

86, MAR. 10

STATE REGISTER

STATE OF MINNESOTA

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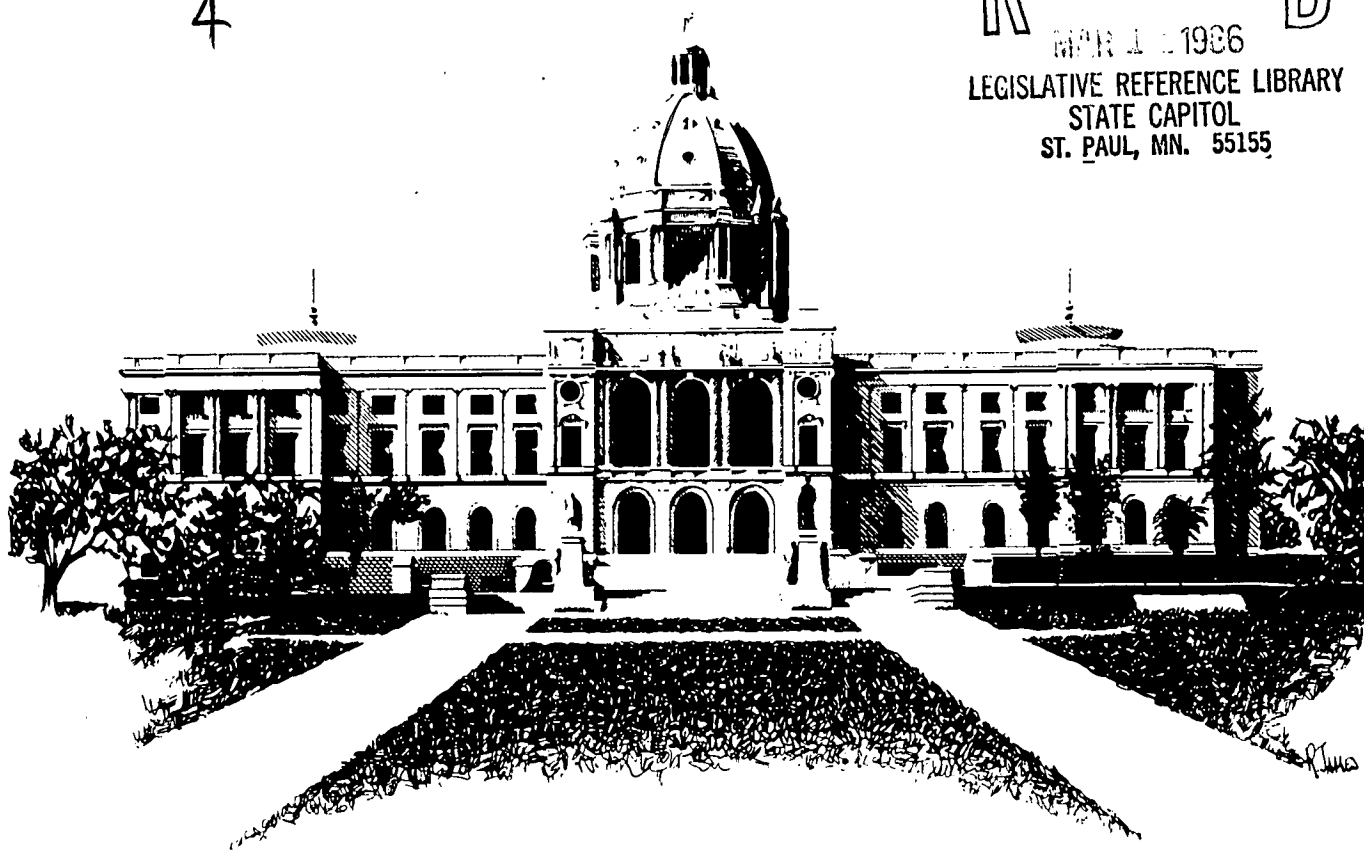
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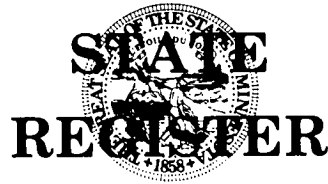
ST. PAUL, MN. 55155



VOLUME 10, NUMBER 37

March 10, 1986

Pages 1833-1872



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 10			
38	Monday March 3	Monday March 10	Monday March 17
39	Monday March 10	Monday March 17	Monday March 24
40	Friday March 14	Friday March 21	Monday March 31
41	Friday March 21	Monday March 31	Monday April 7

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

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION** 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 April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* 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

Issues 14-25, inclusive

Issue 26, cumulative for 1-26

Issues 27-38, inclusive

Issue 39, cumulative for 1-39

Issues 40-51, inclusive

Issue 52, cumulative for 1-52

The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1985*.

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NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

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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.

Department of Jobs and Training Proposed Rules Relating to Sheltered Workshops Notice of Hearing

Notice is hereby given that a public hearing will be held pursuant to Minnesota Statutes, § 14.14, subdivision 1, in the above-entitled matter in Conference Room A, First Floor, Veterans Service Building, 20 West 12th Street, St. Paul, Minnesota on April 11, 1986, commencing at 9:00 a.m. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing. The proposed rules may be modified as a result of the hearing process, therefore, all interested parties are encouraged to attend.

Following the Department's presentation at the hearing, all interested or affected parties will have an opportunity to participate by asking questions and making comments. Statements may be made orally and written material may be submitted. In addition, whether or not appearance is made at the hearing, written statements or material may be submitted to Howard L. Kailul, Jr., Administrative Law Judge, Office of Administrative Hearings, 4th floor Summit Bank Building, 310 Fourth Avenue South, Minneapolis 55415, Telephone Number 612/341-7608 before the hearing or within five working days after the hearing ends. This comment period may be extended for a longer period, not to exceed 20 calendar days, if ordered by the Administrative Law Judge at the hearing.

The rule hearing procedure is governed by Minnesota Statutes, §§ 14.02, 14.04 to 14.365, 14.38, 14.44 to 14.45 and 14.48 to 14.56, and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about the hearing procedure may be directed to the Administrative Law Judge at the Office of Administrative Hearings.

The adoption of the rules is authorized by Minnesota Statutes § 129A.08, Subdivision 4, as amended by Minnesota Laws 1984, Chapter 627, Section 2, which requires the Department to establish certification criteria and evaluation criteria affecting state

funding for all Long-Term Sheltered Workshops. A copy of the proposed rules is attached to this notice and at least one free copy may be obtained by writing or calling:

Roger Sorbel
Minnesota Department of Jobs and Training
Division of Rehabilitation Services
390 North Robert Street, Fifth Floor
St. Paul, Minnesota 55101
612/297-3754

Additional copies of the rules will be available at the door on the date of the hearing.

Parts 3300.2150 and 3300.2250 establish the criteria and procedure for the certification of work activity, work component, long-term employment or community-based employment programs offered by entities engaged in or seeking to engage in such extended employment programs. The purpose of this certification is to ensure that all extended employment programs meet minimum requirements for operations.

Standards are also established in part 3300.2350 for allocating state funds to extended employment programs. A portion of the allocation of state funds will depend on an evaluation of program effectiveness.

Part 3300.2550 outlines the process for allocating state funds to extended employment programs.

Part 3300.2650 provides for the withdrawal of allocated funds by the commissioner and establishes an appeal process.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department and will be available 25 days prior to the hearing at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and argument which the Department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may also be obtained from the Office of Administrative Hearings at a minimal charge.

The Administrative Law Judge will allow the Department and other interested persons three working days after the close of the hearing record to respond in writing to any new information submitted. During the three day period, the Department may indicate in writing whether there are any amendments suggested by other persons which the Department is willing to adopt. Additional evidence may not be submitted during the three day period. The written responses shall be added to the rulemaking record.

Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the Department may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rulemaking record has been submitted (or resubmitted) to the Administration Division of the Office of the Attorney General by the Department. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge (in the case of the Administrative Law Judge's Report), or to the Department (in the case of the Department's submission or resubmission of the rulemaking record to the Attorney General).

Minnesota Statutes, chapter 10A, requires each lobbyist to register with the State Ethical Practices Board within five days after s/he commences lobbying. A lobbyist is defined in Minnesota Statutes, § 10A.01, subdivision 11, as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including her/his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

(b) Who spends more than \$250, not including her/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:

Ethical Practices Board
41 State Office Building
St. Paul, Minnesota 55155
Telephone: (612) 296-5615

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

Long-Term Sheltered Workshops are small businesses as defined in Minnesota Statutes § 14.115(1). Discussions of the methods considered by the Department pursuant to Minnesota Statutes § 14.115(2), to reduce the impact of the proposed rules on small business were considered by the Department. A discussion of these methods can be found in the Statement of Need and Reasonableness.

Joseph Samargia, Commissioner
Department of Jobs and Training

Rules as Proposed (all new material)

3300.1950 SCOPE AND PURPOSE.

Parts 3300.1950 to 3300.3050 govern the provision of extended employment programs by long-term sheltered workshops as defined in Minnesota Statutes, chapter 129A. The purpose of extended employment programs is to maximize the vocational potential of individuals with disabilities by providing appropriate paid work through establishing the most enabling environment.

3300.2050 DEFINITIONS.

Subpart 1. **Scope.** When used in parts 3300.1950 to 3300.3050, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Jobs and Training.

Subp. 3. **Community based employment program.** "Community based employment program" means a program providing work and service hours in a position removed from a long-term sheltered workshop site, which:

A. is paid at a rate equal to or greater than the state or federal minimum wage, whichever is appropriate, or at a lesser rate of pay according to a certificate issued under Code of Federal Regulations, title 29, sections 524.1 to 524.1.13 or other federal regulations providing for exemption from federal minimum wage requirements;

B. is subsidized for training purposes by public funds or is expected to provide the services necessary to assure continued work;

C. is full-time, unless work of less than 30 hours per week is determined to be appropriate due to the availability of work opportunities, or other individual circumstances;

D. allows the sheltered employee, wherever appropriate to the work performed or work setting, the opportunity for frequent daily interactions in a work situation with people without disabilities who are not paid caregivers or providers;

E. can reasonably be expected to allow the sheltered employee to develop the employee's vocational potential; and

F. is under the supervision of the long-term sheltered workshop.

Subp. 4. **Competitive employment.** "Competitive employment" means employment in a position which:

A. is paid at a rate equal to or greater than the state or federal minimum wage, whichever is appropriate;

B. is not subsidized for training purposes by public funds, excluding any state or federal tax credits available to increase employment among specified groups;

C. is full-time, unless employment of less than 30 hours per week is determined to be appropriate because of the availability of positions in which the sheltered employee can be employed or other individual circumstances;

D. can reasonably be expected to be available on a permanent basis or can reasonably be expected to be followed by employment in positions not subsidized for training purposes by public funds;

E. has a majority of nondisabled individuals as the working peers of the sheltered employee; and

F. can reasonably be expected to allow the sheltered employee to develop the employee's vocational potential.

Subp. 5. **Conversion point score.** "Conversion point score" means a numerical value on a scale of standard deviations above or below a mean. It is used to provide a uniform scale to which the quantifiable performance measures, the economic and geographic factors, and the disability index conversion scores can be converted for use in allocating funds.

Subp. 6. **Disability adjusted average hourly earnings factor.** "Disability adjusted average hourly earnings factor" means an average wage calculation for the extended employment program. The calculation has as its numerator the sum of the products which result from multiplying each participant's disability index conversion score by each participant's total wages in the reporting period. Total wages include remuneration for paid holidays and paid sick, vacation, and other paid leave. The calculation has as its denominator the total number of hours worked in the reporting period by the total unduplicated number of participants. Number of hours worked is defined in subpart 19. The mathematical formula for the wage calculation is represented as follows:

Sum of (the sum of wages in the reporting period for each program participant multiplied by that participant's disability index conversion score) Disability adjusted
= average hourly
 Total number of hours worked by the total unduplicated number of participants in the reporting period earnings factor

Subp. 7. Disability index. "Disability index" means an index which measures the effect that disability levels have on sheltered employees in achieving their vocational potential. The disability index incorporates by reference the Functional Assessment Inventory (FAI) as revised in May 1983. This inventory was developed and authored by Nancy M. Crewe, Ph.D., and Gary T. Athelstan, Ph.D. and is published by the University of Minnesota. The inventory is not subject to frequent change. It is available for loan and inspection at the State Law Library and for inspection at the Minnesota Department of Jobs and Training, Division of Rehabilitation Services, 390 North Robert Street, Fifth Floor, Saint Paul, Minnesota 55101. The elements of the disability index and the relative power of each element are the following:

- A. the total score (sum of 30 ratings) from the FAI with a relative power of 27.09;
- B. the receipt of nonemployment income by sheltered employees with a relative power of 7.79;
- C. the FAI adaptivity factor score which is based upon FAI items 18, 19, 20, 21, 22, 23, and 26 with a relative power of 3.15;
- D. the FAI item 30 (rating of initiative) with a relative power of 2.07.

In the formula a constant, 4.4305, is added to four products. The first product results when a factor, — .0509, is multiplied by the FAI total score. The second product results when a factor, 0.7398, is multiplied by the nonemployment income item. The third product results when a factor, .0334, is multiplied by the FAI adaptivity score. The fourth product results when a factor, — .3091, is multiplied by FAI item 30. The values produced are then multiplied by — 1. The formula is represented as follows:

$$10 + [4.4305 + (-.0509 \times \text{FAI total score}) + (.7398 \times \text{nonemployment income item}) + (.0334 \times \text{FAI adaptivity score}) + (-.3091 \times \text{FAI item 30})] \times -1 \\ = \text{Disability Index}$$

Subp. 8. Disability index conversion score. "Disability index conversion score" means an expression of participants' disability indexes in terms of their rank among other participants in a program, converted to a continuous scale from one to four.

Subp. 9. Disability levels. "Disability levels" means the varieties of disabling conditions affecting sheltered employees' potential for rehabilitation as measured by the disability index described in subpart 7.

Subp. 10. Economic conditions. "Economic conditions" means those economic and geographic factors in the primary service areas surrounding long-term sheltered workshops which affect extended employment programs in providing placement opportunities, paying wages, and furnishing service hours to sheltered employees. The factors are the following:

- A. annual average county unemployment rate;
- B. average county covered quarterly wages;
- C. county per capita income; and
- D. percent of population below the poverty level.

Information concerning items A to D is available upon request from the Minnesota Department of Jobs and Training, Research and Statistics Office (RASO), 390 North Robert Street, Fifth Floor, Saint Paul, Minnesota 55101. Item A is computed by RASO. Item B is published by RASO in Minnesota Employment and Wages by County and is available for inspection at RASO. Item C is published in the Minnesota Labor Market Information Directory by RASO and is available for inspection at RASO. Item D is provided to RASO by the Office of the Minnesota State Demographer based on the latest United States Census estimates or actual data. Items A to D will be updated annually. If more than one county is contained in a long-term sheltered workshop's primary service area, data from the counties will be combined and weighted in proportion to the program participants' counties of residence. The factors in items A to D are given equal weight.

Subp. 11. Extended employment programs. "Extended employment programs" means programs providing paid work and

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service hours as a step in the rehabilitation process for those who cannot be readily absorbed in the competitive labor market, or during such time as employment opportunities for them in the competitive labor market do not exist. Extended employment programs are the following:

- A. long-term employment program as defined in subpart 16;
- B. work activity program as defined in subpart 32;
- C. work component program as defined in subpart 33;
- D. community based employment program as defined in subpart 3.

Subp. 12. Full-time employment. "Full-time employment" means employment for an average of 30 hours per week or more in a community based employment program or in competitive employment.

Subp. 13. Full-time equivalent (FTE). "Full-time equivalent" or "FTE" means a count of the number of hours worked and service hours provided which equals participation of 30 hours per week in either a long-term employment program or a community based employment program, 20 hours per week in a work activity program, or ten hours per week in a work component program. Hours of participation for each participant above 35 hours per week in either a long-term employment program or a community based employment program, 30 hours per week in a work activity program or 20 hours per week in a work component program may not be included in determining full-time equivalents. Service hours may comprise no more than one-quarter of the total hours of participation for each program in a reporting period.

Subp. 14. Fundamental personnel benefits. "Fundamental personnel benefits" means benefits for vacation, sick leave, holidays, military leave, maternity leave, jury duty, overtime pay, voting time, social security, and workers' compensation provided to participants in a long-term employment program on a proportional basis as provided to the nonexempt, full-time staff of the long-term sheltered workshop. "Nonexempt" has the meaning given it in the federal Fair Labor Standards Act of 1938, as amended. However, in no event will the participants be entitled annually to less than five days of paid vacation, five days of paid sick leave, and five paid holidays.

Subp. 15. Grievance. "Grievance" means a claim or complaint brought by a participant in a long-term employment program or a representative of the participant involving the interpretation or application of written personnel policies or other written expression of the terms and conditions of employment.

Subp. 16. Long-term employment program. "Long-term employment program" means a program which provides paid work to sheltered employees on the premises of a long-term sheltered workshop and service hours to sheltered employees on or off the premises, and is distinguished from work activity in the federal Fair Labor Standards Act of 1938, as amended.

Subp. 17. Long-term sheltered workshop. "Long-term sheltered workshop" means any entity as defined in Minnesota Statutes, section 129A.01, paragraph (e), that provides one of the extended employment programs as listed in subpart 11, and that is operated by a city, town, county, nonprofit organization, or any combination of these.

Subp. 18. Net program costs. "Net program costs" means the total direct and indirect costs calculated for each extended employment program less the dollar amount of wages paid to sheltered employees in each program and the dollar amount incurred for production supplies in each program.

Subp. 19. Number of hours worked. "Number of hours worked" means the hours for which a sheltered employee receives pay for performing work, including hours of paid holidays and paid sick, vacation, and other leave, but not including service hours as defined in subpart 29.

Subp. 20. Opportunities for sheltered employees to participate in decisions affecting their employment. "Opportunities for sheltered employees to participate in decisions affecting their employment" means organized activities sponsored by the long-term sheltered workshop to encourage sheltered employees' participation in decisions affecting their employment and must include the following:

- A. sheltered employee representation on safety committees in long-term sheltered workshops;
- B. at least quarterly meetings where sheltered employees may discuss with staff matters of concern affecting their employment; and
- C. at least semi-annual consultation with sheltered employees' representatives at management staff meetings.

Subp. 21. Participant. "Participant" means a sheltered employee who receives one or more days of service or paid work in a specified extended employment program during a reporting period.

Subp. 22. Placement. "Placement" means an offer by an employer and acceptance by a sheltered employee of competitive employment after a written plan has been developed which specifies the number of hours per week of employment and the provision of services reasonably expected to assure continued employment or work.

Subp. 23. **Program efficiency.** "Program efficiency" means a measurement of the cost of providing a combination of paid work and service hours to program participants in the reporting period. The cost per hour rate results when the allocation for the extended employment program in the reporting period is divided by the combined total of the sum of the number of hours worked by program participants and the sum of the number of service hours provided to program participants in the reporting period. The mathematical calculation is represented as follows:

$$\frac{\text{Program allocation}}{\text{Total hours worked and service hours provided}} = \text{Program efficiency}$$

Subp. 24. **Rate of placement in competitive employment.** "Rate of placement in competitive employment" means a ratio in which the numerator is the sum of the disability index conversion scores of all participants placed in competitive employment during a reporting period and in which the denominator is the total unduplicated number of participants in all extended employment programs offered by a long-term sheltered workshop during that reporting period. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula for the calculation is represented as follows:

$$\frac{\text{Sum of disability index conversion scores of participants placed in competitive employment}}{\text{Total unduplicated number of participants in all extended employment programs}} = \text{Rate of placement in competitive employment}$$

Subp. 25. **Rate of retention in competitive employment.** "Rate of retention in competitive employment" means a ratio in which the numerator is the sum of the disability index conversion scores of participants for each extended employment program who were placed during the previous reporting period and who continued in competitive employment one year or more and in which the denominator is the total unduplicated number of participants in all extended employment programs in the previous reporting period. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula is represented as follows:

$$\frac{\text{Sum of disability index conversion scores for all participants placed in competitive employment during the previous reporting period who were employed twelve months or more}}{\text{Total unduplicated number of participants in all extended employment programs in the previous reporting period}} = \text{Rate of retention in competitive employment}$$

Subp. 26. **Rate of transfer to long-term employment.** "Rate of transfer to long-term employment" means a rate derived from a calculation for the work activity program and the work component program in which the numerator is the sum of the disability index conversion scores of the participants who were transferred to long-term employment during the reporting period and in which the denominator is the total unduplicated number of participants of the work activity and work component programs of the long-term sheltered workshop during the reporting period. The mathematical formula for the calculation is represented as follows:

$$\frac{\text{Sum of the disability index conversion scores for participants transferred to long-term employment in the reporting period}}{\text{Total unduplicated number of participants of the work activity and work component programs in the reporting period}} = \text{Rate of transfer to long-term employment}$$

Subp. 27. **Rate of work and service in community based employment.** "Rate of work and service in community based employment" means a ratio in which the numerator is the sum in all extended employment programs of each participant's number of hours worked and paid service hours provided in community based settings multiplied by each participant's disability index conversion score and in which the denominator is the total number of hours of work and paid service hours provided in all extended employment programs offered by a long-term sheltered workshop. Participants not counted are described in part 3300.2450, subpart 1. The mathematical formula for the calculation is represented as follows:

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Number of hours worked and paid service hours provided in community based employment multiplied by each participant's disability index conversion score

= $\frac{\text{Rate of work and service in community based employment}}{\text{Total number of hours worked and paid service hours provided in all extended employment programs}}$

Total number of hours worked and paid service hours provided in all extended employment programs

Subp. 28. **Responsiveness to grievances.** "Responsiveness to grievances" means that (1) a grievance resolution procedure has been implemented with binding arbitration as its final step (2) education and training of participants in the use of the procedure has occurred (3) the procedure has accommodated participants' disabling conditions and (4) the grievances have been responded to in accordance with the approved procedure.

Subp. 29. **Service hours.** "Service hours" means the hours of service which an extended employment program provides to participants to maximize their vocational potential, whether paid or unpaid, which are recognized as an expense incurred by the program. Service hours may be provided either on or off the premises of a long-term sheltered workshop. Each of the following categories qualifies as hours of service:

- A. money management training;
- B. training in independent living skills;
- C. utilization of public transportation training and drivers training;
- D. training in grooming and personal care skills;
- E. training in job seeking skills;
- F. job and safety training;
- G. coordination of support services;
- H. behavioral management;
- I. sign language training;
- J. social skill training; and
- K. simulated work training.

Subp. 30. **Sheltered employee.** "Sheltered employee" means an individual with severe physical, mental, emotional, or behavioral disabilities working for pay while participating in any extended employment program offered through a long-term sheltered workshop.

Subp. 31. **Sheltered employee productivity.** "Sheltered employee productivity" means the extent to which a sheltered employee is using the employee's own current capacity for work in an extended employment program.

Subp. 32. **Work activity program.** "Work activity program" means a program within the meaning of Minnesota Statutes, section 129A.01, paragraph (f) and which complies with state and federal law, including the federal Fair Labor Standards Act of 1938, as amended, which provides paid work and other services and which permits a level of production below that required for a long-term employment program.

Subp. 33. **Work component program.** "Work component program" means a cooperative effort agreed to between a long-term sheltered workshop for a long-term employment or a work activity program and a developmental achievement center licensed by the Minnesota Department of Human Services or other facility to provide a work activity program on a limited scale designed so that the primary responsibility over vocational outcomes will be vested in the long-term employment or work activity program.

3300.2150 CERTIFICATION REQUIREMENTS AND TYPES OF CERTIFICATES.

Subpart 1. **Scope.** The requirements in this part govern the operation of any extended employment program engaged in, or seeking to engage in, the programs listed in part 3300.2050, subpart 11. Program certification as evidenced by a valid long-term sheltered workshop certificate is required before the commissioner may provide funding for an extended employment program.

Subp. 2. **Full certificate.** Requirements for a full long-term sheltered workshop certificate are the following:

A. The membership of the long-term sheltered workshop's governing body must comply with the requirements of Minnesota Statutes, section 129A.07.

B. Accreditation by a national accrediting body for rehabilitation facilities must be acquired and maintained by a long-term sheltered workshop in order for an extended employment program to be certified. For each program seeking certification, the accrediting body must have been approved by the commissioner as appropriate for each program. The criteria the commissioner will use in determining appropriateness for accrediting bodies is:

(1) The accrediting agency is national in the scope of its operations.

(2) The accrediting agency performs no function that would be inconsistent with the formation of independent judgment of the quality of a program.

(3) The accrediting agency makes available to the public the standards and criteria it uses for accreditation purposes, makes regular reports of its operations, and lists the facilities it has accredited.

(4) The agency uses an on-site examination as a basis for securing sufficient and pertinent data concerning the quantitative and qualitative aspects of the workshop program.

(5) The accrediting agency has an adequate organization and effective procedures to maintain its operations on an ethical basis.

(6) The agency reviews at regular intervals the standards and criteria by which it evaluates facilities.

(7) The accrediting agency has had enough experience to indicate its competence to do the job it sets out to do.

C. Each long-term sheltered workshop must have a risk protection program adequate to preserve its assets and to compensate its staff, volunteers, sheltered employees, and the public for reasonable claims for which the entity is liable.

D. Fundraising activities undertaken by a long-term sheltered workshop must conform to all requirements of state law.

E. When a work component program takes place in a developmental achievement center, the developmental achievement center must be licensed by the Minnesota Department of Human Services. When a work component program takes place in another type of facility the facility must meet applicable licensing or regulatory requirements.

F. Each long-term sheltered workshop must comply with the Employee Right to Know Act of 1983 (Laws of Minnesota 1983, chapter 316) and chapter 55 of the Minnesota Uniform Building Code.

G. Each long-term sheltered workshop or extended employment program must comply with all applicable regulations of the Minnesota Department of Labor and Industry and the United States Department of Labor.

H. Each extended employment program must be in compliance with the requirements of other applicable state law and federal laws.

I. Eligibility for extended employment programs must be established by long-term sheltered workshops using appropriate standards and criteria. The standards and criteria must be in writing and be made available to the public. The standards and criteria by which individuals with severe disabilities are to be determined eligible for participation in each program must include the following:

(1) assurances that individuals with severe disabilities, including those with severe behavioral disabilities, will not be categorically denied access to, admission to, full utilization of, or benefit from any extended employment program because of their severe disabilities;

(2) assurances that individuals with severe disabilities seeking admission are in need of participation in an extended employment program and are reasonably expected to develop their vocational potential through participation;

(3) assurances that individuals with severe disabilities seeking admission to or being served by an extended employment program will not be discriminated against as provided in the Minnesota Human Rights Act, Minnesota Statutes, chapter 363.

J. Each long-term employment program must provide participants with fundamental personnel benefits as defined in part 3300.2050, subpart 14, with a procedure for resolution of grievances which has binding arbitration as a final step and provides responsiveness to grievances as defined in part 3300.2050, subpart 28, and with opportunities for sheltered employees to participate in decisions affecting their employment as defined in part 3300.2050, subpart 20.

Subp. 3. **Provisional certificate.** A provisional long-term sheltered workshop certificate may be issued to new entities for new extended employment programs for a specified period of time, not to exceed 18 months. In order to obtain a provisional certificate, all new extended employment programs covered by the certificate must be in full compliance with all the requirements of subpart 2, except item B. However, the extended employment programs must demonstrate that there is a reasonable likelihood that the programs will meet the requirements in subpart 2, item B, within 18 months. If at the end of the 18-month period all of the programs covered by the provisional certificate have not met the requirements in subpart 2, item B, or are no longer meeting any of the other requirements of subpart 2, the commissioner will not issue a full long-term sheltered workshop certificate for the programs. However, a long-term sheltered workshop has the option of removing any noncomplying program from consideration for inclusion

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under a full certificate. Denial of a full certificate under this subpart means the termination of program certification as provided in part 3300.2250, subpart 7, for all the programs covered by the provisional certificate.

Subp. 4. Probationary certification status. The commissioner may place on probationary certification status any extended employment program that has previously been fully certified where the program no longer completely meets any of the certification requirements in subpart 2, item A, B, or C. Probationary certification status permits a noncomplying program to continue to receive state funding. To qualify for probationary certification status, the long-term sheltered workshop must first submit a written plan which has been approved by the commissioner and which will bring the program into compliance with the requirements within a reasonable time. If the program is not in full compliance within the time specified by a written plan, certification for the program will be terminated as provided in part 3300.2250, subpart 7. Probationary certification status for one program does not affect program certification for any other complying programs under a full certificate.

3300.2250 CERTIFICATION PROCEDURE.

Subpart 1. Purpose. The purpose of certification is to insure that all extended employment programs meet minimum requirements for operation.

Subp. 2. Subminimum wage payments. A long-term sheltered workshop certificate issued under the certification procedure provided by this part does not replace or modify any certificates issued by the United States Department of Labor or the Minnesota Department of Labor and Industry for purposes of subminimum wage payments.

Subp. 3. Single certificate. A single long-term sheltered workshop certificate will be issued to a long-term sheltered workshop, and the certificate will specify the type and location of all approved programs. Entities seeking a certificate, including a provisional certificate as provided in part 3300.2150, subpart 3, must complete an official application form available from the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training.

Subp. 4. Responsible organization. When an extended employment program other than a community based employment program is operated cooperatively with a separate entity, the long-term sheltered workshop certificate will be held by either the extended employment program or the entity whichever meets the requirements of part 3300.2150 and is responsible for payment of wages.

Subp. 5. Time limitation. A long-term sheltered workshop certificate may not be issued for more than three years.

Subp. 6. Additional programs under certificate. Programs may be added under a long-term sheltered workshop certificate. However, any additional program must fully comply with all the requirements of part 3300.2150, subpart 2. Once an additional program has met all applicable requirements and is accepted for state funding, the long-term sheltered workshop certificate must be amended to reflect its inclusion and to specify the type and location of the approved program.

Subp. 7. Termination of program certification. Certification for programs not complying with the requirements of part 3300.2150 will be terminated and allocated state funds will be withdrawn as provided in part 3300.2650. The withdrawal of state funds creates the right of appeal as provided in part 3300.2650, subpart 3. Once a program's certification has been terminated and any right of appeal has been exhausted, the long-term sheltered workshop certificate must be amended to show the termination. Termination of program certification occurs where:

- A. a program covered by a full certificate no longer meets all of the requirements of part 3300.2150, subpart 2; or
- B. one or more of the programs covered by a provisional certificate is not successfully brought into compliance as provided in part 3300.2150, subpart 3, resulting in termination of certification for all the programs covered by the certificate; or
- C. a program in probationary certification status is not successfully brought into compliance as provided in part 3300.2150, subpart 4.

3300.2350 STANDARDS FOR STATE FUNDING.

Subpart 1. Evaluation factors in general. After fulfilling the certification requirements of part 3300.2150 and submitting approved plans and budgets, extended employment programs are eligible to receive state funding. Funding of extended employment programs by the commissioner must take into consideration an evaluation of individual program effectiveness. The evaluation factors to be considered are the following:

- A. the disability adjusted average hourly earnings paid to sheltered employees;
- B. the fundamental personnel benefits provided to long-term employment program participants;
- C. the rate of retention in competitive employment;
- D. the rate of placement in competitive employment;
- E. the rate of work and service in community based employment;
- F. the opportunities for sheltered employees to contribute to decisions affecting their employment;

G. the responsiveness to grievances of long-term employment program participants;

H. the increases in individual sheltered employee productivity;

I. the implementation of innovative ways to increase placement and retention in competitive employment of sheltered employees, or work and service in community based employment of sheltered employees, or innovative ways that increase sheltered employee wages;

J. program efficiency;

K. the disability levels of the sheltered employees served, as measured by the average of their disability index conversion scores;

L. economic conditions; and

M. the rate of transfer to long-term employment.

Subp. 2. **Nonquantifiable evaluation factors.** Before an individual program offered by a long-term sheltered workshop, except a new program as provided in subpart 6, may receive state funding under part 3300.2550 the individual program must be in full compliance with the nonquantifiable evaluation factors listed in subpart 1, items B, F, G, H, and I. An individual program, except a new program as provided in subpart 6, must remain in full compliance with the nonquantifiable evaluation factors during the reporting period as established by audit or have all allocated funds withdrawn as authorized by part 3300.2650, item C.

Subp. 3. **Quantifiable evaluation factors.** The quantifiable evaluation factors are listed in subpart 1, items A, C, D, E, J, K, and M. The quantifiable evaluation factors applicable to a long-term employment program and a community based employment program are those at subpart 1, items A, C, D, E, J, and K. The quantifiable evaluation factors applicable to a work activity program and a work component program are listed in subpart 1, items A, C, D, E, J, K, and M. An individual program, except a new program as provided in subpart 6, must attain the applicable minimum standard as provided in subpart 4 or have all allocated funds withdrawn as authorized by part 3300.2650, item D.

Subp. 4. **Minimum standard for quantifiable evaluation factors.** A program will fail to meet minimum standards when its performance on quantifiable evaluation factors appropriate to the program averages more than one standard deviation below the mean or in the bottom 17 percent compared with similar programs. The minimum standard is one standard deviation below the mean on a scale which averages the conversion point scales for the quantifiable evaluation factors. A new program is exempt from attaining the applicable minimum standard during its initial two years of operation as described in subpart 6.

Subp. 5. **Audit.** Before the end of each state fiscal year, the Division of Rehabilitation Services will assess each individual program at least once on its effectiveness as measured by all the evaluation factors in subpart 1. If the results of an audit reveal that an individual program, except a new program as provided in subpart 6, is not fully complying with the nonquantifiable factors in subpart 2, allocated funds will be withdrawn as authorized by part 3300.2650, item C. If the results of an audit reveal that an individual program, except a new program as provided in subpart 6, has not attained the applicable minimum standard as described in subpart 4, the individual program will be placed on funding probation. After two continuous years on funding probation as established by audit, the individual program must attain the applicable minimum standard by the end of the following year or have all allocated funds withdrawn as authorized by part 3300.2650, item D.

Subp. 6. **New program evaluation.** An entity offering a new extended employment program must have been issued a certificate as provided in part 3300.2250 and have submitted an approved plan and budget before it may be eligible to receive state funding and be evaluated under this part. A new program from its startup must be in full compliance with the nonquantifiable factors listed in subpart 1, items B, F, and G, and must remain in full compliance with those factors during the reporting period as established by audit or have all allocated funds withdrawn as authorized by part 3300.2650, item C. As measured at the end of the first year of operation, a new individual program must also be in full compliance with the nonquantifiable evaluation factors listed in subpart 1, items H and I as established by audit, or have all allocated funds withdrawn as authorized by part 3300.2650, item C. As measured at the end of the second year of operation, a new individual program must meet the applicable minimum standard in subpart 4 or the new program will be placed on funding probation. After two continuous years on funding probation as established by audit, a new program must attain the applicable minimum standard by the end of the following year or have all its allocated funds withdrawn as authorized by part 3300.2650, item D.

3300.2450 OPERATIONAL POLICIES FOR FUNDING STANDARDS.

Subpart 1. **Exclusions in calculating rates of placement in competitive employment, retention in competitive employment,**

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and work and service in community based employment. For purposes of the formulas in part 3300.2050, subparts 24, 25, and 27, for rates of placement in competitive employment, retention in competitive employment, and work and service in community based employment, respectively, sheltered employees who are over the age of 60 or who have physically degenerative diseases may be excluded from the denominators in the formulas if:

A. each sheltered employee so excluded or that sheltered employee's guardian/conservator determines that placement in competitive employment or work and service in community based employment would not be an appropriate outcome for the sheltered employee;

B. the long-term sheltered workshop reports the number of persons so excluded and the program in which the sheltered employee participates;

C. each long-term sheltered workshop maintains a record of the names of sheltered employees so excluded and the basis of that action; and

D. the physically degenerative disease, where applicable, makes placement in competitive employment or work and service in community based employment clearly improbable and undesirable based upon a thorough evaluation by appropriate professionals, including at least one professional not employed by the long-term sheltered workshop.

Subp. 2. Policies for calculating the rate of placement in competitive employment. If a sheltered employee is placed twice in competitive employment in a given year, both placements may be included in calculating the placement rate as defined in part 3300.2050, subpart 24. Any subsequent placement of that sheltered employee in the reporting period will not be considered in calculating the rate of placement. When a sheltered employee is placed in competitive employment but also continues on a part-time basis with an extended employment program, the sheltered employee will be considered to have been placed in competitive employment if the sheltered employee's wages from participation in the extended employment program are at or above 100 percent of the prevailing wage rate for the work performed.

Subp. 3. Policies for calculating rate of retention in competitive employment. A sheltered employee who changes from one position to another or one employer to another without returning to the status of participant in an extended employment program is considered to have been retained in competitive employment, as long as no period of unemployment intervenes which lasts longer than one month. When a sheltered employee returns to the status of participant in an extended employment program, the participant can no longer be counted as retained in competitive employment. When a sheltered employee is placed in competitive employment but also continues on a part-time basis with an extended employment program, the sheltered employee will be considered to have been retained in competitive employment if the sheltered employee's wages from participation in the extended employment program are at or above 100 percent of the prevailing wage rate for the work performed.

3300.2550 ALLOCATION OF FUNDS.

Subpart 1. Statewide program allocation. From the total grant funds available each state fiscal year, the commissioner will establish a statewide program allocation for each of the four extended employment programs and will determine the approved number of full-time equivalents for each individual program. The total of the individual program FTEs will constitute the approved statewide FTE level. The statewide allocation for each of the extended employment programs will be determined by the commissioner based upon the following:

A. the net program costs for each statewide program in the previous state fiscal year;

B. the net program costs for each statewide program based on budgets submitted for the current state fiscal year;

C. the number of FTEs for each statewide program at the end of the previous state fiscal year;

D. the number of hours worked in each statewide program in the previous state fiscal year;

E. the need for the services of each statewide program in the current state fiscal year as demonstrated by periodic surveys of the incidence of disability levels and disability types, by periodic surveys of rehabilitation counselors and staff, by research and by waiting lists maintained by long-term sheltered workshops; and

F. the effect on services provided to current participants in each statewide program of changes in the level of statewide allocation from the previous state fiscal year.

Subp. 2. Statewide program allocation base rate. The commissioner will use 65 percent of each statewide program allocation as calculated in subpart 1 to provide a base rate allocation to each individual program offered by a long-term sheltered workshop in direct proportion to the number of approved FTEs in these individual programs. The base rate per FTE is determined by dividing 65 percent of the statewide program allocation by the total number of full-time equivalents approved for the statewide program. The mathematical calculation is represented as follows:

$$\frac{(.65 \times \text{statewide program allocation})}{\text{approved full-time equivalents}} = \frac{\text{Uniform}}{\text{per-FTE base rate}}$$

The base rate allocation for each individual program is determined by multiplying the per-FTE base rate from the above formula by the number of approved FTEs in the individual program.

Subp. 3. **Statewide program allocation set aside.** The commissioner will set aside 35 percent of each statewide program allocation in each current state fiscal year as determined in subpart 1 in order to distribute allocations to individual programs as provided in subpart 4. The distribution in subpart 4, will be based on evaluation factors found in part 3300.2350, subpart 1. The evaluation factors applicable to each statewide program will be weighted in terms of percentages of each statewide program allocation. The factors and percentages applicable to the extended employment programs are the following:

**FUNDING FACTOR WEIGHTINGS BY PROGRAM, EXPRESSED AS PERCENTAGES
OF TOTAL PROGRAM ALLOCATION**

FACTOR	PROGRAM			
	Long-term	Work Activity	Work Comp.	Community-based
1. Disability Levels	5	5	5	5
2. Economic Conditions	10	10	10	10
3. Program Efficiency	2	2	2	2
4. Hourly Earnings	5	5	5	5
5. Community based Employment rate	5	5	5	5
6. Competitive employment Placement rate	4	3	3	4
7. Competitive employment Retention rate	4	3	3	4
8. Transfer rate to Long-term		2	2	
TOTAL	35	35	35	35

Subp. 4. **Total individual program allocation.** The base rate allocation, calculated in subpart 2, will be increased for each individual program by the program's relative share of the set-aside funds as provided in subpart 3. The commissioner will distribute the set-aside funds according to the individual program's relative standing on each applicable factor. The program's conversion point score for each factor will be calculated when budgets are submitted for the current state fiscal year and will be based on the program's reported performance in the previous year. On each factor, the individual programs whose performance or evaluation value is lowest will receive no additional funds, with the funding level for other individual programs related directly to their standing on the factor.

Subp. 5. **Phase-in period and adjustment.** For all individual programs, except new programs initially accepted for funding in state fiscal year 1987, each total individual program allocation for fiscal year 1988, as calculated in subpart 4, cannot be adjusted more than 30 percent above or below the previous year's program allocation. For all individual programs, except new programs initially accepted for funding in state fiscal year 1988, each individual program allocation for state fiscal year 1989 as calculated in subpart 4 cannot be adjusted more than 75 percent above or below the previous year's individual program allocation. In all subsequent state fiscal years there will be no limitation on the level of change possible for each individual program allocation. When total phase-in adjustments result in a net gain or loss to a statewide program, that amount will be applied as an addition or reduction to individual program allocations in proportion to their relative FTE size until the applicable 30 percent and 75 percent limitations have been achieved for all programs.

Subp. 6. **New program funding.** When a new individual program offered by a long-term sheltered workshop is accepted for funding, the commissioner will fund its first and second years of operation based upon its relative percentage of the statewide FTE in that program. A new program's funding will be determined by dividing its FTE by the statewide FTE, and multiplying that fraction times the statewide allocation for that program.

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

$$\frac{\text{New individual program FTE}}{\text{Total program FTE}} \times \text{Total program allocation} = \text{New program allocation}$$

Beginning with their third year of operation, new programs will be funded in the same manner as all other programs.

Subp. 7. **Reconciliation.** Allocations based on the approved number of FTEs each fiscal year will be reconciled with the actual number of FTEs at the end of the reconciliation period. Adjustments to the allocations resulting from reconciliations, if any, will be made to allocations for the following state fiscal year.

3300.2650 WITHDRAWAL OF ALLOCATED STATE FUNDS.

Subpart 1. **Criteria for withdrawal of allocated state funds.** The commissioner may withdraw allocated state funds from an individual extended employment program which has been accepted for state funding. A program is eligible to receive allocated state funds after it has fulfilled the certification requirements of part 3300.2150 and submitted an approved plan and budget. Allocated state funds may be withdrawn when:

- A. unencumbered but allocated state funds are not needed for the individual program to which they were allocated; or
- B. an individual program is not being administered in accordance with its approved plan and budget; or
- C. an individual program, including a new individual program as provided in part 3300.2350, subpart 6, has not fully complied with the nonquantifiable evaluation factors found in part 3300.2350, subpart 2, as established by audit; or
- D. an individual program, including a new individual program as provided in part 3300.2350, subpart 6, which has been placed on funding probation, has failed to meet the applicable minimum standard of effectiveness in part 3300.2350, subpart 4, as established by audit for three continuous years following the onset of probation; or
- E. program certification has been terminated as provided in part 3300.2250, subpart 7; or
- F. an individual program is not being administered in accordance with these rules.

Subp. 2. **Notice of withdrawal.** In situations governed by subpart 1, the commissioner must give written notice at least 45 days before allocated state funds may be withdrawn from an individual program or programs in a long-term sheltered workshop, except where there is an imminent danger to the health or safety of program participants. The notice must state the grounds for the withdrawal of funds and must allow a reasonable period of time to remedy the noncompliance. If program certification is to be terminated in addition to the withdrawal of funds, the notice must also state the grounds for the termination. An opportunity for a remedy must be given except where the withdrawal is based on inadequate past performance that cannot be presently corrected, including situations governed by subpart 1, item C, D, or E.

Subp. 3. **Right of appeal.** Any long-term sheltered workshop, including a new entity operating an extended employment program under a provisional certificate, has the right to appeal the commissioner's withdrawal of allocated state funds from any of its individual programs. The appeal procedure is provided for in part 3300.3050.

Subp. 4. **Reinstatement of eligibility to receive funds.** After allocated funds have actually been withdrawn from an individual extended employment program and any right of appeal has been exhausted, reinstatement of eligibility to receive funds can only occur when at least one calendar year has elapsed from the date of the withdrawal of funds. Furthermore, a program seeking reinstatement, as measured at the end of the calendar year following withdrawal of funds, must fully satisfy parts 3300.2150, 3300.2250, and 3300.2350.

Subp. 5. **Reallocation.** Withdrawn funds will be reallocated by the commissioner whenever possible. The commissioner will reallocate by increasing the number of approved full-time equivalents for extended employment programs capable of serving additional persons.

3300.2750 ELIGIBLE APPLICANTS FOR STATE FUNDING.

An application for state funding may be submitted at times the commissioner specifies by a city, town, county, nonprofit organization, or any combination of those, which operates or proposes to operate a public or nonprofit extended employment program.

3300.2850 ELIGIBLE COSTS.

Total state allocations may not exceed the legally specified amount of the net program costs attributable to each individual extended employment program as provided at Minnesota Statutes, section 129A.08, subdivision 3. The net program costs attributable to each individual program will be derived from each long-term sheltered workshop's plan and budget. A plan and budget must be submitted at times specified by the commissioner for the commissioner's approval.

3300.2950 STATE FUNDING APPLICATION CONTENT.

All applications for state funding must be made on official application forms available from the Division of Rehabilitation Services

in the Minnesota Department of Jobs and Training. Applicants must use application forms for the appropriate fiscal year. Assistance in completing the forms may be requested directly from the division at its central office.

3300.3050 APPEAL PROCEDURE.

Subpart 1. **Scope.** The procedure in this part governs all appeals initiated by an aggrieved party having a right of appeal under part 3300.2650, subpart 3.

Subp. 2. **Notice of intent to appeal.** An aggrieved party appealing a preliminary determination concerning withdrawal of allocated state funds as provided in part 3300.2650, subpart 2, must do so in writing to the Division of Rehabilitation Services in the Minnesota Department of Jobs and Training. The written notice of intent to appeal must be received by the Division of Rehabilitation Services within 30 days from the date that a notice of withdrawal is sent. If the notice of intent to appeal is not received from the appellant within the 30-day period the preliminary determination of the Division of Rehabilitation Services is final. The notice of intent to appeal must state the grounds for the appeal including relevant facts and issues that could be addressed at a contested case hearing.

Subp. 3. **Informal contact.** No more than 15 days after the Division of Rehabilitation Services receives a notice of intent to appeal, a representative of the commissioner, will contact the appellant and discuss the grounds for the appeal. The contact by the commissioner's representative may be oral or written. Before the end of the 15-day period the commissioner's representative must make a decision concerning the appellant's appeal. The decision by the commissioner's representative must be made in writing, must contain a summary of the nature and basis of the decision and must describe the appellant's appeal rights under subpart 4.

Subp. 4. **Contested case appeal.** If an appellant has first informally discussed the appeal as provided in subpart 3 and has not been completely satisfied, the appellant may request in writing a contested case hearing before an administrative law judge as provided in Minnesota Statutes, sections 14.57 to 14.62. The contested case hearing will be initiated and conducted according to parts 1400.5100 to 1400.8500.

Subp. 5. **Proposal for decision.** When an initial decision is rendered, the administrative law judge will prepare a proposal for decision that will be recommended for the commissioner's adoption.

Subp. 6. **Decision and order.** The commissioner must notify the appellant of a final decision as provided in Minnesota Statutes, section 14.62.

Subp. 7. **Legal representation.** Any party may be represented by legal counsel at any step of the appeals process.

REPEALER. Minnesota Rules, parts 3300.2000; 3300.2100; 3300.2200; 3300.2300; 3300.2400; 3300.2500; 3300.2600; 3300.2700; 3300.2800; 3300.2900; 3300.3000; 3300.3100; 3300.3200 are repealed.

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.

Board of Animal Health

Adopted Rules Relating to Bovine Paratuberculosis Control

The rules proposed and published at *State Register*, Volume 10, Number 11, pages 614-618, September 9, 1985 (10 S.R. 614) are adopted with the following modifications:

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

Rules as Adopted

~~1705.0660 DEMAND FOR TESTS.~~

~~The board may demand tests of cattle or herds suspected of being infected with or exposed to paratuberculosis when necessary to protect other cattle from infection.~~

1705.0728 CERTIFICATION OF PARATUBERCULOSIS-FREE HERD.

Subpart 1. **Requirements for certification.** A herd may be certified paratuberculosis-free if the owner submits evidence of three consecutive negative tests made no less than 12 months apart on cattle 24 months of age and over in the herd. The first and second test may be the fecal culture or agid test. The third test must be a fecal culture test. The certified paratuberculosis-free herd status begins upon receipt by the board of the third negative fecal culture test results and expires 365 days later. The board will issue a paratuberculosis-free herd certificate which includes the beginning and ending dates of the certification period.

The paratuberculosis-free herd certification must be extended for one year after the expiration date in herds containing vaccinated cattle if the owner submits evidence of a negative fecal culture test on cattle 24 months of age or older in the herd. Herds not containing vaccinated cattle may submit evidence of either a negative fecal culture or a negative agid test on cattle 24 months of age or older in the herd. These tests may be made not more than two months before or not more than two months after the expiration date. The board may approve only other recognized laboratory tests for use in certifying and recertifying paratuberculosis-free herds.

REPEALER. Minnesota Rules, parts 1705.0640, subparts 3, 5, 6, and 7; 1705.0650; 1705.0660; 1705.0680; 1705.0690; 1705.0700; 1705.0710; 1705.0730; 1705.0740; 1705.0750; 1705.0760; 1705.0770; 1705.0780; 1705.0790; 1705.0800; 1705.0810; 1705.0820; and 1705.0830 are repealed.

Higher Education Coordinating Board

Adopted Rules Relating to Supplemental Student Loans

The rules proposed and published at *State Register*, Volume 10, Number 15, pages 818-824, October 7, 1985 (10 S.R. 818) are adopted with the following modifications:

4850.0011 DEFINITIONS.

Subp. 15. **Eligible student.** "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state or United States territory or is a student who graduated from a Minnesota high school and has not since established residence in another state and is enrolled in an eligible school in Minnesota or another state or United States territory;

G. demonstrates financial eligibility by meeting the "maximum effort" test; ~~and~~

H. has an anticipated graduation date no later than November 1, 1992; and

I. has agreed to the release of information to a consumer credit reporting agency, as listed in part 4850.0012, subpart 4.

4850.0017 REPAYMENT PROCEDURES.

Borrowers shall make payments of principal and interest according to the following schedule:

G. The board ~~may~~ shall grant forbearances in those instances when the borrower experiences hardship in making payments of principal and/or interest, and when the cosigner has since died or become permanently disabled. Such a forbearance ~~might~~ shall be granted for documented unemployment or similar financial hardship cases and is limited to 90 days, renewable upon further documentation for another 90 days.

Department of Labor and Industry

Adopted Rules Relating to Workers' Compensation; Independent Contractor

The rules proposed and published at *State Register*, Volume 10, Number 26, pages 1404-1426, December 23, 1985 (10 S.R. 1404) are adopted with the following modifications:

Rules as Adopted

5222.0020 ARTISANS.

Subp. 4. Cooperatives. An artisan who is a member of a labor cooperative or similar job-sharing entity is an employee of the

cooperative or entity if the artisan's investment in the cooperative is less than 15 percent and advance payments based on hours of work are made by the cooperative prior to completion of the job.

5222.0292 MESSENGERS/COURIERS.

Subpart 1. **Definition.** Messenger/couriers are vehicle drivers who ~~deliver cargo~~ transport property for a company ~~licensed as a local carriage carrier or courier service carrier~~ operating under a permit or certificate pursuant to Minnesota Statutes, chapter 221 in local or intrastate commerce or operating as an exempt carrier pursuant to the Interstate Commerce Act.

Subp. 2. **Independent contractor.** A messenger/courier is an independent contractor if all of the following criteria are substantially met.

A. The messenger/courier owns and drives his or her own vehicle or holds a vehicle under a bona fide lease or leases a vehicle and provides driver services in local or intrastate transportation and in interstate commerce the messenger/courier provides the means for the transportation of the property.

C. ~~The messenger/courier is compensated per delivery~~ The messenger/courier's compensation is based on factors related to the work performed including (1) a percentage of any schedule of rates, or (2) a percentage of a lawfully published tariff or (3) is compensated per delivery.

H. The messenger/courier enters into a contract that specifies the relationship to be that of an independent contractor and not that of an employee.

Subp. 3. **Employee.** A messenger/courier is an employee if all of the following criteria are substantially met.

B. ~~Payment is on a salary or hourly basis rather than per delivery basis~~ based solely by the hour or a similar time unit that is not related to a specific job.

C. ~~The employing carrier reimburses the messenger/courier for all expenses~~ The company utilizing the service of the messenger/courier reimburses all expenses to the messenger/courier including those contained in the company's schedule of rates or lawfully published tariffs.

D. ~~The employing carrier furnishes the delivery vehicle~~ The company utilizing the services of the messenger/courier is responsible for providing the vehicle and all of its expenses.

F. ~~The employing carrier furnishes insurance for the vehicle used by the messenger/courier~~ The company utilizing the services of the messenger/courier is responsible for all operating expenses, including fuel, repairs, supplies, and vehicle insurance.

5222.0320 GENERAL CRITERIA FOR NONSPECIFIED OCCUPATIONS.

Parts 5222.0330 and 5222.0340 shall be used to determine if an individual is an independent contractor or an employee where the occupation is not defined in parts 5222.0020 to 5222.0312. Additionally, these parts provide interpretative guidance where the occupation is defined but the safe harbor criteria for that occupation are not all substantially met. Where some but not all of the safe harbor criteria are substantially met, those criteria which are substantially met shall be considered evidence of that status, and shall control where a conflicting result for that criterion is indicated by parts 5222.0330 to 5222.0340. ~~Nothing contained in this chapter is intended to prevent or prohibit an insurer from seeking a reimbursement agreement from an insured where an insured disputes the insurer's underwriting or audit judgment on the application of this chapter for purposes of determining premium.~~

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.

EMERGENCY RULES

Proposed Emergency Rules

According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

- 1) that a free copy of the proposed emergency rule is available upon request from the agency;
- 2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
- 3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
- 4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules

Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules

Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

(Emergency rules published in this issue)

WASTE MANAGEMENT BOARD

9200.6000-.6800 [Emer] (extended) 1854

Waste Management Board

Extension of Emergency Rules Governing the Solid Waste Processing Facility Capital Assistance Program

Notice is hereby given that Minnesota Rules 9200.6000-.6800 [Emergency], which were effective September 23, 1985, and which were proposed in the *State Register* on July 22, 1985, at Volume 10, Number 4, pages 220-226 (10 S.R. 220), and in the *State Register* on October 7, 1985, at Volume 10, Number 15, pages 844-846 (10 S.R. 844), are being continued in effect for an additional 180 days. The rules govern the Solid Waste Processing Facility Capital Assistance Program under the Minnesota Waste Management Board. The new expiration date for these rules will be September 18, 1986, or whenever replaced by permanent rules, whichever is earlier.

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 Education Instructional Effectiveness Division

Public Comments Sought on Public Law 94-142 State Plan for Fiscal Year 1987

Notice is hereby given that the Department of Education, Special Education Section seeks public comment on its Public Law 94-142 State Plan for fiscal year 1987. The Department proposes to incorporate its 1984-86 State Plan into the 1987 plan and amend its definition of "speech impaired" to include "language impaired", as required by Public Law 98-199.

Minnesota was monitored by the Federal Office of Special Education and Rehabilitation Services in July, 1985. The State may therefore submit a one year plan for fiscal year 1987 and incorporate the 1984-86 Plan by reference if there are no substantive amendments. By March 1, 1987 the State must develop, seek public participation, and submit a complete three year State Plan for fiscal years 1988-1990.

Notice is hereby given that a full intact Public Law 94-142 State Plan for fiscal year 1987 is available for public inspection and written and oral comments will be received Monday-Friday from 8:00-4:30 p.m. at the following address until April 10, 1986:

Special Education Section
Capitol Square Building
550 Cedar Street
St. Paul, MN 55101

For further information contact Norena A. Hale at 612/296-1793 or Darl Laffrenzen at 612/296-4831.

Department of Finance

Maximum Interest Rate for Municipal Obligations, March, 1986

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of March will be nine (9) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to ten (10) percent per annum.

For further information contact:

Peter Sausen, Assistant Commissioner
Cash and Debt Management
State of Minnesota
Department of Finance

Department of Health Hazardous Substance Injury Compensation Board

Meeting Notice

The Hazardous Substance Injury Compensation Board meets every third Tuesday of the month from 2 p.m.-4:30 p.m., except for the next meeting which is scheduled for March 25, 1986. The meetings are held at the Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, MN 55440 in Room 100.

Department of Health Health Resources Division

Cancellation of a Public Hearing Concerning Proposed Rules Relating to Review of Care and Classification of Residents in Facilities Participating in the Medical Assistance Program

Notice is hereby given that the public hearing on the above-entitled matter scheduled to be held at the Minnesota Veteran's Home Auditorium, Building 15, 5101 Minnehaha Avenue, Minneapolis, Minnesota 55417 on March 12-14, 1986 is **cancelled** because of 1986 legislation which extends the legal effectiveness of Minnesota Rules, parts 4656.0010 to 4656.0070 [Emergency].

Notice of this hearing was originally published in the *State Register* on February 10, 1986 and sent to all persons registered with the Department of Health.

The Department will be reviewing and revising the proposed rule during the extension period. The revision process is tentatively scheduled for completion in late summer. If everything goes according to schedule, the Emergency rule as revised will be republished in October 1986.

If you have any questions about the cancellation of this hearing, contact Gary A. Goetzke at (612) 623-5627.

Sister Mary Madonna Ashton
Commissioner of Health

Department of Human Services

Cancellation of a Public Hearing Concerning Nursing Home Operating Cost Payment Rate Determination

NOTICE IS HEREBY GIVEN that the hearing on the above-entitled matter scheduled to be held in the Veteran's Home, Auditorium, Building 15, 1501 Minnehaha Avenue, Minneapolis, Minnesota 55417 on March 12, 13 and 14 is **cancelled** because of the 1986 legislative action extending the temporary rules, parts 9549.0050 to 9549.0059 [Temporary].

Notice of this hearing was originally published in the *State Register* February 10, 1986 (CITE 10 S.R. 1656) and sent to all persons registered with the Department of Human Services. The cancellation notice is being published in the *State Register* and is being sent to all persons originally notified of the hearing.

The Department will be reviewing and revising the proposed rule during the extension period. The revision process is tentatively scheduled for completion in late summer. If everything goes according to schedule the rule as revised will be republished in October.

If you have any questions about the cancellation of this hearing, contact Jane Delage at (612) 297-4302.

Leonard W. Levine, Commissioner
Department of Human Services

Department of Human Services Community Social Services Division

Availability of Title XX Activities Report

The Department of Human Services has published the Title XX Block Grant for Social Services Activities Report for Federal Fiscal Year 1983. The purpose of this publication is to meet requirements in Public Law 97-35, Subsection 1397(e), Block Grants to States for Social Services.

A copy of this report can be obtained by contacting the:

Department of Human Services
Community Social Services Division
Administrative Services Section
4th Floor
Centennial Office Building
St. Paul, MN 55155

Department of Transportation

Petition of City of Columbia Heights for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the City Council of the City of Columbia Heights has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a construction project on M.S.A.S. 119 (Johnson Street) from 37th Avenue to 40th Avenue.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapter 161 and 162, so as to permit a design speed of 25 miles per hour instead of the required 30 miles per hour.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

March 3, 1986

Richard P. Braun
Commissioner of Transportation

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 completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

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 Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-000-52116, 79-000-52221 Sch. 5	Carpeting & Install	Transportation	St. Paul	Contact buyer
Various Sch. 4	Poultry for the Month of April, May & June 1986	Various	Various	Contact buyer
79-400-A 53-000-01608- 6467	Meat and Meat Products for the Month of April	Various	Various locations	Contact buyer
27-154-46556- 6390	Aggregates	Transportation	Detroit Lakes	Contact buyer
21-200-12129 & 30, 5574 & 5627	MN Election Laws	Secretary of State— Fiscal Operations	St. Paul	Contact buyer
	1986 Fall Quarter Credit Class Schedule	Lakewood Community College	White Bear Lake	Contact buyer
	Benefit Payment Authorization with & without Check	Jobs and Training	St. Paul	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
02-310-14540	Supply and Install Industrial Shelving	Corrections	Shakopee	Contact buyer
79-200-B	Hot Mix Bituminous	Transportation	Bemidji	Contact buyer
Contract	Automotive Paint & Body Supplies	Various	Various	\$16,000-20,000
Contract	License Plate Materials	MN Correction Facility	St. Cloud	\$1,700,000-1,800,000
Contract	Plumbing Supplies	Various	Various	\$100,000-110,000
21-200-6521	UI Benefits Information Booklet	Jobs and Training	St. Paul	Contact buyer
63-000-00869-6531	1986 Personal Benefit Statement	Public Employees Retirement Association	St. Paul	Contact buyer
Contract	Misc. Lab Glassware, Plasticware, Chemicals & Lab Supplies	Various	Various	\$190,000-210,000
02-310-14294	Dining & Lounge Furniture	Human Services—Cambridge Regional Treatment Center	Cambridge	Contact buyer
12-300-90273-6355	QA Review	Health	Minneapolis	Contact buyer
29-000-42814	Helicopter Rental for Fire Control	Natural Resources	St. Paul	Contact buyer
29-000-42815	Helicopter Rental for Fire Control	Natural Resources	St. Paul	Contact buyer
79-000-52086	Reproduction Paper	Transportation	St. Paul	Contact buyer
55-303-11002	Riding Mower	Human Services—Faribault Regional Center	Faribault	Contact buyer
63-000-00866-6528	Information for Coordinated Members	Public Employees Retirement Association	St. Paul	Contact buyer
43-000-06853	Slide Duplicating	Iron Range Resources & Rehabilitation Board—Iron Range Interpretative Center	Chisholm	Contact buyer
55-304-06935	Furnish & Install 1" Insulating Glass	Human Services—Brainerd Regional Human Services Center	Brainerd	Contact buyer
79-000-52240	Telephone System	Transportation	So. St. Paul	Contact buyer
Contract	Aluminum Sign Blanks & Sheeting	Transportation	Various	\$175,000-200,000
01-000-04538	Counter Food Service	Administration—Office of Architecture & Engineering	Little Falls	Contact buyer
55-000-93782	Computer Desks	Human Services	to be determined	Contact buyer
63-000-00864-6475	Salary Deduction Report	Public Employees Retirement Association	St. Paul	Contact buyer
78-500-15721	Purchase of Micro-Computer Equipment	MN Correctional Facility	Stillwater	Contact buyer
02-410-48180	Telephone System	Administration—Information Management Bureau	St. Paul	Contact buyer
79-400-B	Plant Mix Bituminous Detroit Lakes	Transportation	Detroit Lakes	Contact buyer
21-607-32390	Van Modification	Jobs & Training	Bloomington	Contact buyer
Contract	Markers, Fine Line	Central Stores	St. Paul	\$68,000-70,000
79-400-RM	Ready Mix Concrete	Transportation	Detroit Lakes	Contact buyer
07-500-36594	Aircraft Rotary Wing	Public Safety	St. Paul	Contact buyer
Contract	Linens	Various	Various	\$200,000-225,000

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
79-600-03518 Rebid	Janitorial Services Contract	Transportation	Winona	Contact buyer
55-000-01610-6572	Election Judges Guides (3)	Human Services— Fiscal Operations	St. Paul	Contact buyer
53-000-01609-6532	Pink Ballot and Sample Ballot	Secretary of State— Fiscal Operations	St. Paul	Contact buyer
67-130-11338	Computer Furniture	Revenue	To be picked up	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Administration Bureau of Real Estate and Transportation

Request for Proposals for a Food Service Management Contract

The Department of Administration is requesting proposals for a five-year food service contract:

1) For the State Capitol Office Building; 2) For the Capitol Square Office Building; 3) For the Centennial Office Building; 4) For the Department of Transportation Office Building; and 5) for the State Office Building, located in the Capitol Complex in Saint Paul. The contract shall have a five year term and be in effect from July 1, 1986 to June 30, 1991. Estimated gross sales are \$1 million per year.

Responders are to project the total costs of their food services, and to detail the quality and quantity of items in their menu cycles.

A Request for Proposals is to be obtained by calling or writing:

James L. Ware
Department of Administration
625 North Robert Street
Saint Paul, Minnesota 55155
Telephone: (612) 296-9901

Proposal responses must be submitted no later than 2:00 p.m. C.S.T. Thursday, April 3, 1986.

Department of Energy & Economic Development

Request for Proposal for an Executive Search Firm

The Minnesota Department of Energy and Economic Development is requesting proposals for an executive search firm which is willing to assist the Department in identifying top-quality candidates to fill the position of Deputy Commissioner of Financial Management.

Firms responding to this request for proposal must specialize in conducting executive searches and must have filed, or are willing to file, with the Minnesota Commissioner of Labor and Industry for an exemption from being required to be licensed as an employment agency under Minnesota Statute 184.22, subd. 2 and 3. The firm should also have substantial experience in conducting national searches for top-quality executives. Experience in helping to fill executive vacancies for financial institutions would be ideal.

The candidates sought for the position of Deputy Commissioner of Financial Management must be knowledgeable in the field of commercial finance, including credit analysis and the use of bonds for financing business expansions. The ideal candidates will have substantial commercial lending experience.

The Deputy Commissioner of Financial Management is responsible for administering several state-funded business loan programs, including a program which uses the proceeds from the sale of bonds for loans to expanding businesses. The Deputy Commissioner supervises a staff of 35, including 9 loan officers. The Deputy Commissioner is also responsible for managing all activities before the Minnesota Energy and Economic Development Authority, the public board which approves state loans for expanding businesses. The position has a salary range of \$55,000 to \$60,000 per year.

STATE CONTRACTS

All proposals should include a brief description of the company, its history in conducting executive searches and at least three references of businesses for which the firm has conducted an executive search. Proposals should also comment on the amount of effort and resources the firm is willing to expend on the search and the length of time it projects it will take to identify a list of candidates for consideration. The Department of Energy and Economic Development is able to pay up to \$15,000 for the services of an executive search firm.

Proposals must be sent to Liz Anderson, Senior Administrative Officer, Minnesota Department of Energy and Economic Development, 900 American Center Building, St. Paul, MN, 55101. Proposals must be received no later than 4:30 p.m., Friday, March 28, 1986. This Request for Proposal does not obligate the Department to accept any proposal or employ the services of an executive search firm. For further information, please call Liz Anderson at 296-6424.

Department of Energy and Economic Development Division of Science and Technology Office of Software Technology Development

Request for Proposals for Organization to Provide Marketing Plan Evaluations for the Technology Product Loan Program

Notice is hereby given that the Office of Software Technology Development (OSTD), Minnesota Department of Energy and Economic Development requires the services of a qualified organization with established expertise to provide necessary marketing plan evaluations relating to the Technology Product Loan Program.

The Technology Product Loan Program was implemented to provide low-interest loans to eligible Minnesota applicants for the development and/or marketing of software products. Under the direction of the OSTD, one primary activity in the loan application process includes an evaluation of the marketing plan submitted by applicant companies. These evaluations include a detailed report which specifically address the following components: 1) review of distribution plan, pricing, promotional strategies, advertising direction and sales tactics, 2) identification of strengths of marketing plan and potential problems, 3) development of alternative marketing strategies, if necessary; and 4) assessment of the potential for successfully moving the product into the marketplace. It is anticipated that 8-10 of these evaluations will be conducted by the OSTD in FY'86.

This activity will be conducted in the most effective and efficient manner possible. Therefore, due to the specific industry focus of the Technology Product Loan Program, it is recommended that RFP applicants be familiar with leading edge technology systems and have a strong background in marketing plan development. Also, due to the confidential nature of loan program applications, organizations must be without possible conflicts of interest.

The estimated fee range for this project is \$3,000 to \$5,000, and the project will conclude by June 30, 1986. Firms desiring consideration should request a copy of the Request for Proposals (RFP) Statement of Work or direct inquiries to:

Dr. Rosemary T. Fruehling, Director
Office of Software Technology Development
Minnesota Department of Energy and
Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The deadline for submission of proposals will be the close of the working day (4:30 p.m.) March 28, 1986.

Department of Energy and Economic Development Division of Science and Technology Office of Software Technology Development

Request for Proposals for Organization to Provide Technical Evaluations for the Technology Product Loan Program

Notice is hereby given that the Office of Software Technology Development (OSTD), Minnesota Department of Energy and Economic Development, requires the services of a qualified organization with established expertise to provide necessary technical evaluations relating to the Technology Product Loan Program.

The Technology Product Loan Program was implemented to provide low-interest loans to eligible Minnesota applicants for the development and/or marketing of software products. Under the direction of the OSTD, one primary activity in the loan application process includes an evaluation of the technical components of the software product. These evaluations include the following activities: 1) review technical quality of a specific product and its adequacy in its proposed application, b) when necessary, meet with applicant company personnel to obtain demonstration of product, c) when necessary, obtain additional information and/or clarification regarding the potential for a particular product, d) assess the appropriateness of the financial plan of the applicant company. It is anticipated that 8-10 of these evaluations will be conducted by the OSTD in FY'86.

This activity will be conducted in the most effective and efficient manner possible. Therefore, due to the specific industry focus of the Technology Product Loan Program, it is recommended that RFP applicants have a strong background in leading edge technology systems and expertise in research and evaluation, business services (management, fiscal, etc.), and quality assurance over a broad range of application fields (i.e., education, agriculture, medical). Also, due to the confidential nature of loan program applications, organizations must be without possible conflicts of interest.

The estimated fee range for this project is \$4,000 to \$6,000, and the project will conclude by June 30, 1986. Firms desiring consideration should request a copy of the Request for Proposals (RFP) Statement of Work or direct inquiries to:

Dr. Rosemary T. Fruehling, Director
Office of Software Technology Development
Minnesota Department of Energy and
Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101

The deadline for submission of proposals will be the close of the working day (4:30 p.m.) March 28, 1986.

Department of Human Services Health Care Programs Division

Request for Proposal for Services as a Medical Review Agent

The Department of Human Services is requesting proposals for statewide admission certification of inpatient hospital admissions for Medical Assistance and General Assistance Medical Care recipients.

Activities of the medical review agent will include determining:

(1) The medical necessity of inpatient hospital services; (2) The medical necessity of a continuing stay at the inpatient hospital level of care; (3) The medical necessity of the inpatient hospital admission and; (4) Whether all medically necessary inpatient hospital services were provided.

The activities also include the monitoring, provision of reports in the specified format, and analysis, as directed, of all readmissions, transfers, cost and day outliers. (Definitions of these terms may be found in Minnesota Rules, parts 9500.1090 to 9500.1155). Identification of admissions involving underutilization and overutilization is also a function within the responsibility of the medical review agent.

In addition, at some point in the future, the Department may choose to utilize the services of the medical review agent in the operation of the Second Surgical Opinion (SSO) Program. This would require a rule change, and could result either in the transfer of the SSO Program administration to the medical review agent, or the merging of the SSO Program with the Admission Certification Program.

The contract period will be from July 1, 1986 to June 30, 1988 and may be renewed for an additional period not to exceed two (2) years, upon the mutual consent of the Department and the medical review agent. The total cost will not exceed \$1,500,000.00. Guidelines to be used in the preparation of the proposal are governed under The Hospital Admission Certification Rule, Minnesota Rules, parts 9505.0500 to 9505.0540 and Minnesota Rules, parts 9500.1090 to 9500.1155 pertaining to inpatient hospital reimbursement. A detailed description and requirements for submission of the proposal is available from the Professional Services Section, Department of Human Services. Deadline for receipt of proposals is 3 p.m. Friday, April 11, 1986. Late proposals will not be accepted. Award for the contract will be May 16, 1986.

STATE CONTRACTS

Proposals and inquiries should be directed to:

Ron Hook
Health Care Programs Division
Professional Services Section
Space Center
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-8821

Department of Human Services Office of Child Support Enforcement

Request for Proposals to Design, Develop and Implement an Automated Statewide Child Support Enforcement System

The Department of Human Services—Office of Child Support Enforcement is seeking proposals for professional and technical services to design, develop, and implement an automated, statewide Child Support Enforcement System (CSES).

The CSES will be micro-computer based and mainframe supported. It will also use local area computer networks where such networks can be used effectively. The CSES will consist of a comprehensive statewide case management and accounting system that addresses six-core functions: case initiation, financial management, case management, enforcement, reporting, and data privacy/security. The level of effort required of the contractor includes the following:

- develop the CSES general system design.
- prepare the detailed design of the CSES functions which meet identified requirements in the Advance Planning Document and Feasibility Study,
- program and test the design CSES functions,
- prepare user manuals and conduct user training,
- convert automated and manual counties to the new system and implement the CSES throughout the state.

The project must conform to the requirements outlined in 45 CFR Part 307, *Computerized Support Enforcement Systems*.

This Request for Proposal is contingent upon federal approval by the Department of Health and Human Services—Office of Child Support Enforcement.

This Request for Proposal does not obligate the state to complete the project, and the state reserves the right to cancel this solicitation if it is considered to be in its best interest. Estimated cost \$1 million to \$1.5 million per year.

Additional information and requirements concerning this Request for Proposal may be obtained by contacting:

Wayland Campbell, Project Manager
Office of Child Support Enforcement
444 Lafayette Road - 2nd Floor
St. Paul, Minnesota 55101
612/297-1112

Proposals will be accepted until 4:30 p.m., Central Standard Time, April 15, 1986.

Metropolitan State University

Request for Proposals for Graphic Art and Design Services

Metropolitan State University is requesting proposals from qualified graphic designers for consulting services to provide assistance for the remainder of Fiscal Year 1986 with an option to renew the contract for Fiscal Year 1987. The estimated amount of the contract for Fiscal Year 1986 will be up to \$2,000. Proposals, including hourly rate schedules must be submitted no later than April 2, 1986.

Proposals and inquiries should be directed to Metropolitan State University, Publications/News Services Director, Suite 121, Metro Square, 121 Seventh Place E., St. Paul, MN 55101-2189; 612/296-8308.

Metropolitan Waste Control Commission

Notice for Prequalifications for MWCC Projects and Annual Engineering Services

Notice is hereby given that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering services for the following:

Blaine Interceptor, Step II
Joint Interceptor Rehabilitation, Step I
Joint Interceptor Access, Step I
Trout Brook Interceptor, Step II
Blue Lake WWTP Expansion, Step II
Empire WWTP Expansion, Step II
Stillwater WWTP Expansion, Step II
Plymouth Interceptor Improvements, Step I

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees, and the demonstratable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting firms to provide engineering services.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in the projects or services and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in the projects or services and the necessary information, if any, to update their prior prequalifications, to the Metropolitan Waste Control Commission, 350 Metro Square Building, St. Paul, Minnesota 55101. Inquiries regarding the solicitation should be directed to Mr. Ray Payne, Assistant Director of Engineering, 612-222-8423.

By Order of the
Metropolitan Waste Control Commission
Louis J. Breimhurst
Chief Administrator

State Designer Selection Board

Request for Proposals for Various Construction Projects

To Design Professionals Registered in Minnesota:

The State Designer Selection Board has been requested to select designer **for four (4) projects**. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 p.m., **April 1, 1986**, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal are required.
2. All data must be on 8 1/2" x 11" sheets, soft bound; the proposal shall not consist of more than 20 faces.
3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the design firm's name, address, telephone number, and the name of the contact person.

4. Mandatory Proposal contents in sequence:

a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.

b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.

c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named in 4b above along with adequate staff to meet the requirements of work.

STATE CONTRACTS

d) A list of State and University of Minnesota current and past commissions (including total fees) under contract with the firm(s) submitting this proposal which were awarded during the three years immediately preceding the date of this Request for Proposals.

e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. **Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.**

5. Statutory Proposal Requirements:

In accordance with the provisions of Minnesota Statutes, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. **The proposal will not be accepted unless it includes one of the following:**

- a) A copy of the firm's current certificate of compliance issued by the Commissioner of Human Rights; **or**
- b) A statement certifying that firm has a current certificate of compliance issued by the Commissioner of Human Rights; **or**
- c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; **or**
- d) A statement certifying that the firm has an application pending for a certificate of compliance.

6. Design firms wishing to have their proposals returned after the Board's review must follow one of the following procedures:

- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; **or**
- b) Enclose a self-addressed stamped mailing envelope with the proposals. When the Board has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

7a) PROJECT—2-86

**Cross Country Building & Chalet Addition
Giants Ridge Recreation Area
Biwabik, Minnesota**

The Iron Range Resources and Rehabilitation Board requests the services of a Designer to provide complete architectural/engineering design services for the following project. This project is in 2 parts.

Part I

Cross Country Building

Description of Project:

The proposed project consists of the design and construction of a cross country building in the stadium area at Giants Ridge.

Project Details:

Building would be simple wood frame 2 story structure. All utilities including sewer-water, heating and electric power.

The project is a joint project between the Economic Development Administration and the Iron Range Resources and Rehabilitation Board.

Cost Estimate—Part I: \$100,000.00-\$130,000.00

Part II

Addition to the Existing Chalet Building

Description of Project:

The proposed project consists of an addition to the existing 11,000 square foot chalet building.

Site Location:

Giants Ridge Ski Area, Biwabik, Minnesota 55708

Project Details:

The addition to the chalet would increase size of ski rental and retail sales shop, and increase lounge and dining and booting area.

Estimated Project Cost: \$350,000.00-\$400,000.00

Work to be performed by Architect:

The work part basically includes, providing recommendations to the Iron Range Resources and Rehabilitation Board, the design of the entire project, the preparation of required drawings, specifications and documents to include, bidding, preside at bid openings, handle contract documents, general supervision of construction, preparation of possible supplement agreement, review and approval of shop drawings and payment requests, assistance in the final inspection and acceptance of work.

Designer's fee will be the standard fee set by the State Department of Administration for such work.

The Architects shall work for the Department of Iron Range Resources and Rehabilitation, but directly with Mr. Mike Gentile, Director of the Giants Ridge Recreational Area, Biwabik, Minnesota 55708. Phone (218) 865-4143, all questions relating to this project shall be referred directly to him.

7b) Project—3-86

National Guard Armory

Camp Ripley

Little Falls, Minnesota

a. Description of Project:

(1) **General:** The proposed project consists of new construction of a 1,000-Person National Guard Armory which will support units assigned to Camp Ripley, Minnesota. The functions of the units to be housed in the facility include administration, aviation, engineering, maintenance, medical, and transportation. The facility will provide space for administration, assembly, supply storage, unit storage, classrooms, vehicle storage and parking, weapons security, food service, locker rooms, wash rooms, and training work bays.

(2) **Site Location:** In Camp Ripley, approximately seven miles north of Little Falls, Minnesota.

(3) **Project Details:** Construction of approximately 128,000 square foot, single-story facility designed within established program and construction parameters. The building will be similar to typical school construction and will be designed in accordance with State of Minnesota Building and Energy Codes plus all other applicable codes and standards. Facility will have concrete floors, concrete block walls faced with brick on the building exterior, interior wall surfaces exposed block painted; assembly hall roof system will be wood roof deck supported by laminated wood purlins supported by laminated wood beams; balance of roof systems will be steel deck supported by steel joists; metal doors and door frames; both wood and metal windows (depending on type and location); ceilings exposed wood deck (assembly hall) with balance of ceilings fire-rated suspended; and hot water heating system. The selected Designer will also design a Vehicle Storage Building which has not yet been programmed.

(4) **Estimated Project Construction Cost:** \$6,920,000.00 excluding cost of Vehicle Storage Building.

b. **Work to be Performed by the Designer:** The work includes: topographic survey and soil test borings; the design of the complete facility; the preparation of required drawings, specifications and allied documents to include bidding documents for same; presiding at the bid opening; the handling of contract documents; the general supervision of the construction work for the owner; assisting in the preparation of supplemental agreements; review and approval of shop drawings and payment requests; assisting in final acceptance of the work. The specification format will be the designers normal for commercial work, tailored to the project.

c. **Designer's Fee for the Work:** Fees for design and supervision services are Government established on a variable scale at a percentage of the construction cost of the work. Estimated fee is 5.5%. Design fees for Vehicle Storage Building will be determined when facility is programmed. The Department of Military Affairs will provide designer with programming documents and Department construction standards which include space criteria, supporting facility criteria, construction standards, authorized finish schedules and use relationships.

d. **Point of Contact:** Designer will work directly with the Department of Military Affairs' Facilities Management Officer, Lieutenant Colonel Wayne A. Johnson, Camp Ripley, Little Falls, Minnesota 56345-0348 (telephone (612) 632-6631, Extension 315). All questions relative to this project should be referred directly to Lieutenant Colonel Johnson.

STATE CONTRACTS

7c) Project—4-86
Central Heating Plant
Camp Ripley
Little Falls, Minnesota

a. Description of the Project:

(1) **General:** A new Central Heating System using wood fiber as primary fuel is proposed for Camp Ripley Army National Guard Training Site. The system will replace various existing individual and multiple building heating systems upon wear out and provide service for programmed facilities as they are built. The project will be phased with initial phases providing the central core to the plant and necessary distribution. The plant will be designed to readily accept additional boilers as required. Existing heat demand of Camp Ripley is 50 million BTU/hour with a forecasted total heating demand of 150 million BTU/hour.

(2) **Site Location:** In Camp Ripley, approximately seven miles north of Little Falls, Minnesota.

(3) **Project Details:** The Central Heating System will consist of a paved, secured truck entrance to an enclosed, insulated fuel storage facility with two (2) live bottom fuel bins, each to contain a three-day fuel supply, based on total demand, to meet the heating requirements of the severe northern Minnesota weather climate. Fuel from storage will be transferred via enclosed belt conveyor to the Central Boiler Plant to feed one (1) 30 million BTU/hour boiler (initially), and a total of five (5) 30 million BTU/hour boilers at full heating capacity. The boilers are to be multi-fuel (wood chip, wood pellet, peat and sawdust bark) with fuel oil back-up, low temperature, hot water (4 boilers) and low temperature, low pressure steam (1 boiler) with fully automated ash disposal, combustion air and fuel feed controlled from the main control panel. The central boiler house will be fully insulated, winterized, fireproof structure containing an office/control room, hydraulic equipment room, electrical equipment room, latrine, surge tanks, expansion tanks and circulating pumps. From the boilers, steam or low temperature hot water is distributed to facilities of Camp Ripley via highly insulated, buried, piping distribution systems. The heated facilities will be controlled and monitored by a centralized energy management console located at the central boiler house control room to provide the operator and user with a steady, non-fluctuating, economically heated environment.

(4) **Estimated Project Construction Cost:** \$5,216,000.00.

b. Work to be Performed by the Designer: The work includes: topographic survey and soil test borings; the design of the complete facility and distribution system; the preparation of required drawings, specifications and allied documents to include bidding documents for same; presiding at the bid opening; the handling of contract documents; the general supervision of the construction work for the owner; assisting in the preparation of supplemental agreements; review and approval of shop drawings and payment requests; assisting in final acceptance of the work. The specification format will be the designers normal for commercial work, tailored to the project.

c. Designer's Fee for the Work: Fees for design and supervision services are Government established on a variable scale at a percentage of the construction cost of the work. Estimated fee is 5.5%. The Department of Military Affairs will provide designer with programming documents and applicable construction standards. The State of Minnesota, Department of Energy and Economic Development, Office of Alternative Engineering, completed a study that is the basis for the project. The study is Project Number 33-84, **Fiber Fuel Conversion, Camp Ripley, Little Falls, Minnesota, January, 1985.**

d. Point of Contact: Designer will work directly with the Department of Military Affairs' Facilities Management Officer, Lieutenant Colonel Wayne A. Johnson, Camp Ripley, Little Falls, Minnesota 56345-0348 (telephone (612) 632-6631, Extension 315). All questions relative to this project should be referred directly to Lieutenant Colonel Johnson.

7d) Project—5-86
Repair & Replacement of Storm Sewer System
Camp Ripley
Little Falls, Minnesota

a. Description of the Project:

(1) **General:** The project consists of repair and replacement of the 50-year old storm sewer system at Camp Ripley, which is a combination of a storm drain buried piping network and open ditch system.

(2) **Site Location:** In Camp Ripley, approximately seven miles north of Little Falls, Minnesota.

(3) **Project Details:** The project will consist of an investigative study to determine the required scope of repair/replacement and implementation of selected alternative. The estimated scope of project includes replacement of 4,900 feet of open ditch with concrete pipe, replacement of 7,800 feet of inadequate piping, and replacement of a pump lift station.

(4) **Estimated Project Construction Cost:** \$900,000.00.

b. **Work to be Performed by the Designer:** The work includes: topographic survey and soil test borings; the design of the complete facility and distribution system; the preparation of required drawings, specifications and allied documents to include bidding documents for same; presiding at the bid opening; the handling of contract documents; the general supervision of the construction work for the owner; assisting in the preparation of supplemental agreements; review and approval of shop drawings and payment requests; assisting in final acceptance of the work. The specification format will be the designers normal for commercial work, tailored to the project.

c. **Designer's Fee for the Work:** Fees for design and supervision services are Government established on a variable scale at a percentage of the construction cost of the work. Estimated fee is 5.9%. Fee for Investigative Study of storm sewer system will be negotiated. The Department of Military Affairs will provide designer with programming documents and applicable construction standards.

d. **Point of Contact:** Designer will work directly with the Department of Military Affairs' Facilities Management Officer, Lieutenant Colonel Wayne A. Johnson, Camp Ripley, Little Falls, Minnesota 56345-0348 (telephone (612) 632-6631, Extension 315). All questions relative to this project should be referred directly to Lieutenant Colonel Johnson.

George F. Klein, Chairman
State Designer Selection Board

Board of Teaching

Request for Proposal for Teacher Education Program Evaluation Services

The Minnesota Board of Teaching is seeking qualified individuals or organizations with expertise in teacher education and experience in program evaluation to complete an external evaluation of Exemplary Teacher Education Programs currently being implemented and funded according to the provisions of Minnesota Statutes Section 126.81.

The specific services which will be provided under contract are outlined in the Request for Proposal (RFP) statement of objectives.

The formal RFP may be requested and inquiries shall be directed to:

Mr. Kenneth L. Peatross
Executive Secretary
Minnesota Board of Teaching
608 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

The cost of services to be provided during the contract period beginning fiscal year 1986 through June 30, 1987, will not exceed \$30,000. This is the maximum price to be paid and the Board does not commit itself to spend this entire amount.

The deadlines for submissions are as follows:

Notice of Intent to Bid: 4:00 p.m. on March 31, 1986
Completed Proposals: 4:00 p.m. on April 15, 1986.

March 3, 1986

Kenneth L. Peatross, Executive Secretary
Minnesota Board of Teaching

STATE GRANTS

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Supreme Court Lawyer Trust Account Board

Notice of Grant Cycle July 1, 1986 to June 30, 1987

The Minnesota Supreme Court has established a program to use the interest on lawyer trust accounts to improve the delivery of legal services to the poor, to promote the development of law-related education for the public, and to develop programs to enhance the administration of justice.

The Lawyer Trust Account Board has announced a grant program to distribute funds to projects in any of three program areas. The Board will support not only traditional approaches, but will encourage projects which show innovative approaches to recognized needs throughout the state. The Board is soliciting proposals. For application information, contact the Executive Director, 318A State Capitol, St. Paul, MN 55155. The application deadline is April 15, 1986.

SUPREME COURT DECISIONS

Decisions Filed Friday, February 28, 1986

Compiled by Wayne O. Tschimperle, Clerk

C5-84-1119 Tom S. Anderson, petitioner, Appellant v. Medtronic, Inc. Court of Appeals.

In an employee wage recovery action, the trial court's submission to the jury of the issue of the employer's bad faith was not prejudicial error.

The phrase "cost of such suit" as used in Minn. Stat. § 181.14 (1982) comprehends an award of all out-of-pocket expenses incurred in prosecuting or defending an action not including attorney fees.

The legislative mandate that attorney fees shall be allowed in wage recovery actions by "commission salespersons" but not by "employees" is not a denial of equal protection under U.S. Const. amend. XIV.

Reversed in part, affirmed in part. Amdahl, C.J.

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

CX-84-760 Ruth M. O'Brien, Trustee for the heirs of Don P. O'Brien, decedent, Appellant v. Mercy Hospital and Convalescent Nursing Care Section, et al. Court of Appeals.

The motor vehicle exception of Minn. Stat. § 466.05, subd. 2(b) (1984) does not apply under the facts and circumstances of this case.

The county was given insufficient notice of a possible claim by plaintiff within the meaning of Minn. Stat. § 466.05 (1984).

Glassman v. Miller, 356 N.W.2d 655 (Minn. 1984) applies retroactively.

Reversed and remanded. Wahl, J.

Concurring Specially, Scott, J.

ERRATA

DEPARTMENT OF HUMAN SERVICES

9525.0015-.0165 (errata) 1869

Department of Human Services

Correction of Fiscal Note Relating to Proposed Rules on Case Management Services to Persons with Mental Retardation

The fiscal note published after the rule notice for Minnesota Rules, parts 9525.0015 to 9525.0165 in the March 3, 1986 *State Register* on page 1783 (CITE 10 S.R. 1783) should have also contained the following background information:

The purpose of this statement is to identify the additional costs of implementing parts 9525.0015 to 9525.0145 and to explain the strategy the department has developed to assist the county boards in financing the additional costs of implementing these rule parts.

The provisions of parts 9525.0015 to 9525.0145 which have fiscal impact are the provisions governing staff qualifications, training requirements, monitoring of services provided, and the overall amount of case management effort necessary to comply with the rule parts. County boards that have a variance approved under parts 9525.0015 to 9525.0145 [Emergency] have until July 1, 1987 to achieve full compliance with parts 9525.0015 to 9525.0145.

The staff level required for minimum compliance with parts 9525.0015 to 9525.0145 is projected at one social worker (not including case aides) for every fifty persons with mental retardation or approximately 32 hours of case management services per year for each person. This ratio is consistent with the required number of social workers to clients required in state hospitals under the *Welsch v. Levine* Consent Decree. Moreover, many counties which were surveyed indicated that they could achieve *minimum* compliance with case management provisions of parts 9525.0015 to 9525.0145 if they had case manager:client ratios of 1:45 to 1:55, especially because case aides are allowed to handle some of the required activities of these rules, and social workers in state hospitals are continuing to assist the county case managers in performing necessary case management activities for persons residing in state hospitals.

The number of additional case managers required to comply with parts 9525.0015 to 9525.0145 was projected based on a survey of nineteen selected counties or approximately 20% of Minnesota's counties. The sample of counties was stratified based on the following dimensions: metro/non-metro, high/medium/low utilization of public and private ICF/MR, poverty as measured by high/medium/low welfare caseloads proportionate to population, and state hospital catchment area. These counties were asked to estimate the caseload of persons with mental retardation for whom they were financially responsible residing in state hospital and various community programs located in and outside their county, and the amount of case management effort (in terms of F.T.E.) including social workers and case aides providing case management services to persons with mental retardation. The differences between the existing levels of case management for the nineteen counties and the 1:50 ratio required to comply with parts 9525.0015 to 9525.0145 were calculated and applied to statewide estimates of the number of persons with mental retardation to determine the additional costs associated with meeting the requirements in parts 9525.0015 to 9525.0145. The costs are summarized in the following table.

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