization of newly allocated radio frequencies in the 821-824/866-869 Mhz band for use by both the Public Safety and Special Emergency Radio Services. Parties interested in this regional planning process are invited to attend this meeting.

This Public Notice is issued in accord with the FCC's Report and Order in General Docket 87-112, adopted November 24, 1987 and released December 18, 1987.

The Report and Order was based in large part on the Final Report of the National Public Safety Planning Advisory Committee which was submitted to the FCC on September 9, 1987.

Copies of both the Report and Order and the Final Report are available from the FCC's duplication contractor, International Transcription Services, Inc., Suite 140, 2100 M Street N.W., Washington, D.C. 20037. Telephone (202) 857-3800.

Dated: 6 April 1988

H.P. Hillegas
Region 22 Convenor

Department of Transportation

Petition of the County of Chisago for a variance from State Aid Standards for Parking Restrictions

Notice is hereby given that the County Board of the County of Chisago has made a written request to the Commissioner of

State Contracts and Advertised Bids

Transportation pursuant to Minnesota Rules 8820.3300 for a variance from minimum standards for restricted parking on the west side of County State Aid Highway 32 (Engineer's Station 11 + 90 to 12 + 30).

The request for a variance from Minnesota Rules for State Aid Operations 8820.9912, subpart 2 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a ten (10) minute Loading Zone in front of the County Sheriff's Office.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 17 May 1988

Leonard W. Levine
Commissioner

Department of Transportation

Petition of the County of Traverse for a Variance from State Aid Standards for Eligibility Requirements for Use of State Aid Funds

Notice is hereby given that the County Board of the County of Traverse has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules 8820.3300 for a variance from the requirement that a plan must be approved by the State Aid Engineer prior to the award of contract in order to finance the project with State Aid Funds.

The request for a variance from Minnesota Rules for State Aid Operations 8820.2800, subpart 2 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the Office of State Aid, Minnesota Department of Transportation, the authority to authorize the use of State Aid monies to finance S.A.P. 78-616-03.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota, 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 17 May, 1988

Leonard W. Levine
Commissioner

State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Materials Management Division

Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid. Contact listed buyer.

Commodity: Nec laptop computers & printers
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 3
Agency: Revenue
Deliver to: St. Paul
Requisition #: 67520 05144

Commodity: Xerox laser printers
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 6
Agency: Labor & Industry
Deliver to: St. Paul
Requisition #: 42600 11734

Commodity: Data General disk drive
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 6
Agency: State University
Deliver to: Winona
Requisition #: 26074 12193

State Contracts and Advertised Bids

Commodity: Service for Trane Tracer
1000 energy mgmt. system
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: June 6
Agency: State University
Deliver to: St. Cloud
Requisition #: 26137 04335 1

Commodity: IBM compatible
computers
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 3
Agency: Education
Deliver to: St. Paul
Requisition #: 37080 50463

Commodity: Engineering printer
Contact: Joyce Dehn 612-296-2621
Bid due date at 2pm: June 3
Agency: Transportation
Deliver to: St. Paul
Requisition #: 79000 84509

Commodity: 1988 crawler tractor
Contact: Brenda Thielen 612-296-9075
Bid due date at 2pm: June 3
Agency: Transportation
Deliver to: Mankato
Requisition #: 79382 01377

Commodity: Work clothing—jeans &
chambray shirts—rebid
Contact: Dale Meyer 612-296-3773
Bid due date at 2pm: June 2
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Engineering copier printer
Contact: Joyce Dehn 612-296-2621
Bid due date at 2pm: June 2
Agency: Transportation
Deliver to: Rochester
Requisition #: 79000 84460

Commodity: Cars & trucks from steel
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: June 2
Agency: Various
Deliver to: Various
Requisition #: 21607 67386

Commodity: SCW 113L—trucks
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: June 2
Agency: Transportation
Deliver to: Various
Requisition #: 79382 01355

Commodity: Housekeeping carts
Contact: Pat Anderson 612-296-3777
Bid due date at 2pm: June 6
Agency: Admin.—Plant Management
Deliver to: St. Paul
Requisition #: 02 307 81409

Commodity: Data PBX networking port
selector/contendor
Contact: Mary Jo Bruski 612-296-3772
Bid due date at 2pm: June 3
Agency: Winona State University
Deliver to: Winona State University
Requisition #: 26074 12197 01

Commodity: E-Mail enhancement
Contact: Pat Anderson 612-296-3777
Bid due date at 2pm: June 1
Agency: Brd. of Voc-Tech Education
Deliver to: St. Paul
Requisition #: 36000 12001

Commodity: Club cab
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: June 7
Agency: So. Serv. Ctr. Natural
Resources
Deliver to: St. Paul
Requisition #: 29000 50189

Commodity: Sch. 113-L trucks-adden. I
Contact: Bernie Vogel 612-296-3778
Bid due date at 2pm: June 7
Agency: Transportation
Deliver to: Various
Requisition #: 79382 01355

Commodity: Carbide insert snow plow
cutting edge
Contact: Doug Thompson 612-296-
3775
Bid due date at 2pm: June 7
Agency: Transportation
Deliver to: Duluth
Requisition #: 79100 03889

Contract Awards—Materials Management Division

Item: Computer equipment
Req. #: 26137 04234 01
Awarded to: Codex Corp.,
Minneapolis, MN
Awarded amount: \$146,369.00
Awarded date: May 19, 1988
Expir/deliv date: Aug. 1, 1988
Shipped to: Various Locations

Item: Furniture office
Req. #: 55000 91007 01
Awarded to: Mid American Business
System, Minneapolis, MN
Awarded amount: \$21,852.00
Awarded date: May 19, 1988
Expir/deliv date: June 20, 1988
Shipped to: Dept. Human Services

Item: Surveying equipment
Req. #: 79000 84214 01
Awarded to: Geodimeter Inc.,
Novato, CA
Awarded amount: \$69,400.00
Awarded date: May 19, 1988
Expir/deliv date: June 1, 1988
Shipped to: MN Dept. of Transportation

State Contracts and Advertised Bids

Item: Vehicular component misc.

Req.#: 07500 49147 01

Awarded to: Streicher Don Guns,
Mpls., MN

Awarded amount: \$20,572.00

Awarded date: May 20, 1988

Expir/deliv date: June 16, 1988

Shipped to: DPS, Warehouse

Item: Furniture office

Req.#: 27138 50222 01

Awarded to: Barry Office Products Co.,
Burnsville, MN

Awarded amount: \$24,137.87

Awarded date: May 20, 1988

Expir/deliv date: June 30, 1988

Shipped to: State of Minnesota

Item: Computer equipment

Req.#: 43000 09587 01

Awarded to: Assoc. Gifts Inc.,
Las Vegas, NV

Awarded amount: \$15,000.00

Awarded date: May 20, 1988

Expir/deliv date: June 6, 1988

Shipped to: Iron Range Research Center

Item: Truck HD over 27,000 GVW

Req.#: 78780 02016 01

Awarded to: Worners Auto Sales,
Fergus Falls, MN

Awarded amount: \$18,716.63

Awarded date: May 20, 1988

Expir/deliv date: Aug. 1, 1988

Shipped to: Twistledew Camp

Item: Aerial photography services

Req.#: 29002 15429 01

Awarded to: Horizons Inc.,
Minnetonka, MN

Awarded amount: \$54,135.00

Awarded date: May 23, 1988

Expir/deliv date: June 1, 1988

Shipped to: Various Locations

Item: Fish hatchery equipment

Req.#: 29004 10125 01

Awarded to: Peterson Fiberglass,
Shell Lake, WI

Awarded amount: \$17,273.79

Awarded date: May 23, 1988

Expir/deliv date: July 12, 1988

Shipped to: Dept. Natural Resources

Item: Tensiometers

Req.#: 79000 84422 01

Awarded to: Forneys Inc., Wampum, PA

Awarded amount: \$44,025.00

Awarded date: May 23, 1988

Expir/deliv date: July 8, 1988

Shipped to: Various Locations

Item: Aircraft alarm & signal system

Req.#: 79000 84362 01

Awarded to: Hughey & Phillips Inc.,
Simi Valley, CA

Awarded amount: \$30,688.00

Awarded date: May 23, 1988

Expir/deliv date:

Shipped to: MN/DOT, Aeronautics

Item: Furniture dorm/ward

Req.#: 02310 16114 01

Awarded to: MCF—Lino Lakes,
Lino Lakes, MN

Awarded amount: \$31,817.00

Awarded date: May 24, 1988

Expir/deliv date: Aug. 30, 1988

Shipped to: Vermilion Community
College

Item: Watercraft marine equip. supplies
docks

Req.#: 29006 06505 01

Awarded to: Coffelt Electric Co. Inc.,
Englewood, CO

Awarded amount: \$17,231.25

Awarded date: May 24, 1988

Expir/deliv date: Aug. 1, 1988

Shipped to: DNR—Northern Service
Center

Item: Watercraft marine equip. supplies
docks

Req.#: 29004 10133 01

Awarded to: Coffelt Electric Co. Inc.,
Englewood, CO

Awarded amount: \$17,001.25

Awarded date: May 24, 1988

Expir/deliv date: Aug. 1, 1988

Shipped to: DNR—Southern Service
Center

Item: Laundry & dry cleaning equip.

Req.#: 78830 09218 01

Awarded to: Ostrin Laundry Machinery,
Mpls., MN

Awarded amount: \$27,634.50

Awarded date: May 24, 1988

Expir/deliv date: May 31, 1988

Shipped to: MN Correctional Facility

Department of Administration: Printing & Mailing Services

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

Commodity: Film box label, 10,000,
pressure-sensitive, type to be set, one-
sided

Contact: Printing Buyer's Office

Bids are due: June 2

Agency: Admin-Micrographics Services

Deliver to: St. Paul

Requisition #: 7537

Commodity: Special indexes, 9" × 11",
including tabs, camera ready, two-
sided, 300—16pp sets

Contact: Printing Buyer's Office

Bids are due: June 2

Agency: Finance

Deliver to: St. Paul

Requisition #: 7512

Commodity: Case information
turnaround, negs furnished, one-sided,
9½ × 11", 150,000 continuous sets,
perforating

Contact: Printing Buyer's Office

Bids are due: June 1

Agency: Human Services

Deliver to: St. Paul

Requisition #: 7492

State Contracts and Advertised Bids

Commodity: Waivered services
screening document, negs furnished,
two-sided, 8½" × 11", 50,000
continuous sets, perforating
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Human Services
Deliver to: St. Paul
Requisition #: 7493

Commodity: Notification card, camera
ready, 5,000 cards continuous feed,
perforating
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Natural Resources
Deliver to: Willow River
Requisition #: 7484

Commodity: Tree shipping tags/labels,
30,000 continuous feed forms,
perforating
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Natural Resources
Deliver to: Willow River
Requisition #: 7485

Commodity: Acknowledgment card,
3,000 cards continuous feed, camera
ready, perforating
Contact: Printing Buyer's Office
Bids are due: June 1
Agency: Natural Resources
Deliver to: Willow River
Requisition #: 7486

Commodity: Arts Board stationery
Contact: Printing Buyer's Office
Bids are due: June 7
Agency: State Arts Board
Deliver to: St. Paul
Requisition #: Price Contract

Commodity: Profile Minnesota—
reprint
Contact: Printing Buyer's Office
Bids are due: June 7
Agency: Trade & Economic
Development
Deliver to: June 7
Requisition #: 6807

Commodity: Printed continuous form
warrants
Contact: Printing Buyer's Office
Bids are due: June 7
Agency: Various
Deliver to: Various
Requisition #: Price Contract

Commodity: Parents guide to childhood
immunization, camera ready, two-
sided, 8½" × 5½", 3,500 books
Contact: Printing Buyer's Office
Bids are due: June 3
Agency: Health Department
Deliver to: Minneapolis
Requisition #: 7445

Commodity: Application for forest tree
planting stock, 8½" × 11", reprint,
16,000 sets
Contact: Printing Buyer's Office
Bids are due: June 3
Agency: Natural Resources
Deliver to: Willow River
Requisition #: 7491

Commodity: Class schedule printing
Contact: Printing Buyer's Office
Bids are due: June 8
Agency: Metro State University
Deliver to: St. Paul
Requisition #: 7544

Department of Agriculture

Request for Proposal for Organic Food Certification Organization

The commissioner of agriculture has been directed to "designate one or more organizations located in this state, made up of organic food growers, manufacturers, or sellers, to certify organically grown seeds, products, and food." (See *Laws of Minnesota* 1988, Chapter 688, Article 8) Further, \$100,000 has been appropriated to the commissioner for a grant to one organic certification organization for start-up and initial administrative costs for the purposes described above.

Certification by a designated organization will be recognized as the State of Minnesota's official certification. Officially certified products would be eligible to use the "Minnesota grown—certified organic" label for marketing and promotional purposes. An organization would be expected to commit to continuing its certification activities into the reasonably foreseeable future as a prerequisite to being designated.

State Contracts and Advertised Bids

In addition to seeking designation, an organization may also apply for the grant. The grant proposal should be included in the designation proposal. The grant money is intended to provide initial assistance to a certification organization. The law requires that public support be phased out and that an organization receiving a grant become self-sufficient through fees by 1991. A grant proposal must include a plan for accomplishing self-sufficiency, including projected annual budgets and proposed fee schedules to operate the certification program. In addition to the requirements for a designated organization, the organization receiving the grant would be responsible for drafting rules for organic certification to be submitted to the commissioner of agriculture. Following review, the commissioner shall promulgate the rule according to the procedures in *Minnesota Statutes* chapter 14.

Proposals are requested from organizations wishing to be designated or wishing to receive the grant as described above. Proposals should state reasons why an organization should be designated or given a grant. Proposals should also state an organization's willingness to comply with the requirements stated above.

Information in a proposal for designation should include, but not be limited to, the following:

- age of the organization,
- years of activity in organic certification,
- legal/tax status of the organization,
- size of membership and/or staff,
- the most recent audit report or audited financial statement,
- previous certification fee schedules,
- memberships/affiliations with state, regional, national or international organic certification organizations,
- past and proposed cooperative efforts with other state, regional, national or international organic certification organizations, and
- the organization's procedure and criteria for certifying organically grown seeds, products and food.

In addition to the information in a proposal for designation, an organization submitting a proposal for a grant should include the following:

- a plan for accomplishing self-sufficiency,
- projected annual budgets, and
- proposed fee schedules.

Proposals may suggest additional tasks or activities if they will substantially improve the results of the project.

All proposals received by the deadline will be evaluated by representatives of the Department of Agriculture. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include, but are not limited to, the following:

- demonstrated understanding of the project,
- the project work plan,
- budget details, and
- qualifications of the proposing organization.

Evaluation and selection will be completed by July 24, 1988. Results will be sent immediately by mail to all who submit proposals.

This Request for Proposal does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

For further information, contact Ralph Groschen at (612) 297-2223. Proposals must be received by the Department of Agriculture no later than 5:00 p.m., Friday, June 24, 1988.

Send proposals to:

Marketing Division
Minnesota Department of Agriculture
90 West Plato Boulevard
St. Paul, MN 55107
Attn: Organic Certification Proposals

Department of Employee Relations

Health, Safety and Workers' Compensation Division

Request for Proposals for a Computerized Workers' Compensation Claims Management System

The Minnesota Department of Employee Relations, acting as the employer of State employees, is responsible for the centralized management of the State's Health, Safety and Workers' Compensation Program. As part of this centralized program, the Department of Employee Relations administers the State's self-insurance program for workers' compensation. This activity requires the effective and efficient administration and payment of State employee's workers' compensation benefits under *Minnesota Statutes*, Chapter 176.

Objective

The objective of this Request for Proposals (RFP) is to acquire a workers' compensation claims management system for the State of Minnesota as a self-insured employer. All vendors are encouraged to consider the following reasons for acquiring such a system in developing their proposals. Therefore, the Department of Employee Relations' Health, Safety and Workers' Compensation Division is seeking proposals which will provide, but not limited to the following:

- Providing the Department of Employee Relations with a modern, state-of-the-art workers' compensation claims management system in structured code which will meet the record keeping and reporting requirements of *Minnesota Statutes* 176 and the Department of Employee Relations.
- To implement a system which is transaction driven, which creates an integrated database, and which readily permits expansion beyond the original core modules, functions, and programs.
- To implement a workers' compensation claims management system which makes the necessary provisions for keeping an on-line transaction history for itemized claims and for providing quick responses to employees' inquiries about claims.
- To implement a workers' compensation claims management system which uses both on-line and batch processing as most appropriate and cost effective for data entry, verification, editing, and report writing.
- To provide a study to define all areas relating to the potential installation of a stand-alone workers' compensation claims management system.

Outlined below is the anticipated purchasing schedule and related events:

- Release of Request for Proposals May 31, 1988
- Submission by Vendor of Proposals June 24, 1988
- Selection of System Week of June 27, 1988
- Installed and Operational September 30, 1988

Prospective vendors may obtain copies of the Request for Proposals from:

Mr. Michael Holmquist, Director
Health, Safety and Workers' Compensation Division
Minnesota Department of Employee Relations
520 Lafayette Road—3rd Floor
St. Paul, Minnesota 55155
(612) 296-6287

All proposals must be delivered to the State of Minnesota Department of Employee Relations no later than 4:00 p.m. CDT on Friday, June 24, 1988.

Department of Health

Request for Proposal for Consulting Physicians for Disability Determinations

The Department of Health is soliciting two contract physicians to provide disability determinations assigned to the Commissioner for the Minnesota Teachers Retirement Association, the Public Employee Retirement Association and the Minnesota State Retirement System. There are approximately 1,000 determinations made each year, and all determinations are made in accordance with State laws and rules of the various retirement groups.

Proposals must be in writing and received no later than June 30, 1988.

Send proposals and inquiries to:

Dr. Valentine O'Malley
Minnesota Department of Health
717 Delaware Street, SE
P.O. Box 9441
Minneapolis, Minnesota 55440
(612) 623-5461

Department of Health

Maternal and Child Health Division

Notice of Availability of a Contract for an Automated Food Delivery, Management Information and Banking System for the Minnesota Special Supplemental Food Program for Women, Infants and Children (WIC)

The Maternal and Child Health Division of the Department of Health is requesting proposals from qualified contractors experienced in automated data processing to design, implement and operate an automated food delivery, management information, and banking system for the Minnesota Special Supplemental Food Program for Women, Infants and Children (WIC).

The contractor will be required to (1) modify computer programs of the current system, modify computer programs already developed by or available to the contractor, and/or develop new computer programs when needed; (2) convert the masterfile records on the current computer system to the new system; (3) implement, operate and enhance the system; and (4) provide training and updates to the State WIC office and local agencies. The contractor will be responsible for total operation of the system, including all subcontracted functions.

The system must be operational by November 1, 1988.

For a copy of the Request for Proposals, please contact:

Mary Donohue
Operations Coordinator
Minnesota Department of Health
WIC Section
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
Telephone: 612/623-5236

To be considered, proposals must be received at the above address no later than 4:00 p.m., July 11, 1988.

Department of Health

Maternal and Child Health Division

Notice of Availability of a Contract for an Infant Formula Rebate System for the Minnesota Special Supplemental Food Program for Women, Infants and Children (WIC)

The Maternal and Child Health Division of the Department of Health is seeking a method by which the lowest annual cost to the WIC Program for iron-fortified infant formula can be derived. The Department seeks to expand its services to eligible, unserved populations through an initiative to contain the cost of iron-fortified infant formula through either a single source or an open market rebate system.

The Department plans to contract with one or more manufacturers of iron-fortified infant formula who will provide a rebate to the Department's WIC Program for the period October 1, 1988 to June 30, 1991.

For a copy of the Request for Proposals, please contact:

State Contracts and Advertised Bids

Pati Maier
State WIC Administrator
Minnesota Department of Health
WIC Section
717 Delaware St. S.E.
P.O. Box 9441
Minneapolis, MN 55440
Telephone: 612/623-5115

To be considered, proposals must be received at the above address no later than 4:00 p.m., June 30, 1988.

Minnesota Higher Education Coordinating Board

Request for Proposals for Contractual Services

The Minnesota Higher Education Coordinating Board (HECB) requests proposals to assist the search for employment of its Executive Director.

The contract may involve the review and preliminary evaluation of applications for the position, and/or conducting a nationwide search for candidates.

The contract will become effective July 1, 1988 and will end December 1, 1988 subject to satisfactory completion.

It is anticipated that the cost of this contract will not exceed \$10,000 for professional services and expenses for the first task and an additional \$20,000 for the second task.

Those interested in receiving requests for proposals should contact:

Arlon J. Haupt
Director of Administrative Services
400 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9685

Proposals will be accepted until 4:00 p.m. June 14, 1988.

Department of Jobs and Training

Request for Proposal for the Detailed Design and Implementation of an Unemployment Insurance Benefits System under an IDMS Database

The Minnesota Department of Jobs and Training (MDJT) is requesting proposals from highly qualified firms to assist in the detailed design and implementation under an IDMS database of a new Unemployment Insurance Benefits System based on quarterly wage detail records.

Project Scope

The scope of work for this project includes the detailed design, programming and overall implementation of a new Unemployment Insurance Benefits System. Six of the major benefits sub-systems will be rewritten, including: Wage Detail Processing, Initial Claims/Monetary, Benefit Payment, Benefit Charge, Overpayment, and Special Payments. In addition, the project includes the design and implementation of appropriate interfaces to the sixteen other benefits sub-systems that are dependent on the six major sub-systems.

Project Schedule

MDJT has already completed phases 1 and 2 of the overall Wage Detail Conversion Effort. These phases consisted of the preparation of a Multi-year Plan for the U.S. Department of Labor to secure funding for the effort, preparation of a User Requirements Report, User Design Report and Technical Design Report (the User and Technical Designs are currently in progress and will be completed during the month of June). Phase 3 of the project, which is the subject of this RFP, is scheduled to begin on August 1, 1988, with full installation of the new Benefits System required, by law, on July 3, 1989, and completion of Phase 3 on September 29, 1989. The size of this project, coupled with the legal requirement that the new Benefits System be in full operation on July 3, 1989 and the fact that DOL funding is only available through fiscal year 1989, makes it absolutely essential that this project schedule

be met. Any significant slippage will put the entire project in jeopardy; therefore, timely completion of the project is of prime importance to MDJT.

Project Tasks/Deliverable Products**Project Name**

1. Plan & Organize Phase 3
2. Develop Implementation Standards
3. Confirm User/Technical Design
4. Complete Detailed Design
5. Establish Development Environment
6. Prepare and Conduct Employer Outreach Program
7. Develop User Procedures
8. Complete Programming & Unit Testing
9. Perform Conversion Preparation
10. Prepare and Conduct User Training
11. Perform User/System Testing
12. Convert to Live Operations
13. Pilot Intake/Payment Technology
14. Provide Technical Support
15. Provide Post-Conversion Support
16. Manage the Work Effort

Project # Project Deliverable Product(s)

1. A. Administrative Procedures Memo (includes Organization Chart and Project Work Plan)
2. A. System Implementation Standards
3. None
4. A. Program Work Unit Specifications
5. A. Installed and Tested Development Environment
6. A. Employer Education Plan & Materials
B. Employer Outreach Training Sessions
7. A. User Procedure Manuals
8. A. Unit Tested Program Modules
9. A. System Test and Conversion Plan
B. System Operations Documentation
C. Conversion Program and Procedures
10. A. User Training Plan
B. User Training Materials
C. User Training Sessions
11. A. Approved System Test Cycles
12. A. Fully Implemented New Benefits System Meeting Predetermined Operating Criteria
13. A. Intake/Payment Technology Pilot Plan Memorandum
B. Intake/Payment Technology Pilot Evaluation Memorandum
14. None
15. A. Post-conversion Review Memorandum
16. A. Weekly Status Reports

State Contracts and Advertised Bids

General Instructions

All selection criteria are described in a Request for Proposal available from the Minnesota Department of Jobs and Training. Selection will follow the review of all proposals received by the deadline. Responders will be expected to demonstrate ability to initiate services on August 1, 1988, assuming a contract has been negotiated by that time. Total funding for this contract is dependent upon the specifications and provisions of the final contract. This notice does not obligate the State to complete this project. The State reserves the right to cancel this solicitation if it is considered to be in the best interest of the State. A bidders' conference is scheduled for Tuesday, June 7, 1988 at 2:00 p.m. in the 4th Floor Conference Room, 390 North Robert Street, St. Paul, MN 55101. If you have any questions or particular requests for information, please contact the Project Manager, Kenneth Niemi, prior to the conference. Copies of the RFP will be available at the conference or by contacting:

Kenneth F Niemi
Project Manager
Wage Detail Project
135 Metro Square
7th and Robert Streets
Saint Paul, MN 55101
Telephone # 612/296-8334

All proposals must be submitted to the Project Manager at 135 Metro Square no later than 4:00 p.m. on Friday, July 8, 1988.

Department of Natural Resources

Forestry Division

Request for Proposal for Study of Feasibility of Export of White Birch Pulpwood

I. Background

The Minnesota Department of Natural Resources Division of Forestry has received funding through the National Marketing Initiative program, from State & Private Forestry, U.S. Forest Service. It is requesting proposals to design and implement a study of the feasibility of birch pulpwood and chip transportation and exporting.

Increasing the use of under-utilized species was identified as an issue by the Utilization & Marketing section of the Minnesota DNR Division of Forestry. White birch has good local markets for sawbolts, but there is virtually no commercial use for birch pulpwood other than firewood. A large amount of birch pulpwood must be removed when harvesting most aspen stands. In addition, the lack of markets prohibits proper management of Minnesota's extensive birch stands, which are mature and are deteriorating. The annual allowable harvest of birch is approximately 500,000 cords, of which over 350,000 cords are in surplus annually. Birch is in short supply in Scandinavian countries, where birch pulpwood is used for paper.

II. Scope of the Project

The purpose of the project is to produce two written reports which will be used by Minnesota and Lake States forest products marketing specialists to develop an export trade in birch pulpwood and/or chips. The two parts of the study are to be bid separately. Following are brief outlines of the scope of the two reports. A more detailed description of tasks is listed in "Section IV. Specific Project Tasks."

A. Birch Transportation Study

The transportation portion will examine the costs of exporting pulpwood and chips through water ports on Lake Superior, barge transport via the Mississippi to ports on the Gulf, and by bulk railroad shipments to ports on the east and west US coasts. This will include but not be limited to the following:

1. Identify shipping points and methods of transporting birch pulpwood and chips, including rail, barge, and ship,
2. Handling and loading considerations, including possible size and form configurations which may be better suited to export than 100" pulpwood or chips, and bundling requirements.
3. Costs of transport, storage, bundling, insurance, duty, etc., and various ways of negotiating price, payment, unloading arrangements.
4. Special considerations, such as potential for deterioration in the ship's hold, phyto certificates, etc.

B. Birch Pulpwood Market Study

The market study will examine Scandinavian (Norway, Sweden, Finland) markets for birch pulpwood and chips. This will include but not be limited to the following:

1. Commercial birch pulpwood and chip users.
2. Current delivered prices, price history, and trends.
3. Demand projections.
4. Import restrictions.

III. Project Objectives

The primary objective of the transportation study is to identify the most cost effective methods and possible barriers to shipping birch pulpwood and chips. The market study will identify promising opportunities for exporting to Norway, Sweden, and Finland.

IV. Specific Project Tasks

The contents of the reports should include, but not be limited to, the following general topics:

A. Birch Transportation Study

1. Various ports from which to export, both U.S. and Canada (including Reserve Mining at Silver Bay, Taconite Harbor at Schroeder, as well as the Duluth ports,) and weight/draft restrictions and storage areas at these ports.
2. Methods and costs of transporting pulpwood and chips to these ports (ie: via truck, rail, barge, etc.) from a specified starting point, Duluth. Costs of trucking to Duluth will be provided by DNR-Forestry.
3. Itemized costs of storage, handling, loading, packaging, insurance, union vs. non-union, etc. FOB Minnesota loading point.
4. Explore different size & form configurations to possibly improve shipping costs, ie: shorter, longer, or bundled wood, chips and pulp shipped in the same container.
5. Identify companies that have ships under charter, and availability of other ships capable of loading wood.
6. Potential of using "backhaul" of ships bringing commodities to U.S. from Scandinavia or other origins.
7. Potential deterioration of birch from storage in ship's hold, especially during hot weather.
8. Determine import and export duty costs.
9. Potential for negotiating lower costs.
10. Comment on various payment methods depending on whether the wood is FOB Minnesota, FOB the customer's port or mill, or unloaded at the mill.

B. Birch Pulpwood Market Study

1. Analysis of the birch market situation in Scandinavian countries, particularly Sweden, Norway, and Finland; including current demand, how and from what countries that demand is being satisfied, cost, past costs, trends, and 10-year projected demand.
2. Identify commercial users of birch pulpwood and chips, including current consumption and anticipated change for the next 10 years. Are alternative species being substituted for birch?
3. Determine raw material specifications for major birch pulpwood and chip users identified above. Would pulpwood or chips need to be debarked before shipping? Consider the problems with debarking, and required bark-free purity.
4. Import restrictions for pulpwood and chips for the identified birch using countries.

V. Proposal Format

The proposal should be organized in the following manner:

Part A. General Information

Part B. Project Objectives

Part C. Project Work Plan

Part D. Budget

Part E. Project Completion Date

Part A. General Information

1. Identification of the responder, including name, address, firm name (if applicable) and telephone number.
2. Complete applicable resumes of all staff proposed to be committed to this project. List most directly related experience first. Discuss how experience relates to the project.
3. Description of former projects conducted by the responder or responder's firm that are closely related to this study.

State Contracts and Advertised Bids

4. List names, addresses, and phone numbers of three previous clients as references.

5. The responder shall identify and demonstrate experience and competence sufficient to complete the project tasks listed in Section V above.

Part B. Project Objectives

An interpretation of the project goals and objectives, which will demonstrate the responder's understanding of the nature of the project.

Part C. Project Work Plan

The responder will provide a detailed work plan suitable for use as a scheduling and managing tool. Responders are encouraged to modify or expand on project tasks listed in Section IV if they believe that such modifications might better meet the stated objectives of the proposal. The work plan shall include:

1. A description of research methodology.
2. Identification of milestones in terms of dates of completed products or tasks.
3. A description of the finished report.

Part D. Budget

The responder has the option of providing a separate bid for either/both project: 1) Birch Transportation Study, 2) Birch Pulpwood Market Study. Also, the proposed schedule and method of invoicing MN DNR-DoF for services should be described.

MN DNR-Division of Forestry has estimated a budget for the transportation study and the market study for all professional services and expenses. The project will be awarded based on this estimate.

Part E. Project Completion Date

It is expected that contracts for these two projects will be awarded in early July, 1988. A draft report will be requested for review by the advisory committee by August 15, 1988. The entire project should be complete by September 15, 1988.

VI. Other Project Information

A. Project Management

The projects will be under the direction of Minnesota Department of Natural Resources, Division of Forestry. An advisory committee, consisting of representatives of the University of Minnesota, Minnesota Department of Trade and Economic Development, and the USDA Forest Service will assist in proposal evaluation and project management.

B. Meeting Attendance

The contractor will be required to submit periodic accomplishment reports and attend two meetings of the project advisory committee to present evidence of project progress. One meeting will be scheduled in mid-July, and the other will be to review the draft report in mid-August. These meetings are considered part of the responder's proposal.

C. Solicitation of Proposals

MN DNR-Division of Forestry shall seek proposals from prospective contractors but shall be held blameless for any failure to solicit proposals from any potential contractor.

D. Department Contacts

Prospective responders who have any questions regarding the Request for Proposal may call or write:

John Krantz
FPU&M Supervisor
DNR-Forestry
Box 44, DNR Bldg.
500 Lafayette Rd.
St. Paul, MN 55146
Phone: 612-296-6502
Fax: 612-296-5954

Jeff Edmonds
FPU&M Specialist
DNR-Forestry
2115 Birchmont Beach Rd. NE
Bemidji, MN 56601
Phone: 218-755-3634
Fax: 218-755-4024

Dave Martodam
FPU&M Specialist
DNR-Forestry
1201 E. Hwy. 2
Grand Rapids, MN 55744
Phone: 218-327-4108
Fax: 218-327-4263

E. Submission of Proposals

Proposals for the Transportation Study and Market Study must be bid separately. All proposals must be sent to and received by:

John Krantz
FPU&M Supervisor
DNR-Forestry
Box 44, DNR Bldg.
500 Lafayette Rd.
St. Paul, MN 55146
Phone: 612-296-6502
Fax: 612-296-5954

Not later than 4:30 pm, June 20, 1988.

Late proposals will not be accepted. Submit three copies of each proposal. Proposals are to be sealed in mailing envelopes or packages with the responder's name clearly written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

F. Evaluation of Proposals

All proposals received by the deadline will be evaluated by representatives of the MN DNR-Division of Forestry and members of the project advisory committee. In some instances, an interview may be part of the evaluation process. The proposals will be judged upon factors which include, but are not limited to, the following:

1. Expressed understanding of the project objectives.
2. Project work plan.
3. Project budget and amount and kinds of services provided.

4. Qualifications of responder and/or firm and associated personnel. Experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will take place between June 27 and June 30, 1988. Results will be sent immediately by mail to all responders.

VII. Limitations

This request for Proposal does not commit MN DNR-Division of Forestry to award a contract, to pay any costs incurred in the preparation of a proposal to this request, or to procure a contract for services or supplies. MN DNR-Division of Forestry reserves the right to accept or reject any or all proposals received as a result of this request, to negotiate with any qualified source, or to cancel in part or in entirety this Request for Proposal, if it is in the best interests of MN DNR-Division of Forestry to do so. The project manager may require the proposer selected to participate in negotiations and to submit such price, technical or other revisions of their proposal as may result from negotiations.

Pollution Control Agency

Request for Proposals/Request for Qualifications for Consultants/Contract Services for Various Activities at Hazardous Waste Sites

The Minnesota Pollution Control Agency (MPCA) wishes to retain two to four contractors to conduct various activities [including Remedial Investigations/Feasibility Studies (RI/FS's), Limited Remedial Investigations/Focused Feasibility Studies (LRI/FFS's), Remedial Designs (RD's) and Remedial Action (RA) Oversight] at hazardous waste sites throughout Minnesota. All contractors who have had experience in conducting RI/FS's, LRI/FFS's, RD's and RA Oversight are invited to submit proposals.

Funding to conduct the activities will be provided by both the Minnesota Environmental Response and Liability Act (State Superfund) and the Comprehensive Environmental Response, Compensation, and Liability Act (Federal Superfund). Specific sites will be funded and assigned to contractors over the course of the contracts, which will last two years. It is anticipated that approximately \$7,000,000 will be available to fund the contracts. It is the goal of the MPCA to provide a minimum of 1 percent of the total money available to fund these contracts to minority and women's businesses either as prime contractors or as subcontractors. For contracts funded solely by State resources, it is the goal of the MPCA to provide a minimum of 10 percent of the State funds available for the contracts to Socially and Economically Disadvantaged contractors either as prime contractors or as subcontractors.

After the contractors are selected and the contracts are executed, the MPCA will make site assignments and the contractor assigned to a specific site will be required to prepare a work plan, cost proposal, and project schedule for that specific site. After review and approval by the MPCA, a work order will be issued to reflect the scope of the work for the specific site in accordance with the costs specified in the contracts.

State Contracts and Advertised Bids

Copies of the Request for Proposals/Request for Qualifications (that include copies of 40 CFR § 33.295 and 40 CFR Part 33 subparts F & G) are available from:

Michael K. Vennewitz
Minnesota Pollution Control Agency
Division of Ground Water and Solid Waste
520 Lafayette Road
St. Paul, Minnesota 55155
Telephone Number (612) 296-7782

A pre-proposal meeting will be held on June 8, 1988, at 9:00 a.m. in the MPCA Board Room. Potential proposers are encouraged to attend this meeting. All proposals must be submitted by 4:00 p.m., June 27, 1988, to Michael K. Vennewitz, Minnesota Pollution Control Agency, Division of Ground Water and Solid Waste, 520 Lafayette Road, St. Paul, Minnesota 55155.

Department of Trade and Economic Development

Communications Office, Administration Division

Request for Proposals for General Graphic Design Contract Services

The Department of Trade and Economic Development wishes to retain a contractor to provide general graphic design services for most literature published by the department, including graphic designs and layouts for various publications. This is in accordance with the department's Communications Plan. The services of the contractor would begin on July 1, 1988, and end on June 30, 1989. It is estimated that the cost of this project will not exceed \$125,000.

Proposals must be received by 4:30 p.m. Monday, June 13, 1988. To obtain a complete Request for Proposals that offers details, please contact the:

Communications Office
Minnesota Department of Trade and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
Phone: 612/297-1300

Non-State Public Contracts

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

Ramsey County Public Works Department

Notice for Prequalifications for Highway and Bridge Reconstruction Preliminary Engineering—Design

Ramsey County Public Works Department proposes road and bridge reconstruction on Roselawn Avenue (CSAH 26) from T.H. 49 to Jackson Street in Maplewood.

The Department of Public Works, in cooperation with the City of Maplewood, the Soo Line Railroad, the St. Paul Water Utility and the Minnesota Department of Transportation's Office of State Aid requires the services of a qualified consultant for preliminary engineering and preparation of detailed plans for the reconstruction of County State Aid Highway No. 26 (Roselawn Avenue) between T.H. 49 and Jackson Street including design for bridge replacement over the Soo Line Railroad.

The services required are the preparation of field surveys, soil analysis, detailed road and bridge design plans, and specifications for federal bridge replacement and County State Aid Highway contract award. The consultant will also be required to conduct public meetings and secure approvals from the municipality, railroad and water utility and the Minnesota Department of Transportation's Office of State Aid and the Federal Highway Administration.

Consultants should submit six copies of their prequalification brochure and/or experience resume, including federal forms 254 and 255, by June 17, 1988. The brochure and resume shall be limited to 20 pages. This is not a request for proposal. The prequalifications will be used by the County as a mechanism for selecting which firms will be invited to prepare proposals for the construction plans preparation work. The County anticipates requesting formal proposals and interviews from three firms. The consultants will be evaluated based on the interviews and proposals. The selection committee will make a recommendation to the Ramsey County Board by August, 1988.

Please send your response to Paul Kirkwold, Assistant County Engineer, Ramsey County Department of Public Works, 350 St. Peter Street, Suite 270, St. Paul, Minnesota 55102. (Tel. 6712-298-4127)

State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Rural Development Board

Applications Accepted for Regional Organization Designation Under the Challenge Grant Program

The Rural Development Board is pleased to announce that it is accepting applications from nonprofit corporations wishing to be designated "Regional Organizations" to administer the Board's Challenge Grant Program in accordance with applicable state and federal guidelines. The Rural Development Board has been authorized to award up to \$1,000,000 in Challenge Grants to each of six Regional Organizations to encourage private investment, provide jobs for low income persons, and promote economic development in the rural areas of the state. (*Minnesota Statutes* 116N.08)

Applicants have until 5:00 p.m. on July 1, 1988, to submit applications to the Board. If mailed, applications must be received by the Rural Development Board by 5:00 p.m., July 1, 1988.

Challenge Grant Program requirements (*Minnesota Rule* parts 4370.0010 to 4370.0080) including eligibility and application requirements were published in the Proposed Permanent Rules Relating to Challenge Grants, February 29, 1988 *State Register* (Cite 12 S.R. 1800-1804). Copies of the administrative rule are also available from the Board.

For additional information or an application packet, please contact:

Mark Lofthus
Executive Director
Rural Development Board
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
Telephone: (612) 296-9090

Supreme Court Calendar

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. This listing has been compiled by the Minnesota State Law Library for informational purposes only. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning dates, locations, cases, etc., should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 612-296-2581.

June 1988

Compiled by Mary D. Flynn, (612) 297-4050

Listed below are the cases scheduled to be heard by the Minnesota Supreme Court in the next few weeks. Cases may be rescheduled by the Court subsequent to publication in the *State Register*. Questions concerning the time and location of hearings should be directed to: Clerk of the Appellate Courts, Room 230 State Capitol, St. Paul, MN 55155 (612) 296-2581.

Tuesday, May 31, 1988 9:00AM

C0-87-815 STATE OF MINNESOTA, Respondent (Attorney: Brian D. Simonson, Assistant St. Louis County Attorney) **vs. MICHAEL ALAN MERRILL, Appellant** (Attorney: Melissa Sheridan Assistant Public Defender). Judgment St. Louis County

Does an affidavit from a co-defendant meet the standard of newly discovered evidence so as to warrant a new trial?

Was the evidence insufficient as a matter of law to sustain appellant's convictions where the evidence failed to dispel all reasonable doubt of the appellant's guilt?

Was the appellant denied his constitutional right to a fair trial when during closing argument the prosecutor appealed to the passions and prejudices of the jury and diverted the jury from its duty to decide the case on the evidence?

Did the trial court err in refusing to instruct the jury on the lesser included offenses of first degree murder?

C8-88-894 In Re Petition for Disciplinary Action against ALAN J. BRADBURY, an Attorney at Law of the State of Minnesota. Order to Show Cause

Wednesday, June 1, 1988 9:00AM

C3-87-1036 JOHN E. CASTOR, et al., petitioners, Appellants (Attorney: Bradley J. Gunn of Olson, Gunn and Seran, Ltd.) **vs. CITY of MINNEAPOLIS, Respondent** (Attorney: Robert J. Alfton, City Attorney). Opinion Court of Appeals

Is the operation of an enclosed pedestrian walkway (skyway) by the city of Minneapolis over the public alley a proper street use?

Is the standard of review in a mandamus appeal that the trial court's decision will be reversed only if there is no evidence reasonably tending to sustain its finding?

Thursday, June 2, 1988 9:00AM

C8-87-1890 JAMES J. SCHUMACHER, ARNOLD J. FEINBERG, ROBERT H. SCHUMACHER, and RON MCDANIELS, Respondents (Attorney: Scott G. Harris) **vs. CITY of EXCELSIOR, Minnesota, Appellant** (Attorney: Thomas J. Radio of Popham, Haik, Schnobrich & Kaufman, Ltd.) Judgment Hennepin County

Was there sufficient evidence to support the trial court's finding that the subject improvement did not increase the reasonable market value of Respondents' property?

CX-87-1793 STATE OF MINNESOTA, petitioner, Appellant (Attorneys: Robert A. Stanich Special Assistant State Attorney General and Robert J. Alfton Minneapolis City Attorney) **vs. EILEEN JEAN KRAWSKY, Respondent** (Attorneys: Warren R. Sagstuen and John C. Mahoe Assistant Hennepin County Public Defenders). Opinion Court of Appeals

Does the language of the obstructing legal process or arrest statute, *Minn. Stat.* § 609.50 (1986), withstand facial challenge to its validity on constitutional overbreadth grounds?

Does the language of *Minn. Stat.* § 609.50 (1986) withstand facial challenge on constitutional vagueness grounds?

Monday, June 6, 1988 9:00AM

C1-87-645 DEVEE THIELE, f.k.a. DEVEE MOORE, Respondent, (Attorney: Jon P. Sheehy of Meshbesh, Singer & Spence) **vs. ROBERT T. STICH, Petitioner, Appellant** (Attorneys: Kay Nord Hunt and Caryn F. Brenner of Lommen, Nelson, Cole & Stageberg). Opinion Court of Appeals

Did the trial court err by granting summary judgment to the appellant?

May the court of appeals inquire beyond the facts in the trial record and based upon arguments not presented at the trial court level reverse the summary judgment granted by the trial court?

When does the cause of action for an attorney's negligent failure to obtain removal of real property liens accrue?

In Re Petition for Disciplinary Action against SCOTT J. STROUTS, an Attorney at Law of the State of Minnesota (Attorney for respondent: Francis E. Vogl of Best & Flanagan). Petition for Disciplinary Action

Did the Referee err, as a matter of law, in failing to dismiss the instant petition for discipline when reversing the unanimous decision of the Hennepin County district Ethics committee to dismiss all charges against the Respondent and, thereby, violate the Respondent's constitutional rights of equal protection and due process?

Is public reprimand appropriate where an attorney improperly obtains a loan for the company by which he was employed and in doing so intentionally prejudiced the client?

Tuesday, June 7, 1988 9:00AM

C4-87-929 & C8-87-965 GEO. A. HORMEL & COMPANY, petitioner, Relator (Attorneys: James B. Sherman of Krukowski & Costello and James W. Cavanaugh) vs. **MYRON ASPER, et al., Respondents** (Attorney: David S. Anderson of Peterson, Bell, Converse & Jensen) and **COMMISSIONER of JOBS and TRAINING, petitioner, Relator** (Attorney: Donald E. Notvik Special Assistant State Attorney General). Opinion Court of Appeals

Does the record support the commissioner's determination that the Respondents' strike, which had disqualified them from receiving unemployment compensation benefits upon their cessation of work for the Appellant, ceased being in "active progress" on May 23, 1986, the date upon which their union unconditionally offered their return to work?

Did the Respondents file valid claims pursuant to the Minnesota Economic Security Law at the inception of the strike?

Did the commissioner abuse his discretion in refusing to remand this matter for the taking of additional testimony?

Did offers to return to work by certain of the respondents before formal notification by their union to the Appellant end their disqualification as of the dates of their individual offers?

Wednesday, June 8, 1988 9:00AM

C5-86-2081 In the Matter of the Welfare of: K.S. (Attorneys for Hennepin County: Janeen E. Rosas Assistant County Attorney, Attorney for Mother: Jeffrey A. Hassan). Opinion Court of Appeals

Is a minor child's personal injury settlement "available" as a resource for purposes of determining eligibility for medical assistance pursuant to *Minn. Stat.* § 256B.06?

Is Hennepin County entitled to reimbursement from the minor child's personal injury settlement or their parents for costs of care provided pursuant to *Minnesota Statute* § 252.27, Subd. 2 (1986).

Is Hennepin County entitled to reimbursement to the extent that the child's parents used the money from her bank account to pay their cost of care obligation?

Wednesday, June 22, 1988 9:00AM

C6-84-2134 In Re Proposed Amendments to the Minnesota Rules of Civil Procedure.

Hearing on Proposed Rules

Supreme Court Decisions

Decisions Filed May 27, 1988

C6-88-148 Charles D. Courtney, deceased Employee, by Ellen Courtney Higdem, petitioner v. City of Orono, Self-Insured, Relator and City of Orono, Employee Benefit Administration, Relator. Workers' Compensation Court of Appeals.

The presumption set forth in *Minnesota Statutes* § 176.011, subd. 15 (1982) was not applicable in this case.

Where the compensation judge failed to analyze the evidence under the two-part test of *Egeland v. City of Minneapolis* and *Klapperich v. Agape Halfway House*, the matter will be remanded for further proceedings consistent with this opinion.

The failure of a medical expert to accept a legislatively recognized theory of causation does not necessarily lead to the conclusion that the expert's testimony has no evidentiary value.

Affirmed in part, reversed in part and remanded. Amdahl, C.J.

C1-87-1830 In Re Petition for Disciplinary Action against J. Timothy Kaine, an Attorney at Law of the State of Minnesota. Supreme Court.

Indefinitely suspended. Per Curiam.

Announcements

Summer Folk Arts Workshop for Teachers in July: Enrollment is open through June 17 for "Folk Art in Folk Culture", a two-week course on documenting and interpreting community-based folk arts for the classroom. Open to elementary and secondary classroom teachers, the course will teach the techniques used to identify, document, and analyze folk art and folk culture. Teachers will learn to identify folk artists and traditions in their localities, and develop ways to use folk arts in their school curriculum. The workshop, which runs from July 18-July 29, 1988 is co-sponsored by the Minnesota State Arts Board and the Minnesota School and Resource Center for the Arts. The \$50 cost covers tuition and most living expenses, and graduate credit is available. Information and application forms are available from Phil Nusbaum, Folk Arts Program Associate at the Minnesota State Arts Board, (612) 297-2603 or toll-free in Minnesota at (800) 652-9747.

Take a Kid Fishing Weekend Set for June 11-12: Minnesota adults will be allowed to fish without a license on June 11 and 12, provided they are accompanied by a child 15 years or younger. Named "Take A Kid Fishing (TAKF) Weekend," this special weekend now concludes National Fishing Week from June 6-12. The purpose of Take A Kid Fishing is to introduce non-angling adults and children to the pleasures of sport fishing, and to encourage outdoor recreation activities with kids. Fishing can be an inexpensive activity that everyone can enjoy. The DNR is working to provide a quality fishing experience for more people, regardless if they own a boat. The Department has installed 21 fishing piers in lakes and rivers throughout Minnesota. The piers are easily accessible for the handicapped, senior citizens and youngsters. The location of fishing piers, boat launching sites, publicly owned shoreline and other information of interest to anglers throughout Minnesota is available by contacting local area fisheries offices. Also located within the Twin Cities metro area are 24 "Children's Fishing Ponds," heavily stocked with sunfish and other panfish. Duane Shodeen, DNR's Metro Regional Fisheries Supervisor, said most, if not all, of the ponds were stocked prior to May 23. Contact: Judy Melander, DNR Bureau of Information and Education, (612) 296-0906.

Many Events Scheduled for Parks Open House: On Sunday, June 5, the Minnesota Department of Natural Resources (DNR) will host its annual open house at all 63 state parks. No vehicle permit is required to enter a park during open house. There will be special events at many state parks on open house day. Information on open house events, and on all 63 Minnesota State Parks, is available from the DNR Information Center, Monday through Friday, 7:30 a.m.-4:30 p.m. toll-free 1-800-652-9747 (ask for DNR). Metro residents can call 296-4776. All state parks are open year-round.

Free "Roadsides for Wildlife" Signs Available: A free offer to landowners within the pheasant range now makes it easy for rural residents to show their wildlife concern. A "Roadsides for Wildlife" sign is available free of charge while supplies last for placement on private property along grassy roadside cover managed for wildlife. The sign notifies passers-by that this roadside is left undisturbed for nesting wildlife such as pheasants, gray partridge, waterfowl, and grassland songbirds. These attractive signs (11¼ x 11¼, yellow with black letters, .012 gauge aluminum) depict a silhouette of a rooster pheasant and a singing meadowlark with the message "Roadsides for Wildlife—No Mowing". Rural residents are urged to delay mowing and other disturbances along roadside ditch bottoms and backslopes until after August 1. Undisturbed grassland nesting cover is especially critical during the nesting period of May, June and July. Landowners and other rural residents who wish to obtain a sign or who want further information on management of roadsides for wildlife should contact their Department of Natural Resources Area Wildlife Manager or write to: Department of Natural Resources, Box 756, Hwy. 15 So., New Ulm, MN 56073.

DNR to Install 14 New Fishing Piers in State Lakes, Rivers This Summer: Opportunities for angling in 14 Minnesota lakes and rivers will be greatly enhanced this summer with the installation of floating fishing piers by the Minnesota Department of Natural Resources (DNR). The piers are designed to provide improved fishing opportunities for all anglers, especially the handicapped, senior citizens and youngsters. They will enhance fishing on lakes and rivers totalling more than 3,000 acres. The piers are provided by the DNR through the Cooperative Opportunities For Resource Enhancement (CORE) program. The DNR enters into cooperative agreements with local units of government who in some cases contract maintenance agreements with local sportsmens clubs. The DNR Trails & Waterways Unit installs and oversees management of the piers in cooperation with the Section of Fisheries. The addition of these 14 new piers will bring the number of DNR fishing piers statewide to 65. Piers will be installed in the following locations this year:

<u>LAKE/RIVER</u>	<u>CITY</u>	<u>TENTATIVE PIER DELIVERY DATE</u>
Lake Geneva	Alexandria	June 20
Pebble Lake	Fergus Falls	June 13
Lake Charlotte	Long Prairie	June 1
Lake Winona	Winona	May 23
Carey Lake	Hibbing	June 6
Lake Yankton	Balaton	July 6
Cottonwood Lake	Windom	June 29
Como Lake	St. Paul	May 10
Staring Lake	Eden Prairie	June 8
Lake Auburn	Victoria	June 27

LAKE/RIVER

Waverly Lake
Round Lake
Grindstone River
Cutfoot Sioux

CITY

Waverly
Eden Prairie
Hinckley
Deer River

TENTATIVE PIER DELIVERY DATE

June 22
June 15
May 25
Summer/Fall

A FREE STATE MAP WILL BE AVAILABLE IN EARLY SUMMER SHOWING PIER LOCATIONS. For more information, contact Steve Mueller, Water Recreation Specialist, (612) 297-4955.

Voices of the Loon

Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

Voices of the Loon, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

The Loon: Voice of the Wilderness, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$15.95.

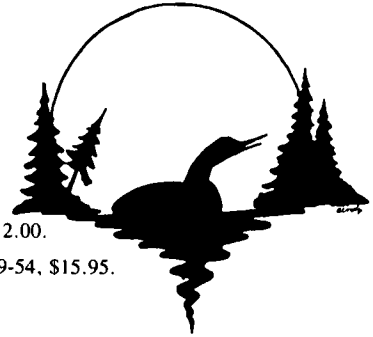
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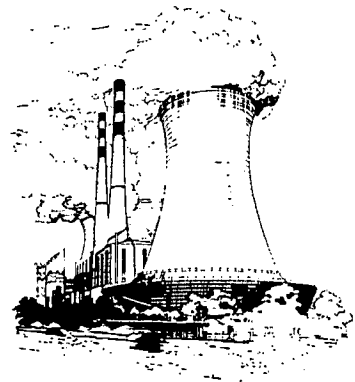
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