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STATE REGISTER

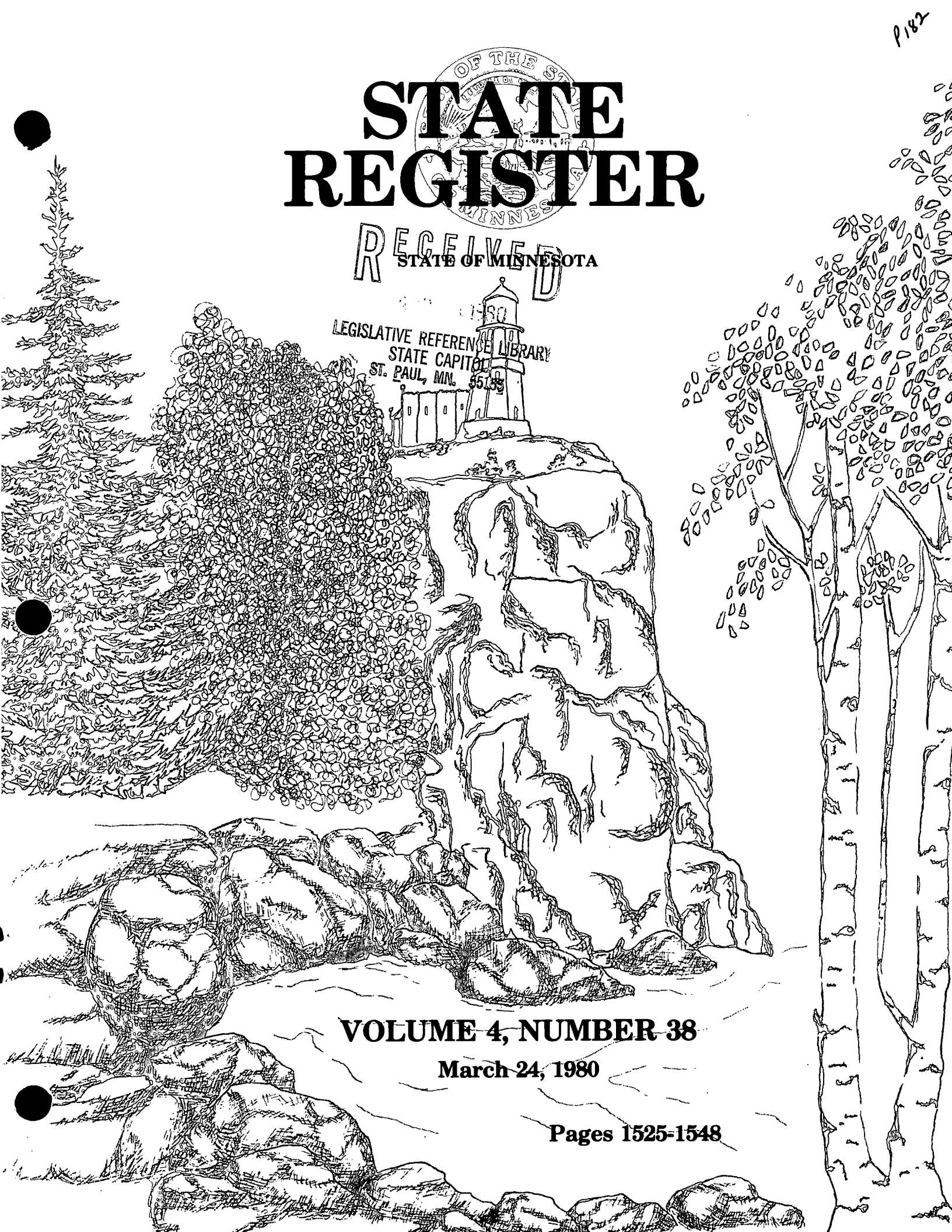
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VOLUME 4, NUMBER 38

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Volume 4 Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 4			
39	Monday Mar 17	Monday Mar 24	Monday Mar 31
40	Monday Mar 24	Monday Mar 31	Monday Apr 7
41	Monday Mar 31	Monday Apr 7	Monday Apr 14
42	Monday Apr 7	Monday Apr 14	Monday Apr 21

*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 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 Office of the State Register, Suite 415, Hamm Building, 408 St. Peter Street, St. Paul, Minnesota 55102.

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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, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The **PROPOSED RULES** section contains:

- Proposed new rules (including Notice of Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the MCAR **AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive

Issues 14-25, inclusive

Issue 26, cumulative for 1-26

Issue 27-38, inclusive

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PROPOSED RULES

Pursuant to Minn. Stat. § 15.0412, subd. 4, agencies must hold public hearings on proposed new rules and/or proposed amendment of existing rules. Notice of intent to hold a hearing must be published in the *State Register* at least 30 days prior to the date set for the hearing, along with the full text of the proposed new rule or amendment. The agency shall make at least one free copy of a proposed rule available to any person requesting it.

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Legislative Commission to Review Administrative Rules Order for Suspension of Health Department Rules

Pursuant to Minn. Stat. § 3.965, the Minnesota Legislative Commission to Review Administrative Rules held several hearings regarding complaints pertaining to the Minnesota Department of Health rules. At its meeting on March 5, 1980, the commission, by an affirmative vote of seven members and pursuant to Minn. Stat. § 3.965, subds. 2 and 4, suspended the following administrative rules:

MHD 52 (a) (1) "double beds shall not be used." [The prohibition on the use of rollaway type beds, cots, and folding beds remains in effect.]

MHD 64 (a) (3) (ffl) Existing and New: "There shall be no locks on patient room doors."

By its action, the commission has prohibited the Minnesota Department of Public Health from enforcing these rules. That suspension will be effective until the next legislative session during which time the commission shall introduce a bill to repeal the suspended rules. If the bill is defeated, or fails of enactment in that session, the rules shall stand and the commission shall not suspend them again. If the bill becomes law, the rules are permanently repealed and the Minnesota Department of Health shall not enact these rules again unless the Minnesota Legislature specifically authorizes in subsequent legislation the adoption of these rules.

The suspension of these rules is effective beginning March 5, 1980.

Questions regarding the commission's action on the matter may be directed to the following person:

Susan P. Robertson, Executive Director
Legislative Commission to Review Administrative Rules
Room 47, State Office Building, St. Paul, MN 55155
(612) 296-1143

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. **Strike-outs** indicate deletions from proposed rule language. **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."

Department of Labor and Industry Occupational Safety and Health Division

Proposed Revisions to Occupational Safety and Health Standards

Request for Public Comment

Please take notice that Harry D. Peterson, Commissioner of the Minnesota Department of Labor and Industry, has determined that the following revisions to the Occupational Safety and Health Codes shall be promulgated pursuant to Minn. Stat. § 182.655 (1978) establishing, modifying, or revoking Occupational Safety and Health Standards as printed below. This is an action to adopt standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration.

Complete copies of the specific standards, changes, additions, deletions and corrections are available by writing: Deputy Commissioner, Minnesota Department of Labor and Industry, 444 Lafayette Road, St. Paul, Minnesota 55101.

Interested persons are hereby afforded a period of thirty (30) days to submit written data or comments on the rules proposed. Any interested person may file with the commissioner written objections to the proposed rules stating the grounds therefor and such person may request a public hearing on such objections.

Harry D. Peterson
Commissioner

Rules as Proposed

MOSHC 1 (8 MCAR § 1.7001) Minnesota Occupational Safety and Health Codes and Rules MOSHC 1 (§ 1.7001) are hereby changed and modified by incorporating and adopting by reference changes, additions, deletions and corrections made prior to February 1, 1980 to the following parts of Title 29 of the Code of Federal Regulations:

Part 1910 Occupational Safety and Health Standards for General Industry, as published in Part II, Volume 39, No. 125 of the *Federal Register* on June 27, 1974.

A. Occupational Exposure to Chlorine; Lifting of Administrative Stay as published in the *Federal Register*, Volume 44, No. 138, on Tuesday, July 17, 1979 (pages 41427-41428). On December 8, 1978, the Occupational Safety and Health Administration (OSHA) published a final rule in the *Federal Register* which corrected a number of errors and omissions in the tables of exposure limits for airborne contaminants contained in 29 CFR 1910.1000 Table Z-1, Z-2 and Z-3. Included in the corrections was the insertion of a "C" designating a ceiling limit in front of the listing for chlorine in Table Z-1. This action corrected the permissible exposure limit for chlorine from 1 part

chlorine per million parts of air (1 ppm) as an 8-hour time weighted average (TWA) to a ceiling exposure limit of 1 ppm. On February 6, 1979, OSHA administratively stayed the correction of the permissible exposure limit for chlorine. Based on an evaluation of the comments and information submitted in response to the February 6 notice, it was concluded that the 1 ppm ceiling exposure limit for chlorine should be reinstated as the proper permissible exposure limit for chlorine. Therefore, the administrative stay of the permissible exposure limit for chlorine was rescinded and the 1 ppm ceiling limit was reinstated.

B. Occupational Exposure to Lead, Appendices to Standard, as published in the *Federal Register*, Volume 44, No. 206 on Tuesday, October 23, 1979 (pages 60980 to 60995). Minnesota adopted a standard for occupational exposure to lead (29 CFR 1910.1025) on December 3, 1979 (4 S.R. 883). That standard included provisions for appendices to the final regulations. The information provided by these appendices includes substance identification, health hazard information, an employee standard summary, and medical surveillance guidelines which contain detailed discussions of the medical surveillance requirements of the standard, the clinical toxicities of lead, enzymatic pathways in the synthesis of hemoglobin, the adverse health effects on male and female reproductive capacity and on the fetus, and recommended procedures as to medical history, physical examination and laboratory tests. The appendices are intended to provide information and are not intended by themselves to create any additional obligations not otherwise imposed by the standard nor retract from any obligations in the standard.

C. Corrections made to the Appendices to the Lead Standard (1910.1025) as published in the *Federal Register*, Volume 44, No. 232, on Friday, November 30, 1979 (pages 68827 to 68828). This notice corrects typographical errors and omissions in the original publication of the appendices.

D. Servicing Multi-Piece Rim Wheels (new section 29 CFR 1910.177) as published in the *Federal Register*, Volume 45, No. 20 on Tuesday, January 29, 1980 (pages 6706-6716). This standard establishes procedures for the servicing of multi-piece rim wheels fitted on vehicles used on and off highways. Multi-piece rim wheels consist of two or more detachable rim components, one of which is a side or locking ring designed to hold the tire on the rim base when the tire is inflated. These wheels are used on motor vehicles such as trucks, trailers, buses and motor homes for either on-highway or off-highway usage. The major hazard in servicing multi-piece rim wheels is the possibility of an employee being struck by a wheel component which has been thrown from an inflated wheel during an unintended explosive separation. This standard includes requirements for training of all tire servicing employees, establishment of a safe practice procedure for servicing multi-piece rim wheels, use of restraining devices and criteria for interchangeability of rim components.

Department of Public Welfare Support Services Bureau Proposed Amendments to Rule Governing Welfare Per Diem Rates for Nursing Home Providers

Notice of Hearing

A public hearing concerning the proposed rule amendment will be held at the Veterans Service Building, Room D, 20 West 12th Street and Columbus Avenue, St. Paul, MN 55155 on April 28, 1980 commencing at 9:00 a.m. The proposed rule amendment may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule amendment, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon L. Lunde, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

The existing 12 MCAR § 2.049 (Rule 49) has established the criteria by which welfare rates for nursing homes are determined.

The proposed amendment at D.6.b. (1) relates to the investment allowance and is required in compliance with Minn. Stat. §

256B.45, subd. 1. This subdivision initially authorized the state agency to establish a 9% investment allowance for proprietary facilities effective July 1, 1977. The investment allowance is determined by factoring the original value of the building and its permanent fixtures by the 9 percent factor. The subdivision further authorized the state agency to conduct an annual public hearing to determine the percentage to be used in the following fiscal year. Effective July 1, 1979, there was a percentage change in the investment allowance from 9 percent to 10.3 percent. After review of the current statistics related to the average rates of public debt issued to the Federal Hospital Insurance Trust Fund for the period January 1, 1979 through December 31, 1979, the state agency proposes an increase of the proprietary investment allowance to 11 percent effective July 1, 1980.

The proposed amendment at B.1.c. (1) (i) relates to the raw food cost allowance as a cost change in the prospective rate period. The state agency proposes to delete the existing cost change provision which involves a complex formula in the determination of the per diem allowance. The state agency proposes to replace the existing provision with a raw food cost change computed by factoring the average food cost (\$1.82 per day for 1979) by the percentage change in the Consumer Price Index for Food and Beverages in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the period October through September. The initial allowance will be a cost change of \$.27 per day effective July 1, 1980. Subsequent cost changes will be effective on January 1 of every year.

The proposed amendment at C.4.c. relates to the definition of hospital-attached facilities. The agency proposes to amend the rule to define such facilities as nursing homes which are characterized by common ownership and operation, shared services and uniform cost reporting for governmental reimbursement programs.

The proposed amendment at D.2.a. relates to the nursing care limitations of the rule. The agency proposes to amend the rule to allow facilities to exceed the limitations if the additional cost can be generated by cost savings within the facility's budget.

Amended cost reports will be accepted only for the rate adjustments affected by the change in the investment allowance percentage and the change in the raw food cost allowance. Other rule changes will be effected according to the providers' fiscal year-ends.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. §§ 256B.04, 256B.27, 256B.41, and 256B.45.

The state agency estimates that the additional expenditure on the part of local bodies in the State because of the rule amendments will be \$101,000 for each of the next two years.

Copies of the proposed rule are now available and at least one

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PROPOSED RULES

free copy may be obtained by writing to Susan Canine, Department of Public Welfare, 1st Floor, Centennial Office Building, St. Paul, MN 55155, telephone (612) 296-2738. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule amendment, contact Robert Rau, Supervisor, Audits Division, Department of Public Welfare, 1st Floor, Centennial Office Building, St. Paul, MN 55155.

Any person may request notification of the date on which the hearing examiner'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. Any person may request notification of the date on which the hearing record has been submitted or resubmitted to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner, in the case of the hearing examiner's report, or to the agency, in the case of the agency's submission or resubmission to the Attorney General.

Minn. Stat. ch. 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 Minn. Stat. § 10A.01, subd. 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 *his own* travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including *his own* traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating 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, MN 55155, telephone (612) 296-5615.

March 10, 1980

Arthur E. Noot
Commissioner of Public Welfare

Amendments as Proposed

12 MCAR § 2.049 Rule for determining welfare per diem rates for nursing home providers under the Title XIX Medical Assistance Program.

B. Rate determination.

1. Method of calculating per diem rate.

c. Allowance for known cost changes.

(1) Future cost increases or decreases that are in accordance with the reasonable cost principles of D.1. known as of the report filing date must be added to or deducted from the

historical rate determined according to B.1.a. and b. Such adjustment will be restricted to the elements defined in B.1.c. (1) (a) through (h) and shall be the annualized cost effect of such cost changes exclusive of any portion of the cost change included in the historical rate.

(a) Salary and wage changes to occur during the effective period of the welfare rate:

(i) Future changes according to labor contracts, board resolutions, written policies, or minimum wage laws.

(ii) Changes that are in effect as of the end of the fiscal period covered by the historical cost portion of the welfare per diem rate.

(b) Changes in facilities or equipment.

(c) The annualized cost effect of complying with federal, state, or local laws and regulations and Department of Public Welfare announced policies on care or facilities.

(d) All taxes except for income taxes.

(e) Interest.

(f) Depreciation.

(g) Utilities and insurance.

(h) Rental payments pursuant to a written lease.

~~(i) Raw food cost increase computed initially by multiplying \$1.20 times one-half the percentage increase in the wholesale price index for raw food during calendar 1973. The initial increase is \$.14. For reports covering periods ending December 31, 1974 or later, this cost increase shall be calculated as follows:~~

~~(i) Calculate the percentage increase in the wholesale price index for raw food for the period December through November.~~

~~(ii) If the increase is greater than that computed for the prior year, add the difference to (i).~~

~~(iii) If the increase is less than that computed for the prior year, subtract the difference from (i).~~

~~(iv) Multiply one-half of the resulting figure times the sum of \$1.20 plus all of the annual increases allowed pursuant to this section.~~

(i) Raw food cost increase computed annually by multiplying the average food cost per day by the percentage change in the consumer price index for raw food costs in Minneapolis-St. Paul as published by the Bureau of Labor and Statistics for the Period October through September. The initial average food cost is \$1.82 per day and the initial increase is \$.27 per day effective July 1, 1980. Subsequent annual cost changes will be made on a calendar basis.

(j) Unidentified cost increases equal to changes in the annual percentage increase in the consumer price index in Minneapolis-St. Paul as published by the Bureau of

Labor and Statistics, using the October indices (new series index 1975 equals 100) as applied to the historical cost portion of the facilities previous year's cost less those costs relating to areas where the facility is seeking specific allowances for known cost changes. In no case may the increase be applied against the historical cost of salaries, changes in facilities or equipment, property taxes, interest, depreciation, rental payments of food costs.

C. Reports.

4. Cost allocation procedures.

c. Hospital attached facilities. Hospital attached facilities will include those facilities which are under common ownership and operation with a licensed hospital and are required to adhere to uniform cost reporting for governmental reimbursement programs. The nursing care limitation under D.2.a. and the investment per bed limitation under D.4.b. (1) will be waived when the Medicare cost allocation factors result in these limitations being exceeded. Costs between hospitals and attached facilities must be allocated by the "Medicare Worksheet B" using Medicare allocation factors for the following three cost groups:

- (1) All expense classifications without depreciation, administration and general.
- (2) Depreciation.
- (3) Administration and general.

D. Reasonable cost principles.

2. Nursing care and attendant limitations.

a. Nursing care. Nursing-care costs will be limited by a maximum number of nursing hours per patient day as follows:

Skilled	2.9 hours
ICF I	2.3 hours

If the actual average nursing hours per patient day exceed the above limit, the reasonable cost limitation will be calculated by multiplying the ratio of the above stated limit to the average actual nursing hours per patient day for the year times the actual cost per patient day. This limitation will not apply to facilities that qualify for exception under D.8.d. (3) or facilities licensed under 12 MCAR § 2.080 or facilities mandated by a correction order from the Department of Health to provide additional nursing care.

b. Attendants (ICF II facilities only). Reasonable costs for attendants in ICF II facilities will be limited to one hour per patient day. If the actual average attendant hours per patient day exceeds this limit, the reasonable cost limitation will be calculated by multiplying the ratio of the stated limit to the average actual attendant hours per patient day for the year times the actual cost per patient day.

c. Limitation exception. The nursing and attendant

care limits established in D.2.a. and b. may be exceeded as described below :

(1) The Department of Public Welfare shall establish the 1980 per diem in accordance with the provisions of this rule.

(2) Increased nursing and attendant care hour costs may only be funded through expenditure reductions in the following cost categories as defined in C.3. and as subject to the limitations prescribed elsewhere in this rule:

Dietary
Laundry & linen
Housekeeping
Plant operation & maintenance
Other care related services
General & Administration

Amounts for which a known cost increase has been granted shall not be included in these calculations. Reductions from historical costs in these categories will be recognized.

(3) Subsequent years rates will be determined based on actual nursing and attendant care limits to the extent that they equal reported actual cost reductions in the categories identified in D.2.c. (2). This provision of the rule is effective for rates determined July 1, 1980 and thereafter.

6. Cost of capital.

b. Investment allowance.

(1) Determination of allowance. Proprietary homes where cost reports are received after January 1, 1977 shall receive an investment allowance of 10.3 11 percent of the original value of the facility for depreciation purposes. For each year after the year in which the nursing home was originally purchased in which there is no transfer of ownership of a nursing home, the investment allowance shall be increased by one percent of the original investment allowance, but the increases shall be limited to a maximum of 25 percent of the original investment allowance effective for rates paid on August 1, 1977.

(2) For purposes of this section the following terms shall have the meaning given to them.

(a) Facility means the building in which a nursing home is located and all permanent fixtures attached to it. Facility does not include the land or any supplies and equipment which are not fixtures.

(b) Original value means the lesser of purchase price or appraised value at the time of purchase. Appraisals at the time of purchase shall be on the depreciated replacement cost basis. If a nursing home expands its facility or makes any other capital expenditure which increases the value of the facility, the cost of the expansion or capital expenditure shall be added to the original value. If the department disputes the cost of the expansion or capital expenditure, it may request an appraisal and use the appraised value as the allowed cost.

KEY: RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike-outs~~ indicate deletions from proposed rule language. **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."

TAX COURT

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

**Victor J. Johnston and Sylvia Johnston,
Executors of Estate of Vernon H.
Johnston, Decedent, and Sylvia Jamison
Johnston, Individually,**

Appellants,

-vs-

**The Commissioner of Revenue,
Docket No. 2807**

**Appellee.
Order Dated: 3-6-80.**

Motion Decision

This case was heard March 28, 1979 before the Honorable Jack Fena. On November 26, 1979, this court reversed the November 15, 1978 Commissioner's Order. The commissioner filed a Motion for Amended Findings on December 7, 1979. The hearing for said motion was held on January 30, 1980 before Judge Jack Fena.

Decision

The motion of the commissioner to amend the findings of the court's November 26, 1979 decision is hereby denied.

Findings of Fact

Jack Fena

1. Vernon H. Johnston (hereinafter "decedent") became engaged to be married to Sylvia Jamison Johnston (hereinafter "Sylvia") in November, 1961. Both Sylvia and decedent had been married and divorced previously.
2. On December 23, 1961, they traveled to Sioux Falls, Iowa to be married. They arrived in Sioux Falls about 12:00 noon. A friend of decedent's, Reverend Conrad Walker, a military chaplain, was to meet the couple in Sioux Falls, and perform the marriage ceremony. Sylvia and decedent waited for Reverend Walker for most of the afternoon, but he did not arrive. While they were waiting no attempt was made by either decedent or Sylvia to contact Reverend Walker.
3. Following their wait in Sioux Falls, the couple returned to Fairmont, Minnesota where decedent performed some farm chores. They then went to dinner at a restaurant in Sherburn, Minnesota, where they exchanged marriage vows at the dinner table. There were no witnesses to the exchange of vows. At this time, Sylvia was 42 years old and decedent was 52 years old.
4. Subsequently, on January 3 or 4, 1962, Sylvia moved into decedent's farm home. They lived together thereafter until decedent's death on October 20, 1976.
5. Two children were born to decedent and Sylvia; Cindy, born February 8, 1962; and Jeffrey, born July 8, 1965.
6. Between 1962 and 1974, Sylvia repeatedly questioned decedent about the legal nature of their relationship. Decedent assured her that they were married, and on at least two occasions, told her they had a common-law marriage.
7. During the period they lived together, neither decedent nor Sylvia discussed their situation with anyone else. Decedent told Sylvia that it was "no one's business."
8. In 1974, about two years before his death, decedent disclosed to Sylvia that he had made a Will. In his Will, which Sylvia saw, defendant referred to Sylvia as his "wife." Following disclosure of the Will, naming her as "my wife, Sylvia Johnston," (all of which occurred in a lawyer's office) Sylvia ceased questioning decedent about their relationship and testified that there was no doubt in her mind that she was legally married.
9. During the course of their 15 year relationship, Sylvia was held out to the community at large as decedent's wife. They regularly attended church and became formal church members in June, 1969. Their children were baptized in the church on September 21, 1969. They held joint title to real property as husband and wife. They held checking accounts, savings accounts and certificates of deposit in joint tenancy. Sylvia was designated on decedent's life insurance policy as his surviving spouse; and his Will refers to her as "my wife, Sylvia Johnston."
10. Decedent died on October 20, 1976, and before his death, which he apparently knew was coming, he and Sylvia assisted in writing the obituary and Sylvia was referred to as his surviving wife.
11. On October 21, 1977, a Minnesota inheritance tax return was filed with the Commissioner of Revenue claiming that Sylvia is entitled to the inheritance tax rates and exemptions contained in Minn. Stat. §§ 291.03 (1) and 291.05 (2) and (3) as decedent's surviving spouse, computing the Minnesota state inheritance tax to be \$6,354.68.
12. On August 16, 1978, an Objection, Notice and Order for Hearing was issued pursuant to Minn. Stat. § 291.09, stating that the decedent and Sylvia Jamison Johnston were not married pursuant to Minn. Stat. § 517.01, and as such, not related through blood or marriage to the

decedent and therefore, the proper rates and exemptions are those of a stranger as found in Minn. Stat. §§ 291.03 (4) and 291.05 (7), the commissioner computing the Minnesota state inheritance tax to be \$57,497.41.

13. On September 15, 1978, this matter came on for hearing before Ellen Lavin, duly appointed Minnesota State Administrative Hearing Examiner. Both of the parties herein were heard and based upon the law and facts herein, the hearing examiner recommended that the objections be dismissed and the Commissioner of Revenue allow the estate of the decedent to name Sylvia Jamison Johnston as decedent's spouse and as such, entitled to the inheritance tax rates and exemptions of a spouse as provided in Minn. Stat. §§ 291.03 (1) and 291.05 (2) and (3).

14. Contrary to the hearing examiner's recommendation, the commissioner, on November 15, 1978, issued his order assessing additional inheritance tax (the exact amount to await federal determination of value) on the basis that Sylvia, not having been legally married to decedent, is entitled only to the inheritance tax rates and exemptions contained in Minn. Stat. §§ 291.03 (4) and 291.05 (7), as a stranger in blood to decedent.

15. Between federal estate taxes and in addition to Minnesota inheritance taxes due, if Sylvia were to be taxed as a stranger, she would owe taxes in excess of the sum of \$150,000.

16. Appellant timely filed a notice of appeal from the Commissioner's Order.

17. The Commissioner of Revenue gave no evidence to contradict Sylvia's testimony and admits that Sylvia qualifies as a "putative spouse." (See page 5 of the Attorney General's brief).

18. On December 7, 1979, the Commissioner of Revenue filed with the Court a Motion for Amended Findings.

Conclusion of Law

1. The Court finds Minn. Stat. § 518.055 to be broadly retroactive to all cases commenced or pending prior to March 1, 1979.

Memorandum

Appellee has taken exception from the Court's use of Minn. Stat. § 518.055 in antecedently deciding this case. Appellee's argument is based on the fact that the statute in question was not enacted until after the decedent's death and the belief that the statute was not effective until after the commencement of this action and that it is prospective in nature.

The original version of Minn. Stat. § 518.055 appears in Laws of Minnesota 1978, ch. 772, § 21. Both counsel for appellant and counsel for appellee have put great emphasis on their own interpretations of the enacting section of that chapter, § 61. The relevant portion of ch. 772, § 61 appears below.

Minnesota Laws of 1978, ch. 772, § 61.

§ 61. (a) Sections 1 to 63 apply to all proceedings commenced after February 28, 1979.

(b) *Notwithstanding section 645.35, sections 1 to 63 apply to all pending actions and proceedings commenced prior to March 1, 1979 with respect to issues on which a judgment has not been entered.* Pending actions for dissolution or separation are deemed to have been commenced on the basis of ir retrievable breakdown. Evidence adduced after February 28, 1979, shall be in compliance with sections 1 to 63. (Emphasis added).

Counsel for appellant interprets the second sentence of paragraph b of § 61 as modifying the first sentence of that paragraph. Therefore, according to that interpretation, Minn. Stat. § 518.055 is retroactive only to marriage dissolution or separation actions. If the two sentences were in some way put in compound form or if the second sentence was restructured, e.g., omitting the words "dissolution or marriage," appellee's reading would be convincing.

The Court finds appellant's interpretation more reasonable. It is clear that the words in the paragraph our attention is focused on are in two distinct sentences. The first sentence is broad and applies Minn. Stat. § 518.055 to all proceedings pending prior to March 1, 1979. Sentence two, though narrower in focus, gives no mention to sentence one nor can it be read to totally encompass all of what sentence one speaks of. Rather, it is clear that sentence two carves out only a portion of what embodies sentence one and further describes only that portion.

Statutory language which is precise and unambiguous may not be construed. *Graber v. Peter Lametti Construction Co.*, 293 Minn. 24, 197 N.W. 2d 443 (1972). The language the commissioner directs this Court's attention to is such language. Therefore, Minn. Stat. § 518.055 is found to be broadly retroactive to cases pending or commenced prior to March 1, 1979. Consequently, Minn. Stat. § 518.055 applies with full force to the instant case.

Jack Fena

SUPREME COURT

Decisions Filed Friday, March 14, 1980

49261/333 State of Minnesota vs. Dale Matthew Olson, Appellant. Hennepin County.

Where in a trial for the murder of another witness, a convicted co-conspirator refused to testify against defendant because a third conspirator threatened her life if she did so, it was not a violation of defendant's right of confrontation for the court to receive into evidence a statement made to the police by the reluctant witness which implicated and incriminated the defendant who was on trial.

The imposition of three consecutive life sentences is not barred by Minn. Stat. § 609.035 (1978) or Minn. Stat. § 609.15 (1978).

Affirmed. Otis, J.

49725/56 State of Minnesota vs. Lois Antonio Serna, Appellant. Hennepin County.

The warrantless seizure and impounding of defendant's automobile by police without conducting a search did not violate defendant's Fourth Amendment rights.

So-called "mug shots" introduced for the purpose of identifying the accused must be received with extreme caution.

Testimony that police gave defendant a *Miranda* warning was proper as a foundation for the admission of a statement defendant made to police. Defendant, by failing to object, forfeited his right to have the issue considered on appeal.

A hearsay statement made to a doctor and nurse by complainant, a child, did not violate defendant's right to confront witnesses where complainant was available for cross-examination and the statement was reliable and trustworthy.

Affirmed. Otis, J.

49916/99 State of Minnesota vs. John Leslie Anderson, Appellant. Hennepin County.

Held, evidence was sufficient to support conviction for assault with a dangerous weapon; defendant's claim on appeal that state failed to prove that stabbing was unjustifiable is meritless.

Defendant, by failing to object to arguably improper closing argument by prosecutor or to arguably confusing instruction by trial court, forfeited his right to have this court consider these issues on appeal.

Affirmed. Kelly, J.

49884/13 Robert E. Hervey, Appellant, vs. Tel-E-Lect, Inc. Hennepin County.

The judgment notwithstanding the verdict is vacated when evidence existed which, when viewed in a light most favorable to the prevailing party, permitted the jury to find an implied contract between the parties.

The jury's award of damages was not excessive because it comported with the uncontradicted testimony in the case.

Reversed and remanded with instructions to enter judgment for the plaintiff in conformance with the verdict of the jury. Todd, J.

50207/26 Donald F. Petty, et al, vs. Allstate Insurance Company, Appellant. Hennepin County.

Minn. Stat. § 65B.50 (1978) imposes upon insurance companies as a condition of doing business in Minnesota the duty to pay basic economic loss benefits to nonresident insureds who have accidents in Minnesota while operating insured vehicles.

Payment of basic economic loss benefits to nonresident insureds under Minn. Stat. § 65B.50 is not limited to minimum security but rather permits the stacking of nonresident coverages.

Affirmed. Todd, J.

50234/83 In the Matter of the Welfare of Anthony Fred Chosa, Ramsey County Welfare Department, petitioner, Bruce Beck, guardian ad litem, Peggy Ann Chosa, Appellant. Ramsey County.

The record does not support the conclusion that the conditions which lead to the termination of Peggy Chosa's parental rights will be prolonged and indeterminate; therefore, Peggy's parental rights cannot be terminated.

The order of termination is vacated, and the matter remanded to the trial court for proceedings consistent with this opinion. Todd, J.

49314/458 State of Minnesota vs. James Willis Black, Appellant. Hennepin County.

Where the prosecution in good faith calls a witness who has no legal right to refuse to testify, to determine for certain whether or not the witness will testify in order to lay a foundation for the introduction of her prior statements and testimony, such circumstances do not constitute prejudicial error.

The Sixth Amendment does not stand as a shield to protect the accused from his own misconduct in threatening a witness to such an extent that the fear of death causes the witness to refuse to testify.

Other crimes are admissible where they tend to establish the relationship between the defendant and the victims and to demonstrate defendant's motive for murder. Under such circumstances, Spreigl notices are not required.

Where there is substantial independent evidence of an evidentiary conspiracy, it is not error to then allow the introduction of statements of a co-conspirator made during the course of and in furtherance of that conspiracy.

It is clear in this case that the defendant was not seeking religious or spiritual aid from the clergyman witness. The communication was therefore not privileged.

Affirmed. Scott, J.

Decision Filed Tuesday, March 11, 1980

49509/389, 49440/390 State of Minnesota, Petitioner, vs. Kelly Jonason (49509) Chisago County. State of Minnesota, Petitioner, vs. Michael Duane Olson (49440) Crow Wing County.

A trial court has no sentencing power, in the absence of statutory authority to the contrary, to order a county to pay for a probationer's treatment in a private institution.

When a defendant is convicted of, or pleads guilty to, a crime in which a firearm was used, and which is specifically listed in Minn. Stat. § 609.11, subd. 1 (1978), and such crime is the defendant's first offense, a court is required to sentence the defendant to at least a year and a day with the Commissioner of Corrections and is not authorized to place the defendant on probation.

Writs of mandamus will issue. Kelly, J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant 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.

Department of Economic Development Office of the Commissioner

Notice of Request for Proposals for Training of the Staff of the Department of Economic Development

Proposals are being accepted for training and education services for the Department of Economic Development.

The purpose of the training and education will be to develop more effective communications and personnel management within the department and to develop effective quantitative mechanisms for measuring productivity. Training sessions will include both management and staff of the department and will involve approximately 80 individuals.

The department estimates that the cost of the training program will not exceed \$30,000.

Proposals must be submitted no later than 4:00 p.m. April 14th, 1980. A complete Request for Proposal may be obtained by writing:

Mr. Wes Cochrane, Assistant Commissioner
Department of Economic Development
480 Cedar Street
St. Paul, Minnesota 55101
Telephone: 612/296-4039

Department of Health Environmental Health Division

Notice of Request for Proposals for Professional Service Contract

The Department of Health requires the services of a qualified consultant to assess the magnitude and spatial and temporal distribution of reported shock exposure associated with the CU-TR-1 ± 400 kilovolt direct current transmission line. Re-

ported shock complaints will be investigated by means of field interviews and measurements. A final report documenting these investigations will be required.

Estimated project cost: \$20,000.00

Project completion date: Approximately October 31, 1980

Request for Proposal available upon request from:

Larry D. Gust (612/296-5325)
Minnesota Department of Health
Section of Health Risk Assessment
717 Southeast Delaware Street
Minneapolis, Minnesota 55440

Firms/individuals desiring consideration should send their proposals to the above address.

All responses must be received no later than 4:30 p.m. April 14, 1980.

Notice of Request for Proposals for Professional Service Contract

The Department of Health requires the services of a qualified consultant to assess the electric shock hazard of the CU-TR-1 \pm 400 kilovolt direct current transmission line under fault conditions. This study will investigate the fault condition problem, through modeling the line, with development of recommended fence grounding intervals.

Estimated project cost: \$5,000.00

Project completion date: Within two to three months of project authorization.

Request for Proposal available upon request from:

Larry D. Gust (612/296-5325)
Minnesota Department of Health
Section of Health Risk Assessment
717 Southeast Delaware Street
Minneapolis, Minnesota 55440

Firms/individuals desiring consideration should send their proposals to the above address.

All responses must be received no later than 4:30 p.m. April 14, 1980.

Minnesota Educational Computing Consortium (MECC)

Management Information Services Division

Notice of Request for Proposals for Computer System Modification

MECC is seeking individual/s to make specific enhancements to the Elementary-Secondary-Vocational Personnel/Payroll computer system. Enhancements are primarily in the form of

new programs with some modification of existing programs. The project is detailed in the Request for Proposal which can be requested from:

Doug LaChance
2021 East Hennepin, LL40
Minneapolis, Minnesota 55413
(612) 376-1600

Necessary contents of proposal and evaluation process are also explained in the Request for Proposal.

Deadline for the submission of completed proposals will be 4:30 p.m., April 8, 1980.

Department of Public Service Utilities Division

Notice of Request for Proposals for Evaluation and Preliminary System Design Services

The Minnesota Department of Public Service is seeking proposals for technical assistance to perform, for a proposed automated utility financial analysis system, certain evaluation and preliminary system design services consisting generally of the first two phases of the State evaluation methodology known as PRIDE (Profitable Information Systems by Design).

A report to the department entitled "Preliminary Analysis of Computerized Systems" by Albers Associates, Inc., under date of January 10, 1980, contains conclusions and recommendations relative to the proposed utility financial analysis system.

The consultant services required include:

A. Perform a system study and evaluation consisting of the items required by the PRIDE Phase 1 methodology.

B. Prepare a system design manual and all other deliverable items required under PRIDE Phase 2.

C. Prepare a final report summarizing recommendations on Items 1 and 2 and including the following subjects:

1. Selection of a computer processing facility.
2. Whether or not to integrate the Financial Analysis System into the existing MINT system.
3. Whether or not to transfer the MINT system to a Minnesota data processing facility.

The department has estimated that the cost of this project should not exceed \$21,000 for professional services and expenses. Upon satisfactory completion of PRIDE Phases 1 and 2 the department reserves the option to amend the contract for completion of the PRIDE methodology which is expected to be performable for an estimated cost of \$40,000.

Proposals must be received before the close of the work day

April 15, 1980. The contract will be let on or about April 18, 1980.

The formal Request for Proposal (RFP) and inquiries should be directed to:

Gary L. Hunt, Deputy Director
Department of Public Service
7th Floor, American Center Building
160 E. Kellogg Blvd.
St. Paul, Minnesota 55101
612/296-0418

State Planning Agency Environmental Quality Board

Notice of Request for Proposals for Professional Service Contract

The Environmental Quality Board requires the service of a qualified consultant to conduct a study and present a documented report on "Potential Joint-Use of Waste Disposal and Electric Power Generating Facilities." This study will assess the potential for joint waste disposal and electric generating facilities that would promote heat recovery and fuel efficiency and reduce operating costs and environmental effects.

Estimate fee range: \$35,000-\$50,000

Time: Contract award May 2, 1980

Firms/individuals desiring consideration should send their response to:

Gregg Larson
Power Plant Siting Program
Environmental Quality Board
15B Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-9037

Request for Proposal is available on request.

All responses should be sent in no later than 5:00 p.m., April 14, 1980. Late responses will not be accepted.

Office of the State Public Defender

Notice of Availability of Contract for Legal Services

The Office of the State Public Defender requires the services of experienced attorneys on a part-time basis to perform legal services to indigents.

The legal services will include the following:

1. Preparation of post conviction proceedings
2. Prepare and attend parole revocation hearings
3. Prepare appellant briefs and do legal research
4. Prepare and lecture at training schools

The estimated fee range for these services is \$10,000.00-\$13,000.00. Attorneys in the State of Minnesota are to be given first consideration. Experience required.

Attorneys desiring consideration should submit a resume of their work before May 30, 1980. Send your response to:

C. Paul Jones
State Public Defender
95 Law Bldg. Univ. of Minn.
Minneapolis, Minnesota 55455
Telephone (612) 373-5725

Department of Public Welfare Fergus Falls State Hospital

Notice of Request for Proposals for Services to be Performed on a Contractual Basis

Notice is hereby given that the Fergus Falls State Hospital, Mental Health Division, Department of Public Welfare, is seeking the following services for the period July 1, 1980, through June 30, 1981. These services are to be performed as requested by the Administration of the Fergus Falls State Hospital.

1) Services of an organization to provide sheltered workers to work in the hospital's industries in a learning experience setting. The estimated amount of the contract will not exceed \$21,000.

2) Services of a radiologist to interpret X-ray films taken by the hospital's X-ray technician. The estimated amount of the contract will not exceed \$15,000.

3) Services of a psychiatrist trained and experienced in all areas of human services for mentally ill, mentally retarded and chemically dependent. Such services to be performed at the Fergus Falls State Hospital. The estimated amount of the contract will not exceed \$27,500.

Responses for the above services must be received by April 14, 1980. Direct inquiries to:

Linda A. Brill, Accounting Officer
Fergus Falls State Hospital
Box 157
Fergus Falls, MN 56537
(218) 739-2233, ext. 376

State University System

Notice of Availability of Temporary/Intermittent Instructional Positions

The State University System will, from time to time, employ instructors on a temporary short-term basis. Instructors may be needed in all areas of higher education. Interested persons should contact the respective universities (listed below) by sending their credentials indicating particular areas of interest or expertise to the Vice President for Academic Affairs.

Contact: Bemidji State University
Dr. Willard Bornschlegl
14th & Birchmont Drive
Bemidji, Minnesota 56601
Mankato State University
Dr. Philip Kendall
5th & Jackson
Mankato, Minnesota 56001

Metropolitan State University
Dr. Robert Hanle
Room 121 Metro Square Building
St. Paul, Minnesota 55101
Moorhead State University
Dr. William Jones
1104 7th Avenue South
Moorhead, Minnesota 56560
St. Cloud State University
Dr. David Johnson
1st Avenue South and 7th Street
St. Cloud, Minnesota 56301
Southwest State University
Dr. Judith Sturnick
Marshall, Minnesota 56258
Winona State University
Dr. Sheila Kaplan
8th and Johnson
Winona, Minnesota 55987

Estimated cost: Salary rate is negotiable.

Submission deadline: Resumes may be submitted at any time.
Openings may occur at any time during the year.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, 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.

Department of Agriculture Agronomy Services Division

Notice of Special Local Need Registration for SBP-1382-40MF

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on March 13, 1980 issued a Special Local Need Registration for SBP-1382-40MF (synthetic pyrethroid), manufactured by Penick Corp., Orange, New Jersey, 07050.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

In addition to the uses prescribed on the product label, this Special Local Need Registration permits the use of this pesticide by the Metropolitan Mosquito Control District as an aerial ULV application for mosquito control.

The application and other data required under Minn. Stat. § 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 80-0006) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
(612) 296-8379

A federal or state agency, a local unit of government, or any

person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has 30 days to file written objections with the Commissioner of Agriculture regarding the issuance of This Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15 for the purpose of revoking, amending, or upholding this registration.

March 13, 1980

Mark W. Seetin
Commissioner of Agriculture

Notice of Special Local Need Registration for Evershield RTU-1050

Pursuant to Minn. Stat. § 18A.23 and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on March 13, 1980 issued a Special Local Need Registration for Evershield RTU-1050 Seed Protectant, manufactured by Cargill, Inc., Minneapolis, Minnesota, 55440.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

This Special Local Need Registration permits the use of this pesticide on small grains as a seed protectant from seedling diseases, smut and bunt.

The application and other data required under Minn. Stat. §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B relative to this registration (identified as SLN #MN 80-0005) is on file for inspection at:

Minnesota Department of Agriculture
Pesticide Control Section
90 West Plato Blvd.
Saint Paul, Minnesota 55107
(612) 296-8379

Congressional District

Time and Date

Location

1	7:00 p.m.	Wednesday	April 23	Room S 110 Science Building Rochester Community College Rochester, Minnesota
2	7:00 p.m.	Thursday	April 24	Room C 121 Traffon Science Center Mankato State University Mankato, Minnesota
3	7:00 p.m.	Tuesday	April 29	Cafeteria Eisenhower High School Hopkins, Minnesota
4	1:00 p.m. and 7:00 p.m.	Wednesday	April 30	Room 83 State Office Building St. Paul, Minnesota

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has 30 days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minn. Stat. ch. 15 for the purpose of revoking, amending, or upholding this registration.

March 13, 1980

Mark W. Seetin
Commissioner of Agriculture

Energy Agency Fuel Allocation Activity

Notice of Intent to Hold Public Meetings on Emergency Gasoline Conservation and Allocation Measures

Notice is hereby given that the Minnesota Energy Agency will conduct public meetings to discuss emergency gasoline conservation measures. The purpose of the meetings will be to seek suggestions, opinions and comments from members of the public on possible emergency measures to include in the State Emergency Gasoline Conservation Plan. The plan is being prepared to satisfy the agency's obligations under Minn. Stat. § 116H.09, and the federal Emergency Energy Conservation Act of 1979 (Public Law 96-102).

The following schedule lists times, dates and location of public meetings to be held between April 23, 1980, and May 7, 1980:

OFFICIAL NOTICES

Congressional District

Congressional District	Time and Date			Location
5	7:00 p.m.	Thursday	May 1	Auditorium Level A Hennepin Co. Gov. Center Minneapolis, Minnesota
6	7:00 p.m.	Monday	May 5	Room L 10 Library Building Willmar Community College Willmar, Minnesota
7	7:00 p.m.	Tuesday	May 6	Commissioners Hearing Room Becker Co. Courthouse Detroit Lakes, Minnesota
8	7:00 p.m.	Wednesday	May 7	Central Lecture Hall Duluth AVTI Duluth, Minnesota

Following a brief agency presentation at the meeting, the public will have an opportunity to present oral and/or written comments. Additional written comments and materials may be sent to: Dixie Diehl, Fuel Allocation, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101. All comments should be received by May 14, 1980.

The conservation plan may include a combination of voluntary and/or mandatory measures as well as supply management programs. Numerous potential measures have been identified from various sources including the general public. Each of these measures will be subjected to detailed analysis prior to the public meetings. Criteria used to analyze each measure will include potential energy savings, equity, immediacy of impact, ease of administration, cost to the consumer and implementation cost. Measures selected for the plan will be those which represent the state's most effective, equitable and cost-effective response to energy emergency conditions. Potential measures identified to date are briefly summarized below. Where available, preliminary estimates of energy savings are provided. For comparative purposes, it should be noted that average gasoline consumption in Minnesota totals approximately 46,300,000 gallons per week.

Possible Voluntary Conservation Measures

Public Information Measures: Public information measures would include multi-media information and education programs implemented at state, regional and local levels. These measures would inform the public about ways to conserve gasoline including: a) availability of car pools, van pools, and mass transit in their area, and b) ways to improve mileage through better auto maintenance and driving practices. The extent to which public information measures could result in energy savings depends on the size of the program and the level of voluntary conservation by the public. The potential savings through improved vehicle operation and maintenance for just 40% of vehicles licensed to operate in Minnesota is 275,000-350,000 gallons per day. Increased car and van pooling encouraged by public information could save additional gasoline.

Employer-based Travel Program: Although targeted toward large employment centers this measure would be designed to reduce work-related travel of employees throughout the state.

This measure could include encouraging employers to develop or increase participation in employee ride-sharing programs, and offer special parking incentives to employees who car pool and van pool.

Employers could also promote mass transit use through the sale of bus passes and coupons by using payroll deduction plans to prepay bus fares, or by actually subsidizing part of the bus fares for employees.

Existing van pool programs in Minnesota involve nearly 400 van pools and contribute an average savings of approximately 5,986 gallons per week day. The formation of 100 additional van pools would bring the total savings to more than 7,626 gallons per week day (based on an estimate of 16.4 gallons saved per van pool per day.) Each additional car pool formed would save approximately 1.5 gallons of gasoline per day. Increased transit usage could save additional fuel.

Establish Bicycle Routes: This measure is designed to encourage use of bicycles in lieu of automobile travel for commuting trips, and would include designating bicycle routes which parallel main commuter travel corridors. In addition to potential energy savings, this measure would also serve to improve bicycle safety. No savings estimate is available at this time.

Alternative Work Patterns: This measure could include several work day changes that could reduce gasoline consumption. These include: 1) a shorter work week to reduce the total number of commuting trips made; 2) staggered work hours which alter the starting and stopping times of workers in order to reduce congestion during rush hours, and 3) flexible working hours to make it easier for employees to join car pools, van pools or ride the bus. The potential savings of a shorter work week are estimated to be over 1,000,000 gallons per day, assuming no increase in discretionary driving during the non-work day.

Possible Mandatory Measures

Speed Limit Enforcement: This measure could increase energy savings through increased compliance with existing speed limits or by reducing the speed limits further. Estimated savings for 100% compliance with the existing 55 mph speed limit is 60,000-63,000 gallons per day. Strict enforcement of a 50 mph speed limit could save an estimated 134,000-141,000 gallons per day.

One-Day Driving Ban: This measure could reduce consumption of gasoline by prohibiting all passenger vehicles from travel for one 24-hour period or a portion of a day each week. Certain activities such as emergency services, and other activities related to public security, economic output, or public health and welfare would need to be exempted from this measure. Savings from a twenty-four hour driving ban could total an estimated 1,500,000-2,200,000 gallons per weekend day and/or an estimated 3,600,000-5,300,000 gallons per weekday.

Vehicle-use Sticker Program Measure: If implemented, this measure would require all private and business owners of gasoline powered motor vehicles to forego use of their vehicles for one or more days per week, depending upon the severity of the shortage. Vehicle owners would prominently display stickers indicating the day or days on which the vehicle would not be driven. Individuals could select the no-driving day(s). Assuming total compliance, a one-day sticker plan implemented for all registered vehicles could save an estimated 1,000,000-1,200,000 gallons per day. A one-day sticker plan requiring households with more than one car to select the same day for all passenger vehicles could save an estimated 1,200,000-1,900,000 gallons per day.

Increased Parking Fees/Restrictions: This measure consists of two primary options: a) instituting or increasing parking fees at all shopping centers; and b) placing parking restrictions on streets near major activity centers. Both options are aimed at reducing single-occupant vehicle usage and encouraging ride-sharing and transit usage. No estimated savings are available at this time.

Increased Gasoline Taxes: A sharp increase in the cost of gasoline is a proven incentive for reducing gasoline consumption. However, as with other measures, these benefits must be weighed against the economic problems higher costs would cause Minnesotans. Gasoline savings estimates are contingent upon the extent of price increases. For comparative purposes, a 50¢ per gallon increase in gasoline taxes would result in an estimated energy savings of over 201,000,000 gallons annually.

Gasoline Rationing: This measure would not be included in the state conservation plan because it must be implemented under federal initiative. The Governor of Minnesota has expressed his opposition to gasoline rationing due to the extremely high costs of administration involved and the extreme burden which rationing could place upon Minnesota residents. Gasoline savings resulting from rationing are contingent upon federally established conservation levels.

Reduction in State Government Travel: Several reductions in state government travel have been accomplished in recent years through travel coordination programs which encourage ride-sharing, and by increased use of telecommunications. Current estimated savings are 1,100-1,300 gallons per day.

Possible Mandatory Supply Management Programs

The following supply management programs are designed to relieve lines at service stations and do not represent conservation measures. Thus, no gasoline savings estimates are noted, al-

though a small savings could be reached due to reduction in long distance trips under an odd-even purchase restriction system.

Minimum Motor Gasoline Purchase Requirement: This measure would require a minimum purchase of gasoline for all vehicles. The purchaser would have to pay the dealer for a certain amount even if less gasoline were pumped into the tank. This measure could also include restrictions on filling portable gasoline tanks or containers.

Odd-even Motor Gasoline Purchase Restriction: This measure permits vehicles with license plates ending in an even number to purchase gasoline on even-numbered calendar days and vehicles with odd-numbered plates on odd-numbered days. Some gasoline savings could also occur under the odd-even purchase requirement because it may discourage longer trips.

Flag System: This program would require retail service stations to post uniform, colored flags so that they are clearly visible from the street to indicate the availability of different types of fuel or to indicate that only priority vehicles could purchase gasoline.

Motor Gasoline Supply Availability: This measure would assure that at least one 24-hour full-service emergency road repair station was open every 50 miles, and/or charge local governmental units with the responsibility for coordinating schedules of non-24-hour stations to ensure that an orderly, equitable and predictable supply of gasoline is available in the area.

Possible Additional Measures: Public comments received by the agency have suggested additional conservation measures, including increasing the legal driving age, reducing high school student driving, increasing school bus efficiency through reduced extracurricular travel, and closing shopping malls on Sundays. These and other potential measures suggested through public comment will also be analyzed, and information presented at the public meetings.

Ethical Practices Board

Advisory Opinion #61

Re: Constituent Services—Local Officeholder Candidate

**Approved by the Ethical Practices Board
on March 7, 1980**

Issued to:

**Bruce Kasden, Mayor
City Hall
Moose Lake, MN 55767**

Summary

61. The payments for the newspaper column or postcards will not be considered a campaign expenditure until after sine die adjournment of the legislature in an election year.

The full text of the opinion is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

OFFICIAL NOTICES

Advisory Opinion #62 Re: CETA Office Rental

**Approved by the Ethical Practices Board
on March 7, 1980**

Issued to:

**Representative Ray Welker
Route 5, Box 30AB
Montevideo, MN 56265**

Summary

62. A representative who rents an office to CETA program is not required to file a Potential Conflict of Interest Notice with the Ethical Practices Board since in no case would the requirements of the law be met to compel such a filing.

The full text of the opinion is available upon request from the office of the State Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, (612) 296-5148.

Office of the Governor

Notice of Assumption of Office by a Temporary Department Head

In accordance with Minn. Stat. § 15.06, notice is hereby given that James H. Main assumed the position of Temporary Director of the Minnesota Energy Agency on February 20, 1980.

Notice of Appointment of Department Head

In accordance with Minn. Stat. § 15.06, notice is hereby given of the appointment of Mark E. Mason as Director of the Minnesota Energy Agency on March 31, 1980.

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