

84 Sept. 10

STATE REGISTER

STATE OF MINNESOTA

RECEIVED

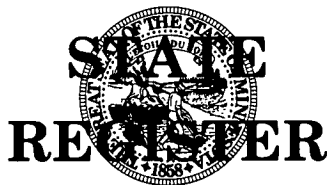
SEP 10 1984
LEGISLATIVE REFERENCE LIBRARY
STATE CAPITOL
ST. PAUL, MN. 55155



VOLUME 9, NUMBER 11

September 10, 1984

Pages 533-580



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			
12	Friday Aug 31	Monday Sept 10	Monday Sept 17
13	Monday Sept 10	Monday Sept 17	Monday Sept 24
14	Monday Sept 17	Monday Sept 24	Monday Oct 1
15	Monday Sept 24	Monday Oct 1	Monday Oct 8

*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.

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 14.46. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at \$130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at \$3.25 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

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*.

Rudy Perpich
Governor

Marsha Storck
Editor

Sandra J. Hale
Commissioner
Department of Administration

Robin PanLener, Paul Hoffman
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Margaret Connelly
State Register Index Editor

Debbie Kobold
Circulation Manager

CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Issues 1-11, inclusive 536

MINNESOTA RULES AMENDMENTS AND ADDITIONS

Issues 1-11, inclusive 537

PROPOSED RULES

Animal Health Board

Proposed Rules Governing Livestock Sales 538

Energy and Economic Development Department

Notice of Withdrawal of Proposed Rules
Governing Tax Credit Certification for
"Qualified Small Businesses" and "Small
Business Assistance Offices" 544
Proposed Emergency Rules Governing the
Special Assistance Program 544

Economic Security Department

Proposed Rules Governing Targeted Jobs Tax
Credit Program 546

Health Department

Health Systems Division

Proposed Temporary Rules Governing Medical
Assistance Certification Status of Nursing
Homes; and
Proposed Temporary Rules Governing Nursing
and Board Care Homes, Medical Assistance
Certification of Beds 547

Housing Finance Agency

Proposed Rules Governing the Market Rate
Elderly Shallow Subsidy Rental Program 549
Proposed Rules Governing the Rental
Rehabilitation Program 552

ADOPTED RULES

Health Department

Health Systems Division

Adopted Temporary Rule Governing the
Relocation of Residents from Nursing Homes
and Certified Boarding Care Homes 554

Revenue Department

Property Equalization Division

Adopted Emergency Rules Relating to Railroads 555

OFFICIAL NOTICES

Agriculture Department

Soil & Water Conservation Board

Notice of Change in Meeting Date and Location 555

Animal Health Board

Notice of Change of Board Meeting Site 555

Commerce Department

Meeting Notice, Minnesota Comprehensive
Health Association Board of Directors 555
Notice of Hearing Concerning Proposed Rules
Relating to Proposed Permanent Rules
Governing Self-Insurance Plan Administrators 556

Energy and Economic Development Department Energy and Economic Development Authority

Public Hearing on Proposed Project and the
Issuance of Bonds Under Minnesota Statutes,
Section 116M.01 to Section 116M.13,
Inclusive—Awardcraft 557
Public Hearing on Proposed Project and the
Issuance of Bonds Under Minnesota Statutes,
Section 116M.01 to Section 116M.13,
Inclusive—Big Stone 557

Human Services Department

Support Services Bureau

Outside Opinion Sought Concerning Proposed
Permanent Rules Governing the Determination
of Welfare Payment Rates for Nursing Homes
Participating in the Medical Assistance
Program 558

Secretary of State's Office

Notice of Vacancies in Multi-Member State
Agencies 559

STATE CONTRACTS

Administration Department

Procurement Division

Commodities Contracts Currently Open for
Bidding 560

Economic Security Department

State Job Training Office

Request for Proposals for Operation of Job
Training Programs for Older Individuals 560

Housing Finance Agency

Grants Available Through MHFA Participation in
HUD Rental Rehabilitation Program 561

Labor and Industry Department

Request for Proposals for Expert Assistance for
Cost Containment 562
Request for Proposals to Establish Pilot Project(s)
for Cost Containment 563

Lawyer Trust Account Board

Notice of Grant Cycle: January 1, 1985 to June 30,
1985 564

Metropolitan Council

Parks and Open Space Department

Proposals for a Speedskating Rink Site and Imple-
mentation Program 565

Metropolitan Waste Control Commission

Advertisement for Proposals for Ash
Utilization/Disposal 565

Pollution Control Agency

Office of Planning and Review

Request for Proposals for Consultant Services 565

State Designer Selection Board

Request for Proposals for State Projects 566

SUPREME COURT

Decisions of the Court of Appeals Filed Tuesday,
August 28, 1984 569
Decisions of the Supreme Court Filed Friday,
August 31, 1984 573

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

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

MCAR AMENDMENTS AND ADDITIONS

TITLE 2 ADMINISTRATION

Part 1 Administration Department

2 MCAR §§ 1.10103-1.10104; 1.10109; 1.10111;
1.15501-1.15503; 1.18601; 1.18701; 1.18804, 1.18806;
1.18808; 1.18811; MHD 120-124; 126, 130-131 (proposed) 5

TITLE 3 AGRICULTURE

Part 1 Agriculture Department

3 MCAR §§ 1.1340-1.1348 [Emer] (proposed) 86
3 MCAR §§ 1.4060-1.4070 [Emer] (extended) 56

Part 2 Animal Health Board

3 MCAR § 2.026 (adopted) 201

TITLE 4 COMMERCE

Part 1 Commerce Department

4 MCAR §§ 1.850-1.866 [Emer] (extended) 295
4 MCAR §§ 1.9011-1.9028; 1.90281 (adopted) 175
4 MCAR §§ 1.9260-1.9269 [Emer] (extended) 111
4 MCAR §§ 1.9420-1.9442 (adopted) 175

Part 4 Cable Communications Board

4 MCAR §§ 4.260-4.263 (adopted) 295

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR § 1.0790 (adopted) 332

TITLE 6 ENVIRONMENT

Part 2 Energy and Economic Development

6 MCAR §§ 2.2500-2.2509 [Emer] (adopted) 388
6 MCAR §§ 2.2501-2.2510 [Amend] (adopted) 252

Part 4 Pollution Control Agency

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] (adopted) 115

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR § 1.801 [Temp] (adopted) 554

TITLE 8 LABOR

Part 1 Labor and Industry Department

8 MCAR § 1.7001 [Amend] (adopted) 112
8 MCAR §§ 1.7220; 1.7240; 1.7243; 1.7245 (adopted) 56

TITLE 12 SOCIAL SERVICE

Part 1 Human Rights Department

12 MCAR §§ 1.061-1.076 [Emer] (adopted) 260

Part 2 Public Welfare Department (now Human Services)

12 MCAR §§ 2.02001-2.02011 [Emer] (adopted) 112

MINNESOTA RULES AMENDMENTS AND ADDITIONS

DEPARTMENT OF ADMINISTRATIVE

Division of Procurement	
1230.3000-.4300 (proposed)	362

OFFICE OF ADMINISTRATIVE HEARINGS

Workers' Compensation Hearings	
1415.0100-.3600 (adopted)	333

AGRICULTURE DEPARTMENT

1505.1070 [Amend] (proposed)	365
1511.0111; .061; .0171; .0231; .0241; .0251; .0261; .0271; .0281; .0320; .0340; .0350; .0360 [Amend] (proposed)	133
1545.2050 (proposed)	150

BOARD OF ANIMAL HEALTH

1715.0200; .0210; .0230; .0240; .0270; .0280; .0290; .0330; .0340; .0360; .0370; .0380; .0390; .0400; .0410; .0420; .0440; .0460; .0490; .0500; .0520; .0550; .0570; .0580 (proposed)	538
---	-----

DEPARTMENT OF COMMERCE

2675.3160 (proposed)	377
2765.0100-.1500 (proposed)	366

CORRECTIONS DEPARTMENT

2920.0100; .0200; .0500; .0800-.1300; .1800; .1900; .2300; .2700; .3200; .3300; .3700; .4000; .4300; .4400; .4900-.5500; .5700-.6000; .6200-.6400; .6600; .6700; .6900; .7000; .7300-.7600 (proposed)	152
2925.0100; .0200; .0500; .0600; .0800; .1000; .1200; .1400; .1800-.2900; .3100; .3300; .3500-.3900; .4100 (proposed)	160

DEPARTMENT OF ECONOMIC SECURITY

3300.3300 (adopted)	424
3300.4010-.4110 (proposed)	292
3320.0005-.0030 (proposed)	290
3320.0010; .0020; .0030 (proposed)	546

STATE BOARD OF EDUCATION

3500.5000-.5070 (proposed)	168
3550.0100 [Incorporation] (adopted)	251

ENERGY, PLANNING & DEVELOPMENT DEPARTMENT

Energy Division	
4170.4105; .4110 [Emer] (proposed)	411

Planning Division

4350.0200; .0400; .0600 (adopted)	111
4351.0100-.0800 (proposed)	90
4351.0500-.0800 [8 SR 2050] (withdrawn)	544

ENVIRONMENTAL QUALITY BOARD

4405.0100-.1300 (adopted)	333
---------------------------	-----

DEPARTMENT OF HEALTH

4655.0510-.0520 [Temp] (proposed)	547
4655.0530-.0550 [Temp] (proposed)	547
4730.1700 (proposed)	316

MN HOUSING FINANCE AGENCY

4900.0290-.0296 (proposed)	552
4900.0351-.0355 (proposed)	549

4900.0550-.0580 (adopted)	112
4900.0581-.0584 (adopted)	295
4900.0590-.0594 [Emer] (proposed)	506
4900.0601-.0605 (proposed)	173
4900.1220-.1260 (adopted)	296
4900.1600-.1650 (adopted)	296
4900.1630 [Amend] (proposed)	378
4900.1700-.1703 [Emer] (adopted)	333

DEPARTMENT OF HUMAN RIGHTS

5000.3400-.3600 [Emer] (proposed)	228
5000.3400-.3600 [Emer] (addendum)	523

DEPARTMENT OF LABOR AND INDUSTRY

5205.0010 [Standards] (proposed)	225
5217.0010-.0270 (proposed)	414

DEPARTMENT OF NATURAL RESOURCES

6105.0100; .1681 (adopted)	296
----------------------------	-----

MINNESOTA BOARD OF PHARMACY

6800.0900 (adopted)	260
---------------------	-----

POLLUTION CONTROL AGENCY

Water Quality Division

7044.0100-.1200 (adopted)	58
7075.0100.0200; .0400-.0401; .0405-.0406; .0409; .0411-.0414; .0416-.0417; .0419; .0425; .2000; .04115; .04211-.04214 [Emer] (adopted)	424

PUBLIC SERVICE DEPARTMENT

7650.0100 (proposed)	422
----------------------	-----

PUBLIC UTILITIES COMMISSION

7835.0100-.6100; .9910 (proposed)	41
-----------------------------------	----

REVENUE DEPARTMENT

Property Equalization Division

8105.0100-.9900 [Emer] (proposed)	96
8105.0100-.9900 [Emer] (adopted)	555

SMALL BUSINESS FINANCE AGENCY

8300.0100; .0300; .0500-.0600; .1000-.1200; .1500-.2200 (proposed)	111
8300.2400 [Emer] (proposed)	315
8300.3000-.3004 [Emer] (proposed)	544

WASTE MANAGEMENT BOARD

9200.6000-.6009 [Emer] (adopted)	336
9200.9500-.9508 (proposed)	328

DEPARTMENT OF PUBLIC WELFARE

(Now HUMAN SERVICES)

9500.0031; .0051; .0071; .0081; .0091; .0111; .0331-0339; .0351-.0353 [Emer] (proposed)	450
9500.1050-.1065 [Emer] (proposed)	464
9500.1450-.1475 [Emer] (proposed)	488
9505.5000-.5030 [Emer] (proposed)	500
9510.1020-.1140 [Emer] (proposed)	379
9525.0015-.0145 [Emer] (proposed)	470
9525.1800-.1930 [Emer] (proposed)	317
9555.3415 [Emer] (proposed)	412
9555.3417 [Emer] (proposed)	482

*Note additional hearing on Commerce 2767.0100-.0900, .0950 [8 SR 2765] on pg. 556.

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 Animal Health

Proposed Rules Governing Livestock Sales

Notice of Intent to Adopt Rules with Public Hearing

Notice is hereby given that a public hearing on the above entitled matter will be held by the Minnesota Board of Animal Health at the Holiday Inn North, Mankato, Minnesota at 9:00 a.m., October 12, 1984. The hearing will continue until all representatives of associations or other interested groups of persons have had an opportunity to be heard concerning adoption of the proposed amendments.

Minnesota Statutes § 35.03, gives authority for adoption of these amendments.

Statements may be made orally and written material may be submitted and recorded in the hearing record by mailing the material to Administrative Law Judge, Jon Lunde, Office of Administrative Hearings, 400 Summit Bank Building, 310 South 4th Avenue, Minneapolis, Minnesota 55415, telephone (612) 341-7606, either before the hearing or within five working days after the close of the hearing unless the Administrative Law Judge orders a longer period of time not to exceed 20 calendar days. The proposed rules are subject to change as a result of the rule hearing process. The Board of Animal Health urges those who may be affected in any manner by the amendments to the rules to participate in the rule hearing. A copy of the proposed amendments to these rules is attached to this notice and additional copies of the proposed rules may be obtained by writing or calling Dr. Robert G. Pyle at the Minnesota Board of Animal Health, 90 West Plato Boulevard, St. Paul, Minnesota 55107, telephone (612) 296-2941. Copies will be available at the hearing.

The Board of Animal Health has determined that there will be no expenditure of public monies by local public bodies and no impact on agricultural land as a result of these amendments, thereby fulfilling the requirements of Minnesota Statutes § 14.11.

The Board of Animal Health finds that markets, consignment and community sales are small businesses as defined in Minnesota Laws 1983 Chapter 188. The Board of Animal Health has determined that the proposed amendments will have an impact on small business. The Board of Animal Health will notify by mail existing markets and associations of markets operating within the State of Minnesota to provide an opportunity for small business participation in the rule making process as required in Minnesota Laws 1983, Chapter 188, subd. 4.

Minn. Stat. Ch. 10A required each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. Ch. 10A.01, subd. 11 (1979 Supp.) 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 statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota, 55155, telephone (612) 296-5148.

Notice: Any person may request notification of the date on which the administrative Law Judge's Report will be available, after which date the board may not take any final action on the rules for a period of five working days. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the board and will be available at least 25 days prior to the hearing at the Office of Administrative Hearings. This Statement of Need and Reasonableness will include a summary of all the evidence and arguments which the board anticipates presenting at the hearing justifying both the need and reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The rule hearing procedure is governed by Minn. Stat. 14.05-14.20, (1982 as amended), and by Minn. Rules 1400.0200-1400.1200. Any questions about procedure may be directed to the Administrative Law Judge.

August 22, 1984

J. G. Flint
Executive Secretary
Board of Animal Health

Rules as Proposed

1715.0200 AUTHORITY.

Pursuant to Minnesota Statutes 1974, section 35.03, the Board of Animal Health hereby adopts the following rules parts 1715.0210 to 1715.0580.

1715.0210 DEFINITIONS.

Subpart 1. Scope. Where used in these rules parts 1715.0210 to 1715.0580, the following words and terms shall be defined as follows in this part have the meanings given.

Subp. 2. Board. "Board" ~~shall mean~~ means the Minnesota Board of Animal Health acting by and through the ~~secretary and executive officer~~ secretary.

Subp. 3. Brucellosis reactor. "Brucellosis reactor" ~~shall mean any~~ means (a) a nonvaccinated bovine animal showing which shows complete agglutination in a 1:100 dilution or higher, or which is positive to the brucellosis card test; or (b) a vaccinated female bovine animal of dairy breed 20 months of age or over or any vaccinated female bovine animal of beef breed 24 months of age and over, ~~that is an official vaccinee~~ which shows complete agglutination in a 1:200 dilution or higher, or that which is positive to the brucellosis card test.

Subp. 4. Brucellosis suspect. "Brucellosis suspect" ~~shall mean~~ means (a) a nonvaccinated bovine animal showing any which shows agglutination in the 1:50 dilution or higher which is not classed as a brucellosis reactor; or (b) an officially vaccinated female bovine animal over 20 months of age if of dairy breed, or over 24 months of age if of beef breed, ~~that which~~ which shows any agglutination in the 1:100 dilution that which is not classed as a brucellosis reactor.

Subp. 5. Community sales. "Community sales" ~~shall mean~~ means the public sale of livestock for purposes other than immediate slaughter, from any location in Minnesota where ~~such livestock owned by two or more persons is assembled who own livestock offer the livestock for public sale, and the term~~ "Community sales" as used herein shall include but not be limited to includes regularly organized scheduled livestock auction markets and, consignment sales of livestock, and street markets of livestock.

Subp. 6. Health certificate. "Health certificate" ~~shall mean~~ means a certificate issued by an accredited veterinarian certifying that after a physical examination the ~~eattle~~ livestock described are free from visible signs or symptoms of contagious, infectious, or communicable disease, and ~~shall include a statement of stating~~ the origin of the eattle and livestock, the name and address of the consignee and consignor, and the description and identification of the livestock.

Subp. 7. Official veterinarian. "Official veterinarian" ~~shall mean~~ means an individual licensed to practice veterinary medicine in Minnesota, accredited by the United States Department of Agriculture, approved by the board to perform the brucellosis ~~plate~~ agglutination test or brucellosis card test, and authorized by the board to act as its representative at a community sale.

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. 8. Sales management. "Sales management" shall mean means the person or persons organizing and conducting a community sale.

Subp. 9. Sales premises. "Sales premises" shall mean means the premises where a community sale is conducted and shall include but not be limited to including temporary or permanent sales rings, pens, and alleys for confining livestock prior to and after sale, and any land or building contiguous to such rings where livestock may be brought to, unloaded, or confined prior to sale, or after sale before delivery to the purchaser.

Subp. 10. Street market. "Street market" means a place where livestock owned by two or more persons are offered for sale to the public without unloading the livestock from the transporting vehicles prior to completion of the sale.

1715.0230 ANNUAL PERMITS.

An annual permit, valid until the June 30 following date of its issue, unless it is previously revoked, may be issued for community sales at a specified location provided if:

A. the veterinarian named in the application is ~~accepted by~~ acceptable to the board to act as the official veterinarian of the sale and is authorized by the board to act as its representative as provided in parts 1715.0260 to 1715.0320; and

B. prior to issuance of the annual permit, the sales premises named in the application shall be are inspected by a representative of the board and certified as being to be in compliance with the provisions of parts 1715.0300 and 1715.0340.

1715.0240 SPECIAL PERMITS.

A special permits may permit must be issued for single community sales which shall specify the date and location for such sales, upon receipt of an application therefor, executed on a form furnished by the board. The permit must specify the date and the location of the sale.

Not more than one special permit shall may be issued to the same person or organization to conduct a sale at any one location in any three-month period except that cooperative livestock marketing associations selling only livestock owned by association members may hold up to six sales in any each calendar year.

1715.0270 PROHIBITION OF SALE OF DISEASED ANIMALS.

The official veterinarian shall prohibit the sale of any animal or animals that, in his or her reasonable opinion, are affected with or show symptoms of infectious, contagious, or communicable disease except as specifically provided in these rules parts 1715.0210 to 1715.0580.

1715.0280 EXAMINATION OF HEALTH CERTIFICATES.

The official veterinarian shall examine the health certificates for all animals for which a health certificate is required and prohibit the sale of such animals animals' sale if the health certificates do certificate does not meet the requirements of the board.

1715.0290 TESTING FOR TUBERCULOSIS AND BRUCELLOSIS AND PSEUDORABIES.

~~Where required by the rules~~ The official veterinarian shall, when required, test cattle for tuberculosis and brucellosis and swine for pseudorabies.

1715.0300 IDENTIFICATION TAGS.

~~Where~~ If cattle are required to identify cattle and swine be identified by eartag, the official veterinarian shall use only official identification tags bearing the Minnesota prefix.

1715.0305 CERTIFICATES; PERMITS; QUARANTINES.

The official veterinarian shall issue restricted movement certificates, shipping permits, and quarantines if they are required.

1715.0310 INSPECTION OF SALES PREMISES AND VEHICLES.

The official veterinarian shall report immediately to the board any failure by the sales management to properly clean and disinfect the sales premises and vehicles used for transporting animals when required.

1715.0320 COMPLETION OF SALE.

The official veterinarian shall furnish the board, within five days of completion of the a sale, copies of all quarantines, restricted movement certificates, and shipping permits issued by him at the sale, report reports of tuberculin and brucellosis tests performed by him, and such other reports as the board requires.

1715.0330 SALES PREMISES.

The veterinarian's office and laboratory, ~~the pavilions,~~ sales rings, alleys, loading and testing chutes, ~~and~~ all livestock pens, and all the other buildings and structures located on any sales premises ~~shall must~~ be ~~so~~ constructed ~~so~~ that they can be maintained in a sanitary condition. Heating facilities ~~shall must~~ be provided so that the veterinarian's laboratory may be maintained at a temperature of ~~not less than~~ at least 70 degrees Fahrenheit. This part does not apply to street markets or special permit community sales.

1715.0340 ~~PAVING WITH IMPERVIOUS MATERIALS~~ PAVEMENT.

Sales rings, alleys, testing chutes ~~used for all livestock,~~ and pens ~~used for swine and sheep~~ ~~shall must~~ be paved with cement or other impervious materials. ~~Annual permits shall not be issued after July 1, 1971 unless all pens, including cattle pens located on the sales premises, are paved with cement or other impervious materials except that sales premises authorized in accordance with part 1715.0230, item B prior to July 1, 1971 shall be reauthorized provided: 20 percent by area of existing unpaved pens have been paved prior to July 1, 1972; 40 percent by area of existing unpaved pens have been paved prior to July 1, 1973; 60 percent by area of existing unpaved pens have been paved prior to July 1, 1974; 80 percent by area of existing unpaved pens have been paved prior to July 1, 1975.~~

~~No sales premises shall be authorized after June 30, 1976 unless all pens have been paved.~~

1715.0360 REPORT OF QUARANTINED LIVESTOCK.

The sales management shall, within five days after each sale day, mail to the board a report of all quarantined ~~and restricted movement~~ livestock sold through ~~such the~~ sale, furnishing the name and address of the consignor of ~~such the~~ livestock and the name and address of the purchaser. This report ~~shall must~~ correspond with the quarantine issued by the official veterinarian at ~~such the~~ sale. If no quarantined ~~or restricted movement~~ livestock is ~~are~~ sold during the sale, the management shall ~~so~~ notify the board within five days following ~~such the~~ sale.

1715.0370 CONSIGNMENT OF LIVESTOCK ORIGINATING IN OTHER STATES.

~~No~~ Livestock originating in other states ~~shall may~~ not be ~~consigned for sale~~ accepted for consignment unless they have been imported into Minnesota in compliance with ~~the~~ Minnesota law and all rules of the board governing the importation of ~~such~~ livestock, and are accompanied by proper required health certificates ~~as provided in such rules.~~

1715.0380 CONSIGNMENT OF LIVESTOCK ORIGINATING IN MINNESOTA.

Livestock originating in Minnesota ~~shall may~~ not be ~~consigned for sale~~ accepted for consignment unless accompanied by a signed statement signed by the owner, that to ~~his the~~ owner's best knowledge and belief no ~~animals~~ livestock in the consignment have originated from premises where animals of the same species are under quarantine and that they have not been exposed, within 30 days prior to ~~date of the~~ sale, to other animals affected with any infectious, contagious, or communicable disease. The statement ~~shall must~~ include the owner's post office address, and the township, and county ~~in which the premises are located,~~ from which the livestock ~~was were~~ removed immediately prior to sale.

1715.0390 STATEMENTS AND HEALTH CERTIFICATES.

Persons delivering livestock to ~~the a~~ sale shall furnish the sales management statements signed by owners of all animals in the consignment originating at points in Minnesota as provided in part 1715.0380 and proper health certificates for all ~~such~~ animals originating in other states. ~~Such The~~ statements and health certificates ~~shall must~~ be submitted to the official veterinarians by the sales management for the veterinarian's approval before the animals are sold. ~~If said livestock is imported under quarantine, the official veterinarian shall either conduct the necessary tests or examinations to release the quarantine, or shall requarantine the livestock on the premises of the purchaser.~~

1715.0400 SALE OF CATTLE.

No Cattle ~~shall must~~ be sold at any community sales unless tested for found negative to a brucellosis at the sales premises ~~when consigned~~ agglutination test prior to being offered for sale with the exception of:

- A. steers and spayed heifers;
- B. dairy calves under six months of age; ~~or beef calves under eight months of age.~~

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. ~~cattle accompanied by~~ consigned with a record of a negative brucellosis test signed by a veterinarian ~~showing the cattle have been tested for brucellosis and found negative made~~ less than 30 days before the date of the sale while owned by the consignor;

D. cattle consigned directly from a certified brucellosis-free herd;

E. dairy cattle under 20 months of age and beef cattle under 24 months of age when accompanied by an official brucellosis vaccination certificate or having a legible official vaccination tattoo or official vaccination tag;

F. female cattle of beef breed under 18 months of age consigned for sale under quarantine for feeding ~~or grazing~~ purposes only, ~~in accordance with as provided by Minnesota Statutes 1971, section 35.245, subdivision 3,~~ and rules of the board; and

G. cattle sold for immediate slaughter or for immediate consignment to a public stockyard identified with a tag applied under the market cattle identification program before leaving the market premises; ~~or~~

H. ~~cattle sold for movement to approved drylot feeding premises provided such cattle are branded with the letter "F" three inches high on the right jaw with a hot iron in such manner that the brand shall be permanent and provided that a health certificate is issued listing the identification numbers of each animal.~~

1715.0410 SALE OF FEMALE FEEDING CATTLE.

Female feeding cattle imported on special permit or purchased on affidavit may be consigned to a community sale to be sold for slaughter purposes. ~~The owner of such cattle shall have in his possession a permit issued by the board before such cattle are removed to the community sale from the premises on which quarantined. The permit shall be presented to the official veterinarian at the time the cattle are consigned.~~

1715.0420 TEST RECORDS.

The official veterinarian shall furnish to the sales management a record of test for all cattle tested. ~~Such The test record shall~~ must be available for examination by any purchaser before the cattle are offered for sale. The test records of all cattle giving a positive reaction ~~shall~~ must show the names and addresses of all owners during the ~~immediately~~ preceding 30 days. ~~Copies of all test records shall be mailed to the board within five days of completion of each sale.~~ All cattle passing through a sale on a valid health certificate or valid official record of test ~~shall~~ must be reported.

1715.0440 FEMALE CATTLE OF BEEF BREED UNDER 18 MONTHS.

The sales management shall not allow the removal of female cattle of beef breed under 18 months of age, sold without a test for brucellosis under affidavit and quarantine for feeding ~~or grazing~~ purposes ~~only~~, until the purchaser furnishes an affidavit to the sales management as required by Minnesota Statutes ~~1971, section 35.245, subdivision 3.~~ The original and second copy of the affidavit ~~shall~~ must be mailed to the board within five days following the sale.

1715.0460 BRUCELLOSIS SUSPECTS.

Brucellosis suspects and all bovine animals that have been in contact with reactors more than 24 hours ~~are to or in contact less than 24 hours if the reactor has recently aborted, calved, or has a vaginal or uterine discharge~~ must be placed in isolation pens that permit no contact with other livestock ~~separate from reactors and may not allowed to~~ moved from the market until the official veterinarian has issued a permit for their removal. ~~Such The brucellosis suspects and contact animals shall~~ must be returned to the farm of origin under quarantine issued by the official veterinarian or identified with the letter "S" on the left jaw and sold for immediate slaughter ~~only~~ to a slaughtering establishment where the federal government maintains inspection service, or shipped to public stockyards under permit issued by the official veterinarian.

1715.0490 RECORDS OF VACCINATION.

Records of vaccination submitted to the board by the official veterinarian ~~pertaining to~~ for cattle ~~brucellosis~~ vaccinated for brucellosis at a community sale ~~shall~~ must include the name and address of the new owner.

1715.0500 IDENTIFICATION TAGS.

Cattle ~~bearing~~ with official identification tags ~~when~~ consigned to a community sale ~~shall~~ must be identified by ~~such the~~ tags on all official sale records submitted to the board. ~~Such The tags shall~~ may not be removed without permission from the board.

1715.0520 SALE OF SHEEP AND GOATS.

Sheep ~~and~~ goats found by the official veterinarian to be infected with ~~or exposed to~~ scabies ~~shall be immediately branded with a red letter "S" not less than four inches in height using branding paint and shall be immediately quarantined and held separate and apart from all sheep on the sales premises until a permit is obtained from the board permitting their shipment for immediate slaughter only to points within Minnesota where the United States Department of Agriculture maintains inspection.~~ All pens,

loading chutes, and alleys used in the handling of these sheep must be cleaned and then properly disinfected with an approved disinfectant under the supervision of the official veterinarian. All trucks and vehicles used in transporting such sheep to community sales shall be cleaned and disinfected under the supervision of the official veterinarian before leaving the sales premises. All railroad cars used in transporting such sheep shall be cleaned and disinfected as provided by the state law and the rules of the board any infectious or contagious disease may not be sold at a sale.

1715.0550 SALE OF SWINE ~~SOLD WITHOUT IDENTIFICATION.~~

Apparently healthy swine of 150 pounds or more may be sold without identification provided the buyer, before removing the swine from the sales premises, furnishes an affidavit to the official veterinarian stating that all such swine will be consigned to a public stockyards or slaughtering establishment within five days after date of purchase. The sales management shall not allow such swine to be removed from the sales premises until such affidavit is furnished

Subpart 1. Breeding swine. Breeding swine must:

A. be negative to a pseudorabies test less than 30 days prior to sale or originate from a qualified pseudorabies negative herd or a pseudorabies controlled vaccinated herd;

B. be identified by a yellow metal eartag, tattoo, brand, or ear notch recognized by a breed association; and

C. leave the sale with a restricted movement certificate if the sales premises is used to sell feeder pigs, market hogs, or other untested swine.

Subp. 2. Feeder pigs. Feeder pigs and all other swine other than breeding or slaughter swine must:

A. be identified by a yellow metal eartag or a one-half inch diameter hole punched in the right ear; and

B. leave the sale with a restricted movement certificate if identified with a yellow metal eartag.

1715.0570 HORSES RECEIVED FROM OUT OF STATE.

Horses received from out of state ~~shall~~ must be retained on the sale premises until found negative to the AGID test for EIA performed at a laboratory approved by the United States Department of Agriculture ~~with the exception of.~~ This part does not apply to:

A. horses entering the sale with a valid health certificate indicating a negative AGID test for EIA within the past ~~six~~ 12 months at an approved laboratory;

B. suckling foals accompanying dams negative to AGID test for EIA as in item A;

C. horses sold for slaughter purposes ~~provided if~~ provided if the buyer is a licensed livestock dealer, the official veterinarian applies a paint brand letter "S" at least six inches high on the hip, and the buyer completes and signs a declaration of intent to slaughter; and

D. horses sold to be transported immediately to a state which does not require a negative AGID test for EIA and accompanied by a health certificate issued by the official veterinarian for shipment to ~~such~~ that state.

1715.0580 REACTORS TO AGID TEST FOR EIA.

Reactors to the AGID test for EIA ~~shall~~ must be destroyed, consigned for slaughter under permit, or returned to the premises of origin under permit and in compliance with ~~the provisions of the~~ Code of Federal Regulations, part ~~75~~ 75.4(c)(1-3) and the rules of the board.

REPEALER. Minnesota Rules, parts 1715.0530 and 1715.0540 are repealed.

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

Department of Energy and Economic Development

Notice of Withdrawal of Proposed Rules Governing Tax Credit Certification for "Qualified Small Businesses" and "Small Business Assistance Offices"

The following notice failed to appear in the *State Register*, July 9, 1984:

"Notice is hereby given that the rules proposed and published in the *State Register* on March 19, 1984 (8 SR 2050), have been withdrawn. The Department is proposing a new set of rules that reflect changes enacted by the 1984 Legislature.

Mark B. Dayton
Commissioner
Energy & Economic Development"

The new set of proposed rules appeared in the *State Register* on July 9, 1984 (9 SR 90).

Energy and Economic Development Authority

Proposed Emergency Rules Governing the Special Assistance Program

Notice of Intent to Adopt Emergency Rules and Request for Public Comment

Notice is hereby given that the Minnesota Energy and Economic Development Authority is proposing to adopt emergency rules for the special assistance program. The agency is authorized by Minnesota Statutes, section 116J.91, subdivision 4, to adopt emergency rules for its financial assistance programs.

All interested parties have 25 days from the day of publication of this notice in the *State Register* to submit written comments to the agency in support of or in opposition to the proposed emergency rules and comments are encouraged. With publication of this notice in the September 10, 1984, *State Register*, written comments must be received by the agency no later than 4:30 p.m. on October 5, 1984. Written comments should be sent to:

Mary A. Callahan
Financial Management Division
Department of Energy and Economic Development
900 American Center Building
150E. Kellogg Boulevard
St. Paul, Minnesota 55101
Telephone: 612/297-1543

Please be advised that the proposed emergency rules may be modified as a result of the comments received. Any written material received by the agency will become part of the record in this matter.

The proposed emergency rules, with any modifications adopted by the agency, will be submitted to the Attorney General for review as to form and legality after close of the comment period. Persons wishing to be informed of the date of submission of the proposed emergency rules to the Attorney General should notify the agency of such desire at the address given above. The Attorney General has ten working days to approve or disapprove the rules.

The emergency rules will be effective five working days following approval of the rules by the Attorney General. It is the agency's intent to keep the rules in effect for a period of 180 days although the proposed emergency rules may be continued in effect for an additional period of up to 180 days if the agency publishes a separate notice to such effect in the *State Register* and mails the same notice to all persons on the agency's list to receive notice of rulemaking proceedings.

A full copy of the proposed emergency rules is available by contacting Ms. Callahan at the above address.

August 27, 1984

Mark B. Dayton, Commissioner of the
Department of Energy and Economic
Development; and Chairman of the Minnesota
Energy and Economic Development Authority

Emergency Rules as Proposed (all new material)**8300.3000 [Emergency] SCOPE.**

Parts 8300.3001 to 8300.3004 [Emergency] specify procedures and criteria for financial assistance from the special assistance program of the authority.

8300.3001 [Emergency] DEFINITIONS.

The definitions in part 8300.0100 and Minnesota Statutes, sections 116J.88 and 472.03, apply to parts 8300.3002 to 8300.3004 [Emergency].

8300.3002 [Emergency] APPLICATION FORMS.

To qualify for special assistance, an applicant shall submit a standard application form on a form to be prepared by the commissioner. In addition, to apply for the special assistance program, an applicant shall submit a supplemental form that certifies the facts pertinent to the public purposes indicated in Laws of Minnesota 1984, chapter 583, section 14, paragraph (b), clauses (1) to (5).

8300.3003 [Emergency] FORM OF SPECIAL ASSISTANCE.

If an applicant requests financial assistance in a form designated in Laws of Minnesota 1984, chapter 583, section 14, paragraph (c), clauses (1) to (3), the application evaluation will be performed according to parts 8300.0100 to 8300.2200.

8300.3004 [Emergency] EXPENDITURES ELIGIBLE FOR SPECIAL ASSISTANCE.

Subpart 1. Eligible costs. Costs eligible for funding are the expenditures set forth in the act, including but not limited to the following:

- A. land and/or building acquisition costs;
- B. site preparation;
- C. construction costs;
- D. engineering costs;
- E. equipment and/or machinery;
- F. bond issuance costs;
- G. underwriting or placement fees;
- H. trustee's fee;
- I. fees of guarantor, fees or insurance contracts, letters of credit, municipal bond insurance, and surety bonds;
- J. Small Business Administration processing and administration fee, if applicable;
- K. authority fee and administrative costs and expenses;
- L. certain contingency costs;
- M. interest costs during construction;
- N. legal fees, including those of authority's bond counsel; and
- O. short-term costs of conducting a business or a small business as permitted by the act.

Subp. 2. Maximum term. The maximum term of financial assistance made under special assistance may not exceed the average useful life of the collateral.

Subp. 3. Interest rate. The authority shall set interest rates at a negotiated rate after reviewing market rates and comparable sources of financing available to the applicant at the time the financial assistance is extended.

Subp. 4. Financial assistance monitoring. The commissioner shall monitor the terms and conditions of the contract pertaining to the financial assistance.

Unless the authority contracts with bondholders or other interested parties to the contrary, the commissioner may

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

restructure the financial assistance at the request of the borrower or upon his or her own initiative if he or she determines that restructuring the financial assistance will increase the probability that the financial assistance will be repaid to the state.

If the applicant requests the commissioner to restructure the financial assistance, the commissioner shall charge the applicant a fee in the amount of one-half percent on the outstanding principal amount of the financial assistance.

Department of Economic Security

Proposed Rules Governing Targeted Jobs Tax Credit Program

Notice of Intent to Adopt Rule without Public Hearing

Notice is hereby given that the department proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of the rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.21 to 14.28.

The adoption of the rule is authorized by Laws of Minnesota 1984, chapter 432, section 20, subdivision 2, which authorizes the Department to collect a fee for determining eligibility for the federal targeted jobs tax credit program.

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

Pursuant to Laws of Minnesota 1984, chapter 16A, section 128, subdivision 2a, no hearing will be held.

Notice of the date of submission of the proposed rule to the Administration Division of the Office of the Attorney General for review will be mailed to any person requesting to receive notice.

Comments and requests for notice of the date of submission to the Attorney General should be submitted to:

Roger Sorbel
Division of Vocational Rehabilitation
3rd Floor, Space Center
444 Lafayette Road
St. Paul, MN 55101
(612) 297-3754

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 upon request from Roger Sorbel.

You are hereby advised, pursuant to Minnesota Statutes, section 14.115, that the proposed rule may affect small businesses in Minnesota. For more information, please see the Statement of Need and Reasonableness.

Barbara Beerhalter
Commissioner,
Department of Economic Security

Rules as Proposed (all new material)

3320.0010 SCOPE AND PURPOSE.

Parts 3320.0010 to 3320.0030 are adopted pursuant to Laws of Minnesota 1984, chapter 432, section 20, and govern fees for certifying that an employee is eligible for the federal targeted jobs tax credit program. An employer receives federal tax credits for wages paid to an employee certified by the division.

3320.0020 DEFINITIONS.

Subpart 1. General. The terms used in parts 3320.0010 to 3320.0030 have the meanings given them in this part.

Subp. 2. Division. "Division" means the Division of Vocational Rehabilitation of the Minnesota Department of Economic Security.

Subp. 3. Evaluation for certification of eligibility. "Evaluation for certification of eligibility" means a determination by the division that an employee is eligible for the federal targeted jobs tax credit program.

Subp. 4. Federal targeted jobs tax credit program. "Federal targeted jobs tax credit program" refers to the targeted jobs tax credit program as provided by the United States Code, title 26, section 51.

Subp. 5. Reevaluation for certification of eligibility. "Reevaluation for certification of eligibility" means a reconsideration of a previous determination by the division that an employee is ineligible for the federal targeted jobs tax credit program.

3320.0030 FEES.

The division will charge the following fees:

- A. evaluation for certification of eligibility, \$120; and
- B. reevaluation for certification of eligibility, \$60.

Department of Health Health Systems Division

Proposed Temporary Rules Governing Medical Assistance Certification Status of Nursing Homes; and Proposed Temporary Rules Governing Nursing and Boarding Care Homes, Medical Assistance Certification of Beds

Notice of Intent to Adopt a Temporary Rule

The Department of Health proposes to adopt the above-entitled temporary rules to implement Minnesota Statute § 144A.071, subdivisions 3(a) and (d) (1983 Supp.). Persons interested in these rules have until October 5, 1984, to submit written comments. The proposed temporary rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in substantial change in the proposed language. Written comments should be sent to:

H. Michael Tripple
Minnesota Department of Health
Survey and Compliance Section
P.O. Box 9441
717 Delaware Street Southeast
Minneapolis, Minnesota 55440
Telephone Number: (612) 623-5448

Upon adoption of the temporary rules by the Department of Health, the proposed temporary rules as published and any modification will be submitted to the Attorney General for review as to form and legality. Notice of the date of submission of these proposed temporary rules to the Attorney General will be mailed to any person requesting to receive such notice. The temporary rules shall be effective five working days after approval by the Attorney General. Failure of the Attorney General to approve or disapprove the rules within ten working days, as provided in Minnesota Statutes § 14.33, is approval.

As soon as practicable thereafter, notice of the Attorney General's decision shall be published in the *State Register* and the adopted rules shall also be published in the manner as provided for adopted rules in Minnesota Statutes § 14.18.

In accordance with Minn. Stat. § 256B.502 the temporary rules shall be effective for 180 days after the effective date, and may be continued in effect for an additional period of 180 days if the Commissioner of Health gives notice of continuation of such additional period by publishing notice in the *State Register* and mailing the same notice to all persons registered with the Commissioner to receive notice of rulemaking proceedings.

The temporary rules will not result in any increased expenditure to local public bodies. Nor will they result in a fiscal impact in excess of \$100,000 annually. See Minnesota Statute § 14.11, subdivision 1 and § 15.065.

The following information is being provided to comply with the provisions of Minnesota Statute § 144A.29, subdivision 4 which requires that each rule promulgated by the Department contain a short statement of anticipated costs and benefits to be derived from the provisions of the rule. These rules are being promulgated under authority of Minnesota Statutes § 256B.502 to clarify provisions of Laws of Minnesota 1983, Chapter 199, Section 1, commonly known as the moratorium law. This authority was extended by Laws 1984, Chapter 640, Section 28.

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

The temporary rules establish procedures governing the Medicaid certification of nursing home and boarding care home beds which meet the exceptions to the moratorium established by Minnesota Statute § 144A.071 (1983 Supp.). The provisions of the statute impose a moratorium on new skilled care and intermediate care facility beds and on changes in the upward certification of existing beds unless one of the four exception provisions is met. The proposed temporary rules address the implementation of two exceptions: providing for the replacement of beds decertified after the effective date of the moratorium and; providing for a change in certification levels when such change would decrease the reimbursement provided to the facility.

Replacement of Beds

Minnesota Statute § 144A.071, subdivision 3(a) (1983 Supp.) provides for the replacement of beds decertified after the effective date of the moratorium. The proposed temporary rules Minnesota Rules 4655.0510 to .0520 [Temporary], specify the circumstances under which replacement beds can be Medicaid certified and establish the approval criteria governing the Department's certification of these replacement beds. Under the provisions of the rules replacement will be limited to situations when beds were decertified as the result of remodeling or construction which necessitated beds being out of service, or in situations when a new wing or a new facility is built to replace another structure. Upon completion of the construction project the "new" beds would be eligible for certification pending compliance with applicable licensure and certification laws and regulations. The certification of these beds would be considered as an initial certification and, without the exception contained in subdivision 3(a), the certification would have been precluded by the moratorium. This would prevent a nursing home or a boarding care home from initiating projects designed to upgrade or to replace aging or inadequate physical plants.

The rule provides that the certification of replacement beds is not to exceed that number or level of beds decertified. This provision is in accordance with the statute's requirements.

Decrease in Reimbursement Amount

The other temporary rules, Minnesota Rules 4655.0530 to .0550 [Temporary], address the procedures to be followed to request certification to a level of care which would result in the reduction of the facility's reimbursement monies received from the Department of Human Services (Public Welfare). Such a request is recognized by Minnesota Statute § 144A.071, subdivision 3(d). The exception was based on the rationale that a certification change which would result in Medicaid savings should not be precluded by the moratorium. For that reason, the rule limits the change in certification status to nursing home beds currently certified for participation in the Medical Assistance (MA) Program. Other beds have not been included since MA certification of these beds would result in MA increases. For example, the conversion of a hospital bed to a certified nursing home bed would result in additional beds being added to the MA system. This would be an increase in beds and is prohibited by the moratorium. Similarly, the request to certify for MA purposes a bed which was only eligible for Medicare certification would also result in an increase in MA beds. The rule is also limited to nursing home beds only since there are no other certification categories available to boarding care homes which would result in a decrease in reimbursement. The rules establish the procedures for obtaining approval. In addition to limiting the request to Medicaid certified nursing home beds, the rule also requires that verification of the decrease in reimbursement be received from the Department of Human Services (Public Welfare). This is necessary since final decisions as to facility reimbursement are solely within the authority of the Department of Human Services (Public Welfare). Any change in certification status is, of course, contingent upon satisfactory compliance with the licensure and certification rules.

A copy of this notice and the proposed temporary rule may be obtained by contacting Marlene Randall at the Minnesota Department of Health, telephone number: (612) 623-5474.

Proposed Temporary Rules Governing Nursing and Boarding Care Homes, Medical Assistance Certification of Beds

Temporary Rules as Proposed (all new material)

4655.0510 [Temporary] PURPOSE.

Parts 4655.0510 to 4655.0520 [Temporary] govern procedures for the replacement of medical assistance certified beds in nursing homes and boarding care homes under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (a).

4655.0520 [Temporary] CONDITIONS FOR MEDICAL ASSISTANCE CERTIFICATION OF REPLACEMENT BEDS.

The Department of Health may approve a nursing home's or a boarding care home's request for the medical assistance certification of replacement beds based upon the following conditions:

A. The beds for which medical assistance certification is requested must replace beds within the requesting facility which were decertified as the result of a construction or remodeling project which:

(1) requires the temporary closing of all or part of the nursing home or boarding care home; or

(2) upon completion of the construction project, will result in the permanent closing as a nursing home or boarding care home of the entire facility or that part of the facility in which the beds to be replaced are located.

B. The nursing home or boarding care home has completed the construction or remodeling project and the Department of Health has verified that the facility is in compliance with the applicable licensing and certification laws.

C. The number and certification level of the replacement beds does not exceed the number and certification level of the beds decertified by the department.

Proposed Temporary Rules Governing Medical Assistance Certification Status of Nursing Homes

Temporary Rules as Proposed (all new material)

4655.0530 [Temporary] PURPOSE.

Parts 4655.0530 to 4655.0550 [Temporary] govern the procedures for obtaining changes in the medical assistance certification status of nursing homes under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d).

4655.0540 [Temporary] LIMITATION.

Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d) shall apply only to nursing home beds certified for participation in the medical assistance program as skilled nursing facility beds under Code of Federal Regulations, title 42, sections 405.1120-405.1137 (1983).

4655.0550 [Temporary] CONDITIONS FOR APPROVAL.

The Department of Health may approve a nursing home's request for a change in the certification status of existing beds under Minnesota Statutes, section 144A.071, subdivision 3, paragraph (d) only if the following conditions are met:

A. The nursing home is requesting a change in certification status from the skilled nursing facility level to the intermediate care facility level.

B. The beds for which the change in certification status is requested are certified for participation in the medical assistance program.

C. The requested certification change will result in a decrease in the medical assistance reimbursement provided to the facility. The Department of Health shall obtain verification from the Department of Public Welfare of the decrease in the reimbursement money prior to approving the requested change.

D. The nursing home is in compliance with the licensure and certification law applicable to the certification level requested.

Housing Finance Agency

Proposed Rules Governing the Market Rate Elderly Shallow Subsidy Rental Program

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received 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 twenty-five or more persons submit written requests for a public

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

hearing on the proposed rule 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 Minn. Stat. § 14.14 *et. seq.* 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.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Person who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

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

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

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

September 7, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)

4900.0351 SCOPE.

Parts 4900.0351 to 4900.0355 govern the implementation of the market rate elderly shallow subsidy rental program and the disbursement of the subsidy.

4900.0352 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 4900.0351 to 4900.0355, the following terms have the meanings given them.

Subp. 2. Agency. "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. Market rate elderly shallow subsidy rental program, or program. "Market rate elderly shallow subsidy rental

program" or "program" means the agency's plan and procedures designed to distribute funds to assist eligible recipients in the making of tenant rental payments in eligible developments.

Subp. 4. Eligible recipients. "Eligible recipients" means the persons and families entitled to receive rental subsidy payments as provided in parts 4900.0351 to 4900.0355.

Subp. 5. Eligible developments. "Eligible developments" means those rental developments qualified to receive the benefits of the rental subsidies as provided in parts 4900.0351 to 4900.0355.

4900.0353 ELIGIBLE RECIPIENTS.

An eligible recipient of the market rate elderly shallow subsidy rental program shall:

- A. be a tenant household of which at least one member is 62 years of age or older;
- B. have an annual income that does not exceed 50 percent of the median income for the county in which they are to receive the subsidy, as determined by the United States Department of Housing and Urban Development;
- C. occupy a one-bedroom rental unit;
- D. furnish to the agency all information reasonably required to demonstrate the recipient's eligibility; and
- E. reside in an eligible development.

4900.0354 ELIGIBLE DEVELOPMENTS.

A development that is eligible to receive market rate elderly shallow rental subsidies for its tenants must:

- A. receive permanent financing from the agency after August 1, 1984;
- B. be designed to serve low and moderate income elderly households;
- C. be either newly constructed or substantially rehabilitated; and
- D. be owned by either a limited dividend or nonprofit entity as defined in part 4900.0010.

4900.0355 SUBSIDY PROGRAM.

Subpart 1. Monthly subsidy. The agency shall determine the amount of tenant subsidy. It must be a fixed constant amount per month per tenant household, must be the same for all tenant households selected to receive the subsidy during a fiscal year, and must be based upon the amount of funds available to the agency for the program.

Subp. 2. Term of subsidy. A recipient of a tenant subsidy under the market rate elderly shallow subsidy rental program may receive the subsidy for as long as the recipient occupies the eligible development in which he or she initially received the subsidy.

Subp. 3. Selection of eligible recipients. The agency shall select recipients of the market rate elderly shallow subsidy rental program and shall give priority to the following:

- A. a household displaced by government action or private action for which it is not responsible;
- B. a household that presently occupies substandard or overcrowded housing or housing with serious health or housing code violations;
- C. a household that is not receiving housing assistance under another state, county, city, or federal program;
- D. a household that is in need of the assistance of family members in order to live independently, where such family members live in the immediate vicinity of the eligible development.

If more than one applicant meets those criteria for selection equally, the agency shall prefer the applicant that applied first in time.

Subp. 4. Distribution of subsidy. The owner or owner's agent of the eligible development in which the recipient resides shall collect from the recipient and place in the development's management accounts an amount equal to the monthly market rent for the unit in which the recipient resides, less the specified subsidy amount. The agency shall apply the subsidy amount as provided in a regulatory agreement with the owner of the eligible development.

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

Housing Finance Agency

Proposed Rules Governing the Rental Rehabilitation Program

Notice of Intent to Adopt Rules without a Public Hearing

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

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received 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 twenty-five or more persons submit written requests for a public hearing on the proposed rule 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 Minn. Stat. § 14.14 *et. seq.* 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.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 200
333 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, Subd. 11 as any individual:

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

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

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

September 7, 1984

James J. Solem
Executive Director

Rules as Proposed (all new material)**4900.0290 SCOPE.**

Parts 4900.0290 to 4900.0296 govern the implementation of the rental rehabilitation program and the disbursement of rental rehabilitation grants authorized by section 301 of the Housing and Urban—Rural Recovery Act of 1983, Public Law No. 98-181 (November 30, 1983), codified at United States Code, title 42, section 1437o.

4900.0291 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 4900.0290 to 4900.0296, the following terms have the meanings given them.

Subp. 2. Agency. "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. Application. "Application" means a submittal requesting a rental rehabilitation grant.

Subp. 4. Lower income family. "Lower income family" has the meaning used by the Department of Housing and Urban Development as specified in the Code of Federal Regulations, title 24, section 511.2.

Subp. 5. Rental rehabilitation program, or program. "Rental rehabilitation program" or "program" means the organization of agency procedures designed to distribute funds for the purposes of rehabilitating rental dwelling units and to provide for the distribution of subsidies for tenant rental payments as specified in parts 4900.0290 to 4900.0296 and Code of Federal Regulations, title 24, part 511.

Subp. 6. Rental rehabilitation program grant, or grant. "Rental rehabilitation program grant" or "grant" means an appropriation of money to an eligible applicant under the program.

Subp. 7. Rental dwelling unit. "Rental dwelling unit" means a housing unit containing cooking, sleeping, and bathroom facilities that is occupied by a household other than the owner of the structure in which the unit is located, and for which rent is paid either in cash or in kind.

Subp. 8. Very low income family. "Very low income family" has the meaning used by the Department of Housing and Urban Development as specified in the Code of Federal Regulations, title 24, section 511.2.

4900.0292 INCORPORATION OF FEDERAL REGULATIONS.

Except as further limited by parts 4900.0290 to 4900.0296, the operation of the rental rehabilitation program and the disbursement of grants under it are governed by the Rental Rehabilitation Program Interim Rule, Code of Federal Regulations, title 24, part 511, as published in the Federal Register, volume 49, number 78, April 20, 1984, as amended and modified by the final rule, and any waivers of the interim and final rules obtained by the agency, which will be published in the *State Register*.

4900.0293 ADDITIONAL AGENCY REQUIREMENTS FOR PARTICIPATION IN RENTAL REHABILITATION PROGRAM.

Projects selected for grants under the rental rehabilitation program, in addition to meeting the eligibility and ineligibility criteria in Code of Federal Regulations, title 24, section 511.10, must comply with all of the following requirements:

A. The project must consist of one or more buildings that contain five or more rental dwelling units.

B. The project must consist of one or more buildings situated within municipalities that are eligible to take part in the program and that have entered into a participation agreement with the agency.

C. The project must consist of one or more buildings situated within the jurisdiction of a public housing authority, housing development authority, or other entity that is authorized to administer the Department of Housing and Urban Development Section 8 Existing Housing Program or Department of Housing and Urban Development Voucher Program and that entered into a participation agreement with the agency.

4900.0294 AGENCY LOANS.

At its discretion the agency may make grants under the rental rehabilitation program in conjunction with loans funded by the agency under Minnesota Statutes, chapter 462A.

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

4900.0295 NOTICE OF FUND AVAILABILITY.

From time to time the agency shall publish a notice of fund availability in the *State Register* prior to the date upon which it first accepts applications for grants. The notice must include the date upon which applications will first be accepted and the specific requirements for obtaining forms and other materials for the submission of applications.

4900.0296 SELECTION OF APPLICATIONS.

The agency shall review applications for grants to determine their compliance with Code of Federal Regulations, title 24, part 511. The agency may accept or reject applications for grants based on the requirements of parts 4900.0290 to 4900.0296.

In the selection of an application for a grant, the agency shall apply the following criteria:

- A. the extent to which the building or buildings proposed for rehabilitation are currently occupied by lower income families;
- B. the extent to which rental dwelling units with two bedrooms or more will be rehabilitated;
- C. the extent to which very low income families who reside in the building or buildings that are proposed for rehabilitation are housed in substandard conditions;
- D. the extent to which the building or buildings proposed for rehabilitation are free from serious adverse environmental and site conditions;
- E. the extent to which the proposed rehabilitation is financially feasible, given the maximum grant per rental dwelling unit, prevailing interest rates, proposed rents, and market for rehabilitated units;
- F. the extent to which displacement of existing tenants will be minimized;
- G. the extent to which the rehabilitated rental dwelling units will be affordable to low and very low income families;
- H. the extent to which the proposed rehabilitation will have a positive impact on the physical environment of the surrounding neighborhood;
- I. the extent to which the proposed rehabilitation eliminates substandard housing and prevents the recurrence of such conditions;
- J. the extent to which a municipality rates proposals, if such rating has been performed, within their community;
- K. the extent to which proposals selected by the agency achieve a distribution of funds among participating communities; and
- L. the extent to which the grant funds will be utilized for physical rehabilitation as opposed to relocation expenses and other eligible nonconstruction costs.

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.

Department of Health Health Systems Division

Adopted Temporary Rule Governing the Relocation of Residents from Nursing Homes and Certified Boarding Care Homes

The rule proposed and published at *State Register*, Volume 8, Number 32, pages 1809-1812, February 6, 1984 (8 S.R. 1809) is adopted as proposed.

Department of Revenue Property Equalization Division

Adopted Emergency Rules Relating to Railroads

The rules proposed and published at *State Register*, Volume 9, Number 2, pages 96-110, July 9, 1984 (9 S.R. 96) 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 Agriculture Soil and Water Conservation Board

Notice of Change in Meeting Date and Location

The Minnesota Soil and Water Conservation Board has changed the date and location of their September 11, 1984 meeting to September 12, 1984 at the Western Inn, Owatonna, Minnesota, starting at 9:00 a.m.

The Board will resume their regular monthly schedule on October 9, 1984.

Board of Animal Health

Notice of Change of Board Meeting Site

This meeting will be held in Mankato (Not St. Paul) to follow the public hearing on the Auction Market rule. Information about this meeting may be obtained by calling the Board of Animal Health at 612-296-5000.

Friday, October 12, 1984 at 1:00 p.m.
Holiday Inn North
Mankato, Minnesota

Dr. J. G. Flint
Executive Secretary

Department of Commerce

Meeting Notice, Minnesota Comprehensive Health Association Board of Directors

Minnesota Comprehensive Health Association
Board of Directors Meeting
Tuesday, September 18, 1984 at 9:00 a.m.
Federated Life Insurance Company
129 E. Broadway
Owatonna, MN 55060

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the Department of Commerce, Life and Health Section, from John Ingrassia, (612) 296-9434.

Department of Commerce**Notice of Hearing Concerning Proposed Rules Relating to Proposed Permanent Rules Governing Self-Insurance Plan Administrators**

Notice is given that a public hearing will be held pursuant to Minn. Stat. § 14.14, subd. 1, as amended by Minn. Laws 1984, ch. 640 in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on October 16, 1984, at 9:00 a.m. and continuing until all interested persons and groups have had an opportunity to be heard concerning adoption of these proposed rules by submitting either oral or written data, statements, or arguments. Statements or briefs may be submitted without appearing at the hearing by sending them to Administrative Law Judge George A. Beck, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. The rule hearing procedure is governed by Minn. Stat. §§ 14.02-14.45, as amended by Minn. Laws 1984, ch. 640, and by Minn. Rule 1400.0200-1400.1200 (Minnesota Rules). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner proposes to adopt rules relating to self-insurance plan administrators. Authority for adoption of these rules is contained in Minn. Stat. § 60A.23, subd. 8(2). The proposed rules were published in the *State Register* on June 25, 1984, at [8 S.R. 2765], pages 2765 through 2769.

The proposed rules, if adopted, will govern self-insurance plan administrators 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.

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

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5148.

As a result of the hearing process, the proposed rule may be modified. Written material may be submitted to the Administrative Law Judge and recorded in the hearing record for five working days after the public hearing ends. The comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the Administrative Law Judge at the hearing. Following the five to twenty day submission period, there will be a three-day period in which the Commissioner and/or interested persons may respond in writing to new information submitted.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department of Commerce and at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all the evidence and argument which the Department of Commerce anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Pursuant to Minn. Laws 1983, ch. 188, codified as Minn. Stat. § 14.115, subd. 1, the impact on small business has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

Notice: Any person may request notification of the date on which the Administrative Law Judge's Report will be available, after which date the Department of Commerce may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the rule has been adopted and filed with the Secretary of State by the Department of Commerce. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge (in the case of the Administrative Law Judge's Report), or to the Department of Commerce (in the case of the agency's adoption and filing of the rule with the Secretary of State).

One free copy of this Notice and the proposed rules may be obtained by contacting Rose Ortiz, Department of Commerce, 500 Metro Square Building, St. Paul, Minnesota 55101. Additional copies will be available at the door on the date of the hearing.

Michael A. Hatch
Commissioner of Commerce

Department of Energy and Economic Development Energy and Economic Development Authority

Public Hearing on Proposed Project and the Issuance of Bonds Under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, Inclusive—Awardcraft

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on September 26, 1984, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of DeGonda Partners (the "Company"), a Minnesota partnership. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction of a new building on land to be acquired by the Company to be leased to Awardcraft, Inc. for use in connection with its business of manufacturing recognition awards, to be located in the City of Bloomington, Hennepin County, Minnesota (street address: 11301 Hampshire Avenue South, Bloomington, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company (together with Awardcraft, Inc. as operator and manager). The estimated maximum amount of the proposed bond issue is an amount equal to \$900,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

August 31, 1984.

By Order of the Members of the
Minnesota Energy and Economic
Development Authority,
Mark B. Dayton
Commissioner, Department of Energy
and Economic Development; and
Chairman, Minnesota Energy and
Economic Development Authority

Department of Energy and Economic Development Energy and Economic Development Authority

Public Hearing on Proposed Project and the Issuance of Bonds Under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, Inclusive—Big Stone

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority"), shall meet on September 26, 1984, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota*

OFFICIAL NOTICES

Statutes, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Big Stone, Incorporated (the "Company"), a Delaware corporation. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project shall consist of two separate projects as follows: (1) the acquisition and installation of equipment to be used to freeze vegetables in bulk for further processing into canned goods for use in the Company's canning facility located in Ortonville, Big Stone County, Minnesota (street address: Old Highway 12, Ortonville, Minnesota) (the "Business Project"); and (2) the acquisition, installation and construction of eight-inch forcemain, a pump station, a well and related equipment, all in connection with a waste water pollution control system to be constructed with respect to the Company's cannery facility located in Arlington, Sibley County, Minnesota (street address: 300 3rd Avenue, Arlington, Minnesota) to provide for the treatment and disposal of cannery waste by means of land irrigation and, thereby, to abate the present discharge of cannery waste water into certain waters in the State (the "Pollution Control Project", the "Business Project" and the "Pollution Control Project" being collectively referred to herein as the "Project"). The initial owner, operator and manager of the Project will be the Company. The estimated maximum amount of the proposed bond issue is an amount equal to \$755,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

By order of the members of the
Minnesota Energy and Economic
Development Authority,

Mark B. Dayton
Commissioner, Department of Energy
and Economic Development; and
Chairman, Minnesota Energy and
Economic Development Authority

Department of Human Services Support Services Bureau

Outside Opinion Sought Concerning Proposed Permanent Rules Governing the Determination of Welfare Payment Rates for Nursing Homes Participating in the Medical Assistance Program

Notice is hereby given that the Minnesota Department of Human Services continues to solicit outside opinion concerning permanent rules governing the determination of welfare payment rates for nursing homes participating in the medical assistance program and emergency rules governing the determination of welfare payment rates for operating costs for nursing homes under the medical assistance program.

Authority for these rules are contained in Minnesota Statutes, Section 256B.41.

All interested or affected persons or groups are requested to participate.

Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Larry Winans, Rulemaking Unit
Department of Human Services
4th Floor, Centennial Building
St. Paul, MN 55155

Oral statements of information and comment will be received during regular business hours over the telephone at 612/297-1461.

Any written material received by the Department shall become part of the rule record submitted to the Attorney General for review.

Comments concerning the permanent rules shall be accepted until November 1, 1984, and comments regarding the emergency rules governing payment rates for operating costs will be accepted until further notice.

Office of the Secretary of State

Notice of Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-2805. Application deadline is October 2, 1984.

COMPENSATION COUNCIL has vacancies for 8 members; one from each congressional district of whom no more than 4 may belong to the same political party. The council shall assist the legislature in establishing the compensation of constitutional officers, members of the legislature, justices of the supreme court and judges of the court of appeals, district court, county court, and county municipal court. Members are appointed by the Governor. Members receive \$35 per diem. For specific information contact the Compensation Council, Janet Lund, Legislative Coordinating Commission, B-46 State Capitol, St. Paul 55155; (612) 297-3697.

GILLETTE HOSPITAL BOARD has 1 vacancy open for a public member/consumer from Ramsey County. The board operates Gillette Children's Hospital in conjunction with St. Paul Ramsey Medical Center. Members are appointed by the Governor and confirmed by the Senate. Monthly meetings at Gillette Hospital; members receive no compensation. For specific information contact the Gillette Hospital Board, Roberta Winter, 200 East University Ave., St. Paul 55101; (612) 291-2848.

REGIONAL TRANSIT BOARD has 1 vacancy open for a public member from district E. The board will coordinate transit operations within the metropolitan area and implement the Metropolitan Council's long-term transit plans; establish a transit information service; adopt a transit service implementation plan; contract with transit operations in the metropolitan area to provide transit services; coordinate special transportation services for the elderly, handicapped or others with special transportation needs; administer contracts for paratransit projects; appoint the members of the Metropolitan Transit Commission; and other transit related responsibilities. Members are appointed by the Metropolitan Council. Members receive \$50 per diem plus expenses. Members must file with EPB. For specific information contact the Regional Transit Board, 402 Metro Square Bldg., St. Paul 55101; (612) 291-6640.

INDIAN ADVISORY COUNCIL ON CHEMICAL DEPENDENCY has vacancies for 2 members; 1 must be an American Indian resident of Minneapolis and 1 must be an American Indian resident of St. Paul. The council establishes policies and procedures for American Indian chemical dependency programs; reviews and recommends proposals for funding. Members are appointed by the Commissioner of Human Services. Quarterly meetings; members receive \$35 per diem plus expenses. For specific information contact the Indian Advisory Council on Chemical Dependency, Centennial Office Bldg., St. Paul 55155; (612) 296-8941.

APPRENTICESHIP ADVISORY COUNCIL has 1 vacancy open for an employee member. The council proposes occupational classifications and minimum standards for apprenticeship programs and agreements; advises the Commissioner of Labor and Industry. Members are appointed by the Commissioner. Quarterly meetings; members receive \$35 per diem plus expenses. For specific information contact the Apprenticeship Advisory Council, Dept. of Labor and Industry, Office of Public Affairs, Space Center Bldg., 444 Lafayette Rd., St. Paul 55101; (612) 297-4374.

JUVENILE JUSTICE ADVISORY COMMITTEE has 2 vacancies open for members at-large including juvenile court judges. Members must have training, experience, or special knowledge concerning the prevention and treatment of juvenile delinquency or the administration of juvenile justice. At least 1/5 must be under the age of 24; at least 3 shall have been or shall currently be under the jurisdiction of the juvenile justice system. The majority of members including the chairman, shall not be full time employees of the federal, state or local governments. Members are appointed by the Governor. Members are compensated for travel expenses. For specific information contact the Juvenile Justice Advisory Committee, American Center Bldg., 150 Kellogg Blvd., 8th Floor, St. Paul 55101; (612) 296-2596.

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 Procurement Division

Commodities Contracts Currently Open for Bidding

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
26-071-14540	Purchase of Plotter	Mankato State University	Mankato	Contact buyer
26-073-16608	Purchase of Laboratory Equipment	St. Cloud State University	St. Cloud	Contact buyer
21-200-08547, 1591	1985 Tax Rate Notice	Economic Security	St. Paul	Contact buyer
37-080-97376, 2411	Education Update	Education	St. Paul	Contact buyer
26-137-02979	Purchase of Shared Disk Drive and Controller	Mankato State University	Mankato	Contact buyer
26-073-16682, etc.	Athletic Supplies	St. Cloud State Hospital	St. Cloud	Contact buyer
03-310-13436	Office Furnishings	Legislature	St. Paul	Contact buyer
67-190-10092, 1297	Letter Size File Pockets	Revenue	St. Paul	Contact buyer
Sch. 5	Poultry & Poultry Products for the months of Oct. Nov. & Dec. 1984	Various	Various	Contact buyer
Sch. 4	Meat & Meat Products for the month of October 1984	Various	Various	Contact buyer
Contract	Tools: Trowel Trades	Various	Various	\$3,000-\$8,000
22400-00555, 2183	Minnetours	Tourism	St. Paul	Contact buyer

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

Department of Economic Security State Job Training Office

Request for Proposals for Operation of Job Training Programs for Older Individuals

The Minnesota Department of Economic Security, State Job Training Office, is requesting proposals from appropriate organizations and units of government to provide employment and training services to older individuals. The program, authorized by Section 124 of the Job Training Partnership Act, is designed to provide for the training and placement of low income persons 55 years of age and older in employment opportunities with private business concerns.

Request for Proposal application materials are available upon request. Inquiries and requests should be directed to:

Jim Korkki
State Job Training Office
690 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota, 55101
(612) 297-2059

Bidders conferences will be held in two locations to explain the Request for Proposals (RFP) process and to answer questions regarding the RFP. Contact Jim Korkki at the above address for the locations and dates of the bidders conferences.

A total of \$449,882 is available to fund programs to operate between January 1, 1985 and December 31, 1985. Proposals must be received by 4:30 p.m., October 12, 1985.

Housing Finance Agency

Grants Available Through MHFA Participation in HUD Rental Rehabilitation Program

The Housing and Urban-Rural Recovery Act of 1983 enacted into law a federally funded Rental Rehabilitation Program whereby rental residential property may be rehabilitated through the use of federal funds and a building owner's matching source of funds. In conjunction with the rehabilitation of the building, tenant rent subsidies may be provided to tenants residing in the building or to tenants who may be displaced due to the rehabilitation.

The Minnesota Housing Finance Agency (Agency) is the administering Agency for this new U.S. Housing and Urban Development Rental Rehabilitation Program. The total amount of funding that the Agency currently has available is \$778,700.

The Agency will administer the Rental Rehabilitation Program pursuant to the federal regulations that established the program as published in the Code of Federal Regulations, 24 CFR Part 511. The federal regulations allow the Agency discretion in determining how the Rental Rehabilitation funds may be utilized and how the program shall be implemented.

Primary Program Characteristics:

1. The funds will be disbursed in the form of grants. (Minimum \$600-Maximum \$5,000 per housing unit.)
2. To be eligible for funding the building must contain five or more housing units.
3. Building owners must match the grant amount at least dollar for dollar.
4. Applications for grants from owners of rental property will only be accepted for buildings located in the following communities. These HUD eligible communities have agreed to aid the Agency in implementing the Program and are within the jurisdiction of local public housing authorities who have agreed to administer the tenant subsidies.

Greater Minnesota Communities

Albert Lea
Austin
Hibbing
Mankato
Moorhead
Rochester
St. Cloud

Twin Cities Metropolitan Area Communities

Chanhassen
Chaska
Columbia Heights
Fridley
Little Canada
Maplewood
Newport
North St. Paul
Prior Lake
St. Paul Park
Savage
Shakopee
So. St. Paul
Stillwater

5. Buildings containing two or more bedroom units will be given priority in the selection process.

Additional program design details and eligibility requirements are listed in the program application packet and procedural guide.

The Agency may be in a position to offer underlying mortgage financing for the purchase and rehabilitation of a building. Conversion of a non-residential building to housing may also be permitted.

Applications will be accepted following the publication of this notice. Applications for the Program, including those mailed to the Agency, must be received by the Agency no later than 3:00 p.m., November 30, 1984. In the event that after the deadline and selection, funding remains available, the Agency will continue to accept applications on an open pipeline,

STATE CONTRACTS

case-by-case basis. All applications mailed to the Agency shall be certified mail, return receipt requested. Anyone delivering an application to the Agency must request a receipt.

An application packet is available for the Rental Rehabilitation Program. PLEASE specify the name of the program when requesting a packet from the Minnesota Housing Finance Agency, Suite 200, 333 Sibley Street, St. Paul, MN., 55101, or when calling 1-800-652-9747 (outside metro area) or 297-3294 (metro area).

Labor and Industry

Request for Proposals for Expert Assistance for Cost Containment

The Minnesota State Employees Workers' Compensation Fund is filing this request for proposal in order to obtain expert assistance to more quickly assess ongoing liabilities for the Fund and develop a plan for cost containment.

This Request for Proposal does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

A. Scope of Project:

To review open claim files of the State Revolving Fund for which continuing temporary total, temporary partial and permanent total benefits are being paid. Files to be reviewed will have dates of injury prior to January 1, 1984. It is estimated that there are between 400 and 600 files. Purpose of the review is to summarize and identify all unresolved medical, rehabilitation, and legal issues.

B. Goals and Objectives:

The project's goal is to do a thorough analysis of ongoing workers' compensation liabilities in order to ensure that all future handling on these claims are in accordance with modern claims practices, and current rehabilitation law. An action plan for each file should be devised.

C. Project Tasks:

Major components may include:

1. Brief chronological summary of file.
2. Brief analysis of all unresolved medical rehabilitation and legal issues.
3. Recommendations are necessary steps for rehabilitation and return to work, and a plan for resolution of all other issues.

Responder may propose additional tasks or activities if they will substantially improve the result of the project.

D. Department Contacts:

Prospective responders who have any questions regarding the Request for Proposal may call or write Denise Fleury, Director, State Employees' Workers' Compensation Fund, 444 Lafayette Road, St. Paul, Minnesota 55101, telephone (612) 296-1093.

Please note other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

E. Submission of Proposals:

All proposals must be sent to and received by Denise Fleury, Director, State Employees' Workers' Compensation Fund, 444 Lafayette Road, St. Paul, Minnesota 55101, not later than 1:00 p.m., on September 27, 1984.

Late proposals will not be accepted. Submit three (3) copies of proposal. Proposals are to be sealed in mailing envelopes or packages with the responders' name and address clearly written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposals as stated must be valid for the length of project.

F. Project Costs:

The Department has estimated the cost of this project should not exceed \$15,000.00.

G. Project Completion Date:

The project will be completed before January 1, 1985, or, within three months from the time of the pilot authorization.

H. Proposal Contents:

The following will be considered minimum contents of the proposal:

1. A restatement of the objective goals and tasks to show or demonstrate the responder's view of the nature of the project.
2. Outline the responder's background and experience with particular emphasis on prior experience in workers' compensation claim handling and in government work. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the Director of the State Employee's Workers' Compensation Fund.
3. Responder will prepare a detailed cost and work plan which will identify the major task to be accomplished and may be used as a scheduling/managing tool as well as the basis for invoicing.
4. Identify the level of the Department's participation in project, as well as any other services to be provided by the Department.

I. Evaluation:

All proposals received by the deadline will be evaluated by a representative of the Department of Labor and Industry, State Employees' Workers' Compensation Fund. In some instances, an interview will be part of the evaluation process. Factors upon which proposals will be judged include but are not limited to, the following:

1. Expressed understanding of project objectives.
2. Project work plan.
3. Project cost detail.
4. Qualifications of both company and personnel. Experience of project personnel be given greater weight than that of the firm.

Evaluation and selection will be completed by October 12, 1984.

Labor and industry

Request for Proposals to Establish Pilot Project(s) for Cost Containment

The Minnesota State Employees Workers' Compensation Fund is requesting this proposal in order to establish pilot project(s) for a cost containment program for workers' compensation, and to evaluate results of the projects for statewide application to the problem of rapidly escalating costs for State employees' workers' compensation claims.

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

A. Scope of Project:

Pilot project(s) on workers' compensation cost containment on selected state agencies. Result of the pilot project is demonstrated by significant reduction of workers' compensation costs and design of a permanent system for early intervention, rehabilitation and return to work.

B. Goals and Objectives:

The goal of the pilot project is to demonstrate to all state agencies the significant reductions in workers' compensation costs that can be achieved with the assistance of a professional with expertise on modern cost control methods including medical management, early intervention and rehabilitation, and safety and health techniques.

C. Project Tasks:

Evaluate the problems that exist, and determine an action plan for the pilot project. This may include, but not limited to:

1. Proposed criteria to select a pilot project.
2. Analysis of the overall workers' compensation problems of the selected agency(s) and design a comprehensive loss management system.
3. Educate the agency on related areas of job design, job modification and other modern ergonomics techniques.
4. Work with medical providers to foster communication and understanding of the agency's goals of an early return to work within the limits of the employee's disability.
5. Work on specific claims if disability exceeds reasonable norms.

STATE CONTRACTS

Responder may propose additional tasks or activities if they will substantially improve the results of the project.

D. Department Contacts:

Prospective responders who have any questions regarding this request for proposal may call or write Denise Fleury, Director, State Employees' Workers' Compensation Fund, 444 Lafayette Road, St. Paul, Minnesota 55101, telephone (612) 296-1093.

Please note other Department personnel are not allowed to discuss the project with responders before the submittal of the proposal deadline.

E. Submission of Proposal:

All proposals must be sent to and received by Denise Fleury, Director, State Employees' Workers' Compensation Fund, 444 Lafayette Road, St. Paul, Minnesota 55101, not later than 2:00 p.m., September 26, 1984. Late proposals will not be accepted. Please submit three (3) copies of the proposal. Proposal is to be sealed in a mailing envelope or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed in ink by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

F. Project Costs:

The Department has estimated that the cost of the project(s) should not exceed \$20,000.00 for each pilot project.

G. Project Completion Date:

An action plan for the pilot project encompassing all the project tasks must be completed within four (4) weeks from the date of project authorization. Implementation of the action plan should be within twelve (12) weeks from the date of project authorization.

H. Proposal Contents:

The following shall be considered minimum contents of the proposal:

1. A restatement of the objectives, goals and tasks to show or demonstrate the responder's view of the nature of the project.
2. Identify and describe all services to be provided by the responder.
3. Outline the responder's background and experience with particular emphasis on prior design of cost containment program and previous experience with the Minnesota Workers' Compensation Law. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the Director of the State Employees' Workers' Compensation Fund.
4. Responder will prepare a detailed cost and work plan which will identify the major tasks to be accomplished and may be used as scheduling and managing tools, and the basis for invoicing.
5. Identify the level of the Department's participation in this project as well as any other services to be provided by the Department.

I. Evaluation:

All proposals received by the deadline will be evaluated by representatives of the Department of Labor and Industry, State Employees' Workers' Compensation Fund. In some instances, an interview will be part of the evaluation process. The factors upon which the proposals will be judged will include but are not limited to the following:

1. Expressed understanding of the projects objectives.
2. Project work plan.
3. Project cost detail.
4. Qualifications of both company and personnel. Experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will be completed by October 19, 1984. Results will be sent immediately by mail to all responders.

Lawyer Trust Account Board

Notice of Grant Cycle: January 1, 1985 to June 30, 1985

The Minnesota Supreme Court has established a program to use the interest on lawyer trust accounts to improve the

delivery of legal services to the poor, to promote the development of law-related education for the public, and to develop programs to enhance the administration of justice.

The Lawyer Trust Account Board has announced a grant program to distribute funds to projects in any of the three program areas. The board will support not only traditional approaches, but will encourage projects that show innovative approaches to recognized needs throughout the state. The Board is soliciting proposals. For application information, contact the Executive Director, 300 Legal Education Center, 40 North Milton Street, St. Paul, MN 55104. The application deadline is October 31, 1984.

Metropolitan Council Parks and Open Space Department

Proposals for a Speedskating Rink Site and Implementation Program

The Parks and Open Space Dept. of the Metropolitan Council solicits a proposal for a site and implementation program for an artificially refrigerated, 400-meter speedskating rink in the seven-county Twin Cities Metropolitan Area. Selection of a site and program is being carried out as authorized by Minnesota Laws 1983, Chapter 344, Section 4(c). Selection will be based on criteria contained in the Council's Request for Proposals, a copy of which is available from the Parks and Open Space Dept. at 291-6401. Deadline for submission of proposals is October 12, 1984. A site and implementation program will be chosen by January 1985.

Metropolitan Waste Control Commission

Advertisement for Proposals for Ash Utilization/Disposal

The Metropolitan Waste Control Commission is seeking proposals from qualified firms with an interest in the utilization/disposal of ash generated through the incineration of wastewater treatment plant sludges. The Commission's Metropolitan Wastewater Treatment Plant (Metro) is a large (200 + mgd) secondary treatment facility with the capability to provide seasonal nitrification. The sludges generated at Metro are conditioned by thermal means or organic polymers, dewatered on roll presses or plate and frame presses, and subsequently burned in multiple hearth incinerators. This project consists of removing ash from the Metro Plant and utilizing/disposing it in accordance with applicable state, federal, and local regulations as well as obtaining all necessary permits and/or approvals. It is anticipated that ash production will remain in the range of 25,000 to 30,000 dry tons per year.

Proposals will be received by the Commission until 10:00 a.m., Thursday, November 8, 1984. A preproposal conference will be held at 9:00 a.m., September 26, 1984.

Additional information related to this project is provided in the document entitled: Request for Proposals—Ash Utilization/Disposal. Copies of this document are available from the Metropolitan Waste Control Commission, 350 Metro Square Building, 7th & Robert Streets, St. Paul, MN 55101, Attention: R. C. Polta, Telephone: (612) 222-8423.

August 21, 1984

By Order of the Metropolitan Waste Control Commission,
Mr. Louis J. Breimhurst
Deputy Chief Administrator

Pollution Control Agency Office of Planning and Review

Request for Proposals for Consultant Services

The Minnesota Pollution Control Agency wishes to retain a consultant to assist in the preparation of an environmental impact statement (EIS) on the proposed expansion of the St. Regis Paper mill located in Sartell, Minnesota. The existing mill capacity of 255,000 tons per year of salable paper is proposed to be expanded to approximately 435,000 tons per year by the

STATE CONTRACTS

addition of a paper machine and the expansion of supporting facilities. A draft EIS is to be completed by March, 1985, with the final EIS to be done by June, 1985.

It is anticipated that the consultant services for the project EIS may cost up to \$115,000.

Copies of the request for proposal and the scoping environmental assessment worksheet on the project are available from:

Craig Affeldt, Project Manager
Minnesota Pollution Control Agency
Office of Planning and Review
1935 West County Road B2
Roseville, Minnesota 55113
telephone: 612/296-7794

Proposals must be submitted to the Minnesota Pollution Control Agency by October 1, 1984, or three weeks from the date of the first publication of this notice, whichever is later.

State Designer Selection Board

Request for Proposals for State Projects

TO ARCHITECTS AND ENGINEERS REGISTERED IN MINNESOTA:

The State Designer Selection Board has been requested to select designers for four (4) projects at the University of Minnesota. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., October 3, 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.

7a PROJECT—34-84

**Rosemount Dairy and Feedlot Facilities
University of Minnesota
St. Paul, Minnesota**

1. TieStall—Warm for 160 Cows (one or more units)

Barn will have arrangements for partial metering for water and feed distribution: stall sizes 4'6" and 5' wide and 6' long; litter alleys and feeding curbs 6' wide; feed alleys 54" wide with separate feeding areas and feeding curbs; cross and end alley 6' and 10' wide.

2. A fully automated Milking Parlor (two units)

One 2 × 8 herringbone pattern unit 21' × 30'. One 3-place side opening experimental parlor 16' × 30'. Holding areas for both parlors, entry and return holding areas.

New construction 2,680 ASF

3. Milk Storage Facility and Equipment Housing

New construction 1,300 ASF

4. Preparation Laboratory, Locker Rooms with Showers, Restrooms, Office Computer Room and Reception Areas.

New construction 1,500 ASF

Total new construction 6,000 GSF for Items 2, 3, and 4

Estimated construction costs \$460,000.00

Total estimated construction costs \$1,200,000.00

Replacement of Rosemount Beef Feedlot Facilities

1. Two buildings with 24 pens each, adequate for six heads per pen

2. Diet mixing area with stationary mixer-blender and feed storage

3. Animal handling and processing facilities (chutes, gates, sorting pens, scales etc.)

Total new construction 25,000 GSF

Estimated construction cost \$775,000.00

7b) PROJECT—35-84

**Replacement and Renovation of
St. Paul Campus Dairy Facilities
University of Minnesota
St. Paul, Minnesota**

Project Description

1. Animal Housing Facility for research and teaching

This unit will house lactating cattle, cows for intensive nutrition, physiology and management work, and animals for teaching approximately 90 cow capacity.

STATE CONTRACTS

2. Preparation labs for digestion and metabolism studies

Two milking parlors, one for experimentation and teaching, other for routine milking

Total new construction 20,000 GSF

Estimated construction costs \$970,000.00

Renovation of Present Dairy Barn #344, \$326,328.00

1. This existing facility will undergo extensive interior remodeling to convert its reduced space to intensive Animal Science Research facility, in physiology. It will also contain a collective area, surgery room and support spaces. Attention to be given to preserve the barn historic value within the St. Paul Campus architecture.

Remodeled area 19,600 GSF

Estimated construction cost \$1,187,000.00

7c) **PROJECT—36-84**

Beef and Sheep Facilities

Remodeling and Upgrading

University of Minnesota

St. Paul, Minnesota

Project Description

Beef Facilities Remodeling & Upgrade at St. Paul Campus

1. Renovate the present 1916 Barn to facilitate teaching activities such as practicums. This barn will house beef livestock for teaching and replacement purposes.

2. Renovate second floor to accommodate a storage facility for the Beef Barn and nearby units.

3. Improve outside beef lots, to conform with St. Paul Campus long range planning projections.

4. Improve steer feeding activity and connect nearby steer feeding shed to centralized feed mixing facility.

Remodeled area 24,136 GSF (for Items 1 through 3)

Approximate construction costs \$1,115,000.00

Sheep Facilities St. Paul Campus

1. Remodel the existing Horse Barn (Building #330), or replace a new facility to provide intensive sheep growing and research unit, including support space. Inclusion of a separate swine teaching facility is now also under consideration.

Remodeled area 14,186 GSF

Estimated construction cost \$438,000.00

A New Facility for Metabolism and Digestion Studies (Studies with sheep and steers. Housing for fistulated steers included in this building).

New construction 8,000 GSF

Estimated construction cost of \$390,000.00

7d) **PROJECT—37-84**

Improvement of Swine Facilities and

Expansion of Animal Holding Facility

University of Minnesota

St. Paul, Minnesota

Project Description

Improvement of Swine Facilities—St. Paul Campus

1. Remodel and upgrade two existing swine buildings to house pigs for classroom purposes and research. Classroom use involves judging team workouts, instructions in "hands-on" techniques and graduate student training in innovative research methods.

New construction 7,504 GSF

Estimated construction costs \$250,000.00

2. Construct a multiple use building for research purposes. Nutritional balance studies, surgical modification on pigs, and individual feeding will take place here. Pigs also used for studies by other departments.

New construction 6,400 GSF

Estimated construction costs \$332,000.00

3. Innovative design approach may combine the above budgets for use of all new space for above purposes, with existing buildings being used as passive space (storage), or demolished.

Expansion of the Arena and Animal Holding Facility on St. Paul Campus.

1. Expand the existing livestock arena to its originally intended size. It is heavily used for teaching purposes and is not adequate at its present size.

New construction 9,000 GSF

Estimated construction costs \$676,000.00

2. Adjacent to the arena, design and construct a livestock holding facility for farm animals. This facility will house animals temporarily for classroom and other campus uses. Included is a sorting and handling area for use of animals in the arena preparation space.

New construction 6,400 GSF

Estimated construction cost \$465,000.00

DESIGNER SERVICES

The designer 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.

It is the desire of the University of Minnesota that a separate designer be selected for each of these projects. However, interested firms may submit one set of proposals to cover any or all of these projects. Any questions concerning these projects may be referred to Clint Hewitt at 373-2250.

John D. Nagel, Chairman
State Designer Selection Board

SUPREME COURT**Decisions of the Court of Appeals Filed Tuesday, August 28,
1984****Compiled by Wayne O. Tschimperle, Clerk**

C6-84-612 Johannes K. Huygen, etc., et al., v. Plums Enterprises of St. Paul, Inc., d/b/a Plums, Appellant. Ramsey County.

The St. Paul Human Rights Commission order requiring a bar and restaurant to: (a) incorporate a non-discriminatory policy into any agreement to renew, transfer or exchange its liquor license; (b) to advertise this change of policy in local newspapers; and (c) to pay the Department's investigation costs did not abuse the Commission's broad remedial powers.

The authorization to award punitive damages to any party who suffered discrimination was inconsistent with the standard established in Minn. Stat. § 549.20 and therefore invalid.

Affirmed in part, reversed in part and remanded.

Popovich, C.J.

SUPREME COURT

C4-83-1943 *State of Minnesota, v. Lucille Barbara McDonnell, Appellant. Traverse County.*

Appellant was illegally arrested for D.W.I. where the offense was not committed in the presence of the arresting officer.
Reversed. Popovich, C.J.

C6-84-822 *Raymond F. Antiel, et al., Appellants, v. V.W.E. Investments, Vorwerk Investments, Its General Partner. Dakota County.*

Limited and general partners must be personally served in order to be subject to the jurisdiction of the courts of this state.
Affirmed. Popovich, C.J.

C2-83-1763 *Myron O. Ostlund, Petitioner, Appellant, v. Independent School District No. 47, Sauk Rapids, Minnesota. Benton County.*

Substantial record evidence supports the School Board's determination that appellant received a written deficiency notice and failed to take corrective action.

It was permissible for the School Board to rely on evidence which was both relevant and sufficiently probative.

The failure to commence termination proceedings during the period of appellant's voluntary, unpaid leave of absence was neither arbitrary nor capricious.

Affirmed. Popovich, C.J.

C4-83-1859 *In Re: the Marriage of: Judith Jeanne Mentzos, Petitioner, v. Keith Daryle Mentzos, Appellant. Hennepin County.*

The award of child support, which was an upward departure from the child support guidelines based on appellant's actual net income during the marriage, requires findings regarding the reasons for departure.

Remanded. Parker, J.

Dissenting, Huspeni, J.

C0-84-265, C8-84-482 *Diane Milbradt, et al., Mutual Service Insurance Co., v. American Legion Post of Mora, et al., Brian Milbradt, Mutual Service Insurance Co., Appellant, v. American Legion Post of Mora, City of Mora, et al. Kanabec County.*

The No-Fault Act gives an insurer paying basic economic loss benefits no subrogation right to an insured's claim against a tortfeasor unless recovery on that claim represents a duplication of benefits. Minn. Stat. § 65B.53, subd. 3.

Minn. Stat. § 65B.53, subd. 3, establishes the exclusive right of subrogation for an insurer paying basic economic loss benefits to a cause of action other than vehicular negligence.

Affirmed. Parker, J.

C2-84-686 *Kevin Cherveney, Relator, v. 10,000 Auto Parts, and Commissioner of Economic Security. Department of Economic Security.*

Relator's dishonesty in an investigation by the employer into an alleged theft of employer's goods was misconduct sufficient to disqualify relator from unemployment compensation benefits pursuant to Minn. Stat. § 268.09, subd. 1 (Supp. 1983).

Affirmed. Parker, J.

C0-84-668, C2-84-669, C9-84-670 *State of Minnesota, Appellant, v. Brian Dale Claussen, (C0-84-668); State of Minnesota, Appellant, v. Tammy Lynn Claussen, (C2-84-669); State of Minnesota, Appellant, v. Patricia Ann Johnson, (C9-84-670). Freeborn County.*

The *Terry v. Ohio* investigatory stop was justified by officer's articulable suspicions.

Reversed. Foley, J.

C8-84-532 *Roseville Education Association, et al., Petitioner, v. Independent School District No. 623, Appellant. Ramsey County.*

All school district "teachers" under Minnesota Statutes Section 125.12(6b) are subject to seniority rights of other "teachers" under the statute.

Affirmed. Wozniak, J.

C2-84-591 *Richard Coughlin, et al., Appellants, v. Kenneth Roy LaBounty and LaBounty Manufacturing, Inc. Lake County.*

The jury's verdict of \$25,000 in damages, but neither permanent injury nor sixty days or more of disability, was inconsistent.

Future medical expenses cannot be used to meet the \$4,000 medical expenses tort threshold of the No-Fault Act.

The trial court did not err in refusing to admit expert testimony on potential earnings.

Affirmed. Wozniak, J.

C0-84-167 Lawrence DeRemer, et al., v. Pacific Intermountain Express Company, et al., Appellants. Blue Earth County.

The trial court correctly applied Minnesota law of comparative negligence instead of South Dakota law of contributory negligence.

The trial court correctly denied appellant's motion for a new trial based on surprise at trial when appellant failed to object or ask for continuance at trial.

The trial court erred in admitting expert testimony on a subject ordinarily within the knowledge of jurors, but the error was not so prejudicial as to require a new trial.

The verdict is supported by the evidence.

Affirmed. Sedgwick, J.

C1-83-2029 State of Minnesota v. Michael Dale Stokes, Appellant. St. Louis County.

There was sufficient evidence for the jury to convict defendant of driving while under the influence of alcohol.

The prosecutor's cross-examination was not prejudicial, and defendant's failure to object to remarks made during the closing argument waived his right to have this issue considered on appeal.

The trial court has broad discretion to determine the adequacy of foundation for a lay person's opinion about whether another person was under the influence of alcohol.

Affirmed. Lansing, J.

CX-84-256 Jim W. Miller, Appellant, v. Northwestern National Insurance Company, and Jim W. Miller Construction, Inc., Appellant. Stearns County.

Defendant's summary judgment motion against a co-defendant was properly before the trial court.

The doctrine of collateral estoppel was incorrectly applied, and summary judgment erroneously granted.

Plaintiff's voluntary dismissal of the action against one of two defendants is insufficient to moot that defendant's motion for summary judgment against plaintiff.

Remanded. Huspeni, J.

C4-84-219 Classified Insurance Corporation v. Robert A. Vodinelich, Individually and as Trustee for the Heirs and Next of Kin of Decedents April Rae Vodinelich and Lance R. Vodinelich, Appellants, Nancy L. Vodinelich, Deceased, by Robert Dolan, Special Administrator of the Estate of Nancy L. Vodinelich. Hennepin County.

Accidental injuries resulting from the operation of a vehicle in a closed garage producing carbon monoxide arose out of the "use" of a car.

Reversed. Huspeni, J.

C5-83-1899 In Re: the Marriage of: Patricia Ann Mulroy, Petitioner, v. Michael Don Mulroy, Appellant. Anoka County.

The provisions of Minnesota Statutes Section 518.64 (1982) which require the presence of a change of circumstances before child support may be modified do not apply to the establishment of a child support award pursuant to a reservation of child support in the dissolution judgment and decree.

Affirmed. Huspeni, J.

C4-83-1988 Stony Ridge and Carlos View Terrace Association, Inc., Appellant, v. Joseph N. Alexander, Commissioner of Natural Resources. Douglas County.

Appellant failed to prove the land purchased by the DNR as a public water access site was encumbered by a negative reciprocal easement restricting its use to single family residences.

The trial court finding that the DNR complied with Minnesota law in selecting the proposed public water access site is not clearly erroneous.

The DNR policy regarding the location of public water access sites does not constitute a rule under Minnesota Law.

Affirmed. Nierengarten, J.

SUPREME COURT

C3-83-1822 Jacob George Haegele, Petitioner, Appellant, v. Commissioner of Public Safety. Ramsey County.

The evidence was insufficient to show the breathalyzer tests were valid and reliable.

Reversed. Nierengarten, J.

C3-84-65 Transamerican Insurance Company, v. Austin Farm Center, Inc., et al., Western Casualty & Surety Company, Wayne H. Austin Distributing Company, Inc. and Centennial Insurance Company, Appellants, and Western Casualty and Surety Company, v. Arthur E. Scherer, et al., Wayne H. Austin Distributing Company, Appellant. Mower County.

Failure to disclose multiple ownership of a motor vehicle in an application for liability insurance constituted a misrepresentation voiding said policy.

A policy of automobile liability insurance covering the vehicle involved in an accident is closer to the risk than a policy insuring the driver.

Affirmed. Nierengarten, J.

C2-84-140 Robert Ervin Dufrane, Appellant, v. Commissioner of Public Safety. Ramsey County.

Evidence was sufficient to sustain the revocation of appellant's driver's license on the basis that he was in physical control of a motor vehicle while under the influence of alcohol.

Affirmed. Randall, J.

CX-83-1946 Steven B. Winter and William D. Winter, v. Lawrence G. Liles, Individually and as Partners of Savanna Development, Appellant, Timothy E. Champion, et al. Hennepin County.

A Partnership Liquidation Agreement should be construed with reference to existing partnership statutes if the Agreement does not disclose an intent to depart from them.

The attempted fraudulent conveyance of partnership real property by one of two remaining partners, without the knowledge or consent of the other, was not a "transfer" within the terms of the Partnership Liquidation Agreement governing the partners' personal liability to withdrawing partners.

Where there is a reference in one instrument to the terms or provisions of a prior instrument, the prior instrument may be deemed a part of the second document to the extent of the reference to it.

Reversed. Randall, J.

C7-83-1435 In Re: the Marriage of: Stuart Howard Nolan, Petitioner, Appellant, v. Linda Otis Nolan. Hennepin County.

A just and equitable division of marital property requires consideration of the opportunities of each party to acquire capital assets, and their respective income potential.

The trial court was not required to adjust its property division for a \$500,000 personal obligation incurred by husband on behalf of real estate development corporation, where marital estate included substantial real estate interests, husband received all income-generating assets, and real estate market was depressed at the time of trial.

The trial court did not abuse its discretion in valuing cash-on-hand as of a date four months prior to trial.

There was no abuse of discretion in deferring payment of a cash award which was part of the property division, due to financial difficulties created by business conditions.

Award to the husband of a lot adjacent to the homestead awarded to the wife, did not of itself prolong marital strife, so as to exceed the discretion of the court.

Problems with orderly visitation should be addressed to the continuing jurisdiction of the trial court.

Affirmed. Crippen, J.

Memorandum Opinion and Order Filed August 22, 1984

C4-84-1239, C0-84-1240 In Re: The Placement on Unrequested Leave of Absence of Judith Pinkney, Linda Jeffery, Nancy Johnson, Ellen Prinkkila, Julie Johnson, Nancy Ralston, Kathleen Jarvi, Susan Colvin and Gene Paulson. (C4-84-1239), In Re: Placement of Ronald Skube on Unrequested Leave of Absence. (C0-84-1240). Independent School District #691, Independent School District #692.

A writ of certiorari to review the placement of teachers on unrequested leave by a school board will issue if proper application is made within 60 days after the petitioner received notice of the proceeding to be reviewed. Minn. Stat. § 606.01 (1982).

Writs of certiorari shall issue. Popovich, C.J.

Decisions of the Supreme Court Filed Friday, August 31, 1984

Compiled by Wayne O. Tschimperle, Clerk

CX-83-635 James Atwood, et al., v. Independent School District No. 51, Foley, Minnesota, Appellant. Benton County.

If a teacher is notified of a proposed placement on unrequested leave of absence pursuant to a plan negotiated under Minn. Stat. § 125.12, subd. 6a (1983) and subsequently requests a hearing, then deadlines negotiated under the subdivision 6a plan are waived.

Reversed. Amdahl, C.J.

C7-83-902, C5-83-946 William R. Bergerson v. Thermo Comfort, Inc., and Northwestern National Insurance Group, Relators, (C7-83-902), and Harding Home Comfort, Inc., and Western Casualty & Surety, Quality Heat Savers and Iowa National Mutual Insurance Company, Relators, (C5-83-946), Minnesota Department of Economic Security, State Treasurer, Custodian of the Special Compensation Fund. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals correctly apportioned retraining benefits.

The Workers' Compensation Court of Appeals' determination granting temporary partial disability benefits was not manifestly contrary to the evidence.

While the medical evidence was contradictory as to whether and to what extent the second injury contributed to the permanent disability, the Workers' Compensation Court of Appeals' apportionment of 25% of the overall disability to that injury was not manifestly contrary to the evidence.

The attempted registration of the employee's preexisting impairment with the Special Compensation Fund, after the occurrence of a second injury, was effective where the rating was based solely on the preexisting medical records and was submitted to the special fund within the 180-day period allowed by Minn. Stat. § 176.131, subd. 3 (1982).

C7-83-902 is affirmed. C5-83-946 is affirmed in part, reversed in part. Wahl, J.

CX-83-375 Summit Court, Inc., Appellant, v. Northern State Power Company, et al. Ramsey County.

Where a plaintiff accepts payment of a judgment in its favor and executes a release and satisfaction of that judgment, it may not later claim prejudgment interest on the damage award underlying the judgment.

Appellant is entitled to the prejudgment interest it requested on the loss-of-use damages award where the damages, based on fixed, unabatable costs, were readily ascertainable prior to trial and little jury discretion was involved in arriving at the final award.

Affirmed in part and reversed in part, Wahl, J.

Took no part, Coyne, J.

C1-83-1091 Edward Rettman, Jr., v. City of Litchfield, et al., Appellants. Meeker County.

There must be a strong showing of benefit actually received by a city as a whole to allow recovery under quasi-contract for work performed on improvements governed by Minn. Stat. ch. 429 (1982), Local Improvements, Special Assessments.

The evidence in this case is practically conclusive against the jury's finding that the city as a whole actually received a benefit from the installation of a water main that served 19 city lots.

A general allegation of increased taxes, resulting, in part, from a local improvement, is insufficient to establish prima facie a benefit actually received by the city.

Reversed. Wahl, J.

C9-83-383 State of Minnesota v. Richard Rex Rean, Appellant. Sherburne County.

Defendant received a fair trial and was properly found guilty of burglary; the trial court properly denied motion for new trial based on alleged newly discovered evidence.

Affirmed. Simonett, J.

C1-82-1209, C0-83-689 State of Minnesota v. Christy Pontiac-GMC, Inc., Appellant. Ramsey County.

A corporation may be prosecuted and convicted for the crimes of theft and forgery.

For a corporation to be guilty of a specific intent crime, it must be shown that (1) its agent was acting within the course and scope of his employment, having the authority to act for the corporation with respect to the particular corporate business which was being conducted criminally; (2) the agent was acting, at least in part, in furtherance of the corporation's business interests; and (3) the criminal acts were authorized, tolerated, or ratified by corporate management.

SUPREME COURT

The evidence is sufficient to sustain the conviction of the defendant corporation.

Affirmed. Simonett, J.

Took no part, Kelley, J.

C7-83-446 Minneapolis Society of Fine Arts v. Parker-Klein Associates Architects, Inc., et al., the Hanley Company, Appellant. Hennepin County.

Diminution in value of buildings, measured by the cost of repairing and replacing exterior brick curtain walls, and loss of revenue resulting from construction activities constitute "economic loss" damages in action against brick manufacturer where no physical injury to property other than the brick themselves has been established, and these damages are not recoverable under tort theories of negligence or strict products liability.

A brick manufacturer has no duty to warn a brick purchaser of proper design of walls into which brick were incorporated where purchaser's architects knew, or should have known, that the brick would fail if walls were improperly designed.

Reversed. Kelley, J.

Took no part, Coyne, J.

C6-83-552 State of Minnesota v. Dan Hardy, Appellant. Hennepin County.

Evidence of defendant's guilt was sufficient; erroneous admission of hearsay evidence connecting defendant to the crimes was nonprejudicial.

Affirmed. Kelley, J.

C3-83-699, C2-83-1276 C. Rex Welsh, Petitioner, Appellant (C2-83-1276), v. City of Orono, a Minnesota Municipal Corporation, Appellant (C3-83-699). Hennepin County.

A municipality is without jurisdiction, either explicitly or implicitly, to regulate dredging in public waters because the Department of Natural Resources has exclusive jurisdiction to grant or deny dredge permits for work in public waters as provided by the legislature.

The Department of Natural Resources dredging permit issued was conditional upon compliance with all other municipal zoning regulations. The trial court, therefore, erred in ordering a municipality to refrain from interfering with a proposed permanent dock and riprapped shoreland protection because the municipality has express power to regulate wharves and docks and shoreland areas.

The trial court did not abuse its discretion in denying attorney fees under 42 U.S.C. § 1988 when the claim is essentially a private state law claim and is not within the spirit of the civil rights attorney fee provision.

Affirmed in part; reversed in part and remanded. Kelley, J.

C6-83-485 Foley Education Association, et al., Appellants, v. Independent School District No. 51, etc. Benton County.

School district's changes in teaching assignments and schedules were not unfair labor practice under PELRA, Minn. Stat. § 179.61-179.76 (1982), when teachers' exclusive bargaining representative had notice of intended changes several months prior to their implementation but failed to demand negotiation.

School district committed unfair labor practice under PELRA when it assigned to persons who were not licensed as teachers study hall supervisory duties traditionally assigned to teachers.

Affirmed in part, reversed in part, and remanded.

Coyne, J.

C0-82-1346 State of Minnesota v. Elizabeth Ann Ibarra, Appellant. Watonwan County.

Criminal conviction for wrongfully receiving AFDC benefits by misrepresenting parent's continuous absence from the home did not violate due process.

Evidence was sufficient to support conviction for violation of Minn. Stat. § 256.98 (1982).

Restitution payments are reduced by \$644 to reflect assistance defendant received while her daughter's father was away at school.

Affirmed as modified. Coyne, J.

Dissenting, Wahl, J., & Yetka, J.

CX82-1581 State of Minnesota v. Sharon Renee Nelson, Appellant. Anoka County.

Criminal conviction for wrongfully receiving AFDC benefits by misrepresenting parent's continuous absence from the home did not violate due process.

Error, if any, in admitting evidence obtained during execution of search warrant was harmless.

Affirmed. Coyne, J.

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

- _____ Annual subscription \$130.00
- _____ Trial subscription (13 weeks) \$40.00
- _____ Single copies \$3.25 each

Minnesota Guidebook to State Agency Services 1984-85. A 623-page guide to services provided by Minnesota agencies.

- _____ Single copy: \$12.50 + \$.75 tax = \$13.25* each

Minnesota Statutes Supplement—1983. Pocket inserts for Minnesota Statutes 1982 10-volume set.

- _____ \$23.00 + \$1.38 tax = \$24.38.
- _____ No handling charge.

Session Laws of Minnesota—1984. Laws enacted during the 1984 legislative session, 2 volumes. Inquire about back volumes.

- _____ \$34.00 + \$2.04 tax = \$36.04.*
- _____ No handling charge.

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Department of Revenue.

Please enclose full amount for items ordered; prepaid orders only. Make check/money order payable to "State of Minnesota." (Phone orders are taken only with a Mastercard/VISA charge number.)

EACH ORDER MUST INCLUDE \$1.50 POSTAGE AND HANDLING FEE.

State Register Binder. Durable 3½ inches, forest green binders imprinted with the *State Register* logo.

- _____ *State Register Binder* \$6.50 + \$.39 tax = \$6.89* each

State Register Index. Contains cumulative findings aids to Volume 7 of the *State Register*, including MCAR Amendments and Additions, Executive Orders List, Executive Orders Index, Agency Index, Subject Matter Index.

- _____ Single copy \$5.00

Worker's Compensation Decisions. Volume 36. Selected landmark decisions of the Worker's Compensation Court of Appeals. Annual subscription, quarterly updates.

- _____ Annual subscription \$80.00

Minnesota Outdoors Catalog—1984. Complete listing of material on the Minnesota outdoor activities. Bikeways, canoeing, county, lake and other maps. Books, charts, rules, laws, posters and more.

- _____ FREE COPY

Name _____

Attn of: _____

Street _____

City/State/Zip _____

Telephone # _____

CHANGE OF ADDRESS NOTICE

Please notify us as soon as your address changes so that we can continue to serve you.

OLD ADDRESS

NEW ADDRESS

Publication(s) you are receiving from us: _____

FOR LEGISLATIVE NEWS

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

SENATE

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
B29 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Monthly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 8 State Capitol, St. Paul, MN 55155
(612) 296-2146

Legislative Reference Library
Room 111 Capitol

Interoffice

8/13