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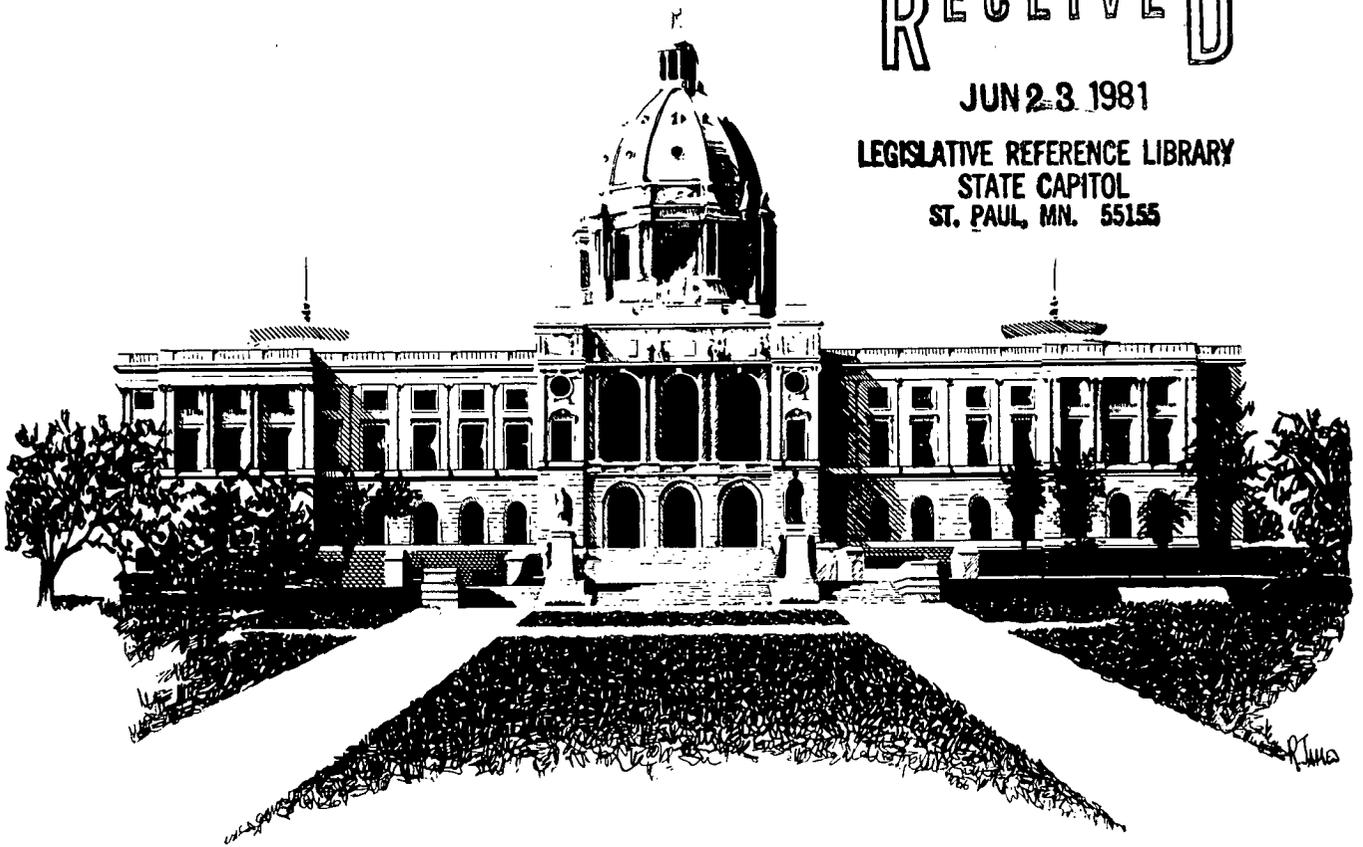
STATE REGISTER

STATE OF MINNESOTA

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VOLUME 5, NUMBER 51

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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
52	Monday June 15	SCHEDULE FOR VOLUME 5 Monday June 22	Monday June 29
1	Monday June 22	SCHEDULE FOR VOLUME 6 Monday June 29	Monday July 6
2	Friday June 26	Monday July 6	Monday July 13
3	Monday July 6	Monday July 13	Monday July 20

*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 Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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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*.

Albert H. Quic
Governor

Carol Anderson Porter
Editor

David Zunker
Information Officer

James J. Hiniker, Jr.
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener, Jean Walburg
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Roy Schmidtke
Circulation Manager

Cindy Peterson
Secretary

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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:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A 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	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
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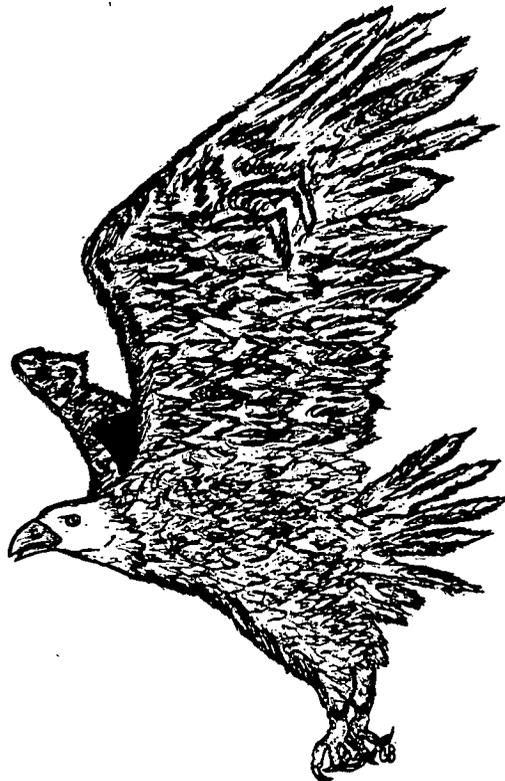
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SOARING EAGLE, pencil drawing by Gregg Brey, New Ulm Junior High School, New Ulm, MN.

PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, 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 seven 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 modifications are supported by the data and views submitted.

f. during the 30-day comment period, seven 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 § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

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 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Commerce Insurance Division

Proposed Temporary Rules Relating to Medicare Supplement Insurance Policy Forms

Notice is hereby given that the Insurance Division of the Department of Commerce has proposed the following temporary rules relating to medicare supplement insurance. These temporary rules are promulgated pursuant to Laws of 1981, ch. 318 (codified Minn. Stat. §§ 62A.31-42).

All interested persons may submit comments on the proposed temporary rules for 20 days immediately following publication of this material in the *State Register* by writing to John Ingrassia, Insurance Division, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota, 55101. The temporary rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the temporary rules. Pursuant to Minn. Stat. § 15.0412, subd. 5 (1980) these temporary rules shall be in effect for a period of ninety days following adoption and approval by the Attorney General.

Temporary Rules as Proposed

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- 1.9362 Purpose
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4 MCAR § 1.9361 Authority. Rules 4 MCAR §§ 1.9361-1.9368 are promulgated under the authority of Laws of 1981, ch. 318, § 12.

4 MCAR § 1.9362 Purpose. These rules promulgated as interpretative rules to define the conditions under which the Commissioner of Insurance shall grant immediate approval to medicare supplement insurance policy forms submitted for approval pursuant to Laws of 1981, ch. 318 and Minn. Stat. § 62A.02 (1980).

4 MCAR § 1.9363 Certification.

A. Each insurer which files a medicare supplement policy in the form set forth in 4 MCAR §§ 1.9365-1.9368 shall submit a certification signed by a corporate officer. This certification shall state: "I have personally reviewed the submitted policy forms and the applicable prototype medicare supplement insurance policy forms [MS 1+, MS 1, MS 2 or MS 3] promulgated by the commissioner. I attest that the submitted policy forms conform to the language and substance of the prototype forms. This certification is submitted for the purpose of obtaining immediate approval of this (these) policy form(s). I acknowledge that an erroneous certification shall invalidate this policy form submission."

B. Each policy form submitted in conformance with the above certification shall be granted immediate approval by the Insurance Division, subject to compliance with Laws of 1981, ch. 318, § 6.

4 MCAR § 1.9364 Prototype policy forms. Prototype medicare supplement insurance policy forms are set forth in 4 MCAR §§ 1.9365-1.9368. Each prototype policy form meets the requirement for each of the four policies required by Laws of 1981, ch. 3., §§ 2-5.

4 MCAR § 1.9365 Prototype MS 1+

XYZ INSURANCE COMPANY
(Herein called We or Us or Our)

**PROTOTYPE CONTRACT
MEDICARE SUPPLEMENT INSURANCE**

The Commissioner of Insurance of the State of Minnesota has established four categories of Medicare Supplements. The four categories from most to least comprehensive are 1+, 1, 2, 3.

MEDICARE SUPPLEMENT ONE PLUS (1+)

We will pay for charges for Covered Expenses incurred on and after the Effective Date shown in the Contract Schedule due to Illness as defined herein, subject to all the provisions and exclusions contained in, endorsed on, or attached to this Contract. This Contract is issued in consideration of the application, a copy of which is attached to this Contract, and the payment in advance of the Initial Premium (shown in the Contract Schedule), receipt of which is acknowledged. Except as otherwise provided, this Contract will be in force from 12:01 A.M. of the Effective Date until 12:01 A.M. of the day following the last day of the premium period beginning on the Effective Date shown in the Contract Schedule.

Pre-Existing Conditions. We will pay for Covered expenses incurred in the first six months for pre-existing conditions if the condition was not diagnosed or treated during the 90 days immediately prior to the effective date of this Contract.

Renewal. You may continue this Contract in force for successive premium periods by payment of premiums as specified in the section titled "Premium Payments." Premiums may increase each year. We may change, on a class basis, the table of rates applicable to premiums due on and after each contract anniversary date. We will give you notice of any such change in the table of rates not less than 31 days before a contract anniversary date. We may refuse to continue this Contract as of any contract anniversary date, but only if we then refuse to continue all Contracts with the same provisions and premium rate basis in the state where you live. If we take this action you will be notified not less than 31 days before the contract anniversary date. We cannot refuse to continue this Contract because of your deteriorating health.

Notice of 30 Day Right to Return Contract. Within 30 days after its delivery date, this Contract may be returned by delivering or mailing it to us. We will return all payment you made for this Contract within 10 days after we receive notice of cancellation and return of this Contract.

Signed for the Company

Secretary

President

READ YOUR CONTRACT CAREFULLY. THIS IS A LEGAL CONTRACT.

CONTRACT SCHEDULE

Contract Number:

Effective Date:

Insured:

* First Premium:

Premium Interval:

* Based on the table of rates applicable on the Effective Date. Subject to Our Right to Change Applicable Table of Premium Rates.

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

Article I Definitions

“Contract” means policy.

“Eligible Out-of-Pocket Expenses” means those expenses that are Covered Expenses under this contract which are not payable solely because of the application of the deductible and a payment percentage of less than 100%.

“Free Standing Ambulatory Surgical Center” or “Free Standing Ambulatory Medical Center” means a surgical or medical center approved as such by the State of Minnesota.

“Home Health Agency” means a public or private agency that specializes in giving nursing services and other therapeutic services in Your Home and is approved as such by the State of Minnesota.

“Hospital” means:

- * an institution which is operated pursuant to law and is primarily engaged in providing on an inpatient basis for medical care and treatment of sick and injured persons through medical, diagnostic, and surgical facilities, under the supervision of a staff of Physicians and with 24 hour a day nursing service, or
- * an institution not meeting all the above requirements but which is accredited as a hospital by the Joint Commission of Accreditation of Hospitals.

“Hospital” will not include a nursing home or any institution or part of such, which is used mainly as a convalescent facility, rest facility, nursing facility, or facility for the aged.

“Illness” means disease, injury, or a condition involving bodily or mental disorder of any kind, and including pregnancy.

“Medicare” means Title XVIII (Health Insurance for the Aged) of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended.

“Full Medicare Coverage” means coverage for all the benefits provided under Medicare including benefits provided under the voluntary program established by Medicare.

“Nursing Home” means an institution meeting the following requirements:

- * It is operated pursuant to law and is primarily engaged in providing the following services for persons convalescing from illness: room, board, and twenty-four hour a day nursing service by one or more professional nurses and such other nursing personnel as are needed to provide adequate medical care.
- * It provides such services under the full-time supervision of a proprietor or employee who is a Physician or a registered graduate nurse (R.N.).
- * It maintains adequate medical records and has available the services of a Physician under an established agreement if not supervised by a Physician.

“Nursing Home” will not include any institution or part of such which is used mainly as a rest facility or facility for the aged.

“Physician” means a licensed practitioner of the healing arts acting within the scope of his practice.

“Usual and Customary Charge” means the normal charge, in the absence of insurance, of the provider for a service or supply, but not more than the prevailing charge in the area for a like service or supply. A like service is of the same nature and duration, requires the same skill and is performed by a provider of similar training and experience. A like supply is one which is identical or substantially equivalent. “Area” means the municipality (or, in the case of a large city, the subdivision of such) in which the service or supply is actually provided or such greater area as is necessary to obtain a representative cross-section of charges for a like service or supply.

“You, your” means the person named in the Contract Schedule and who is or could be covered under Medicare.

Article II Benefit Provision

We will pay for charges for the Covered Expenses incurred in connection with Your Illnesses. An Expense is considered to be incurred on the date the service or purchase for which the charge is made. The Covered Expenses must be:

- * Ordered by a Physician, and
- * Incurred while the Contract is in force.

A. Lifetime Maximum

The aggregate benefits payable under this Contract for all of Your Illnesses during Your entire lifetime may not exceed \$100,000.

B. Out of Pocket Expenses.

The total amount You must pay for Covered Expenses each calendar year will not be more than \$1,000.00 until You exhaust Your Lifetime Maximum.

After total out-of-pocket covered expenses of \$1,000 are paid in any calendar year by You, all benefits not otherwise limited will be paid at 100% subject to a lifetime maximum of \$100,000.

C. Covered Expenses

We will pay:

(1) The Part A (hospital) Medicare eligible expenses not covered by Medicare up to 50% of the Medicare deductible, for the first 60 days of any Medicare benefit period, and

(2) The Part A Medicare eligible expenses not covered by Medicare from the 61st through the 90th day of any Medicare benefit period, and

(3) The Part A Medicare eligible expenses during the use of Medicare lifetime hospital reserve days to the extent not covered by Medicare, and

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, 90% of all Medicare Part A eligible expenses not covered by Medicare to a lifetime maximum benefit of an additional 365 days, and

(5) 20% of the amount of Part B Medicare eligible expenses and 50% of the Medicare Part B deductible, and

(6) 80% of charges for services described below, which charges are not paid by Medicare or under Items (1) to (5):

(a) Hospital Services

* Hospital room and board (including regular daily services and supplies furnished by the Hospital), excluding any charge for confinement in a private room in excess of the Hospital's charge for its most common semi-private room, unless such private room is prescribed as medically necessary by a Physician. If the Hospital does not have semi-private rooms, its most common semi-private room charge shall be considered to be 90% of its lowest private room charge;

* All other services and supplies furnished by the Hospital for medical care therein.

(b) Professional services for either of the following:

* Physicians' services for diagnosis and treatment of Illnesses.

* Treatment by a physical therapist, speech therapist or inhalation therapist at the direction of a Physician.

Professional services must be rendered by other than a close relative. "Close Relative" means your spouse, brother, sister, parent or child.

(c) Drugs and medicines legally obtainable only upon a Physician's prescription.

(d) Nursing Home services for the following items up to a maximum of 120 days in a Calendar Year, provided:

* such services commence within 14 consecutive days following confinement of at least three consecutive days in a Hospital for the same or related Illness, and

* 24 hour a day nursing care is needed for treatment of such Illness:

* Nursing Home room and board (including regular daily services and supplies furnished by the Nursing Home), excluding any charge for confinement in a private room in excess of the Nursing Home's charge for its most common semi-private room, unless such private room is prescribed as medically necessary by a Physician. If the Nursing Home does not have semi-private rooms, its most common semi-private room charge shall be considered to be 90% of its lowest private room charge;

* All other services and supplies furnished by the Nursing Home for medical care therein.

(e) Home Health Agency services, furnished during visits by members of a Home Health Agency team in Your home for the care and treatment of an Illness which would require confinement in a Hospital or Nursing Home in the absence of such services, for up to a maximum of 180 visits in a calendar year:

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

- * part-time or intermittent home nursing care by or under the supervision of a registered nurse (R.N.);
- * part-time or intermittent home health aid services, primarily for Your care

Each visit by a member of a Home Health Agency team shall be considered as one Home Health Agency visit.

(f) Oral surgery for partially or completely unerupted impacted teeth, a tooth root without extraction of the entire tooth, or the gums and tissue of the mouth when not performed in connection with the extraction or repair of teeth.

(g) Ambulance Transportation provided by licensed ambulance service to the nearest facility qualified to treat the Illness.

(h) Free Standing Ambulatory Surgical Center or Free Standing Ambulatory Medical Center services and supplies.

(i) The following other services and supplies:

- * use of radium or other radioactive materials;
- * oxygen;
- * anesthetics and their administration;
- * artificial limbs, eyes, larynx, and other prosthetic devices;
- * rental or purchase, as appropriate, of durable medical equipment;
- * diagnostic X-ray exam and lab tests.

D. Limitations and Exclusions of Covered Expenses

The Covered Expenses under Section C are subject to the Pre-Existing Conditions Limitations and will not include any Charges Not Covered, described below:

Pre-Existing Conditions Limitations:

Covered Expenses shall not include any charges for services and supplies rendered to You for treatment of an Illness which was diagnosed or treated during the 90 consecutive day period immediately preceding the effective date of Your coverage under this Contract. This Pre-Existing Conditions Limitation will not apply to Covered Expenses incurred after You have been covered under this Contract for a period of 6 consecutive months.

Charges Not Covered.

We do not pay charges for any of the following:

- * Injury or disease covered by any Worker's Compensation law, occupation disease law or similar legislation;
- * Cosmetic surgery unless it is
 - * required because of accidental injury.
 - * reconstructive surgery incidental to or following surgery of the same body part, or
 - * reconstructive surgery for birth defects
- * Services or supplies which are in excess of the Usual and Customary charge, as determined by Us.
- * Services or supplies not within the scope of authorized practice of the institution or person rendering the services or articles;
- * "Check-ups" (including screening, routine physical exams, research studies, and other services or supplies) not reasonably necessary to the treatment of Your Illness;
- * Physicians' services or X-ray exams involving any of the teeth, their surrounding tissue or structure, the alveolar process of the gingival tissue; unless the charges are:
 - * in connection with the treatment or removal of malignant tumors, or
 - * for services provided under paragraph (6) (f) of Section C, Covered Expenses;
- * Eyeglasses or Physicians' services in connection with eye refractions or any other exam to determine the need for, or proper adjustment of, eyeglasses;
- * Hearing aids or exams to determine the need for, or the proper adjustment of, hearing aids;
- * Illness due to war or any act of war while You are covered under this Contract ("war" means declared or undeclared war and includes resistance to armed aggression);
- * Professional services and supplies for the care or treatment of Your mental or nervous disorders while You are not confined in a Hospital.

- * Hospital, Nursing Home or Home Health Agency, services or supplies which, for reasons other than the maximum benefit having been allowed, are determined to be not eligible for coverage under Medicare.
- * Any charge you incur for any service, treatment or supply to the extent to which any benefit in connection therewith is provided under Full Medicare Coverage, whether or not you have Full Medicare Coverage.

Article III
Premium Payments

Each premium is payable to Us at our Home Office. Except as stated in the Grace Period, the payment of any premium will not keep this Contract in force beyond 12:01 A.M. of the day following the last day of the Premium Interval to which the premium applies.

Premiums may be paid at intervals of twelve months, six months, three months, or one month computed from the Effective Date, subject to any minimum amount requirements in effect on the Effective Date. The first premium is due on the Effective Date. After that, each premium is due on the first day of the next Premium Interval. A change of Premium Interval will be effective when we accept the premium for the new interval.

Failure to make such payment on or before the premium due date will constitute default in payment of premium and the insurance under this Contract will terminate except as stated in the Grace Period.

Article IV
General Provisions

* Entire Contract Changes:

This Contract including the application, endorsements and attached papers, forms the entire contract. No charge in this Contract will be valid until approved by one of Our executive officers and unless such approval be made a part of the Contract. No agent may change this Contract or waive any of it.

* Time Limit on Certain Defenses:

After two years from the date You become covered under this Contract no misstatements, except fraudulent misstatements, made by You in any application for such insurance will be used to void this Contract as to such insurance or to deny a claim for loss as that You incur after the end of such two year period.

* Grace Period:

A grace period of 31 days will be granted for the payment of each premium falling due after the first premium, during which grace period the Contract will remain in force.

* Reinstatement:

If any premium after the first Premium is not paid within the time granted for payment, a later acceptance of premium by Us or by any agent duly authorized for reinstatement, will reinstate the Contract.

However, We may also require an application and proof of good health. We or an agent may issue a conditional receipt for premium payment. The contract will be reinstated on the earlier of the following dates:

- * The date We approve the application and proof of good health
- * The 45th day following the date of the conditional receipt—unless We notify You in writing of the disapproval of the application,

A reinstated Contract covers only covered expenses which result from—

- * An accidental injury occurring after the date of application for reinstatement.
- * A sickness which begins more than 10 days following the date of the application.

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

Unless an endorsement accompanies the reinstatement, both We and the insured are entitled to the same rights the Contract allowed before the due date of the premium not paid.

* **Notice of Claim:**

Written notice of claim must be given to Us within sixty days after the occurrence or commencement of any loss covered by this Contract or as soon thereafter as is reasonably possible. Notice given by You or on Your behalf to Us or to any of Our authorized agents with information sufficient to identify You will be deemed notice to Us.

* **Claim Forms:**

Upon receipt of a notice of claim, We will furnish to the claimant forms for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice, the claimant shall be deemed to have complied with requirements of this Contract as to proof of loss upon submitting, within the time fixed in this Contract for filing proofs of loss, written proof covering the occurrence, the character and extent of the loss for which claim is made.

* **Proofs of Loss:**

Written Proof of loss must be furnished to Us at Our Home Office within ninety days after the termination of the period for which We are liable. Failure to furnish such proof within the time required will not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

* **Time of Payment of Claims:**

Benefits payable under this Contract will be paid immediately upon receipt of due written proof of such loss.

* **Payment of Claims:**

All benefits for losses covered by this Contract will be payable to You; any accrued benefit unpaid at Your death will be payable to Your estate.

If any benefit of this Contract will be payable to Your estate or to a person who is a minor or otherwise not competent to give a valid release, We may pay such benefit, up to an amount not exceeding \$1,000, to any relative by blood or by marriage who is deemed by Us to be entitled to it. Any payment made by Us in good faith pursuant to this provision shall fully discharge Us to the extent of such payment.

You may authorize Us in writing to pay all or a part of the Covered Expenses to the institution or person providing them. We have the right to decide if we should pay in this way. You may change your authorization but not later than at the time proof of claim is given for the benefits.

* **Physical Exams:**

We, at our expense have the right and opportunity to examine the Person whose loss is the basis of a claim. We may do this when and as often as is reasonable while the claim is pending.

* **Legal Actions:**

No action at law or in equity shall be brought to recover on this Contract until sixty days after written proof of loss has been furnished subject to the requirements of this Contract. No such action shall be brought after the end of three years after the time written proof of loss is required.

* **Misstatement of Age:**

If the age of any person covered under this Contract is misstated, all amounts payable under this Contract will be such as the premium paid would have purchased at the correct age.

* **Assignment:**

An assignment may apply to any of Your rights, benefits or privileges. We assume no responsibility for the validity or sufficiency of any assignment. We will not be considered to know of any assignment unless the original or a duplicate is filed with Us.

* **Statements:**

All statements made in the application for this Contract will be deemed representations and not warranties, and no such statement will avoid this Contract or be used as a defense to a claim hereunder unless it is contained in the application.

* **Conformity with State Statutes:**

Any provision of this Contract which, on its Effective Date, is in conflict with the statutes of the state in which You live on such date is hereby amended to conform to the minimum requirements of such statutes.

4 MCAR § 1.9366 Prototype MS 1
XYZ INSURANCE COMPANY
(Herein called We or Us or Our)

PROTOTYPE CONTRACT
MEDICARE SUPPLEMENT INSURANCE
The Commissioner of Insurance of
the State of Minnesota has
established four categories
of Medicare Supplements. The
four categories from most to
least comprehensive are 1+, 1,
2, 3.

MEDICARE SUPPLEMENT ONE (1)

We will pay for charges for Covered Expenses incurred on and after the Effective Date shown in the Contract Schedule due to Illness as defined herein, subject to all the provisions and exclusions contained in, endorsed on, or attached to this Contract. This Contract is issued in consideration of the application, a copy of which is attached to this Contract, and the payment in advance of the Initial Premium (shown in the Contract Schedule), receipt of which is acknowledged. Except as otherwise provided, this Contract will be in force from 12:01 A.M. of the Effective Date until 12:01 A.M. of the day following the last day of the premium period beginning on the Effective Date shown in the Contract Schedule.

Pre-Existing Conditions. We will pay for Covered expenses incurred in the first six months for pre-existing conditions if the condition was not diagnosed or treated during the 90 days immediately prior to the effective date of this Contract.

Renewal. You may continue this Contract in force for successive premium periods by payment of premiums as specified in the section titled "Premium Payments." Premiums may increase each year. We may change, on a class basis, the table of rates applicable to premiums due on and after each contract anniversary date. We will give You notice of any such change in the table of rates not less than 31 days before a contract anniversary date. We may refuse to continue this Contract as of any contract anniversary date, but only if we then refuse to continue all Contracts with the same provisions and premium rate basis in the state where You live. If we take this action you will be notified not less than 31 days before the contract anniversary date. We cannot refuse to continue this Contract because of your deteriorating health.

Notice of 30 Day Right to Return Contract. Within 30 days after its delivery date, this Contract may be returned by delivering or mailing it to us. We will return all payment you made for this Contract within 10 days after we receive notice of cancellation and return of this Contract.

Signed for the Company

Secretary

President

READ YOUR CONTRACT CAREFULLY. THIS IS A LEGAL CONTRACT.

CONTRACT SCHEDULE

Contract Number:

Effective Date:

Insured:

* First Premium:

Premium Interval:

* Based on the table of rates applicable on the Effective Date. Subject to Our Right to Change Applicable Table of Premium Rates.

Article I
Definitions

"Contract" means policy.

"Out-of-Pocket Expenses" means those expenses that are Covered Expenses under this contract which are not payable solely because of the application of the deductible and a payment percentage of less than 100%.

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

“Free Standing Ambulatory Surgical Center” or “Free Standing Ambulatory Medical Center” means a surgical or medical center approved as such by the State of Minnesota.

“Home Health Agency” means a public or private agency that specializes in giving nursing services and other therapeutic services in Your Home and is approved as such by the State of Minnesota.

“Hospital” means:

- * an institution which is operated pursuant to law and is primarily engaged in providing on an inpatient basis for medical care and treatment of sick and injured persons through medical, diagnostic, and surgical facilities, under the supervision of a staff of Physicians and with 24 hour a day nursing service, or
- * an institution not meeting all the above requirements but which is accredited as a hospital by the Joint Commission of Accreditation of Hospitals.

“Hospital” will not include a nursing home or any institution or part of such, which is used mainly as a convalescent facility, rest facility, nursing facility, or facility for the aged.

“Illness” means disease, injury, or a condition involving bodily or mental disorder of any kind, and including pregnancy.

“Medicare” means Title XVIII (Health Insurance for the Aged) of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended.

“Full Medicare Coverage” means coverage for all the benefits provided under Medicare including benefits provided under the voluntary program established by Medicare.

“Nursing Home” means an institution meeting the following requirements:

- * It is operated pursuant to law and is primarily engaged in providing the following services for persons convalescing from illness: room, board, and twenty-four hour a day nursing service by one or more professional nurses and such other nursing personnel as are needed to provide adequate medical care:
- * It provides such services under the full-time supervision of a proprietor or employee who is a Physician or a registered graduate nurse (R.N.).
- * It maintains adequate medical records and has available the services of a Physician under an established agreement if not supervised by a Physician.

“Nursing Home” will not include any institution or part of such which is used mainly as a rest facility or facility for the aged.

“Physician” means a licensed practitioner of the healing arts acting within the scope of his practice.

“Usual and Customary Charge” means the normal charge, in the absence of insurance, of the provider for a service or supply, but not more than the prevailing charge in the area for a like service or supply. A like service is of the same nature and duration, requires the same skill and is performed by a provider of similar training and experience. A like supply is one which is identical or substantially equivalent. “Area” means the municipality (or, in the case of a large city, the subdivision of such) in which the service or supply is actually provided or such greater area as is necessary to obtain a representative cross-section of charges for a like service or supply.

“You, your” means the person named in the Contract Schedule and who is or could be covered under Medicare.

Article II Benefit Provision

We will pay for charges for the Covered Expenses incurred in connection with Your Illnesses. An Expense is considered to be incurred on the date the service or purchase for which the charge is made. The Covered Expenses must be:

- * Ordered by a Physician, and
- * Incurred while the Contract is in force.

A. Covered Expenses

We will pay:

(1) The Part A (hospital) Medicare eligible expenses not covered by Medicare up to 50% of the Medicare deductible, for the first 60 days of any Medicare benefit period, and

(2) The Part A Medicare eligible expenses not covered by Medicare from the 61st through the 90th day of any Medicare benefit period, and

(3) The Part A Medicare eligible expenses during the use of Medicare lifetime hospital reserve days to the extent not covered by Medicare, and

PROPOSED RULES

(4) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, 90% of all Medicare Part A eligible expenses not covered by Medicare to a lifetime maximum benefit of an additional 365 days, and

(5) 20% of the amount of Part B Medicare eligible expenses and all of the Medicare Part B deductible, to a maximum benefit per calendar year of \$5,000, and

(6) 50% of charges for services described below, which charges are not paid by Medicare or under Items (1) to (5):

(a) Hospital Services

- * Hospital room and board (including regular daily services and supplies furnished by the Hospital), excluding any charge for confinement in a private room in excess of the Hospital's charge for its most common semi-private room, unless such private room is prescribed as medically necessary by a Physician. If the Hospital does not have semi-private rooms, its most common semi-private room charge shall be considered to be 90% of its lowest private room charge;

- * All other services and supplies furnished by the Hospital for medical care therein.

(b) Professional services for either of the following:

- * Physicians' services for diagnosis and treatment of Illnesses.
- * Treatment by a physical therapist, speech therapist or inhalation therapist at the direction of a Physician.

Professional services must be rendered by other than a close relative. "Close Relative" means your spouse, brother, sister, parent or child.

(c) Drugs and medicines legally obtainable only upon a Physician's prescription.

(d) Nursing Home services for the following items up to a maximum of 120 days in a Calendar Year, provided:

- * such services commence within 14 consecutive days following confinement of at least three consecutive days in a Hospital for the same or related Illness, and

- * 24 hour a day nursing care is needed for treatment of such Illness:

- * Nursing Home room and board (including regular daily services and supplies furnished by the Nursing Home), excluding any charge for confinement in a private room in excess of the Nursing Home's charge for its most common semi-private room, unless such private room is prescribed as medically necessary by a Physician. If the Nursing Home does not have semi-private rooms, its most common semi-private room charge shall be considered to be 90% of its lowest private room charge;

- * All other services and supplies furnished by the Nursing Home for medical care therein.

(e) Home Health Agency services, furnished during visits by members of a Home Health Agency team in Your home for the care and treatment of an Illness which would require confinement in a Hospital or Nursing Home in the absence of such services, for up to a maximum of 180 visits in a calendar year:

- * part-time or intermittent home nursing care by or under the supervision of a registered nurse (R.N.);
- * part-time or intermittent home health aid services, primarily for Your care

Each visit by a member of a Home Health Agency team shall be considered as one Home Health Agency visit.

(f) Oral surgery for partially or completely unerupted impacted teeth, a tooth root without extraction of the entire tooth, or the gums and tissue of the mouth when not performed in connection with the extraction or repair of teeth.

(g) Ambulance Transportation provided by licensed ambulance service to the nearest facility qualified to treat the Illness.

(h) Free Standing Ambulatory Surgical Center or Free Standing Ambulatory Medical Center services and supplies.

(i) The following other services and supplies:

- * use of radium or other radioactive materials;
- * oxygen;

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PROPOSED RULES

- * anesthetics and their administration;
- * artificial limbs, eyes, larynx, and other prosthetic devices;
- * rental or purchase, as appropriate, of durable medical equipment;
- * diagnostic X-ray exam and lab tests.

B. Limitations and Exclusions of Covered Expenses

The Covered Expenses under Section C are subject to the Pre-Existing Conditions Limitations and will not include any Charges Not Covered, described below:

Pre-existing Conditions Limitations:

Covered Expenses shall not include any charges for services and supplies rendered to You for treatment of an Illness which was diagnosed or treated during the 90 consecutive day period immediately preceding the effective date of Your coverage under this Contract. This Pre-Existing Conditions Limitation will not apply to Covered Expenses incurred after You have been covered under this Contract for a period of 6 consecutive months.

Charges Not Covered.

We do not pay charges for any of the following:

- * Injury or disease covered by any Worker's Compensation law, occupation disease law or similar legislation;
- * Cosmetic surgery unless it is
 - * required because of accidental injury.
 - * reconstructive surgery incidental to or following surgery of the same body part, or
 - * reconstructive surgery for birth defects
- * Services or supplies which are in excess of the Usual and Customary charge, as determined by Us.
- * Services or supplies not within the scope of authorized practice of the institution or person rendering the services or articles;
- * "Check-ups" (including screening, routine physical exams, research studies, and other services or supplies) not reasonably necessary to the treatment of the Your Illness;
- * Physicians' services or X-ray exams involving any of the teeth, their surrounding tissue or structure, the alveolar process of the gingival tissue; unless the charges are:
 - * in connection with the treatment or removal of malignant tumors, or
 - * for services provided under paragraph (6) (f) of Section C, Covered Expenses;
- * Eyeglasses or Physicians' services in connection with eye refractions or any other exam to determine the need for, or proper adjustment of, eyeglasses;
- * Hearing aids or exams to determine the need for, or the proper adjustment of, hearing aids;
- * Illness due to war or any act of war while You are covered under this Contract ("war" means declared or undeclared war and includes resistance to armed aggression);
- * Professional services and supplies for the care or treatment of Your mental or nervous disorders while You are not confined in a Hospital.
- * Hospital, Nursing Home or Home Health Agency, services or supplies which, for reasons other than the maximum benefit having been allowed, are determined to be not eligible for coverage under Medicare.
- * Any charge you incur for any service, treatment or supply to the extent to which any benefit in connection therewith is provided under Full Medicare Coverage, whether or not you have Full Medicare Coverage.

Article III Premium Payments

Each premium is payable to Us at our Home Office. Except as stated in the Grace Period, the payment of any premium will not keep this Contract in force beyond 12:01 A.M. of the day following the last day of the Premium Interval to which the premium applies.

Premiums may be paid at intervals of twelve months, six months, three months, or one month computed from the Effective Date, subject to any minimum amount requirements in effect on the Effective Date. The first premium is due on the Effective

Date. After that, each premium is due on the first day of the next Premium Interval. A change of Premium Interval will be effective when we accept the premium for the new interval.

Failure to make such payment on or before the premium due date will constitute default in payment of premium and the insurance under this Contract will terminate except as stated in the Grace Period.

Article IV
General Provisions

* Entire Contract Changes:

This Contract including the application, endorsements and attached papers, forms the entire contract. No change in this Contract will be valid until approved by one of Our executive officers and unless such approval be made a part of the Contract. No agent may change this Contract or waive any of it.

* Time Limit on Certain Defenses:

After two years from the date You become covered under this Contract no misstatements, except fraudulent misstatements, made by You in any application for such insurance will be used to void this Contract as to such insurance or to deny a claim for loss as that You incur after the end of such two year period.

* Grace Period:

A grace period of 31 days will be granted for the payment of each premium falling due after the first premium, during which grace period the Contract will remain in force.

* Reinstatement:

If any premium after the first Premium is not paid within the time granted for payment, a later acceptance of premium by Us or by any agent duly authorized for reinstatement, will reinstate the Contract.

However, We may also require an application and proof of good health. We or an agent may issue a conditional receipt for premium payment. The contract will be reinstated on the earlier if the following dates:

- * The date We approve the application and proof of good health
- * The 45th day following the date of the conditional receipt—unless We notify You in writing of the disapproval of the application,

A reinstated Contract covers only covered expenses which result from—

- * An accidental injury occurring after the date of the application for reinstatement.
- * A sickness which begins more than 10 days following the date of the application.

Unless an endorsement accompanies the reinstatement, both We and the insured are entitled to the same rights the Contract allowed before the due date of the premium not paid.

* Notice of Claim:

Written notice of claim must be given to Us within sixty days after the occurrence or commencement of any loss covered by this Contract or as soon thereafter as is reasonably possible. Notice given by You or on Your behalf to Us or to any of Our authorized agents with information sufficient to identify You will be deemed notice to Us.

* Claim Forms:

Upon receipt of a notice of claim, We will furnish to the claimant forms for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice, the claimant shall be deemed to have complied with requirements of this Contract as to proof of loss upon submitting, within the time fixed in this Contract for filing proofs of loss, written proof covering the occurrence, the character and extent of the loss for which claim is made.

* Proofs of Loss:

Written Proof of loss must be furnished to Us at Our Home Office within ninety days after the termination of the period for which We are liable. Failure to furnish such proof within the time required will not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

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

* Time of Payment of Claims:

Benefits payable under this Contract will be paid immediately upon receipt of due written proof of such loss.

* Payment of Claims:

All benefits for losses covered by this Contract will be payable to You; any accrued benefit unpaid at Your death will be payable to Your estate.

If any benefit of this Contract will be payable to Your estate or to a person who is a minor or otherwise not competent to give a valid release, We may pay such benefit, up to an amount not exceeding \$1,000, to any relative by blood or by marriage who is deemed by Us to be entitled to it. Any payment made by Us in good faith pursuant to this provision shall fully discharge Us to the extent of such payment.

You may authorize Us in writing to pay all or a part of the Covered Expenses to the institution or person providing them. We have the right to decide if we should pay in this way. You may change your authorization but not later than at the time proof of claim is given for the benefits.

* Physical Exams:

We, at our expense have the right and opportunity to examine the Person whose loss is the basis of a claim. We may do this when and as often as is reasonable while the claim is pending.

* Legal Actions:

No action at law or in equity shall be brought to recover on this Contract until sixty days after written proof of loss has been furnished subject to the requirements of this Contract. No such action shall be brought after the end of three years after the time written proof of loss is required.

* Misstatement of Age:

If the age of any person covered under this Contract is misstated, all amounts payable under this Contract will be such as the premium paid would have purchased at the correct age.

* Assignment:

An assignment may apply to any of Your rights, benefits or privileges. We assume no responsibility for the validity or sufficiency of any assignment. We will not be considered to know of any assignment unless the original or a duplicate is filed with Us.

* Statements:

All statements made in the application for this Contract will be deemed representations and not warranties, and no such statement will avoid this Contract or be used as a defense to a claim hereunder unless it is contained in the application.

* Conformity with State Statutes:

Any provision of this Contract which, on its Effective Date, is in conflict with the statutes of the state in which You live on such date is hereby amended to conform to the minimum requirements of such statutes.

4 MCAR § 1.9367 Prototype MS2

XYZ INSURANCE COMPANY
(Herein called We or Us or Our)

PROTOTYPE CONTRACT
MEDICARE SUPPLEMENT INSURANCE
The Commissioner of Insurance of
the State of Minnesota has
established four categories
of Medicare Supplements. The
four categories from most to
least comprehensive are 1+, 1,
2, 3.

MEDICARE SUPPLEMENT TWO (2)

We will pay for charges for Covered Expenses incurred on and after the Effective Date shown in the Contract Schedule due to Illness as defined herein, subject to all the provisions and exclusions contained in, endorsed on, or attached to this Contract. This Contract is issued in consideration of the application, a copy of which is attached to this Contract, and the payment in advance of the Initial Premium (shown in the Contract Schedule), receipt of which is acknowledged. Except as otherwise

provided, this Contract will be in force from 12:01 A.M. of the Effective Date until 12:01 A.M. of the day following the last day of the premium period beginning on the Effective Date shown in the Contract Schedule.

Pre-Existing Conditions. We will pay for Covered expenses incurred in the first six months for pre-existing conditions if the condition was not diagnosed or treated during the 90 days immediately prior to the effective date of this Contract.

Renewal. You may continue this Contract in force for successive premium periods by payment of premiums as specified in the section titled "Premium Payments." Premiums may increase each year. We may change, on a class basis, the table of rates applicable to premiums due on and after each contract anniversary date. We will give You notice of any such change in the table of rates not less than 31 days before a contract anniversary date. We may refuse to continue this Contract as of any contract anniversary date, but only if we then refuse to continue all Contracts with the same provisions and premium rate basis in the state where You live. If we take this action you will be notified not less than 31 days before the contract anniversary date. We cannot refuse to continue this Contract because of your deteriorating health.

Notice of 30 Day Right to Return Contract. Within 30 days after its delivery date, this Contract may be returned by delivering or mailing it to us. We will return all payment you made for this Contract within 10 days after we receive notice of cancellation and return of this Contract.

Signed for the Company

Secretary

President

READ YOUR CONTRACT CAREFULLY. THIS IS A LEGAL CONTRACT.

CONTRACT SCHEDULE

Contract Number:

Effective Date:

Insured:

* First Premium:

Premium Interval:

* Based on the table of rates applicable on the Effective Date. Subject to Our Right to Change Applicable Table of Premium Rates.

Article I
Definitions

"Contract" means policy.

"Illness" means disease, injury, or a condition involving bodily or mental disorder of any kind, and including pregnancy.

"Medicare" means Title XVIII (Health Insurance for the Aged) of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended.

"You, your" means the person named in the Contract Schedule and who is or could be covered under Medicare.

Article II
Benefit Provision

We will pay for charges for the Covered Expenses incurred in connection with Your Illnesses. An Expense is considered to be incurred on the date the service or purchase for which the charge is made. The Covered Expenses must be:

- * Ordered by a Physician, and
- * Incurred while the Contract is in force.

A. Covered Expenses

We will pay:

- (1) The Part A Medicare eligible expenses not covered by Medicare from the 61st through the 90th day of any Medicare benefit period, and
- (2) The Part A Medicare eligible expenses during the use of Medicare lifetime hospital reserve days to the extent not covered by Medicare, and

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

(3) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, 90% of all Medicare Part A eligible expenses not covered by Medicare to a lifetime maximum benefit of an additional 365 days, and

(4) 20% of the amount of Part B Medicare eligible expenses and all of the Medicare Part B deductible up to a maximum benefit of \$5,000 each calendar year.

B. Pre-Existing Conditions Limitations:

Covered Expenses shall not include any charges for services and supplies rendered to You for treatment of an Illness which was diagnosed or treated during the 90 consecutive day period immediately preceding the effective date of Your coverage under this Contract. This Pre-Existing Conditions Limitation will not apply to Covered Expenses incurred after You have been covered under this Contract for a period of 6 consecutive months.

Article III Premium Payments

Each premium is payable to Us at our Home Office. Except as stated in the Grace Period, the payment of any premium will not keep this Contract in force beyond 12:01 A.M. of the day following the last day of the Premium Interval to which the premium applies.

Premiums may be paid at intervals of twelve months, six months, three months, or one month computed from the Effective Date, subject to any minimum amount requirements in effect on the Effective Date. The first premium is due on the Effective Date. After that, each premium is due on the first day of the next Premium Interval. A change of Premium Interval will be effective when we accept the premium for the new interval.

Failure to make such payment on or before the premium due date will constitute default in payment of premium and the insurance under this Contract will terminate except as stated in the Grace Period.

Article IV General Provisions

* Entire Contract Changes:

This Contract including the application, endorsements and attached papers, forms the entire contract. No change in this Contract will be valid until approved by one of Our executive officers and unless such approval be made a part of the Contract. No agent may change this Contract or waive any of it.

* Time Limit on Certain Defenses:

After two years from the date You become covered under this Contract no misstatements, except fraudulent misstatements, made by You in any application for such insurance will be used to void this Contract as to such insurance or to deny a claim for loss as that You incur after the end of such two year period.

* Grace Period:

A grace period of 31 days will be granted for the payment of each premium falling due after the first premium, during which grace period the Contract will remain in force.

* Reinstatement:

If any premium after the first Premium is not paid within the time granted for payment, a later acceptance of premium by Us or by any agent duly authorized for reinstatement, will reinstate the Contract.

However, We may also require an application and proof of good health. We or an agent may issue a conditional receipt for premium payment. The contract will be reinstated on the earlier of the following dates:

- * The date We approve the application and proof of good health.
- * The 45th day following the date of the conditional receipt—unless We notify You in writing of the disapproval of the application,

A reinstated Contract covers only covered expenses which result from—

- * An accidental injury occurring after the date of the application for reinstatement.
- * A sickness which begins more than 10 days following the date of the application.

Unless an endorsement accompanies the reinstatement, both We and the insured are entitled to the same rights the Contract allowed before the due date of the premium not paid.

* Notice of Claim:

Written notice of claim must be given to Us within sixty days after the occurrence or commencement of any loss covered by

this Contract or as soon thereafter as is reasonably possible. Notice given by You or on Your behalf to Us or to any of Our authorized agents with information sufficient to identify You will be deemed notice to Us.

* **Claim Forms:**

Upon receipt of a notice of claim, We will furnish to the claimant forms for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice, the claimant shall be deemed to have complied with requirements of this Contract as to proof of loss upon submitting, within the time fixed in this Contract for filing proofs of loss, written proof covering the occurrence, the character and extent of the loss for which claim is made.

* **Proofs of Loss:**

Written Proof of loss must be furnished to Us at Our Home Office within ninety days after the termination of the period for which We are liable. Failure to furnish such proof within the time required will not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

* **Time of Payment of Claims:**

Benefits payable under this Contract will be paid immediately upon receipt of due written proof of such loss.

* **Payment of Claims:**

All benefits for losses covered by this Contract will be payable to You; any accrued benefit unpaid at Your death will be payable to Your estate.

If any benefit of this Contract will be payable to Your estate or to a person who is a minor or otherwise not competent to give a valid release, We may pay such benefit, up to an amount not exceeding \$1,000, to any relative by blood or by marriage who is deemed by Us to be entitled to it. Any payment made by Us in good faith pursuant to this provision shall fully discharge Us to the extent of such payment.

You may authorize Us in writing to pay all or a part of the Covered Expenses to the institution or person providing them. We have the right to decide if we should pay in this way. You may change your authorization but not later than at the time proof of claim is given for the benefits.

* **Physical Exams:**

We, at our expense have the right and opportunity to examine the Person whose loss is the basis of a claim. We may do this when and as often as is reasonable while the claim is pending.

* **Legal Actions:**

No action at law or in equity shall be brought to recover on this Contract until sixty days after written proof of loss has been furnished subject to the requirements of this Contract. No such action shall be brought after the end of three years after the time written proof of loss is required.

* **Misstatement of Age:**

If the age of any person covered under this Contract is misstated, all amounts payable under this Contract will be such as the premium paid would have purchased at the correct age.

* **Assignment:**

An assignment may apply to any of Your rights, benefits or privileges. We assume no responsibility for the validity or sufficiency of any assignment. We will not be considered to know of any assignment unless the original or a duplicate is filed with Us.

* **Statements:**

All statements made in the application for this Contract will be deemed representations and not warranties, and no such statement will avoid this Contract or be used as a defense to a claim hereunder unless it is contained in the application.

* **Conformity with State Statutes:**

Any provision of this Contract which, on its Effective Date, is in conflict with the statutes of the state in which You live on such date is hereby amended to conform to the minimum requirements of such statutes.

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

4 MCAR § 1.9368 Prototype MS3
XYZ INSURANCE COMPANY
(Herein Called We or Us or Our)

PROTOTYPE CONTRACT
MEDICARE SUPPLEMENT INSURANCE
The Commissioner of Insurance of
the State of Minnesota has
established four categories
of Medicare Supplements. The
four categories from most to
least comprehensive are 1+, 1,
2, 3.

MEDICARE SUPPLEMENT THREE (3)

We will pay for charges for Covered Expenses incurred on and after the Effective Date shown in the Contract Schedule due to Illness as defined herein, subject to all the provisions and exclusions contained in, endorsed on, or attached to this Contract. This Contract is issued in consideration of the application, a copy of which is attached to this Contract, and the payment in advance of the Initial Premium (shown in the Contract Schedule), receipt of which is acknowledged. Except as otherwise provided, this Contract will be in force from 12:01 A.M. of the Effective Date until 12:01 A.M. of the day following the last day of the premium period beginning on the Effective Date shown in the Contract Schedule.

Pre-Existing Conditions. We will pay for Covered expenses incurred in the first six months for pre-existing conditions if the condition was not diagnosed or treated during the 90 days immediately prior to the effective date of this Contract.

Renewal. You may continue this Contract in force for successive premium periods by payment of premiums as specified in the section titled "Premium Payments." Premiums may increase each year. We may change, on a class basis, the table of rates applicable to premiums due on and after each contract anniversary date. We will give You notice of any such change in the table of rates not less than 31 days before a contract anniversary date. We may refuse to continue this Contract as of any contract anniversary date, but only if we then refuse to continue all Contracts with the same provisions and premium rate basis in the state where You live. If we take this action you will be notified not less than 31 days before the contract anniversary date. We cannot refuse to continue this Contract because of your deteriorating health.

Notice of 30 Day Right to Return Contract. Within 30 days after its delivery date, this Contract may be returned by delivering or mailing it to us. We will return all payment you made for this Contract within 10 days after we receive notice of cancellation and return of this Contract.

Signed for the Company

Secretary

President

READ YOUR CONTRACT CAREFULLY. THIS IS A LEGAL CONTRACT.

CONTRACT SCHEDULE

Contract Number:

Effective Date:

Insured:

* First Premium:

Premium Interval:

* Based on the table of rates applicable on the Effective Date. Subject to Our Right to Change Applicable Table of Premium Rates.

Article I Definitions

"Contract" means policy.

"Out-of-Pocket Expenses" means those expenses that are Covered Expenses under this contract which are not payable solely because of the application of the deductible and a payment percentage of less than 100%.

"Illness" means disease, injury, or a condition involving bodily or mental disorder of any kind, and including pregnancy.

"Medicare" means Title XVIII (Health Insurance for the Aged) of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended.

"You, your" means the person named in the Contract Schedule and who is or could be covered under Medicare.

**Article II
Benefit Provision**

We will pay for charges for the Covered Expenses incurred in connection with Your Illnesses. An Expense is considered to be incurred on the date the service or purchase for which the charge is made. The Covered Expenses must be:

- * Ordered by a Physician, and
- * Incurred while the Contract is in force.

A. Covered Expenses

We will pay:

- (1) The Part A Medicare eligible expenses not covered by Medicare from the 61st through the 90th day of any Medicare benefit period, and
- (2) The Part A Medicare eligible expenses during the use of Medicare lifetime hospital reserve days to the extent not covered by Medicare, and
- (3) Upon exhaustion of all Medicare hospital inpatient coverage including the lifetime reserve days, 90% of all Medicare Part A eligible expenses not covered by Medicare to a lifetime maximum benefit of an additional 365 days, and
- (4) In any calendar year in which You incur Part B Medicare eligible out-of-pocket expenses in excess of \$200, 20% of the amount over \$200, but we will not pay more than \$5,000.

B. Pre-Existing Conditions Limitations:

Covered Expenses shall not include any charges for services and supplies rendered to You for treatment of an Illness which was diagnosed or treated during the 90 consecutive day period immediately preceding the effective date of Your coverage under this Contract. This Pre-Existing Conditions Limitation will not apply to Covered Expenses incurred after You have been covered under this Contract for a period of 6 consecutive months.

**Article III
Premium Payments**

Each premium is payable to Us at our Home Office. Except as stated in the Grace Period, the payment of any premium will not keep this Contract in force beyond 12:01 A.M. of the day following the last day of the Premium Interval to which the premium applies.

Premiums may be paid at intervals of twelve months, six months, three months, or one month computed from the Effective Date, subject to any minimum amount requirements in effect on the Effective Date. The first premium is due on the Effective Date. After that, each premium is due on the first day of the next Premium Interval. A change of Premium Interval will be effective when we accept the premium for the new interval.

Failure to make such payment on or before the premium due date will constitute default in payment of premium and the insurance under this Contract will terminate except as stated in the Grace Period.

**Article IV
General Provisions***** Entire Contract Changes:**

This Contract including the application, endorsements and attached papers, forms the entire contract. No change in this Contract will be valid until approved by one of Our executive officers and unless such approval be made a part of the Contract. No agent may change this Contract or waive any of it.

*** Time Limit on Certain Defenses:**

After two years from the date You become covered under this Contract no misstatements, except fraudulent misstatements, made by You in any application for such insurance will be used to void this Contract as to such insurance or to deny a claim for loss as that You incur after the end of such two year period.

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PROPOSED RULES

* **Grace Period:**

A grace period of 31 days will be granted for the payment of each premium falling due after the first premium, during which grace period the Contract will remain in force.

* **Reinstatement:**

If any premium after the first Premium is not paid within the time granted for payment, a later acceptance of premium by Us or by any agent duly authorized for reinstatement, will reinstate the Contract.

However, We may also require an application and proof of good health. We or an agent may issue a conditional receipt for premium payment. The contract will be reinstated on the earlier of the following dates:

- * The date We approve the application and proof of good health
- * The 45th day following the date of the conditional receipt—unless We notify You in writing of the disapproval of the application,

A reinstated Contract covers only covered expenses which result from—

- * An accidental injury occurring after the date of the application for reinstatement.
- * A sickness which begins more than 10 days following the date of the application.

Unless an endorsement accompanies the reinstatement, both We and the insured are entitled to the same rights the Contract allowed before the due date of the premium not paid.

* **Notice of Claim:**

Written notice of claim must be given to Us within sixty days after the occurrence or commencement of any loss covered by this Contract or as soon thereafter as is reasonably possible. Notice given by You or on Your behalf to Us or to any of Our authorized agents with information sufficient to identify You will be deemed notice to Us.

* **Claim Forms:**

Upon receipt of a notice of claim, We will furnish to the claimant forms for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice, the claimant shall be deemed to have complied with requirements of this Contract as to proof of loss upon submitting, within the time fixed in this Contract for filing proofs of loss, written proof covering the occurrence, the character and extent of the loss for which claim is made.

* **Proofs of Loss:**

Written Proof of loss must be furnished to Us at Our Home Office within ninety days after the termination of the period for which We are liable. Failure to furnish such proof within the time required will not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

* **Time of Payment of Claims:**

Benefits payable under this Contract will be paid immediately upon receipt of due written proof of such loss.

* **Payment of Claims:**

All benefits for losses covered by this Contract will be payable to You; any accrued benefit unpaid at Your death will be payable to Your estate.

If any benefit of this Contract will be payable to Your estate or to a person who is a minor or otherwise not competent to give a valid release, We may pay such benefit, up to an amount not exceeding \$1,000, to any relative by blood or by marriage who is deemed by Us to be entitled to it. Any payment made by Us in good faith pursuant to this provision shall fully discharge Us to the extent of such payment.

You may authorize Us in writing to pay all or a part of the Covered Expenses to the institution or person providing them. We have the right to decide if we should pay in this way. You may change your authorization but not later than at the time proof of claim is given for the benefits.

* **Physical Exams:**

We, at our expense have the right and opportunity to examine the Person whose loss is the basis of a claim. We may do this when and as often as is reasonable while the claim is pending.

* **Legal Actions:**

No action at law or in equity shall be brought to recover on this Contract until sixty days after written proof of loss has

been furnished subject to the requirements of this Contract. No such action shall be brought after the end of three years after the time written proof of loss is required.

* **Misstatement of Age:**

If the age of any person covered under this Contract is misstated, all amounts payable under this Contract will be such as the premium paid would have purchased at the correct age.

* **Assignment:**

An assignment may apply to any of Your rights, benefits or privileges. We assume no responsibility for the validity or sufficiency of any assignment. We will not be considered to know of any assignment unless the original or a duplicate is filed with Us.

* **Statements:**

All statements made in the application for this Contract will be deemed representations and not warranties, and no such statement will avoid this Contract or be used as a defense to a claim hereunder unless it is contained in the application.

* **Conformity with State Statutes:**

Any provision of this Contract which, on its Effective Date, is in conflict with the statutes of the state in which You live on such date is hereby amended to conform to the minimum requirements of such statutes.

Energy Agency

Proposed Amendment of Rules Governing Electric Utility Information Reporting

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the Minnesota Energy Agency ("agency") intends to adopt amendments to the above-referenced agency rules without public hearing because of the noncontroversial nature of the amendments.

The proposed amendments reflect three years of experience under the current rules. The amendments make substantial deletions, a few additions and increase uniformity between MEQB and MEA reporting requirements. The amendments are intended to be effective for reports submitted after June 30, 1982.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed amendments to submit comments in writing on the proposed amendments and to object to the lack of public hearing on the proposed amendments. Your written comments or request for hearings should be submitted to the Minnesota Energy Agency % Daniel Quillin, 980 American Center Building, 160 East Kellogg Boulevard, Saint Paul, Minnesota 55101. If seven or more persons request hearings on the rule amendments, the agency will order public hearings in accordance with Minn. Stat. § 15.0412, subds. 4-4f. The agency may modify the proposed amendments if modification is supported by data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the agency decides to adopt the amendments as proposed, or as modified if written comments justify modification, the agency will submit to the Attorney General for review of form, legality and substantial change the following documents: this notice with the amendments as proposed, the amended rules as adopted, the order adopting the amendments, any written comments received by the agency, and the agency's Statement of Need and Reasonableness supporting adoption of the amendments. Any person may request notification of the date the agency makes the submission to the Attorney General. If you desire to be so notified, you must inform the Agency in writing during the 30-day comment period.

The proposed rule amendments are published in the *State Register* following this notice. Copies are also available on request from the agency. Contact Daniel Quillin at the address given above or at (612) 296-8283. The agency has prepared a Statement of Need and Reasonableness in support of the proposed amendments which is also available from the agency by writing or calling Mr. Quillin.

The agency's authority to adopt the proposed amendments can be found in Minn. Stat. §§ 116H.08(a), 116H.10 (1980).

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PROPOSED RULES

Please be advised that Minnesota Statutes Chapter 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using others to communicate with public officials. A lobbyist is generally any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than \$250 per year or five hours per month at lobbying. 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.

Mark Mason, Director
Energy Agency

Amendments as Proposed

CHAPTER TWO: 6 MCAR §§ 2.0201-2.0213

6 MCAR § 2.0201 Purpose and applicability of these rules.

A. The purpose of these rules is to implement the forecasting, statistical and informational reporting requirements of Minn. Stat. §§ 116H.10 and .11 (~~1976~~)(1980). These rules are adopted pursuant to the powers of the director conferred by Minn. Stat. § 116H.08 (a) (~~1976~~)(1980), and are designed to identify emerging trends based on supply and demand, conservation and public health and safety factors and to determine the level of statewide and service area energy needs.

B. Each electric utility serving the State of Minnesota shall submit the information required by these rules to the director in the form specified by him.

6 MCAR § 2.0202 Definitions. For purposes of these rules, the following definitions shall apply:

A. "Adjusted net demand" means system demand, minus firm purchases, plus firm sales;

B. "Agency" means the Minnesota Energy Agency;

C. "Annual adjusted net demand" means annual system demand, minus firm purchases, plus firm sales;

D. "Annual electrical consumption" means sales of ~~kilowatt hours~~ megawatt-hours of electricity to ultimate consumers over a twelve-month period beginning January 1 and ending December 31 of the reporting year;

E. "Annual system demand" means the highest system demand occurring during the twelve-month period beginning May 1 of the forecast year;

F. "Capacity factor" is the ratio of gross generation in megawatt-hours to the product of period-hours times maximum dependable capacity. There are 8760 period-hours per year, except during a leap year when there are 8784. Maximum dependable capacity is the dependable plant capacity in winter or summer, which ever is smaller;

G. ~~F.~~ "Director" means the director of the Minnesota Energy Agency;

H. ~~G.~~ "Distribution only utility" means a utility which distributes electricity to ultimate consumers but which does not generate electricity except on a standby emergency basis. Such emergency power shall not consist of more than five percent of total ~~kilowatt hours~~ megawatt-hours sales to ultimate consumers;

I. ~~H.~~ "Firm purchases" and "firm sales" mean the amount of power to be purchased or sold and intended to have assured availability;

J. "Forced outage rate" is the total time a plant was unavailable due to forced outage. It is expressed as the ratio of forced outage hours to the total number of hours the plant was actually operated with breakers closed to the station bus;

K. ~~I.~~ "Generating and transmission utility" means any utility which generates in excess of five percent of its total ~~kilowatt-hour~~ megawatt-hours sales to ~~other utilities or~~ its own ultimate consumers;

L. ~~J.~~ "Heat rate" is the measure of thermal efficiency of a generating station or plant expressed in BTU's per net kilowatt-hour and computed by dividing the total BTU content of fuel burned for electric generation by the resulting net kilowatt-hour generation;

M. ~~K.~~ "Large Electric Generating Facility (LEGF)" means any electric power generating plant or combination of plants at a single site and associated facilities designed for or capable of operation at a combined capacity of 50,000 kilowatts or more, including, but not limited to, fossil fuel, nuclear fuel, pumped storage and hydroelectric plants;

N. ~~L.~~ "Large High Voltage Transmission Line (LHVTL)" means a conductor of electrical energy and associated facilities designed for and capable of operation at a nominal voltage of 200 kilovolts or more having more than 160 kilometers (100 miles) of its length in Minnesota. Associated facilities shall include, but not be limited to, insulators, towers, and substations and terminals operating at a nominal voltage of 200 kilovolts or more;

O. "Last calendar year" means the calendar year immediately preceding the year in which reports are required to be filed;

PROPOSED RULES

N. "Load factor" means the ratio of the average load in ~~kilowatts~~ megawatts supplied during a designated period to the maximum load in ~~kilowatts~~ megawatts which was supplied during that designated period;

O. "Minnesota service area" means that portion of a utility's system lying within Minnesota;

P. Minnesota Wisconsin Power Suppliers Group (MWPSG) means the planning group which represents the following utilities: Northern States Power Company, Minnesota Power, Ottertail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association, Dairyland Power Cooperative and the Southern Minnesota Municipal Power Agency;

Q. "Municipal power agency" means a municipal corporation incorporated pursuant to Minnesota Statutes, §§ 453.51 through 453.62 inclusive.

For purposes of these rules, a municipal power agency may elect to supply in aggregate the data required by these rules for its members. All data submitted in such fashion shall be in the format specified by the director;

~~R. P.~~ "Net generating capacity" means the total amount of kilowatts, less station use, that all the generating facilities of a system could supply at the time of its maximum system demand, including the capacity of the generating units which are temporarily out of service for maintenance or repair;

S. "Net generation" means gross generation minus megawatt hours used for station use;

~~T. Q.~~ "Net reserve capacity obligation" means the annual adjusted net demand multiplied by the percent reserve capacity requirement;

U. "Operating availability" is the time in hours during which a plant is available. It is expressed as the ratio of available hours to period hours. Available hours are the sum of service hours and reserve shutdown hours;

~~V. R.~~ "Participation power" means power and energy which are sold from a specific generating unit or units for a period of six or more months on a continuously available basis (except when such unit or units are temporarily out of service for maintenance during which time the delivery of energy from other generating units is at the seller's option);

~~W. S.~~ "Participation Purchases" and "Participation Sales" means purchases and sales under a participation power agreement or a seasonal participation power agreement;

~~X. T.~~ "Peak demand" means the highest ~~kilowatt~~ megawatt demand during a designated period recorded on a one-hour integrated reading basis;

~~Y. U.~~ "Residential electrical space heating customer" means any residential customer which derives over one-half of its heating requirements from electricity;

~~Z. U.~~ "Seasonal adjusted net demand" means seasonal system demand, minus firm purchases, plus firm sales;

~~AA. V.~~ "Seasonal participation power" means participation power sold and bought on a seasonal (summer or winter) basis;

~~BB. W.~~ "Seasonal system demand" means the maximum system demand on the applicant's system which occurs or is expected to occur in any normal summer season or winter season;

~~CC. X.~~ "Summer season" means the period from May 1 through October 31;

~~DD. Y.~~ "System" means that combination of generating, transmission, and distribution facilities which makes up the operating physical plant of the utility, whether owned or nonowned, for the delivery of electrical energy to ultimate consumers and includes the geographic area where the utility's ultimate consumers are located;

~~EE. Z.~~ "System demand" means the number of ~~kilowatts~~ megawatts which is equal to the ~~kilowatt-hours~~ megawatt-hours required in any clock hour, attributable to energy required by the system during such hour for supply of firm energy to ultimate consumers, including system losses, and also including any transmission losses occurring on other systems and supplied by the system for transmission of firm energy, but excluding generating station uses and excluding transmission losses charged to another system;

~~FF. AA.~~ "Ultimate consumers" means consumers purchasing electricity for their use and not for resale;

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PROPOSED RULES

~~GG. BB.~~ "Utility" means any entity engaged in the generation, transmission or distribution of electrical energy, including but not limited to a private investor-owned utility or a public or municipally-owned utility; and

~~HH. CC.~~ "Winter season" means the period from November 1 through April 30.

6 MCAR § 2.0203 Registration. Any electric utility which commences operations in the state shall file a registration statement with the director within 30 days after commencing operation. Each registration statement shall be on forms issued by the director and shall contain the name and headquarter address of the utility, the type of utility, the names and addresses of all officers of the utility, and the name, address and telephone number of a person who may be contacted for information about the utility. Registration statements must be updated as a part of each utility's annual report.

6 MCAR § 2.0204 Reporting dates.

A. Annual.

1. Except as provided by the director, each generating and transmission utility shall file with the director the information required by rules 6 MCAR §§ 2.0205, 2.0206, 2.0207, 2.0208, 2.0209 and 2.0210 by July 1 of each year.

2. Except as provided by the director, each distribution only utility shall file with the director only the information required by rules 6 MCAR §§ 2.0205 and 2.0210 by July 1 of each year.

B. Quarterly.

1. Except as provided by the director, each utility shall file with the director the information required by rule 6 MCAR § 2.0211 on a quarterly basis as follows:

a. Information for the period of January 1 to March 31 shall be filed by April 30.

b. Information for the period of April 1 to June 30 shall be filed by July 31.

c. Information for the period of July 1 to September 30 shall be filed by October 31.

d. Information for the period of October 1 to December 31 shall be filed by January 31 of the following year.

2. No changes shall be made in reporting dates set forth in this section unless each reporting utility which would be affected has been given written notice of such change 30 or more days before the effective date of such change.

6 MCAR § 2.0205 Federal reports filed by utilities. Each utility shall identify to the director all forms and reports which it regularly files with the Federal Power Commission, the Rural Electrification Administration, and other Federal agencies. Upon request of the director, each utility shall make copies of any such forms or reports available to the director.

6 MCAR § 2.0206 Basic forecast and current data.

A. Each utility shall submit annually to the director data for the last calendar year and a forecast for the present year and the ~~15~~ 14 subsequent years of the generation, the peak demand, and the consumption of electrical energy.

B. The basic forecast and current data shall contain the following data for each year cited in rule 6 MCAR § 2.0206 A in the form requested below.

1. The annual electrical consumption, generation and peak demand forecast shall include:

a. annual total electrical consumption in ~~kilowatt-hours~~ megawatt-hours by ultimate consumers within the utility's Minnesota service area;

b. annual total electrical consumption in ~~kilowatt-hours~~ megawatt-hours by the utility's ultimate consumers outside its Minnesota service area;

c. the number of ~~kilowatt-hours~~ megawatt-hours the utility has received or expects to receive from other systems for sale to its ultimate consumers or to other utilities;

d. the number of ~~kilowatt-hours~~ megawatt-hours the utility has delivered or expects to deliver to other systems for resale;

e. total annual ~~gross~~ net generation of electrical energy by the utility in ~~kilowatt-hours~~ megawatt-hours;

~~f. annual in plant consumption of electrical energy in kilowatt-hours (do not include transmission line or substation losses in this category);~~

~~f. g-~~ electrical energy loss in ~~kilowatt-hours~~ megawatt-hours due to transmission line and substation losses;

~~g. h-~~ peak demand for the system during the summer season and during the winter season;

~~h. i-~~ load factor for the system during the summer season and during the winter season.

C. For the last calendar year historical data shall be supplied. If recorded figures are not available, estimates shall be used

and shall be identified as such. When the recorded figures become available, they shall be supplied as a supplement to the data. For each other reporting year, a forecast shall be made using the methodology which yields the most meaningful results for the utility's system. The forecast shall be based on the factors which the reporting utility deems most likely to occur in its Minnesota service area. The procedures, assumptions and factors used in arriving at the forecast shall be stated in writing. Each utility shall comment on probable deviations from the projection. Any utility required to file an extended forecast pursuant to rule 6 MCAR § 2.0207 need not file the forecast documentation required in rule 6 MCAR § 2.0206 C.

6 MCAR § 2.0207 The extended forecast.

A. The following utilities must file an extended forecast: Northern States Power Company, Minnesota Power, & Light Company, Otter Tail Power Company, Interstate Power Company, Minnkota Power Cooperative, Cooperative Power Association, United Power Association and Dairyland Power Cooperative, United Minnesota Municipal Power Agency, and the Southern Minnesota Municipal Power Agency. Data which is compiled within the same calendar year for either an extended forecast or a certificate of need application may be substituted interchangeably to satisfy those portions of both sets of rules which have identical data requirements. In such cases, references to the material substituted and a copy of the appropriate reference material shall be submitted to meet the reporting requirements.

B. Content of extended forecast. The following data shall be provided:

1. annual electrical consumption by ultimate consumers and number of customers at year's end within the utility's system and for its Minnesota service area only for the past calendar year, the present calendar year, and the subsequent ~~15~~ 14 years, for each of the following categories:
 - a. farm, excluding irrigation and drainage pumping (for reporting purposes, any tract of land used primarily for agricultural purposes);
 - b. irrigation and drainage pumping;
 - c. nonfarm residential (including electricity supplied through a single meter for both residential and commercial uses reported according to its principal use and apartment buildings reported as residential even if not separately metered);
 - d. commercial (including wholesale and retail trade; communications industries; public and private office buildings, banks, and dormitories; insurance, real estate and rental agencies; hotels and motels; personal business and auto repair services; medical and educational facilities; governmental units, excluding military bases; warehouses other than manufacturer owned; electric, gas, water and water pumping other than pumping for irrigation, and other utilities);
 - e. mining;
 - f. industrial (including all manufacturing industries, construction operations and petroleum refineries);
 - g. street and highway lighting;
 - h. electrified transportation (including energy supplied for the propulsion of vehicles, but not energy supplied for office buildings, depots, signal lights or other associated facilities which shall be reported as commercial or industrial);
 - i. other (including municipal water pumping facilities, oil and gas pipeline pumping facilities, military camps and bases, and all other consumers not reported in categories a through h); and
 - j. the sum of categories a through i;
2. an estimate ~~for the last year~~ of the demand for power by ultimate consumers in the utility's system for each of the categories listed in rule 6 MCAR § 2.0207 B.1. at the time of the last annual system peak demand;
3. the utility's system peak demand by month for the last calendar year;
4. ~~the utility's average system weekday load factor for the months of January and July for the last calendar year, the present calendar year and the 15 subsequent years;~~
4. ~~5.~~ the utility's seasonal firm purchases and seasonal firm sales for each utility involved in each transaction for the last year, the present year, and the ~~15~~ 14 subsequent years;
5. ~~6.~~ the utility's seasonal participation purchases and participation sales for each utility involved in each transaction for the last year, the present year, and the ~~15~~ 14 subsequent years;

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~~6. 7.~~ for the summer season and for the winter season of the last year, the present year, and the ~~15~~ 14 subsequent years, the load and generation capacity data requested in items a through m listed below, including all anticipated purchases, sales, capacity retirements, and capacity additions, including those which may depend upon certificates of need not yet issued:

- a. seasonal system demand;
- b. annual system demand;
- c. total seasonal firm purchases;
- d. total seasonal firm sales;
- e. seasonal adjusted net demand ($a - c + d$);
- f. annual adjusted net demand ($b - c + d$);
- g. net generating capacity;
- h. total participation purchases;
- i. total participation sales;
- j. adjusted net capability ($g + h - i$);
- k. net reserve capacity obligation;
- l. total firm capacity obligation ($e + k$); and
- m. surplus or deficit (-) capacity ($j - l$);

~~7. 8.~~ the utility's proposed additions and retirements. For the present calendar year and the subsequent ~~15~~ 14 years, each utility shall provide a list in megawatts of proposed additions and retirements in generating capability; and

~~8. 9.~~ the utility's method of determining its system reserve margin and the appropriateness of the margin.

C. Forecast documentation for rules 6 MCAR §§ 2.0206 and 2.0207.

1. Forecast methodology. Each applicant may use the forecast methodology which yields the most useful results for its system. However, the applicant shall detail in written form the forecast methodology employed to obtain the forecasts provided under rules 6 MCAR §§ 2.0206 and 2.0207 including:

- a. the overall methodological framework which is used;
- b. the specific analytical techniques which are used, their purpose, and the component(s) of the forecast to which they have been applied;
- c. the manner in which these specific techniques are related in producing the forecast;
- d. where statistical techniques have been used, the purpose of the technique, typical computations (e.g., computer printouts, formulas used) specifying variables and data, and the results of appropriate statistical tests;
- e. forecast confidence levels or ranges of accuracy for annual peak demand and annual electrical consumption;
- f. a brief analysis of the methodology used, including its strengths and weaknesses, its suitability to the system, cost considerations, data requirements, past accuracy, and any other factors considered significant by the utility; and
- g. an explanation of any discrepancies which appear between the forecasts presented by the utility in rule 6 MCAR § 2.0207 and those contained in rule 6 MCAR § 2.0206 this year or in the past years.

2. Data base for forecasts. The utility shall discuss in written form the data base used in arriving at the forecast presented in rules 6 MCAR §§ 2.0206 and 2.0207 including:

- a. a complete list of all data sets used in making the forecast, including a brief description of each data set and an explanation of how each was obtained, (e.g., monthly observations, billing data, consumer survey, etc.) or a citation to the source (e.g., population projection from the state demographer); and
- b. a clear identification of any adjustments made to raw data to adapt them for use in forecasts, including the nature of the adjustment, the reason for the adjustment and the magnitude of the adjustment.

3. Assumptions and special information.

a. Discussion. The utility shall discuss in writing each essential assumption made in preparing the forecasts, including the need for the assumption, the nature of the assumption, and the sensitivity of forecast results to variations in the essential assumptions. Among the assumptions that shall be discussed are current and anticipated saturation levels of major electric appliances and electric space heating within the utility's service area.

b. Subject of assumption. The utility shall discuss the assumptions made regarding the availability of alternative sources of energy, the expected conversion from other fuels to electricity or vice versa, future prices of electricity for customers in the utility's system and the effect that such price changes will likely have on the utility's system demand, the assumptions made in arriving at any data requested in 6 MCAR §§ 2.0206 or 2.0207 which is not available historically or not generated by the utility in preparing its own internal forecast, the effect of existing energy conservation programs under federal or state legislation on long-term electrical demand, the projected effect of new conservation programs which the utility deems likely to occur through future state and federal legislation on long-term electrical demand, and any other factor considered by the utility in preparing the forecast.

4. Coordination of forecasts with other systems. The utility shall provide in writing:

a. a description of the extent to which the utility coordinates its load forecasts with those of other systems, such as neighboring systems, associate systems in a power pool, or coordinating organizations; and

b. a description of the manner in which such forecasts are coordinated, and any problems experienced in efforts to coordinate load forecasts.

6 MCAR § 2.0208 Generating facilities.

A. Present facilities. Each utility required to report under rule 6 MCAR § 2.0204 A.1. shall provide the following information with regard to each power plant serving or capable of serving its Minnesota service area as of January 1 of the current year:

1. the name and type of the plant;

2. its location and address;

~~3. the primary fuel or blended primary fuels by estimated gross percentage of each which are currently used to operate the plant;~~

~~4. the secondary fuels or blended secondary fuels by estimated gross percentage of each which are currently used to operate the plant;~~

~~5. name plate capacity as measured by the sum total of the maximum name plate rating of each unit of generating equipment in the plant;~~

~~3. 6. actual summer and winter plant capacity as measured by the maximum load that could be supplied by present equipment on a peaking basis; of which the utility shall specify duration;~~

~~4. 7. the total number of kilowatt-hours net megawatt-hours generated by the plant for non-plant use during the last calendar year;~~

~~5. 8. the annual heat rate of the plant;~~

~~6. 9. the quantities of primary and secondary fuels consumed during the last calendar year;~~

~~7. 10. the year in which the plant or each unit of a multiunit plant began operation;~~

~~8. 11. the type of unit and name plate number, kilowatt megawatt rating, power factor, voltage, phase and frequency for each unit of generating equipment in the plant;~~

9. if available, for all base load plants provide the capacity factor, operating availability, and forced outage rate.

B. Future facility additions. Each utility required to report under rule 6 MCAR § 2.0204 A.1. shall estimate the additional power plants or additions to existing plants necessary to provide for the energy growth predicted by the forecasts in rules 6 MCAR §§ 2.0206 and 2.0207. Each utility shall supply the following information about each additional plant or addition:

1. the proposed general location of each plant currently in the planning stage, or the actual location of each plant currently under construction;

2. the ~~month and~~ year the plant is to begin operation;

3. the estimated cost of the new facility at the time of construction;

4. the estimated summer and winter plant capacity of anticipated generating equipment;

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5. the estimated total annual net ~~kilowatt-hours~~ megawatt-hours generated for nonplant use by the plant operating at normal conditions under normal maintenance and circumstances, during its first full calendar year of operation;

6. the estimated type and amount of fuel to be used to operate the plant on an annual basis under conditions set forth in 6 MCAR § 2.0208 B.5.;

7. the estimated heat rate of the plant; and

8. the type of unit or units proposed for the plant.

C. Future facility retirements. Each utility required to report under rule 6 MCAR § 2.0204 A.1. shall list any planned facility retirements that will take place within the next 15 years. Each utility shall provide the following information about each facility retirement:

1. the location and type of the plant;

2. ~~the year the plant began operation and~~ the forecasted retirement date; and

3. the plant's actual summer and winter capacity;

4. ~~the annual net kilowatt hours the plant presently generates for nonplant use;~~

5. ~~the type of primary fuel used for the plant; and~~

6. ~~the present heat rate for the plant.~~

D. Fuel requirements and generation by fuel type.

1. Based on the data reported under rule 6 MCAR § 2.0208 A. each utility shall report the quantity of coal, natural gas, middle distillates, heavy oils, nuclear energy, and other fuels used by its Minnesota power plants during the last calendar year, and the net ~~kilowatt-hours~~ megawatt-hours of electrical energy generated ~~for sale to ultimate consumers~~ by each type of fuel. Net generation from Minnesota hydro power plants shall also be provided. If data is reported for other fuels, the type of fuel shall be specified.

2. Each utility shall estimate the quantities of the fuel which will be necessary for use by its Minnesota power plants to provide for the electrical energy growth predicted by the forecast projected in rules 6 MCAR §§ 2.0206 and 2.0207. Each utility shall also estimate by fuel type the ~~kilowatt hours~~ net megawatt-hours electricity which will be produced by its Minnesota power plants under the forecast. A forecast of net generation from Minnesota hydro power plants shall also be provided. In preparing such estimates, each utility shall consider increases in fuel use by existing facilities and possible conversions between fuel types.

6 MCAR § 2.0209 Transmission lines.

A. Existing transmission lines. Each utility shall report the following information in regard to each transmission line over ~~400~~ 200 kilovolts now in existence:

1. a map showing the location of each line;

2. the design voltage of each line;

3. the size and type of conductor;

4. the approximate location of D.C. terminals or A.C. substations; and

5. the approximate length of each line ~~and the portion of that length~~ in Minnesota.

B. Transmission line additions. Each generating and transmission utility, as defined in 6 MCAR § 2.0202, shall report the information required in rule 6 MCAR § 2.0209 A. for all future transmission lines over ~~400~~ 200 kilovolts which the utility plans to build within the next 15 years.

C. Transmission line retirements. Each generation and transmission utility as defined in 6 MCAR § 2.0202 shall identify all present transmission lines over ~~400~~ 200 kilovolts which the utility plans to retire within the next 15 years.

6 MCAR § 2.0210 Other information reported annually. Each utility shall provide the following information for the last calendar year:

A. a table and a graphed curve of the demand in ~~kilowatts~~ megawatts by hour over a 24-hour period for:

1. the 24-hour period during the summer season when the ~~kilowatt~~ megawatt demand on the system was the greatest; and

2. the 24-hour period during the winter season when the ~~kilowatt~~ megawatt demand on the system was the greatest;

B. the names, addresses, and the kilowatt-hours of electricity consumed by customers of the utility who annually consume

over 600,000 kilowatt-hours; ~~If such a list does not include at least 15 of the utility's customers, the largest 15 shall be listed with their annual consumption of electricity;~~

C. ~~the names and addresses of the fuel suppliers with whom the utility has contracts;~~ utility's suppliers of primary fuels. Provide for each supplier of primary fuels the type of fuel purchased;

~~D. the names of any utilities with whom the reporting utility has contracted to purchase or sell electricity and a brief description of the terms of any such contract unless already reported pursuant to rule 6 MCAR § 2.0207 B.5-6;~~

~~D.~~ a detailed map, on which the scale is indicated, of the utility's Minnesota service area, identifying power plants, principal substations, and transmission lines over ~~400~~ 200 kilovolts, identified by voltage;

~~E. F.~~ a listing of the ~~interconnections~~ purchases and sales for resales the utility had with other utilities, including:

1. the name of any such utility;

2. ~~the location of the interconnection; and~~

2. 3. ~~the kilowatt-hours received or delivered over the connection~~ megawatt-hours purchased or sold for resale during the last year;

~~F. G.~~ its present rate schedules as of June 1 of the present year;

~~G. I.~~ a copy of whichever of the following reports it files with either the F.P.C. Energy Information Administration of the U.S. Department of Energy or the U.S. Department of Agriculture:

1. ~~F.P.C. Report Form Number 12; Schedule 9 and 10;~~

2. ~~F.P.C. Report 12A Schedule 3 and 4;~~

2. 3. ~~Part D. of the financial and statistical report to the United States Department of Agriculture;~~

~~H. J.~~ for distribution-only utilities the ~~kilowatt-hours~~ megawatt-hours generated on an emergency standby basis and the amount of fuel used to generate such electricity;

I. actual data on the number of residential electric space heating customers and units it has and the total megawatt-hours of electricity sold these customers during the past calendar year. If a utility can not provide actual data estimates may be accepted.

J. its deliveries to ultimate consumers for the last calendar year broken down by categories determined by the director. (This rule is not applicable to electric utilities completing rule § 2.0207 B.1.)

6 MCAR § 2.0211 Quarterly reports of energy delivered to ultimate consumers.

A. Beginning in the year 1976 ~~each utility~~ all utilities, except municipal utilities with sales of under 20 million kilowatt-hours annually, shall report quarterly the kilowatt-hours delivered each month during the preceding quarter to ultimate consumers, broken down by customer class/geographic area combination.

1. Geographic areas will be defined by the customer's county.

2. Customer class will be defined by standard industrial classification (SIC) codes with extensions for more detailed breakdown of households and governmental units.

3. In each customer class/geographic area combination the utility shall report the number of customers and the total kilowatt-hours consumed.

~~B. After an evaluation of data availability, the director may allow certain distribution only utilities to report only kilowatt-hours consumed by large customers who use in excess of 600,000 kilowatt-hours per year by two digit SIC code. However, the utilities given such exemption must report each quarter kilowatt-hours consumed by ultimate consumers by F.P.C. or R.E.A. end use categories. Utilities whose sales to ultimate customers did not exceed 5 million kilowatt-hours during the past calendar year need not report.~~

~~B. C.~~ Said information shall be in the form determined by the director. Upon written application, the director may allow a utility to report said information in a different form.

6 MCAR § 2.0212 The Minnesota Wisconsin Power Suppliers Group (MWPSG). For purposes of these rules the MWPSG may

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provide a joint report to either the agency, or both the agency and the Minnesota Environmental Quality Board (MEQB) on behalf of its member utilities. Such a joint report shall contain all information required by these rules and shall be in a format deemed acceptable by the director. Such a joint report shall fulfill the obligations of the member utilities in meeting these rules and the statutory informational requirements of Minn. Stat. §§ 116H.10 and .11 (1980)

Within these rules where the agency's reporting requirements and those of the MEQB are similar the MWPSG in its report need file only one joint listing of the required information so long as that listing provides all the data requirements of these rules and is in a format acceptable to the director.

The following rules within these reporting requirements shall be considered similar to those of the MEQB: 6 MCAR §§ 2.0207 B.4.-7., 2.0208 B.-C., and 2.0209 A.-B. In addition to these rules, the director may designate other rules similar as well.

6 MCAR § ~~2.0212~~ 2.0213 **2.0213 Corrections.** Substantial corrections of any report or statement must be filed with the agency within 10 days following the date of the event prompting the change in reported information or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and the paragraph of the information to be changed or corrected.

6 MCAR § ~~2.0213~~ 2.0214 **2.0214 Federal or state data substitution for Energy Agency data requirements.** Upon written request by any utility, the director may allow it to substitute data provided to the federal government or another state agency in lieu of data required by these regulations if the data required by both agencies is substantially the same.

Housing Finance Agency

Proposed Rules Governing the Home Improvement Grant Program and Rehabilitation Loan Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h(1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Mary Tingerthal, Manager
Home Improvement Programs
Minnesota Housing Finance Agency
Suite 200—Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
Telephone (612) 297-3126

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Ms. Tingerthal upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Ms. Tingerthal.

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A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Ms. Tingerthal.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) 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 \$250.00, 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 \$250.00, 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, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

June 8, 1981

James J. Solem
Executive Director

Amendments as Proposed

12 MCAR § 3.002 O.3. with respect to home improvement grants and rehabilitation loans pursuant to Chapter Seven of these Rules to be made by the agency, those persons and families whose adjusted income does not exceed \$6,000 and whose assets, excluding the property to be improved, does not exceed \$25,000; and

12 MCAR § 3.002 T. "Administering entity" means a non-profit or governmental entity (including but not limited to an incorporated county or municipality, a housing redevelopment authority, and a community action organization), which enters into a contract with the Agency for the local administration of the Home Improvement Grant or Rehabilitation Loan Program pursuant to Chapter Seven of these rules.

Chapter Seven: Home Improvement Grants and Rehabilitation Loans

12 MCAR § 3.061 Scope. Rules in this chapter (12 MCAR §§ 3.061 to 3.072) govern the Home Improvement Grant Program authorized by Minnesota Statutes § 462A.05, subd. 15 and the Rehabilitation Loan Program authorized by Laws of 1981, ch. 306, § 5. The agency is authorized to make rehabilitation loans with or without interest or periodic payments. In this chapter loans made with interest and periodic payments shall be referred to as "flexible loans" and loans made without interest or periodic payments shall be referred to as "deferred loans."

In addition to the requirements of this chapter, a flexible loan must meet the requirements of Chapter Six of these rules, except that the applicant for a flexible loan need not be a reasonable credit risk as required in 12 MCAR §§ 3.051 C., and the structure to be improved need not be at least 15 years old as required by 12 MCAR § 3.051 D.

12 MCAR § ~~3.061~~ 3.062 Reservation of funds.

A. For a period of at least ~~45~~ 30 days after the agency gives notice that the funds for making rehabilitation grants or loans are available, the agency shall receive requests for reservation of funds from prospective administering entities.

B. Requests for reservation of funds for rehabilitation grants or loans may be made by prospective administering entities to the agency, and shall contain:

1. a plan setting forth the proposed method of delivery of the rehabilitation grants or loans;
2. evidence satisfactory to the agency that the administering entity has the capacity effectively and efficiently to carry out the plan;
3. evidence satisfactory to the agency of the approval of the plan by the governing body of the political subdivision within which the plan is to be administered;
4. the specific funding amount requested for a ~~12 month~~ period of not more than 24 months and the administrative allowance, if any, required by the administering entity to defray the expenses of administering the program;

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5. other funding sources available to the administering entity for administration and home improvement; and

~~6. a description of the local housing problems;~~

~~7. specific goals to be accomplished with requested funds; and~~

6. a description of the targeting plan, if any, whereby the administering entity will establish priorities for awarding grant and loan funds based on an assessment of need within its jurisdiction, in the event that the number of applications exceeds the number of grants and loans which can be awarded. The targeting plan, if any, shall be subject to approval by the agency and may not have the effect of excluding any otherwise eligible applicant from making an application and being considered eligible for a grant or loan.

C. The agency shall allocate the funds available at any time among the several regions, based upon data assembled by the agency and accurately reflecting housing needs and related factors. The agency shall submit its proposed allocation of funds to the applicable Regional Development Commission (including the Metropolitan Council and shall consider the comments and recommendations of the commissions with respect to the extent to which the proposed allocation assists in satisfying the housing needs for the region.

~~12 MCAR § 3.062~~ **3.063 Eligible recipients of rehabilitation grants and loans.** In addition to all conditions imposed by the act, an application for a rehabilitation grant or loan shall satisfy the following requirements:

A. The recipient(s) must occupy the structure to be improved as the recipient's(s') principal place of residence and individually or in the aggregate have at least

1. a life estate or

2. a one-third interest in the fee title or in the contract for deed with respect to such structure. The Agency may waive or modify the ownership and security requirement when necessary to permit rehabilitation grants for structures located on Indian Reservations. For mobile homes taxed as personal property or not permanently affixed to real property recipient(s) must:

~~(1) have resided in the structure at the present location for a period of one year immediately preceding the date of application as the recipient(s') principal place of residence;~~ (2)

a. be current in any loan payments on the structure, and ~~(3)~~

b. individually or in the aggregate have a 100% interest in the title to the mobile home.

B. For the purpose of complying with the ownership requirements, the recipient may aggregate his interest in such property with the ownership interests of other individuals also occupying the structure to be improved as their principal place of residence. All individuals occupying the structure to be improved as their principal place of residence and having an ownership interest in such structure must join in the application.

C. Each recipient must be a person or family of low and moderate income as defined in 12 MCAR § 3.002 O.3.

D. "Assets" for purposes of this chapter ~~the home improvement grant program~~ shall be the sum of the following, after deducting any outstanding indebtedness:

1. cash on hand or in checking or savings accounts;

2. securities or U.S. Savings Bonds;

3. market value of all interests in real estate (exclusive of the structure to be improved and a parcel of real property of not more than two acres on which such structure is located);

4. cash value of life insurance policies; and

5. all other property, exclusive of household furnishings, clothing, and one automobile.

~~12 MCAR § 3.063~~ **3.064 Amount of grant or loan.** The amount of the rehabilitation grant or loan shall not exceed the lesser of:

A. ~~\$5,000~~ \$6,000 or

B. the actual cost of the work performed, or

C. that portion of the cost of rehabilitation which the Agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR § 3.013. If the recipient is not financially capable of making a monthly loan payment of at least \$10 the recipient shall be eligible for a deferred loan. A recipient who is financially capable of making a monthly loan payment of \$10 or more shall be eligible for a Flexible Loan.

12 MCAR § ~~3.064~~ 3.065 Responsibilities of administering entity. The administering entity shall have the following responsibilities:

A. The administering entity shall have full responsibility for program implementation including public information, reviewing and screening applicants, choosing recipients, and certifying that the rehabilitation work is satisfactorily completed.

B. The administering entity shall make on-site inspections of the properties to be improved:

1. before such application is approved and
2. after work has been completed ~~and before the contractors have been paid in full.~~

C. The administering entity shall not charge an applicant or recipient any application, processing, or other fee.

D. The administering entity may, with the prior written consent of the agency, allocate part of its total funding, ~~in accordance with a formula based upon data assembled by the Agency and reflecting administrative costs, geographic area, level of funding, and other related factors,~~ to defray a portion of the administrative costs of the program, to the extent that other sources are not available. It shall be the responsibility of the administering entity to bear all administrative costs, including salaries and office rental, automobile and telephone expenses, and costs of counseling or technical assistance. The administrative allowance, if any, shall be distributed by the agency according to a budget submitted by the administering entity and approved by the agency. Disbursements of the administrative allowance shall be contingent upon the agency's review and approval of the satisfactory progress of the program.

12 MCAR § ~~3.065~~ 3.066 Eligible properties. Grant and loan funds shall be used only to improve properties which meet the following criteria:

A. The property shall be located within the State of Minnesota, be used primarily for residential purposes, and contain no more than two dwelling units, one of them owner-occupied.

B. The property to be improved shall conform to applicable zoning ordinances and possess all appropriate use permits.

C. The improvements shall be made upon or in connection with existing structures, including mobile homes. Trailers shall not be eligible.

D. No property shall be eligible for a Home Improvement Grant or loan if it has been improved by such a grant or loan within the five year period ~~next~~ immediately preceding the date on which application for such grant or loan is made, except in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the applicant or to failure of plumbing, heating, or electrical systems, or defects in the roof or foundation systems, as determined by the Agency in its sole discretion.

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct installation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

12 MCAR § ~~3.066~~ 3.067 Eligible improvements. Improvements made with Home Improvement Grant or Loan funds shall satisfy the following requirements:

A. Each improvement shall be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures, which correct defects or deficiencies in the property affecting directly the safety, habitability, or energy usage of the property. Permanent general improvements shall be economically viable in terms of a determination that:

1. the structure will have a reasonable life expectancy after the improvement is made, and
2. the structure will be reasonably livable, safe, and habitable after the improvement is made.

Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for decent, safe, and sanitary properties of the same general type as the property to be improved.

B. Each improvement shall be made in compliance with all applicable health, fire prevention, building, and housing codes

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and standards; provided, however, that no application for a Home Improvement Grant or Loan shall be denied solely because the improvements will not bring such property into full compliance with all such codes and standards.

C. Home Improvement Grant Funds provided under this chapter shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that such funds may be used for that portion of improvements located on the property which will bring an individual water supply system or a sewage disposal system (including septic systems) into compliance with local, state, or federal environmental and sanitary standards.

D. All contracts covering all or any portion of an improvement shall contain an Agency approved warranty of workmanship and materials.

E. No grant or loan funds shall be used for the purpose of refinancing or paying off existing indebtedness. All such funds shall be used to finance improvements begun after application for such funds has been approved.

F. For mobile homes taxed as personal property or not permanently affixed to real property eligible improvements shall be limited to the following:

1. Improvements which bring the property into compliance with current standards for energy efficiency, fire safety and anchoring systems.

2. Improvements to remedy imminent safety hazards, or accessibility modifications, ~~but only upon prior written approval by the Agency.~~

3. Other permanent general improvements, ~~but only upon prior written approval by the Agency and a determination that if after completion of such all improvements the mobile home will comply with the standards set forth referred to in Paragraph 1.~~

G. Improvements which affect the accessibility of a dwelling for a Handicapped Person are eligible improvements provided that they are performed in compliance with the following conditions:

1. The improvement must be an accessibility improvement as defined in 12 MCAR § 3.071 B.

2. The beneficiary of the improvements must occupy or intent to occupy the dwelling unit to be improved as his or her principle residence.

3. Architectural or engineering costs incurred in the design of accessibility improvements may be funded as eligible improvements.

12 MCAR § ~~3.067~~ 3.068 Repayment.

A. The recipient of a grant ~~fund~~ and all individuals who signed the application for such ~~fund~~ grant shall enter into an agreement with the Agency for repayment, which shall provide that in the event the property (upon which the improvement is located) is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence within six years from the date upon which the grant application was approved, then the recipient shall repay, and the Agency shall have a lien as security for repayment of, all or a portion of such grant funds in accordance with the following schedule:

Period of Time Within Which Sale, Transfer, Conveyance, or Cessation of Residency Occurs	Percent Repayment
Prior to end of 36th full month	100%
After end of 36th full month until end of 48th full month	75%
<u>After end of 48th full month until end of 60th full month</u>	<u>50%</u>
After end of 60th full month until end of 72nd full month	25%
After end of 72nd full month	No Repayment

If any grant funds are used for purposes other than an eligible improvement upon eligible property or if the recipient's application is found to contain a material misstatement of fact the recipient shall be liable for repayment of the grant. ~~No repayment shall be required to the extent that the grant is made to improve the accessibility of residential housing to a handicapped occupant.~~

B. The recipient of a deferred payment loan and all individuals who signed the application for such loan shall enter into an agreement with the Agency for repayment, which shall provide that in the event the property (upon which the improvement is located) is sold, transferred, or otherwise conveyed, or ceases to be the recipient's principal place of residence within ten years from the date upon which the grant application was approved, then the recipient shall repay and the Agency shall have a lien as security for repayment of all of such loan. If any loan funds are used for purposes other than an eligible improvement upon

eligible property or if the recipient's application is found to contain a material misstatement of fact the recipient shall be liable for repayment of the loan.

12 MCAR § ~~3.068~~ 3.069 Home owner labor agreement. An eligible recipient may agree with an Administering Entity to do some or all of the improvement work without compensation from the proceeds of the grant or loan, if the administering entity is satisfied as to the recipient's skill and ability to perform the work by the scheduled completion date(s). In such circumstances sufficient grant or loan funds to cover the costs of the labor, in the event that paid contractors must be used to complete such improvements, may be withheld. Upon successful completion of the improvement work so funded, the administering entity may make available to the recipient all or part of the withheld funds for further eligible improvements if it is satisfied on the basis of its prior experience with the recipient that there is no need to withhold funds to ensure completion of the new improvement work.

12 MCAR § ~~3.069~~ 3.070 Emergency home improvement ~~grant~~ fund. The agency may establish a separate fund known as the Emergency Home Improvement ~~Grant~~ Fund. The agency may make Emergency Home Improvement Grants and Loans in extraordinary circumstances relating to damage to the property as a result of events beyond the control of the applicant, failure of plumbing, heating, or electrical systems, or defects in the roof or foundation systems. Grants from the Emergency Home Improvement Grant Fund shall be made to eligible applicants for rehabilitation necessitated by an emergency occurrence whereby the dwelling:

- A. ~~was rendered immediately uninhabitable, or~~
- B. ~~suffered severe structural damage, or~~
- C. ~~became imminently hazardous to a Handicapped Person.~~

~~An emergency occurrence is an event which took place within a reasonably recent period of time prior to the grant application and which caused a defect or deficiency in the dwelling proposed to be rehabilitated, or which resulted in a resident of that dwelling becoming handicapped.~~

Before an application to the Emergency Home Improvement ~~Grant~~ Fund is accepted, the Administering Entity in the region in which the dwelling is located must establish that it has no funds available from its regular grant and loan funds fund and, if applicable, that no funds are available from the Accessibility Improvement Fund, to cover the cost of repairs. ~~Such funds may also be used to correct serious defects or deficiencies in the dwelling other than the specific defect or deficiency which rendered the dwelling immediately uninhabitable.~~ Grants and loans from the Emergency Home Improvement Fund shall be made to eligible applicants pursuant to the procedures set forth in Chapter Seven of these rules, provided however, that the Emergency Home Improvement Fund shall not be subject to the allocation requirements of 12 MCAR § ~~3.061D~~. 3.062 C.

12 MCAR § ~~3.070~~ 3.070 Accessibility improvement fund. ~~With funds appropriated by the Legislature from time to time for that purpose,~~ The agency may establish an Accessibility Improvement Fund from which Home Improvement Grants and Loans may be made to eligible applicants for the purpose of making Accessible improvements to dwelling units occupied by handicapped persons of low or moderate income, as defined in 12 MCAR § 3.002 O.3. Grants and loans from the accessibility improvement fund shall be made pursuant to the procedures set forth in Chapter 7 of these rules, provided, however, that the accessibility improvement ~~grant~~ fund shall not be subject to the reservation and allocation requirements of 12 MCAR § ~~3.061~~. 3.062.

12 MCAR § 3.071 A. with respect to rehabilitation grants and loans pursuant to Chapter Seven of these rules and accessibility improvement assistance pursuant to Chapter Seven-A of these rules, "handicapped person" means a person who has a permanent physical condition which is not correctable and which substantially reduces such person's ability to function in a residential setting. A person with a physical condition which does not require the use of a device to increase mobility ~~shall~~ may be deemed a handicapped person ~~only~~ upon the written certification of a licensed physician that the physical condition substantially limits such person's ability to function in a residential setting.

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PROPOSED RULES

Minnesota Sentencing Guidelines Commission

Notice of Public Hearing to Consider Modifications to Sentencing Guidelines

The Minnesota Sentencing Guidelines Commission will hold a public hearing on Wednesday, July 22, 1981, at 6:30 p.m. in Room 112 of the State Capitol, St. Paul, Minnesota. The public hearing is to consider proposed modifications to the sentencing guidelines resulting from:

- a) recommendations made during regional public meetings held this past winter; and
- b) newly enacted legislation.

Copies of the above proposed modifications are available, free of charge, by contacting the Minnesota Sentencing Guidelines Commission at Suite 284, Metro Square Building, 7th and Robert Streets, St. Paul, MN 55101, or by calling (612) 296-0144.

All interested persons are encouraged to attend the hearing and offer comments. Persons wishing to speak may register in advance by contacting the commission staff at the above address/phone number.

The commission will hold the record open for five days after the public hearing to accept additional written comment on the proposed modifications. On or about July 30, 1981, the commission will meet to formally adopt or reject the proposed modifications. If adopted, the modifications will become effective August 1, 1981, and will apply to sentencing for offenses committed on or after August 1, 1981.

For additional information, contact Linda Anderson, administrative assistant to the commission, at (612) 296-0144.

PROPOSED MODIFICATIONS

Section II.C. (Presumptive Sentence) is modified as follows:

C. **Presumptive Sentence:** The offense of conviction determines the appropriate severity level on the vertical axis. The offender's criminal history score, computed according to section B above, determines the appropriate location on the horizontal axis. The presumptive fixed sentence for a felony conviction is found in the Sentencing Guidelines Grid cell at the intersection of the column defined by the criminal history score and the row defined by the offense severity level. The offenses within the Sentencing Guidelines Grid are presumptive with respect to the duration of the sentence and whether imposition or execution of the felony sentence should be stayed.

The line on the Sentencing Guidelines Grid demarcates those cases for whom the presumptive sentence is executed from those for whom the presumptive sentence is stayed. For cases contained in cells below and to the right of the line, the sentence should be executed. For cases contained in cells above and to the left of the line, the sentence should be stayed.

Every cell in the Sentencing Guidelines Grid provides a fixed duration of sentence. For cells below the solid line, the guidelines provide both a presumptive prison sentence and a range of time for that sentence. Any prison sentence duration pronounced by the sentencing judge which is outside the range of the presumptive duration is a departure from the guidelines, regardless of whether the sentence is executed or stayed, and requires written reasons from the judge pursuant to Minn. Stat. § 244.10, subd. 2, and section E of these guidelines.

Section II.D.2.b. (Departures from the Guidelines) is modified to add the following new language as Subd. (5) to provide an aggravating factor for major controlled substance offenses:

2. Factors that may be used as reasons for departure: The following is a nonexclusive list of factors which may be used as reasons for departure:

b. *Aggravating Factors:*

(5) The offense was a major controlled substance offense, identified as an offense or series of offenses related to trafficking in controlled substances under circumstances more onerous than the usual offense. The presence of two or more of the circumstances listed below are aggravating factors with respect to the offense:

(a) the offense involves at least three separate transactions wherein controlled substances were sold, transferred, or possessed with intent to do so; or

(b) the offense involved an attempted or actual sale or transfer of controlled substances in quantities substantially larger than for personal use; or

(c) the offense involved the manufacture of controlled substances for use by other parties; or

(d) the offender knowingly possessed a firearm during the commission of the offense; or

(e) the circumstances of the offense reveal the offender to have occupied a high position in the drug distribution hierarchy; or

(f) the offense involved a high degree of sophistication or planning or occurred over a lengthy period of time or involved a broad geographic area of disbursement; or

(g) the offender used his or her position or status to facilitate the commission of the offense, including positions of trust, confidence or fiduciary relationships (e.g., pharmacist, physician or other medical profession).

Section II.E. of the guidelines is modified to provide for mandatory minimum five-year sentences:

Mandatory Sentences: When an offender has been convicted of an offense with a mandatory minimum sentence of one year and one day, the presumptive duration of the prison sentence should be 18 months or the duration of prison sentence provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer.

When an offender has been convicted of an offense with a mandatory minimum sentence of three years, the presumptive duration of the prison sentence should be 54 months or the duration provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer. ~~First degree murder, which has a mandatory life imprisonment sentence, is excluded from offenses covered by the sentencing guidelines.~~

When an offender has been convicted of an offense with a mandatory minimum sentence of five years, the presumptive duration of the prison sentence should be 90 months or the duration provided in the appropriate cell of the Sentencing Guidelines Grid, whichever is longer. First degree murder, which has a mandatory life imprisonment sentence, is excluded from offenses covered by the sentencing guidelines.

Because good time reductions do not apply to mandatory minimum sentences under Minnesota law, the intent of this provision is to provide all incarcerated inmates with equal incentive for good behavior, thereby alleviating potential institutional management problems.

Section III.E. is modified to correct technical error as follows:

Presentence Mental ~~and~~ or Physical Examinations for Sex Offenders: Under the authority of Minn. R. Crim. P. § 27.02, when an offender has been convicted under Minn. Stat. §§ 609.342, 609.343, 609.344, 609.345, or 609.365, or is convicted under section 609.17 of an attempt to commit an act proscribed by Minn. Stat. § 609.342 or 609.344, the Commission recommends that any state, local, or private agency that the court may deem adequate be ordered to make a physical ~~and~~ or mental examination of the offender, as a supplement to the presentence investigation required by Minn. Stat. § 609.115.

IV. SENTENCING GUIDELINES GRID

The dispositional line on the Sentencing Guidelines Grid is amended by deleting the current line between severity levels one and two, and by drawing a new line between criminal history scores five and six in severity level one.

V. OFFENSE SEVERITY REFERENCE TABLE

VIII Intrafamilial Sexual Abuse 1—609.3641

VII Burglary—609.58, subd. 2(1)(b)
Fleeing Peace Officer (resulting in death)—609.487, subd. 4(a)
Intrafamilial Sexual Abuse 2—609.3642, subd. 1(2)
Intrafamilial Sexual Abuse 3—609.3643, subd. 1(2)

VI Burglary—609.58, subd. ~~2(1)(b)~~ 2(2)
Fleeing Peace Officer (great bodily harm)—609.487, subd. 4(b)
Intrafamilial Sexual Abuse 2—609.3642, subd. 1(1)
Intrafamilial Sexual Abuse 4—609.3644, subd. 1(2)
Precious Metal Dealers, Receiving Stolen Goods (over \$2,500)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (all values)—609.53, subd. 3(a)

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PROPOSED RULES

- V Intrafamilial Sexual Abuse 3—609.3643, subd. 1(1)
Receiving Profit Derived from Prostitution—609.323, subd. 1
- IV Fleeing Peace Officer (substantial bodily harm)—609.487, subd. 4(c)
Intrafamilial Sexual Abuse 4—609.3644, subd. 1(1)
Precious Metal Dealers, Receiving Stolen Goods (\$150-\$2,500)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (over \$2,500)—609.53, subd. 2(a)
Receiving Profit Derived from Prostitution—609.323, subd. 1
- III Possession of Shoplifting Gear—609.521
Precious Metal Dealers, Receiving Stolen Goods (less than \$150)—609.53, subd. 1(a)
Precious Metal Dealers, Receiving Stolen Goods (\$150-\$2,500)—609.53, subd. 2(a)
- II Precious Metal Dealers, Receiving Stolen Goods (less than \$150)—609.53, subd. 2(a)
Precious Metal Dealers, Regulatory Provisions—325F.5213

Theft Offense List

Possession of Shoplifting Gear—609.521

Theft Related Offense List

Theft of Services—609.52, subd. 2(13)

Forgery Related Offense List

False Information—Certificate of Title Application—168A.30

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Revenue

Adopted Temporary Rule Governing Deposits of Withholding Tax (13 MCAR § 1.6301)

The temporary rule proposed and published at *State Register*, Volume 5, Number 45, p. 1820, May 11, 1981 (5 S.R. 1820) was adopted as proposed. There were no amendments.

Department of Revenue

Adopted Rules Relating to Individual Income Tax and Property Tax Refund (13 MCAR §§ 1.6001-1.6004, 1.6020, 1.6030 and 1.6225)

The rules and amendments to rules proposed and published at *State Register*, Volume 5, Number 8, pages 277 to 289, August 25, 1980 (5 S.R. 279) are adopted with the following amendments:

Amendments as Adopted**13 MCAR Section 1.6001 ~~2001(7)~~ Resident defined.****A. General statements.**

A. 2. The domicile of any person shall be that place in which that person's habitation is fixed, without any present intentions of removal therefrom, and to which, whenever absent, that person intends to return.

A person who leaves home to go into another jurisdiction for temporary purposes only is not considered to have lost that person's domicile. But if a person moves to another jurisdiction with the intention of remaining there permanently or for an indefinite time as a home, that person shall have lost that person's domicile in this state. The presumption is that a person who leaves this state to accept a job assignment in a foreign nation has not lost that person's domicile in this state.

The presumption is that the place where a person's family is domiciled is that person's domicile. The domicile of a spouse shall be the same as the other spouse, unless there is affirmative evidence to the contrary or unless the husband and wife are legally separated or the marriage has been dissolved. When a person has made a home at any place with the intention of remaining there and the person's family neither lives there nor intends to do so, then that person shall have established a domicile separate from that person's family.

The domicile of a single person is that person's usual home. In case of a minor child who is not emancipated, the domicile of the child's parents is the domicile of the child. The domicile of the parent who has legal custody of the child is the domicile of the child. A person who is a permanent resident alien in the United States may have a domicile in this state. The domicile of a member of the armed forces will be governed by the facts just prior to becoming a member of the armed forces unless the person takes the necessary steps to establish a new domicile.

13 MCAR § 1.6002 Income tax returns for husband and wife.

C. If a husband and wife elect to each file a separate income tax return, or if they elect to file a combined return, each spouse must report that spouse's own federal adjusted gross income. On separate or combined returns each spouse may claim only those deductions and credits that spouse is separately entitled to claim except that on separate or combined returns the married credit, or on a combined return, itemized deductions, may be claimed in full by one spouse or may be divided between them in any manner. On separate or combined returns, deductions for which each spouse is equally liable and which are paid from a joint account may be considered as being paid by either spouse.

Income and losses from jointly held property must be divided based on percentage of ownership in the property. Income and losses from a partnership which operates a business must be reported on the basis of the partnership agreement. Income and losses from a business that is not governed by a partnership agreement must be reported on the basis of participation in and contribution to the partnership or joint business venture and this is determined according to the (1) percentage of contribution to the capital assets, (2) percentage of labor performed, and (3) percentage of participation in management decisions. Interest income from a joint bank account or jointly held bonds and dividends on jointly held stocks shall be divided equally unless it can be shown that a different allocation is more appropriate. A gain or a loss from the sale or exchange of a capital asset shall be reported by the spouse owning the capital asset. A gain or a loss from the sale or exchange of a capital asset owned jointly by the spouses shall be divided equally unless it can be shown that a different allocation is more appropriate ~~must be reported by each spouse based on the percentage of ownership of the capital asset.~~

J. When a husband and wife file a joint federal income tax return and file a separate or combined Minnesota income tax return, they shall determine their Minnesota gross income separately as if their federal adjusted gross income had been determined separately. Any income exclusion or adjustment to income (such as the disability income exclusion), allowed in arriving at federal adjusted gross income which requires them to file a joint federal return will be allowed in determining Minnesota gross income even though they elect to file separate or combined returns for Minnesota. However, if a deduction allowed or a loss limitation provided in computing federal adjusted gross income (such as the capital loss limitation) is reduced by one half if separate federal returns had been filed, the Minnesota gross income of each spouse reflected on a separate or combined Minnesota return will be computed as though separate federal returns had been filed including the reduced deduction or loss limitation. As a result a spouse may have a different capital loss carryover for Minnesota than was allowed on the federal return.

13 MCAR § 1.6003 Minnesota gross income for individuals who are full-year Minnesota residents (Federal Adjusted Gross Income)

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ADOPTED RULES

A. The beginning point in the determination of Minnesota gross income is federal adjusted gross income. Federal adjusted gross income for Minnesota residents should be the same as the federal adjusted gross income that is used for federal purposes. If no federal tax return was filed for that year, federal adjusted gross income for Minnesota must be calculated using the appropriate Internal Revenue Code as if a federal tax return had been filed. Federal adjusted gross income for Minnesota is defined in Minn. Stat. § 290.01, subd. 20 as being the federal adjusted gross income as defined in the Internal Revenue Code on a certain date. Unless the legislature specifies otherwise, provisions that affect federal adjusted gross income for future years and which have been enacted by Congress as of December 31 of the year set by the legislature, become effective for Minnesota income tax purposes at the same time they become effective for federal income tax purposes. (If the federal change in the income tax purposes at the same time they become effective for federal income tax purposes. (If the federal change in the change is effective for Minnesota for taxable years beginning after December 31, 1980, also, since present conformity to the Internal Revenue Code includes federal amendments through December 31, 1979.) Provisions that affect federal adjusted gross income and which have been enacted by Congress after December 31 of the year set by the legislature do not become effective until the legislature passes a law to adopt the provisions or to update the reference to December 31, of a certain year.

B. All income and losses, regardless of the source, are assignable to Minnesota. Pay received by a member of the military who is a Minnesota resident and who is outside of the state of Minnesota while receiving the pay is includible for Minnesota purposes, as is income received by any other resident. Income and gains from the sale or other disposition of property which is reported on the installment method and is included in federal adjusted gross income is included in Minnesota gross income even though the property was located outside of Minnesota and the sale occurred prior to 1978. For purposes of computing the amount of the gain that would be included in Minnesota income, the basis will be determined under the provisions of Part D.2. of this rule.

D.2. Income, gains, or losses from tangible property, such as real estate, which is located outside of Minnesota. Oil, gas, coal and mineral leases are interests in real property. The following would also be out of state income or losses if incurred in connection with real estate located outside of Minnesota: option income or expenses, exploring, securing, and developing the real estate, and equipment used on the real estate.

The basis of tangible property acquired while a Minnesota resident and which is utilized in a trade or business outside of Minnesota by a Minnesota resident shall be cost less depreciation allowable for Minnesota income tax purposes. However, prior to 1978, a Minnesota resident need not reduce the basis of out of state property which was held while a Minnesota resident. The amount of depreciation allowable in any year is the amount claimed in arriving at federal adjusted gross income and would not be modified because of a higher Minnesota basis. When property is utilized in a trade or business outside of Minnesota and is held by a Minnesota resident who acquired the property prior to the date of becoming a Minnesota resident, the federal adjusted basis of that property shall be the Minnesota basis.

D. 5. Income or losses from intangible assets owned by a Minnesota resident is not out of state income. Generally an intangible asset is a legal relationship between persons (which in fact has no geographic location) and is so associated with the owner that it is taxable at the place of the owner's domicile. The following is a listing of some intangible assets and includes the income or losses from these assets:

- a. Stocks, notes and bonds even if secured by liens on property.
- b. The right to receive payments under a contract for deed or mortgage.
- c. The right to withdraw contributions to a retirement fund.
- d. Dividends received.
- e. Gains or losses from the sale or exchange of stocks, bonds or notes.
- f. Interest received on a savings account.
- g. Distributions received from a corporation which has made a federal election to be treated as a small business corporation but which has not made a similar election for Minnesota.

E. The amount of a net operating loss carryforward or carryback that may be carried back or carried forward shall be the same dollar amount allowed in the determination of federal adjusted gross income. However, as provided in Part C., no deduction is allowed for or with respect to that portion of losses which constitute tax preference items. An adjustment must also be made for any changes in the computation of federal adjusted gross income which have not been adopted by the Minnesota legislature in a law updating the reference to the Internal Revenue Code. A net operating loss shall be allowed to be carried back or carried forward only to the extent that loss was assignable to Minnesota in the year the loss occurred or in the year to which the loss was carried, whichever would allow more of the loss to be allowed for Minnesota purposes. An individual who is a nonresident in the loss year and a resident in the carryover year or an individual who was a resident in the loss year and a nonresident in the carryover year should use this part to determine the amount of their net operating loss.

The taxpayer may also make an adjustment for gains or losses which result from the sale or other disposition of property having a higher adjusted basis for Minnesota income tax purposes than for federal income tax purposes subject to the limitations contained in Section 290.01, subd. 20(b) (2) and (4). A taxpayer may make an adjustment to federal adjusted gross income for the modifications that affect shareholders of a small business corporation which has made an election for federal purposes but not for Minnesota purposes as provided in Section 290.01, subd. 20(c).

The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income subject to the following modifications:

1. Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and expenses not assignable to Minnesota incurred in the taxable year.

2. Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year and the amount of federal jobs credit or WIN credit earned in the taxable year.

3. A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

The net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in this Part less the amount applied in the taxable year(s) as above. No additional net operating loss carryback or carryover shall be allowed if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. A net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return shall still be allowed to offset Minnesota income but only if the loss was assignable to Minnesota in the year the loss occurred.

f. To the extent a capital loss carryover is allowed in determining federal adjusted gross income, the capital loss carryover will be allowed in Minnesota even though the capital loss was incurred on the sale of out-of-state property prior to 1978. However, see the special rules for husband and wife returns contained in Part J. of Section 1.6002.

13 MCAR § 1.6004 Minnesota gross income for individuals who are part year residents or nonresidents of Minnesota (Federal Adjusted Gross Income)

A.2. Modifications should be made to remove:

- a. Income from personal and professional services performed outside of Minnesota,
- b. other income from intangible assets, and
- c. income and losses from tangible property located outside of Minnesota, which income or loss was received or earned while that person was a nonresident of Minnesota. After removing capital gains and losses not assignable to Minnesota, the taxpayer shall recompute the amount of capital gains that are included in Minnesota gross income. The taxpayer shall also recompute any capital loss limitation and capital loss carryover to remove those amounts that are not assignable to Minnesota.

A modification should also be made to remove the amount of certain qualified pension payments which are received while a nonresident of Minnesota.

A part-year resident would apply these modifications and this rule to the income and losses received during that part of the year the individual was a nonresident of Minnesota. Income and losses received during that part of the year the individual was a resident of Minnesota would be governed by the rule concerning full-year residents.

A.3.d. Business income or losses.

A.3.d.(2) Business conducted within Minnesota and which has a nexus within Minnesota so that the business is subject to Minnesota income tax would include income or losses from sales within Minnesota and a business dealing in personal and professional services where such services were performed in this state. Trade or business income or loss assignable to Minnesota and earned by a nonresident individual as a proprietorship or partnership which was carried on partly within and partly without Minnesota is subject to the three-factor apportionment formula contained in § 290.19 or apportionment under

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§ 290.20 except for construction business on which the three-factor formula is not permitted. A non-resident individual who has farm income from within Minnesota and from outside of Minnesota may also use the ~~three factor apportionment formula~~ apportionment formulas contained in § 290.19 and 290.20.

F.1. The reciprocity exclusion does not apply where the personal or professional service income is earned as part of a business operated by the taxpayer which has employees that do more than incidental duties for the business or where there is the sale or delivery of goods which are more than an incidental part of the business.

The reciprocity exclusion does apply to all the personal or professional income earned in the business where the sale of goods and the services of the employees are incidental. Where a partner is a member of a partnership where the selling of goods or the services of employees is more than incidental to the partnership business, reciprocity exclusion would apply only to the partner's salary (personal or professional service income) but not to the distributive shares of the partnership business. Salaries would be subject to a reasonableness test and a provision for salaries must be part of the partnership agreement. If there is no written partnership agreement, or if in the written agreement no salary or salary formula is specifically provided, the payment to the partners is a partnership distribution and is not subject to reciprocity exclusion. Partnership draw does not constitute a salary; it is a convenience to the partners in withdrawing a share of their business equity. If all partners are performing personal services and the sale of goods and the services of the employees are incidental, the reciprocity exclusion applies to the partner's salary and to the partner's distributive share. The imputed income of a shareholder of an electing small business corporation (Subchapter S) is not subject to reciprocity exclusion as this income is in the form of a partnership distribution.

G. [Proposed for repeal.]

~~G.H.~~ The following items of income received by a nonresident are assignable to Minnesota regardless of the time or place received by the taxpayer if the underlying services giving rise to the ~~distribution~~ payment were performed in Minnesota.

1. A bonus.
2. Commissions.
3. Vacation pay. However, certain qualified pension payments are not assignable to Minnesota if they are received by a nonresident, even though the payments are attributable to services previously performed in Minnesota.

~~H.I.~~ The amount of a net operating loss ~~carryforward or carryback~~ that may be carried back or carried forward shall be the same dollar amount allowed in the determination of federal adjusted gross income. Adjustments must be made in the net operating loss for income and losses which are not assignable to Minnesota and for any changes in the computation of federal adjusted gross income which have not been adopted by the Minnesota legislature in a law updating the reference to the Internal Revenue Code. A taxpayer may make an adjustment to federal adjusted gross income for the modifications that affect shareholders of a small business corporation which has made an election for federal purposes but not for Minnesota purposes as provided in § 290.01, subd. 20(c).

The net operating loss carryback or carryover applied as a deduction in the taxable year to which the net operating loss is carried back or carried over shall be equal to the net operating loss carryback or carryover applied in the taxable year in arriving at federal adjusted gross income subject to the following modifications:

1. Increase the amount of carryback or carryover applied in the taxable year by the amount of losses and expenses not assignable to Minnesota incurred in the taxable year.
2. Decrease the amount of carryback or carryover applied in the taxable year by the amount of income not assignable to Minnesota earned in the taxable year and the amount of federal jobs credit or WIN credit earned in the taxable year.
3. A taxpayer who is not a resident of Minnesota during any part of the taxable year and who has no income assignable to Minnesota during the taxable year shall apply no net operating loss carryback or carryover in the taxable year.

The net operating loss carryback or carryover to the next consecutive taxable year shall be the net operating loss carryback or carryover as calculated in this Part less the amount applied in the taxable year(s) as above. No additional net operating loss carryback or carryover shall be allowed if the entire amount has been used to offset Minnesota income in a year earlier than was possible on the federal return. A net operating loss carryback or carryover that was allowed to offset federal income in a year earlier than was possible on the Minnesota return shall still be allowed to offset Minnesota income.

13 MCAR § 1.6030 Nongame wildlife checkoff.

D.1. A taxpayer may reverse all or part of the designation that was made to the Nongame Wildlife Management Fund where the designation was originally made in error and the taxpayer had no intention to make a gift when the designation was made from the taxpayer's refund. A taxpayer may not reverse the designation to the Nongame Wildlife Management Fund merely because the taxpayer, at a later date, changes the intention to make a gift to the fund at any time during which the taxpayer may

file an amended return. It will be presumed that the taxpayer intended to make a designation when more than 90 days have elapsed since the taxpayer received the refund check or a notice informing the taxpayer that a designation was made to the Nongame Wildlife Management Fund with the following two exceptions:

a. The taxpayer has a valid explanation showing why no action was taken within the 90 day period. Examples of a valid reason are sickness or being outside of the country.

b. The taxpayer considered the designation to the Nongame Wildlife Management Fund as a payment of estimated income tax and properly accounted for this amount as an estimated tax payment on the taxpayer's income tax return for the following year.

A taxpayer may designate that all or part of his refund on an amended return go to the Nongame Wildlife Management Fund.

B.4. The amount of the refund from which a taxpayer may make a designation to the Nongame Wildlife Management Fund is determined after the following deductions have been made:

Unpaid Minnesota tax liabilities owed to the Commissioner of Revenue.

b. A debt which qualifies for the provisions of the Revenue Recapture Act contained in Laws of 1980, Chapter 607, Article XX Minnesota Statutes, Chapter 270A.

c. Amounts credited to the estimated income tax liability for taxable year.

13 MCAR § 1.6225 Targeting.

A. Homestead qualifications. The refund contained in Minn. Stat. § 290A.04, subd. 2c (targeting) provides up to \$300 of property tax relief in 1981 to homeowners whose property taxes have increased by more than 10% from 1980 after reduction is made for improvements and other state paid credits. To qualify for targeting the property must qualify as the claimant's homestead for purposes of claiming the property tax refund for property taxes payable in 1980 and 1981. The claimant, therefore, must have owned and occupied the property as the claimant's homestead on January 2, 1980 and on January 2, 1981. When a homestead is owned by two or more persons as joint tenants or tenants in common, the tenants shall determine between them which tenant shall be the claimant for purposes of claiming the property tax refund and targeting. The joint tenant or tenant in common who ~~claimed~~ claims the property tax refund in 1981 is the only joint owner who qualifies to claim targeting in 1981. The joint owner who claims the property tax refund and targeting in 1981 need not be the same joint owner who claimed the property tax refund in 1980. In order for a joint owner to claim the property tax refund and targeting in 1981, the property must also have been the joint owner's homestead on January 2, 1980.

B. New construction. The claimant shall reduce the amount of the net property taxes payable in 1981 by the amount which is attributable to improvements. The amount attributable to improvements shall be determined by applying a ratio to the property taxes payable after reduction for the state-paid homestead credit and all other state-paid credits ~~but before the reduction for including~~ including the property tax refund.

The ratio that shall be used is:

Assessor's estimated market value of improvements

Assessor's estimated market value of the entire homestead (including land)

This ratio shall apply to the estimated market value of all improvements which are included in the estimated market value for the first time for property taxes payable in 1981 regardless of the year the improvement was actually made.

C. Net property taxes payable.

1. A claimant who was required to reduce the property taxes payable for purposes of the property tax refund because

a. the homestead was used for business purposes and depreciation expenses were claimed or,

b. part of the homestead was rented to another, must make the similar reduction in the net property taxes payable which qualify for targeting. The same percentage reduction must be applied to net property taxes payable in 1980 and 1981. The largest percentage reduction must be used whether it be the 1980 percentage reduction or the 1981 percentage reduction.

The taxpayer shall recompute the property tax refund claimed for the year in which the smaller percentage reduction was

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

made. The taxpayer shall use the property taxes for that year reduced by the largest percentage reduction when recomputing the property tax refund.

C.3. For purposes of computing the net property taxes payable that qualify for targeting, the property taxes payable must be reduced by the amount of the Class 3CC credit which was received under the provisions of Minn. Stat., § 273.13, subd. 7 ~~Laws of 1980, ch. 607, Article IV, sections 3, 6, and 7.~~

D. The taxpayer who must make a reduction for improvements and a reduction for business or rental use must first make the reduction for improvements and then make the reduction for business or rental use.

If the improvement that was made is totally used for business or rental use, and this is the only part of the residence that is used for business or rental use, the claimant is required to only make the reduction for the improvement.

SUPREME COURT

Decisions Filed Friday, June 18, 1981

Compiled by John McCarthy, Clerk

50308/Sp. Kim M. Miller, a minor, by Carlton E. Miller, her father and natural guardian, and Carlton E. Miller, individually, v. State of Minnesota, James Harrington as Commissioner of Transportation; William Merritt, as Assistant Commissioner, Department of Transportation, Highway Division, Appellants. LeSueur County.

In the operation of an automobile, airplane or power boat, a minor plaintiff is to be held to the same standard of care as an adult. Reversed and remanded. Otis, J.

51397/22 Haskell's Inc., *et al.*, Appellants, v. John Sopsic, Minnesota Commissioner of Public Safety, *et al.*, and Minnesota Beer Wholesalers Association, intervenor. Ramsey County.

Minn. Stat. § 340.405 (1980), prohibiting brewers and wholesalers from extending credit to retailers of intoxicating malt liquor, has for its purpose a rational objective which furthers a legitimate public policy, and does not unconstitutionally discriminate in favor of brewers or wholesalers, or retailers who sell liquor, wine, or other types of spirits.

Affirmed. Otis, J.

51497/Sp. Pamela Joy Thompson, *et al.*, Appellants, v. St. Mary's Hospital of Duluth, Minnesota, *et al.*, St. Louis County, Dr. Robert J. Campaigne. St. Louis County.

Plaintiffs represented by a legal aid office, which is partially funded by the county, may have expenses of expert witness fees and deposition costs paid by the county pursuant to Minn. Stat. § 563.01 (1980), the *in forma pauperis* statute.

To obtain payment pursuant to § 563.01, subdivisions 5 and 6, plaintiffs must show that an expert witness has evidence material and necessary to the case and that depositions are necessary to prepare an issue. After a proper showing is made, the court shall determine the amount of reasonable costs and the appropriate procedure for deposing witnesses.

Reversed and remanded with directions. Peterson, J.

51231/Sp., 51176 State of Minnesota v. Thomas R. Ware, Appellant, State of Minnesota v. Thomas Raymond Ware, Appellant. Sibley County.

Defendant's right to a speedy trial was not violated.

Evidence that defendant committed criminal sexual conduct in the second degree was sufficient.

Trial court did not commit prejudicial error in rulings on scope of cross-examination of state's witness or in denying motion to prohibit use of prior convictions to impeach defendant's credibility if he testified.

Defendant, by withdrawing guilty plea, forfeited his rights under the plea agreement and cannot now contend that he should receive the benefit of the bargain he negotiated or that the prosecutor should have been estopped from taking a position on sentencing inconsistent with that taken before the guilty plea was withdrawn.

Affirmed. Scott, J.

51873/Sp. Tri-State Insurance Company of Minnesota, Appellant, v. Kate Bouma. Pipestone County.

Minn. Stat. § 176.179 (1974), which provides that a payment voluntarily paid through mistake in fact or law to an injured

employee in apparent accordance with the Workers' Compensation Act and received by the employee in good faith shall not be refunded, does not impair an obligation of contract in violation of Minn. Const. art. 1, § 11, does not contravene Minn. Const. art. 1, § 8, by abrogating the employer or insurer's remedy of restitution, and does not deny due process in violation of the U.S. Const. amend. XIV and Minn. Const. art. 1, § 7.

Affirmed. Scott, J.

51661 Dennis Frandsen and Company, Inc. v. The County of Kanabec, Township of Hillman, Minnesota, Appellant. Kanabec County.

An issue which could have been reviewed in an appeal from a judgment and which is undisturbed by an amendment to that judgment will not be reviewed on an appeal from the judgment as amended.

Affirmed. Simonett, 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 Corrections Inspection and Enforcement Unit

Notice of Availability of Contract for Training and Technical Assistance Services

The Inspection and Enforcement Unit of the Minnesota Department of Corrections requires a trained and experienced individual to provide training and technical assistance to jailors, county boards, sheriffs and architects.

The Inspection and Enforcement Unit wishes to contract with an individual who in turn will provide the required training and technical assistance services. Listed below is a projected range of responsibilities for such services for an approximate 12 month period terminating June 30, 1982:

The individual will be responsible for the design and implementation of training programs in legal issues inherent in correctional facility operations, security procedures, supervisory skills and the development of policies and procedures.

Technical assistance responsibilities will include working with local county boards, sheriffs and architects in a variety of areas related to new construction or major renovation. Experience is necessary in working with local units of government, budget preparation, design and construction document review, establishment of community resource programs in jails, staffing manpower analysis and the establishment of policies, procedures, records and reports for new facility operation.

Reimbursement:

Hourly compensation rate will be based upon a 40 hour work week for a 12 month period. Travel and miscellaneous expenses will be paid. Anticipated dollar limit of this proposed contract is \$40,000.

Please send proposals to:

Dennis L. Falenschek
Director of Inspection and Enforcement
Minnesota Department of Corrections
430 Metro Square Bldg., 7th & Robert St.
St. Paul, MN 55101
Phone: (612) 296-7087

Final submission date for responses to request for proposals is July 6, 1981.

STATE CONTRACTS

Department of Corrections Minnesota Correctional Facility—Red Wing

Notice of Availability of Contract for Psychological Evaluation Services

The program at the Minnesota Correctional Facility—Red Wing requires the services of a licensed psychologist. This person will provide the written psychological evaluation—through testing, interviews, etc.—on up to a twice weekly basis for all new admissions to the institution, to re-test selected youths based upon specific staff referral, plus limited staff training in the area of his/her expertise. Payment is \$200.00 per 8-hour day. Annual cost is limited to \$19,000.00.

Notice of Availability of Contract for Volunteer Services Coordinator

The program at the Minnesota Correctional Facility—Red Wing requires the services of a volunteer coordinator. Position requires up to 50 hours per week for 10 months (September-June), and up to 15 hours per week for the two months of July and August. Responsibilities include the providing of professional volunteer services for juvenile clients at the institution through the recruiting and training of volunteers, plus the development of a coordinated scheduling of the volunteers to augment on-going programs. Payment is \$1,360.00 per month from September-June, and \$400.00 per month in July and August. Annual cost is limited to \$14,400.00.

For further information on either contract, contact:

Thomas P. Kernan, Assistant Superintendent
Minnesota Correctional Facility—Red Wing
Box 45
Red Wing, Minnesota 55066
Telephone: (612) 388-7154, ext. 227

The final submission date for either contract is June 30, 1981.

Department of Economic Development

Notice of Request for Proposals for Auditing Services

The Minnesota Department of Economic Development is seeking the services of a certified Public Accountant to: Perform an audit examination of financial statements covering \$1,810,000—total of five (5) grants from the Department of Housing and Urban Development under Sections 701 and 107 of the 1954 Housing Act, as amended, during the period of July 1, 1979 through June 30, 1981.

The examination should be of sufficient scope to evaluate the fairness of the financial statements in conformity with general accepted auditing standards and appropriate federal audit guides, including a review of internal control procedures and such tests of transactions as are deemed necessary for the expression of an opinion.

For further information contact:

Vic Moore
Department of Economic Development
Room 200 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-2186

All proposals must be received by 4:30 p.m. July 31, 1981.

Department of Health Community Services Division Services for Children with Handicaps

Notice of Availability of Contracts for Medical and Related Services

Crippled Children Services contracts with persons to provide services at field clinics.

Openings exist for:

1. Board certified or approved physicians to provide medical examinations;
2. Certified audiologists to provide audiological examinations;
3. Registered public health or pediatric nurses to provide nursing services;
4. Social workers to provide medical social services;
5. Speech pathologists to provide speech evaluations;
6. Dieticians to provide nutrition assessments

Qualified, interested persons should contact Alpha Adkins, Assistant Director, Services for Children with Handicaps, 2829 University Avenue S.E., Minneapolis, Minnesota 55414.

Department of Veterans Affairs

Notice of Medical and Medical-Related Contracts Available—Fiscal Year 1982

In accordance with Minn. Stat. § 16.0981, the Department of Veterans Affairs is publishing notice that the contracts listed below are available and will be awarded for Fiscal Year 1982 (July 1, 1981 to June 30, 1982).

A. Minnesota Veterans Home—Minneapolis

1. The Veterans Home—Minneapolis intends to engage the services of licensed individuals (where applicable) to provide various medical and related services to the residents of the facility. The estimated amount of the individual contracts are outlined below:

a. Dental Services	\$16,000
b. Podiatry Services	\$ 6,300
c. Corrective Therapy	\$ 5,000
d. Chaplain Services	\$ 6,000
e. Dietitian Services	\$ 6,800
f. Optical/Related Services	\$ 8,200
g. Medical Services	\$34,000

2. Inquiries and formal expressions of interest in the proposed contracts outlined above should be submitted by July 13, 1981 to:

Frank Singer
 Veterans Home—Minneapolis
 51st Street and Minnehaha Avenue
 Minneapolis, Minnesota 55417

B. Minnesota Veterans Home—Hastings

1. The Veterans Home—Hastings intends to engage the services of licensed individuals to provide various medical and related services to the residents of the facility. The estimated amount of the individual contracts are outlined below:

a. Medical/Physician Services	\$18,000
b. Dental Services	\$10,000
c. Optical/Related Services	\$ 3,000

2. Inquiries and formal expressions of interest in the proposed contracts outlined above should be submitted by July 13, 1981 to:

Dick Dobrick, Superintendent
 Veterans Home—Hastings
 1200 East 18th Street
 Hastings, Minnesota 55033

C. Department of Veterans Affairs—Central Office

1. The Department of Veterans Affairs intends to engage the services of a licensed physician to review medical information to determine the medical eligibility for the department's financial assistance program. The estimated amount of the contract is not expected to exceed \$8,000.

STATE CONTRACTS

2. Inquiries and formal expressions of interest should be submitted by July 13, 1981 to:

R. J. Lavell, Deputy Commissioner
Department of Veterans Affairs
Veterans Service Building
St. Paul, Minnesota 55155

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 Administration Data Privacy Division

Notice of Intent to Consider Two Applications for Temporary Classification for Statewide Applicability

The Commissioner of Administration has received two applications for temporary classification of estimated or appraised values of property submitted by the City of Minneapolis, Minnesota. The commissioner has determined that it is advisable to consider these applications for statewide applicability under the authority vested in him by Minnesota Statutes, § 15.1642 as amended by Chapter 603, Laws of Minnesota 1980. The commissioner hereby gives notice of his intent to approve or disapprove, for the use of all political subdivisions in the State of Minnesota, the following classifications of data for estimated or appraised values of individual parcels of real property which are made by the agency or which are made by independent appraisers on behalf of the agency for the purpose of acquiring land through purchase or condemnation:

1. Confidential for property appraisal data which is data on individuals.
2. Protected nonpublic for property appraisal data which is *not* on individuals. Any county, other government agency, association or member of the public who wishes to submit comments on these applications must do so within 30 days of the publication of this notice. Comments received after 30 days need not be considered by the commissioner. Comments should be submitted to the Commissioner of Administration, % Data Privacy Division, 200 State Administration Building, 50 Sherburne Avenue, St. Paul, Minnesota, 55155. A copy of each application may also be obtained from the Data Privacy Division.

Energy Agency Conservation Division

Notice of Intent to Solicit Outside Opinion on Rules Relating to Home Energy Disclosure Act

Notice is hereby given that the Energy Agency is considering the adoption and revision of rules to regulate the Home Energy Disclosure Program, Minn. Stat. § 116H.129.

Existing rules regulating the program will be modified in accordance with the recent changes in the above cited statute. These changes will include the modification of the audit procedures to coincide with the Residential Conservation Service Program.

All interested or affected persons or groups may submit information on this subject. Written or oral information and comments should be addressed to:

Greg Hubinger
(612) 297-2117
Minnesota Energy Conservation Service Manager
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Department of Natural Resources Minerals Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Amendment of Rules on Permits to Prospect for and Leases to Mine Copper, Nickel and Associated Minerals

Notice is hereby given that the Minnesota Department of Natural Resources is seeking information or opinions from sources outside the agency in preparing to amend the royalty provisions of the rules regarding permits to prospect for and leases to mine copper, nickel and associated minerals (NR 94(g)(8) & (9)) in order to address the possibility of a "bonanza" mineral deposit. The proposed amendment will be limited to adding a special royalty rate provision to the state copper-nickel leases.

The promulgation of this amendment to the rules is authorized by Minnesota Statutes, §§ 93.08-93.12 and 93.25, which permit the agency, with the approval of the State Executive Council, to adopt rules and regulations for the issuance of permits to prospect for and leases to mine and remove copper, nickel and associated minerals on lands wherein an interest in the minerals is owned by the state.

The Minnesota Department of Natural Resources requests information and comments concerning the subject matter of the proposed amendment to these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements shall be addressed to:

Elwood F. Rafn
Director, Division of Minerals
Department of Natural Resources
Box 45
Centennial Office Building
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-4807 and in person at the above address.

All statements of information and comment shall be accepted until July 20, 1981. Any written material received by the Minnesota Department of Natural Resources shall become part of the record in the event that the amendment to the rules is promulgated.

Steven G. Thorne, Deputy Commissioner
Department of Natural Resources

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155; (612) 296-7876. Application deadline is July 14, 1981.

THE COUNCIL ON THE ECONOMIC STATUS OF WOMEN has 12 vacancies open for public members; at least 50% shall be women, representative of a broad range of economic interests and vocations and shall include persons who are not regularly employed on a full-time or part-time basis outside their homes. Terms are to be staggered (changed this legislative session). The council studies and makes recommendations to the governor and the legislature on the economic status of women. Members are appointed by the Governor for 2 year terms. Monthly meetings; public members receive \$35 per diem plus expenses. For

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specific information, contact Council on the Economic Status of Women, 400 S.W. State Office Bldg., St. Paul 55155; (612) 296-8590.

THE BOARD OF ACCOUNTANCY has one vacancy open for a certified public accountant. The board examines, licenses and regulates certified public accountants and public accountants; 7-9 members, appointed by the Governor, include 2 public members, 5 licensed certified public accountants, and 0-2 licensed public accountants, based on the number licensed in the State. Members must file with Ethical Practices Board. Monthly meetings; members receive \$35 per diem. For specific information contact Board of Accountancy, Dept. of Commerce, 590 Metro Sq. Bldg., St. Paul 55101; (612) 296-7937.

THE CITIZENS ADVISORY TASK FORCE ON THE BOUNDARY WATERS CANOE AREA has three vacancies open; 1 member from Lake County and 2 public members. The task force conducts meetings and research on the establishment and operation of the Boundary Waters Canoe Area; makes recommendations to the U.S. Forest Service and other federal and state agencies. Members are appointed by the Governor and compensated for expenses. For specific information contact citizens Advisory Task Force on the Boundary Waters Canoe Area, Grand Marais 55604; (218) 387-2020.

THE BOARD OF EXAMINERS FOR NURSING HOME ADMINISTRATORS has one vacancy open for a public member. The board licenses administrators of nursing homes, board/care homes and mental retardation facilities; conducts studies of nursing home administration; approves continuing education programs for administrators; investigates complaints and allegations of rule violations. Members are appointed by the Governor. Representatives of the Department of Health and the Department of Public Welfare are ex officio members; members must file with Ethical Practices Board. Quarterly meetings; members receive \$35 per diem. For specific information contact Board of Examiners for Nursing Home Administrators, 717 Delaware St. S.E., Mpls. 55414; (612) 296-5406.

THE BOARD OF PEACE OFFICER STANDARDS AND TRAINING has 2 vacancies open for 2 elected municipal officials from cities of less than 5,000 population outside of the metropolitan area. The board licenses part-time peace officers as well as peace officers and constables; establishes minimum qualifications and standards of conduct; regulates police training. Members are appointed by the Governor and must file with Ethical Practices Board. Monthly meetings, St. Paul; members receive \$35 per diem. For specific information contact Board of Peace Officer Standards and Training, 500 Metro Square Bldg., St. Paul 55101; (612) 296-2620.

MINNESOTA COSMETOLOGY ADVISORY COUNCIL has 9 vacancies open for 3 consumer members, 3 cosmetologists or shop managers, 1 representative of public cosmetology schools, 1 representative of private cosmetology schools, 1 representative of cosmetology product manufacture. Term expiration determined by Governor's office to stagger terms as required by legislation (1, 2, 3, or 4 years). The council advises the director of the office of consumer services on the availability of cosmetology services, and on licensing procedures for cosmetologists. Meetings at least once a year at the call of the director; members are compensated for expenses. For specific information contact the Governor's office at (612) 296-3391.

STATE BOARD OF PUBLIC DEFENSE has 7 vacancies open which include a district, county or county municipal court trial judge, 4 attorneys acquainted with defense of persons accused of crime, but not employed as prosecutors or public defense counsels, and 2 public members. The board appoints state and district public defenders; works to maintain a high quality legal defense system for those unable to obtain adequate representation. Members are appointed by the Governor and are compensated for expenses. In appointing attorney members, the governor shall first consider a list of at least 3 nominees for each position submitted by the state bar association. For specific information contact the Governor's office (612) 296-3391.

ADVISORY TASK FORCE ON EPILEPSY has 8 vacancies. The task force studies and reports on the status of programs, services, and facilities for epileptic persons in Minnesota. Members appointed by the Governor must have an interest in the problems of epileptics and must include representatives of medicine, law, education, organized labor, business, and social services organizations; at least 5 shall have epilepsy or be the parent of a person with epilepsy. Commissioners of education, health, public welfare, economic security, and insurance, or their designees, are ex officio members. Members are compensated for expenses. For specific information contact the Governor's office at (612) 296-3391.

INTERGOVERNMENTAL INFORMATION SYSTEMS ADVISORY COUNCIL has two vacancies. Members must be in the State Auditor's Office and must be from a school district within the metro area. The council assists local governments in developing automated information systems by awarding grants. Members are appointed by the Governor. Monthly meetings. For specific information contact Intergovernmental Information Systems, 245 E. 6th St., St. Paul, Mn. 55101 (612) 297-2172.

ENERGY POLICY DEVELOPMENT COUNCIL has 15 vacancies. One from each congressional district and 7 at-large. Members represent education, science, labor and business; at least 4 members shall be from educational and scientific research institutions. Eight terms will expire in Jan., 1983; 7 terms will expire in Jan., 1984. The council advises the commissioner of energy, planning and development on energy policy. Members are appointed by the Governor and confirmed by the senate. Meetings held at the call of the chair; members are compensated for expenses. For specific information contact the Governor's office at (612) 296-3391.

Pollution Control Agency Air Quality Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rule Governing the Issuance of Air Quality Permits in Nonattainment Areas

On April 13, 1981, the Minnesota Pollution Control Agency proposed to adopt without a public hearing a rule governing the agency's permit program for the growth or expansion of industry in nonattainment areas (5 S.R. 1603). The Minnesota Pollution Control Agency intends to re-publish and propose the rule with changes made in response to comments received by the agency.

Notice is therefore hereby given that the Minnesota Pollution Control Agency is seeking information or opinions from sources outside the agency in preparing to promulgate the new rule governing the issuance of air quality permits to persons proposing to construct or modify new or expanded emission facilities in nonattainment areas. The promulgation of this rule is authorized by Minn. Stat. § 116.07, subd. 4a (1980), which permits the agency to "issue, continue in effect or deny permits, under such conditions as [the agency] may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof . . ."

The Minnesota Pollution Control Agency requests information and comments concerning the subject matter of this rule. Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

Douglas M. Benson, Planner
Air Quality Planning Section
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, MN 55113
(612) 296-7740

All written materials received by the Minnesota Pollution Control Agency shall become part of the record in the event that the rule is promulgated. Any written materials received by the Minnesota Pollution Control Agency to date shall also become part of the record in the event that the rule is promulgated.

Dated this 11th day of June, 1981.

Louis J. Breimhurst
Executive Director

Pollution Control Agency Water Quality Division

Notice of Intent to Solicit Outside Opinions on the Proposed Reclassification of Various Waters of the State

Notice is hereby given that the Minnesota Pollution Control Agency is seeking information and opinions from sources outside the agency in preparing to promulgate amendments to its existing rule pertaining to the classifications of intrastate waters, 6 MCAR § 4.8024. The amendments would reclassify certain waters as Class 7 Limited Resource Value. The amendment of this rule is authorized by Minnesota Statutes, §§ 115.03 and 115.44 (1980).

Reclassification requests have been received by the agency on the following waters:

	St. Louis River Watershed (No. 1)
Buhl Creek	T58,R19,S20,29
Buhl	
Penobscot Creek	T57,R20
Hibbing	
	Mustinka—Bois de Sioux Rivers Watershed (No. 7)
South Fork Rabbit River	T129,130,R45,46
Tintah	

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	Roseau River Watershed (No. 14)
Unnamed ditch	T163,R37,S19,20,21,22,23
Warroad	T163,R38,S19,20,21,22,23,24,30
	T163,R39,S25,31,32,33,34,35,36
	Crow River Watershed (No. 17)
Jewett Creek	T119,120,R30,31
Litchfield	
	Mississippi—Sauk Rivers Watershed (No. 19)
Battle Brook	T35,36,R26,27
Little Elk Lake Area	
	Big Stone Lake Watershed (No. 20)
Old Whetstone River Channel	T121,R46,S16,17,21
Ortonville	
Big Stone Canning Co.	
	Chippewa River Watershed (No. 23)
Mud Creek	T121,R37,S31
DeGraff/Murdock	T121,R38,S18,19,20,28,29,33,34,35,36
	T121,R39,S11,12,13
Judicial Ditch No. 5	T120,R38,S4,5,6,9,10,11
Murdock	T120,R39,S1,4,9,10,11,12
Unnamed creek	T120,R38,S1,2
Murdock	T121,R38,S35
Unnamed ditch	T121,R38,S19,29,30
DeGraff	
	Yellow Medicine River Watershed (No. 24)
County Ditch No. 4	T110,R44,S5
Arco	T111,R44,S31,33
Judicial Ditch No. 29	T111,R44,S21,28,33
Arco	
	Cottonwood River Watershed (No. 26)
Altermatts Creek	T108,R33,S17,19,20,30
(County Ditch No. 39)	T108,R34,S24,25,35,36
Comfrey	
Minneopa Creek	T108,R28,S26,27,32,33,34
Lake Crystal	
	Minnesota River—Hawk Creek (No. 28)
Beaver Creek, East Fork	T115,R34,S1,2,3,4,5,6
(County Ditch No. 63)	T115,R35,S1,12
Olivia	
Olivia Canning Co.	T116,R34,S16,20,21,28,29,30,32,33,34,35
	Lower Minnesota River Watershed (No. 29)
County Ditch No. 22	T111,R23,S4,9,10
Montgomery	T112,R23,S33
Green Giant Co.	
High Island Creek	T113,114,R26,27,28,29,30
Arlington	
Unnamed creek	T114,R26,S2,3,4,8,9,17
Green Isle	
Unnamed ditch	T114,R26,S19
Green Isle	T114,R27,S11,12,13,14,24

Unnamed ditch Burnsville Freeway Sanitary Landfill	T27,R24,S28,33
Unnamed stream Savage	T115,R21,S8,9
	Snake River Watershed (No. 31)
Pokegama Creek Brook Park	T40,41,R21,22
	Cannon River Watershed (No. 34)
County Ditch #7 Owatonna Owatonna Canning Co.	T107,R20,S7 T107,R21,S1,12
Crane Creek Owatonna Owatonna Canning Co.	T107,108,R20,21,22
Unnamed dry run Owatonna Owatonna Canning Co.	T107,R20,S6 T107,R21,S1
Unnamed dry run Owatonna Owatonna Canning Co.	T107,R20,S6 T107,R21,S1
	Zumbro River Watershed (No. 35)
Masten Creek Kasson	T106,107,R16,17
Unnamed creek Byron	T107,R15,S17,20,29
Unnamed stream Dodge Center Owatonna Canning Co.	T107,R17,S27,34
	Root River Watershed (No. 36)
Unnamed Creek Canton	T101,R9,S20
Unnamed creek Plainview	T108,R11,S16,17,20,21,22,27,34
	Cedar River Watershed (No. 37)
East Fork Cedar River Hayfield	T105,R17,18
Unnamed Creek Hayfield	T105,R17,S21,22
Unnamed stream Adams	T101,R16,S9,10,11
	Des Moines River Watershed (No. 38)
Judicial Ditch No. 26 Ceylon	T101,R32,S13,14,23,24

All interested or affected persons or groups are requested to participate. Statements of information and comment may be made orally or in writing. Each water segment will be considered separately by the MPCA. To fully evaluate the comments that are received, it is requested that the water segment to which the comment is directed be specifically named on all transmittals. Written statements of information and comment may be addressed to:

Gerald T. Blaha
Minnesota Pollution Control Agency
Division of Water Quality
1935 West County Road B2
Roseville, Minnesota 55113

OFFICIAL NOTICES

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-7384, or in person at the above address.

All statements of information and comment shall be accepted until July 15, 1981. Any written material received by the MPCA shall become part of the record in the event that the amendments are promulgated.

Department of Public Welfare Department of Health Department of Public Safety

Merit System

Notice of Intent to Solicit Outside Opinion Concerning Merit System Rules

Notice is hereby given that the Minnesota Department of Public Welfare (12 MCAR), the Minnesota Department of Health (7 MCAR) and the Minnesota Department of Public Safety (11 MCAR) are considering proposed amendments to those rules affecting their compensation plans and salary schedules.

If adopted, these rule changes will alter the salaries paid to those employees in agencies under the jurisdiction of the Merit System which have not negotiated a compensation plan with the exclusive representative for a bargaining unit.

The proposed rule changes are:

- 12 MCAR § 2.840
- 7 MCAR § 1.314
- 11 MCAR § 1.2140

The Minnesota Department of Public Welfare, the Minnesota Department of Health, and the Minnesota Department of Public Safety are also considering proposed amendments to several other rules affecting:

- (1) definitions;
- (2) statement of policy and means of affecting policy;
- (3) organization;
- (4) classification plan;
- (5) compensation plan;
- (6) examinations;
- (7) certification of eligibles;
- (8) probationary period;
- (9) separation, tenure and reinstatement;
- (10) leave of absence;
- (11) appeals;
- (12) salary adjustments and increases;
- (13) salary computation provisions for full and part-time employment, terminal vacation and sick leave pay, partial pay periods, overtime and part payment from another source;
- (14) appointment, promotions, demotions, transfers and reinstatements;
- (15) provisions for computing monthly, less-than-full-time, bi-weekly, and four-week salary rates.

If adopted, these rules will alter various personnel policies in agencies under the jurisdiction of the Merit System.

Additionally, the Minnesota Department of Public Welfare is considering proposed amendments to those rules affecting its position classification specifications.

If adopted, these rule changes will create a new position classification and will alter existing position classification specifications for ten classifications under the jurisdiction of the Merit System.

The proposed rules altering existing position classification specifications are:

- 12 MCAR § 2.578 Financial Assistance Supervisor I
- 12 MCAR § 2.579 Financial Assistance Supervisor II
- 12 MCAR § 2.590 Financial Assistance Supervisor III
- 12 MCAR § 2.591 Financial Assistance Supervisor IV
- 12 MCAR § 2.623 Financial Assistance Specialist
- 12 MCAR § 2.720 Accounting Officer I
- 12 MCAR § 2.721 Accounting Officer II
- 12 MCAR § 2.722 Accounting Officer III
- 12 MCAR § 2.723 Accountant I
- 12 MCAR § 2.724 Accountant II

The proposed rule creating a new class is:

- 12 MCAR § 2.729 Accounting Technician

All interested or affected persons are requested to participate. Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ralph W. Corey, Supervisor
Minnesota Merit System
Fourth Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment must be received by July 20, 1981. Any written material received by the department shall become part of the hearing record. The Notice of Hearing on all of the above mentioned rules will be published in the *State Register* in August.

Under the provisions of Minn. Stat. § 10A.01, subd. 11 (1974), any individual representing persons or associations attempting to influence administrative action, such as the promulgation of these proposed rules and amendments, must register with the Ethical Practices Board as a lobbyist within five days of the commencement of such activity by the individual. The Ethical Practices Board is located in Room 41, State Office Building, St. Paul, Minnesota 55155.

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