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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 6, NUMBER 32

February 8, 1982

Pages 1393-1408



Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 6			
33	Monday Feb 1	Monday Feb 8	Monday Feb 15
34	Monday Feb 8	Friday Feb 12	Monday Feb 22
35	Monday Feb 15	Monday Feb 22	Monday March 1
36	Monday Feb 22	Monday March 1	Monday March 8

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.00 per copy.

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

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

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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:

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Issues 14-25, inclusive	Issues 40-51, inclusive
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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.

If, 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 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Revenue
Income Tax Division
Notice of Withdrawal of Proposed Rule Relating to Depreciation for Corporation Income Tax (13 MCAR § 1.6501)

The Income Tax Division of the Department of Revenue hereby withdraws proposed rule 13 MCAR § 1.6501, "Depreciation for corporations," which was published at State Register, Volume 6, Number 18, pages 747-748, November 2, 1981 (6 S.R. 747). The rule is withdrawn because of the passage of Laws 1981, Third Special Session, Chapter 2, Article 3, Section 8.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 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 Agriculture Food Inspection Division

Repeal of Rules Governing the Minnesota Certified Quality Egg Program

The rules proposed for repeal (Agr 434-457) and published at *State Register*, Volume 6, Number 21, pp. 1006-1007, November 23rd (6 S.R. 1006) are now repealed.

Department of Labor and Industry Worker's Compensation Rehabilitation Services

Adopted Rule Governing Rehabilitation of Work Related Injuries and Diseases

The rule proposed and published at *State Register*, Volume 6, Number 11, pages 450-452, September 14, 1981 (6 S.R. 450) is now adopted with the following modifications.

Rule as Adopted

RS 1. Definitions. For the purposes of RS 1.-17., the following terms have the meanings given them.

C. Suitable gainful employment. "Suitable gainful employment" means employment which is reasonably attainable and which offers an opportunity to restore the injured employee as soon as possible and as nearly as possible to employment which produces an economic status as close as possible to that the employee would have enjoyed without the disability. Consideration shall be given to the employee's former employment and the employee's qualifications, including, but not limited to, the employee's age, education, previous work history, interests and skills.

K. Rehabilitation service. "Rehabilitation service" means service required to determine an employee's eligibility as a qualified employee, and service designed to return an individual to suitable gainful employment by returning the individual to a job with the former employer or to a job related to the individual's former employment, or by placing the individual in a job in another work field, or by placing the individual in a job with higher economic status than would have occurred without the disability if it can be demonstrated that this is necessary to increase the likelihood of reemployment. The service may include, but is not limited to, medical evaluation, medically prescribed physical rehabilitation, work evaluation, counseling, job analysis, job modification, job placement, on-the-job training, or retraining.

Department of Public Service

Adopted Rule Governing the Specifications, Tolerances, and Other Standards for Commercial Weighing and Measuring Devices (PSC 120)

The rule proposed and published at *State Register*, Volume 6, Number 20, pp. 937-938, Nov. 16, 1981 (CITE 6 S.R. 937), is now adopted as proposed.

Department of Revenue Income Tax Division

Adopted Rule Governing Practice of Attorneys, Accountants, Agents and Preparers before the Department of Revenue (13 MCAR § 1.6101); and Adopted Repeal of Income Tax Rule 2052(4)

The rules proposed and published at *State Register*, Volume 6, Number 14, pages 578-582, October 5, 1981 (6 S.R. 578) are now adopted with the following modifications:

Rule as Adopted

13 MCAR § 1.6101 Practice of attorneys, accountants, agents, and preparers before the Department of Revenue.

B. Scope of representation pursuant to power of attorney.

2. For purposes of this rule, a power of attorney grants authority to deal with any of the following: original or amended individual income tax returns; property tax refund returns; fiduciary income tax returns; partnership returns of income; corporation income tax returns, including returns of small business corporations, life insurance companies, banks, and savings and loan associations; ~~employers~~ employer's income tax withholding returns or deposits; claims for refund; and estimated tax declarations.

3. A taxpayer representative may inspect only those state records, files, or documents which are either specifically listed, or directly or indirectly connected with matters specifically listed, in a power of attorney.

D. Standards of ethics and conduct.

2. Each taxpayer representative shall exercise due diligence in regard to all of the following:

a. Preparing, assisting in the preparation of, approving, and filing returns, documents, affidavits, and any other papers relating to Department of Revenue matters to the extent of participation;

5. Where there is a conflict between this rule and a code of conduct which is promulgated by another agency or branch of government, that code of conduct shall control. The taxpayer representative must disclose to the department that there is a conflict.

F. Disreputable conduct. Disreputable conduct, for which any attorney, accountant, agent, or preparer shall be subject to disbarment or suspension from practice before the Department of Revenue, includes any conduct violative of D. In addition, the following acts or events constitute disreputable conduct:

2. Preparing or filing for ~~himself~~ oneself or another a false or fraudulent Minnesota income tax return or other statement on which Minnesota income taxes or a refund thereof may be based, knowing it is false or fraudulent;

3. Willful failure to prepare or file a Minnesota income tax return for ~~himself~~ oneself or another in violation of the applicable income tax statutes or rules;

4. Willful failure to prepare ~~or and~~ file an amended Minnesota income tax return for ~~himself or another~~ oneself, knowing that a material error or omission was made on the original return;

5. Willful failure to recommend to a client that an amended Minnesota income tax return be prepared and filed, knowing that a material error or omission was made on the original return;

~~5. Suggesting to~~ 6. Advising a client or a prospective client an illegal plan for evading to adopt a Minnesota income taxes or the payment thereof tax evasion plan which is not legal, knowing that the plan is illegal not legal;

6.-15. [Renumber as 7.-16.]

~~16- 17.~~ For purposes of 1. through ~~15-~~ 16., the phrases "income tax" and "income tax return" include all matters referred to in B.2.

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.

SUPREME COURT

Decisions Filed Friday, January 29, 1982

Compiled by John McCarthy, Clerk

81-92/Sp. State of Minnesota v. Patricia Mae Hall, Appellant. Washington County.

Held, new trial granted in criminal case for failure of state to comply with discovery rules.

Reversed and remanded for new trial. Scott, J.

81-361/Sp. James F. Harvey, Appellant, v. Fridley Medical Center, P.A., et al. Ramsey County.

A directed verdict was proper in a medical malpractice action where plaintiff failed to introduce expert evidence that defendant doctor's breach of duty caused plaintiff's injury.

Scott, J. Dissenting, Yetka, Peterson and Wahl, JJ. Took no part, Otis and Kelley, JJ.

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 Transportation Operations Division

Notice of Availability of Contract for Supportive Services

The Minnesota Department of Transportation (Mn/DOT) is seeking a qualified individual or organization to provide supportive services to the on-the-job training program, sponsored by the Federal Highway Administration (FHWA). This contractor would be responsible for locating, recruiting, and monitoring the hiring and training of unskilled and untrained people in the construction field, with particular emphasis on minorities and females. The contractor would be responsible for providing monthly and annual reports as to the accomplishments under the contract conditions, as prescribed in the Federal Highway Program Manual 6-4-1-2. This is not a request for a proposal. Those interested in being considered please send your response and a resume no later than February 15, 1982 to:

B. E. McCarthy
Consultant Services Engineer
Room 612B
Transportation Building
St. Paul, Minnesota 55155
Telephone: 612/296-3051

The estimated cost for providing supportive services will not exceed a total cost to the state of \$40,000. The services under this contract must be completed between April 1, 1982 and September 30, 1982.

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 Commerce Banking Division

Bulletin No. 2524: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of February 1982

Notice is hereby given that pursuant to Section 47.20, subd. 4a, Minnesota Statutes, 1980, the maximum lawful rate of interest for conventional home mortgages for the month of February 1982 is seventeen and one-quarter (17.25) percentage points. Further, pursuant to Section 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of February 1982 is seventeen and one-quarter (17.25) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

This is the same rate as set for January 1982 and is based on the Federal National Mortgage Association (FNMA) December 22, 1981, auction results and an average yield for conventional mortgage commitments of 17.073%. No offers were accepted by FNMA at the January 19, 1982, auction. In this case, Section 47.20, Subd. 4a, Minnesota Statutes provides that the previous month's rate continues in effect. The next FNMA auction is scheduled for February 16, 1982, and will be the basis for the March maximum rate. Current rates regarding the monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

January 22, 1982

Michael J. Pint
Commissioner of Banks

Department of Commerce Insurance Division

Petition by the Workers' Compensation Insurers Rating Association of Minnesota for Changes in the Basic Manual for Workers' Compensation and Employers' Liability Insurance

Amended Notice of and Order for Hearing

Issued and Entered this
29th day of January 1982
By Michael D. Markman
Commissioner of Insurance

On December 10, 1981, the Workers' Compensation Insurers Rating Association of Minnesota requested that the petition it filed in the above-entitled matter of September 1, 1981 be amended. The substance of the amendments would be to propose an amendment to the restaurant classification, code 9079, which would permit musicians and entertainers to be separately rated under code 9157; to insure the continued and consistent application of codes 3822 and 3824 to businesses conducting bus, truck or trailer body repair or service operations; to insure the proper classification assignment of bona fide camp operations by discontinuing the cross-reference phraseology for code 9052.

Therefore, it is hereby ordered, that the Notice of and Order for Hearing in this matter issued on October 26, 1981, be amended to include the amendments to the petition filed on December 14, 1981.

Michael D. Markman
Commissioner of Insurance

OFFICIAL NOTICES

Department of Economic Security Training and Community Services Division

Notice of Availability for Public Review of State Plan for the Use of Community Services Block Grant Funds, FY 1983

Funding is authorized under the Omnibus Budget Reconciliation Act of 1981, P.L. 97-35 for a "Community Services Block Grant" to ameliorate the causes of poverty in the states. The block grant replaces funds previously granted to community action agencies directly by the federal government. The Minnesota Department of Economic Security has prepared a plan for the use and distribution of these funds in FFY '83, beginning October 1, 1982. Grants will be made according to the plan, to community action agencies, Indian Reservations and the Minnesota Migrant Council. Funds will be used to provide a range of services having a major impact on the causes of poverty and to provide activities for low-income persons, including the elderly poor, in areas of employment, education, money management, housing and removing the obstacles to poverty.

There is no federal appropriation yet for the FFY '83 Community Services Block Grant.

The FY '83 CSBG plan is available for public review at Regional Development Commission offices, public libraries and community action agencies. Written comments will be accepted through March 15, 1982 at:

Office of Economic Opportunity
Department of Economic Security
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101
612/296-5756

Requests for a single copy of the plan may be made to the same address.

Department of Health

Application for Licensure of Advanced Life Support Transportation Service

As of February 8, 1982, a complete application for an advanced life support transportation service was submitted by Brian Murphy, Murphy Ambulance Service, who now operates a basic life support transportation service in the same primary service area.

This notice is given pursuant to Minnesota Statutes 1979, § 144.802, which requires that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense, and in a newspaper in the municipality in which the service will be provided, or if no newspaper is published in the municipality, or if the service would be provided in more than one municipality, in a newspaper published at the county seat of the county or counties in which the service would be provided. Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Central Minnesota Health Systems Agency, 113 Division Street, Sauk Rapids, Minnesota 56379, before the close of business on March 11, 1982.

After a public hearing has been held in one of the municipalities in which the service is to be provided, the Central Minnesota Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Central Minnesota Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the Central Minnesota Health Systems Agency recommendation, the Commissioner of Health shall grant or deny the license to this applicant.

Minnesota Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding Review of the Existing Rule APC 29, Standards of Performance for Grain Handling Facilities

Notice is hereby given that the Minnesota Pollution Control Agency (agency) is seeking information or opinions from sources outside the agency regarding the review of the existing Rule APC 29, entitled Standards of Performance for Grain Handling

Facilities. APC 29 requires that a facility used in the process of handling, storing, processing or drying of grain or seed must meet certain specified standards of performance. In the review process consideration will be given to the standards of performance as related to geographical locations and size of the grain handling facility, and the incorporation of opacity limits into the rule.

The agency requests information and comments concerning the subject matter of this rule. Interested persons or groups may submit statements of information orally or in writing. Written or oral statements should be directed to George Vasilakes at the address and telephone number listed below. Oral comments and inquiries will be accepted by George Vasilakes during regular business hours over the telephone and in person at the agency office.

George Vasilakes
Minnesota Pollution Control Agency
Division of Air Quality
1935 West County Road B2
Roseville, Minnesota 55113
Telephone (612) 296-7267

All statement of information and comments shall be accepted until March 22, 1982. Any written material received by the agency shall be a part of the hearing record in the event amendments to the rule are proposed and public hearings are held.

Dated this 27th day of January 1982.

Louis J. Breimhurst
Executive Director

Department of Public Welfare Income Maintenance Bureau

Notice of Intent to Solicit Outside Opinion Concerning Revision of 12 MCAR § 2.047 (DPW Rule 47) Concerning the Medical Assistance Program

Notice is hereby given that the Minnesota Department of Public Welfare is considering a revision of rule 12 MCAR § 2.047 (DPW Rule 47). This rule governs administration of the Medical Assistance Program in Minnesota, to include, client eligibility, requirements for provider participation, and covered and non-covered medical services. The statutory authority for the rule is Minn. Stat. § 256B.04.

All interested or affected persons or groups 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:

Larry Woods
Department of Public Welfare
Surveillance and Utilization Review Section
P.O. Box 43208
St. Paul, Minnesota 55164

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-9943.

All statements of information and comment must be received by April 1, 1982. Any written material received by the department shall become part of the hearing record.

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 55155-1299; (612) 296-7876. Application deadline is March 2, 1982.

ENERGY POLICY DEVELOPMENT COUNCIL has 1 vacancy for a member from the 8th Congressional District. The council advises the Commissioner of Energy, Planning and Development on energy policy. Members are appointed by the Governor

OFFICIAL NOTICES

and confirmed by the Senate. Meetings are held at the call of the chair. Members are compensated for expenses. For specific information, contact the Energy Policy Development Council at (612) 297-2997.

FAMILY FARM ADVISORY COUNCIL has 2 vacancies open immediately. Prescribed qualifications include: 1 member a dairy farmer, and 1 member an officer from a commercial lending institution. Members serve 3 year terms. The council assists farmers in obtaining credit to purchase farm real estate by guaranteeing loans and deferring interest payments. Appointed are made by the Commissioner of Agriculture. Meetings are monthly. Members receive \$35 per diem plus expenses. For more information, contact Wayne Marzolf, Director of the Farm Security Program at (612) 296-9310.

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Stat. § 169.832

Order No. 66446

Whereas, the Commissioner of Transportation has made his Order No. 66400 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.832, and

Whereas, the commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.832,

It is hereby ordered that Commissioner of Transportation Order No. 66400 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

CITY STREETS

12 Month Route

Minneapolis — Kasota Ave. S.E. from Elm St. S.E. to Jct. T.H. 280

Seasonal Routes

Detroit Lakes

8th St. S.E. — Between Roosevelt Ave. and 13th Ave. S.E.
Randolph Road — Between Roosevelt Ave. and 550' East of 13th Ave. S.E.
Roosevelt Ave. — Between T.H. 10 and 8th St. S.E.
10th Ave. S.E. — Between Randolph Road and 8th St. S.E.
11th Ave. S.E. — Between Randolph Road and the cul-de-sac, at Industrial Park Complex.
13th Ave. S.E. — Between Randolph Road and 8th St. S.E.

Northern Pacific

Road — Between Summit Ave. and Lake Ave.
Lake Ave. — Between T.H. No. 10 and N.P. Road
Rud Street — Between T.H. No. 10 and Holmes St.
Holmes St. — Between T.H. No. 10 and McKinley Ave.
McKinley Ave. — Between T.H. No. 10 and Holmes St.
Kris St. — Between T.H. No. 10 and the Burlington Northern Railroad

Dated this 29 of January, 1982.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

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

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155. (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action. House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN. (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

Legislative Reference Library
Room 111 Capitol

Interoffice