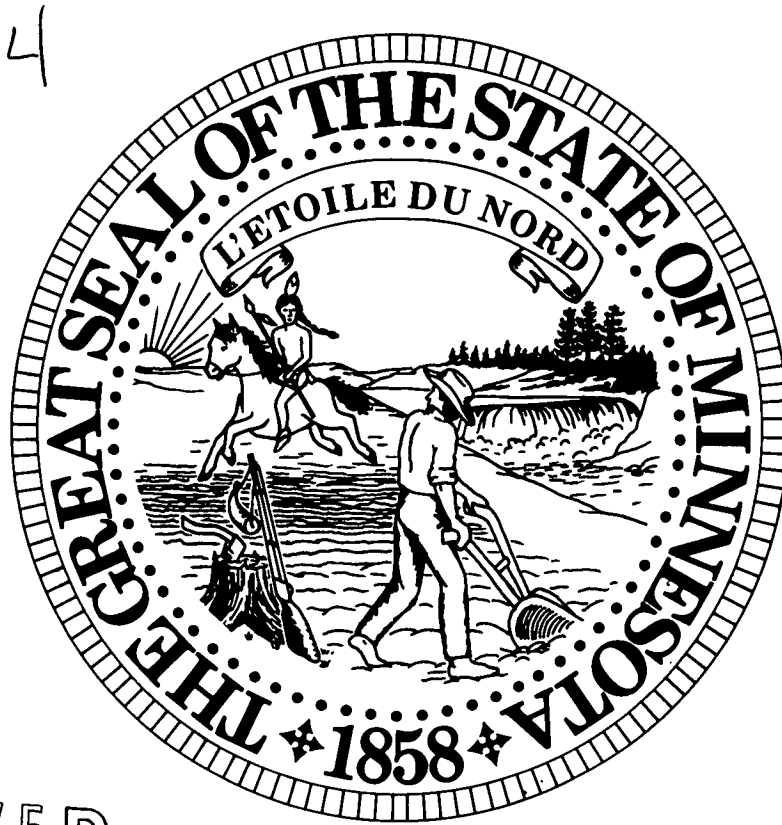


86, September 29

STATE OF MINNESOTA

# STATE REGISTER

DEPARTMENT OF ADMINISTRATION—DOCUMENTS DIVISION



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# STATE REGISTER

## Judicial Notice Shall Be Taken of Material Published in the *State Register*

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, official notices to the public, state and non-state public contracts, grants, and supreme court and tax court decisions.

## Volume 11 Printing Schedule and Submission Deadlines

Vol. 11 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
13	Monday 15 September	Monday 22 September	Monday 29 September
14	Monday 22 September	Monday 29 September	Monday 6 October
15	Monday 29 September	Monday 6 October	Monday 13 October
16	Monday 6 October	Monday 13 October	Monday 20 October

\*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 editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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The PROPOSED RULES section contains:

- 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 requested by an agency.)
Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
Notice of adoption of emergency rules.
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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 are included in a supplement published 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:

Table with 2 columns: Issue range and Issue number. Includes: Issues 1-13, inclusive (Issue 39, cumulative for 1-39); Issues 14-25, inclusive (Issues 40-51, inclusive); Issue 26, cumulative for 1-26 (Issue 52, cumulative for 1-52); Issues 27-38, inclusive.

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## EXECUTIVE ORDERS

### Executive Orders No. 86-10

#### Providing for the Establishment of Data Collection Practices by Various State Departments of Minority Individuals in Minnesota

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, the number of persons of Hispanic, Black, Asian-Pacific, and Indian descent in Minnesota may have been differentially and significantly undercounted in the 1980 Decennial Census; and

WHEREAS, state and local governmental bodies rely on those figures to plan, develop and implement programs and services to address the issues and concerns affecting persons of Hispanic, Black, Asian-Pacific, and Indian descent; and

WHEREAS, Minnesota's Hispanic, Black, Asian-Pacific, and Indian descent residents have made significant contributions to enrich this state's society and culture; and

WHEREAS, a disproportionate number of persons of Hispanic, Black, Asian-Pacific, and Indian descent suffer from racial, social, economic and political discrimination and are denied opportunities which would enable them to improve their socioeconomic, educational and political well-being; and

WHEREAS, improved evaluation of the economic and social status of persons of Hispanic, Black, Asian-Pacific, and Indian descent will assist state and local governments and other organizations in the accurate determination of the unique and specific needs, issues and concerns of these citizens; and

WHEREAS, the commitment of state government and private resources can only occur when there is an accurate and precise assessment of;

NOW, THEREFORE, I hereby order that:

1. The establishment of a minority data collection process be implemented by the State Planning Agency to develop methods for improving and expanding the collection, analysis and publication of data relating to persons of Hispanic, Black, Asian-Pacific, and Indian descent.

2. The various executive departments under my control and authority shall collect and publish regularly statistics which indicate the social, health, employment, housing, education, and economic conditions of individuals of Hispanic, Black, Asian-Pacific, and Indian descent residing in Minnesota.

3. The State Planning Agency, in cooperation with the councils established by Minnesota Statutes, Sections 3.922, 3.9223, 3.9225, and 3.9226, and with other appropriate state, regional, and local data gathering organizations develop a statewide program for the collection analysis and publication of data with respect to individuals of Hispanic, Black, Asian-Pacific, and Indian descent or origin.

4. The State Planning Agency, in cooperation with the U.S. Bureau of the Census, appropriate state and local agencies, and minority community leaders of the State of Minnesota develop and implement methods to improve the enumeration of Hispanic, Black, Asian-Pacific, and Indian Minnesotans in the 1990 and subsequent decennial census.

5. The State Planning Agency shall ensure, in cooperation with the councils created by Minnesota Statutes, Sections 3.922, 3.9223, 3.9225, and 3.9226, that during these data collecting activities, the needs and concerns of the Hispanic, Black, Asian-Pacific, and Indian populations are given full recognition through the use of appropriately designed questionnaires or other survey methods as are deemed to be appropriate.

Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 16th day of September, 1986.



Rudy Perpich  
Governor

# 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.

## Office of Administrative Hearings

### Proposed Permanent Rules Relating to Mediation of Disputes Involving Proposed Rules and Fees and Expenses in Contested Cases

#### Notice of Hearing

Notice is hereby given that public hearings will be held pursuant to Minn. Stat. § 15.14, subd. 1, in the above-entitled matter on two dates at two different locations. The first hearing will commence at 7:00 p.m. in Room 15 of the State Capitol in St. Paul, Minnesota, on Thursday, October 30, 1986. The second hearing will commence at 9:00 a.m. on Friday, October 31, 1986, in Room 111 (the auditorium) of William Mitchell College of Law, 875 Summit Avenue, St. Paul, Minnesota, and thereafter continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of the proposed amendments to the rules by submitting either oral or written data, statements or arguments. The hearing to be conducted on Thursday evening, October 30, is for the primary purpose of allowing small business representatives who might not otherwise be able to attend a hearing during the day, an opportunity to attend the hearing and to present their data and views. At the Thursday evening hearing, priority will be given to those persons representing small businesses who indicate to the Administrative Law Judge that they will be unable to attend the Friday morning hearing. The Thursday evening hearing will be devoted entirely to the amendments to the rules relating to the Equal Access to Justice Act. If time allows, comments will also be allowed on the other amendments proposed for rulemaking and contested case proceedings. The hearing will be conducted by Administrative Law Judge Melvin B. Goldberg, William Mitchell College of Law, 875 Summit Avenue, St. Paul, Minnesota 55105, telephone 612/227-9171. The rule hearing procedure is governed by Minn. Stat. §§ 14.02 through 14.45 and 14.48 through 14.56 and by Minn. Rule 1400.0200-1400.1200 (Minnesota Rules). Questions regarding procedure in this rulemaking proceeding may be directed to the Administrative Law Judge at the above address.

As a result of the hearing process, the proposed amendments to the rules may be modified. Written comments may be submitted without appearing at the hearing by mailing them to the Administrative Law Judge. Written material may be submitted and recorded in the hearing record for 20 calendar days after the public hearing ends. In addition, following the close of the initial comment period, interested persons and the agency will be allowed to submit responses to any new information submitted in the comments received during the initial comment period. The responses must be filed within three working days of the close of the initial comment period. Additional evidence may not be submitted during this three-day period.

The Chief Administrative Law Judge is proposing, in this rulemaking proceeding, to adopt amendment to existing rules which relate to mediation for rulemaking proceedings, hearing notices in certain contested cases brought under the Minnesota Human Rights Act, and the contested case rules relating to applications for fees and expenses brought under the Minnesota Equal Access to Justice Act. Authority for adoption of these rules is contained generally in Minn. Stat. §§ 14.06, 14.51; Laws of Minnesota 1986, Chapter 377, § 4, and can be inferred from the provisions of Minn. Stat. § 366.071, subd. 1.a., relating to certain cases brought directly to the office under the Minnesota Human Rights Act. The proposed amendments to the rules follow this notice.

The proposed amendments to the rules relating to rulemaking provide the procedure for agencies to request the assignment of an Administrative Law Judge for the purpose of serving as a mediator prior to a State agency proposing rules. The amendments propose a procedure for requesting the assignment of a mediator, how a mediator will be appointed, how notice of the mediation will be given, a provision for notice if additional mediation sessions are necessary, and how the mediation process will be terminated.

The proposed amendments to the rules relating to certain contested cases brought under the Human Rights Act relate to the provisions of law allowing for charging parties to request a case be certified to the Office of Administrative Hearings from the Minnesota Department of Human Rights where the department has failed to issue a initial determination of probable cause or no

probable cause prior to the expiration of 180 days following the initial filing of the charge by the charging party. The amendment provides for the issuance of a Notice of and Order for Hearing by the assigned Administrative Law Judge and requires that an answer to the charges be filed by the respondent after service of the notice.

The proposed amendments to the rules relating to applications for fees and expenses brought under the Minnesota Equal Access to Justice Act will amend the procedural rules which were adopted as published in 11 S.R. 334, Monday, August 25, 1986. The amendments add clarification to the definition of "party"; increase the time for filing an application from 30 days to 40 days following final disposition of the contested case; define in more detail who is a "prevailing party" setting forth the criteria and standards which will be applied by an Administrative Law Judge in determining whether or not an applicant is an eligible party as well as whether or not the applicant is a prevailing party; provide a more detailed listing of what must be included in the itemization of fees and expenses within the application; provide a standard that there is no presumption arising that the agency's position was not substantially justified simply because the agency did not prevail in the contested case proceeding; provide a more detailed listing of what must be included in any response or objection to the application; provide for settlement of the disputed issues of fact or law; provide for extensions of time and requests for further proceedings; provide a more detailed description of what must be contained in the decision of the Administrative Law Judge; and provide an effective date for the amendments, stating that they will be effective for those cases which are pending on the effective date of the rules where an application for fees and expenses has not previously been served or filed.

Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, as an individual:

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

(b) who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, telephone 612/296-5148.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Office of Administrative Hearings and at the office of the Administrative Law Judge who will be conducting the hearing. This Statement of Need and Reasonableness includes a nearly verbatim recitation of all of the evidence and argument which the Office of Administrative Hearings anticipates presenting at the hearing justifying both the need for and reasonableness of the proposed amendments. The Statement of Need and Reasonableness also contains citations to federal rules and regulations which have served as a model to amendments to those rules under the Equal Access to Justice Act as well as citations to cases which will be relied upon by the agency in the rulemaking proceeding. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Pursuant to Minn. Stat. § 14.115, subd. 1, the impact on small business has been considered in proposing these amendments. Those rules relating to the Equal Access to Justice Act relate specifically to small businesses. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. It is the position of the Office of Administrative Hearings, as detailed further in the Statement of Need and Reasonableness, that the amendments to the rules will have a positive impact on small business in several ways. First, they will provide a vehicle by which agencies may, through informal mediation, meet with interested persons to resolve differences prior to the adoption of rules. The rules relating to the Equal Access to Justice Act are specifically designed to provide the standards and criteria under which decisions will be made allowing for the recoupment of attorney fees and other fees and expenses if a small business has been involved in a contested case proceeding with a State agency.

**NOTICE:** Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which the Office of Administrative Hearings may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. Also, you may request notification, in writing, by sending a written request to the Administrative Law Judge either prior to or subsequent to the hearing. The office will give notice of the adoption of and filing of the rules with the Secretary of State. Any person wishing to have notice of the adoption and filing may

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## PROPOSED RULES

so indicate at the hearing or by sending a written request to the Chief Administrative Law Judge prior to or subsequent to the hearing.

One free copy of this notice and the proposed rules may be obtained by contacting Sandra Haven, Minnesota Office of Administrative Hearings, 400 Summit Bank Building, 310-4th Avenue South, Minneapolis, Minnesota 55415 (612/341-7642). Additional copies will be available at the door on the dates of the hearing.

Dated: 15 September 1986

Duane R. Harves  
Chief Administrative Law Judge

### Rules as Proposed (all new material)

#### 1400.1500 MEDIATION.

Subpart 1. **Request.** A state agency may request the assignment of an administrative law judge to serve as a neutral party in the convening of a group of persons for the purpose of mediating or negotiating a resolution to disputes relating to proposed rules. The request shall be made in writing to the chief administrative law judge who shall, within ten calendar days following receipt of the request, notify the agency of the name, address, and telephone number of the administrative law judge assigned to the matter.

Subp. 2. **Scheduling.** Upon notification of the assignment, the administrative law judge shall contact the agency representative who made the initial request to establish a date, time, and place for the first mediation session and to provide assistance in ensuring compliance with all notice requirements of this part. The administrative law judge assigned shall not communicate, either directly or indirectly, regarding any facts or issues in the mediation with any person not participating in the mediation unless authorized to do so by all persons involved in the mediation.

Subp. 3. **Notice.** Upon establishing the date, time, and place for the first mediation session, the agency shall give written notice of the session, by first class mail, to all persons who have registered with the agency for the purpose of receiving rulemaking notices. The same notice shall be published in the *State Register* at least 15 calendar days prior to the first mediation session.

Subp. 4. **Subsequent sessions.** If additional mediation sessions are necessary, they shall be convened at a date, time, and place agreeable to all persons participating. If agreement on the date, time, and place of future sessions cannot be reached by the participants, it shall be established by the administrative law judge. Notice of any future sessions shall be given orally to the participants present and in writing to any persons who have indicated a desire to participate but who were not present at the time the decision was made that future sessions would be appropriate. Any written notice shall be given by the agency by first class mail.

Subp. 5. **Establishment of procedures and guidelines.** Procedures and guidelines for the mediation sessions must be established at the first mediation session through agreement of all participants.

Subp. 6. **Termination.** The mediation process shall terminate when the agency announces its unwillingness to continue mediation or when the agency and the participants sign an agreement setting forth the resolution of the disputed issues.

Subp. 7. **Involvement of mediator in subsequent proceedings.** The administrative law judge assigned as a mediator shall not be assigned to any subsequent rulemaking hearing involving the rule which has been the subject of the mediation process.

Subp. 8. **Compliance with other requirements.** The fact that an agreement has been reached through the mediation process shall not relieve the agency from any requirements imposed on it by law or rule in the subsequent adoption of the rule.

### Rules as Proposed

#### 1400.5600 NOTICE AND ORDER FOR HEARING.

Subpart 1. to 6. [Unchanged.]

Subp. 7. Department of Human Rights hearings. After receipt of a request for a hearing forwarded by the commissioner of the Department of Human Rights under Minnesota Statutes, section 363.071, subdivision 1a, and the assignment of a judge to the case, the judge shall prepare and issue a notice of and order for hearing. The notice shall incorporate the charge or charges filed by the charging party and shall state that an answer to the charges must be served and filed by the respondent within 20 days after service of the notice.

#### 1400.8401 EXPENSES AND ATTORNEY FEES.

Subpart 1. [Unchanged.]

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them in this subpart:

A. and B. [Unchanged.]

C. "Party" means a person named or admitted as a party in a contested case initiated under the provisions of Minnesota Statutes, chapter 14 and as defined in Minnesota Statutes, section 3.761, subdivision 6, paragraphs (a), (b), and (c).

D. and E. [Unchanged.]

Subp. 3. **Application.** A party seeking an award of expenses and attorney's fees shall, within ~~30~~ 40 days of a final disposition in the contested case, submit to the judge an application that shows:

A. that the party is a prevailing party and is eligible to receive an award under this part. The applicant must show that it meets all conditions of eligibility set out in Minnesota Statutes, sections 3.761 to 3.764 and this part.

(1) In determining who is an eligible party, the judge shall consider the provisions of subpart 2, item C, and the following:

(a) The annual revenues shall mean the party's annual gross revenue.

(b) The annual revenue and the number of employees of the applicant and all of its affiliates shall be aggregated. Any person directly or indirectly controlling, controlled by, or under common control with the applicant shall be considered an affiliate of the applicant for purposes of this part. In addition, the judge may determine that financial relationships of the applicant other than those described in this part constitute special circumstances that would make an award unjust.

(c) The number of employees of an applicant includes all persons who regularly perform services for remuneration for the applicant under the applicant's direction and control. Part-time employees shall be included on a proportional basis.

(d) An applicant who participates in a contested case on behalf of one or more other persons or entities that would be ineligible is not itself eligible for an award.

(e) An applicant who appears pro se in a proceeding is ineligible for an award of attorney fees. However, eligibility for other expenses is not affected by pro se representation.

(f) An applicant who appears individually as a partner, officer, shareholder, member, or owner of an entity eligible under the provisions of Minnesota Statutes, section 3.761, subdivision 6, paragraph (a), clauses (1) and (2) may only assert a claim to the extent the entity which they own or control can assert such claim and may not assert a claim if the issues on which the applicant prevails are related primarily to personal interests rather than to business interests.

(2) In determining whether an applicant is a prevailing party, the following standards shall be applied:

(a) In order to be eligible for an award, the applicant need not have succeeded on every issue raised but must have at least been successful on the central issue or received substantially the relief requested.

(b) An applicant which has been penalized, fined, or enjoined by a final decision is not eligible for an award.

(c) No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

B. the amount sought, including an itemized statement from any attorney, agent, or expert witness representing or appearing on behalf of the party stating the actual time expended, listing specific dates and the services performed on those dates and the rate at which fees and other expenses were computed; an itemization of the amount of fees and expenses sought. This shall include full documentation of fees and expenses, including the cost of any study, engineering report, test, or project. The documentation shall include an affidavit from each attorney, agent, or expert witness representing or appearing on behalf of the applicant stating the actual time expended and the rate at which fees have been computed and describing the specific services performed.

The affidavit shall itemize in detail the services performed by the date, number of hours per date, and the services performed during those hours. In order to establish the hourly rate, the affidavit shall state the hourly rate which is billed and paid by the majority of clients during the relevant time periods.

The documentation shall also include a description of any expenses for which reimbursement is sought and a statement of the amounts paid and payable by the applicant or by any other person or entity for the services provided.

C. a statement that explains with specificity how or why the position of the state agency was not substantially justified; No presumption arises that the agency's position was not substantially justified simply because the agency did not prevail.

D. and E. [Unchanged.]

Subp. 4. **Response or objection to application.** The state agency or any other party may respond or object to all or any part of the

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## PROPOSED RULES

application for expenses and fees. A response or objection must be sworn to and filed with the judge within 14 days following the service of the application and must show:

A. [Unchanged.]

B. a statement showing the parts of the application being responded or objected to showing specific reasons or facts to support the response or objection; in detail any objections to the award requested and identify the facts relied on to support the objection. If the response or objection is based on any alleged facts not already reflected in the record of the proceeding, the response or objection shall include either a supporting affidavit or affidavits or request for further proceedings under subpart 6; and

C. a proof of service showing that all other parties have been served, either personally or by first class mail, with a copy of the response or objection; and

~~D. if the state agency requests a hearing, the response or objection must include the request.~~

Subp. 5. [See Repealer.]

Subp. 5a. Settlement. A prevailing party and the agency may agree on a proposed settlement of an award before final action on the application. If a settlement occurs, a stipulation for settlement shall be filed with the judge together with a proposed order which shall be prepared for the judge's signature. Upon receipt of a stipulation for settlement and proposed order, the judge shall sign the order, serve all parties and the chief administrative law judge with a copy, and send the original to the agency for inclusion with the record of the contested case which gave rise to the application.

Subp. 5b. Extensions of time and further proceedings.

A. The judge may, on motion and for good cause shown, grant extensions of time, other than for filing an application for fees and expenses, after final disposition in the contested case.

B. Ordinarily, the determination of an award will be made on the basis of the written record of the underlying contested case and the filings required or permitted by this part. However, on the judge's own motion or on the motion of any party to the underlying contested case, further filings or other action can be required or permitted, such as an informal conference, oral argument, additional written submissions, or an evidentiary hearing. Any further action shall be allowed only when necessary for a full and fair resolution of the issues arising from the application and shall take place on the first date available on the judge's calendar which is also agreeable to all parties. A motion for further filings or other action shall specifically identify the information sought on the disputed issues and shall explain why the further filings or other action are necessary to resolve the issues.

C. In the event that an evidentiary hearing is required or permitted by the judge, the hearing and any related filings or other action required or permitted shall be conducted under the procedural rules governing conference contested cases.

Subp. 6. [Unchanged.]

Subp. 7. **Decision of the administrative law judge.** Within 30 days following the close of the record in the proceeding for the award of expenses and attorney's fees, the administrative law judge shall issue a written order which shall also contain findings and conclusions on each of the following which are relevant to the decision:

A. the applicant's status as a prevailing party;

B. the applicant's qualification as a party under Minnesota Statutes, section 3.761, subdivision 6;

C. whether the agency's position as a party to the proceeding was substantially justified;

D. whether special circumstances make an award unjust;

E. whether the applicant during the course of the proceeding engaged in conduct that unduly and unreasonably protracted the final resolution of the matter in controversy; and

F. the amounts, if any, awarded for fees and other expenses, explaining any difference between the amount requested and the amount awarded.

The order shall be served on all parties and the state agency. The original order and the rest of the record of the proceedings shall be filed with the state agency at the time the order is served.

REPEALER. Minnesota Rules, part 1400.8401, subpart 5, is repealed.

EFFECTIVE DATE. These amendments shall be effective for all cases pending on the effective date where an application for fees and expenses has not previously been served or filed.



## Department of Health

### Proposed Permanent Rules Relating to Merit System

#### Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Amend Rules without a Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, on November 12, 1986, commencing at 9:30 a.m. and continuing until all interested persons or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HEALTH. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50.

The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules parts 1400.0200-1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for county and local public health agencies. The rules apply to all positions and employees engaged in the administration of health programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to parts 4670.4200-4670.4240 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 144.071.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612/296-3996.

**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

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Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey. Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Ralph Corey.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. 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. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A Lobbyist is defined in Minnesota Statutes, section 10A.01, subd. 11 as any individual:

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

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101.

Dated: 9 September 1986

Sister Mary Madonna Ashton  
Commissioner

### **Notice of Intent to Amend Rules without a Public Hearing and Notice of Intent to Amend Rules with a Public Hearing if Twenty-Five or More Persons Request a Hearing**

NOTICE IS HEREBY GIVEN that the Minnesota Department of Health proposes to adopt the above-entitled rule changes without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority of the Department to make the proposed rule changes is contained in Minnesota Statutes, section 144.071.

Interested persons shall have 30 days (until October 29, 1986) to submit comments in support of or in opposition to the proposed rule changes. Comment is encouraged. Each comment should identify the portion of the proposed rule change being addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON NOVEMBER 12, 1986, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HEALTH. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

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

Ralph W. Corey  
Merit System Supervisor  
Minnesota Department of Human Services  
Fourth Floor—Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
Telephone 612/296-3996

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## PROPOSED RULES

Comments or requests for a public hearing must be received by 4:30 p.m. on October 29, 1986. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

The Minnesota Merit System rules provide for a system of personnel administration for county and local public health agencies. The rules apply to all positions and employees engaged in the administration of health programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to parts 4670.4200-4670.4240 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph W. Corey.

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed changes and identifies the data and information relied upon to support the proposed changes has been prepared and is also available from Ralph W. Corey upon request.

If no hearing is required, the Department shall submit to the Attorney General the proposed rule and notice as published in the *State Register*, the rule as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness.

Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Ralph W. Corey.

Dated: 9 September 1986

Sister Mary Madonna Ashton  
Commissioner

### Rules as Proposed

#### 4670.1320 RECOMMENDED ADJUSTMENTS.

The merit system general adjustment recommended for incumbents is ~~four~~ one percent for employees on the professional and administrative, health services support, clerical, and building maintenance salary schedules.

#### 4670.4200 PUBLIC HEALTH COMPENSATION PLAN, ~~1986~~ 1987.

The tables in parts 4670.4210 to 4670.4240 list minimum and maximum salary steps in monthly salary amounts for the specified classes of positions.

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# PROPOSED RULES

## 4670.4210 PROFESSIONAL AND ADMINISTRATIVE COMPENSATION PLAN.

### Subpart 1. Plan A.

	Minimum		Maximum	
Assistant Director of Environmental Health	<del>1972</del>	<u>1992</u>	2819	<u>2847</u>
Director of Environmental Health	<del>2257</del>	<u>2280</u>	3219	<u>3251</u>
Director of Public Health Nursing I	<del>1845</del>	<u>1863</u>	2757	<u>2785</u>
Public Health Educator	<del>1581</del>	<u>1597</u>	2257	<u>2280</u>
Public Health Nurse	<del>1581</del>	<u>1597</u>	2257	<u>2280</u>
Public Health Nurse (Team Leader)	<del>1728</del>	<u>1745</u>	2466	<u>2491</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	<del>1511</del>	<u>1526</u>	2164	<u>2186</u>
Sanitarian	<del>1446</del>	<u>1460</u>	2164	<u>2186</u>
Senior Public Health Nurse	<del>1728</del>	<u>1745</u>	2576	<u>2602</u>

### Subp. 2. Plan B.

	Minimum		Maximum	
Assistant Director of Environmental Health	2064	<u>2085</u>	2946	<u>2975</u>
Director of Environmental Health	<del>2361</del>	<u>2385</u>	3372	<u>3406</u>
Director of Public Health Nursing I	<del>1926</del>	<u>1945</u>	2880	<u>2909</u>
Public Health Educator	<del>1654</del>	<u>1671</u>	2361	<u>2385</u>
Public Health Nurse	<del>1654</del>	<u>1671</u>	2361	<u>2385</u>
Public Health Nurse (Team Leader)	<del>1808</del>	<u>1826</u>	2576	<u>2602</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	<del>1581</del>	<u>1597</u>	2257	<u>2280</u>
Sanitarian	<del>1511</del>	<u>1526</u>	2257	<u>2280</u>
Senior Public Health Nurse	<del>1808</del>	<u>1826</u>	2694	<u>2721</u>

### Subp. 3. Plan C.

	Minimum		Maximum	
Assistant Director of Environmental Health	2164	<u>2186</u>	3082	<u>3113</u>
Director of Environmental Health	2466	<u>2491</u>	3527	<u>3562</u>
Director of Public Health Nursing I	<del>2111</del>	<u>2132</u>	3013	<u>3043</u>
Public Health Educator	<del>1728</del>	<u>1745</u>	2466	<u>2491</u>
Public Health Nurse	<del>1808</del>	<u>1826</u>	2466	<u>2491</u>
Public Health Nurse (Team Leader)	2016	<u>2036</u>	2757	<u>2785</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	<del>1728</del>	<u>1745</u>	2361	<u>2385</u>
Sanitarian	<del>1581</del>	<u>1597</u>	2361	<u>2385</u>
Senior Public Health Nurse	<del>1972</del>	<u>1992</u>	2819	<u>2847</u>

## 4670.4220 HEALTH SERVICES SUPPORT PERSONNEL COMPENSATION PLAN.

### Subpart 1. Plan A.

	Minimum		Maximum	
Bookkeeper	<del>1080</del>	<u>1091</u>	1545	<u>1560</u>
Home Health Aide	<del>885</del>	<u>912</u>	1265	<u>1364</u>
Home Health Aide Coordinator	<del>1185</del>	<u>1224</u>	1615	<u>1671</u>
Inspector	<del>1185</del>	<u>1224</u>	1615	<u>1671</u>
Licensed Practical Nurse	<del>1185</del>	<u>1197</u>	1615	<u>1631</u>
Public Health Aide	796	<u>839</u>	1130	<u>1250</u>

### Subp. 2. Plan B.

	Minimum		Maximum	
Bookkeeper	1130	<u>1141</u>	1615	<u>1631</u>
Home Health Aide	924	<u>955</u>	1321	<u>1427</u>
Home Health Aide Coordinator	<del>1238</del>	<u>1278</u>	1688	<u>1745</u>

# PROPOSED RULES

	Minimum		Maximum	
Inspector	<del>1238</del>	<u>1278</u>	<del>1688</del>	<u>1745</u>
Licensed Practical Nurse	<del>1238</del>	<u>1250</u>	<del>1688</del>	<u>1705</u>
Public Health Aide	<del>831</del>	<u>876</u>	<del>1185</del>	<u>1307</u>

Subp. 3. **Plan C.**

	Minimum		Maximum	
Bookkeeper	<del>1185</del>	<u>1197</u>	<del>1688</del>	<u>1705</u>
Home Health Aide	<del>966</del>	<u>999</u>	<del>1383</del>	<u>1491</u>
Home Health Aide Coordinator	<del>1294</del>	<u>1334</u>	<del>1768</del>	<u>1826</u>
Inspector	<del>1294</del>	<u>1334</u>	<del>1768</del>	<u>1826</u>
Licensed Practical Nurse	<del>1294</del>	<u>1307</u>	<del>1768</del>	<u>1786</u>
Public Health Aide	<del>867</del>	<u>912</u>	<del>1238</del>	<u>1364</u>

## 4670.4230 CLERICAL COMPENSATION PLAN.

Subpart 1. **Plan A.**

	Minimum		Maximum	
Clerk I	<del>750</del>	<u>758</u>	<del>1020</del>	<u>1030</u>
Clerk II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk III	<del>1020</del>	<u>1030</u>	<del>1396</del>	<u>1410</u>
Clerk-Typist I	<del>785</del>	<u>831</u>	<del>1117</del>	<u>1128</u>
Clerk-Typist II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk-Typist III	<del>998</del>	<u>1030</u>	<del>1427</del>	<u>1473</u>
Clerk-Steno	<del>893</del>	<u>902</u>	<del>1222</del>	<u>1234</u>
Switchboard Operator	<del>823</del>	<u>831</u>	<del>1117</del>	<u>1128</u>

Subp. 2. **Plan B.**

	Minimum		Maximum	
Clerk I	<del>857</del>	<u>866</u>	<del>1117</del>	<u>1128</u>
Clerk II	<del>976</del>	<u>986</u>	<del>1331</del>	<u>1344</u>
Clerk III	<del>1140</del>	<u>1151</u>	<del>1488</del>	<u>1503</u>
Clerk-Typist I	<del>893</del>	<u>942</u>	<del>1222</del>	<u>1234</u>
Clerk-Typist II	<del>976</del>	<u>986</u>	<del>1331</del>	<u>1344</u>
Clerk-Typist III	<del>1140</del>	<u>1151</u>	<del>1488</del>	<u>1575</u>
Clerk-Steno	<del>1020</del>	<u>1030</u>	<del>1331</del>	<u>1344</u>
Switchboard Operator	<del>933</del>	<u>942</u>	<del>1222</del>	<u>1234</u>

Subp. 3. **Plan C.**

	Minimum		Maximum	
Clerk I	<del>933</del>	<u>942</u>	<del>1222</del>	<u>1234</u>
Clerk II	<del>1067</del>	<u>1088</u>	<del>1458</del>	<u>1473</u>
Clerk III	<del>1195</del>	<u>1207</u>	<del>1559</del>	<u>1575</u>
Clerk-Typist I	<del>976</del>	<u>1030</u>	<del>1331</del>	<u>1344</u>
Clerk-Typist II	<del>1067</del>	<u>1088</u>	<del>1458</del>	<u>1473</u>
Clerk-Typist III	<del>1195</del>	<u>1207</u>	<del>1559</del>	<u>1648</u>
Clerk-Steno	<del>1117</del>	<u>1128</u>	<del>1458</del>	<u>1473</u>
Switchboard Operator	<del>1020</del>	<u>1030</u>	<del>1331</del>	<u>1344</u>

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# PROPOSED RULES

## 4670.4240 BUILDING MAINTENANCE COMPENSATION PLAN.

Subpart 1. [Unchanged.]

Subp. 2. **Plan A.**

	Minimum		Maximum	
Janitor	938	<u>947</u>	<del>1202</del>	<u>1214</u>

Subp. 3. **Plan B.**

	Minimum		Maximum	
Janitor	<del>1109</del>	<u>1120</u>	<del>1426</del>	<u>1440</u>

## Department of Human Services

### Proposed Permanent Rules Relating to Adult Day Care Center Licensure

#### Notice of Intent to Adopt a Rule without a Public Hearing and Notice of Intent to Adopt a Rule with a Public Hearing if Twenty-five or More Persons Request a Hearing

Notice is hereby given that the State Department of Human Services proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 245.781 to 245.812.

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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20. PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON NOVEMBER 12, 1986, UNLESS A SUFFICIENT NUMBER WITHDRAW THEIR REQUEST, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between October 30, 1986 and November 10, 1986 at 612/297-1490.

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

Martha O'Toole  
Department of Human Services  
4th Floor, Centennial Office Building  
St. Paul, MN 55155  
Telephone: 612/297-1490

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 29, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Minnesota Rules, parts 9555.9600 to 9555.9730 establish standards and procedures for licensing day care centers serving functionally impaired adults. "Functionally impaired" is defined in Minnesota Statutes, section 245.782, subdivision 14 as "having a condition that includes having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and requiring support to maintain independence in the community." The purpose of the rule parts is to protect the health, safety and rights of adult day care participants by requiring licensure of non-residential day care facilities serving functionally impaired adults.

Parts 9555.9600 to 9555.9730 do not apply to an identifiable unit in a nursing home, hospital, or boarding care home licensed by the commissioner of health that provides day care for five or fewer functionally impaired adults who are not residents; to day

care facilities licensed by the commissioner of human services for chemically dependent persons or persons with mental illness or that provide training and habilitation services for persons with mental retardation or a related condition; or to facilities excluded from licensure under Minnesota Statutes, section 245.791.

Parts 9555.9600 to 9555.9730 include definitions of terms that have a meaning specific to the rule or need exact definition to avoid misinterpretation; a description of the purpose of the rule; and the facilities to which the rule requirements apply. The rule sets out licensure procedures and the negative licensing actions the commissioner may use when licensure requirements are not met. The rule also establishes policy and program requirements for adult day care centers, the records which must be maintained on staff and participants, and personnel requirements and staff-to-participant ratios. The rule establishes certain rights of participants, standards for planning services for individual participants, and minimum service requirements. Finally, the rule establishes minimum health and safety standards and procedures, including minimum space and life-safety standards.

A free copy of this rule is available upon request for your review from:

Kathy McMahon  
Department of Human Services  
4th Floor, Centennial Office Building  
St. Paul, MN 55101  
Telephone: 612/296-4021

A copy of the proposed rule may be viewed at any of the county welfare or human service agencies in the state of Minnesota.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kathy McMahon upon request.

Adoption of these rules will not result in additional spending by local public bodies in the excess of \$100,000 per year for the first two years following adoption. A fiscal note estimating the fiscal impact of the rule is available upon request from Martha O'Toole, Department of Human Services, 4th Floor, Centennial Office Building, St. Paul, MN 55155, 612/297-1490.

If no hearing is required upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Martha O'Toole.

Dated: 9 September 1986

Leonard W. Levine, Commissioner  
Department of Human Services

### **Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Adopt Rules without a Public Hearing**

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in the State Office Building, Room 500 South, 435 Park, St. Paul, Minnesota, 55155 on November 12, 1986 commencing at 9:00 a.m. and continuing until all interested or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Department of Human Services between October 30, 1986 and November 10, 1986 at 612/297-1490.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to Jon Lunde, Administrative Law Judge, Office of Administrative Hearings,

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## PROPOSED RULES

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400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415; telephone 612/341-7645, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days.

The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during the three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, sections 14.15 and 14.50. The rule hearing is governed by Minnesota Statutes, section 14.14 to 14.20 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Comments or requests for a public hearing must be received by the Department by 4:30 p.m. on October 29, 1986.

The proposed rule may be modified if the modifications are supported by data and views and do not result in a substantial change in the proposed rule as noticed.

Minnesota Rules, parts 9555.9600 to 9555.9730 establish standards and procedures for licensing day care centers serving functionally impaired adults. "Functionally impaired" is defined in Minnesota Statutes, section 245.782, subdivision 14 as "having a condition that includes having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, or having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life and requiring support to maintain independence in the community." The purpose of the rule parts is to protect the health, safety and rights of adult day care participants by requiring licensure of non-residential day care facilities serving functionally impaired adults.

Parts 9555.9600 to 9555.9730 do not apply to an identifiable unit in a nursing home, hospital, or boarding care home licensed by the commissioner of health that provides day care for five or fewer functionally impaired adults who are not residents; to day care facilities licensed by the commissioner of human services for chemically dependent persons or persons with mental illness or that provide training and habilitation services for persons with mental retardation or a related condition; or to facilities excluded from licensure under Minnesota Statutes, section 245.791.

Parts 9555.9600 to 9555.9730 include definitions of terms that have a meaning specific to the rule or need exact definition to avoid misinterpretation; a description of the purpose of the rule; and the facilities to which the rule requirements apply. The rule sets out licensure procedures and the negative licensing actions the commissioner may use when licensure requirements are not met. The rule also establishes policy and program requirements for adult day care centers, the records which must be maintained on staff and participants, and personnel requirements and staff-to-participant ratios. The rule establishes certain rights of participants, standards for planning services for individual participants, and minimum service requirements. Finally, the rule establishes minimum health and safety standards and procedures, including minimum space and life-safety standards.

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Kathy McMahon  
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St. Paul, MN 55101  
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A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Kathy McMahon upon request.

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Dated: 9 September 1986

Leonard W. Levine, Commissioner  
Department of Human Services



**Rules as Proposed (all new material)****9555.9600 DEFINITIONS.**

Subpart 1. **Scope.** The terms used in parts 9555.9600 to 9555.9730 have the meanings given them in this part.

Subp. 2. **Adult.** "Adult" means a person 18 years of age or older.

Subp. 3. **Adult day care.** "Adult day care" means a program of services provided to functionally impaired adults for a period of less than 24 hours during the day. Adult day care is intended to maintain functionally impaired adults in the community and to prevent or delay institutionalization.

Subp. 4. **Adult day care center or center.** "Adult day care center" or "center" means a facility that provides adult day care to functionally impaired adults on a regular basis for periods of less than 24 hours a day in a setting other than a participant's home or the residence of the facility operator.

Subp. 5. **Ambulatory.** "Ambulatory" means having the ability to walk independently and negotiate barriers such as ramps, doors, stairs, and corridors without assistance.

Subp. 6. **Applicant.** "Applicant" means an operator or authorized representative of an operator seeking a license to operate an adult day care center under parts 9555.9600 to 9555.9730.

Subp. 7. **Building official.** "Building official" means a person appointed in accordance with Minnesota Statutes, section 16B.65, to administer the State Building Code or the building official's authorized representative.

Subp. 8. **Capable of taking appropriate action for self-preservation under emergency conditions.** "Capable of taking appropriate action for self-preservation under emergency conditions" is the designation applied in parts 9555.9600 to 9555.9730 to an adult who meets the criteria in items A and B.

A. The person is ambulatory or mobile; and

B. The person has the combined physical and mental capability to:

(1) recognize a danger, signal, or alarm requiring evacuation from the center;

(2) initiate and complete the evacuation without requiring more than sporadic assistance from another person, such as help in opening a door or getting into a wheelchair;

(3) select an alternative means of escape or take other appropriate action if the primary escape route is blocked; and

(4) remain at a designated location outside the center until further instruction is given.

Subp. 9. **Caregiver.** "Caregiver" means a person, usually a family member, whose support helps a participant to live independently or semi-independently in the community and to participate in adult day care. For the purpose of parts 9555.9600 to 9555.9730, "caregiver" does not denote legal or financial responsibility for the participant.

Subp. 10. **Center director.** "Center director" means the person responsible for managing the daily affairs of the center.

Subp. 11. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of Human Services or the commissioner's authorized representative.

Subp. 12. **Department.** "Department" means the Minnesota Department of Human Services.

Subp. 13. **Fire marshal.** "Fire marshal" means the person designated by Minnesota Statutes, section 299F.01, to administer and enforce the Minnesota Uniform Fire Code, or the fire marshal's authorized representative.

Subp. 14. **Functionally impaired adult.** "Functionally impaired adult" means an adult having a condition that includes (1) having substantial difficulty in carrying out one or more of the essential major activities of daily living, such as caring for oneself, performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, and working; or (2) having a disorder of thought or mood that significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life; and (3) requiring support to maintain independence in the community.

Subp. 15. **Health officer.** "Health officer" means the designated representative of the state or local public health board authorized by Minnesota Statutes, section 145.01, to enforce state and local health codes.

Subp. 16. **License.** "License" means a certificate issued by the commissioner authorizing the operator to provide specified

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## PROPOSED RULES

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services for a specified period of time in accordance with the terms of the license, with Minnesota Statutes, sections 245.781 to 245.812 and 252.28, subdivision 2, and with parts 9555.9600 to 9555.9730. "License" includes a provisional license issued to an operator who is temporarily unable to comply with all the requirements for issuance of a license.

Subp. 17. **Licensed capacity.** "Licensed capacity" means the maximum total number of participants the center is permitted to serve on the premises at any one time under the terms of the license.

Subp. 18. **Medication.** "Medication" means a prescription substance ingested, injected, or applied externally to prevent or treat a condition or disease, heal, or relieve pain.

Subp. 19. **Minnesota Uniform Fire Code.** "Minnesota Uniform Fire Code" means those codes and regulations adopted by the state fire marshal in accordance with Minnesota Statutes, section 299F.011, and contained in parts 7510.0200 to 7510.3000.

Subp. 20. **Mobile.** "Mobile" means being nonambulatory but having the ability to move from place to place with the aid of such devices as crutches, walkers, wheelchairs, and wheeled platforms.

Subp. 21. **Multifunctional organization.** "Multifunctional organization" means an organization such as a nursing home that operates a center licensed under parts 9555.9600 to 9555.9730 as well as one or more other programs or facilities simultaneously and within the same administrative structure.

Subp. 22. **Operator.** "Operator" means the individual, corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of a center.

Subp. 23. **Participant.** "Participant" means a person who has been admitted to and is receiving services from a center licensed under parts 9555.9600 to 9555.9730.

Subp. 24. **Physician.** "Physician" means a person licensed to provide services within the scope of the profession as defined in Minnesota Statutes, chapter 147.

Subp. 25. **Registered dietitian.** "Registered dietitian" means a dietitian registered with the National Commission on Dietetic Registration.

Subp. 26. **Registered nurse.** "Registered nurse" means a person registered by the Minnesota State Board of Nursing to practice professional nursing.

Subp. 27. **Registered physical therapist.** "Registered physical therapist" means a person registered by the Minnesota State Board of Medical Examiners to practice physical therapy.

Subp. 28. **Regularly or on a regular basis.** "Regularly" or "on a regular basis" means the provision of day care services to one or more persons for a cumulative total of more than 30 days within any 12-month period. Provision of services for any part of a calendar day shall constitute provision of service for the entire calendar day.

Subp. 29. **State Building Code.** "State Building Code" means those codes and regulations adopted by the commissioner of the Department of Administration in accordance with Minnesota Statutes, section 16B.59, and contained in chapter 1300.

Subp. 30. **Structured exercise program.** "Structured exercise program" means an identifiable group activity of specific, planned physical exertion designed for participants with similar physiologic and physical needs, meant to maintain or improve range of motion and endurance, general cardiovascular capability, muscle tone, and metabolic levels.

Subp. 31. **Variance.** "Variance" means written permission from the commissioner allowing an applicant or operator to depart from specific provisions of parts 9555.9600 to 9555.9730.

### 9555.9610 ADULT DAY CARE CENTER LICENSURE.

Subpart 1. **Purpose.** The purpose of parts 9555.9600 to 9555.9730 as authorized by Minnesota Statutes, sections 245.781 to 245.812, is to establish procedures and standards for licensing adult day care centers to assure the health, safety, and rights of adult day care participants.

Subp. 2. **Applicability.** Parts 9555.9600 to 9555.9730 govern the licensing of adult day care centers.

An identifiable unit in a nursing home, hospital, or boarding care home licensed by the commissioner of health that regularly provides day care for six or more functionally impaired adults who are not residents or patients of the nursing home, hospital, or boarding care home must be licensed as an adult day care center.

Subp. 3. **Exemptions from licensure.** The following facilities or situations in which adult day care is provided are exempt from licensure as adult day care centers:

A. a day care facility subject to licensure or approval by the department for the provision of outpatient treatment programs for chemically dependent persons or training and habilitation services for persons with mental retardation or a related condition, or services to persons with mental illness;

B. facilities that provide day care to adults and are excluded from licensure under Minnesota Statutes, section 245.791, including:

- (1) day care provided by a relative to a person or persons with whom the relative has any of the following relationships by marriage, blood, or adoption: parent, grandparent, brother, sister, stepparent, stepsister, stepbrother, uncle, aunt, child, niece, nephew;
- (2) day care provided for a cumulative total of less than 30 days in any 12-month period;
- (3) day care provided for persons from a single family for any length of time by a person who is not a relative;
- (4) an identifiable unit of a nursing home, hospital, or boarding care home licensed by the commissioner of health that regularly provides day care for five or fewer functionally impaired adults who are not residents or patients of the nursing home, hospital, or boarding care home;
- (5) a day care program serving any number of adults who are not functionally impaired;
- (6) a sheltered workshop or work activity day program, certified by the state board of education;
- (7) a day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner; and
- (8) day care provided for less than three hours daily for any person while the person's relatives are in the same building, or can be present in the same building within 30 minutes.

#### **9555.9620 LICENSING PROCESS.**

Subpart 1. **Application for license.** An adult day care center must obtain a license to operate from the department.

A. Application for a license must be made on the form issued by the department.

B. The applicant must be the individual or the authorized representative of the corporation, partnership, voluntary association, or other public or private organization legally responsible for the operation of the center.

C. Separate licenses are required for centers located at separate addresses even if the centers are to be operated by the same operator.

D. The commissioner shall supply the applicant with:

- (1) the department application form;
- (2) information on how to obtain a copy of parts 9555.9600 to 9555.9730 and the statutes and rules referenced in parts 9555.9600 to 9555.9730; and
- (3) the department forms needed to verify compliance with parts 9555.9600 to 9555.9730.

Subp. 2. **Completed application.** An application for licensure is complete on the date the commissioner determines that a complete application has been received. A complete application includes:

A. a completed application form;

B. the licensing fee required by parts 9545.2000 to 9545.2040; and

C. documentation that:

(1) the facility in which the center is to operate complies with the state building, fire, and health codes as specified in parts 9555.9600 to 9555.9730 and with any applicable local codes and ordinances; or

(2) variances from compliance with the codes and ordinances in subitem (1) have been granted by the state or local unit of government with jurisdiction to enforce the code or ordinance.

To obtain the necessary documentation, the applicant shall have a fire marshal, building official, and health officer inspect the facility and make a written report of the results of the inspection. Any deficiencies cited that threaten health and safety must be corrected and the correction verified by the inspecting official before a license is issued by the department.

D. a description of the floor plan of the center, including:

- (1) the size and location of each room, doorway, and hallway;

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- (2) the planned use for each space;
- (3) the space available as the private space required in part 9555.9730, subpart 5; and
- (4) the area of the center that is designated for emergency shelter as required in 9555.9720, subpart 9, item D.

Subp. 3. **Licensing study.** The commissioner shall conduct a study of the center as set forth in items A and B before issuing or renewing a license:

A. The applicant shall provide the commissioner access to the premises any time during the center's hours of operation to enable the commissioner to evaluate the center's compliance with parts 9555.9600 to 9555.9730. Access shall include the right to review and photocopy records required by parts 9555.9600 to 9555.9730. If the commissioner's study of the premises gives the commissioner reasonable cause to believe that a potentially hazardous condition exists, the commissioner shall require an inspection by a health officer, building official, or fire marshal, depending on the nature of the hazardous condition and the jurisdiction for enforcing standards related to that condition. The results of the inspection and of any corrective action required shall be reported to the commissioner by the inspector.

B. A study of the applicant and of all center staff must be made under Minnesota Statutes, section 245.783, subdivision 3.

(1) The applicant shall submit to the commissioner a completed form signed by each applicant and employee enabling the commissioner to obtain disclosure of arrest, conviction, or criminal history records. The form must disclose the person's full name, date of birth, the specific nature of the information to be obtained, who will receive the information, and who will disclose it. The commissioner shall seek the assistance of the Minnesota Bureau of Criminal Apprehension, the county attorney, and the sheriff or the chief of police in the locality where the person resides in determining the person's arrest, conviction, or criminal history record.

(2) The commissioner may require, at any time during the term of licensure, a criminal history check of the operator or of an employee if the commissioner has reasonable cause to believe that any one or any combination of the conditions specified in subpart 7, item A, has not been met.

Subp. 4. **Period of licensure; not transferable.** An initial license shall be issued by the department for up to one year when the commissioner determines there is substantial compliance with parts 9555.9600 to 9555.9730. A renewal of the initial license can be issued for up to two years if there is substantial compliance with the provisions of parts 9555.9600 to 9555.9730. A license is not transferable to another operator or location.

Subp. 5. **License renewal, inspection, and study.** The commissioner must reinspect the center and study the operator to determine continued compliance with parts 9555.9600 to 9555.9730 at least once prior to license renewal for as long as the operator maintains a license for the center.

Subp. 6. **Provisional license.** An applicant for initial licensure may be granted a provisional license for up to one year if all laws and rules cannot be complied with immediately and if the deviations from parts 9555.9600 to 9555.9730 do not threaten the health, safety, or rights of the participants. Deviations must be corrected by the applicant within the time, not to exceed one year, specified by the commissioner. Failure to correct deviations within the stated time shall be cause for license revocation, suspension, probation, fines, or injunction against continued operation.

Subp. 7. **License denial or suspension.** The commissioner shall not issue a license or shall suspend a license when one or any combination of conditions described in items A and B applies.

A. The applicant or operator or a staff member employed by the applicant or operator:

- (1) refuses to provide the completed form required in subpart 3; or
- (2) has been convicted of a crime or has admitted to an act or there are reasonable grounds to believe has committed an act relating to the abuse or neglect of vulnerable adults as defined in Minnesota Statutes, section 626.557, subdivision 2, clauses (d) and (e), and subdivision 3, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in Minnesota Statutes, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the act or conviction relates to the abuse or neglect of vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness; or
- (3) has been convicted of a crime which directly relates to the occupation of providing care to vulnerable adults as defined in Minnesota Statutes, section 626.557, and does not show evidence of sufficient rehabilitation and present fitness to care for vulnerable adults. The factors set forth in Minnesota Statutes, section 364.03, subdivisions 2 and 3, shall be considered in determining whether the conviction relates to the occupation of providing care to vulnerable adults and whether the person has shown evidence of sufficient rehabilitation and fitness.

B. The center does not comply with the building, fire, and health codes specified in parts 9555.9600 to 9555.9730 and the deficiencies cited threaten the health, safety, or rights of participants.

Subp. 8. **Posting the license.** The operator shall post the license in the center in a prominent place open to view.

Subp. 9. **License terms.** The license, whether regular or provisional, must indicate:

- A. the licensed capacity of the center;
- B. the expiration date of the license;
- C. the location of the center;
- D. the name and address of the operator; and
- E. the parts of Minnesota Rules under which the center is licensed.

Subp. 10. **Change in license terms.** Items A and B shall apply to changes in the terms of licensure.

- A. The license issued must not be transferred to another operator, building, or address.
- B. The operator shall notify the commissioner and the necessary studies in part 9555.9620 must be completed:

- (1) when the operator makes structural changes to the center that require a building permit from the municipality or local jurisdiction;
- (2) before the operator moves the center to another building or address;
- (3) before the operator increases the licensed capacity of the center; or
- (4) before the operator changes, sells, or transfers ownership and responsibility for the operation of the center.

Subp. 11. **Variance procedure.** An applicant or operator may request a variance from compliance with parts 9555.9600 to 9555.9730 at any time. A request for a variance must comply with the procedures in items A and B.

A. The applicant or operator must submit a written request for a variance to the commissioner. The request must include the following information:

- (1) the section or sections of parts 9555.9600 to 9555.9730 with which the operator or applicant cannot comply;
- (2) the reasons why the operator or applicant needs to depart from the specified sections;
- (3) the period of time for which the applicant or operator requests a variance; and
- (4) the specific equivalent measures that the applicant or operator will take to ensure the health, safety, and rights of the participants if the variance is granted.

B. The applicant or operator must submit to the commissioner written approval of the alternative measures identified to ensure the health and safety of the participants from:

- (1) a fire marshal, for any variance from part 9555.9730 that relates to the Minnesota Uniform Fire Code;
- (2) a building official, for any variance from part 9555.9730 that relates to the State Building Code; and
- (3) a health officer, for any variance from part 9555.9710.

Subp. 12. **Variance standard.** The commissioner may grant the request of the applicant or operator for a variance if:

- A. the variance request is submitted in accordance with subpart 11;
- B. granting the variance will not threaten the health, safety, and rights of the participants; and
- C. the variance would not be contrary to a standard required by Minnesota statutes.

Subp. 13. **Notice.** Upon receipt of a variance request and supporting documents, the commissioner shall review the variance request and notify the applicant or operator in writing within 30 days whether the variance request has been granted or denied. If the variance request is denied, the notice must state the reasons for denial.

#### **9555.9630 NEGATIVE LICENSING ACTIONS.**

Subpart 1. **Negative licensing actions.** A negative licensing action includes denial of application for licensure, revocation, probation, suspension, or immediate suspension of an existing license.

Subp. 2. **Procedures.** Failure to comply with parts 9555.9600 to 9555.9730 or the terms of licensure is grounds for a negative licensing action. If the commissioner has reasonable grounds to believe that the standards in parts 9555.9600 to 9555.9730 or the

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terms of licensure have been violated, the commissioner shall notify the applicant or operator by certified mail unless personal service is required by subpart 5. The notice must be addressed to the name and location shown on the application or license, and it must state the proposed action and the reasons for it. The notice must inform the applicant or operator of the right to appeal the decision within the specified time period. The applicant or operator shall have an opportunity for a hearing in accordance with Minnesota Statutes, sections 14.57 to 14.70.

Subp. 3. **Denial.** If the commissioner denies an application for licensure, the applicant must be notified of the right to appeal the decision. The applicant's appeal must be made in writing within 20 working days of receipt of notice.

Subp. 4. **Suspension; revocation; probation.** If the commissioner suspends or revokes a license or makes a license probationary, the operator must be notified of the right to appeal the decision. The operator's appeal must be made in writing within ten working days of receipt of notice.

Subp. 5. **Immediate suspension.** If the commissioner has reasonable grounds to believe that the health, safety, or rights of the participants are in imminent danger, the commissioner shall immediately suspend an operator's license. The operator shall be notified of the suspension by personal service and notified of the right to appeal the decision within five days. An appeal does not stay the decision of the commissioner to immediately suspend the license.

Subp. 6. **Correction orders and fines.** If the commissioner finds that the operator is not complying with the provisions of parts 9555.9600 to 9555.9730, the commissioner shall issue a correction order and the operator may be subject to a fine for each uncorrected deficiency.

Subp. 7. **Notice of negative action.** At the time the commissioner notifies the operator of a proposed negative licensing action, the commissioner shall notify participants and participants' caregivers of the proposed negative licensing action and the operator's right to appeal. The notification procedures in Minnesota Statutes, section 626.557, subdivision 10, paragraph (a) shall be followed in situations alleging abuse or neglect of participants.

Subp. 8. **Reapplication after revocation or nonrenewal.** An operator whose license has been revoked or not renewed because of noncompliance with applicable laws or rules shall not be granted a new license for five years following revocation or nonrenewal. The department may grant a variance to this provision and issue a license after two years following revocation or nonrenewal if the applicant then substantially meets all provisions of parts 9555.9600 to 9555.9730. When the commissioner initiates a negative licensing action against an operator, the operator shall not voluntarily withdraw his or her license without providing written assurance that the operator is voluntarily accepting revocation and will not reapply for two years.

### 9555.9640 POLICY AND PROGRAM INFORMATION REQUIREMENTS.

A center shall distribute to prospective participants and their representatives written information about the points in items A to N:

- A. the scope of the programs, services, and care offered by the center;
- B. a description of the population to be served by the center;
- C. a description of individual conditions which the center is not prepared to accept, such as a communicable disease requiring isolation, a history of violence to self or others, unmanageable incontinence or uncontrollable wandering;
- D. the participants' rights developed in accordance with part 9555.9670 and additionally:
  - (1) a procedure for presenting grievances, including the name, address, and telephone number of the licensing division of the department, to which a participant or participant's caregiver may submit an oral or written complaint;
  - (2) a copy or written summary of Minnesota Statutes, section 626.557, the Vulnerable Adults Act;
- E. the center's policy on and arrangements for providing transportation;
- F. the center's policy on providing meals and snacks;
- G. the center's fees, billing arrangements, and plans for payment;
- H. the center's policy governing the presence of pets in the center;
- I. the center's policy on smoking in the center;
- J. types of insurance coverage carried by the center;
- K. a statement of the center's compliance with Minnesota Statutes, section 626.557, and rules adopted under that section;
- L. a statement that center admission and employment practices and policies comply with Minnesota Statutes, chapter 363, the Minnesota Human Rights Act;
- M. the terms and conditions of the center's licensure by the department, including a description of the population the center is licensed to serve under part 9555.9730; and

N. the telephone number of the department's licensing division.

The information in items A to N must be provided in writing to the commissioner upon request and must be available for inspection by the commissioner at the center.

**9555.9650 PERSONNEL RECORDS.**

A center shall maintain the personnel files in items A and B.

A. A personnel file for each employee that includes:

- (1) the employee's job description;
- (2) documentation that the employee has completed and signed the form required in part 9555.9620, subpart 3;
- (3) an employment application or resume indicating that the employee meets the requirements in part 9555.9680, subpart 2;
- (4) documentation that the employee has completed the orientation to the center required in part 9555.9690, subpart 3;
- (5) documentation of an annual performance evaluation;
- (6) documentation of completion of the annual in-service training required in part 9555.9690, subpart 4; and
- (7) documentation, when applicable, that the employee has completed the cardiopulmonary resuscitation and airway obstruction treatment training required in part 9555.9690, subpart 2, item D.

B. A personnel file for each consultant whose services the center purchases either by contracting directly with the individual or by contracting for the person's services with another organization. The file shall include:

- (1) a copy of a signed contract or letter of appointment specifying conditions and terms of employment; and
- (2) documentation that the person under contract meets any licensure, registration, or certification requirements required to perform the services specified in the contract.

**9555.9660 PARTICIPANT RECORDS.**

A center shall develop and maintain a written record for each participant. Access to participants' records shall be governed by subpart 2.

Subpart 1. **Participant's written record.** Each participant's written record shall include:

A. an application form signed by the participant that includes:

- (1) the participant's name, address, date of birth, sex, date of admission or readmission, living arrangement, telephone number, and source of referral;
- (2) the name and telephone number of the person to call in case of an emergency involving the participant and the name and number of another person to call if that person cannot be reached; and
- (3) the name and telephone number of the participant's physician or medical provider;

B. a medical report, signed by a physician or signed by a physician's assistant and cosigned by a physician, that includes:

- (1) a report on a physical examination of the participant completed within the three months prior to or 30 calendar days after the participant's admission to the center and updated annually;
- (2) a medical history of the participant;
- (3) indication of dietary restrictions and medication regimen that apply to the participant;
- (4) a release signed by the physician indicating whether the participant may engage in a structured exercise program; and
- (5) documentation that the participant is free of communicable disease or infestations, as specified in parts 4605.7000 to 4605.7600, that would endanger the health of other participants;

C. reports received from other agencies involved in providing services or care to the participant;

D. participant's service agreement with the center, that must specify the responsibilities of the participant and the center

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with respect to payment for and provision of services and shall be signed by the participant or the participant's caregiver and the center director;

- E. attendance and participation reports and progress notes that are recorded at least monthly;
- F. notes on special problems or on changes needed in medication and on the need for medication assistance;
- G. participant's needs assessment and current plan of care in compliance with part 9555.9700;
- H. a copy of the center's statement on participants' rights, signed by the participant to indicate the participant has been informed of rights;
- I. any incident reports involving the participant, in compliance with part 9555.9720, subpart 4;
- J. copy of the individual abuse prevention plan developed for the participant in compliance with part 9555.8300 and as required by Minnesota Statutes, section 626.557, subdivision 14;
- K. in a center licensed to serve participants capable of taking emergency action for self-preservation under emergency conditions, (1) a statement signed by the center director at the time of the participant's admission specifying the basis on which the participant was determined to be capable of taking appropriate action for self-preservation under emergency conditions as that capability is defined in part 9555.9600, subpart 8; and (2) documentation that the participant has demonstrated the capability defined in part 9555.9600, subpart 8, by participating in a fire drill within at least three months of admission to the center; and
- L. discharge summary, if the participant leaves the center.

Subp. 2. **Data privacy.** The information contained in a participant's records shall not be disclosed without the informed written consent of the participant or the participant's legal guardian, except information shall be provided:

- A. to the participant, the participant's legal guardian, or a person known to the center staff as the participant's caregiver;
- B. to center staff, for use in developing and implementing the participant's plan of care;
- C. to the commissioner, for the purpose of investigating complaints about a center or determining a center's compliance with parts 9555.9600 to 9555.9730;
- D. to a building official or fire marshal, to the extent necessary to determine a center's compliance with part 9555.9730;
- E. to a person authorized to conduct inspections required by third party payment contract, to the extent necessary to perform those duties; and
- F. to the extent necessary to protect the health and safety of the participant or participants.

Subp. 3. **Right to contest.** The center shall provide each participant with written notice ensuring that each participant or participant's guardian or caregiver has been informed of the participant's right to contest the accuracy and completeness of the data maintained in the record.

### 9555.9670 PARTICIPANTS' RIGHTS.

A center shall adopt and hold employees accountable for complying with a participant's bill of rights. The rights shall include:

- A. the right to participate in developing one's own plan of care;
- B. the right to refuse care or participation;
- C. the right to physical privacy during care or treatment;
- D. the right to confidentiality of participant records; and
- E. the right to present grievances regarding treatment or care in accordance with part 9555.9640, item D.

### 9555.9680 PERSONNEL REQUIREMENTS.

Subpart 1. **Center director.** The center director must meet both the requirements in items A and B or only the requirement in item C:

- A. completion of at least two years of postsecondary education from an accredited college, university, technical institute, or correspondence school; and
- B. completion of two years of paid or volunteer experience in planning or delivering health or social services including experience in supervision and administration; or
- C. completion of four years of paid or volunteer experience in planning or delivering health or social services including two years of experience in supervision and administration.



Subp. 2. **Personnel standards.** The standards and requirements in items A to C apply to all employees:

A. Persons who supervise employees must be at least 18 years of age.

B. Employees or consultants who perform services that require licensure, certification, or registration by the state of Minnesota must have current licensure, certification, or registration in their field.

C. An employee, other than a physician, registered pharmacist, registered nurse, or licensed practical nurse, who is responsible for medication assistance shall provide a certificate verifying successful completion of a trained medication aid program for unlicensed personnel approved by the Minnesota Department of Health. Medication assistance by unlicensed personnel includes responsibility for assisting participants to take medication and monitoring the effects of medication but does not include injections.

Subp. 3. **Preemployment check of criminal history records.** Before employing a person who will have responsibility for the operation of the center or direct contact with participants, the center shall request the person to give informed consent for the disclosure of arrest, conviction, and criminal history records to the commissioner. The authorization form shall state the person's full name, date of birth, the specific nature of information being authorized for disclosure, persons who are designated to receive the information, and the expiration date of the authorization. The center shall send the dated and notarized form signed by the person to the department. The commissioner shall request the assistance of the Bureau of Criminal Apprehension, the county attorney, and county sheriff or chief of the police department in the person's locality in providing all criminal conviction data, arrest information, reports regarding abuse or neglect, and investigation results available from local and state criminal history repositories.

Subp. 4. **Employment disqualification factors.** A center shall not employ nor shall the operator of a center be a person whose behavior or conviction record is described by the conditions set forth in part 9555.9620, subpart 7, item A.

#### **9555.9690 STAFF RATIO AND CENTER COVERAGE.**

Subpart 1. **Staff ratio.** Centers must meet the standards specified in items A to G.

A. When a center serves only participants who are capable of taking appropriate action for self-preservation under emergency conditions, the center shall maintain a minimum staff to participant ratio of one staff member present for every eight participants present.

B. When a center serves only participants who are not capable of taking appropriate action for self-preservation under emergency conditions, the center shall maintain a minimum staff to participant ratio of one staff member present for every five participants present.

C. When a center serves both participants who are capable of taking appropriate action for self-preservation under emergency conditions and participants who are not, the center shall maintain a staff to participant ratio of one staff member present for every five participants present who are not capable of self-preservation and one staff member present for every eight participants present who are capable of self-preservation. When a center has participants to whom the one to eight ratio applies, as well as participants to whom the one to five ratio applies, the number of staff persons necessary to meet the ratio requirements can be determined by making the following computations:

(1) multiply the number of participants present who are capable of self-preservation by 12.5;

(2) multiply the number of participants present who are not capable of self-preservation by 20;

(3) add the two figures that result from the multiplication in subitems (1) and (2);

(4) when the sum calculated in subitem (3) is 100 or less, one staff person is required to meet the ratio requirements;

(5) when the sum calculated in subitem (3) is 101 to 200, two staff persons are required; and

(6) when the sum calculated in subitem (3) is 201 to 300, three staff persons are required. One additional staff person is required each time the sum increases by a unit of 100.

D. Only those employees whose primary center duties, as defined in their job descriptions, are to work directly with participants by providing care, supervision, and assistance in achieving plan of care objectives shall be counted as staff members in calculating the staff to participant ratio.

E. A multifunctional organization may count other employees of the organization besides center employees in calculating the staff to participant ratio if:

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- (1) the employee's responsibilities in the organization other than the center meet the requirement in item D; and
- (2) the employee is assigned to the center for a specified amount of time during which the employee is not assigned to another organization.

F. No participant shall be counted as or be substituted for a staff member in calculating the staff to participant ratio.

G. A volunteer may be counted as a staff member in calculating the staff to participant ratio if the volunteer meets the same standards and requirements as paid staff.

**Subp. 2. Staff coverage of center.** Centers must meet the standards specified in items A to D.

A. In the temporary absence of the director, a staff member shall be designated to supervise the center.

B. When only one staff member is needed to meet the staff ratio requirement in subpart 1, item A, a volunteer or other adult who is not a participant shall be present when six or more participants are in attendance.

C. A person trained in basic first aid, cardiopulmonary resuscitation, and the treatment of obstructed airways must be present at all times:

- (1) in the center when participants are present;
- (2) in a vehicle being used by the center to transport participants; and
- (3) with participants on field trips or other activities conducted by the center away from the center site.

D. Persons designated by the center to meet the requirements in item C must be certified in cardiopulmonary resuscitation and the treatment of obstructed airways.

**Subp. 3. Staff orientation to center.** A center shall provide all center employees with 20 hours of orientation to the center within the employee's first 40 hours of employment at the center. At least four hours of supervised orientation must be provided before employees work directly with center participants. The orientation must include training related to the kinds of functional impairments of current center participants, the protection and abuse reporting requirements of parts 9555.8000 to 9555.8500, and the safety requirements and procedures in part 9555.9720.

**Subp. 4. In-service training.** A center shall provide a minimum of eight hours of in-service training annually. In-service training must be in areas related to care of center participants, including review of parts 9555.8000 to 9555.8500, 9555.9600 to 9555.9730, and Minnesota Statutes, section 626.557.

### 9555.9700 INDIVIDUAL SERVICE PLANNING.

**Subpart 1. Intake screening.** Before admitting a participant, the center shall conduct an intake screening to determine how or whether the center can serve the individual, based on the center's licensure, the center's policies and services, and the individual's needs and condition. If possible, the screening shall include an interview with the participant and with the participant's caregiver. The center shall notify the individual of the outcome no more than five working days after the screening process begins.

**Subp. 2. Initial service planning.** Immediately after admission, the center shall conduct a needs assessment and develop a preliminary service plan for the participant, in accordance with items A and B. The needs assessment and preliminary service plan must be completed within 30 days and placed in the participant's record.

A. The center shall assess the participant's needs for center services based on observation of the participant and information obtained from other sources, including any assessment performed within the prescribed time by a pre-admission screening team under Minnesota Statutes, section 256B.091. The needs assessment shall address:

- (1) the participant's psycho-social status (for example, awareness level, personal care needs, need for privacy or socialization);
- (2) the participant's functional status (for example, endurance and capability for ambulation, transfer, and managing activities of daily living); and
- (3) the participant's physical status, to be determined by observation, from the intake screening interview, and from the medical report received from the participant's physician.

B. The center shall develop a preliminary service plan based on the assessment in item A and coordinated with other plans of services for the participant. The preliminary service plan must include the following information and specifications:

- (1) scheduled days of participant's attendance at the center;
- (2) transportation arrangements for getting the participant to and from the center;
- (3) participant's nutritional needs and, where applicable, dietary restrictions;
- (4) role of the participant's caregiver or caregivers in carrying out the service plan; and

(5) services and activities in which the participant will take part immediately upon admission.

Subp. 3. **Individual plan of care.** Within 90 days of the participant's admission to the center, a written plan of care must be developed by the center staff together with the participant, the participant's caregiver, and other agencies and individual service providers. The plan of care must be dated and must include:

- A. an update of the preliminary service plan required in subpart 2 and additional services required by the participant;
- B. short- and long-term objectives for the participant stated in concrete, measurable, and time-specific outcomes;
- C. the staff members responsible for implementing the individual plan of care;
- D. the anticipated duration of the individual plan of care as written; and
- E. provisions for quarterly review and quarterly revision of the individual plan of care.

**9555.9710 SERVICE AND PROGRAM REQUIREMENTS.**

Subpart 1. **Food service and nutrition.** A center shall meet the requirements in items A to H.

A. Procedures for preparing, handling, and serving food, and washing food, utensils, and equipment must comply with parts 4625.2400 to 4625.5000, Requirements for Food and Beverage Establishments, and with applicable local ordinances. If the food is prepared off-site by another facility or if food service is provided according to a center's contract with a food service provider, the facility or provider must comply with parts 4625.2400 to 4625.2500 and applicable local ordinances.

B. The center shall provide refrigeration for dairy products and other perishable foods, whether supplied by the center or supplied by the participant. The refrigeration must have a temperature of 40 degrees Fahrenheit or less.

C. If a participant is at the center for more than 4-1/2 hours, the participant must be served a meal which meets one-third of the recommended dietary allowances of the Food and Nutrition Board of the National Research Council, National Academy of Sciences, specified in Recommended Dietary Allowances, 9th Edition, 1980. This publication is incorporated by reference. It is not subject to frequent change and is available at public libraries through Minitex interlibrary loan system and from the Printing and Publication Office, National Academy of Sciences, Washington, D.C. 20418.

D. The center shall offer a mid-morning and a mid-afternoon snack.

E. The menus for all meals and snacks must be approved by a registered dietitian and must meet all applicable state rules and laws and United States Department of Agriculture regulations.

F. The center shall provide modified diets for participants whose written records specify dietary restrictions.

G. Drinking water must be available to participants throughout the hours of the center's operation.

H. The center must maintain a record indicating the menu for all meals served for at least six months.

Subp. 2. **Transportation.** If a center provides transportation, the requirements in items A and B must be met.

A. The center shall meet all applicable state and federal regulations governing vehicles and drivers.

B. The maximum transportation time for any participant being transported by a center vehicle between the participant's home and the center shall be 90 minutes, one way. Ten minute rest stops should be offered to participants when travel time exceeds 90 minutes.

Subp. 3. **Health services.** The center shall offer health services developed in consultation with a registered nurse. A registered nurse shall provide consultation and review of the health services at least four hours monthly. Health services must include:

A. monitoring participants' health status and reporting changes to the participant's caregiver and physician and the center director;

B. educating and counseling participants on good health practices;

C. maintaining a listing of professional health resources available for referrals as needed by participants;

D. developing policies and monitoring procedures for participant self-administration of medications; and

E. supervising staff distribution of medication and assistance with participant self-administration of medication and ensuring compliance with part 9555.9680, subpart 2, item C.

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## PROPOSED RULES

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Subp. 4. **Structured exercise program.** The center shall offer a daily structured exercise program for participants whose physicians have authorized their participation. The program shall be developed in consultation with a registered physical therapist. A registered physical therapist shall provide consultation and review of the exercise program, at least four hours quarterly.

Subp. 5. **Activities of daily living.** The center shall provide participants assistance, when needed, in managing activities of daily living such as dressing, grooming, and eating, and in developing or maintaining the skills necessary to manage these activities on their own.

Subp. 6. **Daily program activities.** The center shall have a monthly plan for diversified daily program activities. Program activities shall be designed to meet the needs and interests of the participants and shall include:

- A. socialization activities, such as group projects and recreational activities;
- B. cultivation of personal interests, such as arts, crafts, and music; and
- C. activities designed to increase the participant's knowledge and awareness of the environment and to enhance language and conceptual skills.

Subp. 7. **Social services.** A center shall offer the social services in items A to D:

- A. interviewing the participant and, when possible, the participant's caregiver as part of the admission procedure specified in part 9555.9700;
- B. maintaining a family and social history for the participant's record that is updated annually;
- C. observing and recording psychological, emotional, social, financial, legal, employment, transportation, and other living situation factors related to the participant's achieving objectives specified in the participant's plan of care; and
- D. referring the participant and caregivers to community services as required to meet the needs identified by the observation in item C.

### 9555.9720 SAFETY REQUIREMENTS.

Subpart 1. **First-aid kit.** The center shall have a first-aid kit that contains a first-aid manual, sterile bandages and band-aids, sterile compresses, Ipecac syrup, scissors, an ice bag or cold pack, an oral or topical thermometer, liquid soap, adhesive tape, and money for phone calls. The first-aid kit and manual must be accessible to the staff in the center and must be taken on field trips. The Ipecac syrup must be labeled with instructions to telephone the poison control center, or 911, or the participant's emergency medical care source before administering.

Subp. 2. **Telephone and posted numbers.** A center shall have a noncoin operated telephone that is readily accessible. A list of emergency numbers must be posted next to the telephone. When an area has a 911 number, the emergency number listed must be 911. In areas of the state without a 911 number, the numbers listed must be those of the local fire department, police department, emergency transportation, and poison control center. In a hospital or nursing home, the emergency care team number must be posted.

Subp. 3. **Emergency phone numbers for participants.** For each participant, the emergency phone numbers of the caregiver, the persons to be called if the caregiver cannot be reached, and the participant's physician must be readily available at the center. These numbers must also be available in vehicles provided by the center to transport participants.

Subp. 4. **Records of incidents.** The center shall maintain records of all incidents involving participants, including illnesses; accidents requiring first aid; incidents requiring emergency medical or psychiatric care; incidents requiring a police report to be made; and incidents when a complaint has been filed under Minnesota Statutes, section 626.557, Reporting of Maltreatment of Vulnerable Adults. The record shall include the participant's name, the date and time of the incident, a description of the incident, the center's action in response to the incident, and indication that the incident was reported to the participant's caregiver.

Subp. 5. **Hazardous objects, materials, or equipment.** Chemicals that are poisonous when swallowed or inhaled or that are damaging to eyes or skin must be stored in an area not accessible to the participants. Use of scissors, knives, matches, razors, and other potentially hazardous materials by participants shall be allowed only under supervision.

Subp. 6. **Emergency equipment.** The center shall have a flashlight and a portable radio or television set that do not require electricity and can be used if a power failure occurs.

Subp. 7. **Equipment and furniture.** Equipment and furniture must be in good repair and without sharp points, splinters, and paint that contains lead.

Subp. 8. **Areas used by participants.** The areas used by participants must be free from debris, loose plaster, peeling paint, and litter. Rugs must have a nonskid backing.

Subp. 9. **Emergencies caused by fire and weather.** The center shall have written plans for emergencies caused by fire, blizzards, and tornadoes. The plans must be posted in a visible place and be on file in the center. The plans must include items A to J:

- A. the responsibilities each staff person will assume in case of emergency, including assignment of staff persons to participants known to require assistance in responding to danger or alarms and in exiting the facility;
- B. identification of primary and secondary exits;
- C. identification of building evacuation routes;
- D. identification of an emergency shelter area within the center;
- E. instructions for evacuating or rescuing participants;
- F. instructions for calling the fire department and emergency phone numbers;
- G. procedures for the quarterly fire drill;
- H. instructions on location and use of fire extinguishers;
- I. instructions on closing off the fire area; and
- J. location of the fuse box and instructions on how to throw the main switch.

The fire escape plan must be rehearsed at least four times each year and the dates of rehearsals must be recorded in the file of emergency plans.

Subp. 10. **Medical emergencies.** The center shall have written procedures governing medical emergencies and an identified source of emergency medical care and transportation that is made known to all staff members and volunteers.

Subp. 11. **Pets.** If the center allows pets, the center must ensure that:

- A. prospective participants are notified that pets may be present in the center;
- B. all dogs and cats brought into the center have current rabies shots and tags;
- C. pets and pet cages are excluded from food storage, preparation, and serving areas; and

D. a record of annual examinations for communicable disease and parasites by a licensed veterinarian is maintained for all pets that reside in or regularly visit the center.

#### **9555.9730 PHYSICAL PLANT AND SPACE REQUIREMENTS.**

Subpart 1. **Compliance with codes.** Before being granted a license, an applicant must provide to the department documentation of compliance with the codes in items A and B.

A. Local fire codes, the local zoning code or ordinance, applicable rules of the Department of Health, and water supply and sewage disposal regulations.

B. The State Building Code, including the provisions of chapter 1340, Facilities for the Handicapped, and the Minnesota Uniform Fire Code.

Subp. 2. **Determination of occupancy code.** The occupancy code requirements for a center shall be determined according to items A to D.

A. Centers serving only participants who are capable of taking appropriate action for self-preservation under emergency conditions shall meet all applicable building and fire code requirements relative to group E-3 occupancies as specified in the State Building Code. When one or more participants enrolled are nonambulatory but mobile, the center must be located on a floor level with an exit directly to grade without any intervening stairs.

B. Centers serving a population that includes both participants who are capable and participants who are not capable of taking appropriate action for self-preservation under emergency conditions shall meet:

(1) all applicable building and fire code requirements relative to group I occupancies as specified in the State Building Code; or

(2) all applicable building and fire code requirements relative to group E-3 occupancies as specified in the State Building Code; and

(a) the center shall meet the staff ratio requirements in part 9555.9690;

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## PROPOSED RULES

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(b) not more than 50 percent of the center's licensed capacity shall be made up of participants who are not capable of taking appropriate action for self-preservation under emergency conditions;

(c) the center shall be located on a floor level with all exits directly to grade without any intervening stairs;

(d) the center shall be protected with a complete automatic detection system consisting of:

i. automatic smoke detectors in all corridors and at the top of all stairways, and

ii. automatic detectors in boiler and furnace rooms, kitchens, storage rooms, janitor closets, laundries, and other hazardous areas. This system shall be inspected and approved by a fire marshal. In buildings equipped with manual fire alarm systems, the manual fire alarm and automatic detection systems shall be electrically interconnected; and

(e) the center shall demonstrate to the commissioner the ability to evacuate the entire center population within three minutes.

C. Centers serving only participants who are not capable of taking appropriate action for self-preservation under emergency conditions shall meet all applicable building and fire code requirements relative to group I occupancies as specified in the State Building Code.

D. The center shall provide the commissioner, the building official, and the fire marshal with the documentation required in part 9555.9660, item K, if the center is to meet the occupancy code requirements under item A or item B, subitem (2).

Subp. 3. **Signal system in restrooms.** Restrooms used by participants must be equipped with a mechanism that participants can use to signal staff members by light or by sound if participants need assistance.

Subp. 4. **Usable space requirements.** The licensed capacity of a center shall be limited by the amount of usable indoor space available to the center for adult day care programming. The total indoor space used by the day care program must equal at least 40 square feet for each day care participant and each day care staff member present at the center. In determining the square footage of usable indoor space available, a center must not count:

A. hallways, stairways, closets, offices, restrooms, and utility and storage areas; or

B. more than 25 percent of the space occupied by furniture or equipment used by participants or staff.

Subp. 5. **Private space.** The usable indoor space available to a center must include a room or an area that can be used as private space for providing personal hygiene services or social services to participants.

Subp. 6. **Equipment and furnishings.** Each center shall provide the equipment and furnishings in items A to E:

A. a sturdy, nonfolding chair for each participant who does not require or prefer a wheelchair;

B. stable tables that are accessible to all participants and staff and accommodate dining and program activity needs;

C. age-appropriate games, books, crafts, and other materials to implement daily program activities;

D. one cot, couch, or recliner per eight participants; and

E. one television set, AM/FM radio, phonograph, or tape player.

Subp. 7. **Temperature.** A minimum temperature of 70 degrees Fahrenheit must be maintained in indoor areas used by participants.

Subp. 8. **Ventilation.** Outside doors and windows which are used for ventilation must be screened in summer months.

Subp. 9. **Air quality.** The center must comply with Minnesota Statutes, sections 144.411 to 144.417, the Minnesota Clean Indoor Air Act.

## Department of Human Services

### Proposed Permanent Rules Relating to Merit System

#### Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Amend Rules without a Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, on November 12, 1986, commencing at 9:30 a.m. and continuing until all interested persons or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand.

Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50.

The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules parts 1400.0200-1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for 75 county welfare and human services agencies. The rules apply to all positions and employees engaged in the administration of community social services or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.

The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to part 9575.1500 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256.012.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey. Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Ralph Corey.

**NOTICE:** Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. 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. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

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## PROPOSED RULES

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NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A Lobbyist is defined in Minnesota Statutes, section 10A.01, subd. 11 as any individual:

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

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101.

Dated: 9 September 1986

Leonard W. Levine  
Commissioner

### **Notice of Intent to Amend Rules without a Public Hearing and Notice of Intent to Amend Rules with a Public Hearing if Twenty-Five or More Persons Request a Hearing**

NOTICE IS HEREBY GIVEN that the Minnesota Department of Human Services proposes to adopt the above-entitled rule changes without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority of the Department to make the proposed rule changes is contained in Minnesota Statutes, section 256.012.

Interested persons shall have 30 days (until October 29, 1986) to submit comments in support of or in opposition to the proposed rule changes. Comment is encouraged. Each comment should identify the portion of the proposed rule change being addressed, the reason for the comment, and any change proposed.

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

PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON NOVEMBER 12, 1986, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF HUMAN SERVICES. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

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

Ralph W. Corey  
Merit System Supervisor  
Minnesota Department of Human Services  
Fourth Floor—Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
Telephone 612/296-3996

Comments or requests for a public hearing must be received by 4:30 p.m. on October 29, 1986. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

The Minnesota Merit System rules provide for a system of personnel administration for 75 county welfare and human services agencies. The rules apply to all positions and employees engaged in the administration of community social services or income maintenance programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.



## PROPOSED RULES

The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to part 9575.1500 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph W. Corey.

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed changes and identifies the data and information relied upon to support the proposed changes has been prepared and is also available from Ralph W. Corey upon request.

If no hearing is required, the Department shall submit to the Attorney General the proposed rule and notice as published in the *State Register*, the rule as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness.

Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Ralph W. Corey.

Dated: 9 September 1986

Leonard W. Levine  
Commissioner

### Rules as Proposed

#### 9575.0350 SALARY ADJUSTMENTS AND INCREASES.

Subpart 1 and 2. [Unchanged.]

Subp. 3. **Recommended adjustment.** The merit system general adjustment recommended for incumbents is ~~four~~ one percent for employees on the professional, support, clerical, and maintenance and trades salary schedules.

Subp. 4 and 5. [Unchanged.]

#### 9575.1500 COMPENSATION PLAN; HUMAN SERVICES, ~~1986~~ 1987.

Subpart 1. **Professional: plan A.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum
Accountant	<del>1581</del>	<u>1597</u>	<del>2257</del> <u>2280</u>
Accounting Supervisor	<del>1845</del>	<u>1863</u>	<del>2757</del> <u>2785</u>
Administrative Assistant I	<del>1926</del>	<u>1992</u>	<del>2880</del> <u>2975</u>
Administrative Assistant II	<del>2111</del>	<u>2132</u>	<del>3145</del> <u>3176</u>
Administrative Assistant III	<del>2413</del>	<u>2542</u>	<del>3447</del> <u>3641</u>
Adult Day Care Center Supervisor	<del>1615</del>	<u>1745</u>	<del>2413</del> <u>2602</u>
Assistant Human Services Director	<del>2757</del>	<u>2785</u>	<del>3929</del> <u>3968</u>
Assistant Welfare Director	<del>3219</del>	<u>3251</u>	<del>4581</del> <u>4627</u>
Auditor	<del>1845</del>	<u>1863</u>	<del>2757</del> <u>2785</u>

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# PROPOSED RULES

	Minimum		Maximum	
Center Coordinator	1654	1671	2466	2491
Chemical Dependency Coordinator	1654	1631	2466	2437
Collection Services Supervisor II	1768	1745	2633	2602
Community-Health Services Supervisor	1926	1945	3013	3043
Community-Relations Specialist	1886	1786	2694	2542
Computer Programmer	1511	1526	2164	2186
Day Care Center Teacher	1446	1460	2164	2186
Developmental Achievement Center Director	1808	1826	2576	2602
Developmental Achievement Center Teacher	1446	1460	2164	2186
Director of Business Management I	2111	2085	2880	2975
Director of Business Management II	2517	2542	3605	3641
Director of Financial Assistance	2517	2542	3605	3641
Director of Planning	2517	2542	3605	3641
Director of Public Health Nursing I	1845	1863	2757	2785
Director of Social Services	2517	2542	3605	3641
Education Supervisor	1808	1826	2576	2602
Employment Guidance Counselor	1383	1397	1972	1992
Family Service Coordinator II	1581	1560	2164	2132
<u>Financial Assistance Supervisor I</u>	1705		2542	
Financial Assistance Supervisor II	1972	1992	2946	2975
Fiscal Manager	2257	2280	3219	3251
<u>Fiscal Officer</u>	1460		2186	
<u>Fiscal Supervisor I</u>	1460		2186	
Fiscal Supervisor II	1808	1863	2694	2785
Gerontology Counselor	1688	1705	2517	2542
Homemaker Supervisor	1808	1826	2576	2602
Human Services Director III	3013	3043	4284	4327
Human Services Supervisor I	1926	1992	2880	2975
Human Services Supervisor II	2361	2385	3372	3406
<u>Jobs and Training Supervisor</u>	1705		2542	
<u>Medical Assistance Prepayment Project Manager</u>	1992		2975	
Mental Health Program Manager	2111	2132	3145	3176
Mental Health Worker	1728	1745	2576	2602
Methods & Procedures Analyst	1688	1671	2413	2385
Nutrition Project Assistant Director	1446	1460	2164	2186
Nutrition Project Director	1886	1905	2819	2847
Office Manager	1383	1364	1972	1945
Office Services Supervisor II	1383	1397	1972	1992
Personnel Officer	1446	1460	2164	2186
Personnel Director	2413	2542	3447	3641
Planner (Human Services)	1808	1826	2576	2602
Psychologist I	1688	1705	2517	2542
Psychologist II	1972	1992	2819	2847
Psychologist III	2633	2659	3605	3641
Public Health Educator	1581	1597	2257	2280
Public Health Nurse	1581	1597	2257	2280
Public Health Nurse (Team Leader)	1728	1745	2466	2491
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1511	1526	2164	2186
Resident Activity Coordinator	1446	1460	2164	2186
Sanitarian	1446	1460	2164	2186
Senior Public Health Nurse	1728	1745	2576	2602
Social Worker (Licensing Specialist)	1446	1460	2164	2186
Social Worker	1446	1491	2257	2329

## PROPOSED RULES

	Minimum		Maximum	
Social Worker (Child Protection Specialist)	<del>1446</del>	<u>1491</u>	<del>2257</del>	<u>2329</u>
Social Worker (MSW)	<del>1688</del>	<u>1705</u>	<del>2517</del>	<u>2542</u>
Social Worker (Child Protection Specialist) (MSW)	<del>1688</del>	<u>1705</u>	<del>2517</del>	<u>2542</u>
Social Services Supervisor I	<del>1926</del>	<u>1992</u>	<del>2880</del>	<u>2975</u>
Social Services Supervisor II	<del>2164</del>	<u>2186</u>	<del>3219</del>	<u>3251</u>
Staff Development Specialist	<del>1654</del>	<u>1631</u>	<del>2466</del>	<u>2437</u>
Staff Training Supervisor	<del>1926</del>	<u>1945</u>	<del>2757</del>	<u>2785</u>
Student Social Worker (Intern)	Rate proposed by appointing authority.			
Student Social Worker (SWEP)	Rate proposed by appointing authority.			
Systems Programmer Analyst	<del>1972</del>	<u>1945</u>	<del>2694</del>	<u>2659</u>
Telecommunications Analyst	<del>1845</del>	<u>1863</u>	<del>2633</del>	<u>2659</u>
Trainee	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.			
Volunteer Services Coordinator I	<del>1446</del>	<u>1460</u>	<del>2164</del>	<u>2186</u>
Volunteer Services Coordinator II	<del>1808</del>	<u>1826</u>	<del>2576</del>	<u>2602</u>
Welfare Director I	<del>2306</del>	<u>2329</u>	<del>3447</del>	<u>3481</u>
Welfare Director II	<del>2576</del>	<u>2602</u>	<del>3686</del>	<u>3723</u>
Welfare Director III	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Welfare Director IV	<del>3013</del>	<u>3043</u>	<del>4284</del>	<u>4327</u>
Welfare Director V	<del>4015</del>	<u>4055</u>	<del>5705</del>	<u>5762</u>
Work-Experience & Training Specialist	<del>1728</del>	<u>1745</u>	<del>2466</del>	<u>2491</u>

Subp. 2. **Professional: plan B.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Accountant	<del>1654</del>	<u>1671</u>	<del>2361</del>	<u>2385</u>
Accounting Supervisor	<del>1926</del>	<u>1945</u>	<del>2880</del>	<u>2909</u>
Administrative Assistant I	<del>2016</del>	<u>2085</u>	<del>3013</del>	<u>3113</u>
Administrative Assistant II	<del>2207</del>	<u>2229</u>	<del>3297</del>	<u>3330</u>
Administrative Assistant III	<del>2517</del>	<u>2659</u>	<del>3605</del>	<u>3800</u>
Adult Day Care Center Supervisor	<del>1688</del>	<u>1826</u>	<del>2517</del>	<u>2721</u>
Assistant Human Services Director	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Assistant Welfare Director	<del>3219</del>	<u>3251</u>	<del>4581</del>	<u>4627</u>
Auditor	<del>1926</del>	<u>1945</u>	<del>2880</del>	<u>2909</u>
Center Coordinator	<del>1728</del>	<u>1745</u>	<del>2576</del>	<u>2602</u>
Chemical Dependency Coordinator	<del>1728</del>	<u>1705</u>	<del>2576</del>	<u>2542</u>
Collections Services Supervisor II	<del>1845</del>	<u>1826</u>	<del>2757</del>	<u>2721</u>
Community-Health Services Supervisor	<del>2016</del>	<u>2036</u>	<del>3145</del>	<u>3176</u>
Community-Relations Specialist	<del>1972</del>	<u>1863</u>	<del>2819</del>	<u>2659</u>
Computer Programmer	<del>1581</del>	<u>1597</u>	<del>2257</del>	<u>2280</u>
Day Care Center Teacher	<del>1511</del>	<u>1526</u>	<del>2257</del>	<u>2280</u>
Developmental Achievement Center Director	<del>1886</del>	<u>1905</u>	<del>2694</del>	<u>2721</u>
Developmental Achievement Center Teacher	<del>1511</del>	<u>1526</u>	<del>2257</del>	<u>2280</u>

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# PROPOSED RULES

	Minimum		Maximum	
Director of Business Management I	2207	2186	3013	3113
Director of Business Management II	2633	2659	3762	3800
Director of Financial Assistance	2633	2659	3762	3800
Director of Planning	2633	2659	3762	3800
Director of Public Health Nursing I	1926	1945	2880	2909
Director of Social Services	2633	2659	3762	3800
Education Supervisor	1886	1905	2694	2721
Employment Guidance Counselor	1446	1460	2064	2085
Family Service Coordinator II	1654	1631	2257	2229
<u>Financial Assistance Supervisor I</u>	1786		2659	
Financial Assistance Supervisor II	2064	2085	3082	3113
Fiscal Manager	2361	2385	3372	3406
<u>Fiscal Officer</u>	1526		2280	
<u>Fiscal Supervisor I</u>	1526		2280	
Fiscal Supervisor II	1886	1945	2819	2909
Gerontology Counselor	1768	1786	2633	2659
Homemaker Supervisor	1886	1905	2694	2721
Human Services Director III	3013	3043	4284	4327
Human Services Supervisor I	2016	2085	3013	3113
Human Services Supervisor II	2466	2491	3527	3562
<u>Jobs and Training Supervisor</u>	1786		2659	
<u>Medical Assistance Prepayment</u>	2085		3113	
<u>Project Manager</u>				
Mental Health Program Manager	2207	2229	3297	3330
Mental Health Worker	1808	1826	2694	2721
Methods & Procedures Analyst	1768	1745	2517	2491
Nutrition Project Assistant Director	1511	1526	2257	2280
Nutrition Project Director	1972	1992	2946	2975
Office Manager	1446	1427	2064	2036
Office Services Supervisor II	1446	1460	2064	2085
Personnel Officer	1511	1526	2257	2280
Personnel Director	2517	2659	3605	3800
Planner (Human Services)	1886	1905	2694	2721
Psychologist I	1768	1786	2633	2659
Psychologist II	2064	2085	2946	2975
Psychologist III	2757	2785	3762	3800
Public Health Educator	1654	1671	2361	2385
Public Health Nurse	1654	1671	2361	2385
Public Health Nurse (Team Leader)	1808	1826	2576	2602
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	1581	1597	2257	2280
Resident Activity Coordinator	1511	1526	2257	2280
Sanitarian	1511	1526	2257	2280
Senior Public Health Nurse	1808	1826	2694	2721
Social Worker (Licensing Specialist)	1511	1526	2257	2280
Social Worker	1511	1560	2361	2437
Social Worker (Child Protection Specialist)	1511	1560	2361	2437
Social Worker (MSW)	1768	1786	2633	2659
Social Worker (Child Protection Specialist) (MSW)	1768	1786	2633	2659
Social Services Supervisor I	2016	2085	3013	3113
Social Services Supervisor II	2257	2280	3372	3406
Staff Development Specialist	1728	1705	2576	2542
Staff Training Supervisor	2016	2036	2880	2909

# PROPOSED RULES

	Minimum		Maximum	
Student Social Worker (Intern)		Rate proposed by appointing authority.		
Student Social Worker (SWEP)		Rate proposed by appointing authority.		
Systems Programmer Analyst	<del>2064</del>	<u>2036</u>	<del>2819</del>	<u>2785</u>
Telecommunications Analyst	<del>1926</del>	<u>1945</u>	<del>2757</del>	<u>2785</u>
Trainee		Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.		
Volunteer Services Coordinator I	<del>1511</del>	<u>1526</u>	<del>2257</del>	<u>2280</u>
Volunteer Services Coordinator II	<del>1886</del>	<u>1905</u>	<del>2694</del>	<u>2721</u>
Welfare Director I	<del>2306</del>	<u>2329</u>	<del>3447</del>	<u>3481</u>
Welfare Director II	<del>2576</del>	<u>2602</u>	<del>3686</del>	<u>3723</u>
Welfare Director III	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Welfare Director IV	<del>3013</del>	<u>3043</u>	<del>4284</del>	<u>4327</u>
Welfare Director V	<del>4015</del>	<u>4055</u>	<del>5705</del>	<u>5762</u>
Work-Experience & Training Specialist	<del>1808</del>	<u>1826</u>	<del>2576</del>	<u>2602</u>

Subp. 3. **Professional: plan C.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Accountant	<del>1728</del>	<u>1745</u>	<del>2466</del>	<u>2491</u>
Accounting Supervisor	<del>2016</del>	<u>2036</u>	<del>3013</del>	<u>3043</u>
Administrative Assistant I	<del>2111</del>	<u>2186</u>	<del>3145</del>	<u>3251</u>
Administrative Assistant II	<del>2306</del>	<u>2329</u>	<del>3447</del>	<u>3481</u>
Administrative Assistant III	<del>2633</del>	<u>2785</u>	<del>3762</del>	<u>3968</u>
Adult Day Care Center Supervisor	<del>1768</del>	<u>1905</u>	<del>2633</del>	<u>2847</u>
Assistant Human Services Director	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Assistant Welfare Director	<del>3219</del>	<u>3251</u>	<del>4581</del>	<u>4627</u>
Auditor	<del>2016</del>	<u>2036</u>	<del>3013</del>	<u>3043</u>
Center Coordinator	<del>1808</del>	<u>1826</u>	<del>2694</del>	<u>2721</u>
Chemical Dependency Coordinator	<del>1808</del>	<u>1786</u>	<del>2694</del>	<u>2659</u>
Collections Services Supervisor II	<del>1926</del>	<u>1905</u>	<del>2880</del>	<u>2847</u>
Community-Health Services Supervisor	<del>2111</del>	<u>2132</u>	<del>3297</del>	<u>3330</u>
Community-Relations Specialist	<del>2064</del>	<u>1945</u>	<del>2946</del>	<u>2785</u>
Computer Programmer	<del>1654</del>	<u>1671</u>	<del>2361</del>	<u>2385</u>
Day Care Center Teacher	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Developmental Achievement Center Director	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>
Developmental Achievement Center Teacher	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Director of Business Management I	<del>2306</del>	<u>2280</u>	<del>3145</del>	<u>3251</u>
Director of Business Management II	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Director of Financial Assistance	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Director of Planning	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Director of Public Health Nursing I	<del>2111</del>	<u>2132</u>	<del>3013</del>	<u>3043</u>
Director of Social Services	<del>2757</del>	<u>2785</u>	<del>3929</del>	<u>3968</u>
Education Supervisor	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>
Employment Guidance Counselor	<del>1511</del>	<u>1526</u>	<del>2164</del>	<u>2186</u>
Family Service Coordinator II	<del>1728</del>	<u>1705</u>	<del>2361</del>	<u>2329</u>
Financial Assistance Supervisor I	<del>1863</del>		<u>2785</u>	

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# PROPOSED RULES

	Minimum		Maximum	
Financial Assistance Supervisor II	<del>2164</del>	<u>2186</u>	<del>3219</del>	<u>3251</u>
Fiscal Manager	<del>2466</del>	<u>2491</u>	<del>3527</del>	<u>3562</u>
<u>Fiscal Officer</u>	<del>1597</del>		<u>2385</u>	
<u>Fiscal Supervisor I</u>	<del>1597</del>		<u>2385</u>	
Fiscal Supervisor II	<del>1972</del>	<u>2036</u>	<del>2946</del>	<u>3043</u>
Gerontology Counselor	<del>1845</del>	<u>1863</u>	<del>2757</del>	<u>2785</u>
Homemaker Supervisor	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>
Human Services Director III	<del>3013</del>	<u>3043</u>	<del>4284</del>	<u>4327</u>
Human Services Supervisor I	<del>2111</del>	<u>2186</u>	<del>3145</del>	<u>3251</u>
Human Services Supervisor II	<del>2576</del>	<u>2602</u>	<del>3686</del>	<u>3723</u>
<u>Jobs and Training Supervisor</u>	<del>1863</del>		<u>2785</u>	
Mental Health Program Manager	<del>2306</del>	<u>2329</u>	<del>3447</del>	<u>3481</u>
Mental Health Worker	<del>1886</del>	<u>1905</u>	<del>2819</del>	<u>2847</u>
Methods & Procedures Analyst	<del>1845</del>	<u>1826</u>	<del>2633</del>	<u>2602</u>
Nutrition Project Assistant Director	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Nutrition Project Director	<del>2064</del>	<u>2085</u>	<del>3082</del>	<u>3113</u>
Office Manager	<del>1511</del>	<u>1491</u>	<del>2164</del>	<u>2132</u>
Office Services Supervisor II	<del>1511</del>	<u>1526</u>	<del>2164</del>	<u>2186</u>
Personnel Officer	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Personnel Director	<del>2633</del>	<u>2785</u>	<del>3762</del>	<u>3968</u>
Planner (Human Services)	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>
Psychologist I	<del>1845</del>	<u>1863</u>	<del>2757</del>	<u>2785</u>
Psychologist II	<del>2164</del>	<u>2186</u>	<del>3082</del>	<u>3113</u>
Psychologist III	<del>2880</del>	<u>2909</u>	<del>3929</del>	<u>3968</u>
Public Health Educator	<del>1728</del>	<u>1745</u>	<del>2466</del>	<u>2491</u>
Public Health Nurse	<del>1808</del>	<u>1826</u>	<del>2466</del>	<u>2491</u>
Public Health Nurse (Team Leader)	<del>2016</del>	<u>2036</u>	<del>2757</del>	<u>2785</u>
Registered Nurse (A.A. Degree, 3 year Diploma, or B.S. Degree)	<del>1728</del>	<u>1745</u>	<del>2361</del>	<u>2385</u>
Resident Activity Coordinator	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Sanitarian	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Senior Public Health Nurse	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>
Social Worker (Licensing Specialist)	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Social Worker	<del>1581</del>	<u>1631</u>	<del>2466</del>	<u>2542</u>
Social Worker (Child Protection Specialist)	<del>1581</del>	<u>1631</u>	<del>2466</del>	<u>2542</u>
Social Worker (MSW)	<del>1845</del>	<u>1863</u>	<del>2757</del>	<u>2785</u>
Social Worker (Child Protection Specialist) (MSW)	<del>1845</del>	<u>1863</u>	<del>2757</del>	<u>2785</u>
Social Services Supervisor I	<del>2111</del>	<u>2186</u>	<del>3145</del>	<u>3251</u>
Social Services Supervisor II	<del>2361</del>	<u>2385</u>	<del>3527</del>	<u>3562</u>
Staff Development Specialist	<del>1808</del>	<u>1786</u>	<del>2694</del>	<u>2659</u>
Staff Training Supervisor	<del>2111</del>	<u>2132</u>	<del>3013</del>	<u>3043</u>
Student Social Worker (Intern)			Rate proposed by appointing authority.	
Student Social Worker (SWEP)			Rate proposed by appointing authority.	
Systems Programmer Analyst	<del>2164</del>	<u>2132</u>	<del>2946</del>	<u>2909</u>
Telecommunications Analyst	<del>2016</del>	<u>2036</u>	<del>2880</del>	<u>2909</u>
Trainee			Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.	
Volunteer Services Coordinator I	<del>1581</del>	<u>1597</u>	<del>2361</del>	<u>2385</u>
Volunteer Services Coordinator II	<del>1972</del>	<u>1992</u>	<del>2819</del>	<u>2847</u>

## PROPOSED RULES

	Minimum		Maximum	
Welfare Director I	2306	<u>2329</u>	3447	<u>3481</u>
Welfare Director II	2576	<u>2602</u>	3686	<u>3723</u>
Welfare Director III	2757	<u>2785</u>	3929	<u>3968</u>
Welfare Director IV	3013	<u>3043</u>	4284	<u>4327</u>
Welfare Director V	4015	<u>4055</u>	5705	<u>5762</u>
Work-Experience & Training Specialist	1886	<u>1905</u>	2694	<u>2721</u>

Subp. 4. **Support personnel: plan A.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Account Clerk	<del>1034</del>	<u>1044</u>	<del>1413</del>	<u>1427</u>
Accounting Technician	<del>1080</del>	<u>1091</u>	<del>1476</del>	<u>1560</u>
Adult Day Care Center Program Coordinator	<del>1080</del>	<u>1117</u>	<del>1615</del>	<u>1671</u>
Case Aide	<del>1080</del>	<u>1117</u>	<del>1615</del>	<u>1671</u>
Chemical Dependency Counselor	<del>1350</del>	<u>1364</u>	<del>1768</del>	<u>1786</u>
Child Health Aide	<del>924</del>	<u>933</u>	<del>1265</del>	<u>1278</u>
Child Support Officer I	<del>1265</del>	<u>1278</u>	<del>1808</del>	<u>1826</u>
Child Support Officer II	<del>1446</del>	<u>1460</u>	<del>1972</del>	<u>1992</u>
Collections Officer	<del>1265</del>	<u>1278</u>	<del>1808</del>	<u>1826</u>
Collection Services Supervisor I	<del>1615</del>	<u>1597</u>	<del>2207</del>	<u>2186</u>
Community Service Aide	<del>796</del>	<u>839</u>	<del>1130</del>	<u>1250</u>
Computer Operations Specialist	<del>1212</del>	<u>1197</u>	<del>1581</del>	<u>1560</u>
Coordinator of Aging	<del>1212</del>	<u>1278</u>	<del>1808</del>	<u>1905</u>
Developmental Achievement Center Instructor	<del>1058</del>	<u>1117</u>	<del>1581</del>	<u>1671</u>
<u>Employment Technician</u>	<del>1117</del>		<del>1671</del>	
Family Service Aide I	<del>885</del>	<u>912</u>	<del>1265</del>	<u>1364</u>
Family Service Aide II	<del>989</del>	<u>1044</u>	<del>1413</del>	<u>1560</u>
Family Service Coordinator I	<del>1185</del>	<u>1224</u>	<del>1615</del>	<u>1671</u>
Family Service/Home Health Aide	<del>885</del>	<u>912</u>	<del>1265</del>	<u>1364</u>
Financial Assistance Specialist	<del>1383</del>	<u>1397</u>	<del>1972</del>	<u>1992</u>
<del>Financial Assistance Supervisor I</del>	<del>1615</del>		<del>2413</del>	
Financial Worker	<del>1080</del>	<u>1117</u>	<del>1615</del>	<u>1671</u>
<del>Fiscal Officer</del>	<del>1446</del>		<del>2164</del>	
<del>Fiscal Supervisor I</del>	<del>1446</del>		<del>2164</del>	
<del>Food Stamp Quality Control Reviewer</del>	<del>1350</del>		<del>1845</del>	
<u>Food Stamp Corrective Action Specialist</u>	<u>1397</u>		<u>1992</u>	
Home Health Aide	<del>885</del>	<u>912</u>	<del>1265</del>	<u>1364</u>
Home Health Aide Coordinator	<del>1185</del>	<u>1224</u>	<del>1615</del>	<u>1671</u>
Housekeeper			Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.	
Housing Coordinator	<del>1581</del>	<u>1597</u>	<del>2257</del>	<u>2280</u>
Housing Rehabilitation Specialist	<del>1265</del>	<u>1250</u>	<del>1808</del>	<u>1786</u>
Licensed Practical Nurse	<del>1185</del>	<u>1197</u>	<del>1615</del>	<u>1631</u>
Office Services Supervisor I	<del>1212</del>	<u>1224</u>	<del>1654</del>	<u>1671</u>
Personnel Aide	<del>1156</del>	<u>1141</u>	<del>1581</del>	<u>1560</u>
Public Health Aide	<del>796</del>	<u>839</u>	<del>1130</del>	<u>1250</u>
Senior Citizen's Aide	<del>885</del>	<u>912</u>	<del>1265</del>	<u>1364</u>
Welfare Fraud Investigator	<del>1615</del>	<u>1597</u>	<del>2111</del>	<u>2085</u>

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# PROPOSED RULES

Subp. 5. **Support personnel: plan B.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Account Clerk	1080	1091	1476	1491
Accounting Technician	1130	1141	1545	1631
Adult Day Care Center Program Coordinator	1130	1168	1688	1745
Case Aide	1130	1168	1688	1745
Chemical Dependency Counselor	1413	1427	1845	1863
Child Health Aide	966	976	1321	1334
Child Support Officer I	1321	1334	1886	1905
Child Support Officer II	1511	1526	2064	2085
Collections Officer	1321	1334	1886	1905
Collection Services Supervisor I	1688	1671	2306	2280
Community Service Aide	831	876	1185	1307
Computer Operations Specialist	1265	1250	1654	1631
Coordinator of Aging	1265	1334	1886	1992
Developmental Achievement Center Instructor	1106	1168	1654	1745
<u>Employment Technician</u>	1168		1745	
Family Service Aide I	924	955	1321	1427
Family Service Aide II	1034	1091	1476	1631
Family Service Coordinator I	1238	1278	1688	1745
Family Service/Home Health Aide	924	955	1321	1427
Financial Assistance Specialist	1446	1460	2064	2085
<del>Financial Assistance Supervisor I</del>	1688		2517	
Financial Worker	1130	1168	1688	1745
<del>Fiscal Officer</del>	1511		2257	
<del>Fiscal Supervisor I</del>	1511		2257	
<del>Food Stamp Quality Control Reviewer</del>	1413		1926	
<u>Food Stamp Corrective Action Specialist</u>	1460		2085	
Home Health Aide	924	955	1321	1427
Home Health Aide Coordinator	1238	1278	1688	1745
Housekeeper				
Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.				
Housing Coordinator	1654	1671	2361	2385
Housing Rehabilitation Specialist	1321	1307	1886	1863
Licensed Practical Nurse	1238	1250	1688	1705
Office Services Supervisor I	1265	1278	1728	1745
Personnel Aide	1212	1197	1654	1631
Public Health Aide	831	876	1185	1307
Senior Citizen's Aide	924	955	1321	1427
Welfare Fraud Investigator	1688	1671	2207	2186

Subp. 6. **Support personnel: plan C.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Account Clerk	1130	1141	1545	1560
Accounting Technician	1185	1197	1615	1705
Adult Day Care Center Program Coordinator	1185	1224	1768	1826
Case Aide	1185	1224	1768	1826
Chemical Dependency Counselor	1476	1491	1926	1945
Child Health Aide	1058	1069	1446	1460
Child Support Officer I	1383	1397	1972	1992
Child Support Officer II	1581	1597	2164	2186
Collections Officer	1383	1397	1972	1992



## PROPOSED RULES

	Minimum		Maximum	
Collection Services Supervisor I	<del>1768</del>	<u>1745</u>	<del>2413</del>	<u>2385</u>
Community Service Aide	<del>867</del>	<u>912</u>	<del>1238</del>	<u>1364</u>
Computer Operations Specialist	<del>1321</del>	<u>1307</u>	<del>1728</del>	<u>1705</u>
Coordinator of Aging	<del>1321</del>	<u>1397</u>	<del>1972</del>	<u>2085</u>
Developmental Achievement Center Instructor	<del>1156</del>	<u>1224</u>	<del>1728</del>	<u>1826</u>
<u>Employment Technician</u>	<u>1224</u>		<u>1826</u>	
Family Service Aide I	<del>966</del>	<u>999</u>	<del>1383</del>	<u>1491</u>
Family Service Aide II	<del>1080</del>	<u>1141</u>	<del>1545</del>	<u>1705</u>
Family Service Coordinator I	<del>1294</del>	<u>1334</u>	<del>1768</del>	<u>1826</u>
Family Service/Home Health Aide	<del>966</del>	<u>999</u>	<del>1383</del>	<u>1491</u>
Financial Assistance Specialist	<del>1511</del>	<u>1526</u>	<del>2164</del>	<u>2186</u>
<del>Financial Assistance Supervisor I</del>	<del>1845</del>		<del>2757</del>	
Financial Worker	<del>1185</del>	<u>1224</u>	<del>1768</del>	<u>1826</u>
<del>Fiscal Officer</del>	<del>1581</del>		<del>2361</del>	
<del>Fiscal Supervisor I</del>	<del>1581</del>		<del>2361</del>	
<del>Food Stamp Quality Control Reviewer</del>	<del>1476</del>		<del>2016</del>	
<u>Food Stamp Corrective Action Specialist</u>	<u>1526</u>		<u>2186</u>	
Home Health Aide	<del>966</del>	<u>999</u>	<del>1383</del>	<u>1491</u>
Home Health Aide Coordinator	<del>1294</del>	<u>1334</u>	<del>1768</del>	<u>1826</u>
Housekeeper				
	Rate proposed by appointing authority and approved by the merit system supervisor and the commissioner of human services.			
Housing Coordinator	<del>1728</del>	<u>1745</u>	<del>2466</del>	<u>2491</u>
Housing Rehabilitation Specialist	<del>1383</del>	<u>1364</u>	<del>1972</del>	<u>1945</u>
Licensed Practical Nurse	<del>1294</del>	<u>1307</u>	<del>1768</del>	<u>1786</u>
Office Services Supervisor I	<del>1321</del>	<u>1334</u>	<del>1808</del>	<u>1826</u>
Personnel Aide	<del>1265</del>	<u>1250</u>	<del>1728</del>	<u>1705</u>
Public Health Aide	<del>867</del>	<u>912</u>	<del>1238</del>	<u>1364</u>
Senior Citizen's Aide	<del>966</del>	<u>999</u>	<del>1383</del>	<u>1491</u>
Welfare Fraud Investigator	<del>1768</del>	<u>1745</u>	<del>2306</del>	<u>2280</u>

Subp. 7. **Clerical: plan A.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Administrative Secretary	<del>1020</del>	<u>1030</u>	<del>1396</del>	<u>1410</u>
Clerk I	<del>750</del>	<u>758</u>	<del>1020</del>	<u>1030</u>
Clerk II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk III	<del>1020</del>	<u>1030</u>	<del>1396</del>	<u>1410</u>
Clerk-Typist I	<del>785</del>	<u>831</u>	<del>1117</del>	<u>1128</u>
Clerk-Typist II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk-Typist III	<del>998</del>	<u>1030</u>	<del>1427</del>	<u>1473</u>
Clerk-Steno	<del>893</del>	<u>902</u>	<del>1222</del>	<u>1234</u>
Data Entry Operator	<del>823</del>	<u>831</u>	<del>1117</del>	<u>1128</u>
Information Systems Specialist	<del>910</del>	<u>902</u>	<del>1250</del>	<u>1234</u>
Legal Secretary	<del>1020</del>	<u>1030</u>	<del>1396</del>	<u>1410</u>
Switchboard Operator	<del>823</del>	<u>831</u>	<del>1117</del>	<u>1128</u>

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer.

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## PROPOSED RULES

Subp. 8. **Clerical: plan B.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Administrative Secretary	1140	<u>1151</u>	1488	<u>1503</u>
Clerk I	857	<u>866</u>	1117	<u>1128</u>
Clerk II	976	<u>986</u>	1331	<u>1344</u>
Clerk III	1140	<u>1151</u>	1488	<u>1503</u>
Clerk-Typist I	893	<u>942</u>	1222	<u>1234</u>
Clerk-Typist II	976	<u>986</u>	1331	<u>1344</u>
Clerk-Typist III	1140	<u>1151</u>	1488	<u>1575</u>
Clerk-Steno	1020	<u>1030</u>	1331	<u>1344</u>
Data Entry Operator	933	<u>942</u>	1222	<u>1234</u>
Information Systems Specialist	1043	<u>1030</u>	1361	<u>1344</u>
Legal Secretary	1140	<u>1151</u>	1488	<u>1503</u>
Switchboard Operator	933	<u>942</u>	1222	<u>1234</u>

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer.

Subp. 9. **Clerical: plan C.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions:

	Minimum		Maximum	
Administrative Secretary	1250	<u>1263</u>	1632	<u>1648</u>
Clerk I	933	<u>942</u>	1222	<u>1234</u>
Clerk II	1067	<u>1088</u>	1458	<u>1473</u>
Clerk III	1195	<u>1207</u>	1559	<u>1575</u>
Clerk-Typist I	976	<u>1030</u>	1331	<u>1344</u>
Clerk-Typist II	1067	<u>1088</u>	1458	<u>1473</u>
Clerk-Typist III	1195	<u>1207</u>	1559	<u>1648</u>
Clerk-Steno	1117	<u>1128</u>	1458	<u>1473</u>
Data Entry Operator	1020	<u>1030</u>	1331	<u>1344</u>
Information Systems Specialist	1140	<u>1128</u>	1488	<u>1473</u>
Legal Secretary	1195	<u>1207</u>	1559	<u>1575</u>
Switchboard Operator	1020	<u>1030</u>	1331	<u>1344</u>

Employees in the class of Clerk-Typist I who are assigned on a full-time basis to transcribing machine operation may be paid within the county range for Clerk-Stenographer.

Subp. 10. **Maintenance and trades: plan A.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum		Maximum	
Auto Driver	860	<u>869</u>	1109	<u>1120</u>
Bus Driver	938	<u>947</u>	1202	<u>1214</u>
Janitor	938	<u>947</u>	1202	<u>1214</u>

Subp. 11. **Maintenance and trades: plan B.** The following minimum and maximum salary steps in monthly salary amounts shall be applicable to the specified classes of positions. Janitors who are required to work for a period of at least five hours after 6 p.m. on a regularly scheduled basis may be paid a shift differential in the amount of one salary step above their normal day-work rate.

	Minimum		Maximum	
Auto Driver	1109	<u>1120</u>	1426	<u>1440</u>
Bus Driver	1155	<u>1167</u>	1487	<u>1502</u>
Janitor	1109	<u>1120</u>	1426	<u>1440</u>

## Department of Public Safety

### Proposed Rules Relating to Deputy Registrars

#### Notice of Intent to Adopt Rules without a Hearing

Notice is hereby given that the State Department of Public Safety is proposing to adopt the above entitled rules without a public hearing. The Commissioner of Public Safety has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow procedures set forth in Minn. Stat. Sections 14.22 through 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules. Public comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for comment, and any change proposed. The proposed rules may be modified prior to final adoption if modifications are supported by the data and views submitted to the Department of Public Safety and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will be held. The written request must be specific on which rule(s) a hearing is desired. Identification of the portion of the proposed rule addressed, the particular objection, the suggested modifications, and the reasons or data relied upon to support the suggested modifications are requested. Any person requesting a public hearing should state his or her name and address. In the event a public hearing is required, the department will proceed according to the provisions of Minn. Stat. Sections 14.131 through 14.20.

Persons who wish to submit comments or a written request for a public hearing, or persons who wish to receive a free copy of this notice and/or a free copy of the proposed rules, should address their correspondence to the address below and include the name of the rulemaking:

Department of Public Safety  
211 Transportation Building  
St. Paul, MN 55155

The Department's authority to adopt the proposed rules is contained in Minnesota Statutes, section 14.06; 168.33. A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available free from the Department of Public Safety upon request to the above address.

You are hereby advised, pursuant to Minn. Stat. Section 14.115, "Small business consideration in rulemaking," that the proposed rules have an impact on some small businesses in Minnesota. The amendments affect potential private deputy registrars offices. To ensure that the appointment of a deputy registrar shall be in the best interest of the public it is necessary to impose limitations on where deputy registrars may be located. The public interests to be served include convenience of location, quality service and cost effectiveness.

The amendment also serve to allow for the anticipated volume of new deputy registrar offices needed, yet ensures that the establishment of a new deputy office will not adversely affect the established deputy registrars, resulting in disservice to the public.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the date of submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written request to the above address.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, Subd. 11 defines a lobbyist 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 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 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

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

The department estimates that there will be no cost to local public bodies in the state to implement the rules for the two years immediately following their adoption, within the meaning of Minnesota Statutes Section 14.11, Subd. 1. Any costs incurred by local jurisdictions in the permit issuance process can be recovered through imposition of a fee authorized by the rules.

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

Paul J. Tschida  
Commissioner of Public Safety

## Rules as Proposed

### 7406.0100 DEFINITIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Application for registration.** “Application for registration” has the meaning given “application for registration” in Minnesota Statutes, section 168.011, subdivision 2, and includes a reapplication transaction received by a deputy registrar in conjunction with registering, reregistering, transferring, or titling vehicles and does not include requests for refunds, the surrender of certificates of title on junked vehicles, or those transactions listed in part 7406.0500, subpart 5, item B.

Subp. 4. [Unchanged.]

Subp. 5. **Metropolitan county.** “Metropolitan county” has the meaning given it in Minnesota Statutes, section 473.121, subdivision 4.

Subp. 6. **Municipality.** “Municipality” includes a statutory city, home rule charter city, and town.

### ~~7406.0300 CRITERIA FOR ESTABLISHING NEW OFFICE OR APPOINTING NEW DEPUTY REGISTRAR APPOINTMENT.~~

Subpart 1. ~~Within metropolitan area and in cities of over 50,000 population Hennepin and Ramsey counties.~~ The following conditions must be met before a new deputy registrar office is approved or a new deputy registrar is appointed in Ramsey or Hennepin county:

A. The estimated number of applications for registration that a new deputy registrar office will process annually must be at least ~~20,000~~ 35,000. The number of applications for registration will be estimated as follows: ~~40~~ 30 percent of the applications for registration processed within the preceding year by existing deputy registrar offices located within a ~~four-mile~~ radius of the proposed new office or ~~25 percent of the applications processed within the preceding year by existing deputy registrars within six of over five miles and less than 9-1/2 miles of the proposed new office, whichever is the larger.~~

If a percentage of applications for registration submitted to an existing deputy registrar office is used to establish a new deputy registrar office, that percentage may not be used again to establish another office within a two-year period.

If the use of a percentage of applications for registration submitted to an existing deputy registrar office, to establish a new deputy registrar office, would reduce the number of applications to below 35,000 for the existing office, the proposed new deputy registrar office may not be established.

An application for appointment as a deputy registrar may not be considered within a two-year period following the establishment of a new deputy registrar office if the applicant's office is proposed to be located within ten miles of the newly established office.

B. The proposed new office must not be located within ~~three miles~~ a five-mile radius of an existing deputy registrar office.

C. In addition, the five-mile radius of the proposed new deputy registrar office must not overlap into a five-mile radius of an existing deputy registrar office.

Subp. 1a. **Other metropolitan counties; municipalities with over 50,000 population.** The following conditions must be met before a new deputy registrar office is approved or a new deputy registrar is appointed in a metropolitan county, not including Hennepin and Ramsey counties, or in a municipality with a population exceeding 50,000, not including municipalities in Hennepin and Ramsey counties:

A. The estimated number of applications for registration that a new deputy registrar office will process annually must be at least 20,000. The number of applications for registration will be estimated as the largest number computed in subitem (1), (2), or (3):

(1) 30 percent of the applications for registration processed within the preceding year by existing deputy registrar offices located within a radius of the proposed new office of over five miles but less than 6-1/2 miles;

(2) 20 percent of the applications for registration processed within the preceding year by existing deputy registrar offices located within a radius of the proposed new office of at least 6-1/2 miles but less than eight miles; or

(3) ten percent of the applications for registration processed within the preceding year by existing deputy registrar offices located within a radius of the proposed new office of at least eight miles but less than 9-1/2 miles.

If a percentage of applications for registration submitted to an existing deputy registrar office is used to establish a new deputy registrar office, that percentage may not be used again to establish another office within a two-year period.

If the use of a percentage of applications for registration submitted to an existing deputy registrar office, to establish a new deputy registrar office, would reduce the number of applications to below 20,000 for the existing office, the proposed new deputy registrar office may not be established.

An application for appointment as a deputy registrar may not be considered within a two-year period following the establishment of a new deputy registrar office if the applicant's office is proposed to be located within ten miles of the newly established office.

B. The proposed new office must not be located within a five-mile radius of an existing deputy registrar office.

C. In addition, the five-mile radius of the proposed new deputy registrar office must not overlap into a five-mile radius of an existing deputy registrar office in Minnesota.

Subp. 2. **Other areas.** In all other cities municipalities not included in subpart 1 or 1a, the following conditions must be met before a new deputy registrar office is approved:

A. The estimated number of applications for registration that a new deputy registrar office will process annually must be at least 4,000. The number of applications for registration will be estimated as follows: 20 percent of the applications for registration processed within the preceding year by existing deputy registrar offices located within 20 miles of the proposed new office, or, if there is no existing deputy registrar office located within 20 miles of the proposed new office, the total number of new car sales, multiplied by four, made by all new car dealers within 25 miles of the proposed new office as determined by a survey taken by the registrar, plus one-half the population of all towns and cities the municipalities that are closer to the new proposed office than to any an existing deputy registrar office.

B. The proposed new office must not be located within ~~15 miles~~ a 15-mile radius of or 25 minutes driving time of from an existing deputy registrar office, except in cities municipalities having a population of 25,000 to 50,000. In addition, the 15-mile radius of the proposed new deputy registrar office must not overlap into a 15-mile radius of an existing deputy registrar office in Minnesota.

C. The proposed new office must not be located in a city municipality of less than 25,000 population if there is an existing deputy registrar office in that city municipality.

D. The proposed new office must not be located in a city municipality having a population of 25,000 to 50,000 unless there are less than two existing deputy registrar offices in that city municipality.

**7406.0500 GENERAL OPERATING RULES FOR DEPUTY REGISTRARS.**

Subpart 1. **Sole operator.** A deputy registrar must manage the office in accordance with the following:

A. and B. [Unchanged.]

C. If a corporation is a deputy registrar under Minnesota Statutes, section 168.33, subdivision 2, the individual signing for the corporation as deputy registrar must be an officer of the corporation. This individual is responsible for the duties of the corporation as a deputy registrar.

Subp. 2. to 5. [Unchanged.]

**7406.0700 EXEMPTION.**

Notwithstanding part 7406.0300, a new deputy registrar may be appointed for an existing location upon the death, resignation, or

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# PROPOSED RULES

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retirement of an existing deputy registrar whose office does not comply with the requirements for distance or number of applications for registration processed. If, within three months, a new deputy registrar appointment is not accepted by the person to be appointed or if the office is not established by the appropriate local government, then part 7406.0300 applies.

## Department of Public Safety

### Proposed Permanent Rules Relating to the Merit System

#### Notice of Hearing and Notice of Intent to Cancel Hearing if Fewer Than Twenty-Five Persons Request a Hearing in Response to Notice of Intent to Amend Rules without a Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Conference Room A, fourth floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, on November 12, 1986, commencing at 9:30 a.m. and continuing until all interested persons or affected persons have an opportunity to participate. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

PLEASE NOTE, HOWEVER, THAT THE HEARING WILL BE CANCELLED IF FEWER THAN TWENTY-FIVE PERSONS REQUEST A HEARING IN RESPONSE TO THE NOTICE OF INTENT TO ADOPT THESE SAME RULES WITHOUT A PUBLIC HEARING PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF PUBLIC SAFETY. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of hearing which is to be included in the hearing record may be mailed to Howard L. Kaibel, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7608 either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The comments received during the comment period shall be available for review at the Office of Administrative Hearings. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three day period, the agency may indicate in writing whether there are amendments suggested by other persons which the agency is willing to adopt. No additional evidence may be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administrative Law Judge will write a report as provided for in Minnesota Statutes, section 14.50.

The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules parts 1400.0200-1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

The Minnesota Merit System rules provide for a system of personnel administration for 21 county and local emergency services agencies. The rules apply to all positions and employees engaged in the administration of emergency services programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration. The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to parts 7520.1000-7520.1100 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 12.12, subd. 3.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph Corey. Additional copies will be available at the hearing. If you have any questions on the content of the rule, contact Ralph Corey.

NOTICE: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. 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. Any person may request notification of the date on which the rules were adopted and filed with the Secretary of State. The notice must be mailed on the same day the rules are filed. If you want to be so notified you may so indicate at the hearing or send a request in writing to the agency at any time prior to the filing of the rules with the Secretary of State.

NOTICE IS HEREBY GIVEN that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Minnesota Statutes, Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A Lobbyist is defined in Minnesota Statutes, section 10A.01, subd. 11 as any individual:

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

(b) Who spends more than \$250, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101.

Dated: 9 September 1986

Rudy Perpich  
Governor

### **Notice of Intent to Amend Rules without a Public Hearing and Notice of Intent to Amend Rules with a Public Hearing if Twenty-Five or More Persons Request a Hearing**

NOTICE IS HEREBY GIVEN that the Minnesota Department of Public Safety proposes to adopt the above-entitled rule changes without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority of the Department to make the proposed rule changes is contained in Minnesota Statutes, section 12.12, subd. 3.

Interested persons shall have 30 days (until October 29, 1986) to submit comments in support of or in opposition to the proposed rule changes. Comment is encouraged. Each comment should identify the portion of the proposed rule change being addressed, the reason for the comment, and any change proposed.

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

PLEASE NOTE THAT IF TWENTY-FIVE OR MORE PERSONS SUBMIT WRITTEN REQUESTS FOR A PUBLIC HEARING WITHIN THE 30-DAY COMMENT PERIOD, A HEARING WILL BE HELD ON NOVEMBER 12, 1986, IN ACCORDANCE WITH THE NOTICE OF PUBLIC HEARING ON THESE SAME RULES PUBLISHED IN THIS *STATE REGISTER* AND MAILED TO PERSONS REGISTERED WITH THE DEPARTMENT OF PUBLIC SAFETY. To verify whether a hearing will be held, please call the Merit System between October 30, 1986 and November 10, 1986 at 612/296-3996.

**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

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

Ralph W. Corey  
Merit System Supervisor  
Minnesota Department of Human Services  
Fourth Floor—Centennial Office Building  
658 Cedar Street  
St. Paul, Minnesota 55155  
Telephone 612/296-3996

Comments or requests for a public hearing must be received by 4:30 p.m. on October 29, 1986. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

The Minnesota Merit System rules provide for a system of personnel administration for 21 county and local emergency services agencies. The rules apply to all positions and employees engaged in the administration of emergency services programs funded in whole or in part by federal grants-in-aid requiring a merit system of personnel administration.

The rules cover such areas as classification of positions, compensation, recruitment and examination, certification and appointment, leaves of absence, separation, tenure and reinstatement, and, in general, provide standards for agencies to follow so as to ensure compliance with the Federal Standards for a Merit System of Personnel Administration (5 CFR Part 900).

If adopted, the proposed changes would provide for a general salary adjustment of 1% for merit system employees effective January 1, 1987.

Proposed revisions to parts 7520.1000-7520.1100 (the compensation plan) provide for adjustments of varying amounts to the minimum and maximum salaries for classes covered by the Merit System. These adjustments have been proposed to correct compensation inequities based upon comparable work value.

The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for calendar year 1987.

A fiscal note explaining the costs to local agencies of complying with the rule has been prepared according to the requirements of Laws of Minnesota 1985 Special Session, Chapter 10, sections 34-38. A free copy of the fiscal note may be obtained by contacting Ralph W. Corey, Department of Human Services, Centennial Office Building, St. Paul, Minnesota 55155, telephone 612/296-3996.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Ralph W. Corey.

A Statement of Need and Reasonableness that describes the need for and the reasonableness of each provision of the proposed changes and identifies the data and information relied upon to support the proposed changes has been prepared and is also available from Ralph W. Corey upon request.

If no hearing is required, the Department shall submit to the Attorney General the proposed rule and notice as published in the *State Register*, the rule as proposed for adoption, any written comments received by the Department and the Statement of Need and Reasonableness. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Ralph W. Corey.

Dated: 9 September 1986

Rudy Perpich  
Governor

## Rules as Proposed

### 7520.0650 SALARY ADJUSTMENTS AND INCREASES.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Recommended adjustment.** The merit system general adjustment recommended for incumbents is ~~four~~ one percent for employees on the professional and clerical salary schedules.

Subp. 4. and 5. [Unchanged.]



**7520.1000 COMPENSATION PLAN (EMERGENCY SERVICES), ~~1986~~ 1987; PROFESSIONAL.**

Subpart 1. **Plan A.**

	Minimum		Maximum	
Administrative Officer Assistant	<del>1581</del>	<u>1597</u>	<del>2164</del>	<u>2186</u>
Emergency Management Director	<del>1383</del>	<u>1397</u>	<del>1972</del>	<u>1992</u>
Communications Officer	<del>1383</del>	<u>1397</u>	<del>1886</del>	<u>1905</u>
Operations Officer	<del>1581</del>	<u>1597</u>	<del>2164</del>	<u>2186</u>
Public Information Officer	<del>1581</del>	<u>1597</u>	<del>2164</del>	<u>2186</u>
Radiological Officer	<del>1383</del>	<u>1397</u>	<del>1886</del>	<u>1905</u>
Safety Services Coordinator	<del>1581</del>	<u>1597</u>	<del>2164</del>	<u>2186</u>

Subp. 2. **Plan B.**

	Minimum		Maximum	
Administrative Officer Assistant	<del>1654</del>	<u>1671</u>	<del>2257</del>	<u>2280</u>
Emergency Management Director	<del>1446</del>	<u>1460</u>	<del>2064</del>	<u>2085</u>
Communications Officer	<del>1446</del>	<u>1460</u>	<del>1972</del>	<u>1992</u>
Operations Officer	<del>1654</del>	<u>1671</u>	<del>2257</del>	<u>2280</u>
Public Information Officer	<del>1654</del>	<u>1671</u>	<del>2257</del>	<u>2280</u>
Radiological Officer	<del>1446</del>	<u>1460</u>	<del>1972</del>	<u>1992</u>
Safety Services Coordinator	<del>1654</del>	<u>1671</u>	<del>2257</del>	<u>2280</u>

Subp. 3. **Plan C.**

	Minimum		Maximum	
Administrative Officer Assistant	<del>1728</del>	<u>1745</u>	<del>2361</del>	<u>2385</u>
Emergency Management Director	<del>1511</del>	<u>1526</u>	<del>2164</del>	<u>2186</u>
Communications Officer	<del>1511</del>	<u>1526</u>	<del>2064</del>	<u>2085</u>
Operations Officer	<del>1728</del>	<u>1745</u>	<del>2361</del>	<u>2385</u>
Public Information Officer	<del>1728</del>	<u>1745</u>	<del>2361</del>	<u>2385</u>
Radiological Officer	<del>1511</del>	<u>1526</u>	<del>2064</del>	<u>2085</u>
Safety Services Coordinator	<del>1728</del>	<u>1745</u>	<del>2361</del>	<u>2385</u>

**7520.1100 COMPENSATION PLAN (EMERGENCY SERVICES), ~~1986~~ 1987; CLERICAL.**

Subpart 1. **Plan A.**

	Minimum		Maximum	
Clerk I	<del>750</del>	<u>758</u>	<del>1020</del>	<u>1030</u>
Clerk II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk III	<del>1020</del>	<u>1030</u>	<del>1396</del>	<u>1410</u>
Clerk-Typist I	<del>785</del>	<u>831</u>	<del>1117</del>	<u>1128</u>
Clerk-Typist II	<del>857</del>	<u>866</u>	<del>1222</del>	<u>1234</u>
Clerk-Typist III	<del>998</del>	<u>1030</u>	<del>1427</del>	<u>1473</u>
Clerk-Steno	<del>893</del>	<u>902</u>	<del>1222</del>	<u>1234</u>

Subp. 2. **Plan B.**

	Minimum		Maximum	
Clerk I	<del>857</del>	<u>866</u>	<del>1117</del>	<u>1128</u>
Clerk II	<del>976</del>	<u>986</u>	<del>1331</del>	<u>1344</u>
Clerk III	<del>1140</del>	<u>1151</u>	<del>1488</del>	<u>1503</u>
Clerk-Typist I	<del>893</del>	<u>942</u>	<del>1222</del>	<u>1234</u>
Clerk-Typist II	<del>976</del>	<u>986</u>	<del>1331</del>	<u>1344</u>

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## PROPOSED RULES

	Minimum		Maximum	
Clerk-Typist III	<del>1140</del>	<u>1151</u>	<del>1488</del>	<u>1575</u>
Clerk-Steno	<del>1020</del>	<u>1030</u>	<del>1331</del>	<u>1344</u>

### Subp. 3. Plan C.

	Minimum		Maximum	
Clerk I	933	<u>942</u>	<del>1222</del>	<u>1234</u>
Clerk II	<del>1067</del>	<u>1088</u>	<del>1458</del>	<u>1473</u>
Clerk III	<del>1195</del>	<u>1207</u>	<del>1559</del>	<u>1575</u>
Clerk-Typist I	976	<u>1030</u>	<del>1331</del>	<u>1344</u>
Clerk-Typist II	<del>1067</del>	<u>1088</u>	<del>1458</del>	<u>1473</u>
Clerk-Typist III	<del>1195</del>	<u>1207</u>	<del>1559</del>	<u>1648</u>
Clerk-Steno	<del>1117</del>	<u>1128</u>	<del>1458</del>	<u>1473</u>

## 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.

## Office of the Attorney General

### Adopted Rules Relating to Rule Reviews

The rule proposed and published at *State Register*, Volume 10, Number 27, pages 1457-1473, December 30, 1985 (10 S.R. 1457) and Volume 10, Number 29, pages 1547, January 13, 1986 (10 S.R. 1547) is adopted with modifications. The entire rule, with the modifications, is as follows:

#### Rules as Adopted

##### 2010.0200 AUTHORITY.

Parts 2010.0200 to 2010.1400 govern the submittal to and review by the attorney general of rules adopted without a public hearing pursuant to Minnesota Statutes, sections 14.22 to 14.28 and emergency rules adopted pursuant to Minnesota Statutes, sections 14.29 to 14.36 by agencies pursuant to the Administrative Procedure Act, Minnesota Statutes, chapter 14.

##### 2010.0300 DOCUMENTS NECESSARY FOR REVIEW OF A RULE ADOPTED WITHOUT A PUBLIC HEARING.

To submit a rule adopted without a public hearing to the attorney general for review and approval pursuant to Minnesota Statutes, section 14.26, the agency must submit to the attorney general the following documents:

A. A copy or photocopy of the notice of solicitation of outside information or opinions as published in the *State Register*, if the agency sought to obtain information or opinions in preparing to propose a rule from sources outside the agency as provided by Minnesota Statutes, section 14.10. For the recommended format of the notice, see part 2010.9900.

B. A copy of the petition for adoption, suspension, amendment, or repeal of a rule if the agency has adopted the rule in response to a petition filed pursuant to Minnesota Statutes, section 14.09 and part 2010.0600. For the prescribed format of the petition, see part 2010.9905.

C. If the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multi-member agency's authorizing resolution or a copy of a delegation of authority. The resolution must direct and

delegate to an individual the authority to sign and to give the notice of the agency's ~~proposed adoption of intent to adopt~~ the rule without a public hearing. The delegation of authority must expressly authorize an individual to sign and to give the notice of the agency's ~~proposed adoption of intent to adopt~~ a rule without a public hearing. The resolution or delegation of authority must be adopted at a meeting duly called and attended by a quorum. For the recommended format of the resolution, see part 2010.9910.

D. A copy of the proposed rule with a certificate of approval as to form by the revisor of statutes attached.

E. The notice of ~~proposed adoption of intent to adopt~~ a rule without a public hearing ~~which as mailed. The notice must be signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the rule without a public hearing and~~ must contain the following:

(1) A statement that the agency ~~proposes~~ intends to adopt a rule without a public hearing pursuant to the authority of [citation to the specific statutory authority for the proposed rule] and is following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28.

(2) A statement that the public has 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the proposed rule and that comment is encouraged.

(3) A statement that each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed.

(4) A statement that if 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. If the agency is fixing fees by rulemaking pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (15) is applicable.

(5) A statement of the manner in which persons may submit comments or requests for a public hearing.

(6) A statement that any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

(7) A statement that if a public hearing is required, the agency will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

(8) A statement that the proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

(9) A statement that if no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general; and a statement of the manner in which the request must be made.

(10) If an entire rule is proposed to be repealed, a statement stating that fact and citing the rule to be repealed.

(11) A statement that the proposed rule is attached to the notice; or if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement summarizing describing the nature and effect of the proposed rule and the manner in which a free copy may be requested.

(12) A statement that the statement of need and reasonableness is available to the public and the manner in which that document may be requested.

(13) If required by Minnesota Statutes, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

(14) If the agency elects to comply with Minnesota Statutes, section 14.115, subdivision 4, by following paragraph (a) of the statute, a statement that the proposed rule will have an impact on small businesses and a description of the probable quantitative and qualitative impact of the proposed rule, economic or otherwise, upon affected classes of persons as provided by Minnesota Statutes, section 14.115, subdivision 4, paragraph (a).

(15) If the agency is fixing fees by rulemaking without a public hearing pursuant to Minnesota Statutes, section 16A.128, subdivision 2a, on or before July 1, 1987, subitem (4) of this subpart is inapplicable and is substituted with a statement that no public hearing need be held unless 20 percent of the persons who will be required to pay the fee submit to the agency during the 30-day

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## ADOPTED RULES

period allowed for comment a written request for a public hearing on the proposed rule. For fees established or adjusted after July 1, 1987, subitem (4) is applicable.

(16) Any other notices required by law or rule to be included in the notice of ~~proposed adoption of~~ intent to adopt a rule without a public hearing.

(17) ~~The notice of proposed adoption of a rule without a public hearing must be signed by a person authorized to adopt the rule or authorized to sign and to give notice of proposed adoption of a rule without a public hearing.~~

For the recommended format of the notice, see part 2010.9915.

F. The statement of need and reasonableness in support of the proposed rule complying with part 2010.0700.

G. The affidavit of mailing the notice of ~~proposed adoption of~~ intent to adopt a rule without a public hearing. The affidavit or affidavits must state that the mailing list maintained by the agency pursuant to Minnesota Statutes, sections 14.22 and 14.14, subdivision 1a is accurate, complete, and current and that the notice of ~~proposed adoption of~~ intent to adopt the rule without a public hearing was mailed to all persons and groups whose names appear on the list. If the person who mailed the notice is not the same person who can attest to the accuracy of the mailing list, separate affidavits signed by the appropriate person must be submitted. For the recommended format of the affidavit, see part 2010.9920.

H. A copy or photocopy of the notice of ~~proposed adoption of~~ intent to adopt the rule without a public hearing as published in the *State Register*. The notice as published must contain the statements required by part 2010.0300, item E.

I. Four copies of the rule as adopted. Any modification made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.

J. If the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multi-member agency's resolution adopting the rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to:

(1) sign findings of fact, conclusions, and order adopting the rule;

(2) ~~modify the rule if necessary to obtain approval of the rule by the attorney general and such modification does not raise significant new legal issues; and~~

(3) perform the necessary acts to provide that the rule has the force and effect of law. The resolution must be adopted at a meeting duly called and attended by a quorum. If the multi-member agency is so empowered, the resolution may also authorize the named person to modify the rule under stated circumstances or as necessary to obtain the approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

K. The findings of fact, conclusions, and order adopting the ~~emergency~~ rule which must contain the following:

(1) a statement that proper notice of ~~proposed rulemaking~~ intent to adopt a rule without a public hearing was given;

(2) a statement that the statement of need and reasonableness was prepared before ~~the date of~~ the notice of ~~proposed adoption of~~ intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public;

(3) for rules that establish or adjust fees after July 1, 1987, a statement that before the notice of intent to adopt rules was submitted to the State Register, a copy of the notice and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee;

(4) a statement that all persons were given the opportunity to submit comment on the proposed rule for 30 days after the notice of ~~proposed rulemaking~~ intent to adopt a rule without a public hearing;

(4) (5) a statement of the number of persons that requested a public hearing and the number of persons that requested a public hearing and withdrew their request;

(5) (6) if any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D;

(6) (7) if the agency received no requests for a hearing, or received no submissions or comments on the rule required to be submitted to the attorney general by item L, or received no requests for notice of submission of the adopted rule to the attorney general, an applicable statement to that effect; and

(7) (8) a statement that the rule as adopted is needed and reasonable and that the rule is hereby ordered to be adopted and the date on which the order is signed.

The findings of fact, conclusions, and order adopting the rule must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusions, and order adopting the rule. For the recommended format of the findings of fact, conclusions, and order, see part 2010.9930.

L. All written requests, submissions, or comments on the rule received by the agency except requests solely for copies of the rule or of the statement of need and reasonableness.

M. The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

- (1) that the attorney has examined the rule and the rulemaking record;
- (2) that the Administrative Procedure Act and chapter 2010 have been followed with a listing of any exceptions; and
- (3) for attorney general billing purposes, the four-digit docket client code is ..... For the recommended format, see part 2010.9935.

N. The notice of submission of the rule to the attorney general, if applicable. If any persons requested notification of the date of submission of the rule to the attorney general, the notice must be given on the same day the rule is submitted to the attorney general. The notice must contain the following:

- (1) the date of submission of the rule to the attorney general;
- (2) if the proposed rule has been modified, the notice must state that fact and must state that a free copy of the rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;
- (3) the attorney general rule review time period ~~and comment deadline~~;
- (4) a statement that comments may be submitted to the attorney general and that any comments submitted to the attorney general must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney general standards of review as set forth in part 2010.1000;
- (5) the length of the comment period;
- (6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;
- (7) the address of the attorney general division where comments and requests must be submitted; and
- ~~(6)~~ (8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9940.

O. The affidavit of mailing notice of submission of the rule to the attorney general, if applicable. The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

#### **2010.0400 DOCUMENTS NECESSARY FOR REVIEW OF EMERGENCY RULE.**

To submit an emergency rule to the attorney general for review and approval pursuant to Minnesota Statutes, section 14.32, the agency must submit to the attorney general the following documents:

A. A copy or photocopy of the notice of solicitation of outside information or opinions, as published in the State Register, if the agency sought to obtain information or opinions in preparing to propose a rule from sources outside the agency as provided by Minnesota Statutes, section 14.10. For the recommended format of the notice, see part 2010.9900.

B. A copy of the petition for adoption, suspension, amendment, or repeal of a rule if the agency has adopted the rule in response to a petition filed pursuant to Minnesota Statutes, section 14.09 and part 2010.0600. For the prescribed format of the petition, see part 2010.9905.

C. If the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multi-member agency's authorizing resolution or a copy of a delegation of authority. The resolution must direct and delegate to an individual the authority to sign and to give the notice of the multi-member agency's ~~proposed adoption of intent to adopt~~ the emergency rule. The delegation of authority must expressly authorize an individual to sign and to give the notice of the agency's ~~proposed adoption of intent to adopt~~ the emergency rule. The resolution or delegation of authority must be adopted at a meeting duly called and attended by a quorum. For the recommended format of the resolution, see part 2010.9910.

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## ADOPTED RULES

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D. A copy of the proposed emergency rule with a certificate of approval as to form by the revisor of statutes attached.

E. The notice of ~~proposed adoption of intent to adopt~~ the emergency rule ~~which as mailed~~. The notice must be signed by a person authorized to adopt the rule or authorized to sign and give notice of the intent to adopt the emergency rule and must contain the following:

(1) A statement that the agency ~~proposes~~ intends to adopt the emergency rule pursuant to authority of [citation to the specific statutory authority to adopt the emergency rule] and is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

(2) A statement that all persons have 25 days after publication, or a longer period of time as specified in the notice, to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing.

(3) A statement of the manner in which persons may submit written comments to the agency.

(4) A statement that the proposed emergency rule is attached to the notice; or, if the proposed rule is not attached to the notice sent to persons on the agency rulemaking mailing list, a statement summarizing describing the nature and effect of the proposed rule.

(5) A statement that a free copy of the proposed emergency rule is available upon request from the agency and the manner in which the request may be made.

(6) A statement that the proposed emergency rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed emergency rule as noticed.

(7) A statement that the emergency rule and its supporting documents will be submitted to the attorney general for review as to legality and form to the extent form relates to legality; a statement that any person may request notification of the date of submission to the attorney general; and a statement of the manner in which the request must be made.

(8) A statement of the effective period of the proposed emergency rule in accordance with Minnesota Statutes, section 14.35.

(9) If required by Minnesota Statutes, section 14.11, subdivision 1, a statement relating to the expenditure of public money by local public bodies.

(10) Any other notices required by law or rule to be included in the notice of ~~proposed adoption of intent to adopt~~ an emergency rule.

~~(11) The notice of the proposed adoption of emergency rule must be signed by a person authorized to adopt the rule or authorized to sign and to give notice of proposed adoption of emergency rule.~~

For the recommended format of the notice, see part 2010.9950.

F. The affidavit of mailing the notice of ~~proposed adoption of intent to adopt~~ the emergency rule. The affidavit or affidavits must state that the mailing list maintained by the agency pursuant to Minnesota Statutes, section 14.30 is accurate, complete, and current and that the notice of ~~proposed adoption of intent to adopt~~ the emergency rule was mailed to all persons and groups whose names appear on the list. If the person who mailed the notice is not the same person who can attest to the accuracy of the mailing list, separate affidavits signed by the appropriate person must be submitted. For the recommended format of the affidavit, see part 2010.9920.

G. A copy or photocopy of the notice of ~~proposed adoption of intent to adopt~~ the emergency rule as published in the *State Register*. The notice as published must contain the statements required by part 2010.0400, item E.

H. Four copies of the emergency rule as adopted. Any modifications made to the proposed rule must be reflected on the rule as adopted and be approved as to form by the revisor of statutes.

I. If the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, the certificate of the multi-member agency's resolution adopting the emergency rule. The resolution must be adopted at a meeting duly called and attended by a quorum.

The resolution must approve and adopt the rule and authorize a named individual to:

(1) sign findings of fact, conclusions, and order adopting the rule;

(2) ~~modify the rule if necessary to obtain approval of the rule by the attorney general and such modification does not raise significant new legal issues;~~ and

(3) perform the necessary acts to provide that the emergency rule has force and effect of law. The resolution must be adopted at a meeting duly called and attended by a quorum. If the multi-member agency is so empowered, the resolution may also

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## ADOPTED RULES

authorize the named person to modify the rule under stated circumstances or as necessary to obtain approval of the rule by the attorney general. For the recommended format of the resolution, see part 2010.9925.

J. The findings of fact, conclusions, and order adopting the emergency rule which must contain the following:

- (1) a statement that proper notice of proposed emergency rulemaking intent to adopt a rule was given;
- (2) a statement that all persons were given the opportunity to submit written comment for at least 25 days after publication of the notice of proposed intent to adopt the emergency rulemaking rule;
- (3) if any changes were made between the emergency rule as proposed and the emergency rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explaining why the changes do not constitute substantial changes as provided in attorney general rule part 2010.1000, item D;
- (4) if the agency received no submissions or comments on the rule required to be submitted to the attorney general pursuant to item K, or received no requests for notice of submission of the adopted emergency rule to attorney general; an applicable statement to that effect; and
- (5) a statement that the emergency rule is hereby ordered to be adopted and the date on which the order is signed.

The findings of fact, conclusion, and order adopting the emergency rule must be signed by a person authorized to adopt the emergency rule or authorized to sign the findings of fact, conclusions, and order adopting the emergency rule. For the recommended format of the findings of fact, conclusions, and order, see part 2010.9955.

K. All written requests, submissions, and comments on the rule received by the agency except requests solely for copies of the rule.

L. The declaration of the attorney in the attorney general's office who represents the agency. The declaration must state:

- (1) that the attorney has examined the rule and the rulemaking record;
- (2) that the Administrative Procedure Act and chapter 2010 have been followed with a listing of any exceptions; and
- (3) for attorney general billing purposes, the four-digit docket client code is ..... For the recommended format, see part 2010.9935.

M. The notice of submission of the emergency rule to the attorney general, if applicable. If any persons requested notification of the date of submission of the emergency rule to the attorney general, the notice must be given mailed on the same day the rule is submitted to the attorney general. The notice must contain the following:

- (1) the date of submission of the emergency rule to the attorney general;
- (2) if the ~~emergency~~ proposed emergency rule has been modified, the notice must state that fact and must state that a free copy of the emergency rule as modified is available upon request from the agency or that a copy of the rule as modified is enclosed with this notice;
- (3) the attorney general rule review time period ~~and comment deadline~~;
- (4) a statement that comments may be submitted to the attorney general and that any comments submitted ~~to the attorney general~~ must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule and make a reference to the attorney general standards of review as set forth in part 2010.1000;
- (5) the length of the comment period;
- (6) a statement that upon written request to the attorney general a copy of the attorney general decision will be provided;
- (7) the address of the attorney general division where comments and requests must be submitted; and
- (6) (8) a statement that any written comments to the attorney general must also be submitted simultaneously to a named person for the agency and the address of that person.

For the recommended format of the statement, see part 2010.9960.

N. The affidavit of mailing the notice of submission of the emergency rule to the attorney general, if applicable. The affidavit must state that a copy of the notice of submission of the rule to the attorney general was mailed to all persons and associations who requested the notification. For the recommended format of the affidavit, see part 2010.9945.

**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

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### 2010.0500 RULE SUBMISSION AND AGENCY FAILURE TO SUBMIT REQUIRED DOCUMENTS.

Subpart 1. **Rule submission.** A rule is considered submitted to the attorney general when the rule and the record consisting of the required documents are received at the Office of the Attorney General, Administrative/Finance Division located at 204 Administration Building, 50 Sherburne Avenue, Saint Paul, Minnesota 55155.

Subp. 2. **Failure to submit required documents.** Failure to submit all the required documents makes a submission incomplete. The attorney general must promptly inform the agency of the missing documents. If the missing documents include the required four copies of the rule as adopted, findings of fact, conclusions and order, or the statement of need and reasonableness for a rule adopted without a public hearing, the rule review period will not be initiated. For other missing documents, if the agency submits the missing documents to the attorney general within the attorney general review period, the submission shall be deemed complete and the period of review shall continue to run. If the missing documents are not submitted within the review period, the rule must either be withdrawn from ~~review~~ review or rejected by the attorney general.

### 2010.0600 PETITION FOR ADOPTION OF RULE.

Subpart 1. **Contents.** Petitions to an agency requesting the adoption, suspension, amendment, or repeal of a rule pursuant to Minnesota Statutes, section 14.09 must contain the following:

- A. the name and address of the petitioner and, if applicable, the title or the group represented;
- B. a statement that the petitioner requests the agency to:
  - (1) adopt a new rule governing \_\_\_\_\_;
  - (2) amend Minnesota Rules, part \_\_\_\_\_;
  - (3) suspend Minnesota Rules, part \_\_\_\_\_; or
  - (4) repeal Minnesota Rules, part \_\_\_\_\_;
- C. a statement explaining the need or reason for the rulemaking request; and

D. for a new rule, the petitioner's proposed language for the new rule. For amendments to an existing rule, the rule text must be repeated, proposed deletions stricken and substituted or added language underscored. If the petitioner is unable to propose new rule language, he or she may provide a detailed description of the rule desired.

For the prescribed format of the petition, see part 2010.9905.

Subp. 2. **Service of petition.** The petition must be served on the agency head or executive director of the affected agency personally or by United States mail at the business address of the agency.

Subp. 3. **Agency response.** The agency must reply within 60 days from the receipt of the petition. The reply must be in writing, respond specifically to all issues raised in the petition and detail its planned disposition of the request. The response must be signed by an individual authorized to adopt a rule or if the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a, by a member or officer of the multi-member agency. If the agency adopts the rule pursuant to the petition, a copy of the petition must be submitted by the agency to the attorney general in accordance with part 2010.0300, item B or 2010.0400, item B.

### 2010.0700 STATEMENT OF NEED AND REASONABLENESS.

The statement of need and reasonableness must contain a summary of the evidence and arguments that support both the need for and reasonableness of the proposed agency action of adopting a rule without a public hearing. In justifying the need for and reasonableness of the action, the agency must explain what circumstances have created the need for the rule or its amendment which required administrative action and why the proposed rulemaking action is an appropriate solution for meeting the need. The statement must explain the evidence relied upon and how that evidence rationally relates to the choice of action taken. A general statement of statutory implementation or restating the proposed rule will not suffice. The statement of need and reasonableness must also contain the following:

- A. if required by Minnesota Statutes, section 14.115, a statement documenting the agency's consideration of methods for reducing the impact of the rule on small businesses and the results pursuant to Minnesota Statutes, section 14.115, subdivision 2;
- B. if required by Minnesota Statutes, section 16A.128, subdivision 1, the approval of the commissioner of finance if the rule sets or adjusts a fee charged; and
- C. any information required by any other law or rule to be included in the statement of need and reasonableness.

### 2010.0800 RULE REVIEW TIME PERIOD.

Subpart 1. **Rule adopted without public hearing.** The attorney general must approve or disapprove the rule adopted without a public hearing within 14 calendar days after submission. In computing the calendar day time period, the day of the submission of the



rule to the attorney general is not included. Saturdays, Sundays, and legal holidays are included in the computation. The last day of the period so computed is included unless it is a Saturday, Sunday, or legal holiday, in which event, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. The attorney general may not approve a rule adopted without a public hearing for eight calendar days after submission to the attorney general to assure persons time to comment on the legality of the rule. The eight-day minimum review period does not apply to a rule being resubmitted to the attorney general unless the resubmitted rule raises significant new legal issues. For resubmission of rules, see part 2010.1300.

Subp. 2. **Emergency rule.** The attorney general must approve or disapprove the emergency rule on the tenth working day after submission to the attorney general. In computing working day time period, the day of the submission to the attorney general is not included. Saturdays, Sundays, and legal holidays are not included in the computation. The last day of the period so computed is included.

#### **2010.0900 WRITTEN COMMENTS TO THE ATTORNEY GENERAL.**

Subpart 1. **Written comments.** Any person or association may submit written comments concerning the legality of a rule. Comments to the attorney general must address the specific rule or part or subparts of the rule and must address the issue of legality only. Persons or associations submitting written comments to the attorney general must simultaneously submit a copy of their comments to the named person in the notice of submission for the agency. The agency may respond to the comments within the limits of the statutory rule review period. If the agency submits a written response to the attorney general, the agency must simultaneously submit a copy of its response to the person or associations that submitted the comments to the attorney general.

Subp. 2. **Comment period.** Written comments concerning a rule adopted without a public hearing must be received by the attorney general within eight calendar days after submission to the attorney general to assure time for the agency to respond. Written comments concerning an emergency rule must be received by the attorney general within seven working days after submission to the attorney general to assure time for the agency to respond. The address to submit comments to the attorney general is the same as set out in part 2010.0500 and the computation for the comment period is the same as for the rule review period computation in part 2010.0800.

#### **2010.1000 STANDARDS OF REVIEW.**

A rule must be disapproved by the attorney general if:

A. The rule as submitted is not a statement of general applicability and future effect adopted to implement or make specific the law enforced or administered by the agency or to govern the agency's organization or procedures.

B. The agency has failed to comply with the applicable provisions of the Administrative Procedure Act, Minnesota Statutes, chapter 14, the agency's enabling statute, the attorney general rule parts 2010.0200 to 2010.1400 or other applicable law.

C. The rule exceeds the statutory authority conferred on the agency, conflicts with the statutes or any other relevant law, or has no reasonable relationship to statutory purposes.

D. There is a substantial change in the rule as adopted from the proposed rule as noticed. ~~An adopted rule is considered substantially different from the proposed rule as noticed if it introduces significant new subject matter which a reasonable person, on the basis of the rulemaking notice, would not have anticipated would be raised during the rulemaking proceeding~~ A change, by additions or deletions or other modifications to a proposed rule, is substantial if it:

(1) affects classes of persons who could not reasonably have been expected to comment on the proposed rule as originally noticed;

(2) introduces significant new subject matter which a reasonable person, on the basis of the proposed rule as originally noticed, would not have anticipated would occur during the rulemaking proceeding; or

(3) makes a major substantive change that was not raised by the proposed rule as originally noticed in such a way as to invite reaction.

E. For a rule adopted without a public hearing, the record does not demonstrate a rational basis for the need for and reasonableness of the proposed rule. This ~~criteria~~ criterion does not apply to emergency rules.

F. The rule grants the agency discretion beyond that permitted by its enabling legislation.

G. The rule improperly delegates the agency's powers to another agency, person, or body.

**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

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- H. The rule is vague or ambiguous in violation of the constitutional principles of due process or equal protection.
- I. The rule, by its terms, cannot have the force and effect of law.
- J. The rule is unconstitutional or, in the case of emergency rules, is unreasonable.

### 2010.1100 WITHDRAWAL OF RULE FROM REVIEW BY ATTORNEY GENERAL.

The agency may withdraw a rule from review by the attorney general. To withdraw a rule after it has been submitted to the attorney general, a written order of withdrawal of the rule from review must be submitted to the attorney general. The written order must state the date of withdrawal and be signed by a person authorized to adopt the rule or sign the findings of fact, conclusions, and order adopting the rule.

### 2010.1200 DISAPPROVAL.

If a rule is disapproved, the attorney general must state in writing the reasons for disapproval and make recommendations to overcome the deficiencies. The statement of the reasons for disapproval must be sent to the agency, the chief administrative law judge, the legislative commission to review administrative rules, ~~and~~ the revisor of statutes, and persons who requested to receive a copy of the decision. Upon disapproval, the review period terminates and the rule must neither be filed in the office of the secretary of state nor published unless the rule is resubmitted and approved upon resubmission.

### 2010.1300 RESUBMISSION.

Subpart 1. **Resubmission.** To resubmit a rule which was withdrawn or disapproved by the attorney general, the following documents must be submitted:

A. A supplemental findings of fact, conclusions, and order adopting the rule. The order must be signed by a person authorized to adopt the rule or authorized to sign the findings of fact, conclusion, and order adopting the rule. If any modifications were made to the rule since the rule was withdrawn or disapproved, findings of facts and conclusions must be set forth supporting the reasons for the changes and explain why the changes do not constitute substantial changes.

B. ~~If the revision raises significant new legal issues and~~ A supplemental certificate of the multi-member agency's resolution if:

(1) the agency is a multi-member agency as provided in Minnesota Statutes, section 15.0597, subdivision 1a; a new certificate of the agency's resolution must be submitted in;

(2) modifications were made to the rule since the rule was withdrawn or disapproved; and

(3) the certificate of the agency's resolution submitted in accordance with part 2010.0300, item J, or 2010.0400, item I does not authorize the modification by the person who signed the supplemental findings of fact, conclusions, and order. The supplemental certificate of the agency's resolution must be in accordance with part 2010.0300, item J or 2010.0400, item I.

C. If any modifications were made to the rule as adopted since the rule was withdrawn or disapproved, four copies of the rule as adopted with the modifications reflected and approved as to form by the revisor of statutes.

D. A new notice of submission of the rule to the attorney general mailed to any persons who requested notification pursuant to Minnesota Statutes, section 14.26 or 14.32. The notice of submission to the attorney general must comply with part 2010.0300, item N or 2010.0400, item M.

E. The affidavit of mailing for the notice of submission of the rule to the attorney general, if applicable. The affidavit must comply with part 2010.0300, item O or 2010.0400, item N.

F. Any other documents necessary to demonstrate that the procedural or substantive deficiencies have been remedied.

Subp. 2. **Resubmission review time period.** The attorney general review period for resubmission is the same as for the initial submission of the rule with one exception. If the resubmitted rule was adopted without a public hearing and does not raise significant new legal issues, the eight-day minimum review period does not apply. For the general review period, see part 2010.0800.

### 2010.1400 APPROVAL OF RULE.

Subpart 1. **Approval.** If the rule is approved, the attorney general shall promptly file two copies of the rule with the secretary of state. A copy of the approval memo must be sent to the agency, the chief administrative law judge, ~~and~~ the legislative commission to review administrative rules, and persons who requested to receive a copy of the decision.

Subp. 2. **Return of record.** Upon approval of a rule, the attorney general shall return to the agency one approved copy of the rule, any extra copies of documents and any petitions, requests, submissions, or comments directed to the agency.

**ADOPTED RULES**

**2010.9900 RECOMMENDED NOTICE OF SOLICITATION OF OUTSIDE INFORMATION OR OPINIONS.**

Department of \_\_\_\_\_  
\_\_\_\_\_ Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing \_\_\_\_\_

Notice is hereby given that the State \_\_\_\_\_ [name of agency] is seeking information or opinions from sources outside the agency in preparing to propose the [adoption] [amendment] [suspension] [repeal] of the rule governing \_\_\_\_\_. The adoption of the rule is authorized by Minnesota Statutes, section \_\_\_\_\_, which [permits] [requires] the agency to \_\_\_\_\_.

The State \_\_\_\_\_ requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to: [name and address] \_\_\_\_\_

Oral statements will be received during regular business hours over the telephone at \_\_\_\_\_ and in person at the above address.

All statements of information and opinions shall be accepted until \_\_\_\_\_. Any written material received by the State \_\_\_\_\_ shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Date \_\_\_\_\_

Commissioner [Name] \_\_\_\_\_

[Title] \_\_\_\_\_

**2010.9905 PETITION FOR ADOPTION OF RULE.**

State of Minnesota  
Department of \_\_\_\_\_

PETITION FOR  
PROPOSED RULE, OR  
RULE CHANGE

NAME \_\_\_\_\_

GROUP REPRESENTED OR TITLE (if applicable) \_\_\_\_\_

ADDRESS \_\_\_\_\_

I hereby request that the Agency named above: (Check one)

- \_\_\_\_\_ Adopt a new rule governing \_\_\_\_\_
- \_\_\_\_\_ Amend Minnesota Rules, part \_\_\_\_\_
- \_\_\_\_\_ Suspend Minnesota Rules, part \_\_\_\_\_
- \_\_\_\_\_ Repeal Minnesota Rules, part \_\_\_\_\_

Explanation of the need or reason for the rulemaking action: (the agency will use your reasons as part of the basis for its decision, so your explanation must be in detail as much as possible).

(Use additional pages if necessary.)

For a new rule, if possible, state the proposed new language of the rule. For amendments, if possible, repeat the text of the rule, strike through any deletions and underscore substituted or added language. If you are unable to propose new rule language, provide a detailed description of the rule desired.

(Use additional pages if necessary.)

This petition must be served on the agency head or the executive director of the agency personally or by United States mail. Pursuant to Minnesota Rules, part 2010.0600, subpart 3 the agency must respond in writing within 60 days of receipt of the petition.

Date \_\_\_\_\_

Signature of Petitioner \_\_\_\_\_

**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**

**2010.9910 RECOMMENDED CERTIFICATE OF AUTHORIZING RESOLUTION FOR RULE WITHOUT A PUBLIC HEARING OR EMERGENCY RULE.**

CERTIFICATE OF THE

AUTHORIZING RESOLUTION

I, \_\_\_\_\_, do hereby certify that I am a member and the \_\_\_\_\_ (office), of the \_\_\_\_\_, a [board] [commission] duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the \_\_\_\_\_ duly and properly called and held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

“RESOLVED, that \_\_\_\_\_, [the executive director] [a member] of the \_\_\_\_\_, is hereby granted the authority and directed to sign and to give the Notice of the [Board’s] [Commission’s] ~~Proposed Adoption of Intent to Adopt~~ [a rule without a public hearing] [an Emergency rule] governing \_\_\_\_\_ (describe nature of the rule) to all persons who have registered their names with the [Board] [Commission] for that purpose and publish the Notice and rule in the *State Register*, and to perform any and all acts incidental thereto.”

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
(Officer of the Board)

\_\_\_\_\_  
Attest by one other Board member

**2010.9915 RECOMMENDED NOTICE OF ~~PROPOSED ADOPTION OF~~ INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING.**

Department of \_\_\_\_\_

In the Matter of the Proposed  
Adoption of the Rule of  
the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF ~~PROPOSED~~  
~~ADOPTION OF~~ INTENT TO  
ADOPT A RULE WITHOUT  
A PUBLIC HEARING

Notice is hereby given that the State \_\_\_\_\_ ~~proposes~~ intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in Minnesota Statutes, sections 14.22 to 14.28. The statutory authority to adopt the rule is [specific statutory citation.]

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

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

Comments or written requests for a public hearing must be submitted to:

[Name, address, and telephone number]

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

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

or

[The rule proposed for adoption relates to the following matters (informative statement ~~summarizing~~ describing the nature and effect of the proposed rule). A free copy of the rule is available upon request from \_\_\_\_\_.]

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from \_\_\_\_\_ upon request.



**ADOPTED RULES**

copy of a resolution adopted at a meeting of the \_\_\_\_\_, duly and properly called and held on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, that a quorum was present, and that a majority of those present voted for the resolution which has not been rescinded or modified.

“RESOLVED, that the rule relating to \_\_\_\_\_ is approved and adopted, pursuant to authority vested in the \_\_\_\_\_ by Minnesota Statutes \_\_\_\_\_, the \_\_\_\_\_ [executive director] [a member] of the \_\_\_\_\_, is authorized to sign the findings of fact, conclusions, and order adopting the rule and [(optional authorization:) further is authorized to modify the rule if necessary to obtain the approval of the rule by the attorney general ~~when such modification does not raise significant new legal issues and (or other stated circumstances) and~~ to perform the necessary acts to provide that the rule shall have the force and effect of law.”

IN WITNESS WHEREOF, I have hereunto subscribed my name this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Officer of the Board

\_\_\_\_\_  
Attest by one other Board member

**2010.9930 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING THE RULE WITHOUT PUBLIC HEARING.**

STATE OF MINNESOTA  
DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER ADOPTING  
RULE WITHOUT  
PUBLIC HEARING

Notice of the [Commissioner’s] [Board’s] ~~proposed adoption of~~ [Commission’s] intent to adopt the above-entitled rule was published in the *State Register* on \_\_\_\_\_, 19\_\_\_\_ and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, sections 14.14, subdivision 1a and 14.22 on \_\_\_\_\_, 19\_\_\_\_. The statement of need and reasonableness was prepared before the ~~date of the notice of proposed adoption of~~ intent to adopt a rule without a public hearing was mailed to all persons on the rulemaking mailing list and published in the State Register and was available to the public. [For rules that establish or adjust fees after July 1, 1987: Before the notice was submitted to the State Register, a copy of the notice of intent to adopt rules without a public hearing and the proposed rule was sent to the chairs of the house appropriations committee and senate finance committee.]

All persons were given the opportunity to submit comment on the rule for 30 days after notice of proposed rulemaking. [The agency received \_\_\_\_ requests for a public hearing [, of which \_\_\_\_ were subsequently withdrawn]. Therefore, the agency did not receive request for a public hearing from 25 or more persons which were not withdrawn.] or [No requests for a public hearing on the rule were received by the agency.]

[If applicable: No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency.]

Based on the comments and evidence in the record before the agency, I find the following:

[If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes and explanations why the changes do not constitute substantial changes as provided in the attorney general rules, part 2010.1000, item D must be set forth.]

The above-captioned rule is needed and reasonable.

NOW, THEREFORE, IT IS ORDERED that the rule identified as \_\_\_\_\_ [as modified] is adopted this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to authority vested in [me] [the Board] [the Commission] by Minnesota Statutes, section \_\_\_\_\_.

[Name] \_\_\_\_\_  
COMMISSIONER OF \_\_\_\_\_  
[Title] \_\_\_\_\_

**2010.9935 RECOMMENDED DECLARATION OF COUNSEL.**

In the Matter of the Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

DECLARATION OF  
COUNSEL

I, \_\_\_\_\_, Special Assistant Attorney General, do hereby declare that I have examined the above-captioned rule, and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules, chapter 2010 have been followed. Any exceptions are listed below. For Attorney General billing purposes, the four-digit docket client code is \_\_\_\_\_.

\_\_\_\_\_  
(Attorney's Name)  
Special Assistant  
Attorney General

Dated: \_\_\_\_\_

**2010.9940 RECOMMENDED NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING TO ATTORNEY GENERAL.**

STATE OF MINNESOTA  
DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF SUBMISSION  
OF RULE ADOPTED  
WITHOUT PUBLIC  
HEARING TO THE  
ATTORNEY GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.26:

PLEASE TAKE NOTICE that the above-captioned rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, \_\_\_\_\_, 19\_\_\_\_, for review as to legality and form to the extent form relates to legality. The proposed rule, the rule as adopted, all the notices, the Statement of Need and Reasonableness, all written comments and requests for a hearing received, and other required documents also have been submitted to the Attorney General.

[(If the proposed rule has been modified:) The proposed rule which was published in the *State Register* and made available to the public on \_\_\_\_\_, 19\_\_\_\_, has been modified. A free copy of the rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from \_\_\_\_\_, (or) A copy of the rule as modified is enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General within 14 calendar days of the date of submission to the attorney general. You may submit written comments to the attorney general on the legality of the rule. Any written comments must be submitted within eight calendar days of the date of submission of the rule to the Attorney General. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General  
204 Administration Building  
50 Sherburne Avenue  
Saint Paul, Minnesota 55155  
Telephone Number: (612) 296-1288

**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**

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, and phone number of  
appropriate person in the agency]

[Name] \_\_\_\_\_  
Commissioner of \_\_\_\_\_  
[Title] \_\_\_\_\_

Dated: \_\_\_\_\_

**2010.9945 RECOMMENDED AFFIDAVIT OF MAILING THE NOTICE OF SUBMISSION OF RULE ADOPTED WITHOUT PUBLIC HEARING OR EMERGENCY RULE TO ATTORNEY GENERAL.**

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

AFFIDAVIT OF  
MAILING THE NOTICE  
OF SUBMISSION OF  
[RULE ADOPTED  
WITHOUT PUBLIC  
HEARING]  
[EMERGENCY RULE]  
TO THE ATTORNEY  
GENERAL

STATE OF MINNESOTA )  
  )ss.  
COUNTY OF [\_\_\_\_\_] )

\_\_\_\_\_, being first duly sworn, deposes and says:

That on the \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, in the City of [\_\_\_\_\_] , County of [\_\_\_\_\_] , State of Minnesota, I mailed the attached Notice of Submission to the Attorney General by depositing in the [State of Minnesota Central Mail System for United States mailing] or [United States mail], a copy thereof, with postage prepaid, to all persons and associations who requested notice that the rule in the above-entitled matter has been submitted to the Attorney General.

\_\_\_\_\_  
[Name]  
\_\_\_\_\_  
[Title]

Subscribed and sworn to before me  
this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

**2010.9950 RECOMMENDED NOTICE OF ~~PROPOSED ADOPTION OF~~ INTENT TO ADOPT AN EMERGENCY RULE.**

Department of \_\_\_\_\_  
In the Matter of the Proposed Adoption  
of Emergency Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF ~~PROPOSED~~  
~~ADOPTION OF~~ INTENT  
TO ADOPT AN  
EMERGENCY RULE

Notice is hereby given that the State \_\_\_\_\_ proposes intends to adopt the above-entitled emergency rule. The statutory authority to adopt the emergency rule is contained in Minnesota Statutes, section \_\_\_\_\_. The agency, in adopting the rule, is following the procedures set forth in the Administrative Procedure Act for adopting emergency rules in Minnesota Statutes, sections 14.29 to 14.36.

All persons have 25 days [or longer specified time] after publication to submit data and views on the proposed emergency rule or any part or subpart of the rule in writing. Any comments must be submitted to:

[Name, address, and telephone number]

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

or

[The rule proposed for adoption relates to the following matters (informative statement ~~summarizing~~ describing the nature and effect of the proposed rule).]



**ADOPTED RULES**

A free copy of the proposed emergency rule is available by contacting \_\_\_\_\_.

The proposed emergency rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed emergency rule as noticed.

Upon adoption of the emergency rule by the agency, the emergency rule as adopted and its supporting documents will be delivered to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to \_\_\_\_\_.

The emergency rule will take effect five working days after approval by the Attorney General and be effective for \_\_\_ days. The emergency rule will be continued in effect for an additional \_\_\_ days if the agency gives notice of continuation in accordance with Minnesota Statutes, section 14.35.

[If applicable, other notices which are required to be inserted in the Notice of ~~Proposed Adoption of Intent to Adopt~~ Emergency Rules must be inserted.]

\_\_\_\_\_  
Date

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
Commissioner of \_\_\_\_\_

\_\_\_\_\_  
[Title]

**2010.9955 RECOMMENDED FINDINGS OF FACT, CONCLUSIONS, AND ORDER ADOPTING EMERGENCY RULE.**

STATE OF MINNESOTA

DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

FINDINGS OF FACT,  
CONCLUSIONS, AND  
ORDER ADOPTING  
EMERGENCY RULE

Notice of the [Commissioner's] [Board's] ~~proposed adoption of~~ [Commission's] intent to adopt the above-entitled emergency rule was published in the *State Register* on \_\_\_\_\_, 19\_\_\_\_, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes, section 14.30 on \_\_\_\_\_, 19\_\_\_\_.

All persons were given the opportunity to submit written comment on the rule for at least 25 days after notice of proposed rulemaking.

[If applicable: No submissions or comments on the rule were received by the agency. No requests for notice of submission to the attorney general were received by the agency].

[If any changes were made between the rule as proposed and the rule as adopted, findings of fact and conclusions supporting the reasons for the changes, and explanations why the changes do not constitute substantial changes as provided in the attorney general rules part 2010.1000, item D must be set forth.]

NOW, THEREFORE, IT IS ORDERED that the rule identified as \_\_\_\_\_ [as modified] is adopted this \_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, pursuant to authority vested in [me] [the Board] [the Commission] by Minnesota Statutes, section \_\_\_\_\_.

\_\_\_\_\_  
[Name]

\_\_\_\_\_  
COMMISSIONER OF \_\_\_\_\_

\_\_\_\_\_  
[Title]

**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

## 2010.9960 RECOMMENDED NOTICE OF SUBMISSION OF THE EMERGENCY RULE TO ATTORNEY GENERAL.

STATE OF MINNESOTA  
DEPARTMENT OF \_\_\_\_\_

In the Matter of the Proposed Adoption  
of the Rule of the State \_\_\_\_\_  
Governing \_\_\_\_\_

NOTICE OF SUBMISSION  
OF EMERGENCY RULE  
TO THE ATTORNEY  
GENERAL

Pursuant to your request and in accordance with Minnesota Statutes, section 14.32:

PLEASE TAKE NOTICE that the above-captioned emergency rule as adopted has been submitted to the Office of the Attorney General on the date of this notice, \_\_\_\_\_, 19\_\_\_\_, for review as to legality and form to the extent form relates to legality. The proposed emergency rule, the rule as adopted, all the notices, all written comments received and other required documents also have been submitted to the attorney general.

[(If the proposed emergency rule has been modified:) The proposed emergency rule which was published in the *State Register* and made available to the public on \_\_\_\_\_, 19\_\_\_\_, has been modified. A free copy of the emergency rule as modified as well as the findings of fact, conclusions, and order explaining the amendments and adopting the rule is available upon request from \_\_\_\_\_.  
(or) A copy of the rule as modified is enclosed with this notice.]

The rule must be approved or disapproved by the Attorney General on the tenth working day following date of receipt of the rule. You may submit written comments to the Attorney General. Any written comments must be submitted within seven working days of the date of this notice. Your comments must address only the issue of legality of the rule or the legality of the specific parts or subparts of the rule. The attorney general standards for review are set forth in Minnesota Rules, part 2010.1000. You may receive a copy of the attorney general decision upon written request to the attorney general. Your comments or requests for the decision must be directed to:

The Office of the Attorney General  
204 Administration Building  
50 Sherburne Avenue  
Saint Paul, Minnesota 55155  
Telephone: (612) 296-1288

Any written comments submitted to the Attorney General must be submitted simultaneously to:

[Name, address, and phone number of  
appropriate person in the agency]

\_\_\_\_\_  
Commissioner [Name]

\_\_\_\_\_  
[Title]

Dated: \_\_\_\_\_

REPEALER: Minnesota Rules, parts 2000.0200; 2000.0300; 2000.0400; 2000.0500; 2000.0600; 2000.0700; 2000.0800; 2000.0900; 2000.1000; 2000.9900; 2000.9905; 2000.9910; 2000.9915; 2000.9920; 2000.9925; 2000.9930; 2000.9935; 2000.9940; 2000.9945; 2000.9950; 2000.9955; 2000.9960; 2000.9965; 2000.9970; 2000.9975; 2000.9977; 2000.9980; 2000.9983; 2000.9985; are repealed.

## Department of Commerce

### Adopted Rules Relating to Uniform Conveyancing Blanks

The rules proposed and published at *State Register*, Volume 10, Number 49, pages 2368-2387, June 2, 1986 (10 S.R. 2368) are adopted as proposed.

## Department of Jobs and Training

### Adopted Permanent Rules Relating to Centers for Independent Living

The rules proposed and published at *State Register*, Volume 10, Number 51, pages 2503-2506, June 16, 1986 (10 S.R. 2503) are adopted as proposed.

## Department of Revenue

### Adopted Permanent Rules Relating to Revenue; Property Equalization; Public Utility Valuation

The rules proposed and published at *State Register*, Volume 10, Number 44, pages 2225-2231, April 28, 1986 (10 S.R. 2225) are adopted with the following modifications:

#### Rules as Adopted

#### 8100.0200 INTRODUCTION.

On October 19, 1973, the Minnesota Supreme Court in *Independent School District No. 99, et al. v. Commissioner of Taxation*, 297 Minn. 378, ruled that in estimating the market value of utility properties for ad valorem tax purposes, the assessing authorities must consider every element and factor affecting market value. The assessment formula used to value operating utility property since 1962, based solely on the original cost less limited depreciation and commonly known as the "Hatfield Formula," was thus invalidated as a rule of general application.

These rules are promulgated to fill that void and reflect the manner in which the value of utility property will be estimated by utilizing data relating to the cost of the property and the earnings of the company owning or utilizing the property.

Since the commissioner of revenue is by statute the assessor of some of the utility property in the state of Minnesota and has supervisory powers over all assessments of property, and may raise or lower values pursuant to Minnesota Statutes, section 270.14, The commissioner of revenue will estimate the valuation of the entire system of a utility company operating within the state. The entire system will be valued as a unit instead of valuing the component parts, and utilizing data relating to the cost of the property and the earnings of the company owning or operating the property. The resulting valuation will be allocated or assigned to each state in which the utility company operates. Finally, by the process of apportionment, the portion allocated to Minnesota will be distributed to the various taxing districts within the state. Most of the data used in the valuation, allocation, and apportionment process will be drawn from reports submitted to the Department of Revenue by the utility companies. These reports will include Minnesota Department of Revenue Annual Utility Reports (UTL forms), Annual Reports to the Federal Energy Regulatory Commission and Annual Reports to the Interstate Commerce Commission. Periodic examinations of the supporting data for these reports will be made by the Department of Revenue.

The methods, procedures, indicators of value, capitalization rates, weighting percents, and allocation factors will be used as described in parts 8100.0300 to 8100.0600 for 1986 and subsequent years, ~~or until, in the opinion of the commissioner of revenue, different conditions justify a change.~~

As in all property valuations the commissioner of revenue reserves the right to exercise his or her judgment whenever the circumstances of a valuation estimate dictate the need for it.

#### 8100.0300 VALUATION.

Subpart 1. **General.** Because of the unique character of public utility companies, such as being subject to stringent government regulations over operations and earnings, the traditional approaches to valuation estimates of property (cost, capitalized income, and market) must be modified when utility property is valued. Consequently, for the 1986 and subsequent assessment years, ~~until economic and technological factors dictate a change,~~ the value of utility company property will be estimated in the manner provided in this chapter.

## Board of Veterinary Medicine

### Adopted Rules Relating to Fees

The rules proposed and published at *State Register*, Volume 10, Number 50, pages 2479-2480, June 9, 1986 (10 S.R. 2479) are adopted as proposed.

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**Qualified 501(c)(3) Bond Pool (Federal Volume Limitation Act)****Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 20**

Total Pool Available

\$ 36,865,000

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

**Department of Jobs and Training****Outside Opinion Sought on Proposed Rules Governing Unemployment Insurance Appeal Procedure**

Notice is hereby given that the Department is seeking information or opinions from sources outside the Department in preparing to adopt rules governing the Unemployment Insurance appeal procedure pursuant to Minnesota Statutes, section 14.10.

The adoption of the rules is authorized by Minnesota Statutes, sections 268.0122, Subd. 5 and 268.021 which permits the Department to adopt rules with respect to programs it administers under chapter 268.

You are hereby advised, pursuant to Minnesota Statutes, section 14.115, that the proposed rule may have an impact on small businesses in Minnesota. Should the Department determine that small businesses will be impacted, more information about this topic will be contained in the Statement of Need and Reasonableness.

The Department requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups may submit statements of information or comment in writing.

Written comments should be addressed to:

William Brown, Director  
Appellate Section  
Unemployment Insurance and Job Services Division  
Room 215, 390 North Robert Street  
St. Paul, MN 55101

Any written material received by the Department shall become part of the rulemaking record to be submitted to the Attorney General in the event that the rules are adopted.

All statements of information and comment shall be accepted until October 31, 1986.

Joe Samargia, Commissioner  
Department of Jobs and Training

**Labor and Industry, Prevailing Wage Division****Notice of Certified Prevailing Wage Rates for Highway and Heavy and Commercial Construction**

On October 1, 1986 the commissioner certified prevailing wage rates for highway and heavy and commercial construction projects in the following Minnesota counties: Blue Earth, Brown, Cottonwood, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Jackson, Lac Qui Parle, LeSueur, Lincoln, Lyon, Martin, Mower, Murray, Nicollet, Nobles, Olmsted, Pipestone, Redwood, Renville, Rice, Rock, Sibley, Steele, Wabasha, Waseca, Watonwan, Winona and Yellow Medicine.

A copy of the determined wage rates for Minnesota counties may be obtained by contacting the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are

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## OFFICIAL NOTICES

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\$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner  
Department of Labor and Industry

## Metropolitan Council of the Twin Cities Area

### Public Hearings on Proposed Amendments to the Metropolitan Development Guide Recreation Open Space Policy Plan:

1. Modification of Allocations in the Fiscal Year 1988-89 Biennium of the Capital Improvement Program
2. Addition of State and Federal Recreation Areas As Eligible Components of the Regional Parks System

The Metropolitan Council will hold two public hearings Tuesday, Oct. 28, 1986, on proposed amendments to the Recreation Open Space Policy Plan. The hearings will be held at 11 a.m., in the Metropolitan Council Chambers, 300 Metro Square Bldg., 7th and Robert Sts., St. Paul, Minn. 55101. The first proposed amendment will involve a modification of some of the allocations in the Fiscal Year 1988-89 biennium of the Capital Improvement Program. These proposed changes, which have been recommended by four regional park implementing agencies, will result in the funding of new projects in four regional parks, and the deletion or reduction of funding for projects in five parks.

A second amendment involves the addition of state and federal recreation areas as a separate classification of parks for the regional park system. State and federal recreation areas would be included in the regional park system if master plans for these areas were approved by the Council pursuant to M.S. 473.313. These park areas would then be protected from adverse land uses under the Metropolitan Land Planning Act and Metropolitan Significance Review regulations.

All interested persons are encouraged to attend the hearings and offer comment. People may register to speak in advance by calling Jane Larson at 291-6500. Copies of the proposed plan amendments are available for public inspection beginning Sept. 29 at designated libraries throughout the region. For information on the location of these libraries or a free copy of the proposed amendments call 291-6464.

## STATE CONTRACTS

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Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal. 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.

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## Department of Administration: Procurement Division

### Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Library Furniture/Study Carrels	September 30, 1986	Community College	Coon Rapids	27-152-46352
Disposal of Hazardous Waste	September 30, 1986	Administration: Federal Sur- plus Property	Arden Hills	02-512-52091

## STATE CONTRACTS

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Underground Fuel Storage Tanks	September 30, 1986	Transportation	Various	79-000-71962
Steel Wheeled Rollers	September 30, 1986	Transportation	Various	79-382-01115 & 01114
Chain Link Fence	October 1, 1986	Transportation	Various	79-050-18000
Tractors, Lawn & Garden, plus accessories	October 1, 1986	Various	Various	Price-Contract
Courier Service	October 1, 1986	Community College System	Various	27-138-49413
Addendum #1—Drapery Fabric	October 1, 1986	Human Services Treatment Ctr.	Willmar	55-106-06366
Remove & Replace Sidewalk & Driveway	October 2, 1986	Military Camp Ripley	Worthington	01-000-04773
Portable Computers—Rebid	October 2, 1986	Revenue	St. Paul	67-520-01027
Surveying Supplies	October 2, 1986	Transportation	St. Paul	79-000-72013
Chain Link Fencing—Gates	October 2, 1986	Transportation	Morris	79-050-17983
Safety Clothing	October 3, 1986	Natural Resources	Grand Rapids	29-000-44250
Blasting Materials	October 3, 1986	Various	Various	Price-Contract
Walk Off Mats	October 6, 1986	Administration—Plant Mgmt	Various	Price-Contract
Tools, Lawn, Garden & Snow Tools (Small users)	October 6, 1986	Various	Various	Price-Contract
Film Processor	October 6, 1986	State University	Moorhead	26-072-09989
Compaq & Accessories—Rebid	October 6, 1986	Administration—Central Payroll	St. Paul	10-100-02742
Directional Beacon at Mora	October 6, 1986	Transportation—Aeronautics	Same	79-000-71743
Electrical Supplies	October 6, 1986	Various	Various	Price-Contract
Agfa Camera—Rebid	October 6, 1986	State University	Bemidji	26-070-12043
Combined Telephone Systems	October 6, 1986	Jobs & Training	Brainerd	21-200-13989

## Department of Administration

### Notice of Availability of a Request for Proposal on Provision of Cost-Effective Travel Services to all State Department and Agencies

The Department of Administration herein gives notice of the availability of a request for proposals on provision of cost-effective travel services to all traveling state employees. In fiscal year 1985, the state spent \$20.6 million on travel.

The Department is seeking to contract with one or more "preferred" travel agencies in the interests of: 1) saving state travel dollars; 2) saving employee time used for making travel arrangements; and 3) generating revenue.

An informational meeting for all potential proposers will be held on Thursday, October 9, 1986, 8:15 a.m.-9:30 a.m., in the Veteran's Service Building, conference room B (top floor). This will be an opportunity for proposers to ask questions regarding the RFP.

A copy of the request for proposal can be obtained through the mail by calling the Department at (612) 296-9997, or by writing to Karen Carpenter, Department of Administration, Travel Management Division, 610 N. Robert St., St. Paul, MN 55101.

The deadline for receipt of proposals is set for 4:00 p.m., October 30, 1986.

## Minnesota Historical Society

### Notice of Contract Availability for Services for Cultural Resource Surveys

It is anticipated that the Minnesota Historical Society will require the services of (a) qualified contractor(s) to complete three cultural resource surveys.

1. History/architecture reconnaissance level survey of Becker, Mahnomen, and Wadena Counties; time period approximately 1/16/87-7/31/87; project estimate \$17,500.00.

## STATE CONTRACTS

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2. History/architecture reconnaissance level survey of Wabasha County; time period 3/1/87-6/30/87; project estimate \$11,000.00.
3. History/architecture reconnaissance level survey of the northern portion of St. Louis County (the area including and north of T56N and excluding the platted area of the city of Hibbing); time period 2/1/87-7/31/87; project estimate \$16,500.00.

All surveys will be conducted in conformance with "Supplemental Information For County History/Architecture Surveys", available for inspection by appointment at the Ft. Snelling History Center. All surveys will include a specified number of National Register nominations. The qualified contractor will be responsible for all aspects of survey work including enlisting and documenting the assistance of identified local organizations.

### Required Qualifications:

1. A graduate degree in history, architectural history, art history, historic preservation, or closely related field; or a bachelor's degree in history, architectural history, art history, historic preservation or closely related field plus one of the following:
  - a) At least two years of full-time experience in research, writing, teaching, interpretation, or other demonstrable professional activity with an academic institution, historical organization or agency, museum, or other professional institution; or
  - b) Substantial contribution through research and publication to the body of scholarly knowledge in the field of history or American architectural history.
2. A valid Minnesota driver's license.
3. Experience in conducting cultural resource history/architecture identification, evaluation, and registration activities in conformance with the Secretary of the Interior's Standards and Guidelines for Archaeology and Historic Preservation. Preference will be given to those qualified contractors who have more extensive experience with comprehensive survey work in rural areas and/or in the upper Midwest.
4. Preparation of a National Register nomination form for a property that has been successfully placed on the Register within the last five years.
5. Experience in working with volunteer organizations.

Contractor qualifications, amount of bid, and quality of proposal will be considered in making the award.

Qualified contractors should send proposals (including a dollar bid and a project implementation plan), not to exceed two pages in length, resume, and completed National Register nomination form to: Mark Schwartz, Contract Officer, Minnesota Historical Society, 1500 Mississippi Street, St. Paul, MN 55101, no later than the close of the business day (5:00 p.m.), October 10, 1986. Late proposals will not be accepted.

Award of these contracts is contingent upon the availability of federal funds. This solicitation for proposals does not obligate the Society to complete these projects, and the Society reserves the right to cancel solicitation if it is considered to be in the Society's best interests. The Society also reserves the right to reject or accept any or all proposals and to waive any irregularities therein.

## Minnesota State Board of Investment

### Request for Proposal for the Purchase or Lease of an Investment Management/ Accounting System

The State Board of Investment (SBI) is requesting proposals from suppliers of computer systems to provide the SBI with an investment management/accounting system.

The vendor must provide a comprehensive investment management/accounting system capable of providing the SBI with the majority of its accounting, reporting and analytical requirements for the life of the contract.

Proposals must be received by 4:30 p.m. October 31, 1986. A copy of the Request for Proposal is available upon request. Inquiries and requests should be directed to:

Mike Schmitt, Administrative Director  
Minnesota State Board of Investment  
Room 105; MEA Building  
55 Sherburne Avenue  
Saint Paul, Minnesota 55155  
Phone: (612) 296-3328



# STATE GRANTS

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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.

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## Department of Energy and Economic Development Community Development Division

### Notice of Beginning of 1987 Small Cities Development Program (SCDP) Grant Cycle

Notice is hereby given that the Department of Energy and Economic Development fiscal year 1987 Small Cities Development Program (SCDP) grant cycle has begun effective immediately. The SCDP, which is funded by the U.S. Department of Housing and Urban Development, is a competitive grant program designed to meet critical social, economic and environmental needs of communities throughout the state. Its purpose, as stated in federal law is "the development of viable urban communities by providing decent housing and a suitable living environment and expanding economic opportunities, principally for persons of low- and moderate-income." Eligible applicants include cities and townships of under 50,000 population and counties of under 200,000 population. It is anticipated that approximately \$15 million will be available for the SCDP in FY '87. The application deadline will be **January 30, 1987**.

Each year, the Department receives many more applications than can be funded. A thorough knowledge of the program and the application requirements is very important. Application materials are available from the Community Development Division. For application materials or more information about the SCDP, contact:

Minnesota Small Cities Development Program  
Department of Energy and Economic Development  
9th Floor American Center Building  
150 East Kellogg Boulevard  
St. Paul, MN 55101  
(612) 296-2102

# SUPREME COURT DECISIONS

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## Decisions Filed Friday 19 September 1986

Compiled by Wayne O. Tschimperle, Clerk

**C0-85-1796** *State of Minnesota, petitioner, Appellant v. Russell Joseph Davis. Court of Appeals.*

Police officer properly stopped motor vehicle on the basis of anonymous tip that driver had just driven through red light; officer had sufficient reason to conclude that tipster was credible and that she obtained information in reliable way.

Reversed and judgment of conviction reinstated. Amdahl, C.J.

**C0-85-1846** *Ronald Lang, et al., petitioners, Appellants v. Robert E. Glusica, defendant and third party plaintiff v. Mark Jonassen, et al., third party defendants. Court of Appeals.*

Common law "fireman's rule" may not be relied upon to prevent a police officer from recovering damages from a person for injuries proximately caused by the person's actively resisting arrest by the officer.

Reversed and judgment of trial court reinstated. Amdahl, C.J.

**C4-86-46** *David Joseph Eggersgluss, petitioner v. Commissioner of Public Safety, petitioner, Appellant. Court of Appeals.*

Held, arresting officer had probable cause to arrest driver for driving while under the influence of alcohol.

Reversed and judgment of trial court reinstated. Amdahl, C.J.

Dissenting, Wahl, J.

**C2-86-899** *Bernard Anderson, et al., v. The City of Hopkins, et al., petitioners, Appellants. Court of Appeals.*

An order denying a motion for summary judgment made by defendants in a civil rights action pursuant to 42 U.S.C. § 1983 is an appealable order if the motion for summary judgment is based on a claim of immunity from suit.

Reversed and remanded to the Court of Appeals. Amdahl, C.J.

## SUPREME COURT DECISIONS

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**C8-85-833 In the Matter of the Contested Case of: Laura Baker School Association v. Department of Human Services, petitioner, Appellant. Court of Appeals.**

A determination of need from the department of human services is prerequisite to certification by the department of health of the Laura Baker School as an intermediate health care facility for the mentally retarded where a substantial remodeling of the physical plant and proposed change in the source of funding constitutes a change in the existing "program" as defined by Minn. Rules § 9525.0210, subp. 17 (1983).

Under the circumstances of record, the department of human services did not unreasonably defer either consideration or approval of the School's application for a determination of need.

Reversed. Coyne, J.

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