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STATE REGISTER

STATE OF MINNESOTA

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VOLUME 9, NUMBER 16

October 15, 1984

Pages 757-788



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			
17	Monday Oct 8	Monday Oct 15	Monday Oct 22
18	Monday Oct 15	Monday Oct 22	Monday Oct 29
19	Monday Oct 22	Monday Oct 29	Monday Nov 5
20	Monday Oct 29	Monday Nov 5	Monday Nov 12

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

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

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

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

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

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION also.

The PROPOSED RULES section contains:

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

The ADOPTED RULES section contains:

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

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

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

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

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

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

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

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EXECUTIVE ORDERS

Executive Order No. 84-13

Amendment to Executive Order No. 84-12 Providing for the Issuance of Overweight Transportation Permits to Sugar Beet and Potato Haulers

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, Executive Order No. 84-12 was issued on September 13, 1984, providing for the issuance of overweight transportation permits to sugar beet and potato haulers; and

WHEREAS, it is necessary to amend Executive Order No. 84-12 by adding a clause;

NOW, THEREFORE, I hereby order that:

8. Minnesota will honor overweight transportation permits issued by another state for trucks that are properly registered in that state provided that:

a. That state honors similar Minnesota overweight transportation permits that have been issued to trucks that are properly registered in Minnesota; and

b. The vehicle carries only sugar beets or potatoes; and

c. The vehicle travels only in the "free zone" adopted under the vehicle registration reciprocity agreement between that state and the State of Minnesota.

EXECUTIVE ORDERS

Pursuant to Minnesota Statutes, Section 4.035, this Order shall be effective fifteen (15) days after publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF I have set my hand this 27th day of September, 1984.



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.

Department of Economic Security

Proposed Rules Governing Fees Charged to Qualified Rehabilitation Consultants and Approved Vendors for Rehabilitation Services

Notice of Intent to Adopt Rules without Public Hearing

Notice is hereby given that the Department proposes to adopt the above-entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of the rules 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 rules is authorized by Minnesota Statutes, section 176.102, subdivision 9, which permits the Department to charge fees to qualified rehabilitation consultants and approved vendors for rehabilitation services provided to qualified employees.

The public is encouraged to comment on the proposed rules. The public shall have 30 days to submit comment in support of or in opposition to the proposed rules. Each comment should identify the portion of the proposed rules addressed, the reason for comment, and any change proposed. The proposed rules 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.

If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Department will proceed according to the provisions of Minnesota Statutes, sections 14.14 to 14.20.

If a public hearing is not required, notice of the date of submission of the proposed rules to the Administration Division of the Office of the Attorney General for review will be mailed to any person requesting to receive the notice.

Comments, written requests for a public hearing, and requests for notice of the date of submission to the Attorney General should be addressed to:

Roger Sorbel
Division of Vocational Rehabilitation
3rd floor, Space Center Building
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 rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Roger Sorbel.

You are hereby advised, pursuant to Minnesota Statutes, section 14.115, Small Business Considerations in Rulemaking, that the proposed rules 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)

3325.0010 SCOPE AND PURPOSE.

Parts 3325.0010 to 3325.0040 are adopted pursuant to Minnesota Statutes, section 176.102, subdivision 9, and govern fees charged by the division to qualified rehabilitation consultants and approved vendors for rehabilitation services provided to qualified employees.

3325.0020 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 3325.0010 to 3325.0040 have the meanings given them in this part.

Subp. 2. Approved vendor. "Approved vendor" means a public or private entity existing wholly or in part to provide physical and vocational services to a qualified employee. The commissioner of the Department of Labor and Industry approves an entity and authorizes a rehabilitation plan allowing the entity to provide these services.

Subp. 3. Division. "Division" means the Division of Vocational Rehabilitation of the Minnesota Department of Economic Security.

Subp. 4. Qualified employee. "Qualified employee" means an employee who because of the effects of a work-related injury or disease, whether or not combined with the effects of a prior injury or disability:

A. is permanently precluded or is likely to be precluded from engaging in the usual and customary occupation or position in which the individual was engaged at the time of the injury;

B. can reasonably be expected to benefit from rehabilitation services which could significantly reduce or eliminate the decrease in employability; and

C. is eligible for or receiving rehabilitation benefits as provided in Minnesota Statutes, section 176.102.

Subp. 5. Qualified rehabilitation consultant. "Qualified rehabilitation consultant" means a person who is professionally trained and experienced and who is approved by the commissioner of Labor and Industry to develop and monitor an appropriate plan for evaluation and provision of physical and vocational rehabilitation services for an employee entitled to rehabilitation benefits under Minnesota Statutes, section 176.102.

3325.0030 REHABILITATION SERVICES.

Subpart 1. Procedure. A qualified rehabilitation consultant and an approved vendor desiring rehabilitation services for a qualified employee must complete the forms required by the Minnesota Department of Labor and Industry.

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

PROPOSED RULES

Subp. 2. Types of services. The division will provide the following rehabilitation services:

- A. job analysis;
- B. labor market surveys;
- C. vocational counseling;
- D. job development;
- E. testing;
- F. on-the-job training;
- G. placement;
- H. training in job seeking skills;
- I. analysis of transferable skills;
- J. follow-up;
- K. referral; and
- L. monitoring of medical and training services.

3325.0040 FEES.

The division will charge qualified rehabilitation consultants and approved vendors \$60 per hour for rehabilitation services provided to qualified employees.

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 Commerce

Adopted Rules Regulating Self-Insurers Under the Minnesota No-Fault Automobile Insurance Act

The rules proposed and published at *State Register*, Volume 8, Number 44, pages 2331-2334, April 30, 1984 (8 S.R. 2331) are adopted as proposed.

Department of Commerce

Adopted Rules Relating to Automobile Insurance Nonrenewals

The rules proposed and published at *State Register*, Volume 8, Number 51, pages 2683-2688, June 18, 1984 (8 S.R. 2683) are adopted as proposed.

Department of Commerce

Adopted Rules Relating to the Workers' Compensation Assigned Risk Plan

The rules proposed and published at *State Register*, Volume 8, Number 23, pages 1294-1296, December 5, 1983 (8 S.R. 1294); and Volume 8, Number 25, pages 1418-1419, December 19, 1983 (8 S.R. 1418) are adopted as proposed.

Board of Nursing

Adopted Licensing Rules

The rules proposed and published at *State Register*, Volume 8, Number 50, pages 2652-2661, June 11, 1984 (8 S.R. 2652) 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.

Office of the Attorney General

Outside Opinion is Sought Concerning Proposed Rules Governing Attorney General Administrative Rule Review or Approval

NOTICE IS HEREBY GIVEN that the Office of the Attorney General is seeking information or opinions from persons or groups in preparing and amending rules governing the Attorney General's review of rules submitted by state agencies.

The promulgation of these rules is authorized by Minnesota Statutes § 14.06 (1982), which requires agencies to adopt rules setting forth the nature and requirements of all formal and informal procedures relating to the administration of their official duties, and Minnesota Statutes § 14.09 (1982), which requires the Attorney General to promulgate a form for petitions for the adoption of rules and authorizes the adoption of rules relating to the procedures to be followed upon submission of a petition.

The Office of the Attorney General requests information and comments concerning the subject matter of these rules, including comment on the issue of whether or not these rules and amendments are likely to have a qualitative or quantitative impact upon small business as defined by Minn. Stat. § 14.115. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

MARTHA J. CASSERLY
Special Assistant Attorney General
204 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-4692.

All statements of information and comment shall be accepted until October 29, 1984. Any written material received by the Office of Attorney General shall become part of the record in the event that the rules are promulgated.

City of Hermantown

Notice of Availability of Contract for Professional Auditing Services

NOTICE IS HEREBY GIVEN, That the City of Hermantown requires the services of a qualified certified public accountant for a Minnesota Small Cities Development Program project. The City of Hermantown has secured federal funds for the project and must follow all regulations imposed by the federal government for the expenditure of the funds.

OFFICIAL NOTICES

The professional auditing services required by the City of Hermantown include the following:

1. Assist and advise the City with respect to various audit and financial matters in connection with such project.
2. Review and audit transactions in connection with such project.

Firms or individuals desiring consideration should express their interest by 4:00 P.M., October 31, 1984. A detailed Request for Proposal will be provided to all firms or individuals that respond.

Please indicate your interest in being considered for this contract by contacting:

Nancy A. Sirois, City Clerk
3161 Maple Grove Road
Hermantown, MN 55811
218/729-6331

Authorized by the City Council,

Nancy Sirois, City Clerk
City of Hermantown

Department of Commerce

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Relating to Financial Planners Including the Impact of the Rules on Small Businesses

Notice is hereby given that the Department of Commerce is seeking information or opinions from persons outside the agency in preparing to promulgate new rules governing Financial Planners. Promulgation of these rules is authorized by Minnesota Statutes, sections 45.023, 60A.17, 80A.25, and 82.28.

Outside opinion is also being solicited as to how these rules will affect small businesses as defined by Minnesota Laws 1983, ch. 188, codified as Minnesota Statutes, section 14.115, subd. 1.

The Department of Commerce requests information and comments concerning the subject matter of these rules. Interested or affected persons or groups may submit statements of information or comment orally or in writing to: Kris Eiden, Department of Commerce, 500 Metro Square Building, St. Paul, MN 55101, (612) 296-6325.

All statements of information and comment shall be accepted until November 14, 1984. Any written material received by the Department of Commerce shall become part of the record in the event that the rules are promulgated.

MICHAEL A. HATCH
Commissioner of Commerce

Pollution Control Agency

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

NOTICE IS HEREBY GIVEN, that the Minnesota Pollution Control Agency (hereinafter Agency) at its regularly scheduled meeting on November 27, 1984, will consider a proposed revision to the State Implementation Plan (SIP). The revision involves the inclusion of a Memorandum of Agreement between the Minnesota Pollution Control Agency and the U.S. Environmental Protection Agency Region 5. The Agreement states that the Agency will provide opportunity for public comment on permits for major stationary sources, major modifications, and lead emission facilities with an actual lead emission rate of 0.6 tons or more per year.

NOTICE IS ALSO HEREBY GIVEN THAT, the public is invited to attend the Agency meeting on November 27, 1984, and to comment at that meeting on the proposed SIP revision. The meeting will begin at 9:00 a.m. in the Agency Board Room at 1935 West County Road B-2, Roseville, Minnesota 55113.

Written comments on the proposed SIP revision may be submitted prior to the meeting and should be addressed to Richard J. Sandberg, Division of Air Quality, Minnesota Pollution Control Agency, 1935 West County Road B-2, Roseville, Minnesota 55113. Questions regarding the proposed revision or the Agency meeting should be directed to Richard J. Sandberg at the address given above or at 612/296-7316.

A copy of the meeting agenda and SIP revision may be obtained after November 13, 1984, from Jeanine Willenbring at the address noted above or by calling 612/296-7351.

Dated the 4th day of October, 1984

Thomas J. Kalitowski
Executive Director

Pollution Control Agency

Notice of Intent to Solicit Outside Opinion Regarding the Promulgation of an Acid Deposition Standard and an Acid Deposition Control Plan to Protect Natural Resources in Sensitive Areas in the State From the Impacts of Acid Deposition and Notice of Public Meeting

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) is seeking information and opinions from sources outside the Agency on the promulgation of an acid deposition standard and an acid deposition control plan. The Agency is required by the Minnesota Acid Deposition Control Act (Act), Minnesota Statutes Sections 116.42-116.45, to adopt an acid deposition standard and a control plan by January 1, 1986.

The acid deposition standard will apply in sensitive areas of the State that have already been identified by the Agency. The control plan will ensure that the standard is attained and maintained and will address all major sources (those emitting more than 100 tons of sulfur dioxide per year) both within and outside the State that contribute to the acid deposition load in Minnesota's sensitive areas. Sources in Minnesota are required by the Act to be in compliance with the plan by January 1, 1990.

The Agency is soliciting public opinion on the specific acid deposition standard that should be adopted to protect Minnesota's sensitive natural resources, on the potential impacts of the standard and resultant control plan on industry, on the benefits of protecting acid sensitive ecosystems, and on any other matters regarding acid deposition that persons would like to comment upon.

Any person may submit data or views regarding adoption of an acid deposition standard and an acid deposition control plan by submitting such data or views in writing to:

J. David Thornton
Acid Rain Coordinator
Minnesota Pollution Control Agency
Division of Air Quality
1935 W. County Road B-2
Roseville, Minnesota 55113
Telephone: (612) 296-7336

Written comments will be accepted by the Agency until December 1, 1984.

The Agency will conduct public hearings on this matter in accordance with the Minnesota Administrative Procedure Act. These public hearings will be held during 1985 and will be noticed separately. Any written material received by the Agency in response to this notice will be made a part of the hearing record.

Please take further notice that a public meeting has been scheduled for Thursday, November 15, 1984, in the Board Room of the MPCA offices at 1935 W. County Road B-2, Roseville, Minnesota, at which time the procedure for the upcoming rulemaking hearing will be discussed.

Dated the 5th Day of October, 1984

Thomas J. Kalitowski,
Executive Director

Minnesota State Retirement System

Regular Meeting, Board of Directors

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, October 19, 1984, at 8:30 A.M., in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Transportation

Petition of Hennepin County for a Variance from State Aid Standards for Street Width

Notice is hereby given that the County Board of Hennepin County has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards for a reconstruction project on CSAH 102 (Douglas Drive) from Co. Rd. 70 (Medicine Lake Road) to 700 feet South of CSAH 9 (Rockford Road) in Crystal.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9912 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit a street width of 48 feet with 4 lanes of traffic during peak hours (7:00 to 9:00 A.M. and 4:00 to 6:00 P.M. on weekdays) instead of the required 52 feet.

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

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

Dated this 2nd day of October, 1984

Richard P. Braun
Commissioner of Transportation

Tri-County Solid Waste Management Commission

Request for Professional Consulting Assistance in the Preparation of a Tri-County (Stearns, Benton and Sherburne) Solid Waste Management Plan

The Tri-County Solid Waste Management Commission, consisting of Stearns, Benton and Sherburne Counties, is seeking the professional assistance of a consulting firm to assist staffs of the three counties in the preparation of a Tri-County Solid Waste Management Plan.

Proposals must be submitted to Peter J. Herlofsky, Stearns County Coordinator, at the Stearns County Courthouse, St. Cloud, Minnesota no later than 5:00 p.m. on November 12, 1984. All RFP's will be reviewed by the entire Tri-County Solid Waste Management Commission and staff before any requests will be accepted or denied.

The following conditions shall apply to all RFP's:

- 1) No financial obligations are incurred independently or collectively by the three counties for any costs incurred by consultants in the preparation of their proposal.
- 2) The Tri-County Solid Waste Management Commission reserves the right to reject any and all proposals.
- 3) In addition to the work program, the consultant would be required to attend monthly Tri-County Solid Waste Management Commission meetings and three major public meetings (one per county).
- 4) The consultant shall prepare a total of thirty-five copies of the final plan (ten for each county and five for the MPCA).
- 5) All maps, drawings and illustrations that are prepared for the study shall include one mylar copy, and these shall be retained by the Tri-County Commission.
- 6) The final plans shall conform to the definitions of an acceptable plan as per 6 MCAR—4.6085 and Minnesota Statutes Chapter 115A.46. If additional work is required by the MPCA for approval, the consultant will complete this work without additional charge to the Tri-County Commission.
- 7) Payments will be made every two months. The final 25% of the contract amount will not be paid until the MPCA has approved the plan.

To receive more information to assist your firm in the preparation of the Tri-County Commission's RFP, you may contact Peter J. Herlofsky at the above address or by calling (612) 255-6056.

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 and Requisitions Currently Open for Bidding

<u>Requisition #</u>	<u>Item</u>	<u>Ordering Division</u>	<u>Delivery Point</u>	<u>Estimated Dollar Amount</u>
26-073-16523 Rebid	Purchase of Rainbow Computer	St. Cloud State University	St. Cloud	Contact buyer
07-500-32253, 3180	New Truck Regulation Insert	Public Safety	St. Paul	Contact buyer
79-600-03284	Winter Sand-Winona Area	Transportation-Rochester	Pick-up	Contact buyer
27-152-42916, 2106	Salmagundi	Anoka-Ramsey Community College	Coon Rapids	Contact buyer
Dental Supplies 79-000-44459	Dental Supplies	Various	Various	Contact buyer
79-000-44272	Mast Arms	Transportation	St. Paul	Contact buyer
79-000-44272	Traffic Recorders	Transportation	St. Paul	Contact buyer
55-000-90154 (57) (84)	Vending Machines	Human Services-Services for the Blind	St. Paul	Contact buyer
55-000-90150- 51-55,56,87	Vending Machines	Human Services-Services for the Blind	Fridley	Contact buyer
55-000-90152, 53,58-86	Vending Machines	Human Services-Services for the Blind	St. Cloud	Contact buyer
55-000-89987- 88 to 93 & 90135	Vending Machines	Human Services-Services for the Blind	Duluth	Contact buyer
Contract	Snow Removal Contract	Normandale Community College	Bloomington	\$_____
26-071-14658	Light Fixtures	Mankato University	Mankato	Contact buyer
02-307-45006	Auto Scrubber	Administration-Plant Management	St. Paul	Contact buyer

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Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
78-620-20470	Class 2 Aggregate	MN Correctional Facility	Stillwater	Contact buyer
53-000-01450	Purchase of Microfilm Reader/Printer	Secretary of State	St. Paul	Contact buyer
02-310-13396	Expansion Joints	Moose Lake State Hospital	Moose Lake	Contact buyer
55-000-90023	Optacon	Human Services-Services for the Blind	St. Paul	Contact buyer
26-072-09044	Vertical Camera	Moorhead University Education	Moorhead	Contact buyer
36-000-01449	Purchase of Photocopy Machine	Mankato State University	St. Paul	Contact buyer
26-071-14619	Install Aluminum Seat Planks	Mankato State University	Mankato	Contact buyer
55-100-03105	Unit Dose Dispensing Picking Areas	Anoka State Hospital	Anoka	Contact buyer
60-000-04112, 2543	Will You Transfer Brochure	MN Higher Education Coordinating Bd.	St. Paul	Contact buyer
60-000-04121, 3054	Student Guide to Post-Secondary Education	MN Higher Education Coordinating Bd.	St. Paul	Contact buyer
78-620-20521	Welders, Wire Feeders, etc.	MN Correctional Facility	Stillwater	Contact buyer
02-310-13396	Addendum #1 Expansion Joints	Moose Lake State Hospital	Moose Lake	Contact buyer
26-072-09070	Video Camera Kit	Moorhead University	Moorhead	Contact buyer
55-304-06492	Fire alarm Monitor	Brainerd State Hospital	Brainerd	Contact buyer
Price Contract	Office & Stationary Supplies-REBID	Central Stores	St. Paul	Contact buyer
55-101-05899	Fluorescent Fixtures & Lamps	Fergus Falls State Hospital	Fergus Falls S.H.	Contact buyer
Price Contract	Stripping & straightening used sign blanks	Department of Transportation	Various	Contact buyer
78-620-20406	Rubbish Disposal MCF Stillwater	Minnesota Correctional Facility	Stillwater	Contact buyer
55-304-06498	Purchase of Photocopy Machines	Brainerd State Hospital	Brainerd	Contact buyer
55-000-90004	Store Fixtures	Human Services-Services for the Blind	Mpls.	Contact buyer
55-000-89997	Store Fixtures	Dept. of Natural Resources Gift Shop	St. Paul	Contact buyer

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

Department of Energy and Economic Development

Application Deadline for 1985 Competitive Grants

The Department announces that the application deadline for 1985 competitive grants under the Small Cities Development Program is February 1, 1985. As defined by the administrative rules at 10 MCAR § 1.505, competitive applications include single purpose housing or public facilities and comprehensive grant applications. For further information, contact:

Robert F. Benner
Community Development Division
Department of Energy and Economic
Development
8th Floor American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101
(612) 297-2515

Department of Energy and Economic Development Community Development Division

Request for Proposals for a Grants Management System

Request for Proposals (RFPs) are being accepted for the development of a grants management system. 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

The project requires a detailed systems specification for the management of state and federal grant programs administered by the Community Development Division of the Department of Energy and Economic Development (DEED). The scope of the system's design must provide for grant administration and monitoring, in addition to exception reporting, to meet state and federal requirements from functional specifications. Functional specifications are available upon request from the Department Contact.

B. Goals and Objectives

Development of an automated project allocation and monitoring module capable of tracking many projects concurrently and provide various exception and production reports as to the status of projects. System must provide a high level report writing language or have a unique capability to retrieve information in various forms to enable the Department, at different levels, to respond to grant program inquiries, both internal and external.

C. Project Tasks

1. Develop total implementation plan to include checkpoints. This would also include time slots for periodic status reports.
2. Review packages and determine exact fit to include modifications that are required.
3. Develop detailed system specifications to include:
 - a) Output reports and screen definitions
 - b) Input documents and screen definitions
 - c) Data base design and complete element definition
4. Develop detail system narratives from the functional specifications developed. These narratives are to include the detail flow of information within the automated system and those manual interfaces to the system.
5. Finalize hardware configuration for initial system implementation.
6. Complete network analysis defining the total network and the step-by-step plan depicting the initial implementation through the final configuration.

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

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D. Department Contacts

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

Bonnie Burt
Department of Energy & Economic Development
Community Development Division
9th Floor American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 297-3184

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 Bonnie Burt, address listed in (D), above not later than 4:30 p.m. on November 2, 1984. Late proposals will not be accepted. Submit three copies of proposal. Proposals are to be sealed in mailing envelopes 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 this project should not exceed \$25,000.

G. Project Completion Date

The project will be completed by January 11, 1985.

H. Proposal Contents

The following will be considered minimum contents of the proposal:

1. A restatement of the objectives, goals, tasks, and time frame to show or demonstrate the responder's view of the nature of the project.
2. Identify and describe the deliverables to be provided by the responder.
3. Outline the responder's background and experience with particular emphasis on local, state, and federal 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 State Project Director/Manager.
4. Responder will prepare a detailed cost and work plan which will identify the major tasks to be accomplished and be used as a scheduling and managing tool, as well as the basis for invoicing.
5. Identify the level of the Department's participation in the 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 DEED, Community Development Division. 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.
5. Ability to complete project within specified time frame.

Notification will be sent to all responders no later than November 9, 1984.

Department of Human Services Health Care Programs Division

Notice of Availability of Health Care Consultation Contract

The Department of Human Services intends to issue a consultant contract for the purpose of providing professional advice and recommendations in the administration of the Medical Assistance and General Assistance Medical Care programs. The contract for professional advice and recommendations in the administration of the Health Care programs will be issued to a Licensed Physician specialized in orthopedics. The contract will be awarded to the candidate based on his/her experience, education, achievements, professional standing.

The Department of Human Services shall make the final selection and issue a contract of varying amount of time and money for the period of December 1, 1984 through June 30, 1985.

Proposals and inquiries must be received by November 15, 1984 and directed to:

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

Department of Labor and Industry

Notice of Availability of Contracts for Consultant Services

The Department of Labor and Industry requests statements of qualifications from consultants interested in assisting the agency in one or more of the following areas:

1. Providing a contextual overview of the importance that improved interpersonal communications skills and increased sensitivity toward minorities in the workplace can play in positively affecting productivity, work climate and personal growth.

2. Providing seminars in interpersonal communications.

3. Providing seminars in racism and sexism.

It is anticipated that DOLI will be initiating training and development activities in these areas during calendar year 1984. Individual contracts will be for seminars and materials.

Individuals or firms desiring consideration should express their interest by submitting a cover letter and qualifications by 4:00 p.m., November 9, 1984, to:

Dr. John Mirocha
Manager, Organization Development
Minnesota Dept. of Labor & Industry
444 Lafayette Road
St. Paul, MN 55101

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

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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.

August 27, 1984

Department of Natural Resources Minerals Division

Request for Proposals for Investigation of the Feasibility of Specialty Steel or Ferroalloy Production in Minnesota

The Minnesota Department of Natural Resources is requesting proposals from individuals and organizations capable of investigating the feasibility of producing specialty steel or ferroalloys in Minnesota. The work in this project will be aimed at exploring whether various specialty steel or ferroalloy production methods can be integrated into existing taconite processing facilities or developed as stand-alone plants. The goal is to find new products which will make Minnesota raw materials more competitive. The products to be investigated could include, but are not limited to the following:

- stainless steel
- high alloy steel
- ferrochromium
- ferrosilicon
- ferronickel
- ferromanganese

The work will be divided into two phases. Phase I will consist of preliminary exploration of the product options, preliminary energy and material balances, preliminary estimates of the cost and value of the new plant requirements, estimates of the market size and the share of the market could be obtained, and an assessment of whether further work is justified. It is expected that several options will be investigated as part of each Phase I award. Phase II will consist of more detailed examinations of promising options. It is expected that Phase II will result in data which can be used to decide whether or not to proceed to construction.

Respondents to this solicitation should be one of the following: a taconite mining company, one of the taconite plant owners, or an organization having a working agreement with one or more of the taconite mining companies, or a specialty steel or ferroalloy manufacturer. One of the goals of this study is to use actual plant data, such that the results will be immediately useful to the mining companies.

Each Phase I award will be limited to \$100,000. The Commissioner of the Department of Natural Resources will award contracts after internal review. The issuance of the Request for Proposals does not require the department to award a contract. All proposals must be received no later than 4:30 P.M. CST on December 3, 1984.

All proposals and inquiries should be directed to:

Ronald D. Visness
Minnesota Department of Natural Resources
Box 45 Centennial Office Building
St. Paul, Minnesota 55155
(612) 296-9562

Minnesota Pollution Control Agency Acid Precipitation Program

Request for Proposal/Qualifications for an Analysis of Potential Socio-Economic Impacts of Acid Deposition in Minnesota

SCOPE OF PROJECT

The Minnesota Pollution Control Agency (MPCA) is seeking professional services for the analysis of potential socio-economic impacts of acid deposition in Minnesota. Information from this project will be used in the cost/benefit

analysis required of an acid deposition control plan, as specified by the Minnesota Acid Deposition Control Act of 1982. The contract period will run from November 1, 1984, through April 30, 1985.

GOALS AND OBJECTIVES

Resources in Minnesota that are at risk due to acid deposition include: sensitive aquatic resources; sensitive forest resources; materials and structures; and indirectly, visibility and public health. The MPCA is required to develop a control plan to address the impacts of acid deposition. Costs of the control plan must be weighed against the benefits gained from controlling acid deposition precursors. An assessment of the economic losses associated potential impacts to aquatic resources, forestry resources, and materials and structures is required.

PROJECT TASKS

The responder must outline an approach to address the economic issues stated above within the period of November 1, 1984, through April 30, 1985. The proposal must include a method of estimating direct and indirect economic losses incurred by changes in economic activities resulting from acid deposition impacts to sensitive resources. The analysis must also include an estimate of the valuation of reduction in enjoyment of the damaged resource by its users. Finally, economic losses incurred by non-users, such as existence value and bequest value of an environmental and cultural resource, must be addressed.

Throughout the project, the MPCA will assist the respondent in the estimation of the specific resources at risk.

Monthly progress reports will be submitted to the Agency. A final report is to be submitted by April 30, 1985.

PROPOSAL CONTENTS

The following will be considered to be the minimum content of a proposal:

1. A restatement of the project scope and tasks to demonstrate the responder's view and understanding of the project;
2. A detailed description of the responder's approach to the project including a specific schedule.
3. A budget breakdown for the project.
4. A statement of responder's qualifications.

NECESSARY QUALIFICATIONS

The respondent must demonstrate an ability to provide the requested analysis. Past experience in economic analysis is required as well as experience in the evaluation of market data and contingent valuation.

EVALUATION

Proposals will be evaluated on a variety of factors including but not limited to:

1. Ability to provide the requested analysis within the required timeframe.
2. The approach to the project.
3. Past experience of responder.
4. Projected costs.

DEPARTMENT CONTACT/SUBMISSION OF PROPOSAL

Prospective responders who have questions may call or write the project officer:

J. David Thornton
MN Pollution Control Agency
Division of Air Quality
1935 West County Road B-2
Roseville, Minnesota 55113
(612) 296-7336

All proposals must be received by no later than 4:30 p.m. on October 29, 1984.

State Designer Selection Board**Request for Proposal for State Projects****To Architects and Engineers Registered in Minnesota:**

The State Designer Selection Board has been requested to select designer for a project for the Department of

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Administration. Design firms who wish to be considered for this project should submit proposals on or before 4:00 P.M., **November 7, 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.

7. **PROJECT—41-84**
Remodeling Administration Building
for Constitutional Officers
St. Paul, Minnesota
Fees: Approximately \$100,000.00

The proposed remodeling of the State Administration Building for use for constitutional officers will involve approximately 56,000 net assignable square feet.

A. The Project Scope includes:

1. The development and drafting of a detailed architectural program and schematic layout with budget estimates;
2. developmental plans;
3. analysis of existing building systems including HVAC, electrical and electronic;
4. project phasing and scheduling;
5. acoustical requirements;
6. security requirements;
7. design development with cost estimates.

It is intended that funding for the project will be sought from the 1985 legislative session for construction. It is intended that services for the construction documents and observation of construction will be negotiated with this consultant.

Questions relative to this project may be referred to Jim Whipkey, State Building Construction, at 296-8809.

John D. Nagel, Chairman
State Designer Selection Board

SUPREME COURT**Decisions of the Supreme Court Filed Friday, October 5, 1984****Compiled by Wayne O. Tschimperle, Clerk**

C5-82-1679 State of Minnesota v. Michael Siverhus, Appellant. Ramsey County.

Trial court did not err in evidentiary rulings and defendant was properly found guilty of attempted second-degree murder. Affirmed. Amdahl, C.J.

C5-83-1255 Ruthann Marie Cox, petitioner, v. Ricky Lee Slama, Appellant.

An attorney must be appointed to represent an indigent defendant facing civil contempt for failure to pay child support, but only when the court reaches a point in the proceedings that incarceration is a real possibility. After appointment, a trial *de novo* shall be conducted on the issue of contempt.

Reversed and remanded. Yetka, J.

Order of the Supreme Court Filed September 28, 1984

CX-83-909 In re Allegations and Complaint Concerning the Honorable Robert F. Johnson. Supreme Court.

Censured. Amdahl, C.J.

Decisions of the Court of Appeals Filed Tuesday, October 9, 1984**Compiled by Wayne O. Tschimperle, Clerk**

C7-84-764 Central Telephone Company, Relator, v. Minnesota Public Utilities Commission. Minnesota Public Utilities Commission.

The Commission's order that relator amortize its deferred tax reserve surplus over a three year period was not based upon an error of law.

The Commission's rejection of relator's actual capital structure was affected by an error of law and was arbitrary and capricious.

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

SUPREME COURT

C8-84-918 City of St. Paul, Relator, v. Walter Harding, William Gregg, Commissioner of the Department of Veterans Affairs. Department of Veterans Affairs.

Respondent waived his right to an employment termination hearing required under Minn. Stat. § 197.46 (1978).

Reversed. Popovich, C.J.

C7-84-229 State of Minnesota v. Terrance L. Henderson, Appellant.

Appellant waived his right to object to a juror's sleeping where no prejudice was shown and when it was not timely brought to the court's attention.

Appellant waived his right to object to the court's order forbidding the jury from taking notes during trial.

Affirmed. Popovich, C.J.

CX-84-1391 In the Matter of: Thomas W. Caldwell. Hennepin County.

Appellant may not question the validity of a statute because he failed to notify the attorney general that the statute was being challenged.

Grammatical errors in the statute do not render it incapable of application.

The trial court properly found appellant mentally ill and committed him to Anoka State Hospital.

Affirmed. Popovich, C.J.

C8-84-1373 State of Minnesota v. Joseph R. Roesch, Appellant.

The Court of Appeals will not review gratuitous advisory opinion language in a trial court's memorandum.

Dismissed. Popovich, C.J.

C2-84-87 In Re the Marriage of: Frank Stangel, Appellant, v. Virginia Stangel, petitioner. Hennepin County.

The trial court did not abuse its discretion in awarding custody of the parties' minor child to the mother and granting her permission to move out of state.

Affirmed as modified. Foley, J.

C8-84-191 Jean W. Hunt v. Estate of Arthur Elmer Hanson and Bertha Hanson, Appellants. Kittson County.

The jury's decision that appellants are liable for harm caused by the excessive amount of water flowing on respondent's land is supported by the evidence.

The trial court's jury instructions on the nature of the water as part of a natural watercourse or surface waters benefitted appellants and so will not provide a claim for error.

The trial court's instruction on the measure of damages for crop loss due to water damage was a total departure from the prevailing rule and constituted reversible error.

The trial court's refusal to instruct the jury on punitive damages is not reviewable since respondent failed to assert error as to the underlying intentional tort in his Notice of Review.

Affirmed in part; reversed and remanded in part.

Foley, J.

C9-84-569 Dayle Nolan, etc., Appellant, v. State Farm Mutual Automobile Insurance Company. Ramsey County.

The denial of class action certification is affirmed where there is no common question of law or fact.

Affirmed. Wozniak, J.

C7-84-862 In Re the Marriage of: Terri Lee Thomas, petitioner, Appellant, v. Walter James Thomas. Dakota County.

The conditions regarding the maturity of a lien in favor of the husband in a dissolution proceeding were in the nature of child support and, as such, were properly modified by the trial court upon a showing of a material change in circumstances.

The trial court's finding as to debt owed wife was not clearly erroneous.

The trial court's finding that there was insufficient evidence of fraud or mistake to justify the granting of a new trial was not clearly erroneous.

Affirmed. Wozniak, J.

C3-84-454 In the Matter of the Welfare of B.C. Ramsey County.

In a proceeding for the termination of parental rights, statutory grounds for termination must be shown by clear and convincing evidence.

A mother convicted and imprisoned for the murder of another child, her infant daughter, was palpably unfit to be party to the parent and child relationship.

The evidence was clear and convincing that B.C. was a neglected child and in foster care.

Minn. Stat. § 260.221(b) (4) was not unconstitutionally void for vagueness.

Affirmed. Wozniak, J.

CX-84-1097 Thomas Paul Berns, petitioner, v. Commissioner of Public Safety, Appellant. Winona County.

Trial court erred in finding respondent was not in physical control of a motor vehicle when he was found intoxicated in the front seat of his vehicle on a township road, and had told the officer he had driven the vehicle there from a bar and had been drinking while in the car.

Reversed. Sedgwick, J.

C5-84-651 State of Minnesota v. George Creede Rule, Appellant. Lake County.

Trial court did not err in limiting evidence of prior specific instances of violent conduct by the victim toward the defendant when the defendant claimed self-defense.

The prosecutor committed prejudicial misconduct when he commented on the failure of defendant to show a long history of irritation between the victim and defendant when the defendant was precluded from showing this because of an earlier ruling by the trial court.

Reversed and remanded. Sedgwick, J.

C5-84-1282 State of Minnesota v. Albert James Peake, Appellant. St. Louis County.

The fact that the victim died is not an aggravating factor when sentencing for felony murder.

Appellant is entitled to be resentenced under the guidelines when felony murder is reclassified.

Affirmed as modified. Sedgwick, J.

C3-84-583 State of Minnesota v. Jay Dean Hughes, Appellant. Washington County.

The evidence was sufficient to convict the defendant of driving while intoxicated.

Any error in admitting out of court statements made by bystanders was harmless.

Affirmed. Sedgwick, J.

C5-84-1377 State of Minnesota v. John Ernest Kisch, Appellant. Ramsey County.

The trial court did not err in refusing to reduce the upward durational departure of defendant's sentence, even though the presumptive sentence under the Minnesota Sentencing Guidelines was later reduced.

Affirmed. Lansing, J.

C6-84-1159 In Re the Marriage of: Delores Jean Notermann (Garrity), petitioner, v. Ronald Raymond Notermann, Appellant. Hennepin County.

The trial court may not order retroactive post-decree child support payments when there has been no violation of any previous child support order.

Reversed. Lansing, J.

C8-84-1096 Leroy Alan Bluhm v. Commissioner of Public Safety, Appellant. Waseca County.

The trooper had reasonable and probable grounds to believe that respondent had been driving while under the influence of alcohol.

Reversed. Lansing, J.

CX-84-32 Gry R. Virsen, Appellant, v. Rosso, Beutel, Johnson, Rosso & Ebersold, a partnership, et al. Ramsey County.

Respondents did not adequately establish in their motion for summary judgment the lack of a factual dispute regarding their alleged legal malpractice.

The court cannot consider an issue which was not raised below.

Principles of equitable estoppel do not bar appellant's legal malpractice action simply because he accepted a settlement recommended by his attorney.

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Because the respondents failed to establish that the issue of their alleged negligence was previously litigated, principles of collateral estoppel do not bar appellant's action for legal malpractice.

Reversed. Forsberg, J.

C8-84-269 In the Matter of the Welfare of A.K.K., Child. Anoka County.

The evidence and findings of fact support the court's termination of the appellant's parental rights.

Minn. Stat. § 260.221 subd. b(5) (1982) is constitutional on its face and as applied.

Affirmed. Forsberg, J.

C5-84-858 Ronald W. Nohre, Appellant, v. Commission of Public Safety. Scott County.

Appellant's constitutional rights were not violated when a police officer detained him for conduct constituting a possible violation of a disorderly conduct statute.

Reasonable and probable grounds existed to invoke the implied consent law where the appellant exhibited several signs of intoxication.

Affirmed. Forsberg, J.

C0-83-1809 State of Minnesota v. Mary Lynn Olson, Appellant. Scott County.

The trial court improperly instructed the jury that a finding that the appellant was driving while under the influence of alcohol could establish the offense of criminal negligence resulting in death.

Appellant's objection to the court's instruction was timely.

Reversed and remanded. Forsberg, J.

C4-84-320, C4-84-334 Bethesda Lutheran Church, a non-profit corporation v. Twin City Construction Company, defendant and third party plaintiff, Appellant (C4-84-334); v. Building Specialties, Inc., third party defendant, Appellant (C4-84-320). Clay County.

Plaintiff presented sufficient evidence to support the jury's verdict that defendants negligently constructed a roof for plaintiff's church.

Evidence showing the cost of a replacement roof was sufficient to support the jury's award of damages for the defective roof even though the replacement roof contains two more layers of material than the original roof.

The trial court properly instructed the jury on defendant's liability for negligently using a defective design when the construction contract imposes a duty to inform the architect of any defect.

Defendant contractor is estopped from asserting the statute of limitations as a defense to plaintiff's action when defendants made repeated promises to fix plaintiff's roof.

Minn. Stat. § 541.051 does not apply to bar defendant's third-party contribution claim against third-party defendant when defendant filed its action before the statute's effective date.

Affirmed. Leslie, J.

CX-84-516 Marilyn Hogren, Appellant, v. Harry Schlueter. McLeod County.

On the record before the court, it was proper to setoff punitive damages awarded plaintiff-appellant against compensatory damages awarded defendant-respondent.

Affirmed. Leslie, J.

CX-84-189 William Lawin v. City of Long Prairie, Appellant.

The trial court did not err in denying a motion for judgment notwithstanding the verdict (JNOV) where the evidence of negligence was sufficient to support the verdict.

The trial court did not err in admitting replacement cost estimates of the damaged paneling, carpet and furniture where there was no other method available by which to determine market value.

Remittitur by the trial court was proper where the reduced verdict properly reflected damages sustained by the appellant.

Affirmed. Nierengarten, J.

C3-83-2047 Vicky Lyne Benson, Appellant, v. Kenneth L. Webb. Mower County.

The trial court had jurisdiction to modify the foreign custody decree.

Evidence was sufficient to sustain the trial court's decision to transfer custody of the minor child from appellant to respondent.

Affirmed. Randall, J.

C1-84-95 Minnesota Valley Country Club, Inc., et al., v. Mark R. Gill, Golf Shares, Inc., Charles Newman, First Lakeville State Bank, defendant, and First Lakeville State Bank, v. Robert W. Naegeli, et al. Hennepin County.

The trial court did not err in finding that First Lakeville State Bank conspired to convert and did convert property belonging to Minnesota Valley Country Club, Inc.

The trial court did not err in finding First Lakeville State Bank liable to Minnesota Valley Country Club, Inc., under the provisions of the Uniform Fiduciaries Act, Minn. Stat. §§ 520.08 and 520.09.

The trial court did not err in finding the purported pledge of assets belonging to Minnesota Valley Country Club, Inc., to First Lakeville State Bank unenforceable.

The award of punitive damages against First Lakeville State Bank was supported by the evidence.

Affirmed. Randall, J.

C7-84-53 State of Minnesota, City of Eagan v. Taieb Hemid Elmourabit, Appellant. Dakota County.

Evidence supporting a guilty verdict must be viewed in the light most favorable to the prosecution, but the appellate court cannot disregard positive evidence of innocence, especially when the state's evidence is inconsistent.

There was insufficient evidence to permit a jury verdict that defendant committed offenses of disorderly conduct or driving under the influence of alcohol.

Reversed. Crippen, J.

C4-84-1208 Department of the Sheriff of the County of Hennepin v. \$5,500.00 in Various Denominations of the United States Currency, Appellant. Hennepin County.

A lender of money cannot defeat its forfeiture after a borrower unlawfully uses the money to purchase a controlled substance.

Affirmed. Crippen, J.

Opinion of the Supreme Court Filed Wednesday October 3, 1984

C4-84-1581 Harold V. Haluptzok, as Personal Representative of the Estate of John W. Haluptzok and Gerald R. Haluptzok, Appellants, v. Gerald N. Peyton. Carlton County.

1984 Minn. Laws ch. 474, § 2 should not be retroactively applied to require notices of cancellation of contracts for deed served prior to May 1, 1984 to contain the language "that the borrower may be eligible for an extension of the time prior to foreclosure and execution sale under sections 583.01 to 583.12."

Reversed. Popovich, C.J.

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