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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 7			
40	Monday Mar 21	Monday Mar 28	Monday Apr 4
41	Monday Mar 28	Monday Apr 4	Monday Apr 11
42	Monday Apr 4	Monday Apr 11	Monday Apr 18
43	Monday Apr 11	Monday Apr 18	Monday Apr 25

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

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

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

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

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How to Follow State Agency Rulemaking Action in the State Register

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before September 15, 1982, are published in the *Minnesota Code of Agency Rules 1982 Reprint*. **ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES** filed after September 15, 1982, will be included in a new publication, *Minnesota Rules*, scheduled for publication in late summer 1983. In the **MCAR AMENDMENT AND ADDITIONS** listing below, the rules published in the *MCAR 1982 Reprint* are identified with an asterisk. Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the *1982 Reprint* due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

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

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Minnesota Housing Finance Agency

Proposed Rules Relating to the Definition of Adjusted Income (12 MCAR § 3.002 N.) and the Effective Date of this Rule (12 MCAR § 3.0021)

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statute sections 14.13 to 14.20. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Monte Aaker upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, telephone—612/296-5615.

March 10, 1983

James J. Solem
Executive Director

Rules as Proposed

12 MCAR § 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents of a housing unit, after deducting the following:

- ~~1. the income of any resident (except the primary income recipient) who is under 18 years of age or is a full-time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;~~
- ~~2. nonrecurring income, as determined by the executive director, and sums received for foster child care;~~
- ~~3. extraordinary medical or other expenses as the executive director approves for exclusion;~~
- ~~4. an amount up to \$750 of the income of an additional income recipient 18 years of age or older other than the primary income recipient;~~
- ~~5. an amount equal to \$750 for each resident of the housing unit who is 18 years of age or over (maximum of two), and \$500 for each additional resident;~~
- ~~6. an amount up to \$750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.~~

1. an amount equal to 1,000 for each resident of the housing unit; and

2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

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

Exhibit 12 MCAR § 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	\$19,000	\$24,000
10.60-11.09%	\$20,000	\$25,000
11.10-11.59%	\$21,000	\$26,000
11.60-12.00%	\$22,000	\$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed \$22,000 for the nonmetropolitan area and \$27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families whose adjusted income does not exceed the greater of \$16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed ~~\$6,000~~ \$7,000 and whose assets, excluding the property to be improved, does not exceed \$25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed \$24,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

P.-V. [Unchanged.]

12 MCAR § 3.0021 Effective date.

The amendment to 12 MCAR § 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR § 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lesser of:

- A. \$6,000 or
- B. The actual cost of the work performed, or
- C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR § 3.013. If the recipient has an adjusted income of \$6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least \$10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds \$6,000 and who is financially capable of making a monthly loan payment of \$10 or more shall be eligible for a flexible loan.

12 MCAR § 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

- A.-D. [Unchanged.]
- E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the

extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct ~~installation~~ insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

Minnesota Housing Finance Agency

Proposed Rule Relating to the Income Limits for the Rehabilitation Loan Program (12 MCAR § 3.002 O.4.)

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statute sections 14.13 to 14.20. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subs. 4 and 11 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Monte Aaker upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, telephone—612/296-5615.

March 10, 1983

James J. Solem
Executive Director

Rules as Proposed

12 MCAR § 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents of a housing unit, after deducting the following:

- ~~1. the income of any resident (except the primary income recipient) who is under 18 years of age or is a full-time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;~~
- ~~2. nonrecurring income, as determined by the executive director, and sums received for foster child care;~~
- ~~3. extraordinary medical or other expenses as the executive director approves for exclusion;~~
- ~~4. an amount up to \$750 of the income of an additional income recipient 18 years of age or older other than the primary income recipient;~~
- ~~5. an amount equal to \$750 for each resident of the housing unit who is 18 years of age or over (maximum of two), and \$500 for each additional resident;~~
- ~~6. an amount up to \$750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.~~

1. an amount equal to 1,000 for each resident of the housing unit; and

2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

Exhibit 12 MCAR § 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	\$19,000	\$24,000
10.60-11.09%	\$20,000	\$25,000
11.10-11.59%	\$21,000	\$26,000
11.60-12.00%	\$22,000	\$27,000

2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed \$22,000 for the nonmetropolitan area and \$27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to

chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families whose adjusted income does not exceed the greater of \$16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed ~~\$6,000~~ \$7,000 and whose assets, excluding the property to be improved, does not exceed \$25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed \$24,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

P.-V. [Unchanged.]

12 MCAR § 3.0021 Effective date.

The amendment to 12 MCAR § 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR § 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lesser of:

- A. \$6,000 or
- B. The actual cost of the work performed, or
- C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR § 3.013. If the recipient has an adjusted income of \$6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least \$10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds \$6,000 and who is financially capable of making a monthly loan payment of \$10 or more shall be eligible for a flexible loan.

12 MCAR § 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

A.-D. [Unchanged.]

E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct ~~installation~~ insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

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

PROPOSED RULES

Minnesota Housing Finance Agency

Proposed Rules Relating to the Amount of Grant or Loan in the Rehabilitation Loan Program (12 MCAR § 3.064) and Eligible Properties (12 MCAR § 3.066)

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statute sections 14.13 to 14.20. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subs. 4 and 11 (1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Monte Aaker upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. Ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, St. Paul, Minnesota 55155, telephone—612/296-5615.

March 10, 1983

James J. Solem
Executive Director

Rules as Proposed

12 MCAR § 3.002 Definitions.

A.-M. [Unchanged.]

N. "Adjusted income" means the gross annual income, from all sources and before taxes or withholding, of all residents of a housing unit, after deducting the following:

- 1. the income of any resident (except the primary income recipient) who is under 18 years of age or is a full-time student, and who is related by blood, adoption, or marriage to a resident income recipient or his/her spouse;
- 2. nonrecurring income, as determined by the executive director, and sums received for foster child care;
- 3. extraordinary medical or other expenses as the executive director approves for exclusion;
- 4. an amount up to \$750 of the income of an additional income recipient 18 years of age or older other than the primary income recipient;
- 5. an amount equal to \$750 for each resident of the housing unit who is 18 years of age or over (maximum of two); and \$500 for each additional resident;
- 6. an amount up to \$750 for child care expenses which are eligible for deduction under United States Internal Revenue Service tax regulations.
 - 1. an amount equal to 1,000 for each resident of the housing unit; and
 - 2. extraordinary medical or other expenses as the executive director approves for exclusion.

Gross annual income from self-employment shall be deemed to be the net profit from said self-employment as declared by the applicant in Schedule C, F, or E, Part III, as appropriate, of the United States Internal Revenue Service Form 1040, or such other schedule as may be hereafter promulgated, but including as income all depreciation.

O. "Persons and families of low and moderate income" means:

- 1. with respect to limited-unit mortgage loans pursuant to chapter 4 of these rules, development cost loans pursuant to chapter 3 of these rules, planning grants pursuant to chapter 5 of these rules, and American Indian housing loans pursuant to chapter 8 of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation. "Metropolitan area" has the meaning given it in Minnesota Statutes, section 473.121, subdivision 2;

Exhibit 12 MCAR § 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	\$19,000	\$24,000
10.60-11.09%	\$20,000	\$25,000
11.10-11.59%	\$21,000	\$26,000
11.60-12.00%	\$22,000	\$27,000

- 2. with respect to limited-unit mortgage loans to veterans and veterans' dependents to assist in making down payments pursuant to Minnesota Statutes, section 462A.05, subdivision 19, those persons and families whose adjusted income does not exceed \$22,000 for the nonmetropolitan area and \$27,000 for the metropolitan area regardless of the interest rate on the mortgage loan for which down payment assistance has been given;

- 3. with respect to multi-unit mortgage loans pursuant to chapter four of these rules, development cost loans pursuant to chapter three of these rules, planning grants pursuant to chapter five of these rules, and American Indian housing loans pursuant to chapter eight of these rules, which loans or grants are intended for a multi-unit development, those persons and families

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PROPOSED RULES

whose adjusted income does not exceed the greater of \$16,000 or 550 percent of the gross rental for the dwelling unit to be occupied; provided, however, that the gross rentals for at least 75 percent of the dwelling units in such development shall not exceed 120 percent of the fair market rents for the geographical area in which such projects are located, as determined and adjusted from time to time by the United States Department of Housing and Urban Development; provided further, that the members may allow higher gross rentals for units in any structure if the members determine that such higher gross rentals are necessary because of prevailing levels of construction costs, unusually high or low family incomes, or similar factors relating to income available for housing or housing costs;

4. with respect to home improvement grants and rehabilitation loans pursuant to chapter seven of these rules to be made by the agency, those persons and families whose adjusted income does not exceed ~~\$6,000~~ \$7,000 and whose assets, excluding the property to be improved, does not exceed \$25,000; and

5. with respect to home improvement loans and accessibility improvement assistance pursuant to chapter six of these rules, those persons and families whose adjusted income does not exceed \$24,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

P.-V. [Unchanged.]

12 MCAR § 3.0021 Effective date.

The amendment to 12 MCAR § 3.002 N. is effective on June 1, 1983, or five days after its final adoption, whichever occurs first, for multi-unit mortgage loans under chapter 4 of these rules; on July 1, 1983, or five days after its final adoption, whichever occurs first, for home improvement grants and rehabilitation loans under chapter 7 of these rules; and on January 1, 1984, for all other programs of the agency.

12 MCAR § 3.064 Amount of grant or loan.

The amount of the rehabilitation grant or loan shall not exceed the lessor of:

- A. \$6,000 or
- B. The actual cost of the work performed, or
- C. That portion of the cost of rehabilitation which the agency determines cannot otherwise be paid by such person or family without spending an unreasonable portion of the income of such person or family thereon.

The agency shall review the creditworthiness of each recipient of a rehabilitation loan pursuant to 12 MCAR § 3.013. If the recipient has an adjusted income of \$6,000 or less, or if the recipient is not financially capable of making a monthly loan payment of at least \$10, the recipient shall be eligible for a deferred loan. A recipient whose adjusted income exceeds \$6,000 and who is financially capable of making a monthly loan payment of \$10 or more shall be eligible for a flexible loan.

12 MCAR § 3.066 Eligible properties.

Grant and loan funds shall be used only to improve properties which meet the following criteria:

- A.-D. [Unchanged.]
- E. The property to be improved with grant or loan funds shall be reasonably efficient with respect to energy consumption. Where the property is not reasonably efficient with respect to energy consumption, rehabilitation funds shall be used to the extent necessary to increase such efficiency. Energy saving features shall include, but not be limited to, installation or upgrading of ceiling, wall, floor, and duct ~~installation~~ insulation, storm windows and doors, and caulking and weather stripping. Energy saving features shall be consistent with the energy standards promulgated as part of the State Building Code but such improvements need not bring the housing into full compliance with such energy standards.

Minnesota Pollution Control Agency Solid and Hazardous Waste Division

Withdrawal of Proposed Rules Governing Management of Hazardous Waste (6 MCAR §§ 4.9100-4.9560)

Notice is hereby given that the rules published at *State Register*, Volume 6, Number 49, pages 2043-2226, June 7, 1982, (6 S.R. 2043), which were proposed for adoption without hearing, have been withdrawn.

Republication of rules relating to this subject matter will be made at a later date. Any person who would like to provide comments or make inquiries on these rules should contact Steve Reed at:

Minnesota Pollution Control Agency
Solid and Hazardous Waste Division
1935 West County Road B-2
Roseville, Minnesota 55113
(612) 297-2729

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

State Board of Education Department of Education Executive Division

Adopted Amendments to or Repeal of Rules Governing Chapter One (EDU 1, EDU 2, EDU 3, EDU 4, EDU 5, EDU 6, EDU 7, EDU 9, 5 MCAR § 1.0010); Chapter Two (EDU 20, EDU 21, EDU 22, EDU 23); Chapter Two-A (EDU 30, EDU 31, EDU 32); Chapter Three (EDU 40, EDU 41, EDU 42, EDU 43, EDU 44, EDU 45, EDU 46); Chapter Eight (EDU 140, EDU 141, EDU 142); Chapter Nine (EDU 160, EDU 161, EDU 162); Chapter Seventeen (EDU 327); Chapter Twenty-Two (EDU 420, EDU 421, EDU 422, EDU 423, EDU 424, EDU 425); Chapter Twenty-Nine (EDU 561); Chapter Thirty-Five (EDU 700, EDU 701, EDU 702, EDU 703, EDU 704, EDU 705, EDU 706); Chapter Thirty-Eight (5 MCAR §§ 1.0760-1.0764, 1.0766-1.0769); Chapter Forty (5 MCAR §§ 1.0800-1.0805)

The rules proposed and published at *State Register*, Volume 7, Number 16, pages 586-600, October 18, 1982 (7 S.R. 586) are adopted with the following modifications:

Rules as Adopted

EDU 4 General educational program requirements.

B. Guidance. Each school shall provide a guidance program to assist pupils in making satisfactory personal adjustments and appropriate educational and vocational plans.

C. Evaluation of pupil growth and progress.

1. Each district shall provide a testing program for the purpose of assessing measuring pupil ~~needs~~ and growth and for curriculum evaluation.

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ADOPTED RULES

~~D. Summer school. All summer school classes for elementary, middle and secondary school pupils and special summer school classes for area vocational technical school students shall be for a minimum term of six weeks, provided that 120 hours of instruction may be accepted as an equivalent term.~~

~~E.~~ D. Civil defense education. Each district shall provide civil defense education in grades K-12.

EDU 5 General staff requirements.

B. Superintendent's administrative and supervisory time. In school districts maintaining elementary, middle, and secondary schools but employing fewer than ten teachers, the superintendent shall devote at least one-half of the school day to the administration and supervision of the schools. In school districts maintaining elementary, middle, and secondary schools but employing ten or more teachers, the superintendent shall devote at least two-thirds of the school day to the administration and supervision of the schools.

EDU 6 Library.

C. Facilities. There shall be a well-equipped central library or library media room, of a size appropriate to the enrollment in every elementary, middle, and secondary school building plus, in all new school buildings, the auxiliary space and facilities needed for work storage, viewing, listening, and conference purposes. ~~The room shall be in a central location and have space for work storage, production, viewing, listening, and conferences~~ In one- and two-room elementary schools, provisions shall be made for a library service.

EDU 7 Records and reports.

C. Health record review. Each district shall assign a teacher, school nurse, or other professional person to review ~~each pupil's health record~~, at the beginning of each school year, the health record of all pupils under his or her direction. ~~The review is to assess the pupil's health status and, if necessary, to seek remedies for health concerns.~~ Growth, results of vision and hearing screening, and findings obtained from health assessments must be entered periodically on the pupil's health record.

5 MCAR § 1.00201 Elementary school curriculum.

~~C. Balanced time. Time allocations for each of the common branches must be balanced to provide a breadth of knowledge.~~

~~D.~~ Physical education time requirements. Physical education in elementary schools shall be scheduled as follows: grades one and two, one 10-minute period and one 25-minute period daily; grades three through eight, one 30-minute period daily.

EDU 23 Elementary school staff.

B. Pupil-teacher ratio. The acceptable maximum pupil-teacher ratio shall not exceed is 30 to 1 in any class in grades K-6 or K-8. The superintendent shall make a written report to the State Board of Education indicating the circumstances making an exception to this ratio necessary.

5 MCAR § 1.00301 General provisions for middle and secondary school.

B. Required and elective subjects. Each of the required subject hours set forth in EDU 40, 5 MCAR §§ 1.0036, 1.00401, and 1.00402 must equal 60 minutes of instruction. The remaining number of hours in a school year may be used to provide required or elective subjects. The length of actual class periods may be determined by the district.

5 MCAR § 1.00402 Curriculum for four-year senior secondary schools.

A. Common branches and hours. The following common branches of learning, or subjects, and credits shall be required in a secondary school composed of grades 9, 10, 11, and 12, in addition to any unmet requirements from EDU 40:

Subjects	Minimum Hours	Credit
Communication skills	480	4
Social studies	360	3
Mathematics	120	1
Science	120	1
Physical education in		
grades grade 9	120 80	1 ½
<u>and in grade 10</u>	60	½
Health	60	½

EDU 42 Basis for secondary school credit.

D. Correspondence courses.

2. Correspondence courses to be offered shall be approved by the commissioner of education and by the district local school administration before pupils are enrolled. ~~A teacher licensed in the area of the correspondence course shall~~

supervise and guide a pupil enrolled in a course Pupils taking such courses shall be under the supervision and guidance of a teacher assigned to such work.

EDU 43 Completion of secondary school requirements.

A. Graduation requirements. Each student must successfully complete 15 credits earned in a three-year secondary school, or 20 credits earned in a four-year secondary school in order to graduate. These credits must be ~~from~~ the same subjects required in 5 MCAR §§ 1.00401 and 1.00402 and elective subjects.

EDU 45 Admission to secondary schools.

B. Secondary school. Admission as regular pupils to any specified year of a three- or four-year secondary school shall be ~~those based upon the following conditions:~~ pupils, from public or nonpublic schools or schools with equivalent standards in this state or any other state, ~~who shall~~ submit admission records showing successful completion of the preceding years' work. ~~If the records can not be submitted, admission shall be determined by an examination or other method approved by the district~~ Other pupils shall furnish evidence of educational attainment satisfactory to the administrator. If such evidence cannot be shown, examinations approved by school authorities shall be administered to the pupil by the administrator.

EDU 46 Secondary school staff.

C. Teaching assignment. The maximum assignment of subjects for any secondary school teacher shall be five periods in a six-period day or six periods in a seven- or eight-period day. Each teacher shall have one period during the school day for preparation and conferences.

D. Maximum number of pupils. The maximum number of pupils per day for a secondary school teacher is 160 except for teachers of performing music groups and physical education classes. ~~The maximum number of pupils for each teacher in a physical education class is 40~~ An acceptable class size for instruction in physical education shall not exceed 40 pupils.

5 MCAR § 1.0761 Modified accrual accounting and other accounting requirements.

A. Recognition principles. Revenues and expenditures shall be recorded and recognized in accordance with generally accepted accounting principles. Generally accepted accounting principles provide for the accrual basis of accounting and the modified accrual basis of accounting as appropriate for the particular fund. The cash basis of accounting is not acceptable for district budgeting, accounting, and reporting. Specific standards for revenue recognition are contained in Minnesota Statutes, section 121.904. Specific standards for expenditure recognition are contained in Minnesota Statutes, section ~~121.905~~ 121.906.

Department of Public Welfare Income Maintenance Bureau

Repeal of Rule 53, Medical Assistance

The rule proposed for repeal and published at *State Register*, Volume 7, Number 26, pages 986-987, December 27, 1982 (7 S.R. 986) is now repealed.

Department of Public Welfare Social Services Division

Adopted Rule Governing a State Goal for the Number of Children in Foster Care

The rule proposed and published at *State Register*, Volume 7, Number 26, pages 987-988, December 27, 1982 (7 S.R. 987) is adopted as proposed.

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ADOPTED RULES

Department of Public Welfare Support Services Bureau

Repeal of Rules Governing the Pilot Program of Nonresidential Services for Mentally Ill Persons (12 MCAR § 2.021); Community-Based Residential Services for Mentally Ill Persons (12 MCAR § 2.022); Development of Chemical Dependency Prevention, Identification and Referral Programs for Affected Employees and Underserved Populations (12 MCAR § 2.024); Reimbursement for Cost of Care of Mentally Retarded or Epileptic or Emotionally Handicapped Children (12 MCAR § 2.030); Administration of Work Equity Project (12 MCAR § 2.063); and Services to Unmarried Parents (12 MCAR § 2.170)

The rules proposed for repeal and published at *State Register*, Volume 7, Number 25, pages 942-943, December 20, 1982 (7 S.R. 942) are now repealed.

SUPREME COURT

Decisions Filed Friday, March 11, 1983

Compiled by Wayne Tschimperle, Clerk

C1-82-1016 Michael Richard Williams, petitioner, Appellant, v. State of Minnesota. Ramsey County.

Post-conviction court properly denied petition seeking resentencing according to the Minnesota Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C7-82-663 State of Minnesota v. Robert Folstrom, Appellant. Clearwater County.

Minnesota has jurisdiction to enforce its criminal code, which makes the carrying of a pistol without a permit a crime, against defendant, a member of the White Earth Band of Chippewa Indians. The fact that defendant was arrested while in Indian country as defined by law does not alter this result.

The finding of fact by the trial court that defendant was not hunting at the time of his arrest is not clearly erroneous.

Affirmed. Todd, J.

C7-82-33 State of Minnesota v. Raymond A. Smith, Appellant. Dakota County.

Police did not violate defendant's Fourth Amendment rights in stopping automobile in which he was a passenger where police had an objective reasonable basis for suspecting that occupants of the car had been involved in commission of a robbery moments earlier.

Trial court did not commit prejudicial error in admitting in-court identification testimony of defendant which defendant contends was tainted by suggestive identification procedures.

Affirmed. Kelley, J.

C3-82-93 State of Minnesota v. Charles W. Dudrey, Appellant. Goodhue County.

Evidence was sufficient to support defendant's convictions.

Trial court did not err in allowing use of defendant's prior convictions to impeach his credibility, and defendant was not prejudiced by elicitation of other evidence indicating that he had a criminal record.

One of defendant's convictions is vacated pursuant to Minn. Stat. § 609.14 (1982).

One conviction affirmed, one conviction vacated. Kelley, J.

C2-82-1042 Melanie Olson and Dennis J. Olson, v. Ivan Martin Ische, *et al.*, Defendants, Knight Klub, Inc., *et al.*, Appellants. Carver County.

Portions of the Minnesota attachment statute, Minn. Stat. § 570.02, subd. 2 (b) (1) and 2 (b) (2) (ii) (1980), are unconstitutional

in that they fail to satisfy the due process standards set forth in *International State Bank v. Gamer*, 281 N.W.2d 855 (Minn. 1979), and *Mitchell v. W. T. Grant Co.*, 416 U.S. 600 (1974).

Reversed. Simonett, J.

C6-82-556 Claretta Rademacher and Sisters of the Order of St. Benedict, v. Insurance Company of North America, Appellant. Stearns County.

A member of a religious order, injured while a pedestrian, is not an "insured" under the Minnesota No-Fault Automobile Insurance Act, Minn. Stat. §§ 65B.41-65B.71 (1976), and is not entitled to recover basic economic loss benefits under a policy of automobile insurance insuring motor vehicles owned by the religious order, the named insured.

The security for payment of basic economic loss benefits, including replacement service loss benefits, applicable to injury to a pedestrian not otherwise covered is the security covering any involved motor vehicle.

Reversed. Coyne, J.

C2-82-991 Ronald P. Greenlee, petitioner, v. State of Minnesota, Commissioner of Public Safety, Appellant. Mower County.

A delay by the trial court in reporting a driver's conviction of an offense that leads to automatic license revocation by the commissioner does not bar revocation of the driver's license, but in this case the equities are such that the revocation period for the violation is deemed to have become effective at the time it would have become effective if the 10-day reporting statute had been followed.

Affirmed. Coyne, J.

C7-28-730 George A. Rogde v. United Van Bus Delivery, Relators. Workers' Compensation Court of Appeals.

Under Minn. Stat. § 176.101, subd. 2 (1982), an injured employee truck driver is not totally incapacitated from working and is disqualified from receiving temporary total disability compensation when he: 1) is capable of performing light work; 2) has lost his driver's license as a result of a conviction for driving while intoxicated; 3) has refused to undergo treatment for alcoholism; and 4) has neither applied for reinstatement of his license nor sought employment within his capacity to perform.

Reversed. Otis, J. Dissenting, Todd, J. and Scott, J. Took no part, Yetka, J.

C9-81-640 In the Matter of the Petition for Disciplinary Action Against William D. O'Hara, Jr., a Minnesota Lawyer. Supreme Court.

Although multiple violations of the Code of Professional Responsibility and a continuing failure to cooperate with the disciplinary process provide sufficient grounds for immediate disbarment in this case, the extreme penalty of disbarment is not imposed here so that respondent may have an opportunity to rehabilitate himself within prescribed time limits and petition for reinstatement upon meeting prescribed conditions.

Respondent is hereby indefinitely suspended from the practice of law. Per Curiam. Took no part, Coyne, J.

Decisions Filed Friday, March 18, 1983

Compiled by Wayne Tschimperle, Clerk

C1-81-647 Leslie LeRoy Freeman, Appellant, v. State of Minnesota. Brown County.

Where a defendant, who had a criminal history score of six or more, committed a forgery offense while awaiting sentencing for another forgery offense, trial court was justified in giving the defendant a progressively longer sentence for the latter offense, as if the Minnesota Sentencing Guidelines grid made provision for progressively longer sentences when a defendant's criminal history score is more than six.

Affirmed as modified. Amdahl, C. J.

C2-82-1266 State of Minnesota v. Robert Arthur Hines, Appellant. Hennepin County.

Supreme Court generally will not interfere when sentencing court refuses to depart from presumptive sentence established by the Sentencing Guidelines.

Affirmed. Amdahl, C. J.

C1-82-1341 State of Minnesota, Appellant, v. Robert Duane Benson, a.k.a. Robert John Benson. Ramsey County.

Under the circumstances of this case, defendant's misunderstanding as to his criminal history score is a ground for letting him withdraw his guilty plea and stand trial on the original charges but is not an appropriate basis for a downward durational departure from the presumptive sentence established by the Minnesota Sentencing Guidelines.

Remanded. Amdahl, C. J.

SUPREME COURT

C5-82-1486 State of Minnesota v. Michael James Gartland, Appellant. Ramsey County.

Multiple sentencing, using the so-called *Hernandez* method of computing the defendant's criminal history score, was not barred by Minn. Stat. § 609.035 (1982).

Dispositional departure, in the form of execution of a presumptively stayed sentence, was justified by the particularly aggravated way in which defendant committed the offense.

Affirmed. Amdahl, C. J.

C7-82-985 In re: D.M.C., R.L.R., Jr. Ramsey County.

Application for writ of prohibition seeking release of medical records to a court-appointed examiner in involuntary commitment proceedings is not made moot by the voluntary commitment of the proposed patients.

Minn. Stat. § 253B.07, subd. 5 (1982), provides for no explicit limitation on which medical records may be made available to the pre-hearing examiner in involuntary commitment proceedings.

The "medical privilege" is a statutory privilege and the legislature can limit or vary the privilege it has granted.

A proposed patient subject to involuntary commitment proceedings cannot assert a medical privilege to prevent relevant medical records from being released to the medical examiner appointed under Minn. Stat. § 253B.07, subd. 3 (1982).

A pre-hearing examiner appointed pursuant to Minn. Stat. § 253B.07, subd. 3 (1982), is entitled to receive prior medical records which are relevant and germane to the present mental and/or physical condition of the proposed patient. The proposed patient can make timely application to the court for a protective order to exclude records which are not relevant nor germane.

A pre-hearing examiner appointed pursuant to Minn. Stat. 253B.07, subd. 3 (1982), should use medical records of proposed patients to conduct the pre-hearing examination and may use them to form the basis for an opinion as to the necessity of involuntary commitment.

Writ of Prohibition shall not issue. Todd, J. Conc. spec., Wahl, Yetka and Coyne, JJ. Took no part, Simonett, J.

CX-81-789 Lanny Enberg, Appellant, v. John R. Bonde, etc., et al. Crow Wing County.

Director of Psychiatric Services and Director of Medical Services at state mental hospital who act in good faith and in compliance with emergency hospitalization statute are immune from liability under Minn. Stat. § 253A.21, subd. 2 (1980) and 42 U.S.C. § 1983 (Supp. IV 1980).

Where plaintiff is entitled only to injunctive and declaratory relief, plaintiff's claim that due process requires a recent overt act, attempt, or threat of harm to self or others for emergency hospitalization under the emergency hospitalization statute is mooted by subsequent legislative enactment of that requirement.

Persons incarcerated under the emergency hospitalization statute have no constitutional right to a preliminary hearing within 72 hours.

Affirmed. Yetka, J.

C2-82-523 IN THE MATTER OF THE PETITION AND RESOLUTION FOR ANNEXATION OF CERTAIN LAND TO THE CITY OF COTTAGE GROVE: Town of Grey Cloud, Appellant, v. Minnesota Municipal Board, Paul A. Schilling, et al. Washington County.

Affirmed. Yetka, J. Dis. Wahl, J. Took no part, Peterson, J.

C4-82-1169 Deborah Kuennen v. Citizens Security Mutual Insurance Company, Appellant. Stearns County.

Roepke v. Western Mutual Insurance Co., 302 N.W.2d 350 (Minn. 1981) does not permit piercing the corporate veil when the decedent was a majority shareholder and used only two of four corporate vehicles as family vehicles.

Reversed. Scott, J.

C7-82-601 Larry Jens Christensen, Appellant, v. Minneapolis Municipal Employees Retirement Board, et al., defendants and third party plaintiffs, v. State of Minnesota, third party defendant. Hennepin County.

1978 Minn. Laws, ch. 562, § 35, requiring elected city officers in the City of Minneapolis to attain age 60 before being eligible for a pension, and 1980 Minn. Laws, ch. 342, § 22, making this minimum age requirement applicable to "former, present or future" elective officers was a change in the Minneapolis pension plan and not merely a statement of what the law had previously been.

This state abandons the gratuity approach in analyzing the interest of an employee in a public pension or retirement plan and adopts a promissory estoppel approach. *Gibbs v. Minneapolis Fire Department Relief Ass'n*. 125 Minn. 174, 145 N.W. 1075 (1914), is hereby overruled.

The public employer's promise of a pension to appellant, under the facts of this case, is binding on the public employer under the principles of promissory estoppel.

The state's interest here in altering the pension eligibility requirements by imposing a minimum age requirement is insufficient to justify the impairment of the contractual obligation owed a public employee who has already retired and is receiving his pension; Minn. Stat. § 422A.156 (1982) is, therefore, invalid as an unconstitutional impairment of contractual obligations to the extent that it purports to apply to elected city officials, such as appellant, already retired at the time of its enactment.

Reversed. Simonett, J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over \$10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration State Register & Public Documents Division

Notice of Request for Proposals for Consulting, Creative/Production, List Marketing and Related Data Processing Services

Notice is hereby given that the Department of Administration, State Register & Public Documents Division, is seeking proposals for consulting, creative/production, list marketing and related data processing services for certain state licensing files to be sold by the State Documents Center. The contract period will run from May 1, 1983 to April 30, 1984, at an estimated cost of \$5,000.00. For additional information and Request for Proposal forms, contact Stephen A. Ordahl, Director, State Register & Public Documents Division, 117 University Avenue, St. Paul, MN 55155, (612) 297-3000.

Final submission date for completed proposals is Friday, April 15, 1983.

Department of Commerce Insurance Division

Notice of Request for Proposals for Insurance Administration Services for the Minnesota Workers' Compensation Assigned Risk Plan

Notice is hereby given that the Department of Commerce, Insurance Division, requests proposals for the administration of insurance coverage issued through the Minnesota Workers' Compensation Assigned Risk Plan. Licensed workers' compensation insurance companies and licensed self-insurance administration companies are eligible to submit bids, provided they possess sufficient financial, professional, administrative and personnel resources.

The current premium volume of the Assigned Risk Plan is approximately \$18.3 million, representing 15,800 policies. Bids may be submitted for all or a portion of the total business. Contracts will be for the period from July 1, 1983 through December 31, 1985.

The guidelines to be followed in preparing proposals and the detailed standards of performance which will be the basis of the contracts are available from the the Insurance Division. The deadline for receipt of proposals is 4:30 p.m., Monday, April 25, 1983.

STATE CONTRACTS

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

John D. Klein, Workers' Compensation Analyst
Department of Commerce
Insurance Division
500 Metro Square Building
7th and Robert St.
St. Paul, Minnesota 55101
(612) 297-3238

Department of Economic Security Greater Minnesota Job Training Office

Notice of Request for Proposals for Operation of CETA Title VII "Employer Seminars"

The Minnesota Department of Economic Security and the Greater Minnesota Private Industry Council are interested in providing training in hiring practices to personnel staff in small and medium sized businesses. In addition they are interested in providing participants of the Job Training Program in Greater Minnesota area (Economic Development Regions 1, 6W, 6E, 7E, 7W, 8, 9, 10) with information on what employers look for when they interview and hire new employees.

Jointly the organizations are requesting proposals for developing and delivering seminars for personnel staff and for producing a video tape presentation which features a candid discussion of what employers seek when hiring employees.

The agency/individual awarded the contract will develop a seminar and deliver a minimum of 15 times upon satisfactory completion of the 1st seminar. Fifteen video tapes will be produced as an outcome of these seminars.

Project dates for the contract are May, 1983 through September 30, 1983. Estimated costs of the contract will not exceed \$30,000.

A complete copy of the RFP is available from:

Charles Robinson
Greater Minnesota Job Training Office
690 American Center Building
St. Paul, MN. 55101

Proposals are due at the Greater Minnesota Job Training Office no later than 4:00 p.m. April 22, 1983.

Iron Range Resources and Rehabilitation Board Mineland Reclamation Division

Notice of Request for Proposals for Design Services

The Iron Range Resources & Rehabilitation Board is seeking proposals from exhibit design firms (museum type) to prepare designs for two reclamation projects to be administered by the Board.

Individuals or firms will develop exhibit designs for two old mine sites which are currently being used for tourism. The new designs will broaden the interpretation of the two sites. Both sites are on lands owned or leased by the Iron Range Resources & Rehabilitation Board.

Prospective responders who have any questions regarding this Request for Proposal may call or write:

Orlyn Olson
Mineland Reclamation Director
Iron Range Resources & Rehabilitation Board
P.O. Box 376
Calumet, Minnesota 55716
Telephone Number: (218) 247-7215

Proposals must be submitted by 4:30 p.m., April 18, 1983.

Iron Range Resources and Rehabilitation Board

Notice of Request for Proposals for the Preparation of a Steel Marketing Analysis

The Iron Range Resources and Rehabilitation Board is seeking a qualified consultant to identify and analyze existing and potential markets for semi-finished iron and steel products which could be competitively served from a plant based in Northern Minnesota.

The consultant will be required to inventory current and potential markets and determine the product mix and minimum capacity for each product which could be competitively marketed from a facility in Northern Minnesota.

Estimated cost of the study should not exceed \$100,000. Final date for submission of proposals is April 29, 1983.

A complete RFP may be obtained from:

Mr. Gary Lamppa
Commissioner
Iron Range Resources and Rehabilitation Board
Highway 53 South—P. O. Box 441
Eveleth, MN 55734
Telephone: 218-744-2993

A pre-proposal conference will be held at the offices of the Arrowhead Regional Development Commission, 200 Arrowhead Place (211 West Second Street), Duluth, MN, on April 14, 1983 at 1:30 p.m. to discuss the RFP and respond to any questions. Firms desiring to respond to this RFP should submit any questions they may have in writing to IRRRB prior to April 14. Questions pertaining to this RFP should not be addressed by telephone to IRRRB prior to April 14.

Department of Public Welfare Mental Health Bureau Brainerd State Hospital

Notice of Request for Proposal for Medical Services

Notice is hereby given that the Brainerd State Hospital, Mental Health Bureau, Department of Public Welfare, is seeking the following services for the period July 1, 1983 through June 30, 1984, with option to renew for a one year period ending June 30, 1985. These services are to be performed as requested by the Administration of the Brainerd State Hospital.

This request for proposals does not obligate the state to complete the projects, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

1. Services of a physician to provide "on call" service for an acute ward, physical examinations, make hospital rounds, and conduct clinics. The estimated amount of the contract will not exceed \$38,000.00.
2. Services of a radiologist to interpret x-rays taken at Brainerd State Hospital or special x-rays done under his/her direction at St. Joseph's Hospital, Brainerd, MN. The estimated amount of the contract will not exceed \$25,000.00.

Responses must be received by 11 a.m., April 25, 1983. Direct inquiries to:

Elmer O. Davis
Assistant Administrator (218) 828-2399
Brainerd State Hospital
East Oak Street
Brainerd, MN 56401

Department of Public Welfare Ah-gwah-ching Nursing Home

Notice of Request for Proposals for Medical Staff

Requests for proposals are being taken for Medical Directorship and Staff Physician coverage for the care and treatment of

STATE CONTRACTS

residents at Ah-gwah-ching Nursing Home. The maximum amount of the contract will not exceed \$50,000. For a copy of the Request for Proposal write:

Ah-gwah-ching Nursing Home
Ah-gwah-ching, MN 56430
Attn: James R. Wall, Administrator
TELEPHONE: 218-547-1250

The Request for Proposals are due by April 18, 1983. The dates of the service are for July 1, 1983 to June 30, 1984, with an additional one year renewal option.

Department of Transportation Technical Services Division

Notice of Availability of Contract for Land Use Study

The Minnesota Department of Transportation requires the services of a qualified Planning Consultant to conduct a Land Use Study along an interstate highway corridor.

Firms desiring to be considered for the work shall express their interest and submit their current Federal Forms 254 and 255, and or their brochure by April 11, 1983.

This is not a request for proposal. Please send your response or direct any questions to:

E. R. Gustafson
Manager of Valuation Section
Transportation Building, Room 511
St. Paul, Minnesota 55155
Telephone 612-296-1135

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

Department of Administration Cable Communications Board

Notices of Intent to Activate the Twin Cities Metropolitan Area Regional Cable Channel and to Adopt a Request for Applications for Designation of the Twin Cities Metropolitan Area Regional Cable Channel Entity

The Minnesota Cable Communications Board (MCCB) herein gives notices of its intent to activate the regional cable channel and to adopt a request for applications for designation as the entity for programming and facilitating use of the regional cable channel in the 7-county Twin Cities metropolitan area.

The board will activate the regional cable channel and make preparations for designation of the regional cable channel entity as provided in Minnesota Statutes § 238.05, subdivision 2 (c) and (d).

Procedures for MCCB activation of the regional cable channel, which will be on the standard VHF channel 6 on all Twin Cities metropolitan area cable communications systems, and for designation of the regional cable channel entity are set forth in 4 MCAR §§ 4.223-4.224 (Minnesota Code of Agency Rules).

A copy of the draft request for regional channel entity designation applications will be available for public inspection during normal business hours in the MCCB offices at 500 Rice Street (at University Ave.) in St. Paul after April 1, 1983. A copy of the draft document may also be obtained through the mail by calling the board office at (612) 296-2545, or by writing to the Minnesota Cable Communications Board, 500 Rice Street, St. Paul, MN 55103.

Written comments concerning the board's proposed activation of the regional cable channel and the draft request for applications may be submitted to Rochelle Barnhart, Chairman, Minnesota Cable Communications Board, 500 Rice Street, St. Paul, MN 55103.

Oral comments concerning these matters will be received by the board at a public hearing to be held during its regular meeting on April 8, 1983, 500 Rice Street (at University Ave.), St. Paul, commencing at 9:00 a.m.

Department of Commerce Insurance Division

Meeting Notice

Minnesota Comprehensive Health Association
Board of Directors
Tuesday April 12, 1983, 11:00 a.m.
Blue Cross and Blue Shield of Minnesota
Yankee Doodle Road
Eagan, MN

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may be obtained by telephone from the Life and Health Section, telephone (612) 296-2202.

Department of Energy, Planning and Development Criminal Justice Program of Office of Local Government

Notice of Availability of Funds for Mini-Grant Program

The Minnesota Juvenile Justice Advisory Committee announces the availability of \$20,000 for mini-grants up to \$1,000 to implement innovative or creative approaches in crime prevention. The projects may begin in October and end by September 30, 1984. Length of program may vary within this time frame. Applications for these programs must be received no later than June 1, 1983. Funds are available for projects that meet the prevention requirements stated in the Minnesota Multi-Year Action Plan.

Application forms, the Multi-Year Action Plan and other program information can be obtained by contacting:

Steve Gustafson
Criminal Justice Program
Office of Local Government
Department of Energy, Planning and Development
100 Hanover Building, 480 Cedar Street
St. Paul, Minnesota 55101
(612) 296-8243

Environmental Quality Board

Notice of Availability of Substitute Forms of Environmental Review

The Minnesota Environmental Review Program rules (6 MCAR § 3.021 *et seq.* (1982)) provide local governmental units and state agencies the opportunity to substitute other methods of review for the standard Environmental Review process. Sections 6 MCAR § 3.034 and 3.035 of the rules allow substitution of procedures and documents which differ from those of the standard Environmental Review process where these accomplish the same goals as environmental review and make review more

OFFICIAL NOTICES

efficient or timely. The same categories of projects which require Environmental Assessment Worksheets and Environmental Impact Statements under the regular Environmental Review process require review under substitute forms of review. These categories are specified in 6 MCAR §§ 3.038 and 3.039.

Local units have two forms of substitute review available to them, the Model Ordinance and Alternative Review. State agencies have Alternative Review available to them.

Model Ordinance:

The Environmental Review rules, at 6 MCAR § 3.035 C., present a model ordinance which local governmental units may adopt and use in place of the regular environmental review procedures. The model ordinance can be used only for projects which require no state permits and are consistent with applicable comprehensive plans. Projects which require state permits or which are inconsistent with applicable comprehensive plans must be reviewed through the regular Environmental Review process.

If a unit of government adopts the model ordinance exactly as set out in the rules, the ordinance does not require Environmental Quality Board (EQB) approval to become effective. If any changes from the wording of the model are proposed, approval from EQB is required.

Under the model ordinance, environmental review is based on the preparation, review and use of a written environmental analysis which consider environmental effects, reasonable alternatives and mitigative measures. The analysis is prepared by the proposer of the project. EQB has available suggested content guidelines for use in preparing and reviewing the environmental analysis documents.

Alternative Review:

Alternative review involves substitution of an existing review or approval process for standard environmental review procedures where the process can be demonstrated to accomplish the same purposes as environmental review. Alternative review proposals must be approved by EQB. In order to obtain EQB approval, the unit or state agency must demonstrate that the conditions specified in 6 MCAR § 3.034 A. are fulfilled.

Alternative review does not change the categories of projects which require environmental review, but allows for the use of different procedures and documents where these will expedite environmental review.

EQB has available guidelines for use in applying for Alternative Review.

Before deciding to pursue a substitute form of environmental review, units of government are advised to consider whether they are likely to receive sufficient benefits to warrant the effort of putting a substitute process in place. Since standard environmental review procedures have been streamlined by the 1982 rule revisions, it is unlikely that any significant net cost benefit will be realized if only a small number of projects under a units' jurisdiction will require environmental review.

The EQB will provide assistance to units of government interested in qualifying for substitute forms of review. Information and assistance may be obtained by contacting:

Gregg M. Downing
Environmental Review Coordinator
110 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-8253
Toll-free: 1-800-652-9747
(ask for EQB, Environmental Review Program)

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations for Month of April

Pursuant to Laws of Minnesota 1982, Chapter 523, Commissioner of Finance, Gordon M. Donhowe, announced today that the maximum interest rate for municipal obligations in the month of April will be eleven (11) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to twelve (12) percent per annum.

Department of Health Disease Prevention and Control Division

Notice of Availability of Family Planning Special Project Grants

Any eligible agency interested in administering a Family Planning Special Project in calendar years 1984 and 1985 shall contact the Minnesota Department of Health no later than 4:30 p.m. on Wednesday, June 1, 1983.

Purpose and Eligibility

Family Planning is voluntary planning and action by individuals to *attain or prevent pregnancy*. Family Planning Special Project Grants will be made available to local government agencies and non-profit corporations to continue or develop pre-pregnancy family planning services for Minnesota residents in accordance with the Family Planning Act (MN Statute § 145.925) and the Family Planning Rule (Chapter 27, Part II: 7 MCAR § 1.457).

How to Apply for Funds

A potential applicant should submit a Letter of Intent to apply for funds to the Commissioner of Health. The Letter of Intent must be received by the department no later than 4:30 p.m., Wednesday, June 1, 1983, and must include the name of the applicant agency, name and telephone number of an agency contact person and an estimate of the amount to be requested for each of the calendar years 1984 and 1985. Non-Community Health Services agencies should submit a copy of the Letter of Intent to the local Board(s) of Health in their proposed geographical service area.

Because the amount of grant funds available to the department for 1984 and 1985 is unlikely to exceed the amount available for 1983, the department requests that agencies receiving Family Planning Special Project funds for 1983 not apply for an annual sum which exceeds their calendar 1983 grant award. Agencies not receiving Family Planning Special Project funds in 1983 are requested to apply for not more than \$20,000.00 annually.

An agency expressing an intent to apply will be provided with a copy of the Family Planning Act, the Family Planning Rule, application materials, information on the review and award process, and the name and telephone number of a Family Planning Consultant available to provide technical assistance concerning preparation of the grant application.

The completed application must be submitted to the appropriate Regional Development Commission(s), Health Systems Agency(s) and local Board(s) of Health no later than the deadline for receipt of the application at the Department of Health. Three (3) copies of the completed application must be received by the department on or prior to 4:30 p.m., Monday, August 15, 1983.

Award of Funds

Applications will be reviewed as submitted and grants awarded in accordance with the Criteria for Award of Family Planning Special Project Grants found in the Family Planning Rule (7 MCAR § 1.457E). For the two-year program period 1984 and 1985, award priority will be given to agencies whose applications meet the criteria for award and propose all family planning components in counties with no family planning services as of December 31, 1978 (7 MCAR § 1.457E1). All other agency applications shall be funded in rank order based on the criteria for award (7 MCAR § 1.457E) as funds are available. The 1984 and 1985 annual awards to 1983 recipients of the Family Planning Special Project funds shall not exceed the 1983 award. The 1984 and 1985 annual awards to agencies not receiving FPSP funds in 1983 shall not exceed \$20,000.00. Applicant agencies will be notified in writing of the status of the application no later than December 31, 1983.

Duration of Funding

Funds for approved grants for these purposes will be awarded for the period of January 1, 1984 through December 31, 1985. Funding is dependent upon favorable action by the Minnesota Legislature relative to biennial budget requests by the Department for family planning funds.

Assistance from the Department of Health

All agencies submitting letters of intent are invited to a meeting on June 14, 1983 at the Minnesota Department of Health, 717 SE Delaware Street, Minneapolis, Minnesota. The purpose of the meeting will be to discuss the Family Planning Special Project application process, the amount of Family Planning Special Project funds available for calendar 1984 and 1985, and any concerns local agencies may have relative to the application process.

In the interim, further information regarding family planning and application for Family Planning Special Project Grants may be obtained by contacting:

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Ms. Judi Kapuscinski, Supervisor
Family Planning/Reproductive Health Unit
Minnesota Department of Health
717 SE Delaware Street
P. O. Box 9441
Minneapolis, MN 55440
(612) 623-5285

Minnesota Pollution Control Agency

Notice of Public Meeting Regarding Revisions to Minnesota's State Implementation Plan

Change of Meeting Date

Notice is hereby given for a change of meeting date. In the *State Register* dated March 21, 1983, the Pollution Control Agency published notice of a public meeting in Roseville on April 26, 1983, to consider amendments to the State Implementation Plan for lead. The meeting date has been changed to April 27, 1983, at 9:00 a.m.

Minnesota State Advisory Council for Vocational Education

Notice of Public Hearing: Duluth

The Minnesota State Advisory Council for Vocational Education will conduct a public hearing on April 14, 1983 at the Duluth Public School Board Room, Central Administration Building, Lake Avenue & Second Street on the vocational training needs of the private sector in Minnesota. Representatives of agriculture, business, industry and labor are encouraged to testify. The hearing will begin at 9:00 a.m.

Persons interested in testifying may contact the Council Offices in Minneapolis at 612/377-6100 for additional information.

STATE OF MINNESOTA

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

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FOR LEGISLATIVE NEWS

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

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

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

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

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

Legislative Reference Library
Room 111 Capitol

Interoffice

7-11-61