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STATE REGISTER

STATE OF MINNESOTA



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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			
49	Monday May 23	Friday May 27	Monday June 6
50	Friday May 27	Monday June 6	Monday June 13
51	Monday June 6	Monday June 13	Monday June 20
52	Monday June 13	Monday June 20	Monday June 27

*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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NOTICE

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 spring of 1984. 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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Issues 14-25, inclusive	Issues 40-51, inclusive
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PROPOSED RULES

Pursuant to Minn. Stat. of 1980, §§ 14.21, 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 §§ 14.13-14.20 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. § 14.29, 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 Public Utilities Commission

Notice of Termination of Rulemaking Concerning Proposed Rules of the Minnesota Public Utilities Commission Governing Intrastate Telephone Access Charges for Intrastate Toll Telecommunications

On February 28, 1983, the Minnesota Public Utilities Commission (the Commission) published a Notice of Intent to Solicit Outside Opinion in the above-captioned matter in the *State Register* at 7 S.R. 1242. That Notice alerted interested parties that the Commission was seeking information and comments from sources outside the Commission in preparing to promulgate rules governing the appropriate methods to determine the rates interexchange carriers and end users will pay for access to local telephone company facilities used to complete intrastate service offerings within the State of Minnesota.

On May 5, 1983, the Commission issued its Order Terminating Rulemaking in this proceeding.

The Commission hereby provides notice that it has terminated this proposed rulemaking.

Randall D. Young
Executive Secretary

Waste Management Board

Proposed Amendments to Rules of the State Waste Management Board Governing Supplementary Review and Governing Operating Procedures

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes sections 14.21 to 14.28 (1982).

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 Statutes sections 14.13 to 14.20 (1982).

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

Waste Management Board
Attn: Sharon Decker
123 Thorson Building
7323-58th Avenue North
Crystal, MN 55428
(612) 536-0816

PROPOSED RULES

Authority for the adoption of these rules is contained in Minnesota Statutes section 115A.32. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, MN, 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 the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, MN 55428.

The rules proposed for adoption relate to amending the following matters: (1) Eligibility for supplementary review; and (2) Review of petitions for supplementary review.

Copies of this Notice and the proposed Rules are available and may be obtained by contacting the Waste Management Board, Attn: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, MN 55428

May 3, 1983

Robert G. Dunn, Chairman
Waste Management Board

Rules as Proposed

6 MCAR § 8.003 Board meetings and officers.

A. Board meetings.

1.-5. [Unchanged.]

6. Vice chairperson. ~~At its first meeting in July of each year the board shall by a majority vote elect a member to serve as The chairperson shall appoint the vice chairperson. It shall be~~ is the duty of the vice chairperson, in the absence or disability of the chairperson, to preside at regular and special meetings, call special meetings, execute documents approved by the board, and perform ~~such~~ other duties as are assigned to the vice chairperson by a majority vote of the entire board.

7. Conduct of meetings.

a.-d. [Unchanged.]

e. Voting. The affirmative vote of a majority of all the members of the board ~~shall be~~ is necessary to make ~~any~~ a substantive decision, including the adoption, amendment, or repeal of rules and orders. Procedural questions are decided by a majority vote of the board members present. All members present, including the chairperson, shall vote or abstain on every matter presented for decision. Any board matter which does not receive a majority vote shall be placed on the agenda of the next regular monthly meeting or considered at a special meeting A substantive decision that fails to receive a majority vote of the entire board must be laid on the table or postponed to a time or a date certain.

f.-i. [Unchanged.]

6 MCAR § 8.006 Temporary board members.

A.-B. [Unchanged.]

C. Voting. The affirmative vote of a majority of all permanent and temporary board members eligible to vote on ~~an~~ a substantive issue ~~shall be~~ is necessary to make ~~any~~ a decision on the issue. Procedural questions are decided by a majority vote of permanent and temporary board members present and eligible to vote on the question. All eligible members present, including the chairperson, shall vote or abstain on every matter presented for decision. A substantive decision that fails to receive a majority vote of all permanent and temporary board members eligible to vote on an issue must be laid on the table or postponed to a time or a date certain.

6 MCAR § 8.014 Reimbursement for ~~out of state~~ travel.

Reimbursement from board funds to ~~any~~ a board member or staff member ~~other than~~ for expenses associated with authorized ~~out of state~~ travel ~~shall~~ expenses must be at the discretion and with the prior approval of the chairperson.

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

Rules as Proposed

6 MCAR § 8.203 Eligibility for supplementary review.

A. Eligible persons. The following persons ~~shall be~~ are eligible to request supplementary review by the board pursuant to Minnesota Statutes, sections 115A.32 to 115A.39:

~~A. 1.~~ 1. a generator of sewage sludge within the state who has been issued permits by the agency for a facility to dispose of sewage sludge or solid waste resulting from sewage treatment, except that the Metropolitan Waste Control Commission ~~shall~~ is not be eligible to request review for a sewage sludge disposal facility or for a solid waste facility with a proposed permitted life of longer than four years;

~~B. 2.~~ 2. a political subdivision which has been issued permits by the agency, or a political subdivision acting on behalf of a person who has been issued permits by the agency, for a solid waste facility which is located outside the metropolitan area and which is no larger than 250 acres, not including ~~any~~ a proposed buffer area; provided that if the petitioner is a political subdivision acting on its own behalf, the political subdivision shall have completed a plan conforming to the requirements of Minnesota Statutes, section 115A.46;

~~C. 3.~~ 3. a generator of hazardous waste within the state who has been issued permits by the agency for a hazardous waste facility to be owned and operated by the generator, on property owned by the generator, and to be used by the generator for managing the hazardous wastes produced by the generator only;

~~D. 4.~~ 4. a person who has been issued permits by the agency for a commercial hazardous waste processing facility at a site included within one of the areas on the board's inventory of preferred areas for ~~such~~ these facilities adopted pursuant to Minnesota Statutes, section 115A.09; and

~~E. 5.~~ 5. a person who has been issued permits by the agency for a disposal facility for the nonhazardous sludge, ash, or other solid waste generated by a permitted hazardous waste processing facility operated by the person.

B. Supplementary review petition. Persons eligible to request supplementary review under A. shall submit a petition to the board that demonstrates that the required permits have been issued by the agency and that a political subdivision has refused to approve the establishment or operation of the facility. If the political subdivision fails to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued, the political subdivision is considered to have refused approval to the facility.

6 MCAR § 8.204 Review of petitions for supplementary review.

A. [Unchanged.]

B. Contents of petition. A petition ~~shall~~ must include:

1.-10. [Unchanged.]

11. A copy of the resolution, order, or other action of a political subdivision refusing to approve the establishment or operation of the proposed facility ~~or~~ a statement that the required approval has been refused, or a statement that the political subdivision has failed to give final approval or denial to the establishment or operation of the facility within six months after agency permits are issued.

12.-13. [Unchanged.]

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.13-14.28 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. § 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 temporary rule will be published in the manner provided for adopted rules under § 14.18.

Department of Energy, Planning and Development Energy Division

Adopted Rules for the Administration of the District Heating Bonding Act Regarding Construction Loans

The rules proposed and published at *State Register*, Volume 7, Number 32, pages 1141-1145, February 7, 1983 (7 S.R. 1141) are adopted as proposed.

Department of Natural Resources

Commissioner's Order No. 2144

Amending Commissioner's Order No. 2023 Closing Certain Waters to the taking of Certain Species of Fish

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following amendments to Commissioner's Order No. 2023, closing certain waters to the taking of certain species of fish.

Section 1. Sec. 2 of Commissioner's Order No. 2023 is amended by adding the following waters:

Goodhue County:

Mississippi River, within 300 feet below U.S. Lock and Dam No. 3 near Red Wing, S. 10, T. 113, R. 15; except that fishing from shore within 300 feet below the lock and dam and from boats that remain outside the 300 foot restricted zone is permitted.

Wabasha County:

Mississippi River, within 300 feet below U.S. Lock and Dam No. 4 near Kellogg, S. 17, T. 110, R. 9; except that fishing from shore within 300 feet below the lock and dam and from boats that remain outside the 300 foot restricted zone is permitted.

Winona County:

Mississippi River, within 300 feet below U.S. Locks and Dams No. 5, S. 17, T. 108, R. 8; No. 5A, S. 9, T. 107, R. 7; and No. 6, S. 8, T. 106, R. 5; near Winona; and No. 7, S. 28, T. 105, R. 4, near Dresbach; except that fishing from shore within 300 feet below these locks and dams and from boats that remain outside the 300 foot restricted zone is permitted.

Except as provided in this order, all provisions of Commissioner's Order No. 2023 shall remain in full force and effect.

Dated at Saint Paul, Minnesota, this 3rd day of May, 1983.

Joseph N. Alexander, Commissioner
Department of Natural Resources

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

Minnesota Legislature Legislative Commission to Review Administrative Rules

Order for Suspension of Rules

Pursuant to Minnesota Statutes, Sections 14.39 to 14.43, the Legislative Commission to Review Administrative Rules hereby suspends, by a unanimous vote, the following rules of the Board of Teaching, effective June 1, 1983:

- 5 MCAR 3.090 D.1.b. — Provisional License to teach educable retarded
- 5 MCAR 3.090 E. 2, 3, & 4 — Provisional License to teach crippled children (physically handicapped)
- 5 MCAR 3.090 G. 3, 4, & 5 — Provisional License to teach special learning disabilities (emotionally disturbed and learning disabled)

May 4, 1983

Rep. Thomas R. Berkelman
Chairman, Legislative Commission
to Review Administrative Rules

A bill to make the suspension permanent will be introduced during the 1984 regular session of the Legislature. If the bill is not enacted, the suspension will terminate and the rules will become effective again unless repealed by the Board of Teaching. Questions and comments can be directed to:

Kathleen P. Burek
Executive Director
LCRAR
Room 510, State Office Building
St. Paul, MN 55155

Department of Public Safety Driver and Vehicle Services Division

Adopted Rules Governing the Appointment and Operating Requirements of Deputy Registrar Offices

The rules proposed and published at *State Register*, Volume 7, Number 31, pages 1108-1110, January 31, 1983 (7 S.R. 1108) are adopted with the following modifications:

Rules as Adopted

11 MCAR § 1.6122 Criteria for establishing a new office or a new deputy registrar appointment.

B. Other areas. In all other cities not included in A., the following conditions must be met before a new deputy registrar office is approved:

1. The estimated number of applications that a new deputy registrar office will process annually must be at least ~~5,000~~ 4,000. The number of applications will be estimated as follows: 20 percent of the applications 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 that are closer to the new proposed office than to any existing deputy registrar office.

Department of Commerce Board of Barber Examiners

Adopted Rule Amending License and Renewal Fees

The rule proposed and published at *State Register*, Volume 7, Number 31, Pages 1106-1107, January 31, 1983 (7 S.R. 1106-1107) is now adopted as proposed.

TAX COURT

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

John and Amy Fahl,
Appellants,
v.
Commissioner of Revenue,
Appellee.

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

Order Dated: May 10, 1983.

Docket No. 3658

This is an appeal from an Order of the Commissioner of Revenue dated July 2, 1982 assessing additional income taxes against the Appellants for calendar year 1979.

The matter was submitted on a Stipulation of Facts to the Honorable John Knapp, Chief Judge of the Minnesota Tax Court. Post-trial briefs and memoranda were filed and the case was submitted for decision on March 30, 1983.

John W. Riches, II, Esquire, 201 Twelfth Street North, Benson, Minnesota 56215, appeared for Appellants.

Paul R. Kempainen, Special Assistant Attorney General, appeared for Appellee.

Syllabus

A Minnesota resident taxpayer's share of 1979 partnership income, derived from the partnership's sales of non-Minnesota land in the course of its real estate business, is includable in that taxpayer's gross income assignable to Minnesota.

From the Stipulation of Facts and from the files and records herein the Court now makes the following:

Findings of Fact

1. The Appellants, John and Amy Fahl, are cash-basis, calendar year taxpayers who live at Route 3, Benson, Minnesota. They were residents of the State of Minnesota at all times relevant to this action, including the taxable year 1979. Appellant John Fahl is engaged in the business of farming located wholly within the State of Minnesota.

2. In 1977 and 1978, Appellant John Fahl invested as a fifty percent (50%) partner in a partnership known as Adams Gardens Development Co. (hereinafter "Adams Gardens"). Adams Gardens was organized on February 1, 1977, in the State of Texas and has continuously operated in the State of Texas ever since.

3. The principal business of Adams Gardens as listed on its 1979 federal partnership return is that of real estate sales. This business consists of the acquisition of undeveloped real estate, development thereof into mobile home sites, and the sale of said sites. All real property acquired, developed and sold by Adams Gardens is located in the State of Texas; and Adams Gardens did not conduct any business within the State of Minnesota during the period at issue herein.

4. During the taxable year 1979, Adams Gardens earned a net profit of \$60,321.86, which was duly reported as ordinary income on its 1979 federal partnership return. Appellant John Fahl's pro-rata distributive share of this income was \$30,160.93, as reported on his 1979 Schedule K-1.

5. On his 1979 federal individual income tax return John Fahl reported his Adams Gardens partnership income in arriving at his federal adjusted gross income for that year.

6. On his 1979 Minnesota individual income tax return, John Fahl reported his federal adjusted gross income on line 1, but on line 5 of that return took a subtraction of the \$30,161.00, representing his partnership income from Adams Gardens.

7. On audit by the Commissioner, Appellant John Fahl's subtraction of his Adams Gardens partnership income was disallowed, and the \$30,161.00 was added back into his Minnesota taxable income for 1979. Other adjustments were also made which are not at issue in this case. By his Order dated July 2, 1982, the Commissioner assessed additional 1979 income tax against Appellants in the amount of \$5,670.79, plus statutory interest.

8. On May 27, 1982, the Appellants filed an administrative protest with the Commissioner. By a letter dated August 20, 1982, the Commissioner denied the protest.

9. Appellants have taken this appeal from the Commissioner's Order and have, pursuant to Minn. Stat. § 290.531, timely paid the tax and interest assessed in said Order.

Conclusions of Law

1. Under Minnesota law applicable in 1979, the entire federal adjusted gross income of Minnesota residents is assignable to this state, including partnership income derived from sales of non-Minnesota land.

2. The Commissioner's Order for calendar year 1979 is hereby affirmed.

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

BY THE COURT

Dated: May 10, 1983

John Knapp, Chief Judge
Minnesota Tax Court

Memorandum

The only issue is whether a Minnesota resident taxpayer's share of 1979 partnership income, which was derived from the partnership's sales of non-Minnesota land in the course of its real estate business, is includable in that taxpayer's gross income assignable to Minnesota for the year 1979.

Prior to the year 1978, Minnesota law did not impose an income tax upon any income from sales of non-Minnesota real estate, whether received by residents or non-residents of this state, and whether in the form of partnership income or otherwise. However, as the result of an amendment to Minn. Stat. § 290.17, subd. 1, first made by the 1977 Legislature, Minnesota residents became taxable upon such income starting in the year 1978.¹

Allocation of the income of residents for the year 1979 is therefore governed by Minn. Stat. § 290.17, subd. 1, as amended that year.

Minn. Stat. § 290.01, subd. 20 defines the term "gross income" for individuals as the equivalent of an individual's federal adjusted gross income, with certain specified modifications, none of which are applicable herein. Therefore, a Minnesota resident's entire 1979 federal adjusted gross income is to be allocated to this state if he or she was a Minnesota resident during the entire year.

In the instant case, the taxpayer was a resident of Minnesota throughout the year 1979. The partnership income he received from Adams Gardens (\$30,161.00) was unquestionably includable in his 1979 federal adjusted gross income, and the taxpayer did in fact properly include it as such on his 1979 federal return. Pursuant to Minn. Stat. § 290.01, subd. 20, this federal adjusted gross income is equivalent to John Fahl's Minnesota "gross income", all of which is allocated for taxation to this state under Minn. Stat. § 290.17, subd. 1.

The income in question being thus legally allocated to Minnesota, the taxpayers had no statutory ground upon which to subtract it from federal adjusted gross income on their 1979 Minnesota return. The Commissioner therefore correctly disallowed this subtraction, and he correctly included the partnership income in the measure of the taxpayers' 1979 Minnesota income tax liability.

The above result is supported by the decision of this Court in *Richard A. & Phyllis J. Hanson v. Commissioner of Revenue*, Docket No. 2962 (Feb. 20, 1981). In that case the taxpayers were Minnesota residents who, like the taxpayers herein, were seeking to exclude their rental income from non-Minnesota real estate received in a year (*i.e.* 1978) after the change in Minnesota's allocation law. Recognizing that the statutes clearly assigned their income to Minnesota, the taxpayers in *Hanson* challenged the assessment on constitutional grounds. This Court rejected those arguments, stating on page 4 of its Order that:

" . . . Constitutional law is well settled that all states have the right to tax all income from whatever source received by their resident citizens . . . "

The main thrust of Appellant's argument appears to be that their particular income in question is covered by Minn. Stat. § 290.17, subd. 2(2) or (3), and that under the terms of those provisions their income is assignable outside Minnesota. The basic error in this argument is that subd. 2 of Minn. Stat. § 290.17 does not, by its own express terms, apply to the Appellants at all.

Minn. Stat. § 290.17, subd. 2 begins by saying that it applies only to "other taxpayers" not subject to Minn. Stat. § 290.17, subd. 1. In fact, the whole of section 290.17, when read in context, makes this point absolutely clear. It reads in relevant part as follows:

290.17 GROSS INCOME, ALLOCATION TO STATE.

Subdivision 1. Income of resident individuals, estates and trusts. (a) The gross income of individuals during the period of

¹ The basic amendment to Minn. Stat. § 290.17, subd. 1 applicable herein was made by Laws of Minn. 1977, ch. 423, art. 1, § 11. Additional amendments were made by Laws 1978, ch. 767, § 18; and Laws 1979, ch. 303, art. 1, § 18, but these are inapplicable to the present case.

time when they are residents of Minnesota and the gross income of resident estates and trusts shall be their gross income as defined in section 290.01, subdivision 20.

* * * * *

Subd. 2 *Other taxpayers*. In the case of taxpayers *not subject to the provisions of subdivision 1*, items of gross income shall be assigned to this state or other states or countries in accordance with the following principles: (Emphasis added.)

This language is clear and free from any ambiguity. It states that if taxpayers are individuals and residents of Minnesota (which Appellants in this case are) then the allocation of their income to Minnesota is to be governed by subd. 1 of Minn. Stat. § 290.17, and not by subd. 2.

The intent of the legislature can hardly have been made more clear. Starting in 1978, the entire income of Minnesota resident individuals, from whatever source derived, was to be allocated to Minnesota for purposes of taxation. This, of course, is exactly what the Commissioner has done in the case at hand.

Under no circumstances can Appellants ever come under the provisions of subd. 2 of Minn. Stat. § 290.17. That subdivision applies only to taxpayers other than Minnesota resident individuals.

In their brief, the Appellants refer to the fact that under Minn. Stat. § 290.311, subd. a(b), the character of their partnership income is to be the same for them as if they had realized it directly from the same source as it was realized by the partnership. In this case, that source was the sale of non-Minnesota real estate. However, this does not change the result sought by the Commissioner herein, because even income characterized as being from non-Minnesota real estate is still assignable to Minnesota, if the recipient is a Minnesota resident individual. Minn. Stat. § 290.17, subd. 1; *Hanson v. Commissioner, supra*; and *Morrison v. Commissioner, supra*.

The mere fact that Appellant John Fahl stood in the shoes of his partnership for purposes of characterizing the income in question, does not operate to change his personal tax status from that of a Minnesota resident into one of a Texas business. It is still John Fahl's personal receipt and enjoyment (either constructive or actual) of income which is the incidence of Minnesota's tax in this case. See *New York ex rel. Cohn v. Graves*, 300 U.S. 308, 57 S.Ct. 466, 81 L.Ed. 666 (1937).

Because the incidence of taxation in this case is solely John Fahl's receipt and enjoyment of his partnership income, which activity is clearly subject to Minnesota's jurisdiction and taxable by Minnesota under Minn. Stat. § 290.17, subd. 1, it therefore follows that any characterization of such income under the partnership tax statutes as being from non-Minnesota source is clearly irrelevant.

Appellants' sole constitutional argument is that Minnesota lacks sufficient nexus to tax the income in question. However, it is by now well-settled that Minnesota has sufficient nexus and thus clear jurisdiction, to tax all income (from whatever source) received by their resident citizens. *People of the State of New York ex rel. Cohn v. Graves*, 300 U.S. 308, 57 S.Ct. 466, 81 L.Ed. 666 (1937); *Lawrence v. State Tax Commission of Mississippi*, 286 U.S. 276, 52 S.Ct. 556, 76 L.Ed. 1102 (1932); *Hillstrom v. Commissioner of Taxation*, 233 Minn. 72, 75 (footnote), 45 N.W. 2d 802, 804 (footnote) (1951).

Simply stated, the required nexus in this case is the fact that Appellants are domiciled in the State of Minnesota. It is fundamental that domicile alone creates a relationship to the state which is adequate for numerous exercises of state power. *Williams v. North Carolina*, 317 U.S. 287, 298, 63 S.Ct. 207, 213, 87 L.Ed. 279 (1942).

More specifically, with regard to the states' power to tax the receipt and enjoyment of income by a domiciled resident, the leading authority is *Lawrence v. State Tax Commission, supra*. In that case the State of Mississippi had imposed its income tax upon the income earned by a resident businessman from construction work done by him outside the state. The businessman challenged the tax on several grounds, one of which was that the tax violated the due process clause of the Fourteenth Amendment. The United States Supreme Court specifically ruled against the taxpayer on that issue, holding that the tax did not violate due process.

The opinion of the *Lawrence* Court in 286 U.S. at 279-280, 52 S.Ct. at 557, set forth the applicable due process principles as follows:

The obligation of one domiciled within a state to pay taxes there, arises from the unilateral action of the state government in the exercise of the most plenary of sovereign powers, that to raise revenue to defray the expenses of government and to distribute its burdens equably among those who enjoy its benefits. Hence, domicile in itself establishes a basis for taxation. Enjoyment of the privileges of residence within the state, and the attendant right to invoke the protection of its laws, are inseparable from the responsibility for sharing the costs of government. (Citations omitted.) The Federal Constitution imposes on the states no particular modes of taxation, and apart from the specific grant to the federal government of the exclusive power to levy certain limited classes of taxes and to regulate interstate and foreign commerce, it leaves the states unrestricted in their power to tax those domiciled within them, so long as the tax imposed is upon property within the state or on privileges enjoyed there, and is not so palpably arbitrary or unreasonable as to infringe the Fourteenth Amendment. (Citation omitted.)

TAX COURT

The Supreme Court went on to apply these principles to the *Lawrence* case in 286 U.S. at 280-281, 52 S.Ct. at 557, as follows:

It is enough, so far as the constitutional power of the state to levy it is concerned, that the tax is imposed by Mississippi on its own citizens with reference to the receipt and enjoyment of income derived from the conduct of business, regardless of the place where it is carried on. The tax, which is apportioned to the ability of the taxpayer to bear it, is *founded upon the protection afforded to the recipient of the income by the state, in his person, in his right to receive the income, and in his enjoyment of it when received*. These are rights and privileges *incident to his domicile in the state* and to them the economic interest realized by the receipt of income or represented by the power to control, it bears a direct legal relationship. (Emphasis added.)

Having said this, the *Lawrence* Court concluded in 286 U.S. at 281, 52 S.Ct. at 557, that:

We can find no basis for holding that taxation of the income at the domicile of the recipient is either within the purview of the rule now established that tangibles located outside the state of the owner are not subject to taxation within it, or is in any respect so arbitrary or unreasonable as to place it outside the constitutional power of taxation reserved to the state.

The case of *New York ex rel. Cohn v. Graves, supra*, is almost directly on point with the issue herein. In that case the United States Supreme Court held that New York could tax one of its residents upon income received from rents of land located in New Jersey. In reaching this conclusion the Supreme Court said in 300 U.S. at 314, 57 S.Ct. at 468, that:

It would be pressing the protection which the due process clause throws around the taxpayer too far to say that because a state is prohibited from taxing land which it neither protects nor controls, it is likewise prohibited from taxing the receipt and command of income from the land by its resident, who is subject to its control and enjoys the benefits of its laws.

If New York can constitutionally impose an income tax upon a resident's rentals from land located in New Jersey, then Minnesota clearly can impose a similar tax upon a resident's partnership income from the sale of land located in Texas. The above authorities make it clear that the federal constitution allows a state to tax the receipt and enjoyment of all income by a domiciled resident, even that income derived from an out-of-state source.

In their brief Appellants rely heavily on the cases of *Marshall-Wells Co. v. Commissioner of Taxation*, 220 Minn. 458, 20 N.W. 2d 92 (1945) and *Target Stores, Inc. v. Commissioner of Revenue*, 309 Minn. 267, 244 N.W. 2d 143 (1976). However, these cases are readily distinguishable because they deal only with the income taxation of various types of business corporations under totally different allocation statutes from the one at issue in the instant case. Thus, the legal tests and the language used in those cases can only be read in light of those factual situations. They cannot be applied to the present case of an individual Minnesota resident who has personally received and enjoyed partnership income under the protection of the laws of his domicile, Minnesota.

Likewise, Appellants citation of both *Harris v. Commissioner of Revenue*, 257 N.W. 2d 568 (Minn., 1977) and *Hillstrom v. Commissioner of Revenue*, 270 N.W. 2d 265 (Minn., 1978), are of no help to their cause. The Minnesota Supreme Court itself put the issue in proper perspective, supporting the Commissioner's position herein, when it said in *Hillstrom* that:

Harris should not be read broadly as denying the state's power to tax its domiciliaries on income from out-of-state sources; as the court stated in *Bolier v. Commissioner of Taxation*, 233 Minn. 72, 75, 45 N.W. 2d 802, 804 (1951), "[i]t is well settled that a state may constitutionally tax a resident or a domestic corporation on income derived from sources outside of the state or may exempt such income from tax in the absence of unreasonable discrimination."

270 N.W. 2d at 268.

J.K.

SUPREME COURT

Decisions Filed Friday, May 13, 1983

Compiled by Wayne Tschimperle, Clerk

C3-82-207 State of Minnesota v. Thomas James Kulseth, Appellant. Nicollet County.

Trial court did not commit prejudicial error in admitting statement defendant made in response to custodial interrogation at the scene of the crime and at the police station.

Affirmed. Amdahl, C. J.

C8-82-1594 David Kevin LaQuier, petitioner, Appellant, v. State of Minnesota. Ramsey County.

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

Affirmed. Amdahl, C. J.

C1-82-1176 Roger Hinrichs, Appellant v. Farmers Cooperative Grain & Seed Association, Elevator #2738, Thief River Falls, Minnesota. Red Lake County.

Given the testimony before it, the trial court erred in granting respondent's summary judgment motion.

Reversed. Yetka, J.

C5-82-94, C7-82-95 Pickands Mather & Co., as Managing Agent for Erie Mining Company v. The Commissioner of Revenue, Relator (C5-82-94) and Range Municipalities and Civic Association, Relator (C7-82-95). Tax Court.

In computing the statutory limitation of its aggregate occupation, royalty and excise tax liability under Minn. Stat. § 298.40, subd. 1(b) (1982), a taconite mining company is not entitled to apportionment of its hypothetical income.

The additional production taxes imposed on respondent taconite mining company under Minn. Stat. § 298.241 (1976) for the years 1971 through 1974 are deductible by the taconite company for the purpose of determining its occupation tax liability.

Reversed on the aggregate tax limitation issue, and affirmed on the additional production tax deductibility issue. Simonett, J.

C1-82-142 State of Minnesota v. William Dye, Appellant. Ramsey County.

Contrary to his contentions on appeal, defendant received a fair trial and state's evidence was sufficient to justify his conviction of second- and third-degree murder.

Affirmed. Kelley, J.

Opinion Filed May 6, 1983

C0-82-357, C3-82-658 In re: Matter of Petition of Attorney Fees and Partial Reimbursement for Attorneys Fees Pursuant to M.S. 176.081. David W. Mack, Relator, v. City of Minneapolis, Self-Insured; and William L. Young, Relator, v. Minneapolis Moline Company/White Farm Equipment Company, Self-Insured and State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

Under the terms of Minn. Stat. § 176.081, subd. 7 (1982), an employer is required to pay partial reimbursement to employee for excess attorney fees awarded under subdivision 2 of that section.

Under the terms of Minn. Stat. § 176.521, subds. 2, 2a (1982), the Workers' Compensation Court of Appeals is not required automatically to approve provisions of a settlement agreement relative to attorney fees.

Because the court of appeals failed to make adequate findings of fact to allow appellate review of its award of attorney fees, the cases will be remanded.

The provisions of Minn. Stat. § 176.081 (1982) do not violate the right to contract guaranteed by the due process clauses of the state and federal constitutions or the separation of powers clause of the state constitution.

Case No. C0-82-357 is reversed in part and remanded; Case No. C3-82-658 is affirmed in part and remanded. Peterson, J. Concurring in part, dissenting in part, Todd, J. Dissenting in part, Yetka, 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.

Public Welfare Department Health Care Programs Division

Notice of Availability of Health Care Consultation Contracts

The Department of Public Welfare intends to issue consultant contracts to fifteen (15) physicians for the purpose of providing professional advice and recommendations in the administration of the Medical Assistance and General Assistance Medical Care Programs. All physicians must be Board Certified within their respective specialties. Specialty areas being sought are:

- Adult Psychiatry
- Child Psychiatry
- Obstetrics and Gynecology
- Plastic Surgery
- Surgery
- Ophthalmology
- Family Practice
- Neuro Surgery
- Internal Medicine
- Otorhinolaryngology
- Pediatrics
- Physical Medicine
- Orthopedics

The Department of Public Welfare also intends to issue consultant contracts to three physicians and one social worker with a background and experience in the determination of disability. These positions will comprise the State Medical Review Team.

Other contracts for professional advice and recommendations in the administration of the Health Care programs will be issued to:

1. A Doctor of Pharmacy.
2. A Licensed Consulting Psychologist.
3. A Doctor of Optometry
4. A Doctor of Chiropractic.
5. A Dentist Specialized in Orthodontics.
6. A Certified Audiologist.
7. A Certified Physical Therapist.
8. A Qualified Respiratory Therapist.

All contracts will be awarded to candidates based on their experience, education, achievements, professional standing and the Department's need for types of specialists. The Department of Public Welfare shall make the final selection of consultants and issue contracts of varying amounts of time and money for the period of July 1, 1983 through June 30, 1984 with an option for a one year renewal to June 30, 1985.

Proposals and inquiries should be directed to:

Thomas L. JoliCoeur, Supervisor
Health Care Programs Division
Professional Services Section
Space Center
444 Lafayette Road
St. Paul, MN 55101
(612) 296-8822

Deadline for selection is June 15, 1983.

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.

Administration Department Cable Communications Board

Notice of Revocation of Due Date for Applications for Designation of the Twin Cities Metropolitan Area Regional Cable Channel Entity

The Minnesota Cable Communications Board (MCCB) on April 13, 1983 gave notice of availability of the preliminary 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 deadline for receipt of applications for entity designation, tentatively set for 3:30 p.m., June 1, 1983, has been revoked. The Board intends to establish a new date at its meeting on July 8, 1983.

The Board is making 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 preliminary request for regional channel entity designation applications is available for public inspection during normal business hours in the MCCB offices at 500 Rice Street (at University Ave.) in St. Paul, or may 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.

Administration Department Cable Communications Board

Notice of Amendment of an Order for Interconnection of Cable Communications Systems within the 7-County Twin Cities Metropolitan Area

This is notice of amendment by the Minnesota Cable Communications Board (MCCB) of its order of April 8, 1983 for interconnection of cable communications systems in the Twin Cities metropolitan area, to allow a delay until January 1, 1984, for interconnection plans to be submitted to the Board.

The order directs all cable communications systems operating in the metropolitan area, as defined in Minnesota Statutes § 473.121, Subds 2 and 4, to either individually or cooperatively provide facilities for interconnection of cable systems in the area, pursuant to Minn. Stat. § 238.05, Subd. 2 (c) and Minn. Stat. § 238.06, Subd. 5.

The order stipulates that the interconnection facilities must provide at least one path for at least one 6 MHz video channel which will be transmitted from at least one centrally-located point in the metropolitan area to all cable system head end facilities serving a cable communications system located in whole or part within the metropolitan area for carriage of the regional channel defined in MCCB rule 4 MCAR § 4.221 D. over all cable systems in the area no later than July 1, 1984. The interconnection facilities must comply with 2-way service requirements specified in MCCB rule § 4.222 D. or in rule 4 MCAR § 4.225 A. 3. no later than January 1, 1986. All interconnection facilities must comply with the technical standards and procedures specified in MCCB rule 4 MCAR § 4.226.

The cable system interconnection facilities will be provided under procedures in MCCB rule 4 MCAR § 4.222 (interim interconnection) or in rule 4 MCAR § 4.225 (interconnection through facilities of an interconnect entity).

OFFICIAL NOTICES

State Board of Education (Vocational Education) Department of Education Vocational-Technical Division

Notice of Public Hearing

A public hearing pursuant to Minnesota Statutes, section 124.561, subd. 3a will be held for the purpose of post-secondary aid allocations on June 14, 1983, Room 716, Capitol Square Building, St. Paul, Minnesota, at 9:00 a.m.

State Board of Education (Vocational Education) Department of Education Vocational-Technical Education Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Rules for Licensure of Vocational Education Personnel

Notice is hereby given that the State Board of Education (State Board for Vocational Education) is seeking information or opinions from sources outside the agency in preparing to amend Rules for Licensure of Vocational Education Personnel. The following rules are being amended: 5 MCAR § 1.0789 Secondary vocational instructional personnel, specifically the qualifications for licensure; 5 MCAR § 1.0798, Secondary licensure chart; 5 MCAR § 1.0790 Post-secondary vocational instructional personnel, specifically the qualifications for licensure; 5 MCAR § 1.0798, Licensure charts, specifically specialized instructional personnel, secondary and post-secondary auto dismantling instructor. The promulgation of these rules is authorized by Minn. Stat. §§ 121.11 subd. 12, 121.21 subd. 6, and 125.185 subd. 4.

The State Board of Education (State Board for Vocational Education) requests information and comments concerning the subject matter of these rules. Interested or affected persons may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Tom Ryerson
Division of Vocational-Technical Education
518 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-4864 and in person at the above address.

All statements of information and comments shall be accepted until June 7, 1983. Any written material received by the State Board of Education (State Board for Vocational Education) shall become part of the record in the event that the rules are amended.

May 11, 1983

Mary Thornton Phillips
Assistant Commissioner
Division of Vocational-Technical Education

Minnesota Pollution Control Agency

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

Notice is hereby given, that on June 28, 1983, the Minnesota Pollution Control Agency (hereinafter referred to as "Agency") will hold a regularly scheduled Agency meeting in the Agency Board Room, located at 1935 West County Road B-2, Roseville, Minnesota, 55113. The Agency is currently scheduled to consider, among other things, a proposed revision to the State Implementation Plan (hereinafter referred to as "SIP") for the inclusion of revised operating permits that will require more stringent control of Total Suspended Particulate (TSP) emissions from Butler Taconite, Nashwauk; National Steel Pellet, Keewatin; and Eveleth Taconite, Eveleth. This proposal was originally scheduled to be considered on May 24, 1983.

Notice is also hereby given, that the public is invited to attend the Agency meeting on June 28, 1983, and to comment at that meeting on the proposed SIP revision. Written comment on the inclusion of these revised operating permits in the SIP may be submitted prior to the meeting and should be addressed to Douglas M. Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, 55113.

The June 28, 1983, Agency meeting will be held in the Agency Board Room, at the address noted above and will begin at 9:00 a.m. An agenda for the meeting will be available by June 17, 1983. Questions regarding the proposed revision or the Agency meeting should be directed to Douglas M. Benson at the address noted above or at 612/296-7743. A copy of the agenda and operating permits may be obtained from Jeanine Willenbring, also at the address noted above, and at 612/296-7280.

In general, the purpose of revising the SIP is to satisfy the requirements of the Clean Air Act, 42 U.S.C. §§ 7410 and 7502 and to ensure that air quality in the State of Minnesota meets the national ambient air quality standard for TSP. The specific purposes of the operating permits are to require operation, maintenance, and materials handling at the affected facilities in such a manner as to control emission of TSP. Copies of the proposed SIP revision are available for public review during regular office hours at the above noted address.

Dated this 13th day of May, 1983.

Sandra S. Gardebring
Executive Director

Minnesota Pollution Control Agency

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

Notice is hereby given, that on June 28, 1983, the Minnesota Pollution Control Agency (hereinafter referred to as "Agency") will hold a regularly scheduled Agency meeting in the Agency Board Room, located at 1935 West County Road B-2, Roseville, Minnesota, 55113. The Agency is currently scheduled to consider, among other things, a proposed revision to the State Implementation Plan (hereinafter referred to as "SIP") for the inclusion of revised operating permits that will require more stringent control of Total Suspended Particulate (TSP) emissions from Arsenal Sand and Gravel, New Brighton; the J. L. Shiely Larson Plant, St. Paul Park; and the J. L. Shiely Nelson plant, Cottage Grove.

Notice is also hereby given, that the public is invited to attend the Agency meeting on June 28, 1983, and to comment at that meeting on the proposed SIP revision. Written comment on the inclusion of these revised operating permits in the SIP may be submitted prior to the meeting and should be addressed to Douglas M. Benson, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota, 55113.

The June 28, 1983, Agency meeting will be held in the Agency Board Room, at the address noted above and will begin at 9:00 a.m. An agenda for the meeting will be available by June 17, 1983. Questions regarding the proposed revision or the Agency meeting should be directed to Douglas M. Benson at the address noted above or at 612/296-7743. A copy of the agenda and operating permits may be obtained from Jeanine Willenbring, also at the address noted above, and at 612/296-7280.

In general, the purpose of revising the SIP is to satisfy the requirements of the Clean Air Act and to ensure that air quality in the State of Minnesota meets the national ambient air quality standard for TSP. The specific purposes of the operating permits are to require operation, maintenance, and materials handling at the affected facilities in such a manner as to control emission of TSP. Copies of the proposed SIP revision are available for public review during the regular office hours at the above noted address.

Dated this 13th day of May, 1983.

Sandra S. Gardebring
Executive Director

Public Welfare Department Mental Health Bureau

Notice of Request for Proposal Concerning Updating of the Fixed Asset Inventory Records of the State Hospitals/Nursing Homes for the Fiscal Years Ending June 30, 1983 and June 30, 1984

Notice is hereby given that the Minnesota Department of Public Welfare is requesting proposals for updating of the fixed asset inventory records of the eight state hospitals and the two state nursing homes for the fiscal years ending June 30, 1983 and June

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30, 1984, in accordance with requirements contained in the U.S. Department of Health, Education, and Welfare Provider Reimbursement Manual of Depreciation.

The estimated amount of the contract will not exceed \$24,000.00 for the two year period.

All proposals must be received by 3:30 p.m., June 14, 1983.

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

James A. Walker, Acting Director
Residential Facilities Division
Mental Health Bureau
Department of Public Welfare
4th Floor, Centennial Office Building
658 Cedar Street
St. Paul, Minnesota 55155
Telephone: 612-296-8980

Public Welfare Department Social Services Bureau

Notice of Proposed CSSA Biennial State Plan

Notice is hereby given that the proposed Biennial State Plan required by the Community Social Services Act (CSSA) is available for review and public comment.

The proposed Community Social Services (CSSA) Biennial State Plan contains the statewide summary of 83 local community social services plans for the provision of social services.

A copy of the proposed CSSA Biennial State Plan for the period of July 1, 1983 through June 30, 1985 can be obtained from the Bureau of Social Services by contacting: Gail Fox, Minnesota Department of Public Welfare, Bureau of Social Services, 4th Floor—Centennial Building, St. Paul, MN 55155, (612) 296-7635.

Public comment on this plan will be accepted until June 15, 1983.

Transportation Department

Second Notice of Intent to Solicit Outside Opinion on Rules Governing State-Aid Operations

Notice is hereby given that the Minnesota Department of Transportation has been seeking information or opinions from sources outside of the department in preparing to promulgate new rules governing State-Aid Operations under Minnesota Statutes Chapters 161 and 162. Previous public notice of this fact was given on March 14, 1983 at *State Register*, Vol. 7, No. 37, p. 27.

Please be advised that *Laws of Minnesota* 1983, Chapter 17 was enacted and became effective subsequent to this notice. *Laws* 1983, Chapter 17 creates a town road account within the county state-aid highway fund. Distribution of town road funds may be made under a formula prescribed by the Commissioner if a county has not adopted its own distribution formula. The Commissioner also solicits information and opinion on this subject.

This notice should be considered an amendment to the notice cited above.

The Minnesota Department of Transportation requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Gordon M. Fay
State Aid Engineer
Division of Technical Services
Minnesota Department of Transportation
420 Transportation Building
St. Paul, Minnesota 55155

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Oral statements will be received during regular business hours over the telephone at (612) 296-9877 and in person at the above address.

All statements of information and comment shall be accepted until June 27, 1983. Any written material received by the Department of Transportation shall become part of the record in the event that the rules are promulgated.

Dated this 16th day of May, 1983.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA
State Register and Public Documents Division
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St. Paul, Minnesota 55155

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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.

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