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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 7, NUMBER 18

November 1, 1982

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Printing Schedule for Agencies

Table with 4 columns: Issue Number, Submission deadline for Executive Orders, Rules and Proposed Rules, Submission deadline for State Contract Notices and Official Notices, Issue Date. Includes SCHEDULE FOR VOLUME 7 with dates from Oct 25 to Nov 29.

*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...

**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.

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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
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The listings are arranged in the same order as the table of contents of the MCAR.

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EXECUTIVE ORDERS**Executive Order No. 82-9****Providing for a Declaration of Emergency**

I, ALBERT H. QUIE, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and laws of the State of Minnesota, hereby issue this Executive Order:

WHEREAS, recent snow and rain in the Red River Valley have resulted in extremely wet field conditions, thereby threatening the timely removal of sugar beets and potatoes prior to winter freezing; and

WHEREAS, those wet conditions will result in additional days required to complete the harvest; and

WHEREAS, a delay in the harvest in 1981 resulted in crop spoilage and economic loss for those perishable crops; and

WHEREAS, it is urgent that immediate action be taken to avoid similar losses this harvest season and to protect the economic health and safety of people in Northwestern Minnesota;

NOW, THEREFORE, I declare an emergency to exist in Red River Valley and hereby direct the Commissioner of Transportation to issue overweight transportation permits to potato and sugar beet haulers subject to the following restrictions:

1. Permits are subject to the condition that no axle or group of axles may exceed statutory weights by more than 10 percent.
2. Permits shall apply to single unit trucks only.
3. Permits shall apply to commodities moved between the production area and the

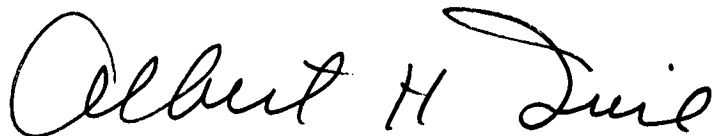
EXECUTIVE ORDERS

production storage site only. Permits shall not apply to movement of commodities between storage sites and processing plants.

4. The duration of this emergency shall be from the current date to completion of the 1982 potato and sugar beet harvest, but not later than November 15, 1982.
5. This emergency order is limited to the Counties of Clay, Kittson, Marshall, Norman, Polk and Wilkin.
6. Vehicles that wish to take advantage of this overweight permit must be licensed for the increased weights which they will carry under this emergency order.
7. A permit fee of Two Hundred Dollars (\$200.00) shall be paid for each vehicle which is permitted to haul commodities under this executive order. This fee is to compensate the Department of Transportation for the cost of mud removal from trunk highways.
8. No tolerance in excess of the permit weight will be considered when enforcing the trunk weight laws of this State.

This Emergency Executive Order shall be effective October 8, 1982.

IN TESTIMONY WHEREOF, I hereunto set my hand this 7th day of October, 1982.



Executive Order No. 82-10

Amending Executive Order No. 82-9 Providing for a Declaration of Emergency

I, ALBERT H. QUIE, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and laws of the State of Minnesota, hereby issue this Executive Order:

WHEREAS, Executive Order No. 82-9 was issued on October 7, 1982 providing for a declaration of emergency; and

WHEREAS, it is necessary for the protection of the economic health and safety of the people of Minnesota to amend and clarify Emergency Executive Order No. 82-9;

NOW, THEREFORE, I Order:

“WHEREAS, recent snow and rain have resulted in extremely wet field conditions, thereby threatening the timely removal of sugar beets and potatoes prior to winter freezing; and

WHEREAS, those wet conditions will result in additional days required to complete the harvest; and

WHEREAS, a delay in the harvest in 1981 resulted in crop spoilage and economic loss for those perishable crops, and

WHEREAS, it is urgent that immediate action be taken to avoid similar losses this harvest season and to protect the economic health and safety of people in Minnesota;

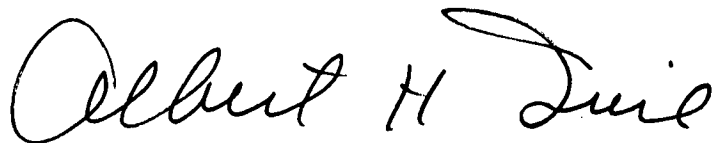
EXECUTIVE ORDERS

NOW, THEREFORE, I declare an emergency to exist and hereby direct the Commissioner of Transportation to issue overweight transportation permits to potato and sugar beet haulers subject to the following restrictions:

1. Permits are subject to the condition that no axle or group of axles may exceed statutory weights by more than 10 percent.
2. Permits shall apply to commodities moved between the production area and the production storage site only. Permits shall not apply to movement of commodities between storage sites and processing plants.
3. The duration of this emergency shall be from the current date to completion of the 1982 potato and sugar beet harvest, but not later than November 15, 1982.
4. Vehicles that wish to take advantage of this overweight permit must be licensed for the increased weights which they will carry under this emergency order.
5. A permit fee of Twenty-Five Dollars (\$25.00) shall be paid for each vehicle which is permitted to haul commodities under this executive order. This fee is to compensate the Department of Transportation for the cost of mud removal from trunk highways. Refunds shall be made for permit fees paid in excess of the Twenty-Five Dollars (\$25.00), pursuant to Executive Order No. 82-9.
6. No tolerance in excess of the permit weight will be considered when enforcing the trunk weight laws of this State."

This Emergency Executive Order shall be effective October 12, 1982.

IN TESTIMONY WHEREOF, I hereunto set my hand this 12th day of October, 1982.



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 Commerce Commissioner of Banks

Proposed Amendments to Rules Governing the Operation of Regulated Lenders (Formerly Small Loan Lenders) and Industrial Loan and Thrift Companies (Chapter 3: BD 100-109 and Chapter 4: BD 120-127)

Notice of Intent to Amend Rules without a Public Hearing

Notice is hereby given that the State Banking Division proposes to amend the above-entitled rules without a public hearing. The Commissioner of Banks has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comment 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 Minnesota Statutes § 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 are desired.

Persons who wish to submit comments or a written request for a public hearing should submit such comments or request to: Terry R. Meyer, Supervisor of Consumer Credit, Banking Division, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101, (612) 296-2135.

Authority to adopt these rules is contained in Minnesota Statutes §§ 46.01, subd. 2, and 56.21. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available for inspection by the public during regular hours, at the above address.

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 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 this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Mr. Meyer.

The proposed amendments to these rules are necessary due to recent and material changes in the Minnesota Statutes, chs. 53 and 56, governing the operation of licensed Regulated Lenders (formerly small loan lenders) and industrial loan and thrift companies. These proposed amendments remove conflicts and possible sources of confusion in applying the newly enacted laws.

The proposed rules follow this notice.
September 16, 1982

Michael J. Pint

Rules as Proposed

~~CHAPTER THREE: BD 100-119~~
~~SMALL LOANS~~
LICENSED REGULATED LENDERS

~~BD 101~~ 4 MCAR § 1.0101 Maximum loan applies to multiple offices.

Licensees shall not induce or permit any borrower to become obligated, directly or contingently, for a total amount in excess of maximum limit stated in Minnesota Statutes, section ~~56.13~~ 56.131 on loans obtained from two or more licensed offices operated in Minnesota by the same individual, partnership, affiliated partnership, corporation, or affiliated corporation. Licensees shall take reasonable precautions to prevent borrowers from obtaining amounts in excess of the maximum limit in this manner.

~~BD 103~~ 4 MCAR § 1.0102 Licensees to be responsible for acts of assignees.

~~(a)~~ A. Notification. Within ten ~~(10)~~ days after the transaction date, licensees shall notify the commissioner of banks of the bulk purchase of loan accounts made pursuant to the Minnesota Regulated Loan Act from another licensee or person authorized by the Minnesota Regulated Loan Act to engage in this business without necessity of a license and of the bulk sale of loan accounts to another licensee or person authorized by the Minnesota Regulated Loan Act to engage in this business without necessity of a license. Notices of ~~such~~ the purchase and sale of accounts shall state the name and address of the ~~lender~~ licensee or person from whom accounts are being purchased, to whom accounts are being sold, and shall state the total number of accounts and the total outstanding principal balances involved.

~~(b)~~ B. Disposition of loan accounts to unlicensed persons. Licensees shall not make a bulk sale or otherwise dispose of loan accounts made pursuant to the Minnesota Regulated Loan Act to any person not ~~holding a license~~ licensed under or authorized to engage in this business without necessity of a license by the Minnesota ~~Small~~ Regulated Loan ~~Law~~ Act unless prior approval is obtained from the commissioner of banks. The privilege of ~~collecting~~ receiving the rate of charge charges allowed by the ~~Small~~ Minnesota Regulated Loan ~~Law~~ Act cannot be transferred to an unlicensed purchaser or purchaser not authorized to engage in this business without necessity of a license and all loans sold, assigned, or transferred to a nonlicensee or unauthorized person shall be endorsed to bear interest at a rate not to exceed ~~six (6) percent per annum after date of transfer~~ the maximum legal contract rate of interest. This paragraph does not apply to the transfer of loan accounts made pursuant to the Minnesota Regulated Loan Act which is involuntary or by operation of law.

~~BD 105~~ 4 MCAR § 1.0104 Transferred accounts.

The original ledger card or record of payments on any transferred ~~small~~ regulated loan must be retained in the transferring ~~small~~ licensed regulated loan office for at least two years from the date of transfer.

~~BD 107~~ 4 MCAR § 1.0106 Refund of unearned interest.

The refund of unearned precomputed ~~charges~~ interest shall be computed as of the next installment date on any ~~small~~ regulated loan prepaid in full by cash, a new loan, renewal, refinancing, or otherwise if prepaid when:

~~(a)~~ 1. 15 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 28 or 29 days; or

~~(b)~~ 2. 16 days or more have elapsed after a scheduled installment due date in any month where the actual number of days in the interval between the scheduled installment dates totals 30 or 31 days.

When fewer days than described in ~~(a)~~ 1. or ~~(b)~~ 2. have elapsed the refund shall be computed as of the prior due date.

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

~~CHAPTER FOUR: BD 120-135~~ INDUSTRIAL LOAN AND THRIFT COMPANIES

~~BD 120~~ 4 MCAR § 1.0120 Books and records.

~~Subd. 1.~~ A. General requirements. In order to facilitate a satisfactory examination by the commissioner of banks or ~~his~~ the commissioner's representatives, each industrial loan and thrift company shall maintain:

- ~~(a)~~ 1. such books and records as are deemed necessary; and;
- ~~(b)~~ 2. a monthly trial balance ~~in the form prescribed~~ as of the close of the accounting period to be in the branch office within ~~15~~ 25 days. ~~A sample form will be provided by the banking division upon request.~~

~~Subd. 2.~~ B. Additional requirements. The principal office of each industrial loan and thrift ~~corporation~~ company in this state shall maintain the following additional books and records:

- ~~(a)~~ 1. a consolidated monthly trial balance ~~in the form prescribed~~ as of the close of the accounting period to be in the principal office within ~~15~~ 25 days. ~~A sample form will be provided by the banking division upon request.~~
- ~~(b)~~ 2. copies of the corporate stock register;
- ~~(c)~~ 3. copies of all corporate insurance policies and surety bonds ~~(, as required by BD 122).~~ 4 MCAR § 1.0122;
- ~~(d)~~ 4. copies of the minutes of all the annual, regular, and special meetings of the board of directors and stockholders.

~~Subd. 3.~~ C. Retention period for legal instruments or records of payments. Unless otherwise provided, all legal instruments, supporting documents, and ledger cards or record of payments shall be maintained in the office for at least two years after recording the final entry ~~thereon~~ on them.

Renumbering. Renumber BD 100 as 4 MCAR § 1.0100; BD 104 as 4 MCAR § 1.0103; BD 106 as 4 MCAR § 1.0105; BD 109 as 4 MCAR § 1.0107; BD 121 as 4 MCAR § 1.0121; BD 122 as 4 MCAR § 1.0122; BD 123 as 4 MCAR § 1.0123; and BD 127 as 4 MCAR § 1.0124.

Repealer. Rules BD 102, BD 108, BD 124, BD 125, and BD 126 are repealed.

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Income Limits for the Rollover Housing Demonstration Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of setting income limits for the Rollover Housing Demonstration Program, pursuant to Laws 1981, Chapter 306, Section 3.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule 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 rule.

James J. Solem
Executive Director

Temporary Rule as Proposed (all new material)

Chapter Eleven C: Rollover Housing Demonstration Program

12 MCAR § 3.1395 [Temporary] Definition. For the purpose of rollover housing demonstration program loans, "persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.1395-1, or such lower amount as required to ensure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.

Exhibit 12 MCAR § 3.1395-1

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted	Metropolitan Maximum Adjusted
0-10.59%	\$24,000	\$29,000
10.60-11.09%	25,000	30,000
11.10-11.59%	26,000	31,000
11.60-12.09%	27,000	32,000
12.10-12.59%	28,000	33,000
12.60% and over	29,000	34,000

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Income Limits for the Medium Density Housing Demonstration Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of setting income limits for the Medium Density Housing Demonstration Program, pursuant to Laws 1981, Chapter 306, Section 3.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule 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 rule.

James J. Solem
Executive Director

Temporary Rules as Proposed

Chapter Eleven B: Medium Density Housing Demonstration Program

12 MCAR § 3.139 [Temporary] Definition. For the purpose of medium density housing demonstration program loans, "persons and families of low and moderate income" means those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.139-1 [Temporary] or such lower amount as shall be required to assure that the interest on obligations of the Minnesota Housing Finance Agency will be exempt from federal income taxation. ~~In Exhibit 12 MCAR § 3.139-1 [Temporary], "metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2.~~

**Exhibit 12 MCAR § 3.139-1 [Temporary]
Maximum Adjusted Income for
Medium Density Housing Demonstration Program Loans**

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income	Maximum Adjusted Income
0-10.59%	\$24,000	\$29,000	\$30,000
10.60-11.09%	\$25,000	\$30,000	\$31,000
11.10-11.59%	\$26,000	\$31,000	\$32,000
11.60-12.09%	\$27,000	\$32,000	\$33,000
12.10-12.59%	\$28,000	\$33,000	\$34,000
12.60% and over	\$29,000	\$34,000	\$35,000

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

PROPOSED RULES

Minnesota Housing Finance Agency

Proposed Temporary Rules Governing Eligible Applications in the Home Improvement Loan Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following temporary rules for the purpose of determining eligible applications in the Home Improvement Loan Program.

All interested persons are hereby afforded the opportunity to submit their comments on the proposed rule for 20 days immediately following publication of this material in the *State Register* by writing to Monte Aaker, Research Coordinator, Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, Minnesota 55101. The temporary rule 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 rule.

James J. Solem
Executive Director

Temporary Rule as Proposed

Chapter Six: Home Improvement Loans.

12 MCAR § 3.051 [Temporary] Eligible applications.

A.-C. [Unchanged.]

D. The structure to be improved must be at least ~~15 years~~ 90 days old, ~~or in need of repair to correct damage resulting from a natural disaster, or in need of repair to correct defects or deficiencies which are hazardous to health or safety, or to directly improve energy efficiency.~~

E.-J. [Unchanged.]

Department of Public Welfare Bureau of Income Maintenance

Proposed Temporary Rules Governing the General Assistance Program (12 MCAR §§ 2.0551-2.0554)

Request for Public Comment

The State Department of Public Welfare proposes to adopt the above entitled temporary rules as directed by Ramsey County District Court, September 23, 1982, Minnesota AFL/CIO and the Urban Coalition of Minneapolis v. Arthur E. Noot and the Minnesota Department of Public Welfare.

Persons interested in this rule have until November 21, 1982 to submit comments. The proposed temporary 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. Comments should be sent to:

Wally Goettl
Income Maintenance Bureau
444 Lafayette Road
St. Paul, MN 55101
612/296-1387

Upon adoption of the temporary rules, the proposed rules, this notice, all written comments received, and the adopted temporary rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality, including the issue of substantial change. The adopted temporary rules will not become effective without the Attorney General's approval and the Revisor of Statute's certification of the rule's form. Persons who wish to be advised of the submission of this material, or who wish to receive a copy of the adopted temporary rules, should submit a written request to Wally Goettl.

As required by the Administrative Procedures Act, this temporary rule will be effective for not more than 180 days and may

be continued in effect for up to an additional 180 days. The department will initiate the process for a permanent rule as soon as possible.

The General Assistance program provides qualified needy individuals and families with the resources necessary to sustain a reasonable subsistence compatible with decency and health. The department is proposing temporary rules that would define and clarify several of the eligibility categories in the General Assistance programs. These categories include marketable skills, advanced age, mentally ill, mentally retarded and English language proficiency skills.

This temporary rule will not result in any additional state or county spending beyond the amount of funds appropriated for the General Assistance program under state statute.

Copies of this notice and the proposed temporary rule may be obtained by contacting Wally Goettl (612/296-1387).

Arthur E. Noot
Commissioner of Public Welfare

Temporary Rules as Proposed (all new material)

12 MCAR § 2.0551 [Temporary] Purpose. The purpose of rules 12 MCAR §§ 2.0551-2.0554 [Temporary] is to enforce and carry out the general assistance program in Minnesota by promulgating uniform eligibility requirements.

12 MCAR § 2.0552 [Temporary] Definitions.

A. Scope. The terms used in rules 12 MCAR §§ 2.0551-2.0554 [Temporary] have the meanings given them in B. to E.

B. Having marketable skills. "Having marketable skills" means:

1. currently working full or part time at a job that is considered to be suitable employment;
2. having quit one's last job which was considered to be suitable employment;
3. holding a license or certificate for a profession or trade;
4. having completed a vocational or technical course, a post high school course, or a high school course of a vocational nature;
5. having served in the armed forces if the training is transferable to civilian employment; or
6. having a work history of suitable employment.

C. Mentally ill. "Mentally ill" describes a person with a psychological disorder resulting in behavior that prevents him or her from providing for his or her needs, including obtaining, performing, or maintaining suitable employment.

D. Mentally retarded. "Mentally retarded" describes a person who, during his or her developmental period, demonstrated below average intelligence and poor adaptive behavior which prevents him or her from providing for his or her needs, including obtaining, performing, or maintaining suitable employment.

E. Suitable employment. "Suitable employment" means:

1. a job that meets existing health and safety standards;
2. a job that a person can physically and mentally perform; and
3. a job that pays at least the minimum wage prescribed by state or federal law.

12 MCAR § 2.0553 [Temporary] Categories of general assistance. In addition to meeting the requirements for general assistance eligibility provided in 12 MCAR § 2.055 C., a person must fall within one of the following categories to be eligible for general assistance:

A. A person who is suffering from a permanent or temporary illness, injury, or incapacity which is both medically certified and prevents the person from engaging in suitable employment, and who, if the medical certification establishes that the illness, injury, or incapacity is temporary and recommends a reasonable plan for rehabilitation, is following the plan.

B. A person whose presence in the home on a substantially continuous basis is required because of the certified illness or incapacity of another member of the household.

C. A person who has been placed in a licensed or certified facility for purposes of physical or mental health or rehabilitation,

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

if the placement is based on illness or incapacity, and is pursuant to a plan developed or approved by the local agency through its director or designated representative.

D. A person who resides in a shelter facility described in Minnesota Statutes, section 256D.05, subdivision 3.

E. A person who is or may be eligible for displaced homemaker services, programs, or assistance under Minnesota Statutes, section 4.40. In determining eligibility of the person for general assistance, income received as a stipend shall be disregarded as provided in Minnesota Statutes, section 4.40.

F. A person who is unable to secure suitable employment due to inability to communicate in the English language, and who, if assigned to a language skills program by the local agency, is participating in that program.

G. A person not described in A. or C. who is diagnosed by a licensed physician or licensed consulting psychologist as mentally ill or mentally retarded.

H. A person who is unable to secure suitable employment due to a lack of marketable skills and who, if assigned to a vocational counseling, vocational rehabilitation, or work training program by the local agency, is participating in that program. Eligibility for general assistance under this clause is limited to five weeks per calendar year.

I. A person who has an application pending for the program of supplemental security income for the aged, blind, and disabled or has been terminated from that program and has an appeal from that termination pending, and who has executed an interim assistance authorization agreement pursuant to the provisions of Minnesota Statutes, section 256D.06, subdivision 5.

J. A person, aged 60 or older, who is unable to secure suitable employment because his or her age significantly affects the ability to perform substantial work. This clause is effective January 1, 1983.

12 MCAR § 2.0554 [Temporary] Persons who communicate in English. A person whose first language is not English but who communicates in English well enough to obtain an entry level job that pays a minimum wage does not fall into the general assistance category provided in 12 MCAR § 2.0553 F. [Temporary].

If one or more of the following conditions apply, a person is considered to have an English proficiency adequate to gain entry level or minimum wage employment:

A. a person had been employed and could effectively communicate in English with a supervisor, where a bilingual person was rarely required to translate for the person and his or her supervisor, where the person was not dismissed from the job because he or she had a limited ability to communicate in English, and where that employment was obtained without the aid of an English-speaking person;

B. a person successfully completed a full-time formal course of study or training that was taught in English, except a course or training in English as a second language (ESL);

C. a person has a general educational development certificate (GED) or an American high school diploma;

D. a person has been able to fully and completely communicate with and understand a local agency's financial worker in the English language without the aid of a translator; or

E. a person has been assessed by an ESL specialist as having an English language proficiency adequate to enable the person to obtain and hold an entry level or minimum wage job where the primary language of supervision is English. An ESL specialist is an educator who either is licensed or provisionally licensed in ESL, or possesses a degree in ESL or linguistics.

TAX COURT

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

State of Minnesota
County of Itasca

Tax Court
Regular Division

Paul T. Dick and Judy Dick,
Appellants,

v.

Commissioner of Revenue,
Appellee.

FINDINGS OF FACT,
CONCLUSIONS OF LAW, AND
ORDER FOR JUDGMENT

Docket No. 3163

Order dated October 7, 1982

The above entitled matter came on for hearing at the Itasca County Courthouse at Grand Rapids, Minnesota, before the Honorable John Knapp, Chief Judge of the above-named Court, on May 27, 1982.

John Hawkinson of the firm of Chalupsky, Nyberg and Hawkinson of Grand Rapids, Minnesota, appeared for Appellants; and Mr. Thomas K. Overton, Special Assistant Attorney General, appeared for the Appellee.

Syllabus

Expenses incurred in snowmobile racing are not deductible from other income in arriving at Minnesota adjusted gross income because in this case the activity was not engaged in for profit.

From the files and records herein and from the testimony adduced at trial, the Court makes the following:

Findings of Fact

1. Appellants are cash basis calendar year taxpayers.
2. The years in question are 1976, 1977, 1978 and 1979. (1979 has not been audited but the commissioner did not object to its consideration.)
3. Appellants reported the following losses from snowmobile racing:

1976	\$ 4,436.75	loss
1977	5,045.00	loss
1978	4,171.60	loss
1979	843.20	loss
	<u>\$14,496.55</u>	

4. On his Minnesota income tax returns Appellant used his losses from snowmobile racing to offset his other income.
5. Appellant began racing snowmobiles in 1971 or 1972. He last raced in 1979.
6. Appellant concedes that prior to 1976 his snowmobile racing was "an activity not engaged in for profit" and not a business.
7. The manner in which Appellant conducted his racing activities in 1976 through 1979 indicates that Appellant's snowmobile racing was not an activity engaged in for profit.
8. Appellant did not keep businesslike financial records. Appellant conducted his racing activity in cash, had no business bank accounts and kept no books. Appellant's business records consisted of miscellaneous racing brochures, receipts, magazines, a list of clothing purchased in one year and one sheet for each year 1976-78 indicating races entered, the entry fees, Appellant's finishes and prize money and estimated costs for travel, food and lodging. Appellant could not even determine actual profit or loss because travel, food and lodging expenses were only estimated. Appellant's records were no different from his personal family records.
9. Appellant did not keep a log of mechanical performance, failures, repairs or modifications even though mechanical condition is a major part of racing and even though Appellant's 85-90 percent breakdown rate far exceeded the normal 50 percent rate.
10. Appellant did not have or obtain expertise in racing snowmobiles profitably. Appellant himself had only moderate success even as an amateur. He employed only a laid-off, uncompensated friend to assist him as a mechanic. The only outside assistance was from a free newsletter on snowmobile maintenance sent to active racers (amateur and professional) by the manufacturers. Appellant did not consult with or obtain advice on racing for profit.

TAX COURT

11. Although Appellant testified that the average breakdown rate for racers was about 50 percent, Appellant broke down a much higher percentage of the time.

1976	unknown
1977	90.9% (10/11)
1978	85.7% (6/7)
1979	unknown

12. For two of the four years in question (1976 and 1977), Appellant raced the same sled he had used when racing was admittedly a hobby.

13. During the years 1976 through 1979 Appellant did not have a sponsor to cover any of his racing needs or expenses even though he had had sponsors who provided a workshop in prior years.

14. In the years 1976 through 1979 Appellant participated in 7, 7, 11 and 4 races respectively. Except for the St. Paul Winter Carnival race all were on weekends. Prior to 1976 Appellant had entered 5 to 10 races annually.

15. For every year from 1976 through 1979 Appellant showed a loss from his racing activities. Appellant had total gross receipts of only \$2,411.00. He had no income in 1976 and 1977 and income of \$180 in 1978. A single successful finish in 1979 accounted for almost all (\$2,051) his total earnings. Appellant's expenses totaled \$16,908.00, over seven times the amount of his total income.

16. Snowmobile racing did not provide the opportunity for a single large win that would offset many years of losses. Appellant would have had to win one of the biggest races each season just to break even.

17. Appellant and his friend mechanic repaired and maintained the snowmobile evenings after work.

18. Before, during and after the period Appellant was employed full time by Dick Distributing (his father's business) as a beer distributor.

19. Appellant's state and federal tax saving from using his loss from snowmobile racing to offset his other income would be approximately \$5,000 (returns and tax tables).

20. Appellant's long and extensive participation in snowmobile racing as a hobby prior to 1976 clearly shows that personal pleasure was a major motivation for his participation.

21. The taxpayer did not testify that he expected to make money racing snowmobiles.

Conclusions of Law

1. Appellant's snowmobile racing was an activity not engaged in for profit within the meaning of IRC § 183 and regulations thereunder. Accordingly his losses from snowmobile racing cannot be used to offset other income in computing Minnesota income tax.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF FIFTEEN (15) DAYS IS HEREBY ORDERED.

By the Court,
John Knapp, Chief Judge
Minnesota Tax Court

Memorandum

The issue is whether or not the Appellant engaged in snowmobile racing for profit so as to make the losses incurred from that activity deductible from other income in arriving at Minnesota adjusted gross income.

The Appellant cites Federal Income Tax Regulation 1.183-2 in support of his contention. That Regulation reads in pertinent part as follows:

Section 1.183-2. Activity not engaged in for profit defined.—(a) In general. For purposes of section 183 and the regulations thereunder, the term "activity not engaged in for profit" means any activity other than one with respect to which deductions are allowable for the taxable year under section 162 or under paragraph (1) or (2) of section 212. Deductions are allowable under section 162 for expenses of carrying on activities which constitute a trade or business of the taxpayer and under section 212 for expenses incurred in connection with activities engaged in for the production or collection of income or for the management, conservation, or maintenance of property held for the production of income. Except as provided in section 183 and § 1.183-1, no deductions are allowable for expenses incurred in connection with activities which are not engaged in for profit. Thus, for example, deductions are not allowable under section 162 or 212 for activities which are carried on primarily as a sport, hobby, or for recreation. The determination whether an activity is engaged in for profit is to be made by reference to objective standards, taking into account all of the facts and circumstances of each case. Although a reasonable expectation of profit is not required, the facts and circumstances must indicate that the taxpayer entered into the activity, or continued the

activity, with the objective of making a profit. In determining whether such an objective exists, it may be sufficient that there is a small chance of making a large profit. Thus it may be found that an investor in a wildcat oil well who incurs very substantial expenditures is in the venture for profit even though the expectation of a profit might be considered unreasonable. In determining whether an activity is engaged in for profit, greater weight is given to objective facts than to the taxpayer's mere statement of his intent.

The Appellant stresses only that portion of the Regulation which states that a reasonable expectation of profit is not required, however, a further reading of the Regulation indicates that all facts and circumstances with respect to the activity are to be taken into account. The Regulation then proceeds to describe the factors which should normally be taken into account. They are as follows:

- (1) Manner in which the taxpayer carries on the activity.
- (2) The expertise of the taxpayer or his advisors.
- (3) The time and effort expended by the taxpayer in carrying on the activity.
- (4) Expectation that assets used in activity may appreciate in value.
- (5) Success of the taxpayer in carrying on other similar or dissimilar activities.
- (6) The taxpayer's history of income or losses with respect to the activity.
- (7) The amount of occasional profits, if any, which are earned.
- (8) The financial status of the taxpayer.
- (9) Elements of personal pleasure or recreation.

After taking those factors into consideration, the Court is of the opinion that the Appellant did not engage in snowmobiling for profit but rather that it was an extension of his recreational activity, and that the losses should not be deductible from other income in arriving at Minnesota adjusted gross income.

The taxpayer did not conduct his snowmobile racing in a businesslike manner. He did not maintain books or records. He had only moderate success as an amateur and made very little effort to improve that success rate as a professional. He was a weekend racer as an amateur and, except for his entry in the Winter Carnival Race, continued to be a weekend racer. He continued his full-time employment as a beer salesman throughout the entire period.

The likelihood of a huge profit was not present in this case. The taxpayer would have had to win one of the two or three biggest races each season just to break even.

In summary, the application of the relevant factors outlined in the Regulation shows that the taxpayer did not engage in snowmobiling for profit within the meaning of the income tax law.

J.K.

State of Minnesota

Robert A. and Shirley Keller,

Appellants,

v.

Commissioner of Revenue,

Appellee.

The above matter was submitted to the Court for decision on undisputed facts in the record and written briefs.

Dan R. Olthoff of Fox & Company, Certified Public Accountants, appeared on behalf of Appellants.

C. H. Luther, Deputy Attorney General, appeared on behalf of Appellee.

Syllabus

Under Minn. Stat. § 390.091 the Minnesota minimum tax is 40 percent of a taxpayer's federal minimum tax liability. The Minnesota tax is imposed the same year the federal minimum tax is payable, not the year the tax preference item occurred.

Tax Court

In the matter of the Appeal
from the Commissioner's
Order dated August 17, 1981,
relating to the income tax
liability of the Appellants
for the year 1978.

Docket No. 3442
Order dated October 8, 1982

Findings of Fact

1. Appellant Robert A. Keller is a Minnesota resident whose principal business is the ownership and operation of rental real estate properties in Minnesota. He and his wife file joint federal and Minnesota income tax returns on a calendar year, cash basis.

2. In tax year 1976 Appellants reported a net operating loss of \$543,682.51 on their federal income tax return. That net operating loss included a tax preference item of accelerated depreciation in the amount of \$189,739.38, on which Appellants reported a federal minimum tax of \$26,960.91. Pursuant to the provisions of Section 56 of the Internal Revenue Code, the federal minimum tax was not payable in 1976 but was deferred until 1978.

3. On their 1976 Minnesota income tax return Appellants correctly reported their federal adjusted gross income, which was a loss of \$570,664.23, as their Minnesota gross income. That loss figure included their net operating loss of \$543,682.51, including the tax preference item for accelerated depreciation in the amount of \$189,739.38.

4. Because their 1976 federal and Minnesota income tax returns both reported net losses, Appellants were not liable for federal or Minnesota income tax for 1976.

5. On their 1978 federal income tax return, Appellants reported gross income of \$1,630,168.84. From that income, they subtracted their 1976 net operating loss carry-over of \$543,289.51 (including the tax preference item of \$189,739.38) and their 1977 net operating loss carry-over of \$1,024,686.95, resulting in a federal adjusted gross income of \$67,192.38. Because Appellants deducted their 1976 tax preference item of \$189,739.38 in arriving at their 1978 taxable income, they became liable for the federal minimum tax of \$26,960.91 on that tax preference item in 1978, pursuant to the provisions of Section 56 of the Internal Revenue Code.

6. On their 1978 Minnesota income tax return Appellants correctly reported their federal adjusted gross income of \$67,192.38 as their Minnesota gross income. Appellants did not report any minimum tax to be due on their 1978 Minnesota income tax return.

7. By his Order dated August 17, 1981, the Commissioner of Revenue assessed a 1978 Minnesota minimum tax equal to 40 percent of Appellants' federal minimum tax of \$26,960.91, or \$10,784.36 (plus applicable interest) against Appellants, and Appellants have appealed from that assessment.

Conclusions of Law

1. Minn. Stat. § 290.091 imposes the Minnesota minimum tax for any taxable year beginning after December 31, 1976, in which a taxpayer receives a tax benefit by reason of a tax preference item over \$30,000 that triggers the federal minimum tax, regardless of the year when the tax preference item occurred.

2. A Minnesota minimum tax for 1978 of \$10,784.36, plus applicable interest, was correctly assessed against Appellants.

3. The Commissioner's Order should be affirmed.

LET JUDGMENT BE ISSUED ACCORDINGLY.

By the Court,
Earl B. Gustafson, Judge
Minnesota Tax Court

Memorandum

Minnesota Statute § 290.091 specifically provides that for taxable years beginning after December 31, 1976, a minimum tax is imposed on individuals equal to 40 percent of the amount of the taxpayer's federal minimum tax liability for tax preference items pursuant to sections 56-58 of the Internal Revenue Code.

In this case Appellants had an acknowledged federal minimum tax liability for 1978 of \$26,960.91. Consequently they were liable for the Minnesota minimum tax equal to 40 percent of \$26,960.91, or \$10,784.36.

In 1969, Congress enacted a minimum tax on specified items of tax preference such as accelerated depreciation allowances and the 50 percent capital gain deduction. Tax Reform Act of 1969, P.L. 91-172, 91st Cong., 1st Sess. Taxpayers who had significantly reduced or avoided their federal income taxes by taking advantage of these tax benefits (preferences) were required to pay a minimum tax of 10 percent over any combination of preferences exceeding \$30,000. In 1976, this was raised to 15 percent and the U. S. Treasury was directed to prescribe regulations implementing a "tax benefit rule" which would eliminate the minimum tax if the taxpayer's tax preference item did not, in fact, reduce the taxpayer's income tax liability. Tax Reform Act of 1976, P.L. 95-455, 94th Cong., 2nd Sess.

Subsequently, on June 2, 1977, Minnesota adopted its own minimum tax on preference items and followed the federal law by imposing a 40 percent tax on the amount of the taxpayer's minimum federal tax liability.

The applicable Minnesota minimum tax statute, Minn. Stat. § 290.091, reads in relevant part as follows:

In addition to all other taxes imposed by Chapter 290, there is hereby imposed *for each taxable year beginning after December 31, 1976*, a tax which, in the case of a resident individual . . . *shall be equal to 40 percent of the amount of the taxpayer's minimum tax liability for tax preference items pursuant to the provisions of Sections 56 to 58 and 443 (d) of the Internal Revenue Code of 1954*, as amended through December 31, 1976, . . .
(Emphasis added)

Section 56 (b) of the Internal Revenue Code provides that when a taxpayer cannot obtain the benefit of a tax reduction (i.e., tax benefit) in the year of the tax preference item because of a net operating loss, then the minimum tax attributable to the tax preference item is carried forward to the year when the taxpayer enjoys the tax benefit of the tax preference item.

Thus in this case, Appellants' tax preference item of accelerated depreciation in the amount of \$189,739.38 occurred in 1976. However, since Appellants had a net operating loss of \$543,682.51 in 1976, they received no tax benefit and were able to carry forward the tax preference deduction for accelerated depreciation and realize a tax benefit in 1978. Since they realized the tax benefit from the tax preference item in 1978, the minimum tax of \$26,960.91 attributable to that tax preference item became due in 1978.

The same results apply to Appellants' Minnesota income tax liability because Minnesota adopts a taxpayer's federal adjusted gross income as his Minnesota gross income. Minn. Stat. § 290.01, subd. 20. Thus in 1976 Appellants' Minnesota gross income was the loss figure of \$570,664.23, their federal adjusted gross income. This loss included the tax preference deduction of \$189,739.38 for accelerated depreciation, but Appellants received no Minnesota tax benefit from this tax preference deduction until 1978.

In 1978 Appellants' gross income was reduced by the tax preference deduction of \$189,739.38 in arriving at their Minnesota gross income (i.e., his federal adjusted gross income) of \$67,192.38. Therefore, in 1978 Appellants enjoyed a tax benefit for Minnesota income tax purposes by reason of the tax preference deduction of \$189,739.38, just as they did for federal income tax purposes. Consequently the Minnesota minimum tax of \$10,784.36 (40 percent of the federal minimum tax of \$26,960.91) became due in 1978.

Appellants contend that Minn. Stat. § 290.091 "cannot apply to preference items incurred in taxable years prior to 1977."

The statute contains no such limitation. The Minnesota minimum tax is not predicated upon tax preference items per se; it is based upon the federal minimum tax which in turn is based upon the receipt of a tax benefit from a tax preference item. Thus the critical date is not when the tax preference item occurred, but when the tax benefit from the tax preference item is realized.

The Minnesota tax is imposed in the year the federal minimum tax is imposed assuming there is a Minnesota tax benefit. In this case the tax preference item deduction that caused the imposition of the federal minimum tax was used in 1978 to reduce Appellants' Minnesota income taxes for that year. There is nothing retroactive in the assessment of this tax as Appellants claim. This is a 1978 tax based on 1978 income.

The Order of the Commissioner should be affirmed.

E.B.G.

SUPREME COURT**Decisions Filed Friday, October 22, 1982****Compiled by John McCarthy, Clerk**

82-509 Tyrone Lee Cobb, petitioner, Appellant, v. State of Minnesota. Ramsey County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-619 Dennis Marlowe Hanson, petitioner, Appellant, v. State of Minnesota. Ramsey County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

82-566 Justin Clipper, petitioner, Appellant, v. State of Minnesota. Hennepin County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

SUPREME COURT

82-588 Larry Raymond Osborn, Appellant, v. State of Minnesota. Faribault County.

Postconviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

81-903 State of Minnesota v. Loren Mark Clobes, Appellant. Anoka County.

Evidence was sufficient to support defendant's conviction of aggravated driving while under the influence, and there is no merit to defendant's contention that he did not receive a fair trial.

Affirmed. Todd, J.

81-1270 State of Minnesota v. Harold Holmes, Appellant. Ramsey County.

Evidence was sufficient to sustain defendant's conviction of aggravated robbery.

Prosecutor violated discovery rules in failing to notify defendant of existence and identity of a witness before the omnibus hearing, but record on appeal fails to establish that defendant was prejudiced by the trial court's refusal to grant a pretrial continuance so that defense counsel could try to locate the witness.

Affirmed. Yetka, J.

82-152 Marshall Herfindahl, petitioner, Appellant, v. Independent School District No. 126, Clara City, Minnesota. Chippewa County.

In this case, in which the district court reviewed the proceedings and resolution whereby a school board purported to place a tenured teacher on unrequested leave of absence effective June 1, 1981, and remanded the matter for a hearing before an independent hearing examiner, the school board's decision based on the evidence obtained at the remanded hearing cannot affect the teacher's status for the 1981-1982 school year unless that hearing was restricted to reception and consideration of evidence presented at the original hearing.

Remanded. Yetka, J.

82-3 Gary Wolner, Appellant, v. Mahaska Industries, Inc., Minnesota Valley Breeders Association, Lester's Engineer Building Systems. Watonwan County.

A decision of this court based on questions certified to this court from federal district court is binding precedent in all future cases involving the same legal question until and unless this court overrules that decision.

Superwood Corp. v. Siempelkamp Corp., et al., 311 N.W.2d 159 (Minn 1981) issued after a jury verdict and court order in the present case, does not apply retroactively where respondent did not properly reserve his right to challenge on appeal the law on which the case was tried.

In the absence of specific exceptions to the theories of law submitted to the jury either prior to the time the jury retires or by post-trial motion for a new trial under Minn. R. Civ. P. 59.01(6) where the alleged errors are fundamental or controlling, the law as submitted to the jury is the law of the case, binding on the parties, and cannot be challenged on appeal.

Reversed and remanded. Wahl, J.

81-1152 State of Minnesota v. Theodore C. Ulm, Appellant. Le Sueur County.

The evidence supports the trial court's rejection of the mental illness defense.

The evidence supports the trial court's finding of premeditation.

There was sufficient admissible evidence to support the grand jury indictment.

The presence of consent excused the warrant requirement for appellant's arrest and for evidence obtained.

The trial court did not err in sentencing appellant to a life term.

Affirmed. Wahl, J.

82-208 State of Minnesota v. David Paul Hager, Appellant. Itasca County.

Trial court in criminal prosecution of defendant for selling marijuana properly concluded that state adequately established that marijuana admitted in evidence had not been tampered with.

Affirmed. Kelley, 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.

Minnesota Housing Finance Agency

Notice of Request for Proposals for Computer Software

The Minnesota Housing Finance Agency (MHFA), Information Services Section, is seeking proposals for computer software to process HUD Section 8 rent subsidy payments.

Interested software contractors should request copies of Tenant Processing System Request for Proposals from:

David Ruch
Minnesota Housing Finance Agency
Room 200
333 Sibley
St. Paul, Minnesota 55101

Proposals will be accepted until November 22, 1982.

Minnesota State Arts Board

Notice of Availability of Design and Graphics Contract

The Minnesota State Arts Board requires the services of a qualified design firm for part of or all of the following graphics or design services during fiscal year 1983:

1. Redesign of the agency logo/sig
2. Design of cover graphics for newsletter (4 issues)
3. Design of FY82 agency annual report
4. Design of cover graphics for program publications (3 programs)

Contract will not exceed \$10,000 total for all services listed. Agency reserves the right to use any single service as listed without obligation to use the remaining services.

Firms wishing to be considered should submit a resume of their office and their work by November 30, 1982. This is not a request for proposals.

Responses to:

Richard L. Jeanette
Minnesota State Arts Board
432 Summit Avenue
St. Paul, MN 55102
(612) 297-2603

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.

Le Sueur County

Fees in Civil and Criminal Matters in District, County and Conciliation Courts

Notice is hereby given that effective December 1, 1982, the following fees shall apply with respect to Civil and Criminal matters in District, County and Conciliation Courts of Le Sueur County:

CIVIL MATTERS

1. GENERAL LITIGATION

- | | |
|---|--|
| A. Plaintiff, Petitioner or moving party
when first paper is filed | \$20.00 base fee
10.00 legal service fee
<u>10.00</u> law library fee
\$40.00 total fee to be collected |
| B. Defendant, adverse or intervening party,
or any one or more of several defendants
or other adverse or intervening parties
appearing separately from the others when
first paper is filed on his/their part | \$15.00 base fee
10.00 legal service fee
<u>10.00</u> law library fee
\$35.00 total fee to be collected |

2. MARRIAGE DISSOLUTION ACTIONS

- | | |
|---------------|--|
| A. Petitioner | \$20.00 base fee
15.00 battered women's fund
<u>10.00</u> law library fee
\$45.00 total fee to be collected |
| B. Respondent | \$15.00 base fee
<u>10.00</u> law library fee
\$25.00 total fee to be collected |

3. PROBATE DIVISION

- | | |
|---|--|
| A. Administration of Decedent's Estates,
Formal and Informal | \$15.00 base fee
10.00 legal service fee
<u>10.00</u> law library fee
\$35.00 total fee to be collected |
| B. Guardianships, Conservatorships and
Protective Orders | \$10.00 law library fee only |

4. CONCILIATION COURT

- | |
|--|
| \$ 4.00 base fee
1.00 surcharge
<u>5.00</u> law library fee
\$10.00 total fee to be collected |
|--|

CRIMINAL MATTERS

No established fee

These fees shall be in effect from and after December 1, 1982.

Metropolitan Council

Public Hearing Amending the Recreation Open Space Development Guide by Changing the Capital Improvement Program for Acquisition and Development in Regional Recreation Open Space

The Metropolitan Council will conduct a public hearing on Thursday, November 18, 1982 at 4:30 p.m. or upon completion of the preceding Metropolitan Council meeting in the Metropolitan Council Chambers, 300 Metro Square Building, St. Paul, Minnesota 55101, to receive comments on a proposed amendment to the Recreation Open Space Development Guide/Policy Plan regarding the Capital Improvement Program for Acquisition and Development. The amended Capital Improvement Program is proposed to replace pages 44 through 51 of the recreation open space chapter of the Metropolitan Development Guide. All interested persons are encouraged to comment on the amendment. Persons may register to speak by contacting the council's public hearing coordinator at 291-6482. Copies of the proposed amendment may be obtained free of charge from the council's Public Information Office at 291-6464.

Metropolitan Council

Post Public Hearing Process for the Transportation Policy Plan of the Metropolitan Development Guide

The Metropolitan Council conducted a public hearing on its Transportation Policy Plan Oct. 12, 1982. The following is the post hearing process and schedule, published as required under the council's procedures for adopting or amending regional policy plans.

- Close public hearing record: Nov. 15, 1982.
- Prepare hearing report.
- Distribute hearing report.
- 10-day response period ends: Dec. 27, 1982.
- Consider responses.
- Prepare final statement.
- Adopt Transportation Policy Plan by resolution of the Metropolitan Council: Jan. 27, 1983.

Copies of the proposed *Transportation Development Guide/Policy Plan for 2000 (TPP)* and *TPP Background Papers* are available from the council's Public Information Office at 291-6464.

Written comments should be sent to the Transportation Division's Policy Development Program Manager, or Charles Weaver, Chairman, Metropolitan Council, 300 Metro Sq. Bldg., 7th and Robert Sts., St. Paul, MN 55101.

Metropolitan Council

Notice of Preliminary Review Schedule

Water Resources Management Development Guide, Part 1., Sewage Treatment and Handling Policy Plan

The Metropolitan Council will begin review of proposed amendments to Part 1 of its *Metropolitan Development Guide* chapter on water resources management. The proposed changes, which will affect the following treatment plants, interceptors and communities, involve:

- Authorizing required engineering and environmental studies and a dechlorination project for the Metropolitan Wastewater Treatment Plant in St. Paul.
- Revising the schedule for expanding the Hastings Wastewater Treatment Plant in Hastings.
- Phasing out the Medina Wastewater Treatment Plant in Medina.
- Removing conditions on the approval of: the Ramsey Interceptor (serving the Rum River watershed), the Blaine Interceptor (serving the eastern part of the city of Blaine), and the Lino Lakes Interceptor (serving the city of Lino Lakes).

OFFICIAL NOTICES

—Acquiring and extending trunk sewer lines for interceptors in the cities of New Brighton and Mendota Heights.

—Providing a forcemain relief system from the Lake Virginia Lift Station to the Purgatory Creek Interceptor rather than construct the Lake Ann Interceptor.

The following is a tentative schedule for reviewing the proposed amendments:

Nov. 4, 1982 The Physical Development Committee of the Metropolitan Council and the Metropolitan Council adopt the proposed amendments for public hearings.

Jan. 6, 1983 Public hearing on the proposed amendments. Physical Development Committee.

Jan. 20, 1983 Hearing record closes.

Feb. 3, 1983 The Physical Development Committee reviews final hearing report and adopts final amendments.

Feb. 10, 1983 Metropolitan Council adopts final amendments.

This schedule is tentative and subject to change. A subsequent notice of the public hearing will be published. If you have any questions regarding the schedule or the plan, call John Harrington, the council's water pollution program manager, at 291-6324.

Minnesota State Agricultural Society Minnesota State Fair

Meeting Notice

The board of managers of the Minnesota State Agricultural Society, governing body of the Minnesota State Fair, will conduct a business meeting at 10 a.m. Friday Nov. 12 at the Administration Building on the fairgrounds, St. Paul. Preceding the general meeting will be a meeting of the board's space rental committee at 9 a.m.

State Board of Investment Investment Advisory Council

Notice of Regular Meeting

The State Board of Investment will meet on Wednesday, November 10, 1982 at 10:30 a.m. in the Governor's Reception Room, State Capitol, Saint Paul.

The Investment Advisory Council will meet at 7:30 a.m. on Wednesday, November 10, 1982 in the MEA Building Conference Room, at 41 Sherburne, Saint Paul.

Department of Public Welfare Social Service Bureau

Notice of Intent to Solicit Outside Opinion Concerning Revision of 12 MCAR § 2.200 (DPW Rule 200) Concerning Adoption Services

Notice is hereby given that the Minnesota Department of Public Welfare is considering a revision of 12 MCAR § 2.200 (DPW Rule 200). This rule governs administration of adoption services in Minnesota to include legally freeing the child for adoption; the state adoption exchange; pre-placement, post-placement and post-adoption services; subsidized adoptions; interstate and intercounty adoptions; and legal finalization of adoptive placements. The statutory authorities for the rule are found in P.L. 96-272, Minn. Stat. §§ 257 and 259.

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

Ruth Weidell, Supervisor
Adoption Unit
Department of Public Welfare
Centennial Office Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3740.

All statements of information and comment must be received by December 10, 1982. Any written material received by the department shall become part of the hearing record.

Water Planning Board

Notice of Meeting of the Water Planning Board

Notice is hereby given that the Water Planning Board will hold a meeting on Wednesday, November 10, 1982 in the Department of Natural Resources third floor conference room in the Centennial Building, 658 Cedar Street, St. Paul at 10:00 a.m. An agenda for the meeting may be obtained one week prior to the meeting by contacting the undersigned at 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101.

Thomas Kalitowski, Chairman
Water Planning Board

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