

STATE REGISTER

STATE OF MINNESOTA



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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 9			
1	Monday June 18	Monday June 25	Monday July 2
2	Monday June 25	Friday June 29	Monday July 9
3	Friday June 29	Monday July 9	Monday July 16
4	Monday July 9	Monday July 16	Monday July 23

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

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

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

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

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CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Issues 14-52, inclusive 2760

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 1-52, inclusive 2763

PROPOSED RULES

Accountancy Board

Proposed Rules Governing Annual License Fees 2764

Commerce Department

Proposed Rules Governing Self-Insurance Plan Administrators 2765

Energy and Economic Development Department Energy Division

Proposed Rules Governing Community Energy Council Grants 2769

ADOPTED RULES

Peace Officer Standards & Training Board

Adopted Rules Governing License Fees for Peace Officers, Part-time Peace Officers, and Constables 2774

OFFICIAL NOTICES

Administration Department

Notice of State Surplus Real Property Sale 2774

Agriculture Department

Soil and Water Conservation Board
Notice of Change in Meeting Place 2775

Economic Security Department

Outside Opinion Sought Regarding Proposed Rules Governing the Minnesota Energy Assistance Program 2775

Education State Board

Education Department Program Effectiveness Division

Notice of Public Hearings Regarding an Amendment to State Plan Regarding Public Law 94-152 Concerning Handicapped Children's Education 2776

Education State Board

Education Department Partnerships Division

Outside Opinion Sought Regarding Proposed Rules Governing the Early Childhood and Family Education Program in Community Education 2776

Outside Opinion Sought Regarding the Mission of Secondary Vocational Education and Proposed Minimum Requirements for Secondary Vocational Education 2777

Energy and Economic Development Department Energy Finance Division

Outside Opinion Sought Concerning a Proposed Rule Administering Grants to Local Governments to Make Qualified Energy Improvements 2777

Energy and Economic Development Department Minnesota Energy and Economic Development Authority

Outside Opinion Sought Concerning a Proposed Rule Administering Loans to Local Governments to Make Qualified Energy Improvements 2778

Health Department

Emergency Medical Services Section

Emergency Medical Services Licensure Application for Robbinsdale/Crystal Area 2778

Human Services Department

Income Maintenance Bureau

Health Care Programs Division

Outside Opinion Sought Regarding Rules Establishing the Criteria for Determining the Appropriateness of Inpatient Hospital Admissions of and Services to Medical Assistance and General Assistance Medical Care Recipients 2779

Human Services Department

Mental Health Bureau

Outside Opinion Still Sought Concerning a Proposed Rule Governing the Provision of Home- and Community-Based Services to Mentally Retarded Individuals 2779

Labor and Industry Department

Prevailing Wage Division

Notice of Prevailing Wage Rates for Highway and Heavy Construction 2780

Transportation Department

Petition of the City of Northfield for a Variance from State Aid Standards for Bridge Width 2780
Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width 2780
Proposed Acquisition of Abandoned Burlington Northern Railroad Company Right of Way 2781

STATE CONTRACTS

Administration Department

Request for Proposals for Office Rental Space, Duluth 2782
Request for Proposals for Rental of Office Space, St. Paul 2782

Administration Department

Procurement Division

Commodities Contracts Currently Open for Bidding 2783

Agriculture Department

Plant Industry Division

Request for Proposals for Advertising Services 2784

Association of Minnesota Counties

Request for Proposals to Perform Job Evaluation Studies 2784

Education State Board

Contract Available for Consultant to State Board of Education 2785

Health Department

Emergency Medical Services Section

Contract Available for Newsletter Publication and Public Educational Materials Development 2786

Human Services Department

Chemical Dependency Program Division

Request for Proposals for American Indian Chemical Health Curriculum Projects 2786

State Arts Board

Request for Proposal—Graphic Arts Services 2786

State Designer Selection Board

Request for Proposals for State Projects 2787

SUPREME COURT

Decisions of the Court of Appeals Filed Tuesday, June 12, 1984 2789
Decisions of the Supreme Court Filed Friday, June 15, 1984 2792

TAX COURT

Decisions filed June 13, 1984 2793

ERRATA

Administration Department

State Register & Public Documents

MCAR AMENDMENTS AND ADDITIONS, Vol. 8, Issues 1-13 2795

Capitol Area Architectural and Planning Board

Request for Proposals for Parking Studies for State Capitol Area—Correction of June 18, 1984 Listing 2797

Volume 8, Number 52

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 also.

The PROPOSED RULES section contains:

- Calendar of public hearings on proposed rules.
- Proposed new rules (including notice of hearing and/or notice of intent to adopt rules without a hearing).
- Proposed amendments to rules already in existence in the Minnesota Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before July 31, 1983 are published in the *Minnesota Rules 1983*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after July 31, 1983 will be included in a supplement scheduled for publication in mid-1984. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules 1983* due to the short-term nature of their legal effectiveness. Those that are long term may be published.

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

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51, inclusive
Issue 26, cumulative for 1-26	Issue 52, cumulative for 1-52
Issues 27-38, inclusive	

The listings are arranged in the same order as the table of contents of the *Minnesota Rules 1983*.

MCAR AMENDMENTS AND ADDITIONS

TITLE 1 CONSTITUTIONAL OFFICES

Part 2 Secretary of State

1 MCAR § 2.4001-2.4012, 2.0101-2.1101, 2.2101-2.2115,
2.3101-2.3907, 2.4101-2.4205 (adopted)..... 1348

TITLE 2 ADMINISTRATION

Part 1 Administration

2 MCAR § 1.16001-1.16006 (repealed) 1229
2 MCAR § 1.16007-1.16008 (adopted)..... 1229

Part 2 Personnel Department

2 MCAR §§ 2.225, 2.2301, 2.303, 2.406, 2.409,
2.413 (adopted) 1479

Part 3 Minnesota State Retirement System

2 MCAR § 3.5001, 3.5002, 3.5004, 3.5005
[amendments] (adopted) 1403

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR § 1.0090-1.0100 (proposed)..... 1290
3 MCAR §§ 1.0090-1.0100 (adopted)..... 1858
3 MCAR §§ 1.0129-1.0130, 1.0132-1.0133, 1.0135
(proposed)..... 670
3 MCAR §§ 1.0129-1.0130, 1.0132-1.0133, 1.0135
[Amend] (adopted) 1659
3 MCAR § 1.0172 [Temp]-1.1348 [Temp] (proposed) 1078
3 MCAR § 1.0172 [Temp] (extended)..... 2144
3 MCAR §§ 1.0389, 1.0400 [Amend] (proposed) 1561
3 MCAR §§ 1.0389, 1.0400 (withdrawal, old
proposal) 1946

3 MCAR §§ 1.0389, 1.0400 [substitution] (proposed) 1946
3 MCAR §§ 1.0389, 1.0400 (adopted) 2478
3 MCAR § 1.1160 (proposed)..... 1185
3 MCAR § 1.1160 (adopted) 1948
3 MCAR §§ 1.1340 [Temp]-1.1348 [Temp] (proposed) 1251
3 MCAR §§ 1.1340-1.1348 [Temp] (adopted)..... 1776
3 MCAR §§ 1.4060 [Temp]-1.4070 [Temp] (proposed) 665
3 MCAR §§ 1.4060-1.4070 [Temp] (adopted)..... 1857
3 MCAR §§ 2.001, L.SB 43, 3 MCAR § 2.044 (adopted)..... 1659
3 MCAR § 2.011 [Amend] (adopted)..... 1659

Part 2 Animal Health Board

3 MCAR § 2.026 (proposed) 1704

TITLE 4 COMMERCE

Part 1 Commerce Department

S Div 2117-2118, 2021, 2034 (adopted)..... 1009
4 MCAR §§ 1.0001 [Temp]-1.0022 [Temp], 1.00225 [Temp],
1.0023 [Temp], 1.0031 [Temp] (adopted) 1006
4 MCAR §§ 1.0001-1.0032 [Temp] (extended)..... 2186
4 MCAR §§ 1.850-1.866 [Temp] (proposed) 1387
4 MCAR §§ 1.850-1.866 [Temp] (adopted)..... 2015
4 MCAR §§ 1.9011-1.9028 (proposed), 1.90281 (proposed) ... 1256
4 MCAR §§ 1.9081 [Temp]-1.9089 [Temp], 1.90891 [Temp]-
1.90892 [Temp] (adopted) 1006
4 MCAR §§ 1.9081-1.9089, 1.90891-1.90892 [Temp]
(extended)..... 2298
4 MCAR §§ 1.9140-1.9141, 1.9143-1.9147
(proposed)..... 1711

MCAR AMENDMENTS AND ADDITIONS

4 MCAR §§ 1.9140-1.9141, 1.9143-1.9147 [Amend] (adopted)	2273
4 MCAR §§ 1.9260-1.9269 [Temp] (proposed)	1102
4 MCAR §§ 1.9260-1.9269 [Temp] (proposed)	1821
4 MCAR §§ 1.9401-1.9409 (proposed)	1374
4 MCAR §§ 1.9401-1.9409 (adopted)	1948
4 MCAR §§ 1.9420-1.9442 (proposed)	1568
4 MCAR §§ 1.9500-1.9505 (proposed)	1294
4 MCAR § 1.9504 Amend (proposed)	1418
4 MCAR §§ 1.9801-1.9810 (proposed)	1562
4 MCAR §§ 1.9801-1.9810 (withdrawn)	2398

Part 2 Energy & Economic Development Department

4 MCAR §§ 2.501-2.508 (repealed)	1011
--	------

Part 3 Public Utilities Commission

4 MCAR §§ 3.0317-3.0322 (adopted)	2335
4 MCAR §§ 3.0450-3.0463 [Temp] (adopted)	1095
4 MCAR §§ 3.0450-3.0463 [Temp] (extended)	2304

Part 4 Cable Communications Board

4 MCAR §§ 4.240-4.243 (proposed)	1069
4 MCAR §§ 4.260-4.263 (proposed)	1807
4 MCAR §§ 4.260-4.263 (proposed)	2330

Part 7 Architecture, Engineering, Land

Surveying & Landscape Architecture	
4 MCAR § 7.004 (adopted)	1777

Part 11 Electricity Board

4 MCAR §§ 11.033-11.038 (adopted)	1228
---	------

Part 13 Peace Officer Standards & Training Board

4 MCAR §§ 13.028, 13.030-13.032 (proposed)	2013
4 MCAR §§ 13.028, 13.030-13.032 (adopted)	2774
4 MCAR § 13.040 (proposed)	1337
4 MCAR § 13.040 (adopted)	2145

Part 14 Energy & Economic Development Authority

4 MCAR §§ 14.051-14.059 [Temp] (adopted)	1340
4 MCAR §§ 14.071-14.080 [Temp] (adopted)	1343

Part 15 Racing Commission

4 MCAR §§ 15.001-15.050 (proposed)	1162
4 MCAR §§ 15.001-15.050 (adopted)	1823

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR §§ 1.0100-1.01101, 1.0111-1.0117 (proposed)	1260
5 MCAR §§ 1.0120-1.0122, 1.01222-1.01224, 1.01225-1.01226, 1.01228-1.01229, 1.01232-1.01234, 1.0124, 1.0126-1.0127 (adopted)	596
5 MCAR § 1.0790 (proposed)	1715
5 MCAR § 1.0807 [Temp] (adopted)	692

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.2101-2.2106, 2.2204 (proposed)	1812
5 MCAR §§ 2.2101-2.2106, 2.2204 [Temp] (adopted)	1346
5 MCAR §§ 2.2101-2.2106 (adopted)	2335

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR § 1.0057 (proposed)	677
6 MCAR § 1.0057 [Amend] (adopted)	1858
6 MCAR § 1.2200 [Amend] (proposed)	1674
6 MCAR §§ 1.5600-1.5603 (proposed)	995
6 MCAR §§ 1.5600-1.5603 (adopted)	1921

Part 2 Energy and Economic Development

2 MCAR §§ 1.16001-1.16006 (repealed)	1229
2 MCAR §§ 1.16007-1.16008 (adopted)	1229

6 MCAR §§ 2.2300-2.2314 (proposed)	1106
6 MCAR §§ 2.4045, 2.4047-2.4048 [Temp] (adopted)	1262
6 MCAR §§ 2.4045 [Temp], 2.4047-2.4048 [Temp] (extended)	2145
6 MCAR §§ 2.2500-2.2509 (proposed)	673
6 MCAR §§ 2.2500-2.2509 [Temp] (proposed)	1506
6 MCAR §§ 2.2500-2.2509 [Temp] (adopted)	2112
6 MCAR §§ 2.2501-2.2510 [Amend] (proposed)	1717
6 MCAR §§ 2.2502, 2.2503 (withdrawn)	994
10 MCAR §§ 1.500, 1.505-1.506, 1.510, 1.520, 1.525, 1.546, 1.550 (adopted)	1263

Part 4 Pollution Control Agency

APC 2 (6 MCAR § 4.002) (proposed)	682
6 MCAR § 4.0002 (adopted)	2275
6 MCAR § 4.00291 [Amend] (adopted)	1675
6 MCAR § 4.0041 (proposed)	678
6 MCAR §§ 4.4001-4.4021 (adopted)	2278
6 MCAR §§ 4.4101-4.4111 (adopted)	2277
6 MCAR §§ 4.4201-4.4224 (adopted)	2276
6 MCAR §§ 4.4301-4.4305 (adopted)	2276
6 MCAR §§ 4.4311-4.4321 (adopted)	2270
6 MCAR § 4.8034 (adopted)	694
6 MCAR §§ 4.9006-4.9007 & APC 3 (proposed repeal):- 4.4001-4.4021, 4.201-4.4224, 4.4301-4.305 (proposed), 4.4311-4.4321 [Amend] (proposed)	1419
6 MCAR §§ 4.9100-4.9104, 4.9128-4.9137, 4.9200-4.9222, 4.9250-4.9259, 4.9280-4.9322, 4.9380-4.9422, 4.9480-4.9481, 4.9559-4.9560 (proposed)	732
6 MCAR §§ 4.9100, 4.9102, 4.9104, 4.9128-4.9129, 4.9132, 4.9134-4.9135, 4.9210, 4.9214-4.9217, 4.9254-4.9255, 4.9285, 4.9289, 4.9296-4.9297, 4.9302, 4.9307-4.9308, 4.9310, 4.9314, 4.9317-4.9318, 4.9321, 4.9389, 4.9396, 4.9401, 4.9493, 4.9409, 4.9411, 4.9560 [Amend] (proposed)	1576
6 MCAR §§ 4.9701-4.9706 (proposed)	1071
6 MCAR §§ 4.9701-4.9706 (adopted)	1781

Part 8 Waste Management Board

6 MCAR §§ 8.403-8.404, 8.408 (proposed)	1004
6 MCAR §§ 8.403-8.404, 8.408 [Amend] (adopted)	1876

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.059 (adopted)	1524
7 MCAR §§ 1.210, 1.212, 1.216 (adopted)	1625
7 MCAR §§ 1.2395, 1.314 (adopted)	1346
7 MCAR §§ 1.651, 1.654 [Amend] (adopted)	1821
7 MCAR § 1.801 [Temp] (proposed)	1809

Part 4 Medical Board

7 MCAR §§ 4.002, 4.004-4.008 (proposed)	1513
7 MCAR §§ 4.002, 4.004-4.008 (adopted)	2573
7 MCAR § 4.012 (proposed)	1510
7 MCAR § 4.012 (adopted)	2573
7 MCAR § 4.0121 (proposed)	1512
7 MCAR §§ 4.013-4.029 (proposed)	1522
7 MCAR §§ 4.013-4.029 (adopted)	2573

Part 5 Nursing Board

7 MCAR §§ 5.4000-5.4006 (proposed)	1731
7 MCAR §§ 5.4000-5.4006 (adopted)	2609

Part 6 Board of Examiners for Nursing Home Administrators

7 MCAR §§ 6.003, 6.006-6.007, 6.010-6.011, 6.013-6.020 (adopted)	1480
--	------

MCAR AMENDMENTS AND ADDITIONS

TITLE 8 LABOR

Part 1 Labor and Industry

8 MCAR § 1.7001 (adopted)	1743
8 MCAR § 1.7001 [Amend] (proposed)	2408
8 MCAR §§ 1.7200-1.7209 (proposed)	622
8 MCAR §§ 1.7200-1.7209 [standards] (adopted)	1949
8 MCAR §§ 1.7220, 1.7240, 1.7243, 1.7245 (proposed)	1814
8 MCAR §§ 1.7250-1.7255 (adopted)	1482
8 MCAR §§ 1.8003-1.8004, 1.8006-1.8007 (proposed)	742
8 MCAR §§ 1.8003-1.8004, 1.8006-1.8007 [Amend] (proposed)	1657
8 MCAR §§ 1.8003-1.8004, 1.8006-1.8007 [Amend] (adopted)	2274
8 MCAR §§ 1.9001-1.9010 [Temp] (proposed)	1399
8 MCAR §§ 1.9001-1.9010 [renumbered 1.9050-1.9059]	1898
8 MCAR §§ 1.9001-1.9023 [Temp] (proposed)	562
8 MCAR §§ 1.9001-1.9025 [Amend] [Temp] (adopted)	1821
8 MCAR §§ 1.9050-1.9059 (adopted)	1898
RS 1, 14, 15, 17-19 (adopted)	1777

Part 4 Economic Security Department

8 MCAR § 4.0101 [Temp] (adopted)	1093
8 MCAR § 4.0101 [Temp] (extended)	2144
8 MCAR § 4.0102 [Temp] (adopted)	1229
8 MCAR § 4.0102 [Temp] (extended)	2144

Occupational Safety & Health Division

8 MCAR § 1.7001 (proposed)	1338
----------------------------	------

Division of Workers' Compensation

8 MCAR §§ 1.9001-1.9025 (proposed)	1296
------------------------------------	------

TITLE 10 PLANNING

Part 1 Energy and Economic Development

10 MCAR §§ 1.500, 1.505-1.506, 1.510, 1.520, 1.525, 1.546, 1.550 (adopted)	1263
--	------

TITLE 11 PUBLIC SAFETY

Part 1 Public Safety Department

11 MCAR §§ 1.2094, 1.2140 (adopted)	1352
11 MCAR §§ 1.8025, 1.8058, 1.8084 (proposed)	730
11 MCAR §§ 1.8025, 1.8058, 1.8084 (proposed)	1893
11 MCAR §§ 1.8025, 1.8058, 1.8084 (adopted)	2478

Part 2 Corrections Department

11 MCAR §§ 2.001-2.012 (adopted)	601
11 MCAR §§ 2.601-2.622 (proposed)	981
11 MCAR §§ 2.601-2.622 (adopted)	2298

TITLE 12 SOCIAL SERVICE

Part 1 Human Rights Department

12 MCAR §§ 1.061-1.076 [Temp] (proposed)	1395
12 MCAR §§ 1.061-1.076 [Temp] (adopted)	2016

Part 2 Public Welfare Department (now Human Services)

12 MCAR §§ 2.02001-2.02011 [Temp] (proposed)	2113
12 MCAR §§ 2.0300-2.0304 [Temp] (proposed)	1154
12 MCAR §§ 2.0300-2.0304 [Temp] (adopted)	1858
12 MCAR §§ 2.0300-2.0304 [Temp] (extended)	2478
12 MCAR §§ 2.04422, 2.05501-2.05509 [Temp] (adopted)	698
12 MCAR §§ 2.04601-2.04606 [Temp] (proposed)	1817
12 MCAR §§ 2.0481-2.0484 [Temp] (proposed)	1738
12 MCAR §§ 2.0481-2.0484 [Temp] (adopted)	2571
12 MCAR §§ 2.05001-2.05016 (adopted)	2478
12 MCAR §§ 2.05301-2.05315 [Temp] (proposed)	1134
12 MCAR §§ 2.05301-2.05315 [Temp] (adopted)	1858
12 MCAR §§ 2.05401-2.05501 [Temp] (adopted)	959
12 MCAR §§ 2.05401-2.05403 [Temp] (extended)	1822
12 MCAR §§ 2.05401-2.05403 [Temp] (Extended)	2608
12 MCAR §§ 2.05501-2.05509 [Temp], 2.04422 [Temp] (extended)	1822
12 MCAR § 2.164 [Temp] (extended)	1823
12 MCAR § 2.200 [Amend] (proposed)	1589
12 MCAR § 2.204 [Amend] (adopted)	1537
12 MCAR § 2.207 (adopted)	1079
12 MCAR § 2.264 [Temp] (adopted)	602
12 MCAR §§ 2.494, 2.840 (adopted)	1352

Part 3 Housing Finance Agency

12 MCAR §§ 3.002, 3.055-3.057 (extended)	1659
12 MCAR §§ 3.002, 3.133-3.134 [Temp] (extended)	1346
12 MCAR §§ 3.002, 3.133-3.134 (proposed)	2010
12 MCAR §§ 3.002, 3.133-3.134 (adopted)	2661
12 MCAR § 3.037 (adopted)	1402
12 MCAR § 3.038 (adopted)	1537
12 MCAR §§ 3.058-3.061 [Temp] (extended)	1858
12 MCAR § 3.120 (adopted)	1402
12 MCAR §§ 3.160-3.165 [Temp] (extended)	1858
12 MCAR §§ 3.170-3.174 (adopted)	646
12 MCAR § 3.180 [Temp] (adopted)	1346

TITLE 13 TAXATION

Part 1 Revenue Department

13 MCAR §§ 1.0010-1.0014 (withdrawn)	596
13 MCAR § 1.2220 (proposed)	1896
13 MCAR § 1.2220 (adopted)	2609
13 MCAR § 1.6004 [Amend] (proposed)	1919
13 MCAR § 1.6004 [Amend] (adopted)	2412
13 MCAR § 1.6016 (repealed)	1079

TITLE 14 TRANSPORTATION

Part 1 Transportation Department

14 MCAR §§ 1.4031-1.4065 (adopted)	2113
14 MCAR § 1.5032 (proposed)	1603
14 MCAR § 1.5032 (adopted)	2146

Editor's Note: See ERRATA, pages 2795-2797, for MCAR amendments and additions for Issues 1-13. (These were inadvertently left out of this and previous MCAR cumulative listings.)

MINNESOTA RULES AMENDMENTS AND ADDITIONS

BOARD OF ACCOUNTANCY		DEPARTMENT OF NATURAL RESOURCES	
1100.3600 (proposed)	2764	6100.3100 (proposed)	2464
OFFICE OF ADMINISTRATIVE HEARINGS		6105.0100, 6105.1681 (proposed)	2362
Workers' Compensation Hearings		BOARD OF NURSING	
1415.0100-1415.3600 (proposed)	2246	6310.2900, 6310.7600, 6315.0100-6315.0700 (proposed)	2652
BOARD OF ANIMAL HEALTH		MINNESOTA BOARD OF PHARMACY	
1700.2300, 1700.2400 (proposed)	2646	6800.0900 (proposed)	2410
DEPARTMENT OF COMMERCE		POLLUTION CONTROL AGENCY	
2675.6100, 2675.6110, 2675.6111, 2675.6120, 2675.6141-.6143,		Water Quality Division	
2675.6180, 2675.6210, 2675.6220, 2675.6230, 2675.6250,		7044.0100-7044.1200 (proposed)	2270
2675.6270, 2675.6290, 2675.6301 (proposed)	2602	7050.0110, 7050.0130-7050.0150, 7050.0170-7050.0220	
2755.0400, 2755.0500 (proposed)	2682	(proposed)	2066
2767.0100-2767.0900, 2768.0950 (proposed)	2765	7050.0400-7050.0480 (proposed)	2082
2770.6100-2770.7400 (proposed)	2331	7075.0100-7075.0200, 7075.0400-7075.0401,	
2770.7500-2770.8500 (proposed)	2683	7075.0405-7075.0406, 7075.0409, 7075.0411-7075.0414,	
BOARD OF DENTISTRY		7075.0416-7075.0417, 7075.0419, 7075.0425, 7075.2000,	
3100.2000 (proposed)	2688	7075.04115, 7075.04211-7075.04214 [Emer] (proposed)	2698
DEPARTMENT OF ECONOMIC SECURITY		DEPARTMENT OF PUBLIC SAFETY	
3300.3300 (proposed)	2647	Driver & Vehicle Services Division	
STATE BOARD OF EDUCATION		7410.0100, 7410.0400 (proposed)	2465
3500.2010-3500.2110 (proposed)	2210	State Patrol Division	
ENERGY, PLANNING & DEVELOPMENT		7425.0110, 7425.0150, 7425.0160, 7425.0500-7425.1100,	
Energy Division		7425.2000-7425.2600, 7425.5000, 7425.6000 (proposed)	2467
4160.5100-4160.5900 (proposed)	2769	BUREAU OF CRIMINAL APPREHENSION	
Planning Division		7502.0100-7502.0400, 7502.0410-7502.0430,	
4350.0200, 4350.0400, 4350.0600 (proposed)	2050	7502.0500-7502.0700 (adopted)	2186
4351.0500-4351.0800 (proposed)	2051	PUBLIC UTILITIES COMMISSION	
ENVIRONMENTAL QUALITY BOARD		7825.2390-7825.2850, 7825.3000 (proposed)	2214
4405.0100-4405.1300 (proposed)	2061	DEPARTMENT OF REVENUE	
DEPARTMENT OF HEALTH		Property Equalization Division	
4605.7000-4605.7800, 4735.0100-4735.0300 (proposed)	2690	8100.0300 (proposed)	2223
HIGHER EDUCATION COORDINATING BOARD		8110.0100-8110.0500 (proposed)	2220
4830.0200-4830.0700 (proposed)	2515	8100.0300 (adopted)	2723
MN HOUSING FINANCE AGENCY		SECRETARY OF STATE	
4900.0550-4900.0580 (proposed)	2213	8260.0100-8260.0500 (proposed)	2712
4900.0581-4900.0584 (proposed)	2398	SMALL BUSINESS FINANCE AGENCY	
4900.0590-4900.0594 [Emer] (proposed)	2648	8300.0100, 8300.0300, 8300.0500-8300.0600,	
4900.1220-4900.1260 (proposed)	2401	8300.1000-8300.1200, 8300.1500-8300.2200 (proposed)	2056
4900.1600-4900.1650 (proposed)	2404	WASTE MANAGEMENT BOARD	
4900.1700-4900.1703 [Emer] (proposed)	2650	9200.6000-9200.6009 (proposed)	2567
BUREAU OF MEDIATION SERVICES		DEPARTMENT OF PUBLIC WELFARE	
5510.0110-5510.3210 (proposed)	2447	(HUMAN SERVICES)	
DEPARTMENT OF LABOR & INDUSTRY		9500.0530, 9500.0361, 9500.0531-9500.0533,	
5221.0100-5221.3200 (proposed)	2519	9555.3400-9555.3408 (proposed)	2363

PROPOSED RULES

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Accountancy

537

Proposed Rules Governing Annual License Fees

Notice of Intent to Amend Rule Without a Public Hearing

Notice is hereby given that the Minnesota Board of Accountancy ("board") proposes to adopt the above-entitled amendment to an existing rule of the board without a public hearing. A public hearing will not be held on these rules, in accordance with Minnesota Statutes sections 14.22, 16A.128 and 214.06 (1982 & Supp. 1983), as amended.

Persons interested in this rule have 30 days to submit comments in support of or in opposition to the proposed amendment. Comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Persons who wish to submit comments should submit such comments within 30 days following the publication of this notice to:

Pamela K. Azer
Executive Secretary
Board of Accountancy
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-7937

Authority for the adoption of this rule is contained in Minnesota Statutes section 16A.128, 214.06, 326.17 and 326.18 (1982 & Supp. 1983). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identifies the data and information relied upon to support the proposed rule has been prepared and is available from Ms. Azer upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to the Attorney General for review as to its legality, and as to its form to the extent the form relates to legality, including the issue of substantial change, and for a determination as to whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rule. 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 rule as proposed for adoption, will be notified if they submit a written request for notification to Ms. Azer.

A copy of the proposed rule follows.

Copies of this notice and the proposed rule are available and may be obtained by contacting Ms. Azer.

Robert C. Shoup
Chairman
Minnesota State Board of Accountancy

Rule as Proposed

1100.3600 FEES.

Subpart 1. [Unchanged.]

Subp. 2. Annual license fees. Annual license fees shall be as follows: individuals, ~~\$15~~ \$20, and partnerships, \$25.

Subp. 3. and 4. [Unchanged.]

Department of Commerce

539

Proposed Rules Governing Self-Insurance Plan Administrators**Notice of Intent to Adopt Rules without a Public Hearing**

Notice is hereby given that the Department of Commerce proposes to adopt the above-entitled rules without a public hearing. The Commissioner of Commerce has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, section 14.21.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the rules. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. 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 twenty-five (25) 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 Minnesota Statutes, section 14.14, subd. 1.

Persons who wish to submit comments or a written request for a public hearing should submit them to Rose Ortiz, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 297-4017. Any person requesting a public hearing should state her/his name and address, identify the portion of the proposed rule addressed, the reason for the request and any change proposed and send this information to the above address.

Authority for the adoption of these rules is contained in Minnesota Statutes, section 60A.23, subd. 8(2). 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 Debbi Lindlief, Department of Commerce, 500 Metro Square Bldg., St. Paul, MN 55101.

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 Debbi Lindlief at the above address.

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)**2767.0100 DEFINITIONS.**

Subpart 1. Scope. The following definitions apply to parts 2767.0100 to 2767.0950 unless the context clearly indicates a different meaning.

Subp. 2. Administrator or self-insurance plan administrator. "Administrator" or "self-insurance plan administrator" means vendors of risk management services and entities administering self-insurance plans as defined in Minnesota Statutes, section 60A.23, subdivision 8, clause (2), that provide coverage to residents of and risks located in Minnesota.

Subp. 3. Affiliated company. "Affiliated company" means any company that directly, or indirectly through one or more intermediaries, controls, is controlled by, or is under common control with, the applicant company.

Subp. 4. Certified audit or certified financial statement. "Certified audit" or "certified financial statement" means an audit or financial statement concerning which an independent certified public accountant or licensed public accountant expresses his or her professional opinion as to whether the accompanying statements present fairly the financial position of the administrator in conformity with generally accepted accounting principles and generally accepted auditing standards consistently applied.

Subp. 5. Financial statements. "Financial statements" means an income statement and a balance sheet prepared in conformity with generally accepted accounting principles.

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

Subp. 6. Area or areas of risk management. "Area" or "areas of risk management" means the following lines of insurance: life; accident and health; workers' compensation; other liability; and property or casualty.

Subp. 7. Services or risk management services. "Services" or "risk management services" includes accounting and record retention, actuarial in conjunction with other services, claims administration, general administration, insurance, legal, loss control and safety, rehabilitation, risk management and analysis, and other services related to the establishment and maintenance of a program of self-insurance.

2767.0200 PURPOSE AND SCOPE.

Parts 2767.0100 to 2767.0950 are designed to assure that self-insurance plan administrators are capable of providing risk management services, financially solvent, and able to process claims in a prompt and equitable manner; and to allow the commissioner to authorize qualified entities to engage in the business in a manner which is fair, equitable, and consistent with all applicable Minnesota statutes.

2767.0300 AUTHORITY.

Parts 2767.0100 to 2767.0950 are adopted under the authority of Minnesota Statutes, section 60A.23, subdivision 8, clause (5).

2767.0400 REQUIREMENTS FOR LICENSING.

Subpart 1. Application procedure. Any person or entity desiring to be licensed as a self-insurance plan administrator pursuant to Minnesota Statutes, section 60A.23, subdivision 8, shall apply to the commissioner in writing and on forms available from the commissioner. The licensee shall designate areas of risk management services which the self-insurance plan administrator may perform. Any license granted is effective for a period of two years unless surrendered by the licensee, or unless the license is revoked or suspended by order of the commissioner. The license is transferable only upon prior written approval by the commissioner as to new ownership or new management of the self-insurance plan administrator.

Subp. 2. Application contents. Each application for a license as a self-insurance plan administrator must:

A. Be signed and sworn to by the applicant, or its owners, and be accompanied by the license fee required by Minnesota Statutes, section 60A.23. If the applicant is a corporate applicant, it must be verified by the president and secretary of the corporation. All fees must be paid by check, draft, or other negotiable instrument. Cash will not be accepted.

B. Describe the specific areas of risk management services intended to be provided.

C. Identify the owners of the company, including all partners of a partnership and all officers of a corporation.

D. Describe the organization and staff, with specific information concerning their expertise to provide service in the areas stated. This information must include detailed resumes of the applicant's key employees and all officers of any subcontractor. Resumes must state each person's name, age, resident address, licensing history, and qualifications and experience relating to the work they are to perform. The information must include:

(1) the experience and history of accountants, if applicable;

(2) if the applicant or its subcontractor intends to provide claims adjusting, a resume detailing the experience of the supervisor who shall possess at least three years' experience adjusting claims in the area of services to be provided; and

(3) a copy of the license of the adjuster responsible for adjusting workers' compensation or other liability claims, if applicable. The self-insurance plan administrator or its subcontractor shall have at least one adjuster who holds a license under Minnesota Statutes, chapter 72B and that adjuster shall be a resident of Minnesota.

E. Fully describe violations or investigations by any governmental agency which are known to the applicant concerning any person who is or may be affiliated with the applicant as an owner, shareholder, officer, employee, subcontractor, or employee of a subcontractor.

F. Submit proof of coverage under a fidelity bond for all persons involved in collecting money and making claims payments, and all officers of the company. The bond must cover losses from dishonesty, theft, forgery or alteration, and misplacement or mysterious and unexplainable disappearance.

G. State the name and address of a resident agent who is authorized to act on behalf of the administrator and to accept service of process.

H. Include financial statements for the previous three years, or for as many years as the administrator has been in business up to three years, and a certified financial statement for the most recent fiscal year. Certified financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or the financial condition of the applicant since the date of the certified financial statement. If the applicant has no financial history as an administrator or if the company has a gross

income of less than \$15,000 per year so that the completion of the certified financial statement proves to be an undue financial burden, it may have this requirement waived if:

(1) it has three years of operation within Minnesota on a solvent basis with no history of corporate bankruptcy or personal bankruptcy among chief officers and stockholders; and

(2) the administrator provides for a review audit by an independent certified public accountant or licensed public accountant, and provides to the department a copy of the review letter pursuant to the audit and corporate bank references.

I. Contain a statement that the applicant and its officers and supervising managers shall be responsible for the supervision of the actions of any and all personnel and subcontractors acting on behalf of the applicant.

2767.0500 AMENDED LICENSES.

A licensee may apply to amend a license to include services or areas of risk management for which it was not previously licensed by submitting:

A. information detailing the expanded services it wishes to provide;

B. such other information relating to the expanded services as required by part 2767.0400, subpart 2; and

C. proof of coverage under the fidelity bond for a new or changed personnel, if the services to be provided include handling of funds.

2767.0600 LICENSE RENEWALS.

Subpart 1. Time of filing. Application for renewal of a license must be filed with the commissioner at least 60 days prior to the expiration date of that license.

Subp. 2. Required information. In support of the application for license renewal, a self-insurance plan administrator shall submit:

A. Any changes in the description of the administrative services intended to be provided.

B. Any changes in ownership of the company, including detailed information about the new owners.

C. Any changes in key staff or an employee's responsibilities, including resumes of all new staff members or additional information to show qualifications of current staff to take on new responsibilities.

D. An explanation of any changes of the responsibilities of any subcontractor, including changes in firms contracted with, services provided, or individuals providing services contracted for.

E. Financial statements for the previous two years, including a certified financial statement for the most recent fiscal year. Certified financial statements for a period ending more than six months prior to the date of the application must be accompanied by an affidavit signed by a company officer under oath describing any material change in the net worth or financial condition of the applicant since the date of the certified financial statement. If the company has a gross income of less than \$15,000 per year so that the completion of the certified financial statement proves to be an undue financial burden, the applicant may have this requirement waived if:

(1) it has two years of operation with Minnesota on a solvent basis with no history of corporate bankruptcy or personal bankruptcy among chief officers and stockholders; and

(2) the administrator provides for a review audit by an independent certified public accountant or licensed public accountant, and provides to the department a copy of the review letter pursuant to the audit and corporate bank references.

F. Proof of coverage under a fidelity bond for all persons involved in making claims payments, and all officers of the company.

G. Information relating to any changes in personnel acting as resident agent for the self-insurance plan administrator.

2767.0700 LICENSE REPORTING REQUIREMENTS.

Subpart 1. Time limit. Within 30 days after signing a self-insurance plan administrator contract, a licensee shall inform the department in writing of the name or names of the self-insured under contract and the areas for which the client is self-insured, excepting qualified ERISA clients if this information is classified as nonpublic by the commissioner of administration.

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

Subp. 2. Examinations. The commissioner may make examinations within or outside of the state of each licensee's records at a reasonable time and in the scope necessary to enforce the provisions of Minnesota Statutes and rules of the Department of Commerce.

Subp. 3. Report compliance. Each licensee shall file or ensure that the self-insurers it services file all required reports relating to those services which the administrator provides within the times established by statute, rule, or order of the commissioner. Required reports include:

A. an annual activity report, filed within 60 days of the end of the calendar year, stating:

(1) the name and address of self-insurance clients administered by the licensee in Minnesota during the previous calendar year, excepting qualified ERISA clients if this information is classified as nonpublic by the commissioner of administration;

(2) the area and type of service provided to each plan;

(3) the starting and/or termination date each client was serviced;

(4) the total number and total amount of claims paid and loss payments disbursed on behalf of each client; and

(5) the reserves established for each client;

B. loss information reports required by part 2780.0500;

C. any reports required by the Workers' Compensation Reinsurance Association, if applicable;

D. any report required by the Minnesota Department of Labor and Industry, if applicable; and

E. any other report required by the Department of Commerce.

Subp. 4. Notification of contract termination. If the contract between a licensee and a self-insured is terminated, the licensee shall notify the commissioner in writing within 30 days after termination. The licensee shall maintain copies of all records relating to the self-insured for six years after the termination date of each contract, if the records are not returned to the client.

Subp. 5. Notification of cessation of business activities. If a licensee ceases doing business as a self-insurance plan administrator, the license must be surrendered and the commissioner must be informed in writing of the name and address of the custodian and the location of any files of self-insured clients formerly administered by the licensee.

Subp. 6. Notification of material changes. The administrator shall notify the commissioner in writing of any change in supervisory personnel, management, or any other material change within 30 days after the change and shall include a detailed explanation of the change.

2767.0800 PREMIUM COLLECTIONS.

Subpart 1. Fiduciary relationship. All insurance charges or premiums collected by an administrator on behalf of or for a client, and return premiums received from the client, shall be held by the administrator in a fiduciary capacity. These funds must be remitted immediately to the person entitled to them, or must be deposited promptly in a fiduciary bank account established and maintained by the administrator.

Subp. 2. Commingling. If charges or premiums deposited in the fiduciary account have been collected on behalf of or for more than one client, the administrator shall cause the bank in which the fiduciary account or claims-paying account is maintained to keep records clearly recording the deposits in and withdrawals from the account on behalf of or for each principal. The administrator shall promptly obtain and keep copies of these records and shall furnish the principal with copies of these records monthly pertaining to deposits and withdrawals on behalf of or for the client.

Subp. 3. Interest. Any interest earned on deposits is the property of the client on whose behalf the deposit was made.

Subp. 4. Limitation on claims payment. The administrator may not pay any claim by withdrawals from the fiduciary account. Claims payments must be made from a claims-paying account established and maintained by the administrator on behalf of the client. The administrator shall keep a record of all transactions and shall monthly furnish the client with copies of these records pertaining to deposits, withdrawals, and claims payments on behalf of and for the client.

Subp. 5. Withdrawals. Withdrawals from the fiduciary account may be made, as provided in the written agreement under Minnesota Statutes, section 60A.23, for any of the following:

A. remittance to a client entitled to the withdrawal;

B. deposit in an account maintained in the name of the client;

C. transfer to and deposit in a claims-paying account;

D. payment to the administrator of its commission, fees, or charges; and

E. remittance of return premiums to the person entitled to the remittance.

Withdrawals on behalf of a client may not be greater than the sum of the deposits and interest made on behalf of that client.

2767.0900 BOND AMOUNTS.

Subpart 1. Administrator not commingling funds. The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that does not commingle funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$500,000, whichever is greater, up to a maximum of \$2,000,000.

Subp. 2. Administrator commingling funds. The amount of the fidelity bond required under part 2767.0400, subpart 2, item F for an administrator that commingles funds of either its fiduciary account or claims-paying account must be in the amount of the average daily balance of all trust accounts, or \$1,000,000, whichever is greater, up to a maximum of \$5,000,000.

2767.0950 DENIAL, SUSPENSION, REVOCATION, OR CENSURE OF LICENSES.

Subpart 1. Commissioner's findings. The commissioner will investigate and may by order deny, suspend, or revoke any license, or may censure a license if the commissioner finds:

A. that the order is in the public interest; and

B. that the applicant or licensee, or in the case of a corporation or partner, any officer, director, partner, employee, subcontractor, or any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the licensee, or controlled by the licensee:

(1) has filed an application for a license which is incomplete in any material respect or contains any statement which, in light of the circumstances under which it is made, is false or misleading with respect to any material fact;

(2) has engaged in a fraudulent or deceptive practice as defined by Minnesota Statutes, chapters 60A and 72A, and rules adopted thereunder;

(3) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of insurance administration;

(4) failed to act reasonably as a supervisor so as to cause injury or harm to the public;

(5) failed to act reasonably in the conduct of claims adjustment or claims administration;

(6) does not possess the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered; or

(7) violated or failed to comply with any provision for proper claims administration as set forth in Minnesota Statutes, chapters 60A to 79, and 176, and any rules adopted thereunder.

Subp. 2. Informal conferences. The commissioner may request an informal conference to discuss and resolve any allegations of violations.

521

Department of Energy and Economic Development Energy Division

Proposed Rules Governing Community Energy Council Grants

Notice of Intent to Adopt Rules without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Energy and Economic Development proposes to adopt the above-entitled rules without a public hearing. The Department has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedure set forth in Minnesota Statutes §§ 14.21 through 14.28 (Supp. 1983) as amended by Minn. Laws 1984 ch. 640 §§ 12-15, 33-34.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules.

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

Comments are encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment and any change proposed. 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 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes §§ 14.14 through 14.18 (Supp. 1983), as amended by Minn. Laws 1984, ch. 640, §§ 7-11.

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

Mark Schoenbaum
Energy Division
Minnesota Department of Energy & Economic Development
900 American Center Building
150 E. Kellogg Blvd.
St. Paul, MN 55101
(612) 297-3602

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

Authority for the adoption of these rules is contained in Minn. Laws 1984, ch. 604, § 2, subd. 2. Additionally, the Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared by and is available from Mark Schoenbaum 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 Mark Schoenbaum.

The rules proposed for adoption relate to the following matters: These rules govern the distribution of community energy council grant funds under the program established in Laws of Minnesota 1984, Chapter 654, Article II, Section 106. The rules establish the grant program, provide for grants of up to \$15,000 to cities and counties in support of community energy council activities, and require grantees to provide at least a ten percent local match. The rules provide for the form and contents of applications, evaluation of applications, classification of eligible and ineligible grantee activities and expenditures, grant agreements and grant close-out.

These rules create a state program to be administered by counties and cities, and as such are exempted from the applicability of Minnesota Statutes § 14.115 by Minnesota Statutes § 14.115, Subdivision 7(b). However, these rules do require small business representation on community energy councils and allow grant funds to be expended in support of business energy conservation activities.

Please be advised that Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. Minn. Stat. Section 10A.01, subdivision 11 defines a lobbyist as any individual: (a) engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or (b) who spends more than \$250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials. The statutes provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

Copies of this notice and the proposed rules are available and may be obtained by contacting Mark Schoenbaum.

Mark B. Dayton, Commissioner of
Energy and Economic Development

Rules as Proposed (all new material)

4160.5100 DEFINITIONS.

Subpart 1. Scope. For purposes of parts 4160.5200 to 4160.5900, the following terms have the meaning given them.

Subp. 2. Commissioner. "Commissioner" means the commissioner of the Department of Energy and Economic Development.

Subp. 3. Community energy council. "Community energy council" means a council, committee, board, or other body formed by a city or county, individually or through the exercise of joint powers agreements, to address local energy issues.

Subp. 4. Department. "Department" means the Department of Energy and Economic Development.

Subp. 5. Eligible applicant. "Eligible applicant" means a Minnesota city or county.

4160.5200 PURPOSE.

Parts 4160.5100 to 4160.5900 establish the method by which the department provides funds to Minnesota cities and counties in support of community energy council activities, as authorized by Laws of Minnesota 1984, chapter 654, article II, section 106.

4160.5300 GRANT PROGRAM.

Subpart 1. Application schedule. After announcement by the department in the *State Register*, the department shall accept applications for community energy council grants from cities and counties, individually, collectively, or through the exercise of joint powers agreements. The department shall consider for funding only applications received by the deadline announced in the *State Register*.

Subp. 2. Review process. The commissioner shall select the members of a committee to assist him or her to review and rank applications. The review committee shall score applications according to criteria in part 4160.5500 and transmit its recommendations to the commissioner. The commissioner shall approve, disapprove, or return for further consideration applications recommended by the committee. Upon approval by the commissioner, a grant agreement may be negotiated with the department in accordance with part 4160.5800.

Subp. 3. Maximum award amount. The maximum amount of a community energy council grant is \$15,000 and requires at least a ten percent local match.

4160.5400 APPLICATION FOR COMMUNITY ENERGY COUNCIL GRANT.

Subpart 1. Form. Applications must be submitted in a form prescribed by the department.

Subp. 2. Contents. Applications must contain the following information:

A. Documentation of the existence of a community energy council must include a copy of the resolution of the governing body establishing a community energy council, and a list of members appointed by the governing body to serve on the community energy council, including the members' relevant affiliations, if any.

B. Applicants shall include a work plan that explains how the applicant intends to undertake program planning and implementation during the grant period. Applicants shall specify major tasks to be undertaken and a project schedule that includes beginning and ending dates for each task. The expected results or product of each task must be identified.

C. The budget must identify major expenditure categories and amounts and the amount and source of the local match.

D. Applicants shall submit a copy of the resolution or resolutions that authorize the submission of the application to the department.

4160.5500 EVALUATION OF GRANT APPLICATION.

Subpart 1. Criteria. The review committee shall evaluate grant applications according to the following criteria:

A. Community energy councils must include representatives of labor, small business, volunteer organizations, senior citizens, and low and moderate income residents, and may include city and county officials, and other interested parties.

B. A work plan will be evaluated to determine its potential to reduce energy use and energy costs in the applicant community. Positive indicators of this potential are:

(1) a work plan that implements one or more eligible activities as listed in part 4160.5600, subpart 1, during the grant period;

(2) a work plan that demonstrates how the applicant will coordinate activities undertaken with community energy council grant funds with activities of other energy service providers; or

(3) a work plan that indicates efforts that are underway or planned to secure funds in addition to a community energy council grant for project implementation.

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

C. Past or current experience in conducting energy-related community programs will be considered by the review committee as an indicator of the applicant's capability in this area and commitment to energy programs.

D. A grant application must be clear, concise, and complete.

Subp. 2. Point values for applications. The review committee shall award points to each application as follows:

A. representation of community energy council membership, up to a maximum of 35 points;

B. adequacy of applicant work plan, up to a maximum of 40 points;

C. energy-related program experience, up to a maximum of 15 points; and

D. clarity, conciseness, and completeness, up to a maximum of ten points.

4160.5600 CLASSIFICATION OF ELIGIBLE AND INELIGIBLE GRANTEE ACTIVITIES.

Subpart 1. Eligible activities. Planning, promotion, coordination, and implementation of the following activities are eligible for community energy council grants:

A. Residential energy conservation activities may include energy audits, workshops, distribution of energy conservation materials and information, and financing programs.

B. Business energy conservation activities may include meetings and workshops, energy audits, distribution of energy conservation materials and information, and financing programs.

C. Transportation energy conservation activities may include car-care clinics, promotion of energy efficient transportation modes, and traffic flow synchronization.

D. Community energy planning activities may include development of community energy use and cost profiles and estimates of energy conservation and alternative energy potentials.

E. Local government energy conservation activities may include energy use and cost accounting, fleet management, procurement of energy efficient vehicles and equipment, and recycling.

F. Energy efficient land use planning activities may include developing and amending comprehensive plans and zoning ordinances, subdivision regulations, and other land use controls to facilitate energy efficient development and the use of renewable energy resources.

G. Alternative energy activities may include projects the objective of which is the substitution of alternative energy sources for fossil fuels.

Subp. 2. Ineligible activities. The following activities are ineligible for community energy council grants:

A. projects conducted outside a grantee's corporate boundaries by the grantee alone; and

B. real property acquisition.

4160.5700 CLASSIFICATION OF ELIGIBLE AND INELIGIBLE GRANTEE EXPENDITURES.

Subpart 1. Eligible grantee expenditures. The following are eligible grantee expenditures:

A. salaries and wages;

B. fringe benefits;

C. in-state travel;

D. space rental and utilities;

E. rental and lease of equipment;

F. consumable supplies;

G. telephone;

H. postage;

I. printing and printed materials; and

J. insurance.

Subp. 2. Ineligible grantee expenditures. The following are ineligible grantee expenditures:

A. out-of-state travel, unless specifically approved in an agreement between the grantee and the department;

B. purchase of real property;

C. purchase of equipment, except consumable supplies; and

D. retroactive payment of grant funds for activities undertaken prior to the effective date of the grant agreement.

4160.5800 GRANT AGREEMENT.

Subpart 1. Contents. An agreement must specify the grant amount and the duration of the grant. The agreement must include assurance that the local share will be provided and that the work program agreed upon will be carried out. A grant agreement based upon a joint application must be executed by the applicant city or county that will be directly responsible for financial management of the grant, and that will be responsible for the required reports in part 4160.5800, subpart 5, and the records required in part 4160.5800, subpart 6. Amendments and extensions may only be made in writing and must be signed by all parties.

Subp. 2. Funding period. Grants will be approved for a period of up to one year, unless other terms are agreed to by the commissioner.

Subp. 3. Disbursement schedule. The department shall disburse 80 percent of the grant money when it receives an invoice of projected costs. The department shall disburse the remaining 20 percent when the grantee work program is complete and the department receives a satisfactory final report.

Subp. 4. Required reports. The grantee shall submit to the department on the first of each month a one to two page report briefly stating the activities that have taken place during the month. The grantee shall provide the department with three copies of a final report and financial statement, describing all activities that took place during the grant period. The final report must summarize planning and implementation steps in chronological order and identify all parties involved during the grant period.

Subp. 5. Records. The grantee shall maintain financial records according to generally recognized accounting methods for a period of not less than three years from the date of the execution of the contract of all transactions related to the receipt and expenditure of grant money.

Subp. 6. Grant agreement deviations. Unless the department agrees in writing, no grant funds may be used to finance activities by consultants or local staff if the activities are not included in the grant agreement. Unless the department agrees in writing, a grantee may not contract out all its energy-related activities to consultants.

4160.5900 GRANT CLOSE-OUT.

Subpart 1. Evaluation. The department shall conduct an evaluation of the final report and all the required reports and financial documents within 60 days of their submission by the grantee to the department. The evaluation shall assess:

A. whether the local share contributed was equal to or greater than ten percent of the total cost of the preliminary planning project;

B. whether the agreed upon work program was completed; and

C. whether the governing body has formally reviewed the completed final report.

Subp. 2. Review. Upon completion of a satisfactory evaluation by the department, the department shall disburse the remaining 20 percent of the grant to the grant recipient. If the results of the evaluation are unfavorable to the grantee and the grantee does not agree with the findings of the evaluation, the grantee may request a review by the commissioner.

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

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Board of Peace Officer Standards and Training

483

Adopted Rules Governing License Fees for Peace Officers, Part-time Peace Officers, and Constables

The rules proposed and published at *State Register*, Volume 8, Number 37, pages 2013-2015, March 12, 1984 (8 S.R. 2013) are adopted as proposed.

OFFICIAL NOTICES

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

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

Department of Administration

Notice of State Surplus Real Property Sale

In compliance with M.S. 94.09, et seq, the Commissioner of Administration offers for sale by sealed bid a parcel of real estate comprising the former fisheries headquarters in Grand Rapids, Minnesota. Parcel "A" consists of approximately 2.75 acres with 400 feet of frontage on Old Golf Course Road and is improved with a two story office building (44x80) a shed and two fuel tanks. Appraised value and minimum bid is \$129,600.

The property will be made available for inspection by appointment only. Arrangements for show may be made by contacting:

John Chell, Regional Admin.
1201 East Highway 2
Grand Rapids, MN 55744
Tele. (218) 327-1702

The bids will be opened and read aloud publicly at Room G-22 Administration Bldg., 50 Sherburne Avenue, St. Paul, MN on July 3, 1984 at 2:30 p.m.

Bidders shall be required to submit a cashier's check with their bids in an amount not less than 10% of the bid. The checks of unsuccessful bidders will be returned.

The successful bidder will have the choice of making payment of the balance remaining after the down payment by one of the following two methods:

1. Payment in full of the balance no later than October 3, 1984, or

2. Payment of the remaining balance in not less than equal annual installments for not to exceed 5 years, with principal and interest payable annually in advance at the rate of 9% per annum on the unpaid balance, by certified check or cashier's check payable to the State of Minnesota on or before June 1 of each year.

For details and bid forms contact:

Real Estate Management Division
Department of Administration G-22
50 Sherburne Avenue
St. Paul, MN 55155
Tele: (612) 296-6674

Department of Agriculture Soil and Water Conservation Board

Notice of Change in Meeting Place

The Minnesota Soil and Water Conservation Board has changed the place of their July 10, 1984 meeting from the Minnesota Department of Agriculture Building, Conference Room A. St. Paul, Minnesota, to Tony's Pizza, Marshall, Minnesota, starting at 9:00 a.m.

The Board will resume their regular monthly schedule on August 14, 1984.

Department of Economic Security

Outside Opinion Sought Regarding Proposed Rules Governing the Minnesota Energy Assistance Program

Notice is hereby given that the Department is seeking information or opinions from sources outside the Department in preparing to adopt rules governing the administration of the Low Income Home Energy Assistance Act (Title XXVI of the Omnibus Budget Reconciliation Act of 1981) pursuant to Minnesota Statutes, section 14.10. The Department of Economic Security has been designated by Executive Order of the Governor (Executive Order No. 83-10) as the grantee of record for the federal Low Income Home Energy Assistance Block Grant. The Department is authorized to promulgate rules under Minn. Stat. § 268.021 enacted by Minnesota Laws 1983, Chapter 268.

You are hereby advised, pursuant to Minnesota Statutes, § 14.115, Small Business Considerations in Rulemaking, that the proposed rules may affect small business in Minnesota.

The Minnesota Department of Economic Security requests information or comments concerning the subject matter of these rules. Interested or affected persons or groups may submit written statements to:

Alan Chapman, Acting Director
Minnesota Energy Assistance Program
690 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Statements of information and comments will be accepted until July 25, 1984. Any written material received by the Department of Economic Security shall become part of the record in the event that rules are promulgated.

Michael Fratto
Rules Coordinator
Department of Economic Security

OFFICIAL NOTICES

State Board of Education Department of Education Program Effectiveness Division

Notice of Public Hearings Regarding an Amendment to State Plan Regarding Public Law 94-142 Concerning Handicapped Children's Education

Notice of Public Hearings Before Department of Education staff on an Amendment to the Minnesota State Plan for Fiscal Years 1984 through 1986 for Meeting the Requirements of Public Law 94-142, the Education of All Handicapped Children Act (45 C.F.R. 300a.)

The 1984 Minnesota legislature amended Minnesota Statute 120.17, Subd. 3b. [Procedures for Decisions] to bring Minnesota laws into compliance with recent court decisions related to the impartiality of hearing review officers at the state appeals level. The Minnesota Special Education State Plan for FY 84-86 must be amended to reflect these changes.

A public hearing on the proposed change to Chapter Six of the Minnesota State Plan for Fiscal Years 1984 through 1986 will be conducted by Department of Education Staff on July 13, 1984, in Rm. 716B of the Capitol Square Bldg., 550 Cedar Street, St. Paul, MN. The hearing will begin at 9:00 A.M. and continue until all parties have had ample opportunity to participate.

The State Plan is a grant application for Minnesota's P.L. 94-142 Education for All Handicapped Children Act entitlement funds. It outlines Minnesota's policies and procedures to insure that all eligible handicapped children and youth in Minnesota receive a free appropriate public education. The proposed amendment in Chapter Six of the State Plan is essentially similar to the current plan but has been reviewed and updated to reflect the statutory changes made by the 1984 legislature. Only the proposed changes in Chapter Six of the State Plan will be open for discussion.

The proposed amendment to Chapter Six of the State Plan may be modified as a result of the hearing process. Therefore, if you are interested in the activities included in the proposed amendment, you are urged to participate in the hearing process. An interpreter for the hearing impaired will be present upon request.

Following the agency's brief overview of the proposed amendment, all interested persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written comments may be submitted through July 27, 1984, to Barbara S. Burke, State Department of Education, Program Effectiveness Division, Special Education Section, 550 Cedar Street, St. Paul, MN 55101.

Copies of the Amendment to Chapter Six of the State Plan will be available upon request from the Special Education Section by June 25, 1984. Additional copies will be available at the hearing. If you have any questions on the content of the amendment, contact Barbara Burke at (612) 296-8588.

State Board of Education Department of Education Partnerships Division

Outside Opinion Sought Regarding Proposed Rules Governing the Early Childhood and Family Education Program in Community Education

Notice is hereby given that the State Board of Education is seeking information or opinions from sources outside the agency in preparing rules governing the Early Childhood and Family Education Program. The promulgation of these rules is authorized by Minnesota Laws of 1984, ch. 463, art. 4, sec. 1, subd. 10.

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

Lois Engstrom
Minnesota Department of Education
651 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 297-2441 and in person at the above address.

All statements of information and comments shall be accepted until July 30, 1984. Any written material received by the State Board of Education shall become part of the record in the event that the rules are amended.

June 25, 1984

Nan Skelton
Assistant Commissioner
Partnership Division

State Board of Education Department of Education Partnerships Division

Outside Opinion Sought Regarding the Mission of Secondary Vocational Education and Proposed Minimum Requirements for Secondary Vocational Education

Notice is hereby given that the State Board of Education is seeking information or opinions from sources outside the agency in preparing the Mission of Secondary Vocational Education and Minimum Requirements for Secondary Vocational Education Programs. The promulgation of these rules is authorized by Minnesota Laws of 1984, ch. 463, art. 5, sec. 24, subd. 3.

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

Dayton Perry
Minnesota Department of Education
527 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-8027 and in person at the above address.

All statements of information and comments shall be accepted until July 30, 1984. Any written material received by the State Board of Education shall become part of the record in the event that the rules are amended.

June 25, 1984

Nan Skelton
Assistant Commissioner
Partnerships Division

Department of Energy and Economic Development Energy Finance Division

Outside Opinion Sought Concerning a Proposed Rule Administering Grants to Local Governments to Make Qualified Energy Improvements

Notice is hereby given that the Department of Energy and Economic Development is seeking information or opinions from sources outside the Department in preparing to promulgate new emergency rules governing administration of the Qualified Energy Improvement Grant Program. The substance of this program comes from Laws of 1984, Chapter 654, Section 105. The promulgation of these rules is authorized by Minnesota Statutes 116J.36, sub. 11 (1984).

The Department of Energy and Economic Development 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:

Mary Lesch-Gormley
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Boulevard
St. Paul Minnesota 55101

OFFICIAL NOTICES

Oral statements will be received during regular hours over the telephone at (612) 297-2324 and in person at the above address.

All statements of information and comment shall be accepted until permanent rules for this program have been promulgated. Any written material received by the department shall become part of the record in the event the rules are promulgated.

Mark B. Dayton
Commissioner

Department of Energy and Economic Development Minnesota Energy and Economic Development Authority

Outside Opinion Sought Concerning a Proposed Rule Administering Loans to Local Governments to Make Qualified Energy Improvements

Notice is hereby given that the Energy and Economic Development Authority of the Department of Energy and Economic Development is seeking information or opinions from sources outside the department in preparing to promulgate new emergency rules governing administration of the Qualified Energy Improvement Loan Program. The substance of this program comes from Laws of 1984, Chapter 654, Section 105. The promulgation of these rules is authorized by M.S. 116J.36, sub. 11 (1984).

The Minnesota Energy and Economic Development Authority 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:

Mary Lesch-Gormley
Minnesota Energy and Economic Development Authority
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101

Oral statements will be received during regular hours over the telephone at (612) 297-2324 and in person at the above address.

All statements of information and comment shall be accepted until permanent rules for this program have been promulgated. Any written material received by the Authority shall become part of the record in the event that the rules are promulgated.

Mark B. Dayton
Chairman
Minnesota Energy and Economic
Development Authority

Department of Health Emergency Medical Services Section

Emergency Medical Services Licensure Application for Robbinsdale/Crystal Area

As of June 25, 1984, a complete application for a statewide, scheduled advanced life support transportation service was submitted by North Ambulance Service, to operate a base of operation at 3300 Oakdale Avenue North, Robbinsdale, Minnesota 55422, with substations located at 5345 Lakeland Avenue North, Crystal, Minnesota, and Crystal Airport, Crystal, Minnesota.

This notice is given pursuant to Minnesota Statutes 1979, Section 144.802, which requires in part that the Commissioner of Health shall publish the notice in the *State Register* at the applicant's expense; and in a newspaper in the municipality in which the service will be provided.

Each municipality, county, community health services agency, and any other interested person wishing to comment on this application may submit comments to the Metropolitan Health Board, 300 Metro Square Building, 7th and Robert, St. Paul, MN. 55101, Attn: Tom Chapel, 612/291-6357. The comments must reach the Health Systems Agency before July 25, 1984, or be submitted at the public hearing.

After a public hearing has been held, the Health Systems Agency shall recommend that the Commissioner of Health grant or deny a license or recommend that a modified license be granted. The Health Systems Agency shall make the recommendations and reasons available to any individual requesting them.

Within 30 days of receipt of the recommendation to the Commissioner of Health, the Commissioner shall grant or deny the license to this applicant.

Department of Human Services Income Maintenance Bureau Health Care Programs Division

Outside Opinion Sought Regarding Rules Establishing the Criteria for Determining the Appropriateness of Inpatient Hospital Admissions of and Services to Medical Assistance and General Assistance Medical Care Recipients

Notice is hereby given that the Minnesota Department of Human Services is seeking information or opinions from sources outside the agency in preparing to promulgate new rules to replace 12 MCAR § 2.0481 to 2.0484 (Temporary) establishing criteria to determine the appropriateness of hospital admissions and standards that safeguard against the unnecessary or inappropriate use of inpatient medical assistance services. The promulgation of these rules is authorized by Minnesota Statutes, section 256B.503, Supp. 1983.

The Minnesota Department of Human Services 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:

Deby Moerer
Health Care Surveillance
Representative
Health Care Programs Division
Department of Human Services
444 Lafayette Road

or

Penny Olson
Health Care Surveillance
Representative
Health Care Programs Division
Department of Human Services
444 Lafayette MN
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 612/297-3713 or 612/297-2573 and in person at the above address.

All statements of information and comment shall be accepted until further notice. Any written material received by the Minnesota Department of Human Services shall become part of the record in the event that the rules are promulgated.

Department of Human Services Mental Health Bureau

Outside Opinion Still Sought Concerning a Proposed Rule Governing the Provision of Home- and Community-Based Services to Mentally Retarded Individuals

Notice hereby is given that the Department of Human Services continues to invite all interested and affected individuals or groups to provide information and comment regarding a proposed rule setting program standards for waived services to the mentally retarded.

Statements may be directed to:

Russell M. Tyler, Ph.D.
Mental Retardation Program Division
Mental Health Bureau
Department of Human Services
Centennial Building—4th Floor
658 Cedar Street
St. Paul, MN 55155
Telephone: 612-297-1241 (regular business hours)

This invitation is open until further notice.

OFFICIAL NOTICES

Department of Labor and Industry Prevailing Wage Division

Notice of Prevailing Wage Rates for Highway and Heavy Construction

On June 13, 1984 the commissioner certified prevailing wage rates for the following Minnesota counties: Becker, Beltrami, Big Stone, Blue Earth, Brown, Carver, Cass, Chisago, Clearwater, Crow Wing, Dodge, Douglas, Faribault, Grant, Houston, Hubbard, Jackson, Kittson, Lac Qui Parle, Lake of the Woods, LeSueur, Mahanomen, Martin, McLeod, Meeker, Mille Lacs, Murray, Norman, Pipestone, Polk, Pope, Red Lake, Redwood, Renville, Rock, Steele, Stevens, Swift, Todd, Watonwan, Wilkin, Winona and Wright.

A copy of the determined wage rates for Minnesota counties may be obtained by writing to the State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155. The charges for the cost of copying and mailing are \$.50 for the first county and \$.30 for any subsequent copies of the same or other counties. For all 87 counties the charge is \$25.00. A \$1.50 handling charge must be included for each order. Minnesota sales tax of 6% must be added to all orders.

A check or money order payable to the State of Minnesota must accompany each request.

Steve Keefe, Commissioner
Department of Labor and Industry

Department of Transportation

Petition of the City of Northfield for a Variance from State Aid Standards for Bridge Width

Notice is hereby given that the City Council of the City of Northfield has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on Bridge number 66505 (MSAS 108—5th Street over the Cannon River).

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a bridge width of 44 feet instead of the required 50-foot bridge width.

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

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

June 14, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of St. Paul for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of the City of St. Paul has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on Lafayette Road (MSAS 113) from Seventh Street to Grove Street. (0.18 Mile)

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a street width of 59 feet with a 16-foot median instead of the required street width of 70 feet with 16-foot median.

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

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

June 14, 1984

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Proposed Acquisition of Abandoned Burlington Northern Railroad Company Right of Way Extending on the East End From the Easterly Edge of the Minnewaska Golf Club in the City of Glenwood Approximately Six Miles Westerly to That Point Where the Railroad Right of Way Crosses Trunk Highways 28 and 29 in the County of Pope, Minnesota

Notice of Order for Hearing

IT IS HEREBY ORDERED, and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held on July 12, 1984 at 1:00 p.m. in the City Hall, City of Glenwood, 137 E. Minnesota Street, Glenwood, Minnesota.

The hearing will be held before Mr. Bruce Campbell, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota 55415 (Telephone: 612-341-7602) an Administrative Law Judge appointed by the Chief Administrative Law Judge of the State of Minnesota. All parties have the right to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minnesota Statutes §§ 14.02 through 14.70 and Minnesota Rules §§ 1400.5100 through 1400.7000. Questions concerning the issues raised in this Order or concerning informal disposition or discovery may be directed to Mr. Donald Mueting, Special Assistant Attorney General, Transportation Building, Office of the Attorney General, 515, Saint Paul, Minnesota 55155 (Telephone: 612-296-3369).

The purpose of the hearing is to ensure that under the provisions of Minnesota Statutes § 222.63 and Minnesota Rules § 8830.5820 through 8830.5840 all parties and potential parties of interest are given an opportunity to be heard on the proposed acquisition by the Commissioner of the Minnesota Department of Transportation of abandoned Burlington Northern Railroad Company right of way extending on the east end from the easterly edge of the Minnewaska Golf Club in the City of Glenwood approximately six miles westerly to that point where the railroad right of way crosses Trunk Highway 28 and 29 in the County of Pope, Minnesota. This rail line is eligible for the State rail bank program because it is a corridor for a potential transportation use, such as a highway.

Objections to the proposed action having been received, the Commissioner is required to proceed in the manner provided for in a contested case hearing.

Any person who desires to become a PARTY to this matter must submit a timely PETITION TO INTERVENE to the Administrative Law Judge pursuant to Minnesota Rules § 1400.6200, showing how the person's legal rights, duties and privileges may be determined or affected by the decision in this case. The petition must also set forth the grounds and purposes for which intervention is sought. The notice of intervention must be served upon other parties to the proceeding.

ALL PARTIES ARE ADVISED that if a party intends to appear at the hearing scheduled for July 12, 1984, the Notice of Appearance form enclosed with this order must be completed and returned to the Administrative Law Judge at least 10 days before the hearing date. SHOULD A PARTY FAIL TO APPEAR AT THE HEARING, THE ALLEGATIONS MADE IN THE PETITION MAY BE TAKEN AS TRUE.

The above cited procedural rules are available at the Office of Administrative Hearings or may be purchased from the State Register and Public Documents Division of the Department of Administration, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155 (Telephone: 612-297-3000). They provide generally for the procedural rights of the parties including: rights to advance notice of witnesses and evidence, right to a prehearing conference, rights to present evidence and cross-examine witnesses, and right to purchase a record or transcript. Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence.

Persons attending the hearing should bring all evidence bearing on the case including any records or other documents. If persons have good reason for requesting a delay of the hearing, the request must be made in writing to the Administrative Law Judge at least 5 days prior to the hearing. A copy of the request must be served on the agency and any other parties.

It is hereby ordered that this notice be published simultaneously in the *State Register* and one newspaper of general circulation in the area once a week for two consecutive weeks.

June 4, 1984

OFFICIAL NOTICES

Date and Time of Hearing: July 12, 1984 at 1:00 P.M.

Name and Telephone Number of Hearing Examiner:

Bruce Campbell
Office of Administrative Hearings
400 Summit Bank Building
310 South Fourth Avenue
Minneapolis, Minnesota 55415
341-7602

TO THE ADMINISTRATIVE LAW JUDGE:

You are advised that the party named below will appear at the above hearing.

Name of Party: _____

Address: _____

Telephone Number: _____

Party's Attorney or Other Representative: _____

Signature of Party or Attorney: _____

Date: _____

STATE CONTRACTS

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

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

Commodities contracts with an estimated value of \$5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-2513. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration

Request for Proposals for Office Rental Space, Duluth

The Department of Administration desires proposals for the rental of approximately 6,000 usable sq. ft. of office, laboratory, storage and specialized space for the Department of Agriculture, Grain Inspection Division located in Duluth, Minnesota. The preferred location is on Garfield Avenue, south of Michigan Street. Contact the Department of Administration, Real Estate Management Div., 50 Sherburne Ave., Room G-22, St. Paul, MN 55155 (612) 296-6674. Proposals must be submitted by 4:30 p.m. (CDST) on Tuesday, July 31, 1984.

Department of Administration

Request for Proposals for Rental of Office Space, St. Paul

The Department of Administration desires proposals for the rental of up to 25,000 usable square feet of office space for the Minnesota Housing Finance Agency in the City of St. Paul.

Contact:

Department of Administration
Real Estate Management Division
50 Sherburne Avenue—Room G-22
St. Paul, Minnesota 55155
(612) 296-6674

Proposals must be submitted by 4:30 p.m. (CDST) on Monday, July 16, 1984.

**Department of Administration
Procurement Division**

Commodities Contracts Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-000-41821	Vacuum & Jet Sewer Cleaning Machine Addendum #2	Transportation	Golden Valley	Contact buyer
26-072-08585	Supply Vestibule Doors	Moorhead State University	Moorhead	Contact buyer
07-500-29988	Conversion Material for Various DOT Districts	Public Safety	Various	Contact buyer
55-100-03106	Typewriter Extension Units	Anoka State Hospital	Anoka	Contact buyer
02-514-43214 etc	Trucks (Rebid)	Various	Various	Contact buyer
29-001-07058	Assistant Managers Residence Lake Carlos State Park	Natural Resources Region I	Bemidji	Contact buyer
42-100-06732-33	Modular Office System	Labor & Industry	St. Paul	Contact buyer
02-514-43214	Trucks (Rebid Addendum #1)	Various	Various	Contact buyer
55-000-88055	Rental of Photocopy Machine	Public Welfare	St. Paul	Contact buyer
21-602-83839	Van Equipment	Vocational Rehabilitation	Mpls.	Contact buyer
02-307-44211	Entrance Mats	Administration/Plant Management	St. Paul	Contact buyer
79-400-A	Aggregates—Detroit Lakes (Rebid)	Transportation	Detroit Lakes	Contact buyer
02-307-44097	Addendum #1 4 W.D. Tractor	Administration/Plant Management	St. Paul	Contact buyer
55-100-03107	Purch. Word Processing System	Anoka State Hospital	Anoka	Contact buyer
79-600-A	Aggregates—Rochester (Rebid)	Transportation	Rochester	Contact buyer
79-500-PC	Portland Cement—Mpls.	Transportation	Minneapolis	Contact buyer
79-250-B	Hot Mix Bituminous—Crookston (Rebid)	Transportation	Crookston	Contact buyer
79-400-B	Plant Mix Bituminous—Detroit Lakes (Rebid)	Transportation	Detroit Lakes	Contact buyer
Various	Personnel Radiation Film Badge Dosimetry Service	Various	Various	Contact buyer
78-620-16344	Service Contract for Air Cleaner Maintenance	MN Correctional Facility	Stillwater	Contact buyer
39-000-03666	Purch. CPT Word Processing System	Governor's Office	St. Paul	Contact buyer
17-000-01557	Purchase of Photocopy Machine	Human Rights	St. Paul	Contact buyer
26-071-13705	Purchase of Training System	Mankato State University	Mankato	Contact buyer
77-000-08401	Mixed Hay, Oat Straw, Alfalfa Hay	MN Zoological Garden	Apple Valley	Contact buyer
77-000-08415	All Risk Property Insurance	MN Zoological Garden	Apple Valley	Contact buyer
07-700-30901	Printed Envelopes	Public Safety	St. Paul	Contact buyer
27-148-41419-20	Carpeting & Install	Rochester Community College	Rochester	Contact buyer
26-071-14016 Rebid	Purchase of Phototypesetting Equipment	Mankato State University	Mankato	Contact buyer
29-000-35927	Trout & Salmon Feed	Natural Resources—S. Service Center	Lanesboro	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
07-500-29987	Radio Comm. Equip.	Public Safety	Various	Contact buyer
02-430-44059	Electronic Key System	Administration/ Telecommunications	St. Paul	Contact buyer
Contract	Polyetheylene Bags	Various	Various	\$350,000- \$400,000
32-200-11242	Purchase of Printers	Pollution Control Agency	Roseville	Contact buyer

Contact the receptionist at 296-2513 for referral to specific buyers.

Department of Agriculture Plant Industry Division

Request for Proposals for Advertising Services

The Plant Industry Division, Department of Agriculture, is seeking a consultant to provide advertising services under contract as follows:

1. To promote the quality of Minnesota Certified Seed Potatoes and thus increase the demand and sales of same through advertising promotion in various printed media, including various potato oriented publications throughout the country:
2. To develop and implement, upon review and approval of the department, an advertising campaign to accomplish objective #1.

The selected consultant will be paid up to \$21,000 for services rendered. The actual contract payment will be based upon the actual services performed. The contract will be for August 1, 1984 through June 30, 1985.

Proposal submissions will be accepted until 4:30 p.m. on July 16, 1984. The formal RFP may be requested from and other inquiries may be made to:

Ronald M. Sushak
Plant Industry Division
90 West Plato Blvd., Room 226
St. Paul, Minnesota 55107
(612) 296-8410

Association of Minnesota Counties

Request for Proposals to Perform Job Evaluation Studies

The Association of Minnesota Counties (AMC) wishes to serve as a coordinating and contracting agency for Minnesota counties seeking to modify their classification and compensation systems in order to comply with 1984 Minnesota Laws, Chapter 651.

Chapter 651 mandates that every political subdivision shall establish "equitable compensation relationships" between its female-dominated, male-dominated, and balanced classes of employees.

Chapter 651 requires that each county must report to the Commissioner of Employee Relations by October 1, 1985 on its plan to implement the findings of its job evaluation system.

It is anticipated that AMC will retain one or more consultant(s). The relationship will be that of a contract for services between the consultant(s) and AMC. AMC will assume the responsibility for marketing, coordinating, and contracting with individual counties seeking services from the consultant(s).

At this point in time, it is not possible to identify specifically the exact number of counties that would use the services of the consultant(s). AMC anticipates that approximately 50 counties will seek services through this contractual relationship.

All requests for further information or copies of the complete RFP shall be addressed to Morris J. Anderson or Richard P. Cox at 612-224-3344. Proposals in response to this RFP must be submitted to the Executive Director, Association of Minnesota Counties, 555 Park Street, Suite 300, St. Paul, Minnesota 55103 no later than 5:00 p.m. on July 13, 1984. Only those proposals received or postmarked prior to the above date will be considered.

State Board of Education

Contract Available for Consultant to State Board of Education

The State Board of Education is seeking a qualified individual to provide assistance as described in the statements which follow:

—To monitor and research national developments and issues in public education and prepare summaries, recommendations and possible options for State Board of Education deliberation and consideration. To review and inform the Board about legislative actions and federal developments relating to education.

—To facilitate implementation of State Board of Education resolutions, motions and policies so the Board actions are effectively and efficiently implemented in Minnesota's educational community.

—To attend legislative hearings and provide the State Board of Education with information relative to specific legislation. To follow the progress of selected legislation and report status to State Board of Education and to assist in preparation of documents required for legislative hearings.

—To develop procedural guidelines and promote the State Board of Education's professional interaction with Minnesota's educational organizations so that effective communication networks can be established and maintained for the mutual exchange of pertinent information. To prepare information for dissemination and prepare information summaries for State Board of Education.

—To assist the State Board of Education in fulfilling its legislative responsibility to the Faribault Residential Schools so that the management and education programs of the schools can be continuously reviewed and improved. To establish a procedure for the establishment of a communication network with parent and advisory groups. To continuously review the operation of the communication network to improve operational effectiveness. To review and analyze educational programs operation for programmatic changes which will improve overall operation of the schools and to prepare summaries of needed actions to be taken for State Board of Education approval.

—To perform other tasks and activities as assigned which are required to carry out the functions of the State Board of Education.

It is anticipated that the cost of services to be provided during the contract period, July 1, 1984 through June 30, 1985 will not exceed \$34,000. Responses must be received in the office located in Capitol Square Building, St. Paul, MN no later than Monday, July 9, 1984.

Responses should be directed to:

Ms. Linda Rohda, Secretary
Minnesota State Board of Education
849 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
Telephone: (612) 297-4676

Telephone inquiries may be made to:

Mrs. Beverly J. Carpenter
Chairperson, Search Committee
Minnesota State Board of Education
Telephone: (612) 881-7043

This notice does not in any way obligate the State of Minnesota to enter into any agreement or contract. The State reserves the right to withdraw at any time prior to execution of a contract.

STATE CONTRACTS

Department of Health Emergency Medical Services Section

Contract Available for Newsletter Publication and Public Educational Materials Development

The Emergency Medical Services Section, Minnesota Department of Health, intends to contract for (1) editing four to five issues of a statewide EMS Section newsletter and (2) development and coordination of promotional materials for Emergency Medicine Week. Total cost for both projects is projected at \$2,000-\$3,000. Editing the newsletter would involve writing and compiling articles for the EMS Section newsletter and coordination of publication and distribution of the newsletter. Development and coordination of promotional materials for Emergency Medicine Week would involve adapting existing materials for use in Minnesota, providing technical assistance to ambulance services and other agencies interested in participating in Emergency Medicine Week, and coordinated EMS Section Emergency Medicine Week activities with other participating groups and agencies. Interested parties may call or write:

Peter Carr, Chief
Emergency Medical Services Section
Minnesota Department of Health
717 Delaware St. S.E.
Minneapolis, Minnesota 55440
(612) 623-5284

Department of Human Services Chemical Dependency Program Division

Request for Proposals for American Indian Chemical Health Curriculum Projects

The Chemical Dependency Program Division (CDPD) of the Department of Human Services is soliciting proposals for the development or adaptation of a chemical health curriculum and resource materials to benefit American Indians.

A total of \$10,000 is available to a single grantee. The funds to be used for this project are state funds, therefore no grant may be extended beyond June 30, 1985. All requests for information or copies of complete RFP form can be obtained by contacting Dorrie Hennagir at 612/296-4617.

Proposals in response to this RFP must be submitted on the CDPD Grant Application form. A copy of the application form can be obtained by contacting Dorrie Hennagir at the above phone number. Six copies of the proposal must be in the CDPD office, 4th Floor, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, 55155, no later than 4:20 p.m. on July 16, 1984.

State Arts Board

Request for Proposal—Graphic Arts Services

The Minnesota State Arts Board is requesting proposals for bids to provide a variety of graphic arts services beginning in July, 1984. This contract will cover such tasks as concept development, graphic design and layout, special typesetting, and illustration for a variety of the agency's publications. Respondents will be asked to provide a portfolio, staff qualifications, and a fee schedule which will be effective during the life of the contract. The successful respondent will be assigned tasks within the scope of the contract as needed by the agency. Total amount of the contract will not exceed \$15,000.

For more information, contact:

Mary Pattock Bremer
Minnesota State Arts Board
432 Summit Avenue
Saint Paul, MN 55102
(612) 297-2603

Proposals will be accepted until July 20th, 1984.

State Designer Selection Board

Request for Proposal for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designer for a number of State Projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., July 18, 1984, 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 number 7 below, 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 qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles 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 Minnesota Statutes, 1981 Supplement, Section 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. Design 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.

STATE CONTRACTS

7a) PROJECT—26-84

Mechanized Agriculture Addition, Receiving
Area Remodeling and Vehicle Storage Facility
University of Minnesota—Waseca Campus
Waseca, Minnesota

PROJECT DESCRIPTION:

This project consists of three components described as follows:

—Mechanized Agriculture Addition

a 9,600 sq. ft. addition and remodeling for the Mechanized Agriculture instructional program: \$700,000.00 construction cost.

—Receiving Area Remodeling

A 2,000 sq. ft. remodeling to provide a receiving dock and materials handling area for the campus: \$104,000.00 construction cost.

—Vehicle Storage Facility

A 1,900 sq. ft. garage facility to store vehicles and equipment for campus operations: \$90,000.00 construction cost.

Funds are available to complete working drawings and to construct these facilities.

CONSULTANT SERVICES:

The consultants will be required to prepare in cooperation with the owner's Building Advisory Committee for the owner's approval, schematic design presentation proposals, design development drawings and specifications, construction drawings and specifications for public bidding. Construction phase services will include shop drawings, reviews, construction observation and the production of a set of "as-built" drawings.

FEES:

The fees for the project will be negotiated on the basis of general guidelines for similar type projects.

Questions concerning this project may be referred to Clint Hewitt at 373-2250.

7b) PROJECT—27-84

Engineering Facility
University of Minnesota—Duluth
Duluth, Minnesota

PROJECT DESCRIPTION:

This project involves providing a new addition to the campus complex to house the new Engineering Program. This facility will consist of approximately 26,000 sq. ft. of space and has a construction budget of approximately \$3,400,000.00. The building program encompasses necessary laboratory, lab support spaces, classrooms, faculty offices and administrative areas. Funds are available for construction drawings and construction of this facility.

CONSULTANT SERVICES:

The consultants will be required to prepare in cooperation with the owner's Building Advisory Committee for the owner's approval, schematic design presentation proposals, design development drawings and specifications, construction drawings and specifications for public bidding. Construction phase services will include shop drawings reviews, construction observation and the production of a set of "as-built" drawings.

FEES:

The fees for the project will be negotiated on the basis of general guidelines for similar type projects.

Questions concerning this project may be referred to Clint Hewitt at 373-2250.

7c) PROJECT—28-84

Amundson Hall Remodeling
University of Minnesota—Minneapolis
Minneapolis, Minnesota

PROJECT DESCRIPTION:

Renovation to Amundson Hall will be accomplished in two phases. The first phase is the planning and construction of specific and selected building improvements including:

- 1) Upgrade Bio Engineering and Microelectronics Materials Lab.
- 2) General Research Lab improvements.
- 3) Replace sub-standard hoods.
- 4) Renovate Undergraduate Lab.
- 5) Tile Lab floors.

The improvements total \$950,000.00 of construction cost.

The second phase is the development of schematic plans for the upgrading of the balance of the building within the limits of a construction cost cap of \$4,500,000.00, including the following areas of improvement:

- 1) Improvements to HVAC system.
- 2) Upgrade Labs and Offices.
- 3) Hardwire labs and offices for computer network.
- 4) Energy conservation improvements.
- 5) Life Safety Requirements.

CONSULTANT SERVICES:

The consultants will be required to prepare in cooperation with the owner's Building Advisory Committee for the owner's approval, schematic design presentation proposals, design development drawings and specifications, construction drawings and specifications for public bidding. Construction phase services will include shop drawings reviews, construction observation and the production of a set of "as-built" drawings.

FEES

The fees for the project will be negotiated on the basis of general guidelines for similar type projects.

Questions concerning this project may be referred to Clint Hewitt at 373-2250.

Roger D. Clmence, Chairman
State Designer Selection Board

SUPREME COURT**Decisions of the Court of Appeals Filed Tuesday, June 12, 1984****Compiled by Wayne O. Tschimperle, Clerk**

C3-83-1884 James Richard Kunz, Petitioner, Appellant, v. Commissioner of Public Safety, Goodhue County.

The trial court did not err in concluding reasonable and probable grounds existed to invoke the implied consent law.

A witness who lacks present recollection of an event may be competent to authenticate the written memorandum recording the event.

Trial courts are afforded wide discretion in determining a witness's competency and their decision will be reversed only when abuse of discretion is shown.

A party must clearly show prejudicial error before a trial court's best evidence ruling will be reversed.

Affirmed. Popovich, C.J.

C2-84-2 Julia McDonnell, Relator, v. Anytime Temporaries, and Commissioner of Economic Security, Department of Economic Security.

Relator voluntarily discontinued her employment without good cause attributable to the employer and was, therefore, properly disqualified from receiving unemployment compensation benefits. Minn. Stat. § 268.09, subd. 1(1) (Supp. 1983).

SUPREME COURT

Relator may be disqualified under Minn. Stat. § 268.09, subd. 1(1) (Supp. 1983) for quitting job whether or not that job would be held "suitable" under Minn. Stat. § 268.09, subd. 2 (Supp. 1983).

Affirmed. Popovich, C.J.

C0-84-623 State of Minnesota v. Marvin William Wall, Appellant. Douglas County.

Minn. Stat. § 244.09, subd. 11, requires, in the absence of valid departure reasons, that a sentencing court retroactively reduce the sentence of an offender in conformity with the November 1, 1983, changes in the sentencing guidelines.

Reversed, with order that sentence be reduced to 108 months. Parker, J.

C7-83-1824, C9-83-1825 Richard John Thorud, Petitioner, Appellant, v. Commissioner of Public Safety, (C7-83-1824) and Cathleen Joyce Christenson, Petitioner, Appellant v. Commissioner of Public Safety, (C9-83-1825). Hennepin County.

In the face of conflicting evidence, the judge did not err in finding that petitions for review of a driver's license revocation under the implied consent law, Minn. Stat. § 169.123(5) (1982), were not timely filed.

Affirmed. Wozniak, J.

CX-83-1977 Roger N. Sobania v. Integrity Mutual Insurance Company, and Grinnell Mutual Reinsurance Company, Appellants. Stearns County.

An insured is entitled to underinsured motorist benefits on a policy covering his uninvolved vehicle, despite the policy's "anti-stacking" provision.

Affirmed. Wozniak, J.

C2-83-1293 Steve Kantorowicz v. VFW Post #230, Appellant. Anoka County.

VFW post, as a possessor of land, has a duty to its members to provide a safe means of access from its parking lot to the post building.

Plaintiff's assumption of risk is to be considered as an element of negligence under the comparative negligence statute. An assumption of risk instruction need not be given where the jury is able to consider all elements of assumption of risk within the framework of comparative negligence.

The function of the Code of Professional Responsibility is to regulate attorney conduct and has no bearing on the admissibility of evidence.

Affirmed. Sedgwick, J.

C4-83-1568 State of Minnesota v. Mary Ann Jackson, Appellant. Ramsey County.

Defendant can be convicted of making or altering a writing under Minn. Stat. § 609.625, subd. 1, and uttering a forged instrument under subd. 3 of the same statute.

In this case, aggravated forgery, uttering a forged instrument and theft by check were part of the same behavioral incident, and defendant may be sentenced on only one crime under Minn. Stat. § 609.035.

Affirmed in part, reversed in part and remanded.

Sedgwick, J.

C3-84-213 State of Minnesota v. Joseph R. Roesch, Appellant. Nicollet County.

The trial court erred in making previously imposed sentences run consecutive to the subsequently imposed sentences.

The trial court erred in refusing defendant's request to execute the first probationary sentence.

The trial court erred in imposing a durationally longer sentence than permitted by the sentencing guidelines for a defendant with a criminal history score of six or more.

The trial court erred in requiring restitution in excess of the amount taken in the two burglaries to which defendant pled.

Reversed and remanded with instructions. Sedgwick, J.

C9-83-1632 Alexandria M. Krick, Appellant, v. Billy Jerome Krick. Dakota County.

The court erred in awarding spousal maintenance which terminates after a five-year period where the amount of the maintenance is insufficient to allow for education or training.

Reversed and remanded. Lansing, J.

C2-83-1665 *In Re the Marriage of: Beverly G. Swartwoudt, Petitioner, v. David E. Swartwoudt, Appellant. Rice County.*

An appeal from an order which does not deny a new trial and from an amended judgment which does not affect the contested issue must be dismissed.

Affirmed. Huspeni, J.

C3-83-1979 *William R. Sheehy, d.b.a. Pyramis v. Jack W. Bodin, Appellant. St. Louis County.*

When a broker fully performs the terms of a brokerage agreement, the brokerage fee is due.

Affirmed. Huspeni, J.

CX-84-1 *In the Matter of the Petition for Certain Records of the McLeod County Juvenile Court. McLeod County.*

A juvenile court order denying a petition brought pursuant to Minn. Juv. C. R. 34.02 requesting disclosure of names and addresses of juveniles who had been under the supervision of a former probation officer is an appealable order under Minn. R. Civ. App. P. 103.03(g).

It is proper to disclose to the McLeod County Sheriff's Office and to the Minnesota Attorney General's Office names and addresses of juveniles who had been under the supervision of a former probation officer who is accused of sexually abusing a number of juveniles, when there has been showing that such disclosure would be in the best interests of the juveniles or in the interests of public safety or necessary for the functioning of the juvenile court system as required by Rule 34.02, and when there are adequate measures taken to minimize the intrusion into the privacy of the juveniles, and into the confidentiality of the juvenile court records.

Reversed. Huspeni, J.

C7-83-1712, C1-84-78 *Erma Widgren v. Ben Massie, et al., and Zita Massie, a.k.a. Zita Klassen, d.b.a. Transportation Del Norte, Appellants (C7-83-1712); and Ben Massie, et al., Appellants and Reserve Supply Company. (C1-84-78). Cass County (C7-83-1712). Anoka County (C1-84-78).*

The evidence supports the finding that appellant signed the security agreement as an accommodation party.

The prevailing party in a replevin action may not be awarded damages instead of possession where it is possible to award possession of the personalty itself.

Minn. Stat. § 584.04 (Supp. 1983) permits an award of certain specified damages in addition to recovery of the wrongfully detained property.

Absent bad faith, a garnishment summons served in accordance with Minn. Stat. § 571.41 *et seq* (Supp. 1983) attaches to all personal property of the judgment debtor then in garnishee's possession.

Affirmed in part, reversed in part and remanded for further proceedings consistent with this opinion. Forsberg, J.

C1-84-100 *State of Minnesota v. Steven Mark Knopps, Appellant. Kandiyohi County.*

The trial court did not abuse its discretion by refusing to depart downward from the sentencing guidelines when the defendant was convicted of first degree sexual misconduct for sexually penetrating a four and a half year old girl.

Affirmed. Leslie, J.

C4-84-592 *State of Minnesota, Appellant, v. Dean Anthony Danielski. Polk County.*

The trial court did not abuse its discretion in excluding expert testimony concerning typical familial sexual abuse symptoms and behavior, where the victim of criminal sexual conduct and intrafamilial sexual abuse is currently 17 years old and of at least average intelligence.

Affirmed. Leslie, J.

C5-83-1448 *William Edward McCormack, et al., Appellants, v. Evan F. Lindberg, M.D. Hennepin County.*

An expert witness may be cross-examined through use of a learned treatise recognized by another expert as authoritative.

An expert witness, otherwise qualified in the area of medical specialization at issue, may testify about a specific procedure of which he has knowledge even if he has not performed it.

A defendant physician in a medical malpractice case arising out of a surgical procedure he performed could testify to his usual and customary procedure where he had no specific recollection of the plaintiff's operation. His testimony was as an expert witness.

The standard of care applicable to a specialist is a national one, not local, and a specialist must be held to the same standard of care as other specialists in the field.

SUPREME COURT

Where the trial court made several evidentiary errors and erred in instructing the jury on the standard of care applicable to a cardiovascular surgeon, the plaintiff in a medical malpractice action was entitled to a new trial.

Reversed and remanded for a new trial. Randall, J.

C3-83-1948 David A. Beukhof, Appellant, v. State Farm Mutual Automobile Insurance Company, a Foreign Corporation. Hennepin County.

A pedestrian who was injured when he was struck by a motorcycle was not entitled to recover underinsured motorist benefits under coverage implied by law into a policy owned by the pedestrian.

Affirmed. Randall, J.

C9-83-1680 State of Minnesota v. Timothy L. McGath, Appellant. St. Louis County.

Evidence was sufficient to permit a jury verdict that defendant did not act in self-defense.

Exclusion of defense counsel during trial court's questioning of juror to determine possible actual bias is reversible error.

Where defense counsel moves for mistrial due to the appearance of bias of a juror, and defendant is subsequently deprived of fundamental rights during questioning of the juror, defendant's appeal does not fail because his attorney did not state an objection to the questioning procedure chosen by the trial court.

Reversed. Crippen, J.

Decisions of the Supreme Court Filed Friday, June 15, 1984

Compiled by Wayne O. Tschimperle, Clerk

C8-83-441, C4-83-534 Lawrence Kresbach v. Lake Lillian Cooperative Creamery Association, et al., Relators, C8-83-441 Mary Ann Lewis v. Goldberger Foods, Inc. and Liberty Mutual Insurance Company, Relators, C4-83-534. Workers' Compensation Court of Appeals.

The conclusive presumption contained in Minn. Stat. § 176.521, subd. 2 (1982 & Supp. 1983) applies only to an approving body.

The conclusive presumption contained in Minn. Stat. § 176.521, subd. 2 (1982 & Supp. 1983) does not affect the authority of the Workers' Compensation Court of Appeals to vacate a settlement for good cause under Minn. Stat. §§ 176.461, .521, subd. 3 (1982 & Supp. 1983).

Case No. C8-83-441 is affirmed. Case No. C4-83-534 is reversed and remanded. Amdahl, C.J.

C5-82-1309 State of Minnesota v. Dale Lande, Appellant. Winona County.

Defendant received a fair trial and was properly convicted of burglary and theft.

Affirmed. Todd, J. Took no part, Kelley, J.

C8-83-52 State of Minnesota v. Edward Love, Appellant. Ramsey County.

Evidence of defendant's guilt of criminal sexual conduct and intrafamilial sexual abuse was sufficient.

Trial court did not prejudicially err in (a) denying motion to dismiss charges of criminal sexual conduct, (b) admitting testimony by a psychiatrist that the complainant exhibited symptoms consistent with her claim of penetration and that she said nothing to indicate she was being untruthful, and (c) excluding evidence indicating that the complainant was lying when she described the appearance of defendant's semen.

Defendant is not entitled to vacation of the criminal sexual conduct convictions pursuant to Minn. Stat. § 609.04 (1982).

Affirmed. Yetka, J.

C4-83-839 In the Matter of the Application of Merle P. Larson, President, and Kenneth A. Leyk, Executive Vice President and Cashier, State Bank of Grey Eagle to Amend the Certificate of Incorporation of Said State Bank of Grey Eagle, Changing It's Place of Business from the City of Grey Eagle to Frontage Road and Highway 71 South, in the City of Long Prairie, County of Todd, State of Minnesota. First National Bank of Long Prairie, etc., et al., Petitioners-Objectors, Appellants, v. Department of Commerce, et al., State Bank of Grey Eagle. Ramsey County.

Minnesota banking law does not prohibit simultaneous consideration of application for relocation and a detached facility.

Commerce Commission's conclusion that applicant's simultaneous relocation and branch proposal is not a subterfuge for illegal branch banking is not arbitrary, capricious, or unreasonable.

Affirmed. Yetka, J.

C1-83-684 Neal Nadeau and Ferol Nadeau v. Austin Mutual Insurance Company, Appellant. Goodhue County.

Where a person who is in danger of being struck by a motor vehicle is injured while avoiding the oncoming vehicle, that person's injuries arise out of the use of a motor vehicle within the meaning of Minn. Stat. § 65B.44, subd. 1 (1982).

Under the circumstances of this case, plaintiffs are not entitled to replacement service loss benefits pursuant to Minn. Stat. § 65B.44 subd. 5 (1982), because no expenses were actually incurred by or on behalf of the injured person for the substitute services rendered by the injured person's spouse.

Affirmed in part, reversed in part. Scott, J.

C7-82-1392 State of Minnesota v. Timothy Scott Smith, Appellant. Itasca County.

Trial court did not commit prejudicial error in instructing the jury that witnesses were being sequestered, and evidence was sufficient to sustain defendant's convictions of burglary and theft.

Affirmed. Simonett, J.

TAX COURT

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

State of Minnesota Tax Court

**Soo Line Railroad Company, Appellant, v. The Commissioner of Revenue, Appellee,
Docket No. 3762**

Findings of Fact, Conclusions of Law and Order for Judgment

The above matter was submitted to the Minnesota Tax Court. Judge Carl A. Jensen presiding, on the basis of a Stipulation of Facts and briefs of the parties.

Wayne C. Serkland, attorney for Appellant, represented the Appellant.

C. H. Luther, Deputy Attorney General for the State of Minnesota, represented Appellee.

SYLLABUS

1. When the provisions of two or more laws passed at different sessions of the legislature are irreconcilable, the law latest in date of final enactment shall prevail.

2. Minnesota Statutes § 271.08 states in part as follows:

“The tax court, except in small claims division, shall determine every appeal by written order containing findings of fact and the decision of the tax court.”

This provision requires the Tax Court to make Findings of Fact and Conclusions of Law on all matters including constitutional issues in order to make a just decision and provide the necessary elements for a possible appeal to the Minnesota Supreme Court.

3. Imposition of the corporate excise tax in 1975 and 1976 while Appellant was subject to the railroad gross earnings tax did not violate the due process or commerce clauses of the United States Constitution.

4. Imposition of the gross earnings taxes provided in Minn. Stat. § 295.02 and the excise taxes provided in Minn. Stat. § 290.02 on railroads does not violate the Minnesota Constitution prohibiting unequal taxation nor does it constitute double taxation.

5. Imposition of the corporate excise tax in 1975 and 1976 while Appellant was subject to the railroad gross earnings tax did not violate § 306 (§ 11503) of the Railroad Revitalization and Regulatory Reform Act of 1976.

FINDINGS OF FACT

1. At all times material to this case, the Soo Line Railroad Company was a Minnesota corporation doing business in

SUPREME COURT

Minnesota and in the states of Montana, North Dakota, South Dakota, Wisconsin, Michigan and Illinois as an interstate carrier of freight by rail.

2. During the 1975 and 1976 tax years, the Soo Line was subject to the railroad gross earnings tax imposed by Minn. Stat. § 295.02.

3. On September 15, 1976, pursuant to duly obtained extensions, the Soo Line filed its 1975 corporate tax return, which disclosed a corporate excise tax obligation of \$122,375. By amended return filed March 14, 1980, the Soo Line claimed a refund of its 1975 corporate excise taxes in the amount of \$111,108.

4. On September 14, 1977, pursuant to duly obtained extensions, the Soo Line filed its 1976 corporate tax return, which disclosed a corporate excise tax obligation of \$240,370. By amended return, filed March 10, 1981, the Soo Line claimed a refund of its 1976 corporate excise taxes in the amount of \$219,587.

5. Pursuant to an audit conducted by the Minnesota Department of Revenue, the Commissioner determined that the Soo Line had incorrectly computed the amount of corporate excise tax it owed to the State under Minn. Stat. § 290.02 for the 1975 and 1976 tax years. The Commissioner recomputed the Soo Line's corporate excise tax pursuant to Minn. Stat. § 290.17 and § 290.19.

6. By notice dated November 2, 1982, the Commissioner advised the Soo Line that additional tax and interest were due in the amounts of \$190,979.37 and \$256,043.22 for the 1975 and 1976 tax years respectively. By the same notice, the Commissioner denied the Soo Line's claims for refunds for the tax years 1975 and 1976.

7. The Soo Line paid the \$447,022.59 determined to be due by the Commissioner, and filed a notice of appeal with the Tax Court on December 27, 1982.

8. In its notice of appeal the Soo Line claimed that (a) it was not subject to the corporate excise tax imposed by Minn. Stat. § 290.02 because it was subject to the gross earnings tax imposed by Minn. Stat. § 295.02; and (b) if it was subject to the corporate excise tax imposed by § 290.02, it was entitled to deduct the gross earnings taxes paid to the State of Minnesota from its Minnesota net income rather than from its total gross income. The Soo Line also alleged that subjecting it to both the gross earnings tax under § 295.02 and the corporate excise tax under § 290.02 violated the commerce clause and the due process clause of the United States Constitution.

9. For the year 1975 the Appellant paid to the State of Minnesota gross earnings taxes in the amount of \$2,496,177 and total taxes in the amount of \$3,043,047. For the year 1976 Appellant paid to the State of Minnesota gross earnings taxes in the amount of \$2,952,747 and total taxes in the amount of \$3,677,328.

10. Had Appellant been subject to ad valorem property taxes, as were other business in the State of Minnesota, its total taxes paid in 1975 and 1976 in the State of Minnesota, including income taxes, would have been \$1,698,145 and \$1,851,488, respectively.

11. All statutory requirements have been complied with and the Court has jurisdiction over the parties to this action.

12. For the 1975 and 1976 tax years, the Soo Line was subject to both the gross earnings tax under Minn. Stat. § 295.02 and the corporate excise tax under Minn. Stat. § 290.02.

13. In computing its corporate excise tax liability under Minn. Stat. § 290.02, the gross earnings taxes paid to the State of Minnesota are to be deducted from the taxpayer's total gross income pursuant to Minn. Stat. § 290.19.

14. During the years 1975 and 1976, Minn. Stat. § 295.02 read in part as follows:

"Every railroad company owning or operating any line of railroad situated within . . . this State shall, annually, pay to the Commissioner of Taxation, in lieu of all taxes upon all property within this State owned or operated for railway purposes by such company, including equipment, appurtenances, appendages and franchises thereof, a sum of money equal to 5% of the gross earnings derived from the operation of such line of railway within the State."

15. During the year 1975 and 1976, Minn. Stat. § 290.02 read in part as follows:

"An annual excise tax is hereby imposed upon every domestic corporation . . . including but not limited to railroad companies. . . ."

The words underlined were added by the legislature in 1974.

16. The specific provisions of Minn. Stat. § 290.02 making railroad companies subject to the Minnesota excise tax prevails over the provisions of Minn. Stat. § 295.02 which provided for a gross earnings tax on railroads in lieu of all taxes upon property including equipment, appurtenances, appendages and franchises.

17. The Soo Line Railroad was not exempt from the tax imposed by Minn. Stat. § 290.02 for the taxable years 1975 and 1976 because it was simultaneously subject to the railroad gross earnings tax pursuant to Minn. Stat. § 295.02.

18. The Commissioner's use of Minn. Stat. § 290.19 to compute Appellant's excise tax liability under Minn. Stat. § 290.02 for the 1975 and 1976 tax years was proper.

19. Neither Minn. Stat. § 290.18, subd. 1(2) nor Minn. Stat. § 290.19, subd. 1(2)(b) authorized Appellant to deduct the gross earnings taxes it paid to Minnesota in 1975 and 1976 directly from its Minnesota taxable net income rather than from its total gross income for the same years.

20. Imposition of the corporate excise tax in 1975 and 1976 while Appellant was subject to the railroad gross earnings tax did not violate the due process or commerce clauses of the United States Constitution.

21. Imposition of the gross earnings taxes provided in Minn. Stat. § 295.02 and the excise taxes provided in Minn. Stat. § 290.02 on railroads does not violate the Minnesota Constitution prohibiting unequal taxation nor does it constitute double taxation.

22. Imposition of the corporate excise tax in 1975 and 1976 while Appellant was subject to the railroad gross earnings tax did not violate § 306 (§11503) of the Railroad Revitalization and Regulatory Reform Act of 1976.

CONCLUSIONS OF LAW

1. The Commissioner's Order assessing additional corporate excise tax pursuant to Minn. Stat. § 290.02 against Appellant for the taxable years 1975 and 1976 is affirmed in all respects.

IT IS SO ORDERED. A STAY OF 15 DAYS IS HEREBY ORDERED.

June 13, 1984

By the Court,
Carl A. Jensen, Judge
Minnesota Tax Court

ERRATA

Department of Administration State Register & Public Documents

MCAR AMENDMENTS AND ADDITIONS, Vol. 8, Issues 1-13

Note to our readers:

We have discovered that we inadvertently forgot to include the MCAR Amendments and Additions for Volume 8, Issues 1-13, in our cumulative quarterly updates in issues 26 and 39 respectively. They are listed below for your use.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

TITLE 1 CONSTITUTIONAL OFFICES

Part 2 Secretary of State

1 MCAR §§ 2.0103, 2.0301, 2.0507, 2.0509, 2.1005, 2.2101-2.2102, 2.2106, 2.2109-2.2110, 2.2112, 2.2114-2.2115, 2.3104, 2.3200, 2.3302, 2.3702-2.3703, 2.3801, 2.4105, 2.4106, 2.4202 (proposed)	435
1 MCAR §§ 2.0901-2.0903, 2.2113, 2.4102 D. and E. (proposed repeal)	435
1 MCAR §§ 2.4001-2.4011 (proposed)	435

TITLE 2 ADMINISTRATION

Part 2 Employee Relations Department

2 MCAR §§ 2.303, 2.406, 2.409, 2.413 (proposed)	429
2 MCAR §§ 2.225, 2.2301 (proposed repeal)	429

Part 3 State Retirement System

2 MCAR §§ 3.5001-3.5002, 3.5004 (proposed)	524
--	-----

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR §§ 1.0172 (proposed)	257
3 MCAR § 1.0325 (adopted)	28
3 MCAR § 1.0326 (adopted)	29
3 MCAR § 1.0327 (adopted)	30
3 MCAR § 1.0328 (adopted)	30

Part 2 Board of Animal Health

3 MCAR § 2.001, LSB 43, 3 MCAR § 2.044 (proposed)	77
3 MCAR § 2.011 (proposed)	426

TITLE 4 COMMERCE DEPARTMENT

Part 1 Commerce Department

4 MCAR §§ 1.0001-1.0032 [Temp] (proposed)	462
4 MCAR §§ 1.9081-1.9089, 1.90891-1.90892 [Temp] (proposed)	260

Part 2 Energy and Economic Development

4 MCAR §§ 2.501-2.508 (proposed repeal)	149
---	-----

Part 3 Public Utilities Commission

4 MCAR §§ 3.0317-3.0322 (proposed)	82
4 MCAR §§ 3.0450-3.0454, 3.0456, 3.0460-3.0463 [Temp] (proposed)	103

Part 7 Board of Architecture, Engineering, Land Surveying and Landscape Architecture

4 MCAR § 7.004 (proposed)	355
---------------------------------	-----

Part 11 Electricity Board

4 MCAR §§ 11.033-11.038 (proposed)	137
--	-----

Part 15 Board of Assessors

4 MCAR § 15.001 (adopted)	529
4 MCAR § 15.005 (adopted)	529

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR § 1.0790 (proposed)	428
5 MCAR § 1.0807 (proposed temporary)	144

Part 2 Higher Education Coordinating Board

5 MCAR §§ 2.0604, 2.0606, 2.0100, 2.2101-2.2106, 2.2201-2.2206, 2.2301-2.2307, 2.2401-2.2405, 2.2501-2.2503, 2.2601-2.2605, 2.2701-2.2705, 2.2801-2.2811 (adopted)	196
5 MCAR §§ 2.0101-2.0108, 2.0201-2.0209, 2.0801-2.0806, 2.0901-2.0918, 2.0990, 2.1001-2.1008 (repealed)	196
5 MCAR §§ 2.2101-2.2106, 2.2204 [Temp] (proposed)	431

Part 3 Board of Teaching

5 MCAR §§ 3.007, 3.065, 3.0831, 3.088, 3.089 (adopted)	244
---	-----

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR §§ 1.5020-1.5028 (adopted)	531
---	-----

Part 2 Energy and Economic Development Department (formerly Energy, Planning & Development)

6 MCAR §§ 2.1501-2.1512 (adopted)	529
6 MCAR §§ 2.4040-2.4048 [Temp] (proposed)	494

Part 4 Pollution Control Agency

6 MCAR §§ 4.00291 (proposed)	499
APC 29 (proposed repeal)	499
6 MCAR §§ 4.3003, 4.3005 M., 4.3010, 4.3013 (adopted)	243
6 MCAR § 4.8024 (proposed)	101

Part 8 Waste Management Board

6 MCAR §§ 8.003, 8.006, 8.014, 8.203, 8.204 (adopted)	502
---	-----

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.059 (proposed)	225
7 MCAR §§ 1.2395, 1.314 (proposed)	284
7 MCAR §§ 1.651, 1.654 (proposed)	358

TITLE 8 LABOR

Part 1 Labor and Industry Department

RS 1, RS 14, RS 15, RS 17-RS 19 (proposed)	264
--	-----

Part 3 Public Employment Relations Board

8 MCAR §§ 3.001, 3.003-3.006, 3.0061, 3.007-3.008, 3.010- 3.019, 3.030, 3.032, 3.034-3.038, 3.040-3.041, 3.050, 3.052- 3.054, 3.0541, 3.055, 3.060, 3.062-3.063, 3.0641, 3.0651, 3.0661, 3.067-3.078 (adopted)	293
8 MCAR § 3.033, 3.039, 3.064-3.065 (repealed)	293

Part 4 Economic Security Department

8 MCAR § 4.0101 [Temp] (proposed)	322
8 MCAR § 4.0102 [Temp] (proposed)	324

TITLE 9 LAW

Part 2 Administrative Hearings Office

9 MCAR §§ 2.306, 2.312, 2.314, 2.317, 2.320, 2.321 (adopted)	502
---	-----

TITLE 10 PLANNING

Part 1 Energy and Economic Development (formerly Energy, Planning and Development)

10 MCAR §§ 1.500, 1.505-1.506, 1.510, 1.515, 1.520, 1.525, 1.546, 1.550 (proposed)	518
10 MCAR § 1.540 (proposed repeal)	518

TITLE 11 PUBLIC SAFETY

Part 1 Department of Public Safety

11 MCAR §§ 1.2094, 1.2140 (proposed)	289
11 MCAR §§ 1.3060-1.3066 (adopted)	243

Part 2 Corrections Department

11 MCAR §§ 2.001-2.012 (proposed)	57
---	----

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department

12 MCAR § 2.027 (adopted)	161
12 MCAR §§ 2.05001-2.5016 [Temp] (proposed)	6
12 MCAR §§ 2.05001-2.05016 [Temp] (adopted)	461
12 MCAR §§ 2.05401-2.05403 [Temp] (proposed)	150
12 MCAR §§ 2.05501-2.05509, 2.04422 [Temp] (proposed)	325
12 MCAR § 2.164 [Temp] (proposed)	160
12 MCAR § 2.204 (proposed)	189
12 MCAR §§ 2.494, 2.840 (proposed)	273

Part 3 House Finance Agency

12 MCAR §§ 3.002, 3.055-3.057 [Temp] (proposed)	5
---	---

MCAR AMENDMENTS AND ADDITIONS

12 MCAR §§ 3.002, 3.055-3.057 [Temp] (adopted).....	334
12 MCAR §§ 3.002, 3.133, 3.134 [Temp] (adopted).....	116
12 MCAR § 3.037 (proposed).....	434
12 MCAR § 3.051 (adopted).....	476
12 MCAR §§ 3.058-3.061 [Temp] (proposed).....	109
12 MCAR §§ 3.058-3.061 [Temp] (adopted).....	531
12 MCAR § 3.120 (proposed).....	433
12 MCAR § 3.122-3.126 (adopted).....	459
12 MCAR §§ 3.160 [Temp]-3.165 [Temp] (proposed).....	111
12 MCAR §§ 3.160 [Temp]-3.165 [Temp] (adopted).....	531

TITLE 13 TAXATION

Part 1 Revenue Department

13 MCAR § 1.6016 (proposed repeal).....	292
13 MCAR §§ 1.6004, 1.6501-1.6503; and 2019 (adopted).....	114

TITLE 14 TRANSPORTATION

Part 1 Transportation Department

14 MCAR §§ 1.4031-1.4033, 1.4035, 1.4037, 1.4040, 1.4042- 1.4045, 1.4050, 1.4055, 1.4060, 1.4065 (proposed).....	451
14 MCAR §§ 1.4025-1.4030 (proposed repeal).....	451
14 MCAR §§ 1.7001, 1.7003, 1.7005, 1.7007-1.7009 (adopted).....	30

Capital Area Architectural and Planning Board

Request for Proposals for Parking Studies for State Capitol Area—Correction of June 18, 1984 Listing

A printing error was made in the June 18, 1984 listing of the Parking Studies Proposal. The deadline for proposals is 4:30 p.m., July 2, 1984; not 4:30 a.m.

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