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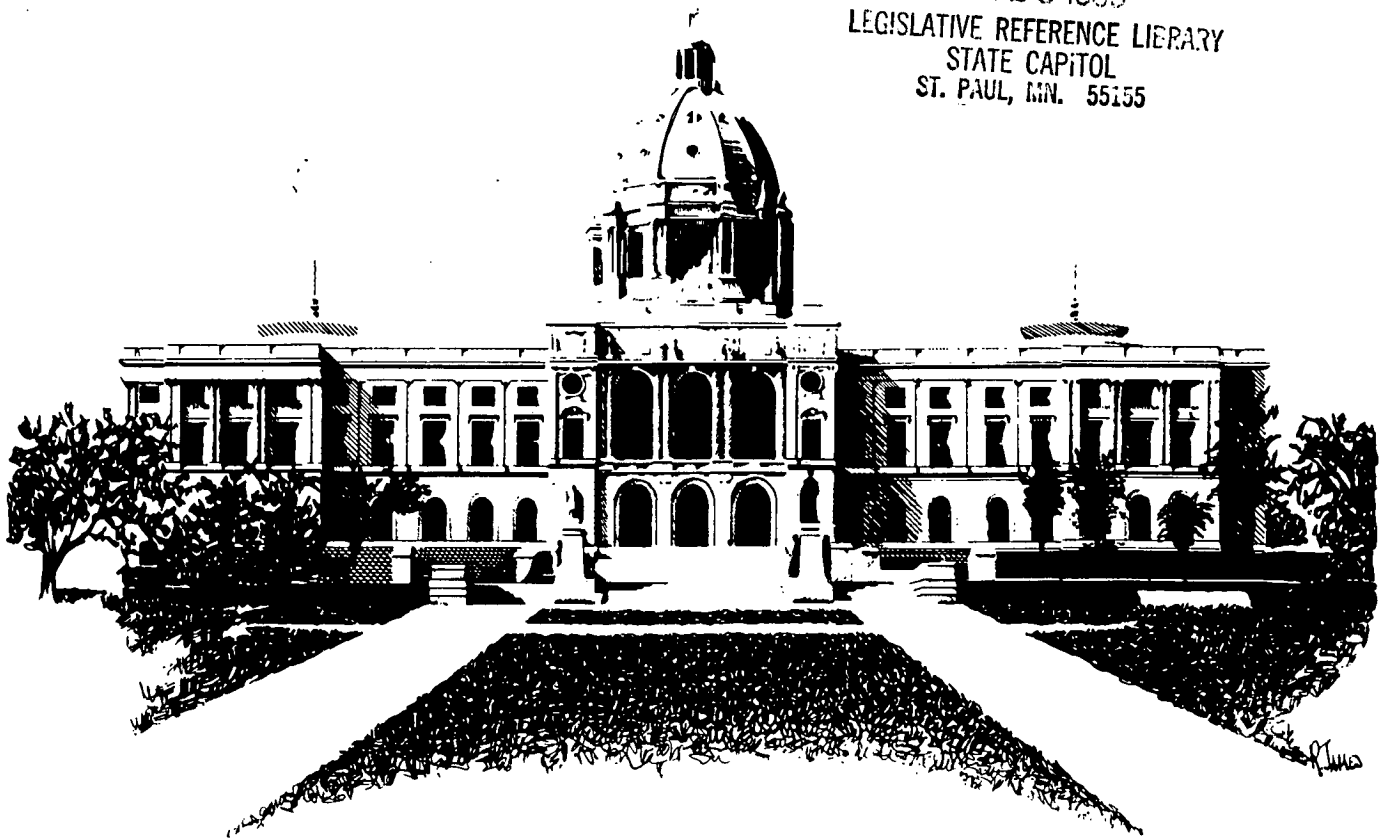
STATE REGISTER

STATE OF MINNESOTA

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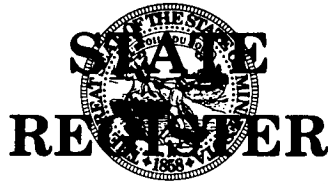
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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 9			
40	Monday Mar 18	Monday Mar 25	Monday Apr 1
41	Monday Mar 25	Monday Apr 1	Monday Apr 8
42	Monday Apr 1	Monday Apr 8	Monday Apr 15
43	Monday Apr 8	Monday Apr 15	Monday Apr 22

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

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

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

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

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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).
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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
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6105.0911 (proposed)	1555
6115.0010; .0020; .0030; .0060; .0080; .0090; .0110; .0130 (proposed)	1330
6131.0010-.0030; .0100-.0340 (proposed)	1236
6131.0010-.0030; .0100-.0340 [Errata]	1980

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6310.2900; .7600; 6315.0100-.0700 (adopted)	765

BOARD OF OPTOMETRY

6500.0900-.1100; .1500; .1600; .2000; .2100; .2300; .2400 (proposed)	690
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6500.0900-.1100; .1500; .1600; .2000; .2100; .2300; .2400 [Errata]	1296
6500.0900-.1100; .1500; .1600; .2000; .2100; .2300-.2400 (adopted)	1690

BOARD OF PEACE OFFICER STANDARDS & TRAINING

6700.0900; .1000; .1600; .1800 (proposed)	2056
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MN BOARD OF PHARMACY

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7045.0020; .0261; .0302; .0476; .0582 (adopted)	2118
7045.0125; .0142 (proposed)	2000
7046.0010-.0050 (proposed)	1051

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7050.0110; .0130-.0150; .0170-.0220 (adopted)	913
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7050.0400-.0480 [Standards] (adopted)	914
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7075.0100-.0200; .0400-.0401; .0405-.0406; .0409; .0411-.0414-.0416-.0417; .0419; .0425; .2000; .04115; .04211-.04214 [Emer] (extended)	1947
7075.0100-.0432; .2000; .2200 (proposed)	1793

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Driver and Vehicle Services Division

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7425.0110; .0150; .0160; .0500-.1100; .2000-.2600; .5000; .6000 (adopted)	1252
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7510.6200; .6300; .6350; .6910 (proposed)	1508
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7520.0650; .1000; .1100 (adopted)	1339

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7835.0100-.6100; .9910 (proposed)	41
7835.0100-.6100; .9910 (adopted)	993

CHARITABLE GAMBLING CONTROL BOARD

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7860.0010-.0310 (adopted)	1871

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Property Equalization Division

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 8105.0100-.9900 [Emer] (extended) 1754
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 .1500-.2200 (proposed) 111
 8300.2400 [Emer] (proposed) 315
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 8300.3081-.3090 [Emer] (proposed) 2052
 8300.4010-.4014; .4020-.4038 [Emer] (proposed) 967
 8300.4010-.4014; .4020-.4038 [Emer] (adopted) 1815
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8400.0100; .0200; .0300; .0400; .0600; .0700; .0900;
 .1000; .1100; .1200; .1300; .1400; .1405; .1500; .1600;
 .1700; .1800; .1950; .2000; .2100; .2200; .2300; .2400;
 .2500; .2600; .2700; .2705; .2800 [Amend] (proposed) 1594

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 .0700; .0800; .0900 (proposed) 1510

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 9200.8100; .8600; .8700; .9000; .9100;
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 9500.1450-.1475 [Emer] (proposed) 488
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 9505.0500-.0540 (proposed) 1027
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 9505.0500-.5030 [Emer] (proposed) 500
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 9510.1020-.1140 [Emer] (proposed) 379
 9510.1020-.1140 [Emer] (adopted) 1062
 9525.0015-.0145 [Emer] (proposed) 470
 9525.0015-.0145 [Emer] (adopted) 1098
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 9525.1800-.1930 [Emer] (proposed) 317
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 9545.0367 [Errata] 2078
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 9575.0300; .1500 (proposed) 643
 9575.0300; .1500 (adopted) 1339

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 Commerce

Proposed Rules Governing the Liquor Liability Assigned Risk Plan

Notice of Hearing

Notice is given that a public hearing will be held pursuant to Minn. Stat. § 14.14, Subd. 1 (1984), in the above-entitled matter in the Large Hearing Room, 500 Metro Square Building, St. Paul, Minnesota 55101, on April 29, 1985, 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, 4th Floor, Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7601. The rule hearing procedure is governed by Minn. Stat. § 14.02-14.45 (1984), and by Minn. Rule 1400.0200-1400.1200 (1983). Questions regarding procedure may be directed to the Administrative Law Judge at the above-listed address.

The Commissioner proposes to adopt rules relating to Liquor Liability Assigned Risk Plan. Authority for adoption of these rules is contained in Minn. Stat. §§ 340.11, Subds. 21 and 23 and 45.023. A copy of the proposed rules accompanies this notice.

The proposed rules, if adopted, will govern the operation of the Liquor Liability Assigned Risk Plan including the rates to be charged by the Plan.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the Department of Commerce and is available at the Office of Administrative Hearings. This Statement of Need and Reasonableness includes a summary of all of the evidence and arguments which the Department anticipates presenting at the hearing, justifying both the need for and the reasonableness of the proposed rules. A copy of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at the cost of reproduction.

Pursuant to Minn. Laws 1983, ch. 188 codified as Minn. Stat. § 14.115, Subd. 2, 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.

All interested or affected persons will have an opportunity to participate by presenting oral and/or written evidence at the hearing. Questioning of agency representatives or witnesses, and of interested persons making oral statements will be allowed in order to explain the purpose or intended operation of the proposed rules, or a suggested modification, or for other purposes material to the evaluation or formulation of the proposed rules.

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 interested persons may respond in writing to any new information submitted. During the three-day period, the agency may indicate in writing whether there are any amendments suggested by other persons which the agency is willing to adopt. Additional evidence may not be submitted during the three-day period. The written responses will be added to the record of the proceeding.

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 rules have been filed with the Secretary of State. If you desire to be so notified,

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you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Administrative Law Judge for notice of the report or to the Department for notice of filing with the Secretary of State.

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:

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

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.

One free copy of this notice and the proposed rules may be obtained by contacting Rose Weiner, 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.

March 8, 1985

Michael A. Hatch
Commissioner of Commerce

Rules as Proposed (all new material)

CHAPTER 2783 DEPARTMENT OF COMMERCE LIQUOR LIABILITY ASSIGNED RISK PLAN

2783.0010 PURPOSE AND SCOPE.

This chapter governs administration of the liquor liability assigned risk plan established pursuant to Minnesota Statutes, section 340.11, subdivisions 21 and 23.

2783.0020 AUTHORITY.

This chapter is adopted under the authority of Minnesota Statutes, sections 45.023 and 340.11, subdivisions 21 and 23.

2783.0030 DEFINITIONS.

Subpart 1. Scope. For the purposes of this chapter, the terms defined in this part have the meanings given them unless the context clearly indicates a different meaning.

Subp. 2. Administrator. "Administrator" means the person or persons selected pursuant to part 2783.0040 to administer the assigned risk plan.

Subp. 3. Assigned risk plan. "Assigned risk plan" means the methods and procedures established pursuant to Minnesota Statutes, section 340.11, subdivision 23 to provide liquor liability coverage as required by Minnesota Statutes, section 340.11, subdivision 21 to those liquor vendors unable to obtain coverage through insurance companies.

Subp. 4. Commissioner. "Commissioner" means the commissioner of the Department of Commerce.

Subp. 5. Liquor vendor. "Liquor vendor" means any person required by Minnesota Statutes, section 340.11, subdivision 21 to demonstrate proof of financial responsibility.

Subp. 6. Loss. "Loss" means a demand for damages due or allegedly due on which some payment has been made or for which money has been reserved for actual or possible payment on the demand.

Subp. 7. Premium. "Premium" means the price charged to a liquor vendor for coverage under the assigned risk plan for a one-year period.

Subp. 8. Rate. "Rate" means the cost of coverage under the assigned risk plan per \$100 of annual liquor sales.

Subp. 9. Rating plan. "Rating plan" means the criteria for calculation of rates.

Subp. 10. Violation. "Violation" means any violation of Minnesota Statutes, sections 340.70 to 340.86.

2783.0040 ASSIGNED RISK PLAN ADMINISTRATION.

Subpart 1. Administrator. The assigned risk plan shall be administered by a qualified insurer or vendor of risk management services selected by the commissioner. If the commissioner deems it necessary, he or she may select more than one person to administer the assigned risk plan.

Subp. 2. Duties. The administrator shall perform all services necessary to accomplish the purposes of the assigned risk plan, including the servicing of policies of contracts of coverage, data management, and collection of assessments.

Subp. 3. Appeals. A liquor vendor adversely affected by a decision of the administrator may object to the decision by appealing to the commissioner within 15 days after the decision. The appeal must be made by letter mailed to the commissioner, with a copy to the administrator, within the 15-day period. The letter must include a summary of the administrator's decision from which the appeal is taken, the basis for objection to the administrator's decision, and any argument or evidence in support of the appeal. Within 15 days after receipt of the letter, the administrator shall file a response, including the basis for the administrator's decision and all argument and evidence in support of the decision. Within ten days after receipt of the administrator's response, the commissioner shall either affirm, reverse, or modify the administrator's decision as the commissioner deems appropriate.

2783.0050 ASSIGNED RISK COVERAGE.

Subpart 1. Generally. Eligibility for assigned risk coverage is subject to the terms and conditions of subparts 2 and 3.

Subp. 2. Minimum qualifications. A liquor vendor who has a current written notice of refusal to insure pursuant to Minnesota Statutes, section 340.11, subdivision 23, clause (2), is entitled to coverage upon making written application to the assigned risk plan, and paying the applicable premium, or required portion thereof.

Subp. 3. Disqualifying factors. A liquor vendor may be denied or terminated from coverage through the assigned risk plan if the liquor vendor:

- A. applies for coverage for only a portion of the liquor vendor's statutory liability under Minnesota Statutes, section 340.11, subdivision 21;
- B. has an outstanding debt due and owing to the assigned risk plan at the time of application or renewal arising from a prior policy;
- C. refuses to permit completion of an audit requested by the commissioner or administrator;
- D. submits misleading or erroneous information to the commissioner or administrator;
- E. disregards safety standards, laws, rules, or ordinances pertaining to the offer, sale, or other distribution of liquor;
- F. fails to supply information requested by the commissioner or administrator; or
- G. fails to comply with the terms of the policies or contracts for coverage issued pursuant to the assigned risk plan.

Subp. 4. Notice. An application for coverage under the assigned risk plan must be granted or denied within ten days after receipt by the administrator of a properly completed application and any supplemental information requested by the administrator. A liquor vendor covered under the assigned risk plan must be given at least 30 days' notice of nonrenewal or termination of the coverage.

2783.0060 RATING PLAN.

RATES APPLICABLE TO MINIMUM COVERAGE REQUIRED BY MINNESOTA STATUTES, SECTION 340.11, SUBDIVISION 21, PARAGRAPH (a), FOR ONE-YEAR PERIOD

ASSIGNED RISK LIQUOR LIABILITY RATES 3/1/85

LIMITS	PACKAGE GOODS	RESTAURANTS	BARS	4 OR MORE LOSSES OR VIOLATION		Each Additional
				4	5	
50/100	\$.42	\$1.52	\$1.89	\$ 6.25	\$ 7.50	\$1.00
100/100	.57	2.06	3.12	10.32	12.38	1.65
300/300	.80	2.90	4.63	15.31	18.37	2.45
500/500	.95	3.44	6.62	21.89	26.27	3.50

NO EXPERIENCE OR SCHEDULED CREDITS TO APPLY.

COMBINED BAR/PACKAGE ESTABLISHMENTS ARE RATED AS BARS.

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

ADOPTED RULES

The commissioner may by order adjust the rates in this part if he or she deems it appropriate due to either or both past or prospective loss or expense experience, changes in applicable law, or changes in rates generally charged by insurers for liquor vendor liability insurance.

Minnesota Statutes, section 340.11, subdivision 23, clause (7) provides that the premiums charged by the assigned risk plan may not be lower than rates generally charged by insurers for the business. If the rates generally charged by admitted carriers do not comply with Minnesota law then the assigned risk plan's premiums shall be based upon, and not lower than, those rates generally charged which comply with Minnesota law.

Upon adoption of this chapter any certificate of coverage previously issued by the assigned risk plan shall be subject to retroactive rebate, dividend, surcharge or other charge as may be necessitated by the adoption of this rating plan. Premiums for certificates of coverage previously issued shall be determined as if this rating plan were in effect at the time of issuance of the certificate of coverage.

2783.0070 ASSESSMENTS.

In the event the commissioner deems it necessary to make an assessment pursuant to Minnesota Statutes, section 340.11, subdivision 23, clause (4), an assessed insurer must pay the assessment within 30 days of receipt of notice of the assessment. The commissioner may suspend or revoke an insurer's certificate of authority, and/or impose a civil penalty in an amount not to exceed \$5,000, for an insurer's failure to pay the assessment within the 30-day period.

2783.0080 SURPLUS LINES CARRIERS.

As of 120 days after the effective date of this chapter no surplus lines carrier may write liquor vendor liability insurance in this state.

2783.0090 ASSIGNED RISK PLAN ADVISORY COMMITTEE.

Subpart 1. Appointment. The commissioner shall appoint a committee to advise the commissioner regarding operation of the assigned risk plan. The committee shall be comprised of 11 members, four of which shall be insurers, one of which shall be a vendor of risk management services, two of which shall be insurance agents, two of which shall be liquor vendors, and two of which shall be public members. The administrator and a representative of the commissioner shall be ex officio members of the assigned risk plan advisory committee.

Subp. 2. Meetings. The assigned risk plan advisory committee shall meet at such times as the commissioner may request.

2783.0100 REQUEST FOR INFORMATION.

Subpart 1. Commissioner's power. The commissioner may require a liquor vendor or insurer to provide the information as he or she deems appropriate to implement the provisions and further the purposes of the assigned risk plan.

Subp. 2. Administrator's power. The administrator may require a liquor vendor to provide such information as he or she deems appropriate to administer the assigned risk plan.

Department of Human Services

Proposed Rules for Training and Habilitation Reimbursement Procedures for ICF/MR's

Notice of Intent to Adopt Rules and Notice of Hearing

NOTICE IS HEREBY GIVEN that a public hearing on the above-entitled matter will be held in Minnesota Veterans Home, Chapel-Auditorium, Building No. 15, 5101 Minnehaha Avenue South, Minneapolis, Minnesota, commencing at 9 a.m. on April 25, 1985, and continuing until all interested persons have an opportunity to be heard. The proposed rules may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to participate. Such persons may present their views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should be pertinent to the matter at hand. Written material not submitted at the time of the hearing which is to be included in the hearing record may be mailed to George Beck, Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 South Fourth Avenue, Minneapolis, Minnesota, 55415, telephone 612/341-7601, either before the hearing or within five working days after the public hearing ends. The Administrative Law Judge may, at the hearing, order the record be kept open for a longer period not to exceed 20 calendar days. Following the close of the comment period the agency and all interested persons have three business days to respond in writing to any new information submitted during the comment period. During the three-day period, the agency may indicate in writing whether there are amendments suggested by other persons which

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the agency is willing to adopt. Additional evidence may not be submitted during this three-day period. The written responses shall be added to the rulemaking record. Upon the close of the record the Administration Law Judge will write a report as provided for in Minnesota Statutes, section 14.50. The rule hearing is governed by Minnesota Statutes, sections 14.01-14.56 and by Minnesota Rules, parts 1400.0200 to 1400.1200. Questions about procedure may be directed to the Administrative Law Judge.

Minnesota Rules, parts 9525.1200 to 9525.1330 establish procedures to reimburse, through the Medical Assistance Program, quality day training and habilitation services which are efficiently and economically provided to eligible persons who reside in intermediate care facilities for mentally retarded persons. Parts 9525.1200 to 9525.1330 apply to county boards which are required to administer day training and habilitation services; to county boards which are required to recommend Medical Assistance rates for day training and habilitation services; and to day service providers selected by the county board to provide day training and habilitation services for persons who are mentally retarded.

Parts 9525.1200 to 9525.1330 include purpose; applicability; definitions; client eligibility; approval of day service provider; day training and habilitation agreement; reimbursable services; county board rate recommendation; payment rate criteria and commissioner's approval of rates; variance request; day service provider billing; required records and reports; notification; penalties for noncompliance; and appeals.

The agency's authority to adopt the proposed rules is contained in Minnesota Statutes, section 256B.501, subdivisions 5 to 10. The cost to local public bodies of implementing the proposed rule changes will not exceed \$100,000 for either of the first two years following passage of the rule.

Copies of the proposed rules are now available and at least one free copy may be obtained by writing to Karen Lupelow, Mental Retardation Division, Department of Human Services, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, telephone 612/296-2160. Additional copies will be available at the hearing. If you have any questions on the content of the rule amendments, contact Lisa Rotegard, Mental Retardation Division, Department of Human Services, Fourth Floor, Centennial Office Building, St. Paul, Minnesota, 55155, telephone 612/297-4983.

Notice is hereby given that a Statement of Need and Reasonableness is available for review at the agency and at the Office of Administrative Hearings. The Statement of Need and Reasonableness includes a summary of all the evidence and argument justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Note: Any person may request notification of the date on which the Administrative Law Judge's report will be available, after which date the agency 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 by the agency with the Secretary of State. 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 agency (in the case of the agency's submission to the Secretary of State).

Minnesota Statutes, Chapter 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 Minnesota Statutes, section 10A.01, subdivision 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 612/296-5615.

February 28, 1985

Leonard W. Levine, Commissioner
Department of Human Services

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

PROPOSED RULES

Rules as Proposed (all new material)

9525.1200 PURPOSE AND APPLICABILITY.

Subpart 1. Purpose. The purpose of parts 9525.1200 to 9525.1330 is to establish procedures to reimburse, through the medical assistance program, quality day training and habilitation services which are efficiently and economically provided to eligible persons who reside in intermediate care facilities for mentally retarded persons.

Subp. 2. Applicability. Parts 9525.1200 to 9525.1330 apply to county boards which are required to administer day training and habilitation services; to county boards which are required to recommend medical assistance rates for day training and habilitation services; and to day service providers selected by the county board to provide day training and habilitation services for persons who are mentally retarded. Parts 9525.1200 to 9525.1330 do not apply to state hospitals' provision of day training and habilitation services.

9525.1210 DEFINITIONS.

Subpart 1. Scope. The terms used in parts 9525.1200 to 9525.1330 have the meanings given to them in this part.

Subp. 2. Client. "Client" means a person who is receiving day training and habilitation services.

Subp. 3. Commissioner. "Commissioner" means the commissioner of human services or the commissioner's designated representative.

Subp. 4. County board. "County board" means the board of county commissioners of the county in which day training and habilitation services are provided or the county board's designated representative.

Subp. 5. County of financial responsibility. "County of financial responsibility" has the meaning given it in Minnesota Statutes, section 256B.02, subdivision 3.

Subp. 6. Day service provider. "Day service provider" means the corporation, governmental unit, or other legal entity that claims medical assistance reimbursement for providing day training and habilitation services.

Subp. 7. Day training and habilitation services. "Day training and habilitation services" means health and social services provided to a person with mental retardation by a licensed provider at a site other than the person's place of residence unless medically contraindicated and documented as such in the individual service plan. The services must be designed to result in the development and maintenance of life skills, including: self-care, communication, socialization, community orientation, emotional development, cognitive development, motor development, and therapeutic work or learning activities that are appropriate for the person's chronological age. Day training and habilitation services are provided on a scheduled basis for periods of less than 24 hours each day.

Subp. 8. Developmental achievement center. "Developmental achievement center" means a provider of day training and habilitation services which complies with Minnesota Statutes, sections 252.21 to 252.261.

Subp. 9. Individual service plan. "Individual service plan" has the meaning given it in parts 9525.0015 to 9525.0145 [Emergency].

Subp. 10. Intermediate care facility for the mentally retarded or ICF/MR. "Intermediate care facility for the mentally retarded" or "ICF/MR" means the provider of a program licensed to serve persons who are mentally retarded under Minnesota Statutes, section 252.28, and a physical plant licensed as a supervised living facility under Minnesota Statutes, chapter 144, which together are certified by the Minnesota Department of Health as an intermediate care facility for the mentally retarded. Unless otherwise stated, the term ICF/MR includes state-operated and community-based facilities.

Subp. 11. New day service provider. "New day service provider" means a day service provider that did not have an established medical assistance rate on December 31, 1983, according to Minnesota Statutes, section 256B.501, and rules adopted thereunder.

Subp. 12. Payment rates. "Payment rates" mean the rates approved by the commissioner for reimbursement of day training and habilitation services received by and transportation of an eligible client within a 24-hour period. The three kinds of payment rates are:

A. A full-day service rate for clients whose individual service plans require the number of service hours per day which is defined in the agreement in part 9525.1240 as a full day.

B. A partial-day service rate for clients whose individual service plans require less than a full day on a consistent basis. The partial-day service rate must not exceed 75 percent of the full-day service rate.

C. A transportation rate for the provision of, or arrangement and payment for, transportation received by an eligible client from the client's residence to the service site and back.

Subp. 13. Resident. "Resident" means a client who resides at the physical plant of an ICF/MR.

Subp. 14. Service site. "Service site" means the physical location or locations where day training and habilitation services are provided.

Subp. 15. Work activity. "Work activity" means activity which is designed exclusively to provide therapeutic activities for handicapped workers whose physical or mental impairment is so severe as to make their productive capacity inconsequential. For this purpose, "inconsequential" means that the wage paid to the client is within the range specified for work activity centers as provided by Code of Federal Regulations, title 29, section 525.2.

9525.1220 CLIENT ELIGIBILITY.

The day service provider may receive medical assistance reimbursement for providing day training and habilitation services to an eligible person if the person meets the criteria in items A to E:

- A. the person is eligible to receive medical assistance under Minnesota Statutes, chapter 256B;
- B. the person is determined to be mentally retarded in accordance with the definitions in parts 9525.0015 to 9525.0145 [Emergency];
- C. the person is a resident of an intermediate care facility for mentally retarded;
- D. the person is not of school age as defined in Minnesota Statutes, section 120.17, subdivision 1; and
- E. the person is determined to be in need of day training and habilitation services as specified in the individual service plan under parts 9525.0015 to 9525.0145 [Emergency].

9525.1230 APPROVAL OF DAY SERVICE PROVIDER.

Subpart 1. General requirements. A day service provider is approved by the commissioner to receive medical assistance reimbursement for day training and habilitation services when the day service provider meets the requirements in items A to J and complies with parts 9525.1200 to 9525.1330.

A. The day service provider must have a current license to provide day training and habilitation services in accordance with Minnesota Statutes, sections 252.28 and 245.781 to 245.812 and rules adopted thereunder.

B. The day service provider must have a current need determination approved by the commissioner under Minnesota Statutes, section 252.28 and parts 9525.0015 to 9525.0145 [Emergency].

C. The day service provider and the ICF/MR must not be under the control of the same or related entities which provide residential services to the day service provider's clients. For this purpose, "control" means having power to direct or affect management, operations, policies, or implementation, whether through the ownership of voting securities, by contract or otherwise; "related legal entities" are entities that share a majority of governing board members or are owned by the same person or persons. If both the ICF/MR and the day service provider are wholly or partially owned by individuals, those individuals must not be related by marriage or adoption as spouses or as parents and children. Two exceptions to this requirement are:

(1) the county board's and commissioner's control which is required by parts 9525.1200 to 9525.1330; or

(2) the day service provider is a developmental achievement center which applied for licensure before April 15, 1983, as provided for under Minnesota Statutes, section 256B.501, subdivision 1, paragraph (d).

D. The day service provider must have a written agreement with the ICF/MR and the county in which the ICF/MR is located as required by Minnesota Statutes, section 256B.501, subdivision 5, paragraph (d) and part 9525.1240.

E. The day service provider must have a written day training and habilitation agreement with each ICF/MR whose residents are enrolled by the day service provider as provided by Code of Federal Regulations, title 42, section 442.417.

F. The day service provider must be authorized by each ICF/MR whose residents are enrolled by the day service provider to receive medical assistance payments from the support services bureau of the Department of Human Services under Code of Federal Regulations, title 42, section 447.10, paragraph (e).

G. The day service provider must make available at least 195 full days of medical assistance reimbursable service in a calendar year.

H. The day service provider must be selected by the county board, as provided by Minnesota Statutes, section 252.24,

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because of its demonstrated ability to provide the day training and habilitation services required by the client's individual service plan as provided in parts 9525.0015 to 9525.0145 [Emergency].

I. The day service provider must have service and transportation rates recommended by the county board as provided by part 9525.1260 and approved by the commissioner as provided by part 9525.1270.

J. The day service provider must be in compliance with the standards in Code of Federal Regulations, title 42, sections 442.455 and 442.463.

Subp. 2. New day service providers. A new day service provider is approved by the commissioner to receive medical assistance reimbursement for day training and habilitation services when:

A. the new day service provider meets the requirements of subpart 1;

B. the new day service provider has been selected by the county board based upon:

(1) the needs assessment required under Minnesota Statutes, section 256E.08, subdivision 1 and the assessment of individual service needs under parts 9525.0015 to 9525.0145 [Emergency] for the identification of the day training and habilitation services needed in the county; and

(2) a request for proposals system implemented by the county board and based on the needs assessment described in subitem (1) which provides potential day service providers in the county and employees of regional state hospitals an opportunity to submit a proposal for the provision of day training and habilitation services in the county;

C. the new day service provider's rates have been approved by the commissioner as provided by part 9525.1270; and

D. the county board has certified, in writing, that the new day service provider is in compliance with parts 9525.1200 to 9525.1330.

9525.1240 DAY TRAINING AND HABILITATION AGREEMENT.

Subpart 1. Agreement contents. An agreement must be entered into by the day service provider, the ICF/MR whose residents will receive day training and habilitation services under the agreement, and the county where the ICF/MR is located, as specified under Minnesota Statutes, section 256B.501, subdivision 5, paragraph (d). This agreement must be completed annually on forms provided by the commissioner and must include at least the information in items A to F:

A. the number of hours of day training and habilitation services provided per day, excluding transportation to and from the location of the ICF/MR, which will be considered as a full day;

B. the approved maximum number of days per year medical assistance reimbursable services will be available;

C. the day service provider's months of operation during which day training and habilitation services are provided;

D. a statement of payment rates which have been approved by the commissioner under part 9515.1270;

E. respective duties and responsibilities of the county board, the day service provider, and the ICF/MR which include:

(1) the provision of, or arrangement and payment for transportation by the day service provider for its clients to and from the day service provider's service site;

(2) participation of the day service provider and the ICF/MR in the development of each resident's individual habilitation plan in accordance with the goals in the resident's individual service plan;

(3) the ICF/MR's duty to notify the day service provider within 60 days of any change in a resident's status. A change in a resident's status includes eligibility for medical assistance, medical conditions, medications, special diets, and behavior;

(4) the day service provider's compliance with parts 9525.1200 to 9525.1330 to be eligible for medical assistance reimbursement;

(5) day service provider billings for services provided to clients receiving medical assistance which must not be greater than billings for the same service provided to any other client unless authorized through a special needs rate as provided by Minnesota Statutes, section 256B.501, subdivision 8; and rules adopted thereunder;

(6) provision of at least quarterly progress reports measured against the goals and objectives of the client's individual service plan and individual habilitation plan under parts 9525.0015 to 9525.0145 [Emergency] by the day service provider to the ICF/MR on residents served by the day service provider;

(7) compliance by the day service provider with the auditing and surveillance requirements under parts 9505.1750 to 9505.2150 and applicable to providers of medical assistance; and

(8) compliance by the day service provider with Minnesota Statutes, sections 245.781 to 245.812 and 252.28, parts 9525.0015 to 9525.0145 [Emergency], Code of Federal Regulations, title 42, sections 442.455 and 442.463;

(9) monitoring by the county board of service delivery to each client;

(10) the county board's assignment of accountability for expected outcomes of service delivery to the ICF/MR or the day service provider.

Subp. 2. Agreement submission, termination, or new agreements. The county board shall submit a copy of each completed agreement to the commissioner by January 1 of each year and within 60 days of the commissioner's approval of revised rates or rates for a new day service provider. The county board shall notify the commissioner within 60 days if the agreement in subpart 1 is suspended or terminated. The commissioner shall not pay for services provided during any period in which there is no agreement in effect or during which the agreement in effect does not comply with subpart 1.

9525.1250 REIMBURSABLE SERVICES.

Subpart 1. Types of services. Day training and habilitation services are reimbursable under the medical assistance program when the services are provided for the development and maintenance of life skills. Reimbursable services include transportation to and from the service site and supervision, assistance, and training in one or more of the following:

- A. work activity;
 - B. community orientation, including proper use of traffic signals, identification of police, firemen, and bus drivers, use of pedestrian pathways and public transportation to and from stores, restaurants, meeting places, and other familiar settings;
 - C. communication skills, including expressive and receptive language skill development;
 - D. self-care, including grooming, eating, toileting, and dressing;
 - E. cognitive skills, including functional reading, writing, and number skills;
 - F. motor development, including gross and fine motor activities, and range of motion exercises;
 - G. emotional development, including behavioral programming, to develop situationally acceptable affective expression;
- and
- H. socialization, including social interaction skills, development of relationships, initiation or participation in leisure activities, and phone use.

Subp. 2. Service requirements. Day training and habilitation services are reimbursable under the medical assistance program if the services provided are in compliance with subpart 1 and the conditions listed in items A to E are met.

A. Day training and habilitation services must be authorized in writing by the county of financial responsibility and must include subitems (1) to (3):

- (1) the amount and type of day training and habilitation services to be provided;
- (2) the service costs; and
- (3) the expected client outcome or results of providing day training and habilitation services.

B. Day training and habilitation services must not be included in the approved rate of the ICF/MR.

C. Medical assistance money for day training and habilitation services must not replace the Minnesota Division of Vocational Rehabilitation money for sheltered work or work activity services.

D. Medical assistance reimbursable day training and habilitation services must not exceed the number of days per calendar year as provided by Minnesota Statutes, section 256B.501, subdivision 5, paragraph (e).

E. Day training and habilitation services needed by the person eligible under part 9525.1220 and identified in the client's individual service plan must be available to the client in amount, duration, and scope equal to day training and habilitation services made available to other persons served by the same day service provider.

9525.1260 COUNTY BOARD RATE RECOMMENDATION.

Subpart 1. Recommendation requirements. The county board shall recommend in writing to the commissioner payment rates for each approved day service provider which is identified by a county of financial responsibility to provide day training and habilitation services. For purposes of rate recommendations under this part, an entity which operates with more than one day training and habilitation services license, as provided by Minnesota Statutes, sections 245.781 to 245.812, is considered a separate day

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service provider for each license. When recommending payment rates for day service providers to the commissioner, the county board must meet the requirements in items A to F.

A. The rates must be based on the criteria in part 9525.1270.

B. The county board shall recommend three payment rates for each day service provider: a full-day service rate, a partial-day service rate, and a transportation rate as defined in part 9525.1210, subpart 12. If a day service provider serves both preschool children and adults, the county board shall recommend separate payment rates for the preschool clients and the adult clients.

C. The county board's rate recommendation to the commissioner must include comments from the day service provider indicating the day service provider's agreement or disagreement with the county board's rate recommendations.

D. The recommended rates for medical assistance must not exceed the rates to be paid by the county board from nonmedical assistance sources for the same services from the same day service provider in the same contract period.

E. The county board shall submit rate recommendations to the commissioner by November 1 of each year and at least 60 days before a recommended rate revision or rate for a new day service provider is to be effective.

F. The county board may submit revised rate recommendations to the commissioner if the revised rates still comply with items A to E.

Subp. 2. Alternative rate structure. The county board may recommend to the commissioner in writing an alternative rate structure than that required in subpart 1, item B, in accordance with Minnesota Statutes, section 256B.501, subdivision 7. The commissioner shall approve such an alternative if the county board shows by a preponderance of evidence that it:

A. complies with all requirements of parts 9525.1200 to 9525.1330 other than subpart 1, item B;

B. complies with Minnesota Statutes, section 256B.501, subdivision 7; and

C. results in total annual payments which are equal to or less than the payments which would be made if the rates complied with subpart 1, item B.

Subp. 3. Payment rates for new day service providers. At least 60 days before service begins, the county board shall recommend in writing to the commissioner a proposal for approval as provided by part 9525.1230, subpart 2. The county board's recommendation must also include a description of the specific methods used to choose a day service provider and to develop rates. The day service provider recommended by the county board must meet the criteria in items A to D.

A. The proposed day service provider must comply with parts 9525.1200 to 9525.1330.

B. The proposed day service provider must comply with the need determination and licensure requirements in Minnesota Statutes, sections 252.28 and 245.781 to 245.812 and rules adopted thereunder and client eligibility requirements in part 9525.1220.

C. The proposed day service provider rates must not exceed the limits in Minnesota Statutes, section 256B.501, subdivisions 6 and 7.

9525.1270 PAYMENT RATE CRITERIA AND COMMISSIONER'S APPROVAL OF RATES.

Subpart 1. Payment rates for approved day service providers. Payment rates established for approved day service providers under parts 9525.1230 and 9525.1260 must be in compliance with the criteria in items A to E.

A. The rates must be adequate reimbursement for the cost of the provision of day training and habilitation services which meet the eligibility requirements in part 9525.1220. Except as provided in items B and C, "adequate" means that the sum of the full-day service rate and the transportation rate, as defined in part 9525.1210, subpart 12, items A and C, equals the sum of the same rates approved by the commissioner on December 1 of the preceding year plus no more than the projected percentage change in the consumer price index as provided by part 9525.1310, subpart 1.

B. The rates for individual clients may be higher than allowed in item A if the county board recommends and the commissioner approves higher rates through the special needs procedures provided by Minnesota Statutes, section 256B.501, subdivision 8, and rules adopted thereunder.

C. The rates may be lower than allowed in item A when the county board documents to the commissioner that individual service plans can be satisfied at lower cost.

D. An approved rate remains effective until the commissioner approves a different rate in accordance with parts 9525.1200 to 9525.1330.

Subp. 2. Program change. Rates recommended under part 9525.1260 and approved under part 9525.1270 must not be affected by changes in ownership or location of the day service provider.

Subp. 3. Commissioner's approval. If the rates recommended by the county board for the provision of day training and

habilitation services comply with parts 9525.1260 and 9525.1270, the commissioner shall approve the rates, in writing, within 60 days of the receipt of the recommendation from the county board. If recommended rates are not in compliance with parts 9525.1260 and 9525.1270, the commissioner shall, within 60 days of the receipt of the recommendation from the county board, notify the county board, in writing, of the reasons approval was denied or different rates were approved.

Subp. 4. Payment rate principle. Transactions that have the effect of circumventing parts 9525.1200 to 9525.1330 to affect payment rates or provider eligibility to receive medical assistance payments for providing day training and habilitation services will not be considered by the commissioner for the purposes of payment rate approval under the principle that the substance of the transaction shall prevail over form.

9525.1280 VARIANCE REQUEST.

Subpart 1. Variance request. The county board may request a variance from the commissioner of the rate limits for existing day service providers under part 9525.1270, subpart 1, item A. The variance in the rate limit shall not exceed the rate limit established for new day service providers under Minnesota Statutes, section 256B.501, subdivision 6. To be eligible for the variance, the existing day service provider must meet all the criteria in items A to E.

A. Client turnover or day service provider expansion during the current rate year results in a change equal to 33 $\frac{1}{3}$ percent or more new clientele than were enrolled by the day service provider on December 31 of the previous rate year.

B. An increase in the client-to-staff ratio is necessary to provide new clients with the required service as delineated in all new clients' individual service plans and individual habilitation plans under parts 9525.0015 to 9525.0145 [Emergency] and Minnesota Statutes, sections 252.21 to 252.261, and rules adopted thereunder.

C. The day service provider shows that additional staffing needs cannot be met by reallocating current staff to provide the necessary services.

D. The county board submits evidence that additional clients' needs cannot be met using temporary special needs rate exception payments under parts 9510.1020 to 9510.1140 [Emergency].

Subp. 2. Submittal of request. The county board shall submit the written variance request, including documentation showing that the day service provider meets the criteria for a variance, with the county board's rate recommendation.

Subp. 3. Review of variance request; notification. The commissioner shall review the variance request with the county board's rate recommendation. If the county board's variance request shows by a preponderance of the evidence that the provider meets all the criteria in subpart 1, the commissioner shall approve the request. If the commissioner denies the variance request, the commissioner shall notify the county board and the day service provider of the reasons for the denial. The commissioner's decision on the variance request shall be final.

9525.1290 DAY SERVICE PROVIDER BILLING.

Subpart 1. Billing requirements. The day service provider must comply with the requirements in items A to C when submitting bills to the commissioner for reimbursement for the provision of day training and habilitation services.

A. Bills must be submitted on forms supplied by the commissioner, which identify for each client:

(1) the full-day or partial-day service rate as provided by part 9525.1270, subpart 1, multiplied by the number of days the client actually received day training and habilitation services from the day service provider; and

(2) the transportation rate as approved under part 9525.1270, subpart 1, multiplied by the number of days the client was actually transported.

B. The day service provider must not bill for days in which the client does not receive day training and habilitation or transportation services.

C. The day service provider must not bill for more than one service rate and one transportation rate per client per day.

D. Day service providers whose rates have been recommended under part 9525.1260, subpart 2 and approved under part 9525.1270, subpart 1, must submit bills to the commissioner using a procedural code available from the Bureau of Income Maintenance.

Subp. 2. Payment. The commissioner shall pay the day service provider for bills submitted under subpart 1 using the payment procedures in Minnesota Statutes, sections 256B.041 and 256B.501, subdivision 5, paragraph (f).

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Subp. 3. Errors and duplicate payments. If the day service provider becomes aware of a billing error that results in an overpayment or an underpayment to the day service provider or if the day service provider receives payment from another source for services which were also paid for by the medical assistance program, the day service provider shall promptly notify the commissioner and request an adjustment request form. Within one year of receipt of a completed adjustment request form, the commissioner shall:

A. in the case of an overpayment, require the day service provider to repay an amount equal to the overpayment or adjust future payments to correct the error or eliminate the overpayment; or

B. in the case of an underpayment, pay the day service provider an amount equal to the underpayment or adjust future payments to correct the error.

9525.1300 REQUIRED RECORDS AND REPORTS.

Subpart 1. Day service provider records. The day service provider shall maintain program records, fiscal records, and supporting documentation identifying the items in items A to C:

A. authorization from the county of financial responsibility, as provided by part 9525.1250, subpart 2, for each client for whom service is billed;

B. attendance sheets and other records documenting that the clients received the billed services from the day service provider; and

C. records of all bills and, if applicable, all refunds to and from other sources for day training and habilitation services. The day service provider's records shall be subject to the maintenance schedule, audit availability requirements, and other provisions in parts 9505.1750 to 9505.2150.

Subp. 2. Availability of records. The day service provider's financial records must be available, on request, to the commissioner and the United States Department of Health and Human Services in accordance with parts 9500.0750 to 9500.1080, 9505.1750 to 9505.2150, and 9525.1200 to 9525.1330.

Subp. 3. Retention of records. The day service provider shall retain a copy of the records required in subpart 1 for five years from the date of the bill unless an audit in process requires a longer retention period.

Subp. 4. Annual report. The day service provider shall maintain such records as may be necessary to submit the annual report by March 1 as provided by Minnesota Statutes, section 256B.501, subdivision 9.

9525.1310 NOTIFICATION.

Subpart 1. Inflation. By September 1 of each year, the commissioner shall notify the county board and the day service provider of the projected inflation rate for the following year, which must be the most recent projected percentage change in the consumer price index (all urban), for the upcoming calendar year over the current year, as provided by Minnesota Statutes, section 256B.501, subdivision 5, paragraph (c) and published in "Health Care Costs" issued by Data Resources, Inc., 1750 K. Street, Suite 300, Washington DC 20006, which is incorporated by reference. This document is published monthly (12 times a year) and is available through the Minitex Interlibrary Loan System; or can be purchased from Data Resources, Inc.

Subp. 2. Average medical assistance payment rates. In accordance with Minnesota Statutes, section 256B.501, subdivisions 6 and 7, the commissioner shall notify the county board annually of the average medical assistance payment rate limitations for day training and habilitation services in each county and in each of the regional development commission districts designated in Minnesota Statutes, sections 462.381 to 462.396.

Subp. 3. Reporting requirements. By December 1 of each year, the commissioner shall notify each day service provider of the reporting requirements for the annual report due March 1 of the following year. The annual report must include information on client and program characteristics and the actual program revenues and expenditures. The reporting requirements apply to all day training and habilitation services offered by the day service provider, regardless of funding source.

9525.1320 PENALTIES FOR NONCOMPLIANCE.

If the day service provider does not comply with parts 9525.1200 to 9525.1330, with other applicable laws and rules, and with the terms of the agreement required by part 9525.1240, subpart 1, the commissioner will suspend or withhold payments under the procedures in parts 9505.1750 to 9505.2150. "Other applicable laws and rules" include items A to E:

A. Minnesota Statutes, section 245.825 and rules adopted thereunder governing use of aversive and deprivation procedures;

B. Minnesota Statutes, sections 626.556 to 626.557 and rules adopted thereunder governing reporting of maltreatment of minors and vulnerable adults;

C. Minnesota Government Data Practices Act, Minnesota Statutes, sections 13.01 to 13.57;

D. Minnesota Statutes, chapter 363, Minnesota Human Rights Act; and

E. Minnesota Statutes, section 256B.064.

9525.1330 APPEALS.

Subpart 1. Day service provider appeals to county board. If a day service provider disagrees with the rate recommendation of the county board, the day service provider may appeal to the county board. A rate appeal must be heard by the county board if the appeal is based on the contention that the rate recommended by the county board does not comply with Minnesota Statutes, section 256B.501, subdivisions 5 to 8, and parts 9525.1200 to 9525.1330.

Within ten days of the receipt of a request for an appeal, the county board shall notify the day service provider of a hearing to be held within 30 days of the request for an appeal. The county board shall preside at the hearing. The county board shall notify the day service provider of its decision within 30 days after the hearing. The decision must be in writing and state the evidence relied upon and reasons for the determination.

Subp. 2. Day service provider appeals to commissioner. If a day service provider has appealed to the county board and the day service provider disagrees with the county board's decision, the day service provider may appeal to the commissioner. The appeal must be submitted to the commissioner in writing within 30 days of the date the day service provider received notification of the county board's decision. The appeal must state the reasons the day service provider is appealing the county board's decision including the bases for the county board's decision which are disputed and an explanation of why the day service provider disagrees with the county board's decision.

The commissioner shall review the county board's rate recommendation and supporting documentation submitted by the day service provider to the county and any additional documents submitted to the commissioner with the appeal to determine if the day service provider can prove by a preponderance of evidence that the day service provider be granted a different payment rate than recommended by the county board. The commissioner shall send written notification to the day service provider and the county board of the decision on the appeal and state the evidence relied upon and the reasons for the determination.

Subp. 3. County board appeals to commissioner. If the county board disagrees with the rate decision of the commissioner, the county board may appeal to the commissioner. The appeal must be submitted to the commissioner within 30 days of the date the county board received notification of the commissioner's decision. The appeal must state the reasons why the county board is appealing the commissioner's decision and present evidence explaining why the county board disagrees with the commissioner's decision. The commissioner shall review the evidence presented in the county board's appeal and send written notification to the county board of the decision on the appeal. The commissioner's decision on the appeal shall be final. Until a rate appeal is resolved and if the day service provider continues services, payments must continue at a rate which the commissioner determines to comply with parts 9525.1200 to 9525.1330. If a higher rate is approved, the commissioner shall order a retroactive payment as determined in the rate appeal decision.

Subp. 4. Appeal of commissioners' action. Before the commissioner suspends or withholds payments under part 9525.1320, the commissioner shall give 30 days' written notice to the day service provider and send a copy of the written notice to the affected day service provider. The written notice shall inform the day service provider of its right to appeal the commissioner's action. The appeal must be submitted to the commissioner within 30 days of the date the day service provider received notification of the commissioner's action. The appeal must state the reasons why the day service provider is appealing the commissioner's action and present evidence why the day service provider disagrees with the commissioner's decision. The commissioner shall review the evidence presented in the day service provider's appeal and send written notification to the day service provider of the decision on the appeal. The commissioner's decision on the appeal shall be final. The commissioner may not take the proposed action before the appeal is resolved.

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PROPOSED RULES

Department of Human Services

Proposed Temporary Rules Relating to Intermediate Care Facilities for the Mentally Retarded

Notice of Intent to Adopt Temporary Amendments

The State Department of Human Services proposes to adopt the above-entitled temporary amendments to rules 12 MCAR §§ 2.05301-2.05315 [Temporary] to amend in accordance with Laws of Minnesota 1984, Chapter 640, Section 28 the temporary rules authorized by Laws of Minnesota 1983, Chapter 312.

Persons interested in these temporary amendments have until 4:30 p.m. on April 19, 1985 to submit written comments. The proposed temporary amendments may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language. Written comments should be sent to:

Rosemary Chapin
Department of Human Services
6th Floor, Space Center
St. Paul, Minnesota 55155

Upon adoption of these temporary amendments, this notice, all written comments received, and the adopted temporary rules will be delivered to the Attorney General and to the Revisor of Statutes for review as to form and legality.

Notice of the date of submission of the proposed temporary amendments to the attorney general will be mailed to any person requesting to receive this notice. The Attorney General shall approve or disapprove the proposed temporary amendments and any modifications on the tenth working day following the date of receipt of the proposed temporary amendments from the agency.

The adopted temporary amendments will not become effective without the Attorney General's approval and the Revisor of Statutes' certification of the temporary amendments' form. Temporary amendments take effect five working days after approval by the Attorney General.

As required by the Administrative Procedures Act, Minnesota Statutes, chapter 14, these temporary amendments shall be in effect for up to 180 days following their adoption and may be continued in effect for up to 180 additional days if the commissioner gives notice of continuation 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 amendments shall not be effective 360 days after their effective date without following the procedures in Minnesota Statutes, sections 14.13 to 14.20.

The purpose of the proposed amendment is to bring the provisions of 12 MCAR §§ 2.05301-2.05315 [Temporary] into compliance with section 2314 of the Deficit Reduction Act (DEFRA) of 1984.

DEFRA amends the federal requirements regarding reimbursement under Medicaid and Medicare for capital related costs. The federal Medicaid revision which adds section 1902 (A) (13) (B) to the Act, specifies that a State must provide assurances satisfactory to the Secretary that the payment methodology utilized by the State for payments to hospitals, skilled nursing facilities and intermediate care facilities can reasonably be expected not to increase such payments, solely as a result of a change of ownership, in excess of the increase which would result from the application of the Medicare requirements at section 1861 (v) (1) (O) of the Act.

Rules 12 MCAR §§ 2.05301-2.05315 [Temporary] determine welfare per diem rates for ICF/MR facilities. The temporary amendments delete those sections of the rule which are out of compliance with section 2314 of the Deficit Reduction Act of 1984.

These temporary amendments will not result in any additional state or county spending beyond the amount of funds appropriated by the legislature.

A free copy of the proposed temporary amendments may be obtained by contacting Rosemary Chapin at (612) 297-1488.

Leonard W. Levine, Commissioner
Department of Human Services

Temporary Rules as Proposed

12 MCAR § 2.05302 [Temporary] Definitions.

A. to R. [Unchanged.]

S. Historical capital costs. "Historical capital costs" means:

1. [Unchanged.]

2. for a capital asset first placed in use in the medical assistance program prior to January 1, 1984, the cost incurred to

construct or purchase the capital asset by the person or entity owning the capital asset on or before December 31, 1983, ~~except as provided in 12 MCAR § 2.05304 [Temporary] A.1.d.~~

T. to UU. [Unchanged.]

12 MCAR § 2.05304 [Temporary] Determination of property-related cost payment rate.

A. Depreciation. Allowable depreciation expense shall be determined as in 1.-11.

1. Basis for calculating depreciation. The basis for calculating depreciation shall be the historical capital cost of the capital assets determined under ~~a.-d.~~ a.-c.

a. [Unchanged.]

b. For a capital asset first placed in use in the medical assistance program prior to January 1, 1984, the cost incurred to construct or purchase the capital asset by the person or entity owning the capital asset on or before December 31, 1983, ~~except as provided in d.~~

c. The historical capital cost of the capital assets shall not be adjusted for either a full or partial change of ownership or for any costs associated with replacing existing capital assets as a result of a casualty loss ~~except as provided in d.~~

~~d. The historical capital cost of the capital assets shall be adjusted for a change in ownership which occurs as a result of the death or disability of a principal owner who has a 50 percent or more ownership interest in the facility. This provision does not apply where the property is transferred to a close relative or a related organization as defined in 12 MCAR § 2.05302 LL. Disability means the situation in which a principal owner is mentally or physically incapacitated to such a degree that he or she is unable to carry out responsibility as an owner. The adjustment shall be made pursuant to regulations in effect on December 31, 1983.~~

2. to 9. [Unchanged.]

10. No depreciation shall be recaptured following a sale of an asset or termination from the medical assistance program ~~except for transfers of ownership allowed under A.1.d. Recapture of depreciation for transfers of ownership allowed under A.1.d. shall be calculated according to rules and regulations in effect on December 31, 1983.~~

11. [Unchanged.]

B. to F. [Unchanged.]

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 Governing Credit Unions

The rules proposed and published at *State Register*, Volume 9, Number 17, pages 816-822, October 22, 1984 (9 S.R. 816) and Volume 9, Number 29, pages 1606-1607, January 14, 1985 (9 S.R. 1606) are adopted as proposed.

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ADOPTED RULES

Department of Human Services Licensing Division

Adopted Rules Relating to Family Day Care and Group Family Day Care

The rules proposed and published at *State Register*, Volume 9, Number 18, pages 887-909, October 29, 1984 (9 S.R. 887) are adopted with the following modifications:

Rules as Adopted

9545.0315 DEFINITIONS.

Subp. 7. Child. "Child" means a person ~~12~~ ten years of age or younger.

Subp. 12. Fire marshal. "Fire marshal" means the person designated by Minnesota Statutes, section ~~299F.01~~ 299F.011 to administer and enforce the Minnesota ~~Life Safety~~ Uniform Fire Code, or the fire marshal's authorized representative.

Subp. 17. License. "License" means a certificate issued by the commissioner authorizing the provider to give specified services for a specified period of time in accordance with the terms in parts 9545.0315 to 9545.0445; Minnesota Statutes, sections ~~245.781 to 245.813~~ 245.812, and 252.28, subdivision 2; and the rules of the department.

Subp. 18. Licensed capacity. "Licensed capacity" means the total number of children ~~12~~ ten years of age or younger permitted at any one time in the ~~provider's~~ residence. The licensed capacity includes all children of any caregiver when the children are present in the residence.

Subp. 27. Residence. "Residence" means the dwelling unit, as defined by section 405 of the State Building Code, in which ~~the provider resides~~ day care is provided and which is occupied as a home.

Subp. 28. School age. "School age" means a child ~~12~~ ten years of age or younger and enrolled in at least the first grade.

Subp. 29. Substitute. "Substitute" means an adult at least 18 years of age who assumes the responsibility of the provider ~~during illness, emergencies, vacations, or holidays~~ as specified in part 9545.0365, subpart 5.

9545.0335 LICENSING PROCESS.

Subp. 2. Licensing study. The applicant shall give the agency access to the residence for a licensing study to determine compliance with parts 9545.0315 to 9545.0445.

A. A representative from the agency and the applicant shall complete a home safety checklist supplied by the department to aid in determining compliance with the physical environment, health, and safety requirements specified in parts 9545.0315 to 9545.0445. If, in the judgment of the agency representative, a potentially hazardous condition may be present, due to a violation of parts 9545.0315 to 9545.0445, the applicant shall obtain an inspection from a fire marshal, building official, or health officer ~~is required~~ to verify the absence of hazard and report to the agency.

B. The residence must comply with any applicable local ~~building, fire, health, or zoning codes and ordinances, and the applicant shall verify compliance to the agency prior to licensure~~. Any condition cited by a fire marshal, building official, or health officer as hazardous and creating an immediate danger of fire, or threat to human life and safety, must be corrected ~~prior to licensuring~~.

C. An inspection of the residence by a fire marshal ~~to determine compliance with parts 9545.0315 to 9545.0445~~ and compliance with orders issued are conditions of licensure for all residences with freestanding solid fuel heating appliances; manufactured (mobile) homes; new group family day care residence applications; day care residences which use the basement for child care; and residences in mixed or multiple occupancy buildings. "Multiple occupancy building" means a structure with two or more residential dwelling units such as a duplex, apartment building, or townhome. "Mixed occupancy building" means a residence in a structure that contains nonresidential occupancies or an attached garage.

D. An inspection of the residence by a fire marshal or building official ~~to determine compliance with parts 9545.0315 to 9545.0445 and compliance with orders issued is a condition of licensure for all residences with freestanding solid fuel heating appliances~~.

E. The commissioner or agency may require, prior to licensure, or anytime during the licensed term of day care, a physical, mental, or chemical dependency evaluation of any caregiver or person living in the residence or present during the hours children are in care if the agency has reasonable cause to believe that any of the disqualification factors in subpart 6, item A or B, exist, or that the provider is not physically able to care for the children. Such evaluations, conducted by a licensed physician, psychiatrist, psychologist, consulting psychologist, or certified chemical dependency practitioner or counselor, may be used to verify physical or mental illness, chemical dependency, or behavior that would reflect on the ability of the provider to give day care.

Subp. 5. Provisional license. An applicant for initial licensure may be granted a provisional license by the department for up to one year if all laws and rules cannot be met immediately, the deviations from parts 9545.0315 to 9545.0445 do not threaten the health, rights, or safety of the children, and which will be corrected within the time specified by the commissioner but not to exceed one year. Failure to correct deviations within the stated time shall be cause for revocation, suspension, or nonrenewal. ~~Deviations from the following parts 9545.0315 to 9545.0445 do not threaten the health or safety of children in care, but must be brought into compliance within one year:~~

- ~~(1) part 9545.0405, subpart 3, item K (Provider Policies, fees and plans for payment);~~
- ~~(2) part 9545.0405, subpart 3, item H (Provider Policies, educational and developmental activities available); and~~
- ~~(3) part 9545.0415, subpart 4, (Daily Activity Plan or Assessment).~~

Subp. 6. Disqualification factors. An applicant or provider shall not be issued a license or the license shall be revoked, not renewed, or suspended if the applicant, provider, or any other person living in the day care residence or present during the hours children are in care, or working with children:

B. Is mentally ill. Mental illness means the inability to interpret the environment realistically or the impaired functioning in primary aspects of daily living, such as personal relations, living arrangements, work, and recreation; ~~or~~ which is listed in the International Classification of Diseases (ICD-9-CM) Ninth Revision (1980), code range ~~290.0-302.99, or 306-316~~ 290.0-299.9, or the corresponding code in the American Psychiatric Association's Diagnostic and Statistical Manual of Mental Disorders (DSM-III) Third Edition (1980), Axes I, II, or III. These publications are available in the state law library.

C. Has had parental rights terminated ~~on the basis of parental neglect or abuse~~ under Minnesota Statutes, section 260.221, paragraph (b).

D. Has had a conviction of, ~~is awaiting trial for,~~ has admitted to, or there is substantial evidence indicating ~~an act of abuse, assault, incest, threats or acts of violence to persons of any age, battering, molesting, or any of the crimes listed in Minnesota Statutes, sections 609.18 to 609.21 and 609.221 to 609.375~~ incest (as prohibited in Minnesota Statutes, section 609.365), or physical abuse, sexual abuse, or neglect (as those terms defined in Minnesota Statutes, section 626.556).

E. Has had a conviction of, has admitted to, or there is a preponderance of the evidence indicating the commission of any crime listed in Minnesota Statutes, sections 609.18 to 609.21 or 609.221 to 609.375, other than those listed in item D.

F. Has had a child placed in foster care within the past 12 months and the agency determines the reasons for placement reflect on the ability of the provider to give care. A license may not be denied if the primary reason for the placement was due to a physical illness of the parent, mental retardation of the child, a handicap of the child, or for the temporary care of an infant being relinquished for adoption.

F G. Has had a child placed in residential treatment within the past 12 months for emotional disturbance or antisocial behavior and the agency determines that the reasons for the placement reflect on the ability of the provider to give care.

Subp. 7. License suspension or probation. A license shall be suspended or made probationary if the provider, or any other person living in the day care residence or present during the hours children are in care or working with children, is awaiting trial for a crime listed in subpart 6, item D or E.

Subp. 8. Variances. An applicant or provider may request a variance from compliance with parts 9545.0315 to 9545.0445.

A. Request for a variance must comply with and be handled according to the following procedures.

(1) An applicant or provider must submit to the agency a written request for a variance. The request must include the following information:

(c) the period of time, ~~not to exceed one year,~~ for which the applicant or provider requests a variance; and

(2) An applicant or provider must submit to the agency written approval from a fire marshal of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the fire safety provisions in part 9545.0425 on physical environment is requested. These are part 9545.0425, subpart 4, ~~on care on street floor level of exit discharge,~~ subpart 5, on means of escape; subpart 6 5, on separations; subpart 7 6, on fire doors; subpart 8 7, on heating and venting systems; subpart ~~13~~ 12, on locks and latches; subpart ~~16~~ 15, on interior walls and ceilings; subpart ~~17~~ 16, about extinguishers; subpart ~~18~~ 17, on smoke detection systems; and subpart ~~19~~ 18, on electrical services.

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ADOPTED RULES

(3) an applicant or provider must submit to the agency written approval from a health ~~official~~ officer of a variance request and the alternative measures identified to ensure the safety of children in care when a variance of the health provisions in parts 9545.0435 on sanitation and health, and 9545.0445 on water, food, and nutrition is requested.

B. The agency may request that the commissioner delegate to the county agency the authority to grant variances.

(2) If an agency, which has been delegated the authority to rule on requests for variances, receives a written request for a variance that the agency has the power to grant, the agency shall grant or deny the request and mail the written decision to the applicant or provider within 30 days after the request is received. If the agency denies the request for variance, the applicant or provider may request a variance directly from the commissioner within ten days.

(3) If the agency has not been delegated the authority to rule on requests for variances, or if the request seeks variance of a rule part provision the agency does not have the authority to vary, the agency shall, within 15 days after the request is received, mail to the department a copy of the request and the agency's recommendation to approve, further investigate, or deny the request. The agency shall also mail a copy of its recommendation to the applicant or provider. The commissioner shall grant or deny a request for a variance within 30 days after the department receives the request from the agency. If the commissioner denies the applicant's or provider's request for a variance, the applicant or provider may appeal the decision according to Minnesota Statutes, sections 14.57 to 14.70. The applicant or provider shall be informed of the right to appeal at the time of denial.

C. A variance may be granted if the following standards are met:

(2) The applicant or provider must ~~have verification that~~ comply with all applicable zoning, building, and fire safety laws, ordinances, and regulations ~~are complied with at all times.~~

(3) Any variance of the fire safety provisions in part 9545.0425 ~~on physical environment must not be granted unless, subparts 4, 5, 6, 7, 12, 15, 16, 17, and 18, which relate to the Minnesota Uniform Fire Code, will be granted if and only if~~ the provider or applicant has secured approval from a fire marshal of the variance and alternative measures identified to ensure the safety of children in care.

(4) Any variance of the provisions in ~~part~~ part 9545.0435, on sanitation and health and part 9545.0445, on water, food and nutrition ~~must not be varied unless will be granted if and only if~~ the provider or applicant has secured approval from a health ~~official~~ officer of the variance and alternative measures identified to ensure the health of children in care.

~~(7) The period of time for which a variance is granted must not exceed one year.~~

Subp. ~~8~~ 9. License terms. The license, whether regular or provisional, must indicate:

Subp. ~~9~~ 10. Posting license. The provider shall post the license in the residence in a prominent place.

Subp. ~~10~~ 11. Change in license terms. The following shall apply to changes in the terms of a license.

Subp. ~~11~~ 12. Number of licenses. No provider shall be issued a license to operate more than one day care residence.

Subp. ~~12~~ 13. Access to residence. The provider shall give authorized representatives of the commissioner or agency access to the residence during the hours of operation to determine whether the residence complies with the standards of parts 9545.0315 to 9545.0445.

Subp. ~~13~~ 14. License renewal. The following provisions must be followed by the agency when reviewing a license for renewal.

Subp. ~~14~~ 15. Return of license to commissioner. When a provider stops giving care, or if a license is revoked, suspended, or not renewed, the provider shall return the license to the commissioner and stop all advertising.

Subp. ~~15~~ 16. Unlicensed facilities. When a facility required to be licensed under parts 9545.03515 to 9545.0445 is brought to the attention of the agency, a verification of its licensed status must be made by the agency within five days.

B. If no further communication is received from the unlicensed facility within 30 days of contact, ~~a representative of the agency shall visit the facility or ensure that a surveillance is completed, and~~ if the facility is still operating and requires licensure and no attempt has been made to obtain a license, then the attorney with jurisdiction to bring charges for misdemeanors shall be notified immediately so legal action may be pursued.

9545.0341 NEGATIVE LICENSING ACTIONS.

Subp. 5. Revocation. If the commissioner ~~revokes~~ proposes to revoke a license, the provider must be informed of the right to appeal the decision within ten days.

Subp. 7. Probation. If the commissioner ~~makes~~ proposes to make a license probationary, the provider must be informed of the right to appeal the decision within ten days.

Subp. 8. Suspension. If the commissioner ~~suspends~~ proposes to suspend a license, the provider must be informed of the right to appeal the decision within ten days.

9545.0345 AGENCY RECORDS.

Subpart 1. Agency records. The agency shall maintain the following records for each provider:

C. ~~A completed home safety check list and~~ Any written reports from the fire marshal, health officer, or building official.

Subp. 2. Data privacy. The agency ~~or~~, department, and the health officer shall have access to provider records on children in care to determine compliance with parts 9545.0315 to 9545.0445. The provider shall not disclose any records on children in care to any persons other than the parents of the child, the agency, the department, the persons required by parts 9545.0375, subpart 1, and medical or public safety persons ~~for use in emergencies~~ if information is necessary to protect the health and safety of the child.

9545.0355 CAREGIVER QUALIFICATIONS.

Subp. 2. Health. An adult caregiver shall be physically able to care for children.

B. The applicant shall supply documentation to the agency with the license application that all adult caregivers who are assisting with care on a regular basis have had a physical examination from a licensed physician within 12 months prior to employment within the residence and are physically able to care for children.

Subp. 3. Group family day care. A group family day care applicant shall meet all the requirements listed in subparts 1 and 2 for family day care. A group family day care applicant shall also meet ~~one of the following:~~ the qualifications in item A, B, C, or D.

A. A minimum of two years' substantial compliance with parts 9545.0315 to 9545.0445 as a licensed family day care provider; ~~or~~

B. A minimum of one year's substantial compliance with parts 9545.0315 to 9545.0445 as a licensed family day care provider; and

(1) completion of a two-year child development or early childhood education associate or certificate program at an accredited college, or university, or completion of a nine-month child development assistant program at an accredited vocational-technical institute; or

C. Thirty hours of child care, health, and nutrition training as specified in part 9545.0385, and a minimum of 520 hours of experience as a teacher, assistant teacher, student teacher, or intern in an elementary school or licensed child care center, or as an assistant adult caregiver in a licensed group family day care home.

D. Thirty hours of child development or early childhood education training, as specified in part 9545.0385, and a minimum of 520 hours of experience as a licensed practical or registered nurse.

E. "Accredited" for the purposes of this subpart, means a postsecondary institution or area vocational-technical institution, recognized and ~~accredited by the North Central Association of Schools and Colleges, its regional counterparts, the National Accreditation Council, or Minnesota Commission on Higher Education~~ listed by a regional, state, or national group approved by the department. To be approved, a group must meet the following criteria:

(1) it must be capable of conducting site visits to evaluate the facilities used by the program;

(2) it must be capable of evaluating the quality of the program and its faculty;

(3) it must have standards which ensure that persons who complete the program have the knowledge and training to work as group family day care providers; and

(4) it must not be affiliated with any individual program, post-secondary institution, or vocational-technical institution.

Subp. 4. Day care insurance coverage. A provider shall have a certificate of insurance. ~~Insurance coverage shall include:~~

A. ~~for the residence~~ for general liability coverage for bodily injury in the amount of at least \$100,000 per person and \$300,000 per occurrence; and

B. ~~motor vehicle accident insurance coverage of at least \$100,000 per person and \$300,000 per occurrence when transportation is provided by the provider.~~

9545.0365 LICENSED CAPACITY, CHILD/ADULT RATIOS, AGE DISTRIBUTION RESTRICTIONS.

Subpart 1. Capacity limits. Family day care and group family day care providers shall comply with part 9545.0367, which limits

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ADOPTED RULES

the total number of children and the number of preschoolers, toddlers, and infants who may be in care at any one time, and provides for the number of adults who are required to be present.

A. Providers shall be licensed for the total number of children, ~~12~~ ten years of age or younger, who will be present in the residence at any one time. The licensed capacity must include all children of any caregiver when the children are present in the residence.

Subp. 4. Group family day care Helpers. ~~In group family day care, whenever more than ten children are in care, two adults, or one adult and a helper, must be present at all times.~~ A helper may be used in place of a second adult caregiver when there is no more than one infant or toddler present.

Subp. 5. Other employment Use of substitutes. ~~The provider shall not engage in other employment during the hours in which care is being provided.~~ A licensed provider must be the primary provider of care in the residence. The use of a substitute caregiver must be limited to a cumulative total of not more than 30 days in any 12-month period unless the substitute is also a licensed provider or the provider has the written consent of the agency and of a parent of each child in care.

9545.0367 CHILD/ADULT RATIOS; AGE DISTRIBUTION RESTRICTIONS.

A. Family Day Care:

Child/Adult Ratio

Age Restrictions

Licensed Capacity	Adults	Total children under first grade	Total infants and toddlers
10	1	6	Of the total children under first grade, a combined total of no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be infants.

B. Specialized Infant and Toddler Family Day Care:

- (1) 5 1 3 No more than 3 shall be infants.
(2) 6 1 4 No more than 2 shall be infants.

~~B.~~ C. Group Family Day Care:

- (1) 10 1 8 Of the total children under first grade, no more than 3 shall be infants and toddlers. Of this total, no more than 2 shall be ~~an infant~~ infants.
- (2) 12 1 10 Of the total children under first grade, ~~there shall be no more than 1 infant or toddler~~ 2 shall be infants and toddlers. Of this total, no more than 1 shall be an infant.
- (3) 14 2 10
A helper may be used in place of a second adult caregiver when there is no more than 1 infant or toddler present. Of the total children under first grade, a combined total of no more than 3 4 shall be infants and toddlers. Of this total, no more than 2 3 shall be infants.

~~C.~~ D. Specialized Infant and Toddler Group Family Day Care:

- 7 2 7 Of the total children, no more than 3 4 shall be infants.
Both caregivers shall be adults.

9545.0375 REPORTING TO AGENCY.

Subp. 2. Other reporting. The provider shall inform the agency:

A. within ~~15~~ 30 days of any change in the composition of the family or membership of the household within the day care residence;

B. within ~~15~~ 30 days of a new child enrolled in day care or when a child stops receiving day care at the residence;

9545.0385 DAY CARE TRAINING.

Subp. 3. Family day care training. All family day care providers shall participate in a minimum of six hours of day care training and six hours of ~~Minnesota Department of Health approved~~ approved first aid training within one year ~~after of or one year prior to~~ the date of initial licensure, and a minimum of six hours of day care training every year after as long as the license is maintained. No

more than half of the annual training requirement shall relate to day care administration, finances, and records. Previous training of up to six of the required 12 hours taken during the year preceding initial licensing may be used to meet the training requirement of the first year of licensure.

Subp. 5. Adult caregiver and helper training. Each adult caregiver giving care in the residence on a regular basis shall participate in a minimum of 12 hours of training within one year after the date of initial employment, and a minimum of six hours of training every year after as long as they are employed. Helpers who assist with care on a regular basis shall complete six hours of training within one year after the date of initial employment. Training must not relate to day care administration, finances, or records.

9545.0395 BEHAVIOR GUIDANCE; DISCIPLINE.

Subp. 2. Corporal punishment Discipline. ~~When guiding behavior in children, caregivers shall not use the following methods of discipline: The following shall apply to all caregivers when guiding behavior in children.~~

~~Subp. 3. Isolation. The use of isolation~~

~~D. The separation of a child from a group to guide behavior must be appropriate to the age of the child and conform to the following methods.~~

~~A E. An infant shall not be isolated separated from the group for disciplinary reasons.~~

~~B F. A toddler shall not be isolated separated from the group for a period longer than three minutes.~~

~~C G. Isolation must not exceed a period of ten minutes for preschool and school age children The preschool and school-age child shall not be separated from the group for a period longer than ten minutes.~~

~~D D. Isolation must be A child separated from the group must be placed in an area or separate room that is well-lighted, free from hazards, ventilated, and open to the view of caregivers.~~

~~E I. No child shall be isolated placed in a closet or locked room to separate the child from the group.~~

Subp. 4 3. Toilet training. Toilet training must be undertaken when appropriate to the child's age and stage of development.

9545.0405 ADMISSIONS; PROVIDER RECORDS; REPORTING.

Subp. 3. Provider policies. The provider shall have the following written information available for discussion with parents or the agency:

~~H. educational and development activities available;~~

~~I. emergency, fire, and storm plans and the monthly fire drill log;~~

~~J I. seat belt and transportation plans and field trip and transportation permission requirements;~~

~~K J. fees and plans for payment;~~

~~L K. termination and notice procedures;~~

~~M L. plans for a helper and substitute for emergencies, vacations, or holidays;~~

~~N. methods of discipline;~~

~~O M. the presence of pets in the residence; and~~

~~P N. a complete copy of parts 9545.0315 to 9545.0445.~~

9545.0415 CHILD CARE DEVELOPMENT PROGRAM.

Subpart 1. Program content. Day care activities must provide for the physical, intellectual, emotional, and social development of the child. The environment must facilitate the implementation of the activities. Program activities must:

C. include active and quiet activity; and

D. contain provider-directed and child-initiated activity;

~~E. further a positive self-concept and independent behavior; and~~

~~F. suit the linguistic, ethnic, and cultural background of the child.~~

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Subp. 2. Definitions. For the purposes of this part, the following terms have the meanings given them.

A. "~~Cognitives~~ Cognitive equipment" means equipment designed to enhance intellectual development and stimulate thought processes, such as games and toys which use number, letter, shape, size, and color concepts.

C. "Large muscle equipment" means equipment and accessories designed to enhance large muscle development and coordination such as pull toys, large boxes and pillows, balls, playground equipment, riding toys, climbers, ~~or~~ and rocking boats.

F. "Sensory stimulation items" means items of different shape, color, and texture which stimulate the child's visual and tactile senses. Examples of sensory stimulation items are swatches of different textures of cloth, different shaped pieces of wood, and blocks of different colors.

Subp. 3. Equipment. The provider must have the equipment specified in this subpart in adequate quantities for the number and ages of children in care. Toys and equipment may be new, used, commercial, or homemade, as long as they are age category, activity appropriate for the ages of the children and activities for which they will be used, safe, and in good repair. An item of equipment may be used to meet the requirements of more than one category in subpart 2 if the item satisfies more than one of the definitions.

Subp. 4. Activity plans or assessment. The provider must have written, posted activity plans and a schedule for each age group of children in care which provides for the physical, social, intellectual, or emotional development of the children; or satisfactory compliance with the department's child care assessment instrument. Provider activity plans and schedules must be retained for six months.

Subp. 5. Newborn or infant activities. The provider shall provide the following daily activities for newborns or infants:

A. ~~An~~ Hold the infant or newborn must be held during bottle feedings until the child can hold its own bottle. Bottles must not be propped.

B. ~~An~~ Show affection to the infant or newborn must be shown affection by rocking, cuddling, hugging, and playing with the child.

C. ~~An~~ Respond to the infant or newborn's attempts to communicate must be responded to. Time must be spent talking to and listening to a child; time must be spent imitating each child's actions and sounds. There must be verbal interaction with an infant and newborn during feeding, diapering, washing, and changing clothes. Time must be spent naming objects like body parts, toys, or household objects.

D. ~~An~~ Provide freedom of movement to the infant or newborn shall have freedom of movement during a large part of the waking day. A child shall be encouraged to explore and play in to the extent that safety, indoors and outdoors, if the weather is suitable permits. The noncreeping child shall spend part of each day on a washable rug or blanket. The creeping infant or newborn shall have freedom to explore outside of the crib, or infant seat, or playpen. A crib, infant seat, or playpen must be used only for sleeping, resting, or when needed for safety. The playpen must be placed where the infant can watch others when awake.

E. ~~An~~ Give the infant or newborn must be given the opportunity to stimulate the senses. A variety of activities and objects to see, touch, feel, smell, hear, and taste must be provided.

F. ~~An~~ Provide activities for the infant or newborn shall be provided with activities that develop the child's manipulative and fine motor skills, self-awareness, and social responsiveness.

Subp. 6.5. Newborn or infant equipment. The following minimum equipment is required for infants or newborns:

A. an infant seat or high chair, one per child;

B. a crib, ~~playpen, or portable crib, and~~ with waterproof mattress or pad, one per child;

C. books, two per child;

D. large muscle items such as cardboard boxes to get into, walkers or jumpers equipment, two one per child;

E. ~~manipulatives such as stacking and nesting items~~ manipulative equipment, two per child;

F. cognitives which are washable and small enough to grasp but too large to swallow, two per child;

G. music equipment such as a radio, phonograph, music box, tape recorder source or instrument, one per residence with at least ten selections;

H. noise-making toys like rattles items, two one per child; and

I. mobiles, posters, pictures of faces, colorful objects, and pictures to view sensory stimulation items, two per child; and

J. sensory stimulation items (tactile and soft), two per child.

Subp. 7.6. Toddler activities. The provider shall provide each toddler with activities that foster physical, mental, emotional, and social growth:

A. The following activities must be done daily:

(1) Provide the toddler shall be provided with freedom of movement. A toddler shall be encouraged to explore and play in safety, indoors and outdoors, if the weather permits. The toddler shall have freedom to explore outside the playpen and be provided with activities like climbing, riding, running, jumping, and balancing to stimulate large muscle development.

(2) B. The provider shall Talk to, listen to, and interact with a the toddler during diapering, feeding, and changing clothes and show affection to the child by rocking, hugging, and cuddling to encourage language development.

(3) C. The provider shall Assist the child in developing independence and self-esteem; learn to wash his hands before meals and after toileting; dress himself; and pick up toys.

B D. the following activities shall be done daily except when special circumstances such as field trips, illness, or emergencies occur.

(1) The provider shall Provide the toddler with large muscle activities and activities which develop the child's small muscles and manipulative skills such as stringing beads, puzzles, stacking blocks, or playing with leaves, twigs, or other small outdoor items.

(2) E. The provider shall Develop and stimulate learning by reading stories to the child or looking at picture books together.

(3) F. The provider shall Provide activities that stimulate the senses (smelling flowers);₁ creativity (sand and water play);₁ learning (throwing and kicking balls, recognizing colors, shapes, animals, finger play);₁ and social development (dancing, group singing).

Subp. 7. Toddler equipment. The following minimum equipment is required for toddler activities toddlers:

A. mat, crib, cot, bed, sofa, or sleeping bag with waterproof cover, one per child;

B. art and craft supplies; tempera or finger paints, paper, paste, collage materials, paint brushes, crayons, blunt scissors, aprons, smocks, as needed to carry out activities;

C. books, two per child;

D. manipulatives larger than one inch in diameter such as string or pop beads, blocks and building sets using plastic or wooden pieces, one set per child;

E. creative dramatic play equipment, two per child;

F. large muscle equipment, two one per child;

G. large muscle accessories such as balls, pull toys, trucks, two per child;

H. music source such as radio, tape recorder, record player or instrument, one per residence with at least ten selections;

I. rhythm band instruments, one per child;

J. mobiles, pictures, objects to view, as needed to provide a pleasant environment and sensory stimulation;

K H. cognitives such as puzzles and shape sorters cognitive equipment, two per child;

L I. sensory stimulation items, two per child;

M J. washable, soft toys, dolls and doll clothes, one per child; and

N K. sand, water, or grain play and exploration equipment and accessories; play dough or clay; one piece of equipment and two accessories per residence; and

O. child-sized tables and chairs; one chair per child.

Subp. 8. Preschooler activities. The provider shall provide each preschooler with daily activities that foster physical, mental, emotional, and social growth:

A. Each of the following activities must be done daily. The caregiver shall:

(1) Interact and show affection toward each child by talking, listening, and hugging. Conversation must be encouraged between the child and other children and adults.

(2) B. Provide opportunity to play near and with other children; provide time and space for individual and group play; allow for quiet times to talk or rest; allow for unplanned time and individual play time.

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(3) C. Foster understanding of personal and peer feelings and actions and allow for the constructive release of feelings and anger through discussion or ~~therapeutic play activities such as clay, drawing, water, or dramatic play.~~

(4) D. Give assistance in toileting and provide time to carry out self-help skills ~~such as dressing, washing, toileting, and setting the table;~~ and provide opportunity to be responsible for activities like putting away play equipment and helping around the house.

(5) E. Provide opportunity for each child to make decisions about daily activities and to take credit for the consequences of decisions.

~~B. The following activities shall be done daily except when special circumstances such as field trips, illness, or emergencies occur. The caregiver shall:~~

(1) F. Provide time and areas for age appropriate large muscle play like ~~running, jumping, and riding triicycles;~~ provide for release of energy through activities such as climbing, kicking objects, bouncing or throwing games, sledding, and skating.

(2) G. Provide learning, small muscle, manipulative, creative or sensory activities ~~such as games, puzzles, coloring, discussion of the days, colors, seasons, sizes of objects, labeling and classification of objects, letters, numbers, finger plays, first aid and safety training.~~

(3) H. Read stories, look at ~~children's~~ books together, and talk about new words and ideas with the child.

Subp. 10-9. Preschooler equipment. The following minimum equipment is required for ~~preschooler~~ preschoolers:

A. mat, bed, cot, sofa, or sleeping bag, one per child;

B. art and craft supplies; ~~tempera or finger paints, paper, crayons, paste, scissors, collage materials, aprons, smocks, glue, as needed to carry out activities;~~

C. books and magazines, two per child;

D. manipulative sets equipment, ~~three~~ two per residence child;

E. creative, dramatic play items, ~~three~~ two per residence child;

F. ~~balancing items such as a board or line on the floor, one per residence;~~

G. ~~large muscele equipment such as wagons, sleds, triicycles, climbers, tunnels, or slides, one per child;~~

H. large muscle ~~accessories~~ such as balls, hoops, bean bags equipment, ~~four~~ one per residence child;

I G. music source such as radio, tape recorder, record player or instrument, one per residence with at least ten selections;

J H. ~~cognitives~~ such as puzzles, shape sorters, or number and letter games cognitive equipment, two per child;

K. ~~pictures, as needed at eye level to provide a pleasant environment and sensory stimulation;~~

L. ~~rhythm instruments, one per child;~~

M. science materials such as outdoor thermometers, bug boxes, magnets, or magnifying glasses, two per residence;

N I. sand, grain, or water play and exploration equipment and accessories, ~~clay, or play dough, one piece of equipment and two accessories per residence;~~

O J. sensory stimulation items, two per child;

P K. washable, soft toys, dolls, one per child; and

Q L. social board or card games, three per residence; and

R. ~~child-sized tables and chairs, one chair per child.~~

Subp. 11 10. School-age activities. The provider shall ~~provided~~ each school-age child with activities that foster physical, mental, emotional, and social growth:

A. ~~The following activities shall be done daily with school-age children. The provider shall:~~

(1) provide opportunities for individual discussion about the happenings of the day and planning for activities ~~considering~~ parents' instructions;

(2) B. provide space and opportunity for games, activities, or sports using the whole body, outdoors, weather permitting;

(3) C. provide space and opportunity for individual rest and quiet time;

(4) D. allow increased freedom as the child demonstrates increased responsibility-

~~B. The following activities shall be done weekly with school-age children. Written permission must be obtained from the~~

parents to allow school-age children in care to participate in activities outside the residence, such as special interest groups, clubs, biking with friends, or to attend recreation programs. The provider shall:

- (1) E. provide opportunities for group experiences with other children;
- (2) F. provide opportunities to develop or expand self-help skills or real-life experiences; and
- (3) G. provide opportunities for creative and dramatic activity, arts and crafts, or field trips.

Subp. 11. School-age equipment. The following minimum equipment is required for school-age activities:

- A. books and magazines, two per child;
 - B. toys and equipment required for preschool children when age appropriate;
 - C. social board and or card games, strategy and skill games designed for the school-age child, four one per residence child;
- and
- D. construction materials and sets using interlocking plastic, metal, or wooden pieces designed for the school-age child, two per residence.

Subp. 12. Written permission. Written permission must be obtained from the parent to allow a school-age child in care to participate in activities outside the residence.

9545.0425 PHYSICAL ENVIRONMENT.

Subpart 1. Indoor space. The licensed capacity of the day care residence must be limited by the amount of usable indoor space available to children. A minimum of 35 square feet of usable indoor space is required per child.

A. Usable indoor space is the floor space used for the children's program and activities during the day. Bathrooms and space occupied by major appliances and adult furniture may not be counted as useable indoor space. Bathrooms, closets, space occupied by major appliances, and other space not used by children may not be counted as usable space. Space occupied by adult furniture, if it is used by children, may be counted as usable indoor space.

Subp. 2. Outdoor play space. There must be an outdoor play space of at least 50 square feet per child in attendance, adjacent to the residence, for regular use, or a park, playground, or play space within 1,500 feet of the residence. On-site supervision must be provided by a caregiver for children of less than school age when play space is not adjacent to the residence. Enclosure may be required by the agency to provide protection from rail, traffic, water, or machinery hazard. The area must be free of litter, rubbish, ~~flammable~~ or toxic materials, water hazards, machinery, unlocked vehicles, human or animal wastes, and sewage contaminants.

Subp. 3. Water hazards. Swimming and wading pools, ~~fish ponds, irrigation ditches~~ beaches, or other bodies of water on or adjacent to the site of the residence must be inaccessible to children except during periods of supervised use. Wading pools, as defined in chapter 4717, must be kept clean. When children use a public swimming pool, as defined in chapter 4717, or beach, a certified water safety instructor or attendant trained in first aid and resuscitation shall be present. Any public swimming pool, as defined in chapter 4717, used by children must meet the requirements of the local department of public health chapter 4717.

Subp. 4. Care on street floor level of exit discharge. In group family day care, whenever an infant is present and there is only one adult, the infant shall be housed on a floor or level with an exit door or stairway leading directly to the finished surface of the ground, paving, or sidewalk unless the adult is on the same level as the infant.

Subp. 5. Means of escape. On From each level room of the residence used by children, there must be two means of escape. One means of escape must be a stairway or door leading to the floor of exit discharge. The other must be a door or window leading directly outside. The window must be openable without special knowledge. It must have a clear opening of not less than 5.7 square feet and have a minimum clear opening dimension of 20 inches wide and 24 inches high. The window must be within 48 inches from the floor. If the distance from the floor to the window is more than 24 inches, a permanently-positioned platform must be located not more than 24 inches under the window.

Subp. 6. Separations. Day care residences with an attached garage must have a self-closing, tight-fitting solid wood bonded core door at least 1-3/8 inch solid core door thick, or door with a fire protection rating of 20 minutes or greater and a separation wall consisting of half-inch 5/8 inch thick gypsum board wallboard or its equivalent on the garage side between the residence and garage.

Subp. 7-6. Fire doors. For group family day care homes, a 1-3/4 inch solid wood core door or a door and frame with at least a

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20-minute fire protection rating, must be provided whenever more than two levels floors of the residence are connected. These doors must be equipped with self-closing devices.

Subp. ~~8-7~~. Heating and venting systems. The following heating and venting guidelines must be met:

Subp. ~~9-8~~. Temperature. A minimum temperature of ~~68~~ 62 degrees Fahrenheit must be maintained in indoor areas used by children.

Subp. ~~10-9~~. Sleeping space. There must be a safe, comfortable sleeping space for each child under school age. A crib, or portable crib, or playpen with waterproof mattress or pad must be provided for each infant and toddler or newborn in care. The equipment must be of safe and sturdy construction which conforms to volume 16, parts 1508 to 1508.7 and parts 1509 to 1509.9 of the Code of Federal Regulations, its successor, or have a bar, mesh, or rail pattern such that a 2-3/8 inch diameter sphere cannot pass through. Playpens with mesh sidings must not be used for the care of sleeping of infants or newborns.

Subp. ~~11-10~~. Stairways. All stairways must meet the following conditions.

B. ~~The~~ Any open area between the handrail and stair tread must be enclosed with a protective guardrail not less than 42 inches high and with a rail or pattern such that a 4-1/2 inch diameter sphere cannot pass through, on stairways of three or more steps used by children as specified in the Uniform Building Code. The back of the stair risers must be enclosed.

Subp. ~~12-11~~. Decks. Decks, balconies, or lofts used by children more than 24 30 inches above the ground or floor must be surrounded by a protective guardrail not less than 42 inches high, and have a rail or pattern such that a 4-1/2 inch diameter sphere cannot pass through. Decks must and be constructed in accordance with the State Uniform Building Code. Wooden decks must be free of splinters and coated with wood preservative, paint, or constructed with treated wood.

Subp. ~~13-12~~. Locks and latches. Door locks and latches must meet the following guidelines:

C. double cylinder (key required both sides) locks on exit doors must be unlocked at all times children are in care prohibited.

Subp. ~~14-13~~. Sewage disposal. Day care residences must have toilet facilities and sewage disposal systems that conform to the State Uniform Building Code or local septic system ordinances. The toilets must flush thoroughly. Outdoor toilets are permissible when local ordinances allow.

Subp. ~~15-14~~. Construction, remodeling. During construction or remodeling, children shall not have access to dangerous construction or remodeling areas within or around the residence.

Subp. ~~16-15~~. Interior walls and ceilings. The interior walls and ceilings within the residence, as well as corridors, stairways, and lobbies must have a 200 flame spread rating of 200 or less.

Subp. ~~17-16~~. Extinguishers. A portable, operational, multi-purpose, dry chemical fire extinguisher with a minimum 2 A 10 BC rating must be maintained in the kitchen and cooking areas of the residence at all times. All caregivers shall know how to use the fire extinguisher.

Subp. ~~18-17~~. Smoke detection systems. Smoke detectors that have been approved listed by the Underwriter Laboratory must be properly installed and maintained on all levels where children are in care.

Subp. ~~19-18~~. Electrical services. The following electrical guidelines must be met:

C. receptacles and outlets serviced by extension cord wiring are prohibited extension cords shall not be used as a substitute for permanent wiring; extension cords and flexible cords shall not be affixed to structures, extended through walls, ceilings, floors, under doors or floor coverings, nor be subject to environmental damage or physical impact; and

9545.0435 SANITATION AND HEALTH.

Subp. 8. Emergencies. The provider shall be prepared for emergencies.

F. The provider shall have a written fire escape plan and a log of monthly fire and storm drills on file in the residence. The plan must be approved by the agency and specify:

(4) plans for monthly fire and tornado drill sessions, and practice sessions when a new child is enrolled in care; and

Subp. 9. Transportation of children. When transportation is given to children, the following provisions for their safety must be made.

A. When transporting a child who is four years old or younger or who weighs less than 40 pounds, the child shall be secured by a child restraint system that meets the federal motor vehicle safety standard, number 213, Code of Federal Regulations, title 49, section 571.213, or its successor A child under the age of four may be transported in a motor vehicle which is equipped with factory-installed seat belts only if the child is securely fastened in a child passenger restraint system which meets the requirements of Minnesota Statutes, section 169.685 for transporting a child in his or her parent's own car.

B. A child being transported in a motor vehicle which is equipped with factory-installed seat belts shall use an approved a safety seat, seat belt, or harness appropriate to the child's weight.

Subp. 12. Pets. All pets housed within the residence shall be maintained in good health and limited to dogs, cats, fish, guinea pigs, gerbils, rabbits, hamsters, rats, ~~and mice,~~ and birds. The provider shall ensure that:

- E. ~~pet cages are constructed with waterproof materials that are easy to clean;~~
- F. ~~cages, except an aquarium containing fish, are cleaned weekly and only with caregiver supervision;~~
- G. ~~food is available daily for the pet;~~
- H. ~~questions about pet illness and parasites are referred to a veterinarian;~~
- I. ~~all animal waste material is disposed of in a sealed, moisture resistant container stored away from areas used by children or for food storage, preparation, or serving;~~
- J. ~~caregivers and children wash their hands with soap and water after contact with pets or pet materials;~~
- K. ~~play areas are free of animal excrement not confined to pet cages; and~~
- L F. ~~parents of a child whose skin is broken by an animal bite or scratch, are notified of the injury on the day the injury occurs; and~~

G. the health officer is immediately notified whenever a child in care is bitten by an animal, the notification shall be given before any steps are taken to destroy the animal, and the provider shall take reasonable steps to confine the animal.

Subp. 13. Diapers. Children in diapers shall be kept clean and dry. The following sanitary procedures must be used.

A. An adequate supply of clean diapers must be available for each child and stored in a clean place ~~out of reach of~~ inaccessible to children. If cloth diapers are used, parents must provide a change of the outer plastic pants for each fecally-soiled diaper change. Cloth diapers, except those supplied by a commercial diaper service, and plastic pants, if supplied by parents, must be labeled with the child's name.

F. Cloth diapers, except those supplied by a commercial diaper service, plastic pants, and soiled clothing must be placed in the plastic bag after removal and sent home with the parent daily.

G. ~~A container must be designated for washing the diaper changing area. All rinse water must be discarded after each diaper change.~~

Subp. 16. Care of ill children, medicine administration. The following provisions must be followed for the care of ill children and the administration of medicine.

C. The provider shall follow written instructions from the parent of an ill child placed in the provider's care with any of the ~~symptoms specified in item B or the illnesses specified in subitems (1) to (9) item F.~~

- (1) ~~conjunctivitis;~~
- (2) ~~streptococcal infections;~~
- (3) ~~viral hepatitis;~~
- (4) ~~measles and rubella;~~
- (5) ~~mumps;~~
- (6) ~~pertussis (whooping cough);~~
- (7) ~~chicken pox;~~
- (8) ~~lice, scabies, or impetigo; and~~
- (9) ~~influenza.~~

D. The provider shall require that a child's parent notify the provider within 24 hours of the diagnosis of a serious contagious illness or parasitic infestation listed in item F so the provider may notify the parents of other children in care. ~~Contagious serious illness or parasitic infestation shall mean lice, scabies, impetigo, conjunctivitis, streptococcal infections, viral hepatitis, measles and rubella, mumps, tuberculosis, pertussis, bacterial meningitis, pneumonia, epiglottitis, cellulitis, bronchiolitis, and diarrhea.~~

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E. The provider shall inform ~~all parents~~ a parent of each exposed ~~children~~ child the same day the provider is notified a positive diagnosis has been made for any of the illnesses or parasitic infestations in item ~~D~~ E.

F. The provider shall notify the ~~local~~ health officer or Minnesota Department of Health of any suspected case of reportable disease as specified in part 4605.0200. The agency shall provide the provider with a copy of part 4605.0200 at the time of initial licensure.

9545.0445 WATER, FOOD, AND NUTRITION.

Subpart 1. Water. There must be a safe water supply in the residence.

A. Water from privately-owned wells, must be tested annually by ~~the~~ a Minnesota Health Department ~~or a Minnesota Environmental Protection Agency certified~~ certified laboratory for coliform bacteria and nitrate nitrogens to verify safety. The provider shall file a record of the test results with the agency. Retesting and corrective measures may be required by the agency if results exceed state drinking water standards or where the supply may be subject to off-site contamination.

Subp. 3. Meals and snacks. ~~The provider's plans for~~ Well-balanced meals and snacks must be ~~posted, followed, and~~ offered daily.

REPEALER. Minnesota Rules, parts 9545.0310, 9545.0320, 9545.0330, 9545.0340, 9545.0350, 9545.0360, 9545.0370, 9545.0380, 9545.0390, 9545.0400, 9545.0410, 9545.0420, 9545.0430, 9545.0440, and 9545.0450, are repealed, except for providers who are licensed under those parts. As to those providers, parts 9545.0310, 9545.0320, 9545.0330, 9545.0340, 9545.0350, 9545.0360, 9545.0370, 9545.0380, 9545.0390, 9545.0400, 9545.0410, 9545.0420, 9545.0430, 9545.0440, and 9545.0450 are repealed ~~six months~~ one year after the notice of adoption of parts 9545.0315 to 9545.0445 is published in the *State Register*.

EFFECTIVE DATE. Parts 9545.0315 to 9545.0445 take effect five days after the notice of adoption is published in the *State Register*, except for providers who are licensed on that date under parts 9545.0310 to 9545.0440. As to those providers, parts 9545.0315 to 9545.0445 take effect six months after the notice of adoption is published in the *State Register* or on the first date the provider's license is renewed after the notice of adoption is published in the State Register, whichever is later, except that parts 9545.0365 and 9545.0367 shall be construed not to require the exclusion from the day care facility of any child who is receiving care on the date that the notice of adoption is published in the State Register.

Pollution Control Agency

Adopted Rules Governing Manifests for Transportation of Hazardous Wastes

The rules proposed and published at *State Register*, Volume 9, Number 19, pages 985-988, November 5, 1984 (9 S.R. 985) 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 Labor and Industry Code Enforcement Division

Outside Opinion Sought Regarding Rules Governing Inspection and Operation of Boats, Boilers and Pressure Vessels, and Licensure of Engineers and Pilots

Notice is hereby given that the Minnesota Department of Labor and Industry, Code Enforcement Division, is seeking information or opinions from sources outside the agency in preparing proposed amendments to rules governing inspection and operation of boats, boilers and pressure vessels, and licensing of engineers and pilots. The promulgation of these rules is authorized by Minn. Stat. § 183.44, Subd. 2 (1984).

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

Charles Curren, Assistant Commissioner
Department of Labor & Industry
4th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101

Any written material received by the Minnesota Department of Labor and Industry, Code Enforcement Division, shall become part of the record in the event that amendments to the rules are adopted.

Oral statements will be received during regular business hours over the telephone at (612) 296-6529 and in person at the above address.

Information and opinions will be accepted until April 30, 1985.

March 15, 1985

Steve Keefe, Commissioner of the
Department of Labor and Industry

Metropolitan Council

Public Hearing Amending the Recreation Open Space Development Guide by Changing the Capital Improvement Program for Acquisition and Development in Regional Recreation Open Space

The Metropolitan Council will conduct a public hearing on Monday, April 15, 1985 at 4 p.m. in Conference Room E of the Metropolitan Council offices, 300 Metro Square Building, St. Paul, Minnesota 55101, to receive comments on a proposed revision to the Capital Improvement Program for Regional Recreation Open Space. The proposal would change \$1,620,000 allocated in the current plan for acquisition in Central Mississippi Riverfront Regional Park by the Minneapolis Park and Recreation Board to a new allocation in Central Mississippi Riverfront Regional Park for development of park facilities by Minneapolis Park and Recreation Board.

All interested persons are encouraged to comment on the amendment. Persons may register to speak by contacting the Council's public hearing coordinator at 291-6521. Copies of the staff report, including Metropolitan Parks and Open Space Commission and Metropolitan Systems Committee actions on the proposed amendment, are available free of charge from Council's Communications office at 291-6464, beginning March 18, 1985. Copies are also available for public inspection beginning March 20 at the following locations:

Metropolitan Council Library
300 Metro Square Building
St. Paul Minnesota 55101

Minneapolis Public Library
Government Documents Room
300 Nicollet Mall
Minneapolis Minnesota 55401

St. Paul Public Library
Science and Industry Room
90 West Fourth Street
St. Paul, Minnesota 55102

Anoka County Library—Blaine Branch
707 Highway 10
Blaine, Minnesota 55434

Carver County Library—Chaska Branch
314 Walnut Street
Chaska, Minnesota 55318

Sandra S. Gardebring, Chair
Metropolitan Council

Dakota County Library—Burnsville Branch
1101 West County Road 42
Burnsville, Minnesota 55337

Hennepin County Library—Southdale Branch
7001 York Avenue
Edina, Minnesota 55435

Ramsey County Library—Roseville Branch
2180 North Hamline Avenue
Roseville, Minnesota 55113

Scott County Library—Shakopee Branch
235 South Lewis Street
Shakopee, Minnesota 55379

Washington County Library—Park Grove Branch
7520 - 80th Street South
Cottage Grove, Minnesota 55106

OFFICIAL NOTICES

Metropolitan Council

Draft Public Hearing Schedule Recreation Open Space Capital Improvement Program Amendment

(Central Mississippi Riverfront Regional Park, Minneapolis Park and Recreation Board)

February 25	Metropolitan Parks and Open Space Commission recommends Metropolitan Council set public hearing.
March 11	Metropolitan Systems Committees reviews commission action and recommends hearing date of April 15, 1985.
March 14	Metropolitan Council action.
March 15	Notice of Hearing published.
April 15	Public Hearing, 4 p.m., Conference Room E, before Metropolitan Systems Committee.
April 29	Hearing record closes.
May 13	Metropolitan Parks and Open Space Commission receives staff response to hearing and takes action on revised Capital Improvement Program.
May 20	Metropolitan Systems Committee reviews commission action and makes recommendation to Council.
May 30	Metropolitan Council adoption of revised Capital Improvement Program.

Department of Public Safety Fire Marshal Division

Outside Opinion Sought Regarding Proposed Rules Governing Amendments to the Uniform Fire Code

Notice is hereby given that the Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to amend existing rules governing Amendments to the Minnesota Uniform Fire Code.

The promulgation of these rules is authorized by Minnesota Statutes section 299F.011, which requires the agency to adopt fire safety standards.

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

Uniform Fire Code
Richard Larson
State Fire Marshal Division
1246 University Ave.
St. Paul MN 55104

Oral statements will be received during regular business hours over the telephone at 612-296-7641 and in person at the above address.

All statements of information and comment shall be accepted until May 3, 1985. Any written material received by the Department of Public Safety shall become part of the rulemaking record in the event that the rules are promulgated.

Paul J. Tschida
Commissioner of Public Safety

Teachers Retirement Association

Meeting Notice, Board of Trustees

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Friday, April 12, 1985, at 9 a.m. in Room 302, Capitol Square Building, 550 Cedar Street, St. Paul Minnesota to consider matters which may properly come before the Board.

Department of Transportation

Petition of Cass County for a Variance from State Aid Standards for Administrative Operating Procedures on Plans and Estimates

Notice is hereby given that the County Board of Cass 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 C.S.A.H. 203 from Washburn Avenue to First Avenue.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.2800 Subp. 2 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit payment with County State Aid Highway funds on a construction project not approved by Mn/DOT prior to the award of contract.

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.

March 13, 1985

Richard P. Braun
Commissioner of Transportation

Department of Transportation

Petition of the City of Coon Rapids for a Variance from State Aid Standards for Street Width

Notice is hereby given that the City Council of Coon Rapids has made a written request to the Commissioner of Transportation pursuant to Minnesota Rules § 8820.3300 for a variance from minimum standards to rescind a no-parking restriction on M.S.A.S. 114 (Foley Boulevard) from C.S.A.H. 11 to T.H. 242.

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 52 foot street width with two parking lanes instead of the required 72 foot street width.

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

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

March 13, 1985

Richard P. Braun
Commissioner of Transportation

OFFICIAL NOTICES

Department of Transportation

Petition of Yellow Medicine County for a Variance from State Aid Standards for Design Speed

Notice is hereby given that the County Board of Yellow Medicine 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 resurfacing project on C.S.A.H. 17 from 500 feet East of First Street in Hazel Run to C.S.A.H. 43.

The request is for a variance from Minnesota Rules for State Aid Operations § 8820.9914 adopted pursuant to Minnesota Statutes Chapters 161 and 162, so as to permit design speeds of 30 and 35 instead of required 40 miles per hour.

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.

March 13, 1985

Richard P. Braun
Commissioner of Transportation

Department of Transportation Technical Services Division

Appointment and Scheduled Meeting of a State Aid Standards Variance Committee

Notice is hereby given that the Commissioner of Transportation has appointed a State Aid Standards Variance Committee who will conduct a meeting on Thursday, March 28, 1985 at 9:00 a.m. in Room 410A, State Transportation Building, John Ireland Boulevard, St. Paul, Minnesota.

This notice is given pursuant to Minnesota Statute § 471.705.

The purpose of the open meeting is to investigate and determine recommendation(s) for variances from minimum State Aid roadway standards as governed by Minnesota Rules for State Aid Operations § 8820.3400 Subp. 3 adopted pursuant to Minnesota Statutes Chapters 161 and 162.

These additional requests have been added to the agenda since the schedule of March 5, 1985:

1. Petition of the City of Burnsville for a variance from Standards for design speed on M.S.A.S. 113 (Southcross Drive) from Burnhaven Drive to C.S.A.H. 5.
2. Petition of the City of Coon Rapids for a variance from Standards for street width (2 parking lanes) on M.S.A.S. 114 (Foley Boulevard) from C.S.A.H. 11 to T.H. 242.
3. Petition of the County of Cass for a variance from Standards for administrative operating procedure on plans and estimates on C.S.A.H. 203 in Backus from Washburn Avenue to First Avenue.

The cities and counties listed above are requested to follow the following time schedule when appearing before the Variance Committee:

1:40 P.M. - Burnsville
2:00 P.M. - Coon Rapids
2:20 P.M. - Cass County

March 13, 1985

Richard P. Braun
Commissioner of Transportation

Board of Vocational Technical Education

Public Hearing about Proposed Minnesota State Plan for Vocational Technical Education

Notice is hereby given that a public hearing will be held on the Proposed State Plan for Vocational Technical Education in Conference Room D of the Veterans Service Building, 20 W. 12th St., St. Paul, Minnesota, 55155, on Monday, April 8, 1985, commencing at 9:00 a.m. and continuing until all interested or concerned persons have had an opportunity to participate.

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 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Contract Management Division

Request for Proposals for Court Reporting and Transcription Services

The Minnesota Department of Administration is acting as contracting agent for State departments and agencies that have a need for:

1. Court reporting services to provide an accurate and verbatim record of proceedings and depositions required by state and federal law, and
2. Transcription services to prepare an accurate and verbatim typewritten record from proceedings recorded on single track or four track audio magnetic recording devices; such as 5" reel-to-reel tapes and standard cassette tapes.

All state agencies needing one or both of these services will be required to use the contracts resulting from this proposal. Some of the state agencies having a need for the services are the Attorney General's Office, Office of Administrative Hearings (Administrative Procedure Act and Workers' Compensation Law hearings), Department of Labor and Industry, Tax Court, Public Utilities Commission, Department of Public Service, Environmental Quality Board, Pollution Control Agency, Mediation Services, Human Services, Transportation and Economic Security.

IT IS UNLIKELY THAT WE WILL BE SOLICITING ADDITIONAL PROPOSALS DURING FISCAL YEAR 1986.

Additional information on the requested services will be included in the Request for Proposal which will be sent to all persons or associations who ask to receive one. Persons or associations desiring to receive a Request for Proposal must request one by notifying Dennis Reek, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7643, no later than 4:30 p.m., April 19, 1985. Final proposals must be returned to the Office of Administrative Hearings at the above address by 4:30 p.m., Friday, April 26, 1985.

STATE CONTRACTS

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
27-156-43530	Repair and Overhaul of Trane Compressor	Normandale Community College	Bloomington	Contact buyer
79-500-02818	PBX Telephone System	Transportation	Minneapolis	Contact buyer
Various	1st Aid Kits & Supplies	Various	Various	Contact buyer
79-000-46564	Airfield Runway Paint	Transportation	St. Paul	Contact buyer
67-240-10420	PBX Telephone System	Revenue	St. Paul	Contact buyer
Contract	Rubbish Disposal	MN Zoological Garden	Apple Valley	Contact buyer
Contract	Bar Code Labels	Various	Various	Contact buyer
29-002-10402	All Terrain Vehicles	Natural Resources	Grand Rapids	Contact buyer
78-620-20761	Gear Boxes	MN Correctional Facility	Stillwater	Contact buyer
79-000-46592	Radio Programmer	Transportation	St. Paul	Contact buyer
79-450A	Aggregates	Transportation	Detroit Lakes	Contact buyer
29-000-36966, etc.	Chain Saws	Natural Resources	Various	Contact buyer
29-000-37481, etc.	Aluminum Boats	Natural Resources	Various	Contact buyer
79-500B	Hot Mix Bituminous	Transportation	Minneapolis	Contact buyer
79-900-RM	Ready Mix Concrete	Transportation	N. St. Paul	Contact buyer
Sch. 196-AC Contract	Automotive Type V Belts	Various	Various	\$4,000-\$6,000
79-500-A	Aggregates	Transportation	Golden Valley	Contact buyer
79-900-B	Hot Mix Bituminous	Transportation	N. St. Paul	Contact buyer
78-770-02050	PBX Telephone System	MN Correctional Facility	Sauk Centre	Contact buyer
Contract	Air Conditioner, Window Mounted	Various	Various	\$40,000-45,000
Rebid	Repair Printing Press	MN Correctional Facility	Lino Lakes	Contact buyer
78-550-04771				
29-000-37259, etc.	Boat Trailers	Natural Resources	Various	Contact buyer
Contract	Industrial Wrenches, Sockets, Tools & Tool Boxes	Various	Various	Contact buyer
79-000-46486	Painting of Radio Towers	Transportation	St. Paul	Contact buyer
27-143-43962	Purchase Combination Minn. Draft and Design Pro System	Hibbing Community College	Hibbing	Contact buyer
29-002-10552	Trailer	Natural Resources	Grand Rapids	Contact buyer
78-830-07396	Nosings	MN Correctional Facility	St. Cloud	Contact buyer
Contract	Federal Signal Vehicle Warning Lights (Parts only)	Transportation	Various	Contact buyer
Contract	Laundry-Chemical (Liquid) Dispensing Equipment & Service	Cambridge State Hospital	Cambridge	Contact buyer
26-073-17308	Motorcycles	St. Cloud State University	St. Cloud	Contact buyer
02-310-13668	Transfer Switches	Administration	St. Paul	Contact buyer
Contract	Rubbish Disposal	MN Correctional Facility	Sauk Centre	Contact buyer
79-500-02819	Energite Barrier	Transportation	Minneapolis	Contact buyer
07-100-33549, 6758	Motorcycle Outdoor Bd. 21'7" x 9'7"	Outdoor Advertising	Various	Contact buyer
29-007-32750	Lumber	Natural Resources-Northern Service Center	Grand Rapids	Contact buyer

STATE CONTRACTS

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
79-000-46600	Traffic Recorder	Transportation	St. Paul	Contact buyer
55-000-90891, 6860	F.S. Notice of Decision	Human Services	St. Paul	Contact buyer
26-073-17398	Pool Lift	St. Cloud State University	St. Cloud	Contact buyer
Contract	35mm Film Processing & Supplies for DOT Photolog Inventory	Transportation	Various	\$15,000-25,000
22-400-6938, 00812	Explore MN Overtures	Tourism	St. Paul	Contact buyer
29-000-37554	Aluminum Outboard Runabout Boat	Natural Resources	St. Paul	Contact buyer
02-511-6504, 41523	Employee's Bi-Weekly Time Book	Administration—Central Stores	St. Paul	Contact buyer
29-000-46607	100 Hr. Maint. on Baron Aircraft 1 Cont. Remfg. Engine	Transportation—Aeronautics	St. Paul Airport	Contact buyer
29-000-37442	Purchase of Computer & Accessories	Natural Resources—Engineering	St. Paul	Contact buyer

Contact 296-6152 for referral to specific buyers.

Office of Administrative Hearings

Request for Proposals for Administrative Law Judge Services

The Minnesota Office of Administrative Hearings will be contracting with qualified attorneys to serve as administrative law judges for fiscal year 1986, beginning July 1, 1985, and ending on June 30, 1986.

Attorneys must be admitted to practice law in the State of Minnesota at the time they apply. Remuneration for contractual hearing examiners is \$40.00 per hour. Additional information on the requested services is detailed in the Request for Proposal which will be sent to all persons who ask to receive one. Persons desiring to receive a Request for Proposal must request one by notifying Duane R. Harves, Chief Administrative Law Judge, Office of Administrative Hearings, 400 Summit Bank Building, 310 Fourth Avenue South, Minneapolis, Minnesota 55415, telephone 612/341-7640 no later than 4:30 p.m. on Friday, April 19, 1985. Final proposals must be received by the Office of Administrative Hearings by 4:30 p.m. on Friday, April 26, 1985.

Department of Economic Security

Deadline Changed for Request for Proposals for MCADS Technical Assistance

The deadline for submitting proposals has been changed from March 18, 1985 to March 29, 1985. The RFP was announced March 11, 1985 on page 2016 of the *State Register*.

Mary Ellen Hennen
 Rules Coordinator
 Management Services Unit
 Office of Budget and Management
 Department of Economic Security

Department of Energy and Economic Development Energy Finance Division

Request for Proposals for Conference Planning

The Energy Finance Division of the Minnesota Department of Energy and Economic Development is requesting proposals from Conference and Seminar Planners and Consultants to plan a seminar for Business Energy Finance.

The purpose of the seminar will be to provide information to Minnesota businesses about finance programs available for public and private energy-related capital projects.

The consultant selected will be responsible for providing the following services:

- developing an agenda
- selecting or identifying a conference site
- recommend workshop topics and materials
- identifying workshop speakers
- preparing a mailing list of seminar participants
- develop a conference budget

Some of the topics the seminar should include are:

- developing a business plan
- investment opportunities for energy projects
- marketing for small business
- public and private partnerships
- types of financial assistance available
- evaluation and structuring project financing

The audiences for the workshop will be financial institutions, industrial and commercial sector businesses and energy related small businesses.

The contract will be for up to \$5,000.00. Please submit a proposal that restates seminar objectives, experience with conference planning, and ability to work with the target audience for this conference.

Proposals must be submitted by April 15, 1985. Services must be available upon request from April 25, 1985 through June 30, 1985.

Contractors must apply for a Certificate of Compliance from the Minnesota Department of Human Rights. Applications can be obtained by written request from the Minnesota Department of Human Rights, Fifth Floor, Bremer Building, St. Paul, MN. 55101. All contract bids must include a statement indicating that the bidder has applied for the certificate.

All questions related to this notice and all proposals should be directed to:

Mary Turner
Energy Finance Division
Department of Energy and Economic Development
900 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota 55101
(612) 297-4297

Department of Health

Grant Funds Available for Programs for Maternal and Child Health, Native Americans, Migrants, Refugees

The Minnesota Department of Health will have special funds available for the 1986-1987 biennium in the following grant programs: Special Supplemental Food Program for Women, Infants and Children (WIC); Family Planning; Maternal and Child Health; Cardiovascular Risk Reduction; Native American Health; Migrant Health; and Refugee Health.

Purpose, Scope, and Eligibility.**SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS AND CHILDREN (WIC).**

The WIC Program is a Federally-funded grant program administered through the Minnesota Department of Health; grants are made available to qualified local agencies to deliver program services. WIC provides vouchers for the purchase of specified nutritious food supplements and nutrition education services to pregnant, post partum and nursing women, and to infants and children up to five years of age who are judged by health professionals to be at nutritional risk and who have family incomes at or below 185 percent of poverty income guidelines prescribed by the United States Department of Health and Human Services. The WIC Program serves as an adjunct to good health care during critical times of growth and development, in order to prevent the occurrence of health problems and to improve the health status of these persons.

The types of local agencies which may apply for the WIC Grant are listed as follows in order of their priority for application approval established by Federal Rule:

—First consideration is given to a public or private nonprofit health agency which can provide ongoing, routine pediatric and obstetric care, and administrative services.

—Second consideration is given to a public or private nonprofit health or human service agency that must enter into a written agreement with another agency for either ongoing, routine pediatric and obstetric care, or administrative services.

—Third consideration is given to a public or private nonprofit health agency that must enter into a written agreement with private physicians, in order to provide ongoing, routine pediatric and obstetric care to a specific category of participants—women, infants or children—or to participants not eligible for health services at the local agency.

—Fourth consideration is given to a public or private nonprofit human service agency that must enter into a written agreement with private physicians, in order to provide ongoing, routine pediatric and obstetric care.

—Fifth consideration is given to a public or private nonprofit health or human service agency that must provide ongoing, routine pediatric and obstetric care through referral to a health provider. Such agencies must have a plan for continued efforts to make health services available by April 1, 1986 to participants at the agency or through written agreements with health care providers.

The priority system applies regardless of whether the applicant is a first time applicant, or has previously applied for or administered the WIC program.

Whenever two or more agencies apply to serve the same geographic area or special population, the priority system described above shall apply. When there are competing health service agencies, priority will be given to a Community Health Service Agency, and next to a private, non-profit health agency. When competing agencies are of the same priority, their performance record, if any, must be taken into consideration. When competing agencies are not of the same priority, and the higher priority agency previously administered the WIC program and has a poor performance record, the program will be awarded to the lower priority agency.

If additional information or revisions are needed to the application after it is submitted, a request will be made within 15 days of receipt. A complete, correct application must be received within 15 days of the date of the request, if two or more agencies have applied to serve the same geographic area or special population; if only one agency has applied, a complete, correct application must be received within 30 days of the date of the request. Applications which are not complete and correct at the specified deadline will not be considered.

FAMILY PLANNING SPECIAL PROJECT.

Family Planning is voluntary planning and action by individuals to attain or prevent pregnancy. Family Planning Special Project Grants will be made available on a competitive basis to local government agencies and non-profit corporations to continue or develop pre-pregnancy family planning services for Minnesota residents in accordance with the Family Planning Act (Minn. Stat. 145.925) and the Family Planning Rule (Minn. Rule Parts 4700.1900-4700.2500). Special consideration will be given to agencies proposing to serve populations at risk to unplanned pregnancy and/or at risk to high risk pregnancies.

For the two-year program period 1986 and 1987, award priority will be given to agencies whose applications meet the Criteria for Award of Family Planning Special Project Grants found in the Family Planning Rule (4700.2300) and propose all family planning components in counties with no family planning services as of December 31, 1978, (4700.2300 Subp. 2). All other agency applications' recommended budgets shall be funded in rank order based on the criteria for award (4700.2300) as funds are available (4700.2400 Subp. 1-3).

The 1986 and 1987 annual awards to 1985 recipients of Family Planning Special Project funds shall not exceed \$30,000 or 4% more than the 1985 award, whichever is greater. The 1986 and 1987 annual awards to agencies not receiving FPSP funds in 1985 shall not exceed \$30,000.

STATE CONTRACTS

In addition, however, one project of statewide significance to provide a statewide, toll-free family planning hotline is being solicited. Up to \$30,000 is available annually for this statewide project and limitations relative to previous receipt of funds do not apply.

MATERNAL AND CHILD HEALTH SPECIAL PROJECT.

The purpose of the Federal Maternal and Child Health Special Project Block Grant Program (Title V, SSA) is to assure that mothers and children, particularly those at low income or those considered at high risk because they have a condition which significantly increases the probability of disease, injury, death, or other adverse health-related problems, have access to quality maternal and child health services. The program includes services for reduction of infant mortality, reduction of preventable diseases, meeting the health needs of children with handicapping conditions, and promoting the health of mothers and children—particularly those with greatest need. Current priorities for funding are prenatal, delivery and postpartum care; comprehensive health care for children, especially from birth through five years of age; adolescent health services; family planning services; preventive dental care; special services for chronically ill and handicapped children; and any other services which promote the health of mothers and children. Maternal and Child Health Special Project grants are currently made available to local government agencies and non-profit organizations to provide, plan and/or develop maternal and child health services for Minnesota residents. The Minnesota Legislature is reviewing the MCH Grants Program during the 1985 Session. Information will be provided as soon as possible on any changes which occur as a result of this review.

CARDIOVASCULAR RISK REDUCTION COMMUNITY PROJECT.

The Cardiovascular Risk Reduction Grant Program has been developed to expand the former Hypertension Special Projects Grants Program to include other major cardiovascular disease risk factors: smoking, nutrition and dietary patterns, as well as hypertension, which interact to increase an individual's and/or a community's risk of cardiovascular disability and death. The purpose of the grant program is to fund Cardiovascular Risk Reduction Community Projects which address intervention directed to two or more of these major cardiovascular disease risk factors in adult groups. These projects will be demonstration in nature and will include indepth training and planning during the first year of the project. A comprehensive evaluation will be central to these projects and will attempt to ascertain the effect of the program on behavior change and actual risk reduction (e.g., smoking cessation, weight loss) in individuals and communities. Eligible applicants are Community Health Services Agencies and non-profit or voluntary health organizations. A limited number of projects will be funded on a competitive basis for up to a maximum of \$25,000 per year. Projects selected may be funded for up to a two-year period, based on first year progress.

NATIVE AMERICAN HEALTH.

The purpose of this program is to assist local agencies in establishing or subsidizing clinic facilities and services to provide health care for American Indians who have no established county of residency, who do not reside on Indian land, who are members of an organized tribe, band or other group of aboriginal people of the United States having a treaty relationship with the federal government and who are regarded as Native Americans by the group in which they claim membership. Eligible applicants are local boards of health.

MIGRANT HEALTH.

The purpose of this program is to fund the establishment, operation, or subsidizing of clinic facilities and services, including mobile clinics, to furnish health services for migrant agricultural workers and their families in areas of the state in which significant numbers of migrant workers are located. A "Migrant Agricultural Worker" means any individual whose principal employment is in agriculture on a seasonal basis who has been so employed within the last 24 months and who establishes for the purpose of such employment a temporary abode. 42 USCA Sec. 2546 (a)(2). Eligible applicants include cities, counties, groups of cities or counties, or non-profit corporations.

REFUGEE HEALTH.

The purpose of this program is to assist local health agencies in providing health assessments and follow-up activities to refugees for problems of public health concern. The target population is refugees as defined in Section 101(a)(42) of the Immigration and Nationality Act. Any such persons receiving this alien classification, regardless of national origin, are eligible for services under this program. Exceptions are Cubans and Haitians, who are legally classified as "entrants", and certain other refugees (mainly Soviet Jewish refugees) whose medical care and other resettlement needs are to be privately provided through a special matching grant program. Eligible applicants are community health service agencies, which are experienced in providing or facilitating health assessments and follow-up care to refugees and are located in a county which has become home to more than 400 refugees whose primary resettlement was to Minnesota in 1984. Funds will be awarded on a formula basis based on the number of refugees resettled in 1984 in the county. Each grant is not expected to exceed \$20,000 annually.

Notice of Intent to Apply for Funds.

Any organization interested in applying for funds should submit a Notice of Intent to:

Commissioner of Health
Minnesota Department of Health
717 Delaware Street S.E.
P.O. Box 9441
Minneapolis, Minnesota 55440
Attention: Grants Management, Room 232-G

The Notice of Intent must be received by the Department of Health no later than 4:30 PM, Tuesday, April 26, 1985. A copy of the Notice of Intent should be sent to the grant manager identified in the last section of this notice. Those organizations applying for more than one grant should submit one Notice of Intent as long as a copy is sent to each respective grant manager. In addition, non-Community Health Service Agencies should submit a copy of the Notice of Intent to the CHS Board of Health in their geographical service area.

If interested parties intend to submit a proposal of statewide significance, the applicant shall provide one copy of the written notice to each CSH board of health in the state. Any CHS board of health may subsequently request one copy of the completed application form for review and comment.

The Notice of Intent must include the following information:

Name of Applicant Organization
Name, Address, and Telephone Number of a Contact Person
Name of Grant Program(s)
Proposed Geographic Area and/or Special Population of Project (for WIC only)

Application Materials.

An organization expressing an intent to apply will be provided with pertinent application materials, information on the review and award process, and the name and telephone numbers of Minnesota Department of Health consultants available to provide technical assistance concerning preparation of the grant application. Application materials will be mailed out to all organizations no later than May 6, with the exception of the Maternal and Child Health Special Project grant materials which may be mailed later pending legislative action. WIC applications will be mailed out upon receipt of a Notice of Intent.

Application Submission Requirements.

The original plus two additional copies of each completed application must be received by the Minnesota Department of Health no later than 4:30 PM on the dates identified below. The completed application must also be submitted to appropriate Regional Development Commissions (RDCs), Health Systems Agencies (HSAs) and CHS boards of health no later than the deadline of receipt of the application at the Minnesota Department of Health. WIC applications not received by the deadline will not be considered. Other applications not received by the deadline will be reviewed and funded only after all other applications are reviewed and funded (in accordance with available funds).

Grant application receipt deadlines are no later than 4:30 PM on the following dates:

WIC	May 31
Family Planning Special Project	July 31
Maternal and Child Health Special Project	July 31
Cardiovascular Risk Reduction	July 31
Native American Health	July 31
Migrant Health	July 31
Refugee Health	July 31

Awards of Funds and Contract Schedule.

Applications will be reviewed as submitted and grants awarded in accordance with priority areas and criteria identified in the application materials. Applicant organizations will be notified in writing of the status of the application. Contracts will be completed by applicant organizations and executed by the State according to the following dates:

	<u>Award Decision</u>	<u>Contract</u>
WIC	Within 30 days of receipt of completed application, but no sooner than June 30.	Oct. 1, 1985
Family Planning Special Project	Sept. 30, 1985	Jan. 1, 1986
Maternal and Child Health Special Project	Oct. 31, 1985	Feb. 1, 1986

STATE CONTRACTS

Cardiovascular Risk Reduction	Sept. 30, 1985	Jan. 1, 1986
Native American Health*	Sept. 30, 1985	Jan. 1, 1986
Migrant Health*	Sept. 30, 1985	Jan. 1, 1986
Refugee Health	Within 30 days of receipt of completed application.	Oct. 1, 1985

*Note: Present grantees will be extended from July 1, 1985 to December 31, 1985.

Duration of Funding.

Funds for approved grants will be awarded for the period of January 1, 1986, through December 31, 1987, for all grants listed in this notice, with the exception of WIC and Refugee Health Grants which will be awarded for the period of October 1, 1985 through September 30, 1987. Funding for the full award period of all grants will be dependent upon either federal or state appropriations.

Minnesota Department of Health Special Grant Managers.

The following staff at the Minnesota Department of Health are available for further information regarding the special grants. As indicated above, a copy of the Notice of Intent should be sent to each special grant manager if expressing intent to apply for funds in that program.

Special Supplemental Food Program for Women,

Infants and Children (WIC):

Pati Maier
WIC Section
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5115

Family Planning Special Project:

Ruth Algren
Family Planning/Reproductive Health Unit
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5267

Maternal and Child Health:

Ronald G. Campbell
Section of Maternal and Child Health Technical Services
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5539

Cardiovascular Risk Reduction:

Mary L. McDonald
Center for Health Promotion and Education
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5287

Native American Health:

Fred G. Goff
District Representatives Section
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5471

Migrant Health:

Fred G. Goff
District Representatives Section
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5471

Refugee Health:

Diane C. Peterson
Refugee Health Unit
Minnesota Department of Health
717 S.E. Delaware Street
P.O. Box 9441
Minneapolis, MN 55440
(612) 623-5569

Lawyer Trust Account Board

Notice of Grant Cycle—July 1, 1985 to June 30, 1986

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 three program areas. The Board will support not only traditional approaches, but will encourage projects which show innovative approaches to recognized needs throughout the state. The Board is soliciting proposals. For application information, contact the Executive Director, 318 Capitol, St. Paul, MN 55155. The application deadline is April 15, 1985.

2/19/85

SUPREME COURT

Decisions Filed Friday, March 15, 1985

Compiled by Wayne O. Tschimperle, Clerk

CX-84-1603 Russell Hildebrandt, et al., Plaintiffs, v. Whirlpool Corporation, et al., United States District Court.

The certified question from the United States District Court pursuant to Minn. Stat. § 480.061, subd. 2(1984), is answered in the negative. The matter presented does not fall within the intentional tort exception to the exclusive remedy provision of the Minnesota Workers' Compensation Act, Minn. Stat. § 176.031 (1984).

Certified question answered. Scott, J.

C9-83-1534 State of Minnesota, v. Leo Clarence Frank, Appellant. Hennepin County.

Trial court did not err in ruling that defendant could be impeached by prior convictions if he testified or in refusing to let defense counsel elicit expert testimony about physiological effects of alcohol at varying levels of concentration.

Affirmed. Scott, J.

C5-83-171 State of Minnesota, v. Melvin Hanson and Gordon Hanson, Appellants. Lake of the Woods County & Roseau County.

Defendant's consent to search his residence for marijuana was valid and untainted by any arguable prior illegality.

Legislature's classification of marijuana as Schedule I controlled substance is constitutional.

Affirmed. Scott, J.

C3-82-465 In the Matter of the Application for the Discipline of John R. Kotts, an Attorney at Law of the State of Minnesota. Supreme Court.

Suspended. Per Curiam.

Concurring specially, Simonett, J. Amdahl, C.J., Peterson, J., and Coyne, J.

Took no part, Scott, J.

TAX COURT

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

State of Minnesota Tax Court County of Meeker, Regular Division

**Lucille M. Carlson and Harold C. Carlson, Appellants, v. the Commissioner of Revenue,
Appellee, Docket No. 3889**

Findings of Fact, Conclusions of Law, and Order for Judgment Dated March 11, 1985

The above-entitled matter came before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on February 1, 1985 in Litchfield, Minnesota, pursuant to an Order of this Court dated January 3, 1985 granting a limited new trial. The sole purpose of the hearing was to make a determination of the value of the rights retained by Lucille Carlson to be set off against the value of the undivided one-half interest conveyed by her by deed. Briefs were also submitted by both parties.

Steven E. Drange of the law firm of Olson, Nelson, Nagel, and Drange, appeared on behalf of appellants.

James W. Neher, Special Assistant Attorney General, appeared on behalf of appellee.

From the evidence adduced at trial and all the files, we make the following:

Findings of Fact

1. On May 2, 1979, when the property formerly held jointly by appellants was conveyed by appropriate conduit deeds to Harold C. Carlson alone, Lucille M. Carlson retained in that property certain rights of survivorship pursuant to Minn. Stat. § 525.145 and § 525.16, and the right to void a sale pursuant to Minn. Stat. § 507.02.

Conclusions of Law

1. The value of those rights retained by Lucille M. Carlson has not been proved by appellants.
2. No value should be subtracted from the value of the property transferred subject to the gift tax.
3. The full value of the one-half interest conveyed by Mrs. Carlson to Mr. Carlson in 1979 is subject to gift tax pursuant to Minn. Stat. § 292.01, subd. 1, and § 292.03 (1979).
4. The Order of the Commissioner of Revenue dated May 31, 1983 is hereby affirmed.

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

March 11, 1985

By the Court,
M. Jean Stepan, Judge
Minnesota Tax Court

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