

85, May 13

STATE REGISTER

STATE OF MINNESOTA

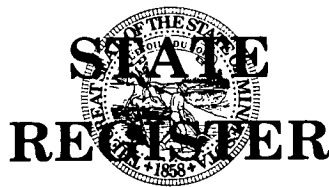
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VOLUME 9, NUMBER 46

May 13, 1985

Pages 2467-2502



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 9			
47	Monday May 6	Monday May 13	Monday May 20
48	Monday May 13	Monday May 20	Monday May 27
49	Monday May 20	Monday May 27	Monday June 3
50	Monday May 27	Monday June 3	Monday June 10

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

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

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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

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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 also.

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 Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before July 31, 1983 are published in the *Minnesota Rules 1983*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules 1983* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

The *State Register* publishes partial and cumulative listings of rule in the MINNESOTA RULES 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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Issues 27-38, inclusive	

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(Now HUMAN SERVICES)

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PROPOSED RULES

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

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

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

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

Housing Finance Agency

Proposed Rules Governing the Temporary Housing Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received 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 twenty-five or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. Sec. 14.14 *et. seq.* Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. Sec. 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year,

for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

May 10, 1985

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.1700 SCOPE.

Parts 4900.1700 to 4900.1703 govern temporary housing program grants for the construction, acquisition, or rehabilitation of residential housing for occupancy by persons of low and moderate income in immediate need of temporary housing.

4900.1701 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 4900.1700 to 4900.1703 have the meaning given them in this part.

Subp. 2. Agency. "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. Applicant. "Applicant" means one or more entities that submit an application for a temporary housing program grant.

Subp. 4. Application. "Application" means a submittal requesting a temporary housing program grant to pay the cost of the acquisition, construction, or rehabilitation of a structure to provide temporary housing for low and moderate income persons.

Subp. 5. Persons and families of low and moderate income. "Persons and families of low and moderate income" means, with respect to temporary housing program grants, those persons and families whose income does not exceed 50 percent of the statewide median household income as estimated by the United States Department of Housing and Urban Development.

Subp. 6. Structure. "Structure" means a building to be constructed, acquired, or rehabilitated for use as temporary housing.

Subp. 7. Support services. "Support services" means an assessment service that identifies the needs of individuals for independent living and arranges or provides for the appropriate educational, social, legal, advocacy, child care, employment, financial, or information and referral services to meet these needs.

Subp. 8. Temporary housing. "Temporary housing" means housing provided for a limited duration not exceeding six months and available for occupancy on a continuous 24-hour basis.

Subp. 9. Temporary housing program grant or grant. "Temporary housing program grant" or "grant" means an appropriation of money to an eligible applicant under the authority granted in Minnesota Statutes, section 462A.05, subdivision 20.

4900.1702 ELIGIBILITY.

Subpart 1. For applicants. To be eligible for selection for a grant, an applicant shall satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0010, subpart 21.

B. The applicant must provide a comprehensive plan for meeting the existing need for temporary housing and for the placement of persons in independent housing. At a minimum this plan must include:

(1) documentation of a need for temporary housing by the population to be served by the structure;

(2) a description of the applicant's goals and objectives for meeting the special needs of the population to be served;

(3) documentation of an ability to provide support services to assist persons in moving into independent or appropriate supportive living situations; and

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

PROPOSED RULES

(4) a detailed budget for the first year and projected budgets for future years.

C. The applicant shall document fiscal responsibility and the ability to complete the construction, acquisition, or modification of the structure and to maintain the structure in accordance with its funded use for a specific period of time.

Subp. 2. For structures. To be eligible for selection for a grant, a proposed temporary housing structure must satisfy the following requirements:

- A. The structure must provide temporary housing for persons and families of low and moderate income.
- B. The structure must provide a physical environment that is responsive to the needs of the population to be served.
- C. The structure must comply with applicable state and local codes, zoning ordinances, land use provisions, and laws.
- D. The structure must be located in Minnesota.

4900.1703 SELECTION CRITERIA FOR GRANTS.

The agency shall take the following criteria into consideration when determining which applications will be funded:

- A. the extent to which the grant is combined with funds or in-kind contributions from other public and private sources;
- B. the availability and source of funds to pay the cost of acquisition, construction, or rehabilitation of the structure not funded by the grant;
- C. the availability and source of funds to pay the ongoing costs of the support services;
- D. the distribution of funds to service a variety of populations, including but not limited to, families with children, couples, single persons, and persons leaving a shelter for family abuse;
- E. the geographic distribution of the funded applications within the state;
- F. the immediacy of the need documented for temporary housing in the area in which the structure is located;
- G. the capacity of the applicant to proceed promptly with the acquisition, construction, or rehabilitation of the structure;
- H. the amount of the grant requested as compared to the total resources available for these grants;
- I. the extent to which the application receives the support and participation of the local community;
- J. the geographic location of the structure in relation to support services, recreational facilities, medical facilities, and transportation;
- K. the reasonableness of the acquisition, construction, or rehabilitation cost with preference given to applications that minimize the cost per temporary housing units produced;
- L. the extent to which the application uses innovative cost-effective support services that are appropriate to the needs of the population served; and
- M. the experience of the applicant in developing or managing housing, providing support services, and servicing the specific target population of homeless persons.

Department of Natural Resources Trails and Waterways

Withdrawal of Proposed Rules Relating to Snowmobiles, Makers Identification Number

The proposed amendment to Minnesota Rule 6 MCAR (1.0057 C.1), which would change to provide an alternative method to affix vehicle identification numbers to snowmobile, as published in the *State Register* on November 12, 1984 (9 S.R. 1037-1038), is withdrawn.

Board of Psychology

Proposed Rule Relating to Licensure

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Board of Psychology proposes to adopt the above-entitled rules without a public hearing. The Board 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, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is found at Minn. Stat. §§ 148.90, subd. 2 (1984).

Persons interested in this rule shall have 30 days to submit comments in support of or in opposition to the proposed rule, and that comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

The proposed rule 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.

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

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

Lois E. Mizuno
Executive Secretary
Minnesota Board of Psychology
717 Delaware Street Southeast
Minneapolis, Minnesota 55414

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Lois Mizuno upon request at the above listed address.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to form and legality, to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rule as proposed for adoption, should submit a written statement of such request to Lois E. Mizuno at the above address.

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

Lois E. Mizuno
Executive Secretary
Board of Psychology

Rule as Proposed (all new material)

7200.1700 DEGREE MAJORS IN OTHER PROFESSIONS.

A degree major in any profession listed in Minnesota Statutes, section 148.97, subdivision 3, is not a major in psychology as defined in parts 7200.1300, item C and 7200.1400, item C. This provision applies to applications for admission to examination received after September 1, 1985.

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

ADOPTED RULES

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

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

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

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

Department of Natural Resources Boat and Water Safety

Adopted Rule Relating to Lower St. Croix Surface Use

The rule proposed and published at *State Register*, Volume 9, Number 35, pages 1943-1944, February 25, 1985 (9 S.R. 1943) is adopted as proposed.

Pollution Control Agency Solid and Hazardous Waste Division

Adopted Rules Relating to Low Level Radioactive Waste Generator Fees

The rules proposed and published at *State Register*, Volume 9, Number 33, pages 1812-1814, February 11, 1985 (9 S.R. 1812) are adopted as proposed.

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 Human Services

Outside Opinion Sought Concerning a Proposed Rule Governing Adult Foster Homes

Notice is hereby given that the Department of Human Services is seeking information or opinions from sources outside the agency in preparing a new rule to replace Minnesota Rules, Parts 9555.6100 to 9555.6400, governing standards for adult foster homes. The promulgation of this rule is authorized by Minnesota Statutes, Sections 256.01, Subdivision 4 and 256E.05, and Laws of Minnesota 1984, Chapter 542.

All interested or affected persons or groups are invited to submit statements of information in writing or comment orally to:

Gwen Wildermuth
Social Services Division
Department of Human Services
4th Floor, Centennial Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612/296-0311 (regular business hours)

All statements of information and comment shall be accepted until further notice. All written material received by the Department shall become part of the rule record.

Department of Labor and Industry Prevailing Wage Division

Corrections to Prevailing Wage Rates for Commercial Construction

Effective May 3, 1985 corrections for the labor classes listed have been made to prevailing wage rates certified for commercial construction projects in the following Minnesota counties: BELTRAMI, 217, Grader or motor patrol, finishing, earthwork and bituminous; CLAY, 419, Plumbers, 421, Sheet metal workers; COOK, 407, Electricians; CROW WING, 417, Pipefitters-Steamfitters; DODGE, 309, Five axle unit, 417, Pipefitters-Steamfitters, 419, Plumbers; FREEBORN, 403, Bricklayers; ITASCA, 211, Front end loader operator up to and including 1 cu. yd., 404, Carpenters; LESUEUR, 421, Sheet metal workers; OLMSTED, 305, Truck driver (hauling machinery for contractors own use including operation of hand or power operated vehicles), 420, Roofer, 425, Drywall taper; ROSEAU, 421, Sheet metal workers; WABASHA, 307, Tandem axle or 3 axle unit; WADENA, 417, Pipefitters-Steamfitters; WATONWAN, 102, Labor, skilled (assisting skilled craft journeyman), 403, Bricklayers; WINONA, 301, Bituminous distributor driver.

Corrected copies may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, phone (612) 297-3000.

Steve Keefe, Commissioner
Department of Labor & Industry

Board of Public Defense

Applications Accepted for State Public Defender's Office

The State Board of Public Defense is accepting applications for the Office of State Public Defender. Applications and resumes should be sent to the State Board of Public Defense, 95 SubPlaza, University of Minnesota Law School, Minneapolis, Minnesota 55455, to the attention of Mrs. Peggy Walstead.

Applications must be received on or before June 10, 1985.

Public Utilities Commission

Outside Opinion Sought Regarding Proposed Rules Governing Telephone Company Filing Requirements for Change in Rates

Notice is hereby given that the Minnesota Public Utilities Commission (the Commission) is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing telephone company filing requirements for change in rates. These rules will be promulgated under the authority of Minnesota Statutes § 216.18, which authorizes the Commission to require the production of books, papers and records in a hearing or investigation, Minnesota Statutes § 216A.05, subd. 3, which authorizes the Commission similarly to require information from businesses under its jurisdiction, Minnesota Statutes § 237.075, which *inter alia* requires a telephone company seeking a change in rates to file supporting facts, opinions, documents, and exhibits with its request for change, and Minnesota Statutes § 237.10, which authorizes the Commission to make rules pertaining to the conduct of intrastate telephone business.

The Commission requests information and comments concerning the need for and content of the Commission's preparation of rules concerning telephone company filing requirements for a change in rates. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Janet F. Gonzalez, Acting Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
160 E. Kellogg Boulevard
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone by Karin L. Sonneman at 612/296-8994 and in person at the above address.

All statements of information and comment shall be accepted until July 1, 1985. Any written material received by the Commission shall become part of the record in the event that the rules are promulgated.

OFFICIAL NOTICES

The Minnesota Public Utilities Commission's Preparation of Rules Concerning Telephone Company Filing Requirements for a Change in Rates

7810.8100 PURPOSE.

The purpose of parts 7810.8100 to 7810.9800 is to describe the filing requirements for general and miscellaneous rate changes proposed under Minnesota Statutes section 237.075 by telephone companies under the jurisdiction of the Minnesota Public Utilities Commission.

7810.8200 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 7810.8100 to 7810.9800 have the meanings given them in this part.

Subp. 2. Affiliated interest transaction. "Affiliated interest transaction" means a transaction between a telephone company and another party when:

- A. the telephone company has an ownership interest of at least 5 percent in the other party to the transaction; or
- B. the other party to the transaction has an ownership interest of at least 5 percent in the telephone company; or
- C. a third party has an ownership interest of at least 5 percent in both the telephone company and the other party to the transaction.

Subp. 3. Average. "Average" when used in conjunction with rate base means a 13-month average or an average of 12 monthly averages or a simple average of beginning and end-of-year data when monthly data is not available.

Subp. 4. Average prime interest rate. "Average prime interest rate" means the daily average prime lending or base rate accorded to preferred customers at the largest bank in the ninth federal reserve district during the period for which a rate refund is applicable. The largest bank is that bank with the greatest total outstanding deposits as of the end of the calendar year preceding the filing of a notice of a change in rates.

Subp. 5. Capital structure. "Capital structure" means the capitalization of the telephone company including, but not limited to, all outstanding common stock, retained earnings, preferred stock, paid in surplus in excess of par values, the permanent financing of the company represented by long term debt, and short term debt.

Subp. 6. Embedded cost. "Embedded cost" of long-term debt or preferred stock means the weighted average cost of all the outstanding issues of debt or preferred stock.

Subp. 7. Fiscal year. "Fiscal year" means the company's accounting period of 12 successive calendar months used for financial reporting purposes.

Subp. 8. General rate change. "General rate change" means an overall change in rates for which the determination of the telephone company's gross revenue requirement is necessary in assessing the appropriateness of the change in rates.

Subp. 9. Gross revenue conversion factor. "Gross revenue conversion factor" means the multiplier used to determine the incremental amount of gross revenue required to generate an additional dollar of net operating income.

Subp. 10. Jurisdictional. "Jurisdictional" means the telephone company's Minnesota operations regulated by the commission.

Subp. 11. Minnesota company. "Minnesota company" means the Minnesota combined interstate and intrastate regulated operations of a telephone company.

Subp. 12. Miscellaneous rate change. "Miscellaneous rate change" means a change in any compensation, charge, toll, tariff, rental or classification, observed, charged, or collected for a service; or a change in any rules, regulations, practices, or contracts affecting the compensation, charge, toll, rental, tariff, or classification regulated by the commission for which a determination of the telephone company's gross revenue requirement is not necessary in determining the reasonableness of a proposed change in rates.

Subp. 13. Present rates. "Present rates" means the current commission-approved rates.

Subp. 14. Prior fiscal year. "Prior fiscal year" is the company's latest fiscal year that has an ending date which precedes the end of the proposed test year.

Subp. 15. Proposed. "Proposed" means proposed by a telephone company.

Subp. 16. Rate. "Rate" means the amount of a compensation, charge, toll, tariff, rental or classification, observed, charged, or collected for a service; and rules, regulations, practices, or contracts affecting the compensation, charge, toll, rental, tariff, or classification.

Subp. 17. Short-term debt. "Short-term debt" means any security with a date of maturity of no more than one year from the date of issuance.

Subp. 18. Telephone company or company. "Telephone company" or "company" is telephone company as defined in Minnesota Statutes, section 237.01, subdivision 2.

Subp. 19. Test year. "Test year" is the period of 12 successive months selected by the telephone company for the purpose of expressing its need for a change in rates.

Subp. 20. Total company. "Total company" means the combined jurisdictional and, if any, nonjurisdictional regulated operations of a telephone company.

Subp. 21. Weighted average cost of long-term debt or preferred stock. "Weighted average cost of long-term debt or preferred stock" means the total cost of long-term debt or preferred stock expressed as a percent determined by weighting the cost of each issue of long-term debt or preferred stock by the ratio of the long-term debt or preferred stock represented by that issue to the total issues of long-term debt or preferred stock.

Subp. 22. Weighted cost of capital. "Weighted cost of capital" means the total cost of capital determined by weighting the cost of each component of the capital structure by the ratio of the capital represented by that component to total capital.

7810.8300 FILING NOTICE FOR CHANGE IN RATES.

A telephone company filing notice for a change in rates pursuant to Minnesota Statutes section 237.075, subdivision 1, shall file the appropriate documents corresponding with the following type of rate change notice:

A. General rate change notice:

- (1) petition for change in rules as prescribed in part 7810.8600;
- (2) proposed rates as prescribed in part 7810.8700;
- (3) statements of fact, expert opinions, and supporting exhibits as prescribed in part 7810.8800;
- (4) supplemental information requirements as prescribed in parts 7810.8900 to 7810.9600;
- (5) interim rate petition as prescribed in Minnesota Statutes, section 237.075, subdivision 3;
- (6) proposed written notice of the proposed change in rates to the governing body of each municipality and county in the area affected and a list of those municipalities and counties;
- (7) proposed customer notice for interim rates and proposed final rates as prescribed in Minn. Rules, part 7830.3200, subp. 2.
- (8) unqualified agreement, signed by an authorized official of the company, to refund with interest at the average prime interest rate any portion of the interim rate increase determined to be unreasonable by the commission.

B. Miscellaneous rate change notice:

- (1) petition for change in rates as prescribed in part 7810.8600;
- (2) written justification for the change in rates and exhibits supporting the change requested;
- (3) proposed rates as prescribed in part 7810.8700.

7810.8400 FILING NOTICE PROCEDURES.

A general rate change notice must be served 60 days before the proposed effective date of the change in rates. A general rate change notice must include a separate petition for interim rates. If a general rate change notice is materially complete as prescribed by parts 7810.8200 to 7810.9800, the commission shall order acceptance of the filing. Pursuant to Minnesota Statutes, section 237.075, subdivision 2, the commission may suspend the proposed rates for a period not to exceed ten months beyond the initial filing date. If the proposed rates are suspended, the general rate change proposal must be referred to the Office of Administrative Hearings as a contested case under the conditions specified in Minnesota Statutes, section 237.075, subdivision 2.

Upon accepting a general rate change notice, the commission will review the schedule of interim rates proposed by the company and make modifications it deems appropriate in accordance with Minnesota Statutes, section 237.075, subdivision 3. Based upon its findings and conclusions, the commission shall establish and order a level of interim rates not later than 60 days after the initial filing date as prescribed by Minnesota Statutes, section 237.075, subdivision 3.

7810.8500 REFUNDS.

Based upon the commission's final rate determination, refunds of overcollections generated from interim rates must be made in accordance with Minnesota Statutes, section 237.075, subdivision 3. Any portion of an interim rate increase determined by the commission to be unreasonable, must be refunded to customers or credited to customer accounts as prescribed by the commission under Minnesota Statutes, section 237.075, including interest at the average prime interest rate computed from the effective date of the interim rates through the date of refund or credit.

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7810.8600 PETITION FOR CHANGE IN RATES.

A telephone company's petition for a change in rates must summarize the notice of change in rates and include the following information:

- A. the name, address, zip code, and telephone number of the company, its commission liaison designee, and the attorney for the company, if the company is represented by an attorney;
- B. the date of filing and the proposed effective date of the rates;
- C. a statement of the purpose of the change in rates, a description of the rates being changed, and for a general rate change notice, rationale for the proposed rate design, including an explanation for rates left unchanged;
- D. identification of the test year selected by the company for a general rate change notice and the rationale justifying the use of the test year;
- E. for general rate change notices and the interim rate petition,
 - (1) the effect of the change in rates expressed both as the total dollar change and percentage change in test year total jurisdictional revenue, and
 - (2) the effect of the change in rates expressed both as the dollar and percentage change in that portion of the test year jurisdictional revenue generated by only the present rates the telephone company is proposing to change;
- F. for a miscellaneous rate change notice, the effect of the change in rates expressed as the change in annual revenue; and
- G. the signature and title of the telephone company officer or company designee authorizing the proposal.

7810.8700 PROPOSED RATES.

Proposed rates must be filed as new pages to the tariff book previously filed with the commission. Each new tariff page must show the present rates, interim rates, and proposed rates. Those pages of the filed tariff book not changed under the company's proposal must be identified. In addition, each new or revised page of the tariff book must be in a format consistent with the currently filed tariff book. Each revised page must contain the revision number and the page number of the revised page.

7810.8800 EXPERT TESTIMONY AND SUPPORTING EXHIBITS.

The notice of change in rates must include expert testimony and exhibits provided by telephone company personnel and other expert witnesses as deemed appropriate by the company in support of the rate change. The company's chief executive officer or other designated official must provide expert testimony in support of the rate change. Expert testimony must contain statements of fact, expert opinion and explanations of the supporting exhibits. The expert testimony of each witness must be written in question and answer format. Each line of the expert testimony must be numbered sequentially with each page beginning with line one. Supporting exhibits may be the same type as those prescribed by parts 7810.9000 to 7810.9600 or, when appropriate make reference to the information requirements prescribed by parts 7810.9000 to 7810.9600.

The interim rate petition must include exhibits and written statements of fact, expert opinion and explanations of the exhibits supporting the interim rate petition. The written statements, opinions and explanations must be in either a question and answer format or a descriptive narrative and must identify the preparer or the person under whose supervision it was prepared. Interim rate petition and supporting exhibits must comply with Minnesota Statutes, section 237.05, subdivision 3.

7810.8900 REQUIRED INFORMATION IN NOTICE.

As a part of the telephone company's notice of a general rate change, information requirements prescribed by parts 7810.9000 to 7810.9600 must be supplied by the company, if applicable.

7810.9000 JURISDICTIONAL FINANCIAL SUMMARY SCHEDULE.

A financial summary schedule for the jurisdiction must be filed containing:

- A. for the test year, the proposed rate base, operating income under present rates, overall rate of return, and calculations of the operating income requirement, operating income deficiency, gross revenue deficiency, and gross revenue requirement;
- B. for the prior fiscal year, the actual unadjusted average rate base consisting of the same components as the proposed rate base, unadjusted operating income, overall rate of return, and the calculation of the income requirement, income deficiency, gross revenue deficiency, and gross revenue requirement.

If fewer than 10 months of actual jurisdictional data is available for the prior fiscal year, the financial summary schedule information and supporting schedules required in 7810.8900 must also be provided for the most recent 12 month period for which actual jurisdictional data is available.

7810.9100 TEST YEAR.

The test year selected by a telephone company may be historical or future. The test year will be historical if the filed test year data includes at least 9 months of actual jurisdictional data and the filing includes an unqualified agreement to update the filing to 12 months of actual data 30 days prior to the filing of rebuttal testimony. The agreement to update the filing must be signed by an authorized official of the telephone company. The test year will be a future test year if the filed test year data includes fewer than 9 months of actual jurisdictional data or the filing data does not include an unqualified agreement to update to 12 months of actual data 30 days prior to the filing of rebuttal testimony.

If an historical test year is selected, either an average or year end rate base may be used. If a year end rate base is selected, the operating income statement must be adjusted to the year end level.

If a future test year is selected, an average rate base and an income statement not adjusted to a year end level must be used. The telephone company's average rate base and income statement for a future test year must be based on the construction and operating budgets approved by the telephone company's officials for the period encompassed by the future test year.

7810.9200 RATE BASE SCHEDULES.

The following rate base schedules must be filed:

A. the Minnesota jurisdictional rate base summary schedule by major rate base component, for example, telephone plant in service, accumulated depreciation, or working capital, showing the proposed test year rate base and the unadjusted average rate base for the prior fiscal year;

B. comparisons of total company or Minnesota company, and the Minnesota jurisdictional rate base amounts by detailed rate base component on schedules containing:

(1) total company or Minnesota company and the unadjusted jurisdictional rate base amounts for the test year. The schedules must also provide the proposed adjustments, if any, to the total company or Minnesota company and the jurisdictional unadjusted rate base amounts. In addition, the schedules must provide the proposed test year rate bases for the Minnesota jurisdiction and either the total company or Minnesota company.

(2) the unadjusted average total company or Minnesota company and the jurisdictional rate base amounts for the prior fiscal year.

C. adjustment schedules, if any, showing the title, purpose, description, amounts, and the summary calculations of each adjustment used in determining the proposed test year rate bases for the Minnesota jurisdiction and either the total company or Minnesota company.

D. a summary, by rate base component, listing the jurisdictional allocation factors used in allocating the unadjusted total company or Minnesota company rate base amounts to the Minnesota jurisdiction for the test year and prior fiscal year; and

E. a summary, by rate base component, of the assumptions made and the approaches used in determining total company or Minnesota company average unadjusted rate base for the test year if a future test year is proposed. Such assumptions and approaches must be identified and quantified into:

(1) known and measurable changes from the prior fiscal year; and

(2) projected test year changes.

7810.9300 OPERATING INCOME SCHEDULES.

The following operating income schedules must be filed:

A. a summary schedule showing the proposed jurisdictional test year operating income statement under present rates and the unadjusted jurisdictional operating income statement for the prior fiscal year.

B. schedules showing the comparison of total company or Minnesota company and the unadjusted jurisdictional operating income statement for the test year and the prior fiscal year. The schedules must also provide the proposed adjustments, if any, to the unadjusted test year income statements for the Minnesota jurisdiction and total company or Minnesota company. In addition, the schedules must provide the proposed test year income statements for the Minnesota jurisdiction and total company or Minnesota company.

C. for investor-owned telephone companies only, a summary schedule showing the computation of unadjusted total company, Minnesota company, and allocated Minnesota jurisdictional federal and state income tax expense and deferred income taxes for the test year and the prior fiscal year. This summary schedule must be supported by a detailed schedule showing the development of the combined federal and state income tax rates.

D. a summary schedule showing the computation of unadjusted Minnesota company and Minnesota jurisdictional gross receipts tax expense for the test year and the prior fiscal year.

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E. adjustment schedules, if any, showing the title, purpose, description, amounts, and the summary calculations of each adjustment used in determining the proposed test year income statements for the Minnesota jurisdiction and total company or Minnesota company.

F. a schedule summarizing the assumptions made and the approaches used in projecting each major element of the total company or Minnesota company operating income statement for the test year if a future test year is proposed. These assumptions and approaches must be identified and quantified into:

- (1) known and measurable changes from the prior fiscal year; and
- (2) projected test year changes.

G. a schedule providing, by operating income statement element, the factor or factors used in allocating the unadjusted total company or Minnesota company operating income statement amounts to the Minnesota jurisdiction for the test year and the prior fiscal year.

7810.9400 RATE OF RETURN, COST OF CAPITAL SCHEDULES.

The following rate of return, cost of capital schedules, must be filed:

A. a rate of return, cost of capital summary schedule showing the calculation of the weighted cost of capital using the proposed test year capital structure and the capital structure for the prior fiscal year. This information must also be provided for the unconsolidated parent corporation and for the consolidated parent corporation.

B. supporting schedules showing the calculation of the embedded cost of long-term debt, if any, and the embedded cost of preferred stock, if any, for the proposed test year and the prior fiscal year.

C. a schedule showing the calculation of the embedded cost of short-term securities, if any, for the proposed test year and the prior fiscal year.

7810.9500 RATE STRUCTURE AND DESIGN INFORMATION.

The following rate structure and design information must be filed:

A. a detailed comparison test year operating revenue under present and proposed rate for the major categories of service by customer class of service showing the difference in revenue and the percentage change.

B. a detailed schedule comparing the test year operating revenue under present and proposed rates calculated by using the revenue producing units associated with each present and proposed local exchange service rate element, intrastate access charge element, and intrastate toll charge element, if any.

C. a customer class-of-service study for the major service categories, as deemed appropriate for the change in rates requested, showing revenues and costs for each service class, geographic area, or other appropriate category, and identifying the procedures and underlying rationale for cost and revenue allocations. This study is appropriate whenever the telephone company proposes a change in rates which results in a material change in its rate structure.

7810.9600 OTHER SUPPLEMENTAL INFORMATION.

The following supplemental information must be filed with the notice of change in rates:

A. the company's and the consolidated parent corporation's annual report to stockholders, including financial statements and statistical supplements for the latest available fiscal year, or if a telephone company is not audited by an independent public accountant, its unaudited financial statements.

B. for all amounts claimed by the telephone company for ratemaking purposes which arise out of affiliated interest transactions with regulated or nonregulated affiliates, a schedule listing each type of transaction, the associated unadjusted annual test year amounts for the total company or Minnesota company and the Minnesota jurisdiction. The schedule must also provide:

- (1) the nature of the service provided and the entity providing the service;
- (2) the authorization for the transaction, such as a contract, agreement, or other arrangement; and
- (3) the telephone company's account distribution of the expenses or revenues paid or received by the telephone company and the assets transferred to or from the telephone company.

C. workpapers which show how the test year rate base and income statement components and adjustments have been determined, including:

- (1) supporting data and calculations which show in detail the development of the test year amounts for the rate base and operating income statement and track the test year amounts from total company or Minnesota company to the Minnesota jurisdiction;
- (2) supporting data and calculations developing each test year adjustment; and

(3) the calculations and methodology for allocating financial data between interstate and intrastate, operating and nonoperating, and regulated and nonregulated activities. These workpapers must be filed with the commission, the Department of Public Service, and the Residential Utilities Division of the Office of the Attorney General, in quantities established by these agencies, and to others upon request.

D. for investor-owned telephone companies only, a schedule showing the development of the gross revenue conversion factor.

E. any information required by prior commission order.

7810.9700 ADDITIONAL INFORMATION REQUESTS.

Upon, or subsequent to, review of a telephone company's notice of a change in rates, the commission may request a company to provide additional information to supplement the information prescribed by parts 7810.9000 to 7810.9600 within a reasonable time as determined by the commission.

7810.9800 WAIVER.

The commission may grant variance to parts 7810.8200 to 7810.9600 which is not contrary to statute, in accordance with the standards contained in part 7830.4400.

State Planning Agency

Public Meetings of the Governor's Planning Council on Developmental Disabilities

Notice is hereby given that as part of the preparation of a 3 year plan the Governor's Planning Council on Developmental Disabilities will be holding public meetings at twelve locations throughout the State from June 4 to June 27, 1985. The purpose of these meetings is to take testimony from interested individuals, parents, providers, advocates and governmental agencies. Testimony should focus on one or more of the following federal priorities: (1) alternative community living services, (2) employment related activities, (3) child development services, and (4) case management services, and should be directed to one or more of the following questions:

- What is the current status of the priority from your point of view? Discuss innovations, successes, barriers.
- Which of the four priorities should the Council choose as the focus for the grants?
- What outcomes should the grants be expected to achieve?
- Who should be considered an eligible applicant?
- How can the grants be used to change the "system" or have a long lasting effect?

The 3 year plan is being prepared to comply with provisions of P.L. 98-527.

Persons who wish to testify may attend any of the meetings and register at the door. Testimony should be limited to three minutes and a written copy of the testimony should be made available for the record. Letters are also welcome and should be sent to:

Governor's Planning Council on Developmental Disabilities
Room 201, Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Letters must be postmarked before July 1, 1985.

The meetings will be from 2:00 p.m. to 4:00 p.m. and are scheduled as follows:

June 4	Willmar	Community College, Campus Center, Blue Room
June 5	Slayton	Court House Meeting Room
June 6	St. Cloud	St. Cloud State University Atwood Memorial Center, Civic/Penney Room
June 12	Mankato	Mankato State University Wiecking Building, Room 356
June 17	Hibbing	Hibbing Community College Fine Arts Building, Room F. A. 208

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June 18	Brainerd	Brainerd Community College Building One, Room 147
June 18	Fergus Falls	Fergus Falls Community College Administration Building, Room A-303
June 19	Crookston	University of Minnesota—Crookston Dowell Hall, Room 128
June 20	Bemidji	Bemidji State University Bangsberg Building, Room 118
June 24	Rochester	United Way Conference Center 903 W. Center St., Conference Rooms A & B
June 25	Duluth	Ordean Building 424 Superior St., Conference Rooms A & B
June 27	St. Paul	Capitol Square Building 550 Cedar St., Conference Rooms A & B

If you have any questions call (612) 296-4018, TTD (612) 296-9962.

Teachers Retirement Association Meeting Notice, Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, May 30, 1985, at 2:30 p.m. in Room 302, Capitol Square Building, 550 Cedar Street, St. Paul, Minnesota to consider matters which may properly come before the Board.

Board of Teaching Outside Opinion Sought Concerning Proposed Rules Relating to the Code of Ethics for Minnesota Teachers and the Use of Licenses During Employer/Employee Disputes

Notice is hereby given that the Board of Teaching is seeking information or opinions from sources outside the Board in preparing to propose the adoption and/or amendment of rules governing the Code of Ethics for Minnesota Teachers and the Use of Licenses During Employer/Employee Disputes. The Board proposes to amend Minnesota Rules 8700.7500, Subd. 2-J, to read:

A teacher shall accept a contract or assignment for a teaching position that requires licensing only if properly or provisionally licensed for that position- and shall not apply for nor accept the assignment of a teacher currently under contract to a school district engaged in an employer/employee dispute.

And the Board proposes the adoption of the following rule:

This rule prohibits a school board from employing a person to teach during an employer/employee dispute unless that person holds a currently valid Minnesota entrance, continuing, or life license in the subjective or field and grade level for which the teacher is assigned. A school board shall not employ a person to teach during an employer/employee dispute who holds a limited permit, a provisional license, or a short call substitute teaching license, or is a licensed teacher under a personnel variance, except when such a teacher was employed for at least ten consecutive school days in a school district immediately preceding the beginning of an employer/employee dispute in that school district.

Any interested persons may submit data or views on this subject in writing or orally to:

Kenneth L. Peatross
Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-2415

Any written material received by the Board shall become part of the hearing record in the event that the rules governing these subjects are promulgated.

May 2, 1985

Kenneth L. Peatross,
Executive Secretary
Minnesota Board of Teaching

Department of Transportation

Amended Order No. 70031 and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minnesota Statute § 169.825

Whereas, the Commissioner of Transportation has made his Order No. 68884, 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, and 70006 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, 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 § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

TRUNK HIGHWAYS

T.H. 32—From Jct. T.H. 10 to Ulen. Change to Seasonal. Effective 5/15.

T.H. 55—From Jct. T.H. 75 to Tenney. 12 Month.

T.H. 59—From Jct. T.H. 10 to Jct. T.H.1. 12 Month.

T.H. 113—From Jct. T.H. 59 to Jct. T.H. 71. Change to Seasonal. Effective 5/15.

May 3, 1985

Richard P. Braun
Commissioner

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.

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Department of Agriculture Department of Energy and Economic Development Department of Natural Resources Department of Transportation Metropolitan Council

Request for Resumes from Fee Appraisers

The State of Minnesota and the Metropolitan Council is establishing a list of qualified real estate appraisers to do contract appraisals for the Department of Administration, Agriculture, Energy and Economic Development, Natural Resources, Transportation and the Metropolitan Council, for the period ending June 30, 1985. In developing the list of qualified appraisers, the State invites appraisers to submit requests to be on that list, together with their resume, reflecting one or more of qualifications listed below:

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The request and resume must be received no later than May 30, 1985.

I. Individuals with Appraisal Designations:

Individuals holding a designation from one or more of the following organizations and furnishing evidence of good standing in that organization shall be qualified to be on the State's List of Qualified Appraisers.

- A. American Institute of Real Estate Appraisers
 - 1. Member of the American Institute (M.A.I.)
 - 2. Residential Member (R.M.)
- B. Society of Real Estate Appraisers
 - 1. Senior Residential Appraiser (S.R.A.)
 - 2. Senior Real Property Appraisers (S.R.P.A.)
 - 3. Senior Real Estate Analyst (S.R.E.A.)
- C. American Farm Managers and Rural Appraisers
 - 1. Accredited Rural Appraiser (A.R.A.)
- D. American Society of Appraisers
 - 1. Senior Member (A.S.A.)
 - 2. Fellow (F.A.S.A.)
- E. National Association of Independent Fee Appraisers
 - 1. Member (I.F.A.)
 - 2. Senior Member (I.F.A.S.)
 - 3. Appraiser-Counselor (I.F.A.C.)
- F. Accredited Minnesota Assessor (A.M.A.)

Candidates, Associate members and nondesignated appraisers must show further evidence of training, experience and proficiency, as noted in paragraph II below.

II. Individuals without Appraisal Designations:

Individuals not having one of the designations set forth above, shall be qualified to be on the State's List of Qualified Appraisers provided they meet all the requirements below:

A. Experience

Appraisers shall have had at least two years experience in Real Estate Appraising. A resume should relate the type of appraisal experience along with a listing of clientele.

B. Training

1. Appraisers holding a Bachelor's degree with a core curriculum in Real Estate or in Valuation Sciences from a nationally accredited university or college shall have met the training requirements, or

2. An appraiser having completed any of the following appraisal course work sequences in the last 5 years shall have met the training requirements.

AIREA Courses—Real Estate Appraisal Principles	(# 1A-1)
—Basic Valuation Procedures	(# 1A-2)
SRA Courses—An Introduction to Appraising Real Property	(101)
—Applied Residential Property Valuation	(102)
AFMRA Courses—Principles of Rural Appraisals	
—Advanced Rural Appraisals	
IFA Courses—Principles of Real Estate Appraising	(1.1)
—Income Property Appraising	(2.1A & 2.1B)
—Farm, Ranch and Rural Property Appraising	(3.1)

C. Sample Appraisal

The State reserves the right to request a sample appraisal done for a client. The sample appraisal is to be examined for compliance with generally recognized appraisal procedures.

III. Continuing Education

An appraiser having completed the above courses or receiving a designation prior to January 1, 1980, shall submit evidence of having completed no less than 25 hours of continuing education since that date.

IV. Assignments

Certification to a state list of qualified appraisers is not a guarantee of subsequent assignments. The State of Minnesota reserves the right to assign appraisers at the discretion of the assigning agency, dependent on the qualifications of the appraisers, geographic location, and fee requirements.

NOTE: Appraisers will be entitled to reject any assignment offered.

A list of the basic standards may be obtained upon written request to the address below.

Mail resumes, requests and other material:

Department of Natural Resources
Bureau of Land Acquisition and Exchange Section
500 Lafayette Road
St. Paul, Minnesota 55146

Phone Calls may be directed to:

Denis Dailey 297-1657
Russ Gustafson 296-1135

**Department of Administration
Procurement Division**

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
75-200-06201, 75-250-06715	Central Telephone Accessed Dictating/Transcribing System	Veterans Affairs-Veterans Home	Minneapolis	Contact buyer
79-000-46851	Sarasota Card Rack	Transportation	St. Paul	Contact buyer
99-650-28290	Upgrade IBM Typewriter	Waste Management Board	Crystal	Contact buyer
26-073-17578 Rebid	Controlled Reader	St. Cloud State University	St. Cloud	Contact buyer
02-511-45690	Kodak Toner	Administration-Central Stores	St. Paul	Contact buyer
07-300-33530, etc.	Vehicles	Various	Various	Contact buyer
55-000-91251, 7967	MA Invoices (Series of Seven Forms)	Human Services	St. Paul	Contact buyer
55-000-91250, 7966	Child Support Mailer	Human Services	St. Paul	Contact buyer
27-145-46372 & 3, 7901 & 2	Get A Great Start: Search Piece & Poster	Willmar Community College	Willmar	Contact buyer
02-520-44426	Offset Press	Administration	St. Paul	Contact buyer
29-008-32993	Explosives	Natural Resources	St. Paul	Contact buyer
79-100-03334	Crash Barrels	Transportation	Duluth	Contact buyer
79-000-46853	Supply & Install Overhead Door & Operators	Transportation	St. Paul	Contact buyer
27-074-10059, etc.	Vehicles	Various	Various	Contact buyer
26-073-17668	Xerox Typewriter	St. Cloud State University	St. Cloud	Contact buyer
26-073-16979	Sound System	St. Cloud State University	St. Cloud	Contact buyer
29-000-37887	Grass Drill	Natural Resources	St. Paul	Contact buyer
04-512-26923	Purchase of Terminals	MN Trade Office-Export Serv.	St. Paul	Contact buyer
78-890-01646	Engine Analyzer	Corrections-Willow River Camp	Willow River	Contact buyer

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Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
21-200-09101	Janitorial Service	Economic Security	Forest Lake	Contact buyer
79-050-16365	Purchase of Traffic Management Computer System	Transportation-Traffic Management	Minneapolis	Contact buyer
29-002-10776	Treated Lumber	Natural Resources	Silver Bay	Contact buyer
78-550-04858	Paving & Seal Coating	MN Correctional Facility	Lino Lakes	Contact buyer
Contract	Snow Plowing	Human Services-Oak Terrace Nursing Home	Minnetonka	Contact buyer
29-000-37970	Regulatory Buoy	Natural Resources	St. Paul	Contact buyer
29-000-37974-76	IBM Displaywriters	Natural Resources	St. Paul	Contact buyer
17-000-01677	Lanier Message System	Human Rights	St. Paul	Contact buyer
29-072-09278	Door & Frame Material	Moorhead State University	Moorhead	Contact buyer
79-900-02954 & 02955	Guardrail Post	Transportation	N. St. Paul	Contact buyer
29-000-37895	Outboard Motors	Natural Resources	St. Paul	Contact buyer
Contract	Coveralls	Various	Various	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Corrections Health Care Unit

Request for Proposals to Provide Pharmacy, Physical Therapy, Radiology, Dietitian, Optometry, Psychiatry, and Primary Care Services

Notice is hereby given that the Minnesota Department of Corrections is seeking the following services for the period July 1, 1985, through June 30, 1987. These services are to be performed at the indicated state correctional institutions.

1. Services of a Pharmacist for the Minnesota Correctional Facility-Stillwater on a full-time basis and the Minnesota Correctional Facility-Shakopee 12 hours/week to supervise the total pharmacy program. The estimated amount of the contract will not exceed \$98,000.
2. Services of a Physical Therapist approximately 12 hours/week to provide physical therapy services at the Minnesota Correctional Facilities-Stillwater and Oak Park Heights. The estimated amount of the contract will not exceed \$23,100.
3. Services of a Radiologist approximately 48 hours/month to provide full radiological services to the Minnesota Correctional Facilities-Stillwater, Oak Park Heights and Lino Lakes. The estimated amount of the contract will not exceed \$82,200.
4. Services of a Registered Dietitian approximately 25 hours/week to provide the total consultant dietitian services at the Minnesota Correctional Facilities-Stillwater, Lino Lakes and Oak Park Heights. The estimated amount of the contract will not exceed \$44,000.
5. Services of an Optometrist approximately 8 hours/month to perform refractions and provide consultations at the Minnesota Correctional Facility-St. Cloud. The estimated amount of the contract will not exceed \$11,200.
6. Services of a Psychiatrist 1 day/week to perform psychiatric consultation and examination services at the Minnesota Correctional Facility-St. Cloud. The estimated amount for the contract will not exceed \$38,400.
7. Services of a Primary Physician to provide primary care for the female inmate of the Minnesota Correctional Facility-Shakopee approximately 5 hours/week. The estimated amount of the contract will not exceed \$52,300.
8. Services of a Psychiatrist approximately 44 hours/month to provide psychiatric consultations at the Minnesota Correctional Facility-Stillwater and the inpatient Mental Health Unit at Minnesota Correctional Facility-Oak Park Heights. The estimated amount of the contract will not exceed \$106,000.

9. Services of a Psychiatrist approximately 20 hours/month to provide psychiatric consultation services to the Minnesota Correctional Facility-Oak Park Heights' Mental Health Unit. The estimated amount of the contract will not exceed \$29,750.

10. Services of a Psychiatrist approximately 13 hours/month to provide psychiatric consultation services to the Minnesota Correctional Facility-Shakopee. The estimated amount of the contract will not exceed \$14,700.

Direct inquiries to:

Howard L. Johnson, Health Care Administrator
Minnesota Department of Corrections
430 Metro Square Building
St. Paul, Minnesota 55101

Proposals for the above contracts must be submitted no later than May 31, 1985.

Department of Corrections Minnesota Correctional Facility Lino Lakes

Request for Proposals to Create a Catalog for the Industry Program

This request for proposal will provide the Lino Lakes Industry program with an up-to-date non-returnable catalog, representing the products manufactured by this agency. The new catalog will hopefully create a more appealing vehicle with which to present Lino Lakes products.

The successful vendor must complete the following tasks, activities, or misc.: concept development, on-site photo sessions at two locations, seamless background drop, plants, carpeting, props, typesetting, keylining, display models, airbrushing art direction four color separations and stripping color keys and all creative services.

The catalog should consist of 55-60 photo views to 5 x 5 inch size, shot to four common focuses, and one full-bleed 8½" x 11" page size. The catalog will also include a page of photo of fabric samples.

Proposals for the request should be submitted by May 27, 1985, to Don Shackle, Industry Manager, Minnesota Correctional Facility-Lino Lakes, 7525 Fourth Avenue, Lino Lakes, Minnesota 55014. The estimated amount of the contract will not exceed \$14,000.00. The project will be completed within 90 days from the date of project authorization.

Department of Corrections Minnesota Correctional Facility Oak Park Heights

Request for Proposals to Provide Educational Services

Notice is hereby given that the Minnesota Correctional Facility-Oak Park Heights is requesting proposals for providing a full range of educational services to inmates. The contract period will run from July 1, 1985 through June 30, 1986 at an estimated cost not to exceed \$295,000. The proposal should include all instructional and administrative salaries, travel and administrative charges. The proposals must be submitted by 4:30 p.m., May 31, 1985 to: Dennis Benson, Resident Program Manager. Please contact Mr. Benson at (612) 779-1491, if interested.

Department of Corrections Minnesota Correctional Facility Oak Park Heights

Revised Request for Proposals to Provide Food Services

Notice is hereby given that the Minnesota Correctional Facility-Oak Park Heights, is requesting proposals for the professional management of our Food Service activity for the period of July 1, 1985 through June 30, 1986. The estimated cost will not exceed

STATE CONTRACTS

\$176,700 for this one year period. This proposal shall include all civilian personnel to operate the service. The proposals must be submitted by 4:30 p.m., May 31, 1985, to: Don Cooper, Associate Warden of Administration. Please contact Mr. Cooper at (612) 779-1461, if interested.

Department of Corrections Minnesota Correctional Facility Stillwater

Request for Proposals to Provide Food Services

Notice is hereby given that the Minnesota Correctional Facility-Stillwater is requesting proposals for the professional management of our Food Service activity for the period of July 1, 1985, through June 30, 1987. The estimated cost will not exceed \$478,000 for the two years, \$232,600 for the first year and \$245,400 in the second year. This proposal shall include all civilian personnel to operate the service. The proposals must be submitted by 4:30 p.m. June 10, 1985, to: John S. Twohig, Assistant Institution Administrator. Please contact Mr. Twohig at (612) 439-1910, extension 337, if interested.

Department of Corrections Minnesota Correctional Facility Stillwater

Request for Proposals to Provide Physical Examinations

Notice is hereby given that the Minnesota Correctional Facility, Stillwater is requesting proposals for providing physical examinations for approximately 125 correctional counselor trainees and 12 correctional counselors age 55 and older for the period of July 1, 1985, through June 20, 1987. The estimated cost will not exceed \$13,100.00 for two years, \$6,300.00 first year and \$6,800.00 second year.

The proposal shall include the following: For correctional counselor trainees the completion of a comprehensive health history questionnaire by the candidate, an evaluation of a comprehensive health history questionnaire by the candidate, an evaluation of the questionnaire by medical personnel providing the exam, routine diagnostic blood and urine laboratory tests, audiogram, pulmonary function screening when necessary as determined by the physician, an examination by a licensed physician, and baseline measurements of height, weight, blood pressure, and vision screening. For correctional counselors age 55 and older, add the following to the above: routine diagnostic blood and urine laboratory tests including CBC (complete blood count), SMA 12 (Sequential Multiple Analysis), and UA (Urinalysis), and an electrocardiogram.

These proposals must be submitted by 4:30 p.m., June 10, 1985, to David Corbo, Personnel Director. Please contact Mr. Corbo at (612) 439-1910, Extension 320 if interested.

Department of Economic Security

Availability of Fiscal Year 1986 Community Services Block Grant Plan for Public Review

Notice is hereby given that the State Plan for the use and distribution of the Fiscal Year 1986 Community Services Block Grant is available for public review.

This plan will be available for review at the offices of current Community Services Block Grantees, Community Action Agencies, County Libraries, Indian Reservations, and the Minnesota Migrant Council.

A single copy of the plan may be obtained by writing:

Beverly J. Gleeson
MN Department of Economic Security
Community Services Division
690 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

Written comments will be accepted at the above address until 4:30 p.m. June 17, 1985.

Department of Energy and Economic Development

Grant Available for a City That Is Selected as the Site for a Foreign Manufacturing Development Facility

The Commissioner of the Department of Energy and Economic Development announces that a Grant of \$100,000.00 is available for the city selected as the site for a foreign manufacturing development facility. The grant is authorized by Minn. Laws 1984, ch. 502, art. V., § 19 (the "session law"). The session law provides that the city may use the grant monies to provide assistance to the foreign manufacturing development facility in the manner it determines appropriate.

Pursuant to the session law, the Commissioner has established the following eligibility requirements and application procedure for cities interested in applying for the grant.

To be eligible for consideration for this grant, the following criteria must be met.

1. The applicant must be a Minnesota Statutory City, i.e., a city which operates under Minn. Stat. ch. 412. Home Rule Charter cities are not eligible.
2. The applicant must be planning to begin, or must have recently begun a foreign manufacturing development project.
3. The development project must be a production and office facility financed, in whole or part, by an agency of a foreign government or a foreign corporation for the purpose of testing and developing the expertise of foreign firms manufacturing products in the United States.

Applicants that meet the aforementioned criteria will be considered by the Commissioner of Energy and Economic Development for receipt of the grant. The Commissioner will determine which eligible applicant will receive the grant by judging each applicant against the following criteria. Each of the following will be given equal weight by the Commissioner in making his final determination.

1. The overall importance of the project to the economy of the community in which it is located.
2. The amount of private financing that will be used for the projects' expansion, renovation, or erection.
3. The total number of jobs that will be created by the new facility.
4. The plans' adequacy and the completion timetable.
5. Qualifications, if the personnel of the city and the developer is responsible for the project.

Application must be received by the Commissioner no later than 4:30 p.m., May 31, 1985.

Anyone interested in additional information on the grant, or anyone interested in obtaining an application for the grant, please contact:

Dick Fursman
Minnesota Department of Energy
and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 297-1172

Please note: Other department personnel are not allowed to discuss the grant with potential applicants prior to submission of the application.

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Department of Health Division of Environmental Health

Contract Available for Consultants' Services to Provide Radiation Exposure Dose Assessment and Protective Action Guidance

The Minnesota Department of Health is requesting proposals from qualified Health Physicists for consulting services to provide assistance in determining protective actions necessary during accidents involving radioactive materials—particularly at nuclear power reactors and during drills and meetings in preparation for such emergencies.

Qualifications for the consultants are: Masters's degree in Health Physics or equivalent field, 3 years of experience in a radiation safety program and familiarity with the Criteria for Radiological Emergency Response Plans required by the Federal Emergency Management Agency. The consultants must be able to respond during emergencies and be available for drills and meetings.

Consulting services will be needed for an estimated 7 days plus 50 hours meeting time during the coming year. Up to \$3000 each for two consultants is available. The deadline for submission of proposals is June 10, 1985.

Proposals and inquiries should be directed to:

Alice T. Dolezal Hennigan, Chief
Section of Radiation Control
Minnesota Department of Health
717 Delaware Street S.E.
Minneapolis, Minnesota 55440
(612) 623-5323

Human Services Department Ah-gwah-ching Nursing Home

Request for Proposals for Medical Directorship and Staff Physician

Requests for Proposals are being taken for Medical Directorship and Staff Physician coverage for the care and treatment of residents at Ah-gwah-ching Nursing Home, with a cost range of \$35,000 to \$45,000 per year. For a copy of the Request for Proposal write:

Ah-gwah-ching Nursing Home
Ah-gwah-ching, MN 56430
Attn: John Grimley, CEO
Telephone: 218/547-1250

The Requests for Proposals are due by June 3, 1985. The dates of services are for July 1, 1985 to June 30, 1986, with an additional one year renewal option, and cost range renegotiable second year.

Department of Human Services Anoka State Hospital

Request for Proposals for Medical Services

Notice is hereby given that the Anoka State Hospital, Mental Health Bureau, Department of Human Services, is seeking the services which are to be performed as requested by the Administration of Anoka State Hospital. Contracts will be written for the period beginning July 1, 1985, and ending June 30, 1986.

1. Psychiatric services. Responsibilities will include psychiatric assessments, psychiatric treatment, attendance at Medical Staff meetings, participation in the Utilization Review program, appearances at Special Review Board hearings, probate court hearings, and in-service education. The estimated total amount for all psychiatric contracts will not exceed \$70,000. annually.

2. Podiatry services. Responsibilities will include providing proper podiatry services in relation to Medical Assistance and Medicare guidelines, at times arranged by Medical Director or his designee. Total estimated amount of contract will not exceed \$2,000. annually.

3. Optometry services. Responsibilities will include eye exams and referrals, dispensing of eyewear, and consultation with medical staff. Total amount of contract will not exceed \$2,000. annually.

4. Electroencephalogram (EEG) testing. Responsibilities will include conducting the EEG tests with a tracing for each test. Equipment will be furnished by Anoka State Hospital. Total amount of contract will not exceed \$2,500. annually.

5. Interpretive service for hearing impaired patients. Responsibilities will include interpretation of treatment plans to hearing impaired patients, and daily interpretation during treatment, and assist in the communication of discharge plans. Total amount of contract will not exceed \$2,000. annually.

Responses must be received by June 3, 1985. Direct inquiries to: Mark Wilcox, Deputy Administrator, Anoka State Hospital, 3300 Fourth Avenue North, Anoka, Minnesota 55303. Telephone: 422-4300.

Department of Human Services Faribault State Hospital

Request for Proposals to Provide Radiology, Medical, and Podiatry Services

Notice is hereby given that Faribault State Hospital; Mental Health Division; Department of Human Services, is seeking the following services for the period of July 1, 1985-June 30, 1986; these services as requested by the Chief Executive Officer of the Faribault State Hospital.

1. A radiological consultant group to provide services at the Faribault State Hospital upon the request of the Medical Director, at times mutually agreed upon by both parties. The duties shall involve radiological consultations for residents/patients of Faribault State Hospital, which consists of interpretation and diagnosis of x-ray films of chest, skull, skeleton, abdomen, gall bladder, kidneys, etc., performance of fluoroscopic examination of chest, stomach, intestines, colon, etc., as requested by staff physicians. In addition, supervision of the X-Ray Department in regard to equipment, methodology, safety, etc., will be included in this consultation service. The estimated amount of this contract will not exceed \$13,000.00.

2. The services of a physician or physician group to provide weekend coverage at Faribault State Hospital upon request of the Medical Director, by making rounds in the Medical Hospital and taking all emergency calls, the preceding service to be performed at the Faribault State Hospital. The estimated amount of this contract will not exceed \$17,250.00.

3. A consultant in podiatry to provide appropriate professional services to the residents/patients of Faribault State Hospital. Contractor will be required to make twelve (12) monthly visits to the institution and must see and treat approximately fifty to sixty (50-60) patients during each visit. The estimated amount of this contract will not exceed \$2,400.00 for the fiscal year.

Response for the above services must be received by June 3, 1985. Direct inquiries to:

Richard Fick
Faribault State Hospital
Faribault, MN 55021
(507) 332-3530

Human Services Department Residential Facilities Division

Request for Proposals Concerning the Updating of the Fixed Asset Inventory Records of State Hospitals/Nursing Homes

Notice is hereby given that the Minnesota Department of Human Services is requesting proposals for updating of the fixed asset inventory records of the eight state hospitals and the two state nursing homes for the fiscal years ending June 30, 1986 and June 30, 1987, in accordance with requirements contained in the U.S. Department of Health, Education and Welfare Provider Reimbursement Manual of Depreciation.

The estimated amount of the contract will not exceed \$23,000.00 for the two year period.

All proposals must be received by 3:30 p.m., June 3, 1985.

STATE CONTRACTS

Responders interested in obtaining additional information regarding the specific scope of the project should contact:

Susan Lukas
Residential Facilities Division
Department of Human Services
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612-296-6976

Transportation Department Finance and Administration Division

Request for Proposals for Leadership of Internal Training and Development Task Force

The Minnesota Department of Transportation is seeking proposals from qualified, experienced consultants to provide leadership and guidance to an internal task force. The purpose of the task force is to formulate and provide recommendations to shape the future course and direction of employee training and development in response to near term and long range needs/goals of employees and the Department. Our ultimate objective is a comprehensive, systematic approach so that training and development activities are linked to future agency and employee goals.

In the leadership role, the consultant will be responsible to:

1. Provide expertise in the development of a plan of action.
2. Acquire periodic updates from the task force.
3. Coordinate the development of a report which includes recommendations and the reasoning behind those recommendations.
4. Provide an independent critique to the Assistant Commissioner for Finance and Administration.

With the guidance of a consultant, task force activities will include:

1. Define anticipated major internal and external changes the Department will face in the next five to ten years which will affect our human resources.
2. Define future management and employee expectations as they relate to training and development needs.
3. Evaluate which of these needs can be met with existing programs and communication networks.
4. Recommend practical plans, programs, guidelines and resources needed to support those expectations which can not be met with existing systems. Include suggestions to facilitate the adaptation to change and the achievement of excellence.
5. Recommend mechanisms to provide on-going participation by management, employees and employee representatives.
6. Other activities as deemed necessary during the process.

The task force will not be expected to deal with instructional methods and techniques or organizational placement issues.

Estimated cost for the consultant should not exceed \$5,000.00

Final date for submission of proposals is June 3, 1985.

Anticipated start date is mid-June, anticipated completion date is October 1, 1985.

Late proposals will not be accepted. Submit proposals to:

Judith A. Pinke, Assistant Commissioner
for Finance and Administration Division
Minnesota Department of Transportation
408 Transportation Building
St. Paul MN 55155

NON-STATE PUBLIC CONTRACTS

Minnesota Counties Computer Cooperative

Request for Proposals for Development and Support of Computer Software Products and Options for Law Enforcement

The Minnesota Counties Computer Cooperative (MCCC) previously published a request for proposals in the February 18, 1985 *State Register*. The MCCC has rescinded that request for proposals but is issuing a new request.

The MCCC, a joint powers organization with fifty-one member counties, is soliciting proposals from qualified firms for development and support of law enforcement software products and options available to the MCCC for purchase of software products required by Minnesota county sheriff's departments which use IBM Systems 34 and 36. The MCCC is interested in development of new systems and the alternatives for purchase of proprietary software or distribution rights to the software available from each prospective vendor. All inquiries regarding this Request for Proposals must be directed to:

Joel Oliver, Executive Director
Minnesota Counties Computer Cooperative
555 Park Street, Suite 300
St. Paul, Minnesota 55103
(612) 224-3344

The deadline for proposals to be submitted to the MCCC is June 17, 1985 with the project expected to start around August 12, 1985.

SUPREME COURT

Decisions Filed Friday, May 3, 1985

Compiled by Wayne O. Tschimperle, Clerk

C1-83-1074 *State ex rel. Louis Haak, et al., Appellants, v. Board of Education of Independent School District No. 625, St. Paul, Minnesota. Ramsey County.*

Remand is appropriate where the trial court has insufficient evidence to determine whether school administrators whose positions have been discontinued are entitled to the protections of the Teacher Tenure Act, Minn. Stat. § 125.17 (1984), either by statute or by collective bargaining agreement, and if so, whether they have any reassignment rights to newly-created positions under subdivision 11 of the Act.

Affirmed in part and reversed and remanded in part. Peterson, J.

C7-83-1919, C7-84-84, CX-84-371 *Gerald W. Holmquist and Helen Holmquist, v. Gerald, Harold and Agnes Miller, Appellants, (C7-83-1919) and Scott Thomas Hemingson, Appellant, v. Michael Alan Knutson, et al., Plaintiffs, in Intervention v. James Gabbert, (C7-84-84) and Russell Knutson, Appellant, v. Barry Barber, et al., James Gabbert, (CX-84-371). Court of Appeals.*

No common-law cause of action can be brought against a social host for negligently serving alcohol to a guest who subsequently injures a third party under Minn. Stat. § 340.73 (1984). The Civil Damages Act Minn. Stat. § 340.95 (1984), preempts this field of civil liability under Minnesota law.

Reversed. Scott, J.

C7-84-523 *Joanne E. Meany, v. Mary C. Newell, et al., Mandat Bros., Inc., etc., Western Surety Company, The Estate of Preston J. Cortright, etc., Cardinal IG Company, Petitioner, Appellant, Mary Louis Houle, et al., Court of Appeals.*

The purview of the Civil Damages Act, Minn. Stat. § 340.95 (1984), does not include liability against an employer for providing alcohol to an employee. The Civil Damages Act applies only to commercial vendors, and not to social hosts.

Since the Civil Damages Act preempts the field of civil liquor liability in Minnesota, there is no cause of action against an employer for negligently serving alcohol to an employee who subsequently injures a third party. See the companion case of Holmquist v. Miller, ___ N.W. 2d ___ (Minn. 1985) (filed today).

SUPREME COURT

Summary judgment was not granted prematurely because the parties had reasonable time to conduct discovery and because petitioner conceded all of the material facts for purposes of the motion.

Affirmed in part, reversed in part. Scott, J.

Took no part, Coyne, J.

C5-82-1519 Thomas E. Jadwin, Individually, et al., Appellants, v. Minneapolis Star and Tribune Company and Joe Blade. Hennepin County.

The determination of whether a defamation plaintiff is a private individual or a public figure is a question of law for the trial court. A reviewing court must independently assess the trial court's finding that plaintiffs are private individuals to determine whether the law has been properly applied.

Given the particular facts before the trial court on motion for summary judgment, appellant Jadwin is a private individual for purposes of this libel suit.

Given the particular facts before the trial court on motion for summary judgment, corporate appellants are limited purpose public figures for purposes of their libel suits.

When a private individual defamation plaintiff brings an action for libel, a negligence standard of fault applies for recovery of actual damages.

Affirmed in part, reversed in part, and remanded. Wahl, J.

Concurring in part, dissenting in part, Kelley, J., Peterson, J., and Yetka, J.

C7-84-795 State of Minnesota v. Charles D. Smith, Appellant. Hennepin County.

Defendant received a fair trial and was properly found guilty of first-degree premeditated murder and first-degree murder in the commission of aggravated robbery.

Affirmed. Coyne, J.

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 Tax Court County of Hennepin, Fourth Judicial District

**William F. and Jean Brooks, Jr., Appellants, v. the Commissioner of Revenue, Appellee,
Docket No. 4221**

Findings of Fact, Conclusions of Law and Order for Judgment Dated May 3, 1985

The above-entitled matter was submitted to the Minnesota Tax Court, Judge Carl A. Jensen presiding, on the basis of a Stipulation of Facts and briefs of the parties.

Syllabus

In regard to investment property located outside of the state of Minnesota and owned by a Minnesota resident, a loss occurring in 1975 that was allowed for federal income tax purposes and thereby reduced the basis for federal income tax purposes but was not a loss allowable for Minnesota income tax purposes, did not reduce the basis for Minnesota income tax purposes relative to a sale in 1980 when the Minnesota law had been changed in 1978 to include income from transactions outside the state of Minnesota.

Findings of Fact

1. Appellants are, and were at all relevant times, residents of Minnesota.
2. In 1975, appellant William F. Brooks, Jr. purchased a limited partnership interest in Swisher Coal Co. (hereinafter "Swisher") for \$350,000. Swisher was engaged in the business of mining and selling coal in Utah.

3. Appellant's share of Swisher's 1975 ordinary loss was \$350,000. This loss was reported for federal income tax purposes. The loss was not assignable to Minnesota for Minnesota tax purposes. Appellant properly added the \$350,000 to his federal adjusted gross income in computing Minnesota taxable income for 1975.

4. Thereafter, appellant had no loss, income or distributions from Swisher.

5. In 1980, appellant sold his partnership interest. He received a \$196,840 partial payment in 1980 and the balance, \$294,130, in 1982 for a total of \$490,970.

6. For federal tax purposes, these payments were gains (amounts realized in excess of basis), because appellant's basis was zero. After taking the 60% deduction for net long term capital gains, 40% of the amount received was included in appellant's federal adjusted gross income in the year of receipt.

7. In computing Minnesota taxable income for 1980 and 1982, appellant subtracted from federal adjusted gross income that portion of the gain included in his federal adjusted gross income that was attributable to \$350,000 of the \$490,970 received. Appellant alleges that for Minnesota tax purposes this subtraction was permitted because he contends that his Minnesota basis was \$350,000 and that \$350,000 of the amounts received was therefore a non-taxable return of his basis.

8. The Commissioner determined that appellant's Minnesota basis was zero, the same as his federal basis, and disallowed the subtraction.

9. The basis for the calculation of the sale of the property in question was \$350,000 and the Commissioner's Order should be reversed to reflect this.

Conclusions of Law

1. The Commissioner's Order is hereby reversed and the Commissioner is directed to determine the tax by allowing a basis of \$350,000 for Minnesota income tax purposes in determining the taxable amount of the sale involved herein.

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

May 3, 1985

By the Court,
Carl A. Jensen, Judge
Minnesota Tax Court

ERRATA

Office of Administrative Hearings

Correction of Adopted Rules Relating to Rulemaking Procedures

A typographical error occurred on page 2278 of the April 8, 1985 printing of the Adopted Rules Relating to Rulemaking Procedures of the Office of Administrative Hearings (9 SR 2276), Minnesota Rules 1400.0250-.1200.

In 1400.0500, Subpart 1, Part F (third line from the bottom of the page), the statute sections were incorrectly cited as "17.80 to 16.84." The correct citation reads "17.80 to 17.84."

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