

82 August 16

# STATE REGISTER

STATE OF MINNESOTA

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**August 16, 1982**

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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			
8	Monday Aug 9	Monday Aug 16	Monday Aug 23
9	Monday Aug 16	Monday Aug 23	Monday Aug 30
10	Monday Aug 23	Monday Aug 30	Monday Sept 6
11	Monday Aug 30	Friday Sept 3	Monday Sept 13

\*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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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 will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the State Register but are not published in the MCAR 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:

Issues 1-13, inclusive Issue 39, cumulative for 1-39
Issues 14-25, inclusive Issues 40-51, inclusive
Issue 26, cumulative for 1-26 Issue 52, cumulative for 1-52
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The listings are arranged in the same order as the table of contents of the MCAR.

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**PROPOSED RULES**

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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.

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**Department of Commerce  
Insurance Division****Proposed Rules Governing Private Passenger Automobile Surcharge Disclosure****Notice of Intent to Adopt Rules without a Public Hearing**

Notice is hereby given that the Insurance Division proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Insurance has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minn. Stat.* § 15.0412, subd. 4h (1980).

Persons interested in these rules shall have 30 days to submit comments. 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.

No public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period. In the event a public hearing is required, the agency will proceed according to the provisions of *Minn. Stat.* § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit them to William Kyle,

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

## PROPOSED RULES

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Insurance Division, 500 Metro Square Building, St. Paul, MN 55101. Copies of this Notice and the proposed rules are also available and may be obtained by contacting Mr. Kyle.

Authority for the adoption of these rules is contained in *Minn. Stat.* § 65B.133, subd. 7. Additionally, a statement of need and reasonableness describing the need for and reasonableness of each provision and identifying the data and information relied upon to support the proposed rules has been prepared and is available 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 William Kyle, Insurance Division, 500 Metro Square Building, St. Paul, MN 55101.

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

Thomas L. O'Malley  
Temporary Commissioner of Insurance

### Rules as Proposed (all new material)

**4 MCAR § 1.9081 Authority.** Rules 4 MCAR §§ 1.9081-1.9088 apply to all companies writing policies of private passenger automobile insurance. They are adopted pursuant to the authority of *Minnesota Statutes*, section 65B.133, subdivision 7.

**4 MCAR § 1.9082 Purpose.** Rules 4 MCAR §§ 1.9081-1.9088 are designed to assure that surcharge disclosure statements contain minimum basic information which allows insureds to make sound decisions when comparison shopping for automobile insurance.

#### 4 MCAR § 1.9083 Definitions.

- A. Applicability. For the purposes of 4 MCAR §§ 1.9081-1.9088, the terms defined in this rule have the meanings given them.
- B. Auto Plan. "Auto plan" means the Minnesota Automobile Insurance Plan.
- C. Chargeable accident. "Chargeable accident" is as defined in *Minnesota Statutes*, section 65B.133, subdivision 1, clause (b).
- D. Chargeable traffic violation. "Chargeable traffic violation" is as defined in *Minnesota Statutes*, section 65B.133, subdivision 1, clause (c).
- E. Major chargeable traffic violation. "Major chargeable traffic violation" means only those chargeable traffic violations listed below:
  - 1. driving while in an intoxicated condition or under the influence of drugs, and also includes a driver's license record entry of "Implied Consent;"
  - 2. failure to stop and report when involved in an accident;
  - 3. a felony involving the use of a motor vehicle;
  - 4. driving a motor vehicle in a reckless manner which results in an injury to a person; and
  - 5. driving a motor vehicle during the period of time the driver's license is suspended or revoked.
- F. Statement. "Statement" means the surcharge disclosure statement as defined in *Minnesota Statutes*, section 65B.133, subdivision 1, clause (f).
- G. Surcharge. "Surcharge" is as defined in *Minnesota Statutes*, section 65B.133, subdivision 1, clause (e).
- H. Surcharge plans. "Surcharge plans" is as defined in *Minnesota Statutes*, section 65B.133, subdivision 1, clause (g).

**4 MCAR § 1.9084 Readability.** All statements must meet the following standards of readability and legibility:

- 1. Statements must be written in simple, commonly used language so as to be easily readable and understandable by a person of average intelligence, experience and education.
- 2. Statements must be arranged in a logical and clear order.
- 3. Statements must be printed in type face at least as large as ten point modern type, one point leaded.

**4 MCAR § 1.9085 Highlighted provisions.** All surcharge plans containing one or more of the following provisions, must have the provisions highlighted in bold print or contrasting color print on the surcharge disclosure statement:

- 1. surcharges which are based on estimated damage instead of the actual amount paid by the insurer;

2. surcharges which are applied to a vehicle other than the one involved in an accident;
3. surcharges which apply to chargeable traffic violations other than major chargeable traffic violations;
4. surcharge plans that involve both the loss of a discount and the application of a surcharge for the same chargeable accident or chargeable traffic violation; and
5. surcharges which are higher for some classes than others (for example, youthful operator classes surcharged more than adult operator classes.)

**4 MCAR § 1.9086 Review.** Statements must be submitted to the Commissioner of Insurance as an informational filing at least 30 days prior to use. Although not subject to affirmative approval by the Commissioner the statements must comply with *Minnesota Statutes*, section 65B.133 and 4 MCAR §§ 1.9081-1.9088.

**4 MCAR § 1.9087 Auto plan procedures.** The auto plan shall submit a statement to the Commissioner of Insurance which is subject to prior approval. The participating members of the auto plan are responsible for providing a copy of the statement to auto plan insureds, and to their agents for use when an auto plan application is written.

**4 MCAR § 1.9088 Examples of surcharge plan.** Each company must display on the statement two examples of how their surcharge plan works. One example must show a one-vehicle insured with a \$200 premium. The second example must show a two-vehicle insured, with a \$200 premium on one vehicle and a \$300 premium on the second vehicle. The required format of these examples is contained in Exhibit 4 MCAR § 1.9088-1.

If the amount of the surcharge varies because of different factors such as territories, use the highest rated factor and furnish that information on the example.

If the premium includes expenses which are not surcharged, follow this procedure: If there is an \$80 bodily injury, property damage premium, expenses of \$7, and a 20 percent surcharge, the premium for one chargeable accident would be \$94.60. ( $\$80 - \$7 = \$73$ ;  $\$73 \times .20 = \$14.60$ ;  $\$14.60 + \$80 = \$94.60$ .) This procedure must be explained on the example.

**Exhibit 4 MCAR § 1.9088-1**

Surcharge plan formats

The formats contained in this exhibit must be used, but additional information may be included to explain unusual situations.

A. One vehicle insured.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$ 80	\$	\$
Uninsured motorist	5		
Personal injury protection	40		
Comprehensive	25		
Collision	50		
<b>TOTAL PREMIUM</b>	<b>\$200</b>	<b>\$</b>	<b>\$</b>

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# PROPOSED RULES

B. Two vehicles insured. Accidents chargeable to the principle operator of vehicle number one, while operating vehicle number one.

1. Vehicle number one.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$ 80	\$	\$
Uninsured motorist	5		
Personal injury protection	40		
Comprehensive	25		
Collision	50		
<b>TOTAL PREMIUM</b>	<b>\$200</b>	<b>\$</b>	<b>\$</b>

2. Vehicle number two.

Coverage	Premium with no accidents	Premium including surcharge for one chargeable accident	Premium including surcharge for two chargeable accidents
Bodily injury, property damage	\$120	\$	\$
Uninsured motorist	5		
Personal injury protection	60		
Comprehensive	40		
Collision	75		
<b>TOTAL PREMIUM</b>	<b>\$300</b>	<b>\$</b>	<b>\$</b>

## State Board of Education Department of Education Instruction Division

### Proposed Rules Governing the Preschool Screening Program (5 MCAR §§ 1.0720-1.0724)

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

Notice is hereby given that the State Board of Education proposes to revise the above-entitled rules without a public hearing. The board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in *Minn. Stat.* § 15.0412, subd. 4h.

The proposed rules govern the administration of the preschool screening mandate as authorized by *Minn. Stat.* § 123.703, subd. 1., which establishes authority for the Board of Education to promulgate rules for preschool screening program standards.

Proposed revisions to 5 MCAR §§ 1.0720-1.0724 remove obsolete provisions of the current rules, establish new procedures as required by legislative amendments to *Minn. Stat.* §§ 123.702-123.703, and provide clarifications of some preschool screening program standards.

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 provisions of *Minn. Stat.* § 15.0412, subds. 4-4f.

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

Thomas J. Lombard, Supervisor  
Preschool Screening Program  
State Department of Education  
647 Capitol Square Building  
550 Cedar Street  
St. Paul, MN 55101  
Telephone: (612) 296-4080

Authority for the adoption of these rules is contained in *Minn. Stat.* § 123.703, subd. 1. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Thomas J. Lombard upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, and 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 Thomas J. Lombard.

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

Copies of this notice and the proposed rules are available and may be obtained by contacting Thomas J. Lombard.

John J. Feda, Secretary  
State Board of Education

## Rules as Proposed

### Chapter Thirty-Six: Preschool Health and Developmental Screening

5 MCAR § 1.0720 Definitions. ~~For the purposes of this chapter~~

A. ~~Scope.~~ As used in 5 MCAR §§ 1.0720-1.0724, the terms are defined as follows: in 5 MCAR § 1.0720 have the meanings given them.

~~A. B. Assessment as used in these rules is synonymous with.~~ "Assessment" has the same meaning as "screening" as indicated below.

~~B. C. Developmental screening includes identifying.~~ "Developmental screening" means identification of the motor, language, social-emotional, and cognitive status of the child.

~~D. Health maintenance referral.~~ "Health maintenance referral" means a referral made for periodic medical or dental examinations, immunizations, or health or nutritional counseling.

~~E. Licensed, registered, or certified.~~ "Licensed," "registered," or "certified" means licensed, registered, or certified in Minnesota.

~~C. F. Parent or parents include: 1) a biological.~~ "Parent" means the mother or father, 2) an adoptive mother or father, 3) a or legally appointed guardian, 4) in the event that, if a child is a ward of the Commissioner of Public Welfare or other public official, the parent is the commissioner or such official; or 5) when. ~~If the parent or guardian is unknown or cannot be found after reasonable efforts have been made, then such the parent is an agency or other person appointed pursuant to Minnesota Statutes or court order.~~

~~D. G. Preschool health and developmental screening program.~~ "Preschool health and developmental screening program" or "screening program" means the systematic procedures developed to conduct screening of preschool children in accordance with Minnesota statutes.

**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

~~E.~~ H. Referral. "Referral" means an organized system for providing information ~~on~~ to the parent about agencies or ~~specialists~~ providers to be ~~utilized~~ used in evaluation, diagnosis, and treatment of problems identified through ~~the screening procedure~~ procedures.

~~F.~~ I. Screening. "Screening" means the use of procedures to sort out apparently well children from those in need of more definitive study of ~~physical~~ health or developmental problems.

~~G.~~ J. Screening personnel. "Screening personnel" means professional, paraprofessional, and volunteer staff ~~in local schools or contracted agencies~~ who will conduct activities ~~related to~~ as part of the preschool health and developmental screening program.

### 5 MCAR § 1.0721 Participation in program and delivery of services.

A. Available screening. All children in the state of Minnesota shall have available without cost the services of trained personnel to screen for possible health and developmental problems once prior to entering school.

B. Voluntary screening. Participation in the screening program by children shall be is voluntary, and shall can not be required for entry into school. ~~Parents~~ A parent may elect to participate in only a part of the screening program if they so desire.

C. Methods of providing screening. ~~Preschool health and developmental~~ A screening services program shall be provided by all local school boards, with the consultation of local societies of health providers. If possible school boards, individually or in cooperation with other schools or agencies, shall, wherever possible, contract with or purchase service services from an approved early and periodic screening program programs. Where If this is not possible, or all services are not available, school boards may contract with other health care providers to operate screening programs. Volunteer screening programs shall also be integrated and utilized where available.

D. Coordination with other screening programs. The Preschool Screening program programs and follow-up shall be coordinated as far as possible with other health screening programs and providers to eliminate duplication of services and provide more efficient administration. School districts boards shall arrange for exchange of information on students with other health screening programs and providers. Such The exchange shall be consistent with 5 MCAR § 1.0724 D.

### 5 MCAR § 1.0722 School district plan and program report.

A. Annual plan. Annually each school district shall submit to the Department of Education a plan for implementing a preschool screening program. The plan must be in accordance with *Minn. Stat.* §§ 123.701-123.705 and 5 MCAR §§ 1.0720-1.0724.

B. Content of plan. The plan must be on forms supplied by the Commissioner of Education and contain substantially the following:

1. information identifying the district and the preschool screening coordinator;
2. information about the screening, such as the number and age range of the children to be screened, the estimated screening date, and program components;
3. whether advanced funding is requested; and
4. the assurance of the clerk of the school board and the superintendent or other authorized agent of the district that the district is in compliance with state laws and rules requiring that:
  - a. the public will be informed and actively encouraged to participate in the preschool screening program;
  - b. all staff will meet the qualifications as defined in 5 MCAR § 1.0723;
  - c. all required screening components will be offered in accordance with 5 MCAR § 1.0724 A.;
  - d. the required screening services will be offered at no direct cost to the participating parent;
  - e. a referral and follow-up process will be available;
  - f. no reimbursement request will be submitted for children whose screening has been paid for by other agencies or for costs reimbursed by other sources;
  - g. no reimbursement will be claimed for more than one screening per child; and
  - h. copies of the child screening form and the program cost report will be submitted to the Department of Education.

C. Effect of plan. The plan is submitted in consideration of and for the purpose of obtaining state aid from the Department of Education. The district shall agree that state aid is paid in reliance on the representations and assurances made in the plan. The assurances in B.4. are binding on the district and the persons who sign on behalf of the district.

D. Exceptions. Requests for exceptions to required components of the screening program must be made annually before the screening program is implemented. The State Board of Education shall grant an exception if the district provides evidence that it is not financially feasible for the district to provide one or more components.

E. Program report. Annually each school district shall submit to the Department of Education a report of the following information:

1. the number of children screened in required and optional components;
2. the number of children who were eligible for screening;
3. the district's cost by component; and
4. the average cost of any optional components and any fees charged for optional components.

F. Final aid payment. The final aid payment shall be paid at the conclusion of the screening program or the fiscal year, whichever occurs first. A district's plan must have been approved and report submitted before the aid is paid.

#### **5 MCAR § 1.0723 ~~Staffing~~ Screening program staff.**

A. Preschool screening coordinator. Each district shall designate a preschool screening coordinator to be responsible for administering all components of the screening program. The coordinator may be a volunteer.

B. Screening personnel ~~Screening shall be performed by qualified personnel~~ In selecting personnel to implement the pre-school screening program for screening programs, school districts shall give first priority to volunteers who have the qualifications required by D.-1. of this part. Second priority shall be given to others possessing who possess at least minimum qualifications and who can provide services determined to be most cost effective. A person Personnel may perform one or more of the functions described in A. through F. of this section provided appropriate 5 MCAR § 1.0723 if they meet each of the qualifications are met. Each pre-school health and developmental screening program shall include the following screening personnel meeting the stated minimum qualifications:

C. Services delegated by professionals. If a qualified professional delegates services, the professional must assure that all delegated services comply with 5 MCAR §§ 1.0720-1.0724 and that adequate supervision is provided. The professional is responsible for services delegated and provided by other persons.

~~A. Nurse~~ D. Professional health screener qualifications. A person who performs professional health screening must be a licensed medical physician or a registered nurse. A screener who is a registered nurse must:

1. A nurse currently licensed to practice professional nursing in the state of Minnesota shall be qualified to perform those pre-school screening functions permitted under the state nurse practice act, and

2. Who has have successfully completed Department of Health training seminars provided by the Minnesota Department of Health or participated in equivalent training programs to prepare individuals to perform child screening as designated by the Minnesota Department of Health to prepare individual to perform child screening- in consultation with the Department of Education; and

2. have annually participated in at least five contact hours of continuing education in pediatric or health assessment. The hours must be offered through the Department of Health or meet the continuing education requirements of the Board of Nursing.

~~B. Clinic coordinator who shall be responsible for administration of all components of the pre-school screening program.~~

E. Developmental screener qualifications. A person who performs developmental screening must be licensed as a special education teacher, school psychologist, kindergarten teacher, prekindergarten teacher, or registered nurse and must have completed:

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1. training seminars provided by the Department of Education; or
2. equivalent training as determined by the Department of Education in consultation with the Department of Health.

~~C.~~ F. Vision and hearing ~~technician~~ screener qualifications. A person who performs vision or hearing screening must have been trained by:

1. ~~Who has been trained by the Minnesota~~ Department of Health to perform vision ~~and~~ or hearing screening; or
2. ~~Who has been trained by~~ a program providing equivalent preparation as determined by the Department of Health in consultation with the Department of Education.

~~D.~~ G. Laboratory assistant; for programs with a laboratory component qualifications. A person who performs laboratory tests must have been trained by:

1. ~~Who must be registered as a laboratory technician; or~~
2. ~~Who has been trained the~~ Department of Health to perform the specific tests used in the screening ~~session under the supervision of a nurse trained in accordance with 5 MCAR Section 1.0723 A.~~ program; or
2. a program providing equivalent preparation as determined by the Department of Health in consultation with the Department of Education.

~~E.~~ H. Clinic assistant qualifications. A person who is a clinic assistant may perform vision, hearing, and developmental screening and measure height, weight, and blood pressure. A clinic assistant is a lay person or a paraprofessional who must be under the supervision of a professional qualified for the screening component for which the clinic assistant is used. The professional must be present at the screening site. A clinic assistant must have been trained by:

1. ~~Who has been trained by~~ Department of Education or Department of Health professional staff ~~in administering one or more of~~ to administer the health or developmental screening measures; to be performed by the clinic assistant; or
2. ~~Who has been trained by~~ a program providing equivalent preparation as determined by the Department of ~~Health~~ Education or the Department of ~~Education~~ Health.

~~F.~~ I. Dental screener qualifications. A person who performs dental assessments must be a:

1. ~~Who must be a~~ licensed dental hygienist or a registered or certified dental assistant; or
2. registered nurse who has been trained by the ~~Minnesota~~ Department of Health or approved by the ~~Minnesota~~ Department of Health in consultation with the Department of Education, as having been trained to perform dental screening; or
3. licensed dentist, licensed physician, school nurse practitioner, or pediatric nurse practitioner using screening procedures according to 5 MCAR § 1.0724.

J. Volunteer. A volunteer may be a lay person, paraprofessional, or professional who performs screening without fee or payment. A volunteer may perform any of the screening components if the volunteer meets the qualifications established in 5 MCAR § 1.0723.

5 MCAR § 1.0724 Screening procedures.

A. Required components. Screening procedures shall include the following components: in 1. to 6., unless an exception has been granted according to 5 MCAR § 1.0722 D:

1. A professional health screener must obtain a health history at an individual parent interview to review of past and present health status including immunization status and perinatal, psychosocial, and family health and immunizations; information.

2. Developmental screening tests of A developmental screener must measure the child's development in the areas of cognition, fine and gross motor development, skills, speech and language development, and social-emotional development; and cognitive development by using procedures which shall include: The procedures must include at least:

a. a parent report of the child's functioning history in the areas of skills development, emotional status, and behavior status; and

b. direct observation of the child's functioning utilizing. Standardized developmental screening instruments approved by the Minnesota Department of Education and which have;

## PROPOSED RULES

~~(1)~~ must be used. They must contain norms for the age range tested and written procedures for administration and, scoring, and interpretation.

~~(2)~~ Norms for the age range being tested.

3. ~~A hearing tests:~~ To test screener must screen for deviations from the normal range of auditory acuity using the Puretone Audiometric Screening Test. A Audiometer or the Verbal Auditory Screening of Children may be used for 4 year old children (VASC).

4. ~~A Vision tests:~~ To test screener must screen for eye health, deviations from the normal range of visual acuity, and muscle balance in the child. Approved programs must The procedures include:

a. ~~Check the child for a history of maternal and/or neonatal infection and a family history of ocular abnormalities such as color blindness or retinitis pigmentosa.~~ an external inspection of the eyes, including lids, lashes, and surrounding area;

b. ~~Observe and examine the child's pupils and light following reflex, presence and absence of nystagmus, muscle balance, and an external examination of the eyes.~~

e. ~~muscle balance screening procedures include, including at least an observation, alternate cover test, and the Hirschberg test and corneal light reflection or a test with equivalent standards screening procedures as determined by the Department of Health or in consultation with the Department of Education, which is appropriate for the age group being screened;~~ and

d. c. ~~Test for visual acuity. A test an instrument to screen for visual acuity such as the Screening Test for Young Children and Retardates (STYCAR) HOTV Chart, the Snellen E cube, the Snellen Alphabet E-Chart, or a test an instrument with equivalent standards, as determined by the Department of Health or in consultation with the Department of Education, must be used.~~

5. ~~Dental inspection: The child's mouth is to be inspected for any obvious oral or dental abnormalities~~ A screener must measure the child's height, weight, and blood pressure.

6. A professional health screener must conduct a summary interview with the parent on the health and developmental findings to explain the results and make referral recommendations.

B. ~~As of July 1, 1978, the Optional components. Screening procedure shall, in addition to the components included in A. of this section, procedures may also include the following components: in 1. to 5.~~

1. Dental inspection of the child's mouth to detect obvious oral or dental abnormalities may be provided. If dental education is provided, it should include at least information about fluorides, snacks, sealants, and regular dental visits.

~~2.~~ 2. Physical inspection of the unclothed child including may be provided. If provided, it must include an inspection of pulse, respiration, blood pressure, head, eyes, ears, nose, pharynx, neck, chest, heart, lungs, abdomen, spine, extremities, joints, muscle tone, and skin and neurologic reaction according to normal procedures.

~~3.~~ 3. Laboratory tests: The following tests are to may be administered provided and if provided, must be appropriate for the age and sex of the child including. The tests may include:

a. ~~Tuberculin.~~

b. ~~Urine (bililabstix);~~

e. ~~b. anemia testing (microhematocrit, hemoglobin);~~

d. c. blood lead test for increased lead absorption and lead poisoning in children whose history indicates the possibility of exposure to undue levels of lead in the environment or atmosphere; and

e. d. sickle cell testing: This test is to be administered when indicated by the child's health history or physical inspection, and only with specific consent of the parent(s) or guardian(s).

~~3.~~ 4. Nutrition status review: assessment a review of the child's food intake may be provided.

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5. Other optional components must be explained in the district's annual plan. Providers of optional components must meet the standards for screening personnel described in 5 MCAR § 1.0723.

C. Duplication of services. No ~~preschool~~ screening program shall provide a laboratory ~~tests~~ test, a health history, or physical assessment to any child who has ~~been provided with these~~ had the laboratory ~~tests~~ test, a health history, physical assessment, or physical examination within the previous 12 months. The school district shall request the results of any laboratory test, health history, or physical examination conducted within the 12 months preceding a scheduled preschool screening clinic program, for inclusion in the school records in lieu of comparable information collected in the screening program. Procedures shall be developed for exchange of ~~student~~ information in accordance with ~~5 MCAR § 1.0724 D.~~

D. Private data. Data on individual ~~students in~~ children is private as defined by state statutes and shall not be disclosed to a third party, including the district, without the informed consent of the parent. All information must be made available to the ~~parents~~ parent.

E. Upon identification of Referrals. If a condition appears to be in need of diagnosis or further attention, ~~parents shall~~ the parent must be informed of appropriate agencies or ~~specialists~~ providers capable of performing needed services, such as the family physician, licensed school nurse, or special education programs.

F. Follow-up on referrals. A minimum of two attempts shall be made, at least one of which shall be in writing with return postage, to determine whether the recommended referrals were ~~utilized~~ used and were valid. The school district is not required to follow up on health maintenance referrals.

G. Inclusion in school records. Data on individual ~~students~~ children obtained in the screening program shall be incorporated into school district records, except as indicated in D. ~~of this section.~~

H. Medical assistance information. ~~Local~~ School districts shall request information from parents concerning medical assistance eligibility to make it possible for the district to comply with 5 MCAR § ~~1.0725~~ 1.07221 B.4.f.

I. Services prohibited. Diagnosis, treatment, or therapy shall not be provided in the ~~pre-school~~ screening program but ~~this does not preclude provision of such services~~ may be provided as a part of a related program.

J. Special education. Educational placement decisions, diagnostic conclusions, and objectives for individual educational plans may not be based solely or primarily on the screening data made available to the district from the screening program.

K. Fees. Districts may charge parents a fee for any of the optional screening components.

Repealer. 5 MCAR §§ 1.0722 and 1.0725 are repealed.

Relettering. Reletter 5 MCAR § 1.0724 G. as E. and reletter E. and F. as F. and G.

## Department of Transportation

### Proposed Rules Governing Individual Eligibility for Special Transportation Service for the Metropolitan Area of Minneapolis and St. Paul

#### Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held pursuant to *Minnesota Statutes*, section 15.0412, subdivision 4, in Room 57, State Office Building, State Capitol Complex, 435 Park Street, St. Paul, Minnesota on September 21, 1982, commencing at 10:00 A.M. and continuing until all persons or representatives of associations or other interested groups have had an opportunity to be heard concerning adoption of the proposed rules captioned above by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing.

The Commissioner of Transportation has been provided the statutory authority to promulgate rules governing individual eligibility for special transportation service in the Metropolitan area of Minneapolis and St. Paul under the Metro Mobility Project in *Minnesota Statutes* section 174.31, subdivision 3(g) (most current amendment found at Minn. Laws 1981, Third Extra Session, Chapter 2, Section 19); which section requires the commissioner to establish criteria to be used in determining eligibility. The proposed rules, if adopted, generally would:

1. establish eligibility criteria,
2. provide for administrative procedures,
3. require evidence of disability,

4. require Medical verification of disability,
5. permit winter season and conditional certification,
6. and provide an appeal process.

A copy of the rules is attached. Additional copies of the proposed rules are now available and one free copy may be obtained by writing to:

Robert M. Works, Director  
Transit Administration Section  
Program Management Division  
Minnesota Department of Transportation  
820 Transportation Building  
St. Paul, Minnesota 55155

Please be advised that interested members of the public who are visually handicapped may obtain, without charge, an audio recording of the rules in cassette tape form by contacting the:

Minnesota Department of Public Welfare  
Bureau of Social Services  
Blind and Visually Handicapped Program  
Communications Center  
Tape Librarian  
1745 University Avenue  
St. Paul, Minnesota 55104  
(Telephone: 612-296-6723)

The printed rules will also be available at the door on the date of the hearing.

Notice is also hereby given that twenty-five (25) days prior to the hearing a statement of need and reasonableness will be available for review at the address given above of the department of Transportation and at the Office of Administrative Hearings. The statement of need and reasonableness will include a summary of all of the evidence and argument which the department anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule(s). Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed rules are subject to change as a result of the rule hearing process. The Department of Transportation therefore strongly urges those who are potentially affected by these proposed rules to participate in the rule hearing process.

All interested or affected persons will have an opportunity to participate concerning the adoption of proposed rules governing individual eligibility for special transportation service in the Metropolitan area of Minneapolis and St. Paul. Statements may be made orally and written material may be submitted at the hearing. The Department of Transportation hereby requests those submitting written statements to provide a copy of said materials to the department address given previously, if possible. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted by mail to Harry Seymour Crump, Hearing Examiner, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7603, either before the hearing or within five (5) working days after the close of the hearing. If so ordered by the hearing examiner, the hearing record may remain open and such materials may be submitted for a period longer than five (5) working days but not exceeding twenty (20) calendar days after the close of the hearing. All such statements and materials will be entered into and become a part of the record for this proceeding. The rule hearing procedure is governed by *Minnesota Statutes*, sections 15.0411 to 15.0417 and section 15.052; as well as by 9 MCAR sections 2.101 to 2.112 (*Minnesota Code of Agency Rules*). If you have any questions about this procedure, call or write the hearing examiner.

Any person may request notification of the date on which the hearing examiner's report will be available, after which date the Department of Transportation may not take any final action on the rules for a period of five (5) working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the Department of Transportation. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report) or the

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department (in the case of the department's submission or resubmission to the Attorney General). The department expects that 50 persons may attend the hearing and it estimates that 1 to 2 hours will be necessary for the department to present its evidence at the hearing. It is not anticipated that adoption of the proposed rules will result in the expenditure of public monies by local bodies of government to implement the rules for the two years immediately following its adoption within the meaning of *Minnesota Statutes*, section 15.0412, subdivision 7.

Please be advised that *Minnesota Statutes*, chapter 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 *Minnesota Statutes* section 10A.01, subdivision 11 as any individual:

1. 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
2. Who spends more than \$250.00, not including his own traveling expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

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

Dated this 29th day of July, 1982.

Richard P. Braun  
Commissioner

### Rules as Proposed (all new material)

#### 14 MCAR § 1.7025 Definitions.

- A. Scope. Definitions of terms in 14 MCAR § 1.7025 apply to 14 MCAR §§ 1.7025-1.7037.
- B. Appeal. "Appeal" means a request for additional review of an application under 14 MCAR § 1.7037 after the initial application has been denied.
- C. Commissioner. "Commissioner" means the Commissioner of Transportation.
- D. Disability. "Disability" means physical or mental impairment.
- E. Handicapped. "Handicapped" means having a physical or mental impairment which limits one or more major life activities.
- F. Mainline bus service. "Mainline bus service" means bus transportation that operates on fixed routes and schedules and is designed to serve the general public.
- G. Major life activities. "Major life activities" means functions such as performing manual tasks, walking, seeing, hearing, speaking, breathing, learning, working, and caring for oneself.
- H. Metro Mobility. "Metro Mobility" means the project for coordination of special transportation service in the Twin Cities metropolitan area established under *Minn. Stat.* § 174.31, subd. 1.
- I. Motor vehicle. "Motor vehicle" has the meaning given to it in *Minn. Stat.* § 169.01, subd. 3.
- J. Physical or mental impairment. "Physical or mental impairment" means any physiological disorder or condition; any anatomical loss; any mental or psychological disorder; and specific learning disabilities. The term includes such diseases and conditions as orthopedic, visual, speech, and hearing impairments; cerebral palsy; epilepsy; muscular dystrophy; multiple sclerosis; cancer; heart disease; mental retardation; emotional illness; drug addiction; and alcoholism.
- K. Special transportation service. "Special transportation service" means motor vehicle transportation provided on a regular basis by a public or private person, designed to serve only handicapped persons who are unable to use mainline bus service.

#### 14 MCAR § 1.7026 Authority, purpose, and scope of rules.

- A. Authority. Rules 14 MCAR §§ 1.7025-1.7037 are adopted pursuant to the requirements of *Minn. Stat.* § 174.31, subd. 3, clause (g).
- B. Purpose. The purpose of 14 MCAR §§ 1.7025-1.7037 is to establish criteria to determine who is eligible for Metro Mobility special transportation services.

C. Scope. Rules 14 MCAR §§ 1.7025-1.7037 apply to persons in the Twin Cities area who request transportation services from the Metro Mobility special transportation project.

**14 MCAR § 1.7027 Eligibility criteria.** A person who requests Metro Mobility service is eligible for the service if the person is unable to walk or wheel one-fourth mile or more; or unable to walk up and down the steps of a mainline bus; or unable to wait outdoors for ten minutes or more; or unable to use mainline bus service because of a mental impairment.

A person with temporary disabilities is not eligible for Metro Mobility service.

**14 MCAR § 1.7028 Individual certification number.** An individual certification number shall be issued to an applicant found eligible under the criteria set forth in 14 MCAR § 1.7027. No person may use Metro Mobility service without a current certification number.

**14 MCAR § 1.7029 Applications for certification numbers.** Applicants shall request a certification number on forms provided by the commissioner. Application forms may be obtained from the Metro Mobility Transportation Center. All completed applications shall be delivered or mailed to the Metro Mobility Transportation Center.

**14 MCAR § 1.7030 Application forms.**

A. Information. Applicants shall submit at least the following information on the application form:

1. applicant's signature, certifying that all statements on the application form are true, and the date of signature;
2. applicant's name, address, telephone number, and any medical assistance number;
3. applicant's weight, date of birth, current Metro Mobility certification number, if any;
4. name and telephone number of person to notify in case of emergency;
5. applicant's disability and how it prohibits use of mainline bus service;
6. applicant's current mode of transportation, other than Metro Mobility; and
7. equipment the applicant uses when traveling outdoors, such as wheelchair, braces, orthopedic cane, walker, crutches, artificial limb, or white cane.

B. Answers. Applicants shall answer at least the following questions on the application form, explaining any negative responses to questions 7., 8., or 9.:

1. Is the applicant blind, deaf, or mentally handicapped? If so, has applicant received training in the use of mainline bus service? If applicant has not received training, why not? Would applicant agree to be trained in the use of mainline bus service? If not, why not?

2. Does the applicant need an attendant or escort when traveling? Explain.

3. Is the applicant's mobility limitation permanent?

4. Does the applicant need Metro Mobility service for all or only part of the year?

5. Does the applicant require a vehicle with a lift or ramp?

6. Does the applicant use a wheelchair? If so, can the applicant use an automobile or taxi?

7. Can the applicant walk or wheel for one-fourth mile in snow and in clear weather?

8. Can the applicant wait outdoors for ten minutes, both in temperature above 32 degrees Fahrenheit and in temperatures below 32 degrees Fahrenheit?

9. Is the applicant able to walk up and down steps of a mainline bus?

**14 MCAR § 1.7031 Mental disability form.**

A. Answers. An additional mental disability form must be submitted for a person with a mental disability that prohibits use of mainline bus service. Applicants must answer at least the following additional questions:

1. Does the applicant become overly anxious in unusual travel situations?

2. Is the applicant able to compare information cards with such things as signs, bus line numbers, and landmarks?

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## PROPOSED RULES

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3. Is the applicant able to ask for and understand assistance if lost?
4. Is the applicant able to follow directions and maintain attention to traveling?
5. Is the applicant able to cross streets in heavy traffic?

B. Names and date. The mental disability form must include the name of the applicant, name and relationship to applicant of person completing form, and date of completion.

### **14 MCAR § 1.7032 Medical verification form.**

A. Submitting. It is the applicant's responsibility to obtain a medical verification form and send it to the physician, certified physical therapist, or licensed psychologist most knowledgeable regarding applicant's disability. The appropriate physician, certified physical therapist, or licensed psychologist shall complete the form, describing applicant's mobility limitation and explaining how the disability interferes with use of mainline bus service, and submit it to the Metro Mobility Transportation Center.

B. Exemptions. A medical verification form is not required for persons confined to wheelchairs, or for persons who otherwise require lift or ramp service.

**14 MCAR § 1.7033 False information.** Persons who provide false information on the certification form, mental disability form, or verification form shall not be issued an individual certification number for use of Metro Mobility special transportation service.

**14 MCAR § 1.7034 Winter season certification.** Persons who require special transportation service during the winter months only are eligible to receive Metro Mobility service from November 1 through April 15. Persons who request winter season certification must submit regular Metro Mobility certification application forms. An applicant found eligible for seasonal certification shall be issued an individual certification number that shows seasonal certification status.

**14 MCAR § 1.7035 Conditional certification.** Persons who need temporary special transportation service until trained to use mainline bus service are eligible to receive Metro Mobility service for up to 18 months while receiving training. This conditional certification is dependent upon the applicant's agreement to complete training. Conditional certifications must be reviewed individually at six-month intervals.

Persons who request conditional certification must submit regular Metro Mobility certification application forms. An applicant found eligible for conditional certification shall be issued an individual certification number that shows conditional certification status.

**14 MCAR § 1.7036 Certification appeals board.** The commissioner shall establish a Metro Mobility Certification Appeals Board. The commissioner shall select board members and appoint a chairperson. Duties of members are as described in 14 MCAR § 1.7037. Board members may not alter eligibility criteria.

**14 MCAR § 1.7037 Appeal process.** Persons determined to be ineligible for special transportation service by Metro Mobility staff may appeal this initial decision through the following procedure:

A. The applicant shall submit to the manager of the Metro Mobility Transportation Center additional information and explanation regarding the applicant's inability to use mainline bus service.

B. The manager shall review the additional documentation, make the decision, and prepare a written statement of reasons for the decision. Notice of the decision and a copy of the statement must be mailed to the applicant.

C. If the applicant is dissatisfied with the manager's decision, the applicant may then appeal to the Metro Mobility Certification Appeals Board. The applicant shall mail a letter to the commissioner requesting a review by the appeals board. The decision of the appeals board is final.

# 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.

## Department of Public Safety Safety Administration Division

### Adopted Rules Governing Requirements for Motorcyclist Headgear Required to be Worn by Certain Operators and Passengers

The rules proposed and published at *State Register*, Volume 6, Number 44, pages 1810-1812, May 3, 1982 (6 S.R. 1810) are adopted as proposed.

## Office of the Secretary of State Election Division

### Adopted Amendments to Rules Concerning Voter Registration (1 MCAR §§ 2.0101-2.1101), Preparation of the White Ballot (1 MCAR §§ 2.2101-2.2115), Absentee Voting Materials and Delivery Procedures (1 MCAR §§ 2.4101-2.4205), and Election Judge Training (1 MCAR §§ 2.5101-2.5119)

#### Rules as Adopted

The rules proposed and published at *State Register*, Volume 6, Number 42, pages 1735-1747, April 19, 1982 (6 S.R. 1735) are adopted with the following modifications:

1 MCAR § 2.1005 Electronic or automatic data processing system of maintaining duplicate voter registration records.

J. Voter registration cards. Any voter registration accepted by a county or municipality after the date of its notification to the Secretary of State of the election under Minn. Stat. § 201.071, subd. 5, and this rule, is defective if it does not contain the day and month of birth of the registrant. Voter registration cards must conform to the specifications of 1 MCAR § 2.0301, except that the card and instructions must be modified to indicate that the day and month of birth are not optional.

## Department of Transportation Public Transportation/Planning Division

### Adopted Rules Relating to the Implementation of the State Rail Bank Program

The rules proposed and published at *State Register*, Volume 6, Number 41, pages 1711-1715, April 12, 1982 (6 S.R. 1711) are adopted with the following modifications:

#### Rules as Adopted

14 MCAR § 1.4011 Program criteria.

B. Funding criteria.

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## ADOPTED RULES

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1. The following criteria will be considered in determining whether a project will be funded:
  - e. the likelihood that no other entity will acquire a the rail line for an appropriate use.

### 14 MCAR § 1.4012 Acquisition of rail bank property.

A. Published list of proposed projects. The commissioner shall publish notice in the *State Register* listing the rail lines proposed to be acquired. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in ~~the areas~~ each county where the rail lines included in the list are located. After an initial publication, subsequent lists shall be published as necessary. The published list shall include the following information:

1. a statement that the list is published pursuant to *Minn. Stat.* § 222.63, subd. 3;
2. the name, length, and owning railroad of each line;
3. the counties where each line is located;
4. any identified future uses for each line;
5. the abandonment status of each line;
6. the name, address, and telephone number of the department's contact person; and
7. other pertinent information.

B. Initiation of title search. A title search of the property proposed for acquisition shall be initiated after the procedures under A. have been completed. For a rail ~~lines~~ line not yet abandoned, a title search shall be initiated after the owning railroad has filed an abandonment application with the appropriate decision making authority. To inform the public of its action the department shall publish a notice in at least one newspaper of general circulation in ~~the area~~ each county where the line is located.

C. Public information meeting. After the title search has been completed the department shall hold at least one public meeting to provide information and to seek comments from the public. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in ~~the area~~ each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in ~~the area~~ each county where the rail line is located.

D. Decision to acquire. The commissioner shall decide whether or not to acquire a rail line after the public meeting. The decision shall be based upon the program criteria cited in 14 MCAR § 1.4011. The department shall publish notice of the decision in at least one newspaper of general circulation in ~~the area~~ each county where the line is located.

E. Notification to railroads. The department shall send a notice to each railroad that owns a rail line proposed for acquisition at the following times:

1. when the initial and subsequent lists of proposed acquisitions is published pursuant to A.;
2. when the public meeting notices are published pursuant to C.; and
3. when the department publishes notice of its decision pursuant to D.

~~E.~~ F. Simultaneous implementation of 14 MCAR §§ 1.4012-1.4014. The commissioner shall simultaneously implement the procedures for acquisition, utilization, or disposition of rail bank property when it is possible. The initial notices which are published in the *State Register* and newspapers shall include a statement noting which procedures are being implemented simultaneously.

### 14 MCAR § 1.4013 Utilization of rail bank property.

A. Notice to utilize rail bank property. The commissioner shall publish notice in the *State Register* when the department is considering utilizing banked property. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in ~~the area~~ each county where the property is located. The published notice shall include the following:

1. a statement that the notice is published pursuant to *Minn. Stat.* § 222.63, subd. 3;
2. the identifying name, length in miles, and acres of land of the property;
3. the counties where the property is located;
4. the purpose of the proposed use and the conditions under which the property would be utilized;
5. the name, address, and telephone number of the department's contact person; and
6. other pertinent information.

B. Public information meeting. After the procedures under A. have been completed, the department shall conduct at least one public meeting to provide information on the proposal for utilization and to seek comments. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in ~~the area~~ each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in ~~the area~~ each county where the property is located.

C. Decision to utilize. The commissioner shall decide whether or not to utilize the property as proposed after the public information meeting. The department shall publish notice of the decision in at least one newspaper of general circulation in ~~the area~~ each county where the line is located.

#### 14 MCAR § 1.4014 Disposition of rail bank property.

A. Notice to dispose of rail bank property. The commissioner shall publish notice in the *State Register* when considering disposing of property pursuant to *Minn. Stat.* § 222.63, subd. 4, or when required to dispose of property pursuant to *Minn. Stat.* § 222.63, subd. 5. The notice shall also be published once a week for two consecutive weeks in at least one newspaper of general circulation in ~~the area~~ each county where the property is located. The published notice shall include the following:

1. a statement that the notice is published pursuant to *Minn. Stat.* § 222.63, subd. 3;
2. the identifying name, length in miles, and acres of land of the property;
3. the counties where the property is located;
4. the reasons for and the conditions of the disposal;
5. the name, address, and telephone number of the department's contact person; and
6. other pertinent information.

B. Public information meeting. After the procedures under A. have been completed, the department shall conduct at least one public meeting to provide information on the proposed disposition and to seek comments. Notice of the meeting shall be given by publication in at least one newspaper of general circulation in ~~the area~~ each county where the rail line is located. The meeting shall be held at least three days after publication of the notice. At least one meeting shall be held in ~~the area~~ each county where the property is located.

C. Decision to dispose of property. The commissioner shall decide whether or not to dispose of property after the public meeting. The department shall publish notice of its decision in at least one newspaper of general circulation in ~~the area~~ each county where the rail line is located. When the property is to be sold because it has not been utilized, the notice shall include the following:

1. a statement noting the required six-month period which allows owners of private property adjacent to the banked property to make offers to purchase the property from the department; and
2. the name, address, and telephone number of the department's contact person.

#### 14 MCAR § 1.4016 Administration of the state rail bank program.

A. Provision of information for continued rail ~~service~~ operations projects. The entity proposing a continued rail ~~service~~ operations project shall provide the commissioner with any pertinent information necessary to achieve proper evaluation and adequate administration of a project. The information shall include financial, commodity, cost and operations data, and other similar types of data and information.

C. Variance. The commissioner may approve a variance from any of the provisions of 14 MCAR §§ 1.4010-1.4016.

1. A variance shall be granted if:

- a. the ~~rational~~ rationale for purpose of the rule in question can be ~~met~~ accomplished or exceeded by the specific alternate practice proposed for substitution;

**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.

# SUPREME COURT

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## Decisions Filed Friday, August 6, 1982

### Compiled by John McCarthy, Clerk

49437, 51505 State of Minnesota vs. 49437 Roger Sipe Caldwell, Appellant, and Roger Sipe Caldwell, petitioner, Appellant, vs. 51505 State of Minnesota. Crow Wing and St. Louis Counties.

Appellant is entitled to a new trial where the uncontroverted testimony of the state's fingerprint expert, which was the only significant evidence tending to establish where he was when the murders of which he was convicted were committed, is subsequently discovered to have been incorrect.

The testimony of a witness may be considered newly-discovered evidence under the unique circumstances of this complex case, where the witness' name did not appear on the State's list of 207 prospective witnesses and where the statement that the witness originally gave police did not at that time contain information relevant to the case.

Prosecutorial misconduct in the form of accusations that the defense falsified evidence, remarks concerning appellant's failure to explain his whereabouts, and the elicitation of testimony previously ruled to be inadmissible, may be an additional factor favoring the granting of a new trial, despite the trial court's cautionary instructions to the jury.

A court's instructions that correctly state the law regarding the presumption of innocence and the State's burden of proof may be insufficient to overcome the prejudicial effect of a verdict form that requires the jury to determine the guilt or innocence of the defendant.

Reversed and remanded. Amdahl, C. J. Dissenting, Peterson, J., and Yetka, J. Took no part, Kelley, J.

81-557 James Thayer, *et al.*, Appellants, vs. American Financial Advisers, Inc., *et al.*, Defendants, and Merrill Lynch, Pierce, Fenner & Smith, Inc., *et al.* Hennepin County.

Trial court's denial of motion for default judgment against respondents was not an abuse of discretion, but refusal to enter default judgments against defendants was error.

The arbitration clause did not express an intent on the part of the parties to arbitrate the issue of fraud in the inducement, nor did the language used in the agreement comprehend arbitration of that issue.

Federal Arbitration Act, 9 U.S.C. §§ 1-13 (1976), does not preempt application of state law in cases brought in state courts involving arbitration agreements contained in interstate contracts.

Affirmed in part, reversed in part, and remanded. Amdahl, C. J.

81-729 Reliance Insurance Company, Appellant, vs. Phillip G. Arneson, Nicholas Von Arx. Dakota County.

Because acts of malpractice asserted by a client against his attorney occurred after the attorney's malpractice insurance policy had expired, the attorney's insurer was relieved of any obligation to defend and indemnify the attorney.

Reversed. Otis, J.

81-628 Roger W. White and Verla M. White, Appellants, vs. Arnold Jorgenson, individually and d/b/a Harris-Jorgenson Construction Inc. Dakota County.

Proof of strict common law fraud is not required to satisfy the second of the two-prong test adopted in *Victoria Elevator Co. v. Meriden Grain Co.*, 283 N.W.2d 509 (Minn. 1979).

Remanded. Yetka, J.

51872, 81-1085 State of Minnesota vs. Robert A. Jensen, Appellant. Hennepin County.

Evidence that victim of sexual assault was in reasonable fear of imminent great bodily harm was sufficient.

District court did not err in rejecting claim that criminal defendant was denied his right to testify in his own behalf at trial.

Affirmed. Wahl, J.

52085 State of Minnesota vs. Janet Bowley, Appellant. Beltrami County.

Evidence was sufficient to support conviction of defendant of theft over \$2,500.

Affirmed. Kelley, J.

81-590 State of Minnesota vs. William G. Ford, Appellant. Hennepin County.

Evidence was sufficient to support defendant's conviction of conspiracy to commit aggravated robbery.

Defendant received a fair trial.

Trial court properly refused to order prosecutor to disclose identity of informant.

Although trial court erred in admitting contents of unavailable informant's tip, which named defendant as one of two men planning to commit a robbery, the error was nonprejudicial.

Trial court properly made defendant's sentence consecutive rather than concurrent.

Affirmed. Kelley, J.

81-628 In the Matter of the Petition for Disciplinary Action Against Ronald J. Johnson, a Minnesota Lawyer. Supreme Court.  
Per Curiam.

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**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.

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**State Board of Education  
Department of Education  
School Financial Management Division****Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing  
Financial Accounting and Reporting**

Notice is hereby given that the State Department of Education is seeking information or opinions from sources outside the agency in preparing to promulgate new rules governing financial accounting and reporting. The promulgation of these rules is authorized by *Minn. Stat.* § 121.902, Subd. 2, which requires the agency to maintain these rules.

The State Department of Education 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:

Stan Tikkanen  
807 Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-3384 and in person at the above address.

All statements of information and comment shall be accepted until September 17. Any written material received by the State Department of Education shall become part of the record in the event that the rules are promulgated.

**Department of Health  
Health Systems Division****Criteria for Waivers of Certificate of Need Review Pursuant to *Laws of Minnesota 1982*,  
chapter 614, section 6**

Notice is hereby given that the Minnesota Commissioner of Health has adopted the above-entitled criteria effective on the date of this publication. The procedure for adopting the criteria is prescribed in *Laws of Minnesota 1982*, chapter 614, section 6.

**I. Public Comments on Criteria is Proposed**

On May 31, 1982 proposed criteria for waivers of Certificate of Need review related to the previously referenced law were

## OFFICIAL NOTICES

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published in the *State Register*. Written comments were invited with a deadline of July 1, 1982 for their receipt by the commissioner. Written comments were received from two parties and are on file with the Department of Health. A description of these comments and the commissioner's reaction to them follows:

### A. Section C: Criteria for Waivers

One commentator suggested that paragraph C.3., which relates to the period of time a project proposed for waiver may be subsidized from other patient revenue sources available to the applicant, be altered to extend such a period from two to three years. The rationale for this recommendation was that, in the commentator's opinion, project financial self-sufficiency is generally accepted not to be required until the third full year of operation. The commissioner did not accept this recommendation for change, since the language of C.3. clearly comports with the commentator's opinion; the requirement for budgeting self-sufficient operations does not apply until the third full year of operation.

The other commentator felt that paragraph C.3. placed too great a restriction on a hospital's pricing policies and stated that, in a period of intense competition, a hospital should be permitted to establish new projects with the flexibility of pricing related services below actual cost at the complete discretion of the hospital. The commissioner does not believe that this criterion is too stringent. Indeed, he feels that it should be recognized that, in contrast to the criteria for granting waivers pursuant to *Minn. Stat.* § 145.835, subd. (a) and (b), the criteria herein do not include such factors as consideration of the resultant increase in patient charges, review of possibility of unnecessarily duplicative services in the area, analysis of evidence that there will be a resultant effective or efficient operation or attention to the applicable health planning documents (7 MCAR § 1.662 D.2.). A great deal more flexibility therefore, would be granted by the proposed criteria than is accorded to other types of waiver under the Certificate of Need Act. The constraint objected to here reflects a concern that the pricing method for services reflects the actual costs of providing those services. If a service is extensively and permanently subsidized by another area of health facility operations, then the mere appearance of the pricing restraint associated with price competition (a major thrust behind the enactment of these waiver provisions) is achieved rather than any real economic advantage to the public. In such a circumstance the appearance would be that the added services were priced competitively, without the imposition of any additional financial burden on other types of purchasers of a health care firm's services; in actuality, the added service would be a "loss leader," and revenue shortfalls associated with the new service would be satisfied by "taxing" other purchasers of the firm's services. In the aggregate, no diminution, or reduction in the rate of increase, of consumer expenditures would occur, as is expected by the competitive hypothesis which gave rise to these new statutory classes of waivable projects.

### B. Procedural Aspects of the Criteria

Two additional procedural criticisms were raised by the second commentator. The first objected to the process in which the Health Systems Agency (HSA) and the commissioner consider the completeness of waiver requests. The essence of this point appears to be that a review for completeness, as opposed to a review of the merits, is unnecessary. The commissioner disagrees. Any review made by the department must be premised upon satisfaction of the relevant criteria. It is not possible to review for conformance to such criteria without the applicant's provision of information which is germane to those criteria. The completeness review process assures that the commissioner will possess such information. To accept the commentator's position would result in a situation in which the applicant would simply declare the statutory type of project it is pursuing, and be automatically entitled to a waiver. Such a result is inconsistent with any reasonable interpretation of the law and the department's responsibility for administering it.

The second claim raised by this commentator objected to the process in which a hospital might petition the commissioner for a decision independent of an HSA recommendation in situations in which the HSA fails to act within a reasonable period of time (30 days) or solicits irrelevant additional information. The recommendation of the commentator is that, rather than permitting an exceptional petitioning process, applications be automatically approved. The adoption of this recommendation would constitute an abandonment of the commissioner's substantive review responsibility, and is rejected. The process defined in this area was included at the recommendation of the hospital trade association, and is a fair response to the remote possibility of unnecessary delay or irrelevant information demands by the HSA (slight changes in the language in paragraph D describing this process have been made for purposes of enhancing the clarity of that section).

## II. Adopted Criteria and Procedures for Decisions on Granting Waiver of Certificate of Need Review for Ambulatory Care Services, Experimental Projects and Demonstration Projects.

A. A request for a waiver under *Laws of Minnesota* 1982, chapter 614, section 6, clauses (c) or (d) must be submitted in writing by the applicant to the HSA in the form and according to the procedure specified in 7 MCAR § 1.662 D.3., with the exception of the requirement specified in 7 MCAR § 1.662 D.3.e. The request must also be accompanied by information relating to the criteria specified in paragraph C. that the applicant wishes to submit in support of the request.

B. The HSA shall not proceed with a recommendation until complete information is received. If any additional information is requested of an applicant, it must be relevant to the criteria specified in paragraph C.

C. The HSA recommendation and subsequent decision by the commissioner must be based upon evidence that the project for which a waiver is requested substantially fulfills the following criteria:

1. The project must be described in sufficient detail so that a determination of the appropriate type of state licensure and Federal certification can be made. If state licensure is required, there must be reasonable assurance that the project would meet relevant licensure requirements. If federal certification is to be sought, there must be reasonable assurance that the project would meet the requirements.

2. The applicant must demonstrate how comparative price information on the services provided as a result of the project will be disseminated. Such information must be in a manner consistent with *Laws of Minnesota* 1982, chapter 614, section 2.

3. The applicant must demonstrate that, by the end of the second full year of operation of the project, the prices for the services provided as a result of the project will be set at a level which will generate revenue sufficient to cover all expenses. This information on projected revenues and expenses must also demonstrate that any negative disparity between the expenses of providing services under the project and revenue derived from provisions of those services must be obtained from profit, surplus, retained earnings, venture capital or the like, and not through direct subsidy of the project from charges to patients receiving health services other than those to be provided as a result of the project.

4. For proposed experimental or demonstration projects, the applicant shall provide evidence that the service to be provided or the method of providing the service:

a. Is a service or service delivery method which is not currently available to the patients proposed to be served by the project;

b. Is based upon successful past experience or upon a well defined theory related to the service or service delivery method, for which the experience or theory indicates a likelihood that improved economic efficiency or effectiveness will occur as a result of the project;

c. Has identified sources of funding, both capital and operating; and

d. Is accompanied by an ongoing evaluation method scientifically designed to provide conclusions about improvements in the cost and quality of, and access to, the services to be provided as a result of the project; such evaluation method must also identify qualified personnel to be responsible for designing and conducting evaluation of the project.

D. Within 30 days of the receipt of a request accompanied by complete information, the HSA must submit to the commissioner its recommendation for granting or denying the waiver or the HSA shall indicate that no recommendation to the commissioner will be made. If the HSA fails to act within 30 days or if the applicant feels that the HSA requested information not reasonably related to the criteria in paragraph C, the applicant may petition the commissioner for the granting of the waiver without receipt of an HSA recommendation. Any recommendation must be accompanied by supporting rationale based on the criteria in paragraph C.

E. Within 30 days of receipt of the recommendation of the HSA or a petition submitted under paragraph D, the commissioner must notify the applicant and the HSA of the decision. If the commissioner deems a request to be incomplete, additional information related to the criteria in paragraph C may be requested, even though the HSA may have determined the initial request complete for its purposes.

F. Waivers granted under *Laws of Minnesota* 1982, chapter 614, section 6 (c) or (d) are subject to the requirements of 7 MCAR § 1.662 D.8., 9. and 10., 7 MCAR §§ 1.664 D. and E., and *Laws of Minnesota* 1982, chapter 614, section 7, subd. 4.

July 30, 1982

George R. Pettersen, M.D.  
Commissioner of Health

## **State Board of Investment**

### **Notice of Regular Meeting of Investment Advisory Council**

The Investment Advisory Council and the State Board of Investment will meet on Friday, August 27, 1982 at 8:00 a.m. in Room 123, State Capitol, Saint Paul.

## OFFICIAL NOTICES

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### Department of Natural Resources Minerals Division

#### Notice of Intent to Hold State Copper-Nickel Lease Sale; State Lands to be Offered for Copper-Nickel Exploration

The Minnesota Department of Natural Resources hereby announces that plans are being developed to hold the state's seventh sale of copper-nickel exploration and mining leases during November or December of 1982. The lease sale plans are being announced at this time in order to give mining companies, public interest groups and all other interested parties additional time to review the areas under consideration.

The purpose of Minnesota's copper-nickel rules is to promote and regulate the prospecting for, mining and removal of copper, nickel and associated minerals on state-owned and state-administered lands. These rules, and the leases issued under the rules, authorize exploration and development of these minerals and impose certain requirements on the lessee. The requirements include: the payment of minimum rentals which increase with the passage of time, the payment of royalty for all ore mined and removed, the submission of data and other reports, and addressment of certain environmental considerations. In addition, the state lessee must comply with all applicable regulatory laws.

The areas under consideration for lease sale cover portions of the Greenstone formation in St. Louis, Itasca, Koöchiching, Beltrami, Lake of the Woods, Roseau and Marshall counties. Some of the land being considered has been offered in previous copper-nickel lease sales, but in light of interest shown and geologic data and exploration techniques developed during the past few years, it is felt that within these lands there is significant potential for the discovery of mineral resources. Certain new lands of interest are also being considered for the lease sale.

The exact time of the lease sale will be announced by legal notice at least thirty days prior to the sale. Mining unit books, listing the state lands to be offered at the lease sale, will be available at that time.

A map showing the general areas under consideration and further information regarding the state copper-nickel lease sale may be obtained from the Division of Minerals, Box 45, Centennial Office Building, 658 Cedar Street, St. Paul, MN 55155, telephone (612) 296-4807.

### Pollution Control Agency

#### Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing Administration of the Minnesota State Water Pollution Control Fund and Federal Grant Funds Allotted to Minnesota (6 MCAR § 4.8034)

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) is seeking information or opinions from sources outside the agency in preparing to promulgate revised rules for the administration of the State Water Pollution Control Fund and federal funds authorized for the Construction Grant Program. The promulgation of these rules is authorized by *Minn. Stat. Chs. 115 and 116 (1980)*. This rule, in association with the agency's enabling legislation, provides authority for the State of Minnesota, upon approval of the Regional Administrator of the Environmental Protection Agency, to certify applicants for federal construction grants and subsequently, to the extent funds are available, provide state construction grants. The Minnesota Pollution Control Agency is the state agency designated by state law to administer this program.

The agency 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 or oral statements relating specifically to the subject matter of the rule should be directed to Mr. Duane L. Anderson at the address and telephone number listed below. Inquiries which relate to the rulemaking process should be directed to Mr. Paul Hoff at the address and telephone number listed below. Oral comments and inquiries will be accepted by Mr. Anderson and Mr. Hoff during regular business hours over the telephone and in person at the agency offices as follows:

Mr. Duane Anderson  
Division of Water Quality  
Minnesota Pollution Control Agency  
1935 West County Road B-2  
Roseville, Minnesota 55113  
Telephone: (612) 296-7205

Mr. Paul Hoff  
Public Information Office  
Minnesota Pollution Control Agency  
1935 West County Road B-2  
Roseville, Minnesota 55113  
Telephone: (612) 296-7283

All statements of information and comments shall be accepted until September 15, 1982. Any written material received by the Agency shall become a part of the record in the event that the rules are promulgated.

July 28, 1982

Louis J. Breimhurst  
Executive Director

## **Office of the Secretary of State**

### **Notice of Vacancies in Multi-Member State Agencies**

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to *Minn. Stat.* § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul, MN, 55155-1299; (612) 296-2805. Application deadline is September 7, 1982.

**STATE CEREMONIAL BUILDING COUNCIL** has 1 vacancy open for a public member. The council develops an overall restoration plan for the state ceremonial building (Governor's Mansion) and surrounding grounds; to solicit contributions to maintain and improve the public areas of the building. Members are appointed by the Governor. Members receive no compensation. For specific information, contact the State Ceremonial Building Council, 1006 Summit Avenue, St. Paul, MN 55105; (612) 296-2961.

**MEDICAL POLICY DIRECTIONAL COMMITTEE ON MENTAL HEALTH** has 3 vacancies open immediately. Prescribed qualifications include: 1 doctor, who is a Family Practitioner in Chemical Dependency; 1 doctor in Development Disability Pediatrics; and 1 vacancy for a Nurse/Administrator. The committee advises the Commissioner of Welfare on mental health and public policy. Members are appointed by the Commissioner of Welfare. Members receive \$50 per diem plus expenses. For specific information, contact the Medical Policy Directional Committee on Mental Health, Dept. of Public Welfare, Centennial Bldg., St. Paul, MN 55155; (612) 296-3058.

**CITIZENS' COMMITTEE ON VOYAGEURS NATIONAL PARK** has 1 vacancy open for a member from St. Louis County. The committee researches all matters related to the establishment and operation of Voyageurs National Park; makes recommendations to the U.S. National Park Service and other federal and state agencies concerned. Members are appointed by the Governor. Quarterly meetings; members receive \$35 per diem plus expenses. For specific information, contact the Citizens' Committee on Voyageurs National Park, 201-3rd Street, International Falls, MN 56649; (218) 283-3507.

**INVESTMENT ADVISORY COUNCIL** has 1 vacancy open immediately for a member with experience in general investment matters. The council advises the Board of Investment on policy relating to investments of state funds. Members are appointed by the Board of Investment. Members must file with EPB, and receive no compensation. For specific information, contact the Investment Advisory Council, MEA Bldg., Rm. 105, 55 Sherburne Ave., St. Paul, MN 55155; (612) 296-3328.

**MATERNAL AND CHILD HEALTH ADVISORY TASK FORCE** to the Commissioner of Health has 1 vacancy open for a public member. No members shall be employees of the State Department of Health. The task force will advise the commissioner on general Maternal and Child Health (MCH) matters, review MCH grant awards, make recommendations on MCH grant priorities and make recommendations on a process to distribute (federal) MCH block grant funds after July 1, 1983. Members are appointed by the Commissioner of Health. Meetings as needed; members receive expenses. For specific information, contact Community Services Division, Minnesota Department of Health, 717 Delaware S.E., Minneapolis, MN 55440; (612) 296-5377.

**MINNESOTA PROPERTY INSURANCE PLACEMENT FACILITY (FAIR-PLAN GOVERNING COMMITTEE)** has 2 vacancies open for public members. The facility administers the Fair-Plan Act to make property insurance available in urban areas. Members appointed by the Commissioner of Insurance. Three to four meetings per year; members receive no compensation. For specific information, contact the Minnesota Property Insurance Placement Facility, 12 South 6th St., Room 1229, Minneapolis, MN 55402; (612) 338-7584.

## **Minnesota State Retirement System**

### **Notice of Regular Meeting, Board of Directors**

A meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, August 20, 1982 at 8:30 A.M. in the office of the system, 529 Jackson Street, St. Paul, Minnesota.

## Department of Transportation

### Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under *Minn. Stat. § 169.832*

#### Order No. 66962

Whereas, the Commissioner of Transportation has made his Order No. 66400 as amended by Orders Nos. 66446, 66550, 66628, 66690, 66768, 66807, and 66920 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minn. Stat. § 169.832, and

Whereas, the Commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minn. Stat. § 169.832.

It is hereby ordered that Commissioner of Transportation Order No. 66400 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

#### Trunk Highways

- T.H. 32 — In St. Hilaire, from the Elevator entrance to Pennington County C.S.A.H. 3. (Effective August 1, each year.) (Seasonally restricted.)
- From the Jct. with T.H. 102 in Fertile to Ullen. (Effective August 1, each year.) (Seasonally restricted.)
- 59 — From the Jct. with T.H. 2 in Erskine to the Jct. with T.H. 32 in Thief River Falls. (Effective August 1, each year.) (Seasonally Restricted.)
- 64 — From the Jct. with T.H. 34 East of Akeley to the Jct. with T.H. 200. (Effective August 1, each year.) (Seasonally restricted.)
- 71 — From the Jct. with T.H. 34 in Park Rapids to the Jct. with T.H. 200. (Effective August 1, each year.) (Seasonally restricted.)
- 200 — From the West State Line to the Jct. with T.H. 75 at Halstad. (Effective August 1, each year.) (Seasonally restricted.)

#### County Roads

- Murray County — C.S.A.H. 29 from the City of Hadley to T.H. 30. (Seasonally restricted.)
- Watonwan County — C.S.A.H. 10 from the Jct. with C.S.A.H. 23 in Lewisville to the Jct. with T.H. 15. (Seasonally restricted.)
- Winona County — (The following route was inadvertently omitted from Order No. 66400) C.S.A.H. 32 from Main Street to Junction Street in Winona. (Twelve months.)

August 9, 1982

Richard P. Braun  
Commissioner of Transportation

## Department of Public Welfare Income Maintenance Bureau

### Second Notice of Intent to Solicit Outside Opinion Concerning Revision of 12 MCAR § 2.047 (DPW Rule 47) Concerning the Medical Assistance Program in Minnesota

Notice is hereby given that the Minnesota Department of Public Welfare has developed, and is soliciting comments regarding, draft changes for the proposed revision of DPW Rule 47. The first notice was published in the *State Register* at 6 S.R. 1403.

DPW Rule 47 governs administration of the Medical Assistance Program in Minnesota, to include client eligibility, requirements for provider participation and covered and non-covered health care services. The statutory authority for the rule is *Minn. Stat. § 256B.04*.

A copy of draft changes has been made available to major groups and associations representing provider and recipient populations, and to appropriate county and state agencies. Additional copies of the draft are available for organized groups or

associations; however, cost prohibits distribution to individuals not representing a larger constituency. Requests for copies of the rule should be made in writing and addressed to:

Larry Woods  
Department of Public Welfare  
P.O. Box 43208  
St. Paul, MN 55164

A series of proposed public meetings has been established to maximize public input into the revision of DPW Rule 47. Department staff will be available at the dates and times indicated to discuss proposed rule changes and to receive written and oral comments.

Date	Site
Tuesday, September 14	Room 608 Government Service Center 2nd St. & 4th Ave. Duluth, MN
Wednesday, September 15	Crying Wolf Room Hobson Memorial Union Bemidji State University Bemidji, MN
Monday, September 27	Auditorium, Room 15 Minnesota Veterans Home 51st & Minnehaha Minneapolis, MN
Tuesday, September 28	Community College Theater Rochester Community College Highway 14 East Rochester, MN
Tuesday, October 5	Classroom 102 Administration Wing Fergus Falls State Hospital Fergus Falls, MN
Wednesday, October 6	Room 219 I.L. Building Southwest State University Marshall, MN
Monday, October 11	Room 83 State Office Building 435 Park St. St. Paul, MN 55155

The agenda and schedule of the public meetings will be as follows:

9:00-12:00	Eligibility Criteria, Eligibility Process
12:00- 1:00	Lunch
1:00- 4:00	Program Administration, Covered/Non-covered Services

In addition to the public meetings, all interested persons or groups are requested to submit statements of information and comments either orally or in writing. Written statements may be addressed to Larry Woods at the previously noted address. Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-9943. All statements of information and comment must be received by October 15, 1982. Any written material received by the department shall become part of the hearing record.

# STATE CONTRACTS

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

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

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## Office of Administrative Hearings

### Notice of Request for Proposal for Statistics/Accounting Consultant

The Minnesota Office of Administrative Hearings (hereinafter "Office") is seeking the services of a statistics/accounting consultant for the 1983 fiscal year ending June 30, 1983. The consultant will assist hearing examiners in (1) calculating rates for public utilities by applying the Hearing Examiner's substantive or conceptual determinations to the accounting figures available, or (2) understanding and calculating projections, formulae and statistics used in complex energy and/or environmental hearings. Those applying must have experience in utility rate matters and/or applied statistics. More than one contract may be issued.

Applicants must be available for consultation at all times during the hearing process as may be needed. Persons or firms desiring to submit proposals to the office should notify Myron S. Greenberg, Hearing Examiner, Minnesota Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7607. All persons inquiring will be sent a Request for Proposal which will give more specifics. The final submission date for proposals is September 16, 1982.

## Department of Corrections Correctional Industries

### Notice of Availability of Contract for Marketing Services

The Minnesota Department of Corrections will issue a contract effective September 1, 1982 to March 1, 1983 to provide marketing and technical assistance to the Micrographics Industrial Program at the Oak Park Heights Correctional Facility. The contractor will be expected to select markets, conduct a sales program, and act as a liaison between customers and program management during the initial phase of operation. In addition, the contractor will provide technical assistance to the shop foreman and technical training to the sales staff. Contract cost is limited to \$14,000.00.

For further information, contact:

Thomas F. Grogan  
Industry Operations Director  
430 Metro Square  
St. Paul, MN 55101  
(612) 297-2818

## State Designer Selection Board

### Request for Proposal for Design of a Parking Ramp

To architects and engineers registered in Minnesota:

The State Designer Selection Board has been requested to select a designer for a parking ramp at the University of Minnesota. Design firms who wish to be considered for these projects should submit proposals on or before 4:00 P.M., September 15, 1982, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

The proposal must conform to the following:

1. Six copies of the proposal will be required.
2. All data must be on 8½" × 11" sheets, soft bound.

3. The cover sheet of the proposal must be clearly labeled with the project number, as listed in the appended material, together with the designer's firm name, address, telephone number and the name of the contact person.

4. The proposal should consist of the following information in the order indicated below:

- a) Number and name of project.
- b) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc.
- c) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If the applicant chooses to list projects which are relevant in type, scale, or character to the project at hand, the person's role in the project must be identified.
- d) A commitment to enter the work promptly and to assign the people listed in "c" above and to supply other necessary staff.
- e) A list of design projects in process or completed in the three (3) years prior to the date of this request for agencies or institutions of the State of Minnesota, including the University of Minnesota, by the firm(s) listed in "b" together with the approximate fees associated with each project.
- f) A section of not more than fourteen (14) faces containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualifications for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described.

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

5. In accordance with the provisions of Minn. Stat., 1981 Supplement, § 363.073; for all contracts estimated to be in excess of \$50,000, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted. Your proposal will not be accepted unless it includes one of the following:

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

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

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

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

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

#### 7. PROJECT 4-82

Parking Ramp  
University of Minnesota  
Minneapolis Campus—West Bank  
Estimate Cost \$4,000,000.00

A designer is being sought for a parking ramp for the University of Minnesota, Minneapolis West Bank Campus. At this time, the designer will be responsible for work through construction documents.

The parking ramp is to be designed to accommodate 600 cars within four (4) levels of parking occupying an area approximately 153 feet by 310 feet. The parking ramp will be required to accommodate reserved, contract, and transient daily and hourly parking. The number of spaces assigned to each category of parking will need to be adjustable to satisfy demand.

Questions concerning the project itself may be referred to Clinton Hewitt at 373-2250.

Fred. W. Kegel, Jr., Chairman  
State Designer Selection Board

**Department of Education  
Vocational-Technical Division**

**Notice to Retract Request for Proposals for Data Processing Services**

The Operational Services Section of the Division of Vocational-Technical Education has found it to be in the best interests of the State of Minnesota to cancel the request for proposals that appeared in the *State Register* on Monday, August 2, 1982, Page 153, 7 S.R. 153. Questions may be directed to:

Ronald C. Dreyer, Management Information Specialist  
Operational Services Section  
Vocational-Technical Education Division  
Department of Education  
Room 551, Capitol Square Building  
550 Cedar Street  
St. Paul, Minnesota 55101  
(612) 296-2421

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