

Minnesota Attorney General: Administrative Rules Proceedings

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BEFORE THE OFFICE OF HEARING EXAMINERS

OF THE STATE OF MINNESOTA

IN THE MATTER OF THE PROPOSED ADOPTION, AMENDMENT, AND REPEAL OF RULES OF THE DEPARTMENT OF HIGHWAYS RELATING TO STATE-AID OPERATIONS.	HWY-76-003-MG

Room 83
Auditorium, State Office Building
St. Paul, Minnesota
Thursday, June 24, 1976

Met, pursuant to notice, at 9:15 o'clock a.m.

BEFORE:

MYRON GREENBERG, Hearing Examiner

APPEARANCES:

JOHN R. MURPHY, Assistant Attorney General, appearing on behalf of the Department of Highways.

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WITNESSES	PAGES
Roy Hanson	6, 12 - 29, 30 - 45, 47 - 64, 65 - 67, 79, 81 - 82, 86 - 89, 91 - 93.
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E X H I B I T S

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E X H I B I T S

1. Order of Hearing.

2. Notice of Hearing as Mailed on May 26, 1976 (with attached "list of parts affected by proposed rule changes," a brief explanation of the changes and a copy of the rules with the proposed changes indicated where appropriate.)

3. Affidavit of Receipt of the Secretary of State's list.

4. Certificate of Completeness of the Secretary of State's list (with a copy of the list).

5. Affidavit of Mailing.

6. State ment of Need.

7. Statement of Evidence.

8. Proposed Rules, with editorial Changes.

9. Minutes, State-Aid Rules Committee meeting of February 27, 1976.

10. Minutes, State-Aid Rules Committee meeting of April 23, 1976.

11. Office Memorandum of Frank D. Marzitelli, Commissioner of Highways, to Duane R. Harves, Acting Chief Hearing Examiner, dated May 25, 1976.

12. Newspaper publication of the Notice of Hearing (St. Paul Dispatch, Thursday, May 27, 1976).

13. Current Resolutions of the County Screening Committee, January 1976.

14. Current Resolutions of the Municipal Screening Committee, November 1976.

15. Form 29171 - Minnesota Highway Department, Structure Inventory Sheet.

16. Form 17108A - Minnesota Department of Highways, Bridge Inspection Sheet.

17. Form 22106A - Non-Composite Stringer Rating Sheet.

E X H I B I T S

18. Form 2938 - Minnesota Highway Department, Office of Program Planning, Road Inventory Bridge Sheet.

19. Various Documents (11) related to Bridge 08501.

20. General Highway Map, Rock County, Minnesota, 1976 Functional Classification.

21. February 13, 1976 issue of Highway News.

22. March 5, 1976 issue of Highway News.

23. Bridge Inventory, Municipal Bridges, dated 11/17/75.

24. Bridge Inventory, County Bridges, dated 11/17/75.

25. Minnesota State Regulations, Rules and Regulations of the Department of Highways, 1974 Edition.

26. Minnesota State Regulations, Rules and Regulations of the Department of Highways, Annual Supplement 1975, Supplement No. 1 (which includes bridge inspection rules.)

27. Manual for Maintenance Inspection of Bridges, 1974, Published by the American Association of State Highway and Transportation Officials.

28. Bridge Inspectors Training Manual 70, from the U.S. Department of Transportation, Federal Highway Administration, Bureau of Public Roads, 1970.

29. Highway Functional Classification, Concepts, Criteria and Procedures, from the U.S. Department of Transportation, Federal Highway Administration, July, 1974.

P R O C E E D I N G S

EXAMINER GREENBERG: This Hearing is called to order. This is a hearing in the matter of the proposed adoption, amendment, and repeal of rules of the Department of Highways relating to State-Aid Operations. Today is June 24, 1976, the time is 9:15. My name is Myron Greenberg. G-R-E-E-N-B-E-R-G. I am a Hearing Examiner employed by the State of Minnesota in the Office of Hearing Examiners. I am not an employee of the Agency proposing to adopt the rules.

After the hearing I will prepare findings of fact, conclusions, and recommendations which will be submitted to the Agency. The Agency will then make its decision as to whether to adopt, modify, or reject the proposed rules. Before making that decision they must wait at least ten days during which time the findings of fact, conclusions, and recommendations which I will submit will be available to all persons.

The agenda for today's hearing will be: The hearing will be convened. The Agency panel will be introduced. There will be a brief explanation of procedure by the Examiner. We will then have the introduction of State's Exhibits. Then the Agency will present its case. We will then entertain questions and statements from interested persons and after all

people have had a chance to be heard the hearing will be closed by the Examiner.

I will now ask the Agency -- members of the Agency who will be presenting the case to introduce themselves.

MR. HANSON: My name is Roy Hanson. I'm the Assistant State-Aid Engineer.

MR. FAY: My name is Gordon M. Fay and I'm the State-Aid Engineer.

MR. LANG: My name is Matt Lang. I'm with the MHD, Bridge Data Unit.

MR. MURPHY: Mr. Examiner, I'm John R. Murphy, Assistant Attorney General. I'm appearing here today on behalf of the Department of Highways.

EXAM. GREENBERG: All right. I'll also note for the record that Mr. Ken Bjork, who is part of the Highway Department Agency, is also present although not sitting with the Agency.

UNIDENTIFIED VOICE: Myron -- Keith -- introduce yourself.

MR. MURPHY: Better step up here Keith, how about the others there, are they going to -- into this one, Keith. Just introduce yourself for the record if you please.

MR. BENTHIN: I'm Keith Benthin, Bridge Engineer for the Minnesota State Highway Department.

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EXAMINER GREENBERG: Will you spell your last name sir?

MR. BENTHIN: B-E-N-T-H-I-N.

EXAMINER GREENBERG: Thank you very much. The guidelines for this hearing are as follows: Everyone attending the hearing is required to sign the register as you testify or ask questions or make whatever comment you may have. At that time you should indicate your name, address, and the interest or group you represent. If you wish to be notified when the Hearing Examiner's findings and recommendations are submitted to the Agency, please so indicate on the registration sheet. The registration sheet is located at the witness table which is directly in front of me in the middle of the room. There are registration sheets on either side of the microphone.

The purpose of this hearing is to consider whether the proposed rules should be adopted and given the force of law. The Agency must: 1) Document a specific statutory authority to take the proposed action. 2) Show that it has fulfilled all relevant, substantive, and procedural requirementsof law or rule, and 3) demonstrate the need for and reasonableness of its proposed action with an affirmative presentation of facts. All persons wishing to express their views will

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have an opportunity to do so. When you do have an opportunity to testify please step to the witness table, spell your name for the benefit of the recording equipment and my secretary who will transcribe this hearing, identify your interest or firm, and speak clearly. I will emphasize that no one in this Hearing Room will be recognized unless they identify themselves each time they speak. The exception to that will be if someone or some people are engaged in dialogue it is not necessary to identify yourself each time you respond. However, when you begin speaking, I would appreciate greatly if you would identify yourself, of course, the first time you identify yourself I will ask also that you spell your name.

All witnesses testifying subject themselves to questioning by a representative of the Agency, the Hearing Officer and others present. Nonagency interested persons may refuse to consent to questioning by other nonagency persons.

If a written statement or other matter reduced to writing is desired to be introduced into evidence, it should be presented to the Hearing Examiner to be marked as an Exhibit, and offered at the appropriate time. Written statements may be introduced at the time an individual offers an oral statement. The right

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of the Agency or others to examine the individual presenting this written statement extends to the content of the statement offered in the written form.

As I've indicated this hearing is being recorded by a tape recorder. Subsequently, a transcript of the proceedings will be available. If you wish to have a copy of the transcript, for which there is a charge, kindly notify the Examiner either after the hearing or during the 20 day period allowed for comment. In order to aid the construction of a proper record it is requested that all witnesses observe the following rules: Only one person will be allowed to address the hearing at onetime. All answers must be verbalized and all technical terms and proper names should be spelled out. It should be noted that anyone who desires to submit a written brief or other written comments bearing upon the proposed rules may do so within 20 days of the close of this hearing. That 20 day period, assuming that the hearing closes today, will be on Wednesday, July 14, 1976, at 4:30 p.m. Materials which anyone wishes to submit should be submitted to Myron Greenberg, Office of Hearing Examiners, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104. If anybody wishes to receive that address again I will be available up here. I will emphasize once more, materials must be received

within the 20 day period to be considered. I must have them on my desk or at least in my office by 4:30 on July 14, 1976, if this hearing ends today. If the hearing ends at some date it will be 20 days from the date of that hearing, not including the date of that hearing. I just want to make it clear it's not the postmark date it's the time I receive it. All people present are also advised that under Minnesota Statute Section 10A.01, Subdivision 11, "Any individual representing persons or associations attempting to influence administrative actions such the promulgation of these rules must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual." For the benefit of all those present, if this hearing is to continued, if we don't finish this all today, I will extend the time of the hearing until 6 o'clock if necessary. But if we don't finish by 6 o'clock today, I understand that it's agreeable to the Agency that the hearing be continued on Wednesday, July 7, is that correct?

MR. HANSON: Correct.

EXAMINER GREENBERG: All right. If this hearing is not completed today it will be recessed and reconvened on Wednesday, July 7, 1976, at 9 o'clock a.m. at the Office of Hearing Examiners, Room 300,

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1745 University Avenue, St. Paul.

Are there any questions about procedure before we go on? I'd like to make one other comment so that everyone is aware -- if anyone is inconvenienced by any of the time limitations that we have or by the system that we set up for reading the rules, and asking questions, or giving comments, please indicate so. This hearing is being conducted as informally as is practicable. We do wish to give everyone an opportunity to speak on whatever subject relevant to the rules under consideration they may wish to discuss. So if anyone is inconvenienced by any schedule that we may have, please indicate so and we will try to make adjustments.

I see no questions about procedures so I will entertain the jurisdictional documents and other documents which may be introduced by the state. Mr. Murphy?

MR. MURPHY: Mr. Examiner, we have placed before you Exhibits numbered one through and including thirty. Exhibit Number 1 being the Order for Hearing. Exhibit Number 2 being the Notice of Hearing that was mailed on May 26, 1976. Number 3 being the Affidavit of Receipt of the Secretary of State's List. Number 4 being the Certificate of Complete-

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ness of the Secretary of State's List. Five, being an Affidavit of Mailing. Number 6 being a Statement of Need. Number 7 being a Statement of the Evidence that we propose to adduce. Number 8, a copy of the Proposed Rules, with some editorial changes, not relating to substance. Exhibit 9 Minutes of the State-Aid Rules Committee Meeting of February 27, 1976. Number 10 being the Minutes of the State-Aid Rules Committee Meeting of April 23, 1976. Exhibit Number 11 being the Office Memorandum of Frank D. Marzitelli, Commissioner of Highways to Duane R. Harves, Acting Chief Hearing Examiner, dated May 25, 1976. Twelve being the newspaper publication of the Notice of Hearing. Thirteen, being the current Resolutions of the County Screening Committee, January 1976. Exhibit 14 being the current regulations -- Resolutions that is, of the Municipal Screening Committee November 1976. Exhibit 15 MHD Form 29171. Sixteen being MHD Form 17108A. Exhibit 17 being Form 22106A. Eighteen being Form 2938. Nineteen is a composite file of various documents, eleven in number, related to Bridge Number 08501. Exhibit Number 20 being a General Highway Map, Rock County, Minnesota, 1976 Functional Classification. Exhibit 21, February 13, 1976, issue of the magazine Highway News. Exhibit Number 22 the March 5, 1976, issue of Highway

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News. Now, Exhibit Number 23, a Bridge Inventory of Municipal Bridges dated 11/17/75. Exhibit Number 24 Bridge Inventory County Bridges dated 11/17/75. Exhibit Number 25 Minnesota State Regulations, Rules and Regulations of the Department of Highways 1974 Addition. Exhibit Number 26 Minnesota State Regulations, Rules and Regulations of the Department of Highways Annual Supplement 1975, Supplement Number 1. Exhibit Number 27 Manual for Maintenance Inspections of Bridges 1974. Exhibit Number 28, Bridge Inspectors Training Manual 70. Exhibit Number 29 Highway Functional Classifications, Concepts, Criteria, and Procedures. Exhibit Number 30 being a letter from the City Engineer's Association of Minnesota, dated June 17, 1976, submitted by James R. Merila, addressed to Mr. Myron Greenberg, Hearing Examiner. Mr. Examiner, the Agency at this time moves for the introduction of Exhibits Number 1 through 30

EXAMINER GREENBERG: Exhibit Number 30 does not need to be moved for introduction, it's a -- I will receive it in terms of a -- in the form of a comment. Is there any objection to receipt of Exhibits 1 through 29? (No response.) There being no objection, Exhibits 1 through 29 as marked are received.

(Exhibits Number 1 through 29 received into evidence.)

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EXAMINER GREENBERG: For the record I will also introduce on my own motion an Exhibit which will be marked Exhibit 31, which is a letter of which I have a copy dated June 15, 1976, to John Murphy, Assistant Attorney General, from Allen C. Williams, Assistant Senate Counsel, regarding the Rules for Implementation of Laws 1976 Chapter 339 (Bridge Construction Act). Is there objection to that being introduced into evidence?

MR. MURPHY: The Agency has no objection.

EXAMINER GREENBERG: Exhibit Number 31 is received into evidence.

(Exhibit No. 31 received into evidence.)

EXAMINER GREENBERG: Before we begin with the Agency's presentation of the rules are there any individuals present who have any type of preliminary matters they wish to discuss? For the benefit of all present I will indicate: A) Smoking will be allowed in the sessions as marked, the front part of the room will be considered the smoking section in its entirety. Secondly, the tape recording system that I'm using has a capacity for 45 minutes on each tape. At the 44th minute there will begin to be a beeping sound. If anyone is in the midst of a sentence or completing a thought or asking a question you can complete your

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sentence or thought, but, try to complete it within one minute because after that minute the tape recorder goes off. I will then change tapes and ask for the indulgence of everyone present as we cope with our recording system in lieu of a court reporter. At least the recording system does not tire. So -- I see no one with any preliminary matters, the Agency may proceed. I'll ask whomever is speaking from the Agency to identify themselves initially, and identify themselves occasionally intermittenly so that my secretary, as she transcribes this will at least be familiar with your voices. The Agency may proceed with its --

MR. MURPHY: Mr. Greenberg, are the Agency witnesses to be sworn?

EXAMINER GREENBERG: No. It has been my procedure in a Rules Hearing that witnesses need not be sworn, if there is no objection I will continue with that, if there's any individual that wishes to be sworn or if someone desires to have another witness sworn I will do so.

MR. MURHPY: Mr. Examiner, I will proceed to begin in this manner. I will call Mr. Roy Hanson to read into the record the changes in existing Highway Regulations. That is, I will have him read the new matter that we are proposing be adopted. I will then

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call upon Mr. Gordon Fay to explain the needs for the particular section of rule that's just been read by Mr. Hanson. And to pause momentarily for as much time as needed to find out if anybody participating in this hearing has any question with regard to the portion of the rule that we have so read. Mr. Hanson, will you identify yourself?

ROY HANSON

A. My name is Roy Hanson. H-A-N-S-O-N. I'm the Assistant State-Aid Engineer.

Q. That's for the State of Minnesota?

A. For the State of Minnesota.

Q. You're familiar with the statement of the amendment of rules that was sent out to the public on the first instance in connection with this hearing?

A. Yes.

Q. And since that time have there been a number of editorial changes in the rules correcting capitalization, correcting sentence structure, and moving some portions of the rules around?

A. Yes.

Q. And you have a document in front of you that consists of the proposed amendment rule as you desire them amended?

A. Yes.

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Q And have any of those changes involved matters of substance? Be --

A No.

Q So that the rule -- amended rule as originally sent out to the public and the rule which you are proposing for adopted are, in fact, the same in substance?

A Yes.

Q Now, calling --

EXAMINER GREENBERG: The -- excuse me, the record will show that that has been marked as Exhibit No. 8.

Q (Mr. Murphy, continuing) Calling your attention to Exhibit No. 8, at the beginning of Page 1 there is a change. Would you read the material following the entry Highway 32?

EXAMINER GREENBERG: Excuse me, Mr. Hanson, before you answer Mr. Murphy, for those present who may be confused by what's happening, let me, perhaps, give a note of explanation. On the tables on either side, you'll find the rules with the proposed changes. Since that -- since those rules were sent out and since the -- those of you who received them -- did receive them and may have gone over them, a number of minor changes have been noted. Including the use of various punctuation, capitalization,

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and number. Now, since those changes -- since the amendments were sent out to you, or since you may have received them, additional changes have been made. All of which I understand to be nonsubstantial or non-substantive changes in the rules themselves. As the rules are gone through you may desire to note those changes on your copy of the rules. If you don't have a copy of the rules, please take one from either the supplies that are available. But just so you understand that as these rules are gone through you may be confused a little bit by the difference in numbers that are referred to by Mr. Hanson or any of the other Agency members, and that system of numbering that you may have on your copy. I'm sorry to interrupt you.

Q (Mr. Murphy, continuing) All right, Mr. Hanson, beginning with Highway Rule 32, at the top of the page will you read the rule as proposed?

A. "Rules for State-Aid operations under Minnesota Statutes 1974, Chapters 161 and 162, as amended."

Q. Mr. Fay, what do you understand to be the reason for that change in the rule?

MR. FAY: The change in the law provides for rules and regulations to be trained -- changed to the word "rules" or "rule." This is under Minnesota Statutes in 1974.

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Q. (Mr. Murphy) There appearing to be no question, Mr. Hanson, would you read Rule 32A as proposed?

A. (Mr. Hanson) "Purpose. The purpose of Minnesota Rule Hwy. 32 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minnesota Statutes 1974, Chapter 162, as amended."

Q. Mr. Hanson, that citation in the first line of 32A, I believe, was: "Purpose. The purpose of Minnesota Rule Hwy. 32 is to carry out, et cetera, is that correct?

A. Correct.

Q. Mr. Fay, the reason for that change is the same as you just expressed, is it not?

MR. FAY: Correct.

Q. (Mr. Murphy) Mr. Hanson, will you read Hwy. 32B as proposed?

A. (Mr. Hanson) "Scope. The scope of Minnesota Rule Hwy. 32 is confined within the framework of and consistent with Minnesota Statutes 1974, Chapters 161 and 162, as amended."

Q. Mr. Fay, apparently the reason for that change is as you previously expressed and to update the date of the Statute referred to, is that correct?

MR. FAY: Correct.

Q. Going down to what I perceive to be the next change,

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Mr. Hanson, is in Rule 32, C4, would you read the rule as proposed?

A. "County Engineer. A registered engineer employed as the county engineer or the director of public works-county engineer of each county."

Q. And will you read 32, C, 5?

A. "City Engineer. A registered engineer employed as the city engineer or the director of public works-city engineer of each urban municipality."

Q. Mr. Fay, would you explain the changes in four and five?

MR. FAY: In four, the responsibilities of the county engineer are becoming more diverse. Therefore, some counties are changing the title of county engineer to more appropriately identify this new authority. The change is necessary to recognize the title. Under five, the change is necessary for the reasons stated in Number 4.

Q. (Mr. Murphy) Mr. Hanson, going to Rule 32, C7, would you read the rule as proposed?

A. (Mr. Hanson) "County-Municipal Account. A separate record of that portion of the County State-Aid highway funds allocated for expenditure solely within cities, having less than 5,000 population."

Q. Mr. Fay, apparently the need for that is -- Statutory

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change in the defi -- or the permitted reference in municipality?

MR. FAY: That is correct.

Q. (Mr. Murphy) Mr. Hanson, going to Rule C8, would you read the rule as proposed?

A. (Mr. Hanson) "Urban Municipality. Any city, having 5,000 or more population, determined in accordance with the provisions of law."

Q. Mr. Fay, the reason for that change is as just expressed, is that correct?

MR. FAY: Correct.

Q. (Mr. Murphy) Going to Page 2, Mr. Hanson, Rule Hwy. 32, C11, would you read the rule as proposed?

A. "Advance Encumbrance. The authorized expenditure of local funds, in lieu of State-Aid funds, by a county or urban municipality for use on an approved State-Aid project. By agreement with the commissioner, the local funds will be repaid to the county or urban municipality from future county or municipal State-Aid allotments or from future county or municipal turnback funds."

Q. Mr. Fay, would you express the reason for that change?

MR. FAY: The definition of "advance encumbrance" has been rewritten to more easily interpreted and to include trunk highway turnback monies.

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Trunk highway turnback monies are monies established by law under Minnesota Statutes Section 161.081, "For use on former trunk highways that have been turned back to local authority."

Q (Mr. Murphy) Mr. Hanson, Rule Hwy. 32 C12 as proposed, would you read it please?

A (Mr. Hanson) "Screening Committee. The county or municipal committee, appointed in accordance with law, and authorized to recommend to the commissioner the mileage and money needs for each of their State-Aid systems.

Q Mr. Fay, would you explain that change?

MR. FAY: The change in State-Aid systems which more accurately describes the system being referred to.

MR. MURPHY: The former word was "bodies" which is stricken, is that correct?

MR. FAY: Yes.

Q (Mr. Murphy) Mr. Hanson going to Rule Hwy. 32C16, would you read the rule as proposed?

A (Mr. Hanson) Mr. Murphy, we have Rule 14. C14 which is --

Q All right, would you read that as proposed.

A "Trunk Highway Turnback. A former trunk highway or portion thereof that has reverted to a county

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or municipality in accordance with law."

Q Is rule -- has there been a change in 15?

A No.

Q Then going to 16, would you read the rule as proposed?

A "Disaster Committee. A committee, appointed in accordance with the law, to investigate and report its findings and recommendations to the commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its County State-Aid highway or Municipal State-Aid street system and resulting in a financial hardship."

Q Mr. Fay, would you state the need for that rule?

MR. FAY: To clarify what a "disaster" is. And to more clearly define the responsibility in determing a financial hardship.

Q (Mr. Murphy) Mr. Hanson, would you read 32 C17 as proposed?

A (Mr. Hanson) "Local Road Research Board. A board appointed in accordance with these rules to recommend specific research projects to the commissioner."

Q Mr. Fay, the need for that rule?

MR. FAY: To more accurately describe

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the re -- the responsibilities of the local role of the Research Board in relationship to recommendations to the commissioner.

Q (Mr. Murphy) Has 18 been changed Mr. Hanson?

A (Mr. Hanson) Eighteen is new.

Q Would you read 18?

A "Town Bridge Needs. The estimated construction costs required to improve or replace town bridges to standards adequate for future traffic on a uniform basis."

Q Mr. Fay, the need for that?

MR. FAY: The change in the law passed by the legislature which provides for monies to town bridges to accurately describe the needs or cost estimate of these replacements.

Q (Mr. Murphy) Mr. Hanson, would you read C19 as proposed?

A (Mr. Hanson) "Town Bridge Account. The apportionment of County State-Aid turnback funds for use in the construction or reconstruction of bridges on township roads."

Q Where do you find the next change that is proposed in the rules, Mr. Hanson?

A On Page 3 under C20.

Q Would you read that proposed change?

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A. "Function --

EXAMINER GREENBERG: Excuse me, for those of you, as I say, have the rules as they were put out here, Mr. Hanson is reading from a new copy. So this would be still under definitions. It would be on your Page 2 and it's not printed in your copy.

Q. (Mr. Murphy) Have you read that, Mr. Hanson?

A. (Mr. Hanson) No sir. "C-20. Functional Classification Plan. A plan by which highways and streets are grouped into classes according to the character of service they are intended to provide."

Q. Would you state the need for that Mr. Fay?

MR. FAY: It is necessary to describe and outline what is meant by the "functional classification plan."

Q. (Mr. Murphy) Mr. Hanson, what is the next following change in the State-Aid Rule?

A. (Mr. Hanson) Under E1 b(1).

EXAMINER GREENBERG: All right. Excuse me now, I -- again I don't want to have too much confusion about this. Obviously, under definitions there were three definitions added so that we came to 20 definitions. In the set of rules that you have, we will now be on Page 3 at the top of the page, under small i.

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Q (Mr. Murphy) All right. Mr. Hanson, in Rule 32E1b paren 1 and 2 there are changes, will you read paren 1 as proposed?

A (Mr. Hanson) "(1) County State-Aid highway system not exceeding 30,000 miles in extent, excluding trunk highway turnback mileage."

Q And paren two?

A "(2) Municipal State-Aid system not exceeding 2,000 miles in extent within urban municipalities, excluding trunk highway turnback mileage."

Q Mr. Fay, would you comment on the need for that change?

MR. FAY: Under paren 1, the law permits mileage in excess of 30,000. Reference can be made to Minnesota Statutes Chapter 162.02, Subdivision 11. Under paren 2, Minnesota Statutes 162.09 now provides for a municipal State-Aid streets system of 2,000 miles. The rules have been modified to recognize the increase of mileage from 1,500 to 2,000 plus turnback mileage.

Q (Mr. Murphy) Mr. Hanson, Rule 32 E2, contains a proposed change, would you read the rule as proposed?

A (Mr. Hanson) "Criteria. State-Aid routes shall be selected on the basis of the following criteria."

Q And under that a.1 is a change, would you read

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the rule as proposed?

A. "(1) Carry relatively heavier traffic volumes or are functionally classified as collector or arterial as identified on the county's functional plans as approved by the county board;"

Q. And under 2, paren 2, under a. there is a change.

A. "(a) Or provide access to rural churches, schools, community meeting halls, industrial areas, state institutions, and recreational areas;"

Q. And there has been a deletion and a change under 4 in parens, what's that change? Would you read the --

A. "(4) And provide an integrated and coordinated highway system, affording within practical limits a State-Aid highway network consistent with traffic demands."

Q. Mr. Fay, would you explain the need for the changes just read?

MR. FAY: Every county and urban municipality in Minnesota has an approved functional plan. The plan identifies those roads or streets in the county or municipality of higher value as arterial or collectors. The functional plan is initiated by the county, or city engineer, as the case may be, and as discussed at a public meeting for local citizenry input. Final

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adoption of the functional plan is by resolution of the County Board or the City Council, whichever is appropriate. The revision of selection and designation of State-Aid systems, criteria, and so on enhances a State-Aid system.

Q (Mr. Murphy) Mr. Hanson, on Page 4 of the document before you, there is a change in Rule Hwy. 32 E2b, which is -- which begins with parenthetical 1 under b., would you read the rules proposed?

A (Mr. Hanson) "b. (1) Carry relatively heavier traffic volumes or are functionally classified as collector or arterial as identified on the urban municipality's functional plan as approved by the urban municipality's governing body;"

Q And there is a parenthetical 3, which is proposed to be adopted, would you read that?

A "(3) And provide an integrated street system affording within practical limits a State-Aid street network consistent with traffic demands."

Q Mr. Fay, would you explain the need for the rules just read?

MR. FAY: The deletion is acceptable as a revision of E2 b (1), and covers these two areas, including paren 3.

Q (Mr. Murhpy) What's the next proposed change in

the rules, Mr. Hanson?

EXAMINER GREENBERG: Excuse me, before we continue, is everyone able to follow this in general? (No response.) All right. If anyone has any questions or comments as we're going along, please feel free to make your comments, just raise your hand or step forward, otherwise, we'll just continue. Go ahead.

Q (Mr. Murphy) The next change, Mr. Hanson.

A (Mr. Hanson) Mr. Murphy, under E3 we have a minor change, where we changed the word "regulation" to "rules."

Q And the reason for that is as previously explained.

A Yes.

Q What's the next change, Mr. Hanson?

A Under E 3 a., under Turnback Designations, the word "new". N-E-W was scratched.

Q Where is -- where was N-E-W located?

A It was -- it -- it -- previously it stated: "Turnback Designations New." And then it began, "prior to release of a former trunk highway."

Q So you propose to strike the word "new"?

A Yes.

Q What is the next change?

A The next change will be under F,"State-Aid Apportionments. All State-Aid apportionments

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shall be made from the County State-Aid highway fund and the Municipal State-Aid street fund, as provided by law. Apportionments to the respective counties and urban municipalities shall be released in accordance with Minnesota Rule Hwy. 32, G." And then we struck the words "of these regulations."

Q. And the purpose of the rule was just to delete the reference to regulations and substitute rule?

A. Right.

Q. Now, under F1. a., is there a --is that the next change?

A. Yes.

Q. Would you read the rule as proposed?

A. "F. 1. a., Construction Costs Estimates. To provide data to implement the formulas for State-Aid apportionment, each county engineer and city engineer shall prepare cost estimates of construction required to improve his County State-Aid or Municipal State-Aid system to approved standards.

Q. And Mr. Fay what is the reason for that change?

MR. FAY: The word "city" in front of engineer conforms to 5 under C of definitions.

Q. (Mr. Murphy) Mr. Hanson, what is the next proposed change?

A. (Mr. Hanson) Under F 1.C, found on Page 6, "Deduct-

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able Items. The respective screening committees shall consider reports from the commissioner, consisting of, but not limited to, the County State-Aid allotments to townships, or the Municipal State-Aid payments on state trunk highways or County State-Aid highways, covering all said allotments or payments made during the preceding year; and shall recommend to the commissioner the amount of deductions to be made in the money needs for each such country or municipality, in order to equalize their status with other counties or municipalities not making similar expenditures."

Q And Mr. Fay, the need for that rule?

MR. FAY: The respective screening committees have the authority by law under Statutes 162.07 Subdivision 5, and 162.13 Subdivision 3. "To recommend to the Commissioner of Highways the money needs to be used in determining the annual allocation to the respective counties and municipalities. The accumulation of substantial State-Aid funds over a period of years indicates that a county or municipality is not expending their monies and thereby reducing their needs. The screening committee, thereby, adjusts the needs of those counties and municipalities with large State-Aid balances. By revising the rule as

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indicated, the screening committees may also analyze Federal-Aid allocations, and if the counties or municipality does not use utilize their Federal-Aid allocations, needs adjustments may be in order. See Minnesota Statutes under Chapter 162.07 Subdivision 2. And again, 162.13 Subdivision 2 for definition of the word, "money needs." This procedure is deemed a method for equalizing needs as a county or municipality that continually expends their State -- expends their State or Federal allocations, reduces their needs in relative State-Aid apportionment. A county of municipality that accumulates their allocations earns needs on mileage that would have been improved had their allocations been utilized."

Q (Mr. Murphy) Mr. Hanson, would you identify and read the next proposed change in the rules?

A (Mr. Hanson) The proposed change is under F 2.b. "Local Road Research Account. Within the limitations provided by law, the respective screening committee shall annually determine, and recommend, the amount the commissioner shall set aside from the County State-Aid highway fund or the Municipal State-Aid street fund, for the purpose of local road research. These funds, along with such Federal funds as may be provided, shall be used

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Tape II Q (Mr. Murphy) Mr. Hanson, would you identify the next proposed change in rules?

A (Mr. Hanson) The next proposed change is under G, 1, c.

MR. FAY: Pardon me, I have F.

MR. HANSON: 5F is deleted. That we don't -- we don't have to say that.

A (Mr. Hanson) "Revisions of county maintenance apportionments. The commissioner may, upon recommendation of the screening committee or upon receipt of a resolution from a county board, and for good cause shown, increase or decrease the proportion to be used for maintenance under either Minnesota Rule Hwy. 32, G, 1, a and/or b above."

Q Mr. Fay, the need for that?

MR. FAY: The terms "county maintenance" have been added to clearly identify the specific apportionment. The deletion of the word "will" and the addition of the word "may, upon recommendation of the screening committee or" gives authority to the screening committee to review requests made by the counties for transfer of construction monies to maintenance accounts and gives the screening committee authority to make recommendations

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the remaining amounts within said allocations pending determination of the final amount due, based upon a report of actual maintenance expenditures and receipt of the district engineer's certification of acceptable maintenance performance. Urban municipalities receiving the minimum maintenance allotment as outlined in Minnesota Rule Hwy. 32, G, 1, d, above will be eligible to receive the balance remaining in their maintenance account upon the commissioner's receipt of the district engineer's certification of acceptable maintenance."

Q. Mr. Hanson, was the only change the substitute rule for regulation?

A. No. We added the two words "the commissioner's."

Q. All right. Mr. Fay, your comment on that? -- Just a housekeeping change?

MR. FAY: Yes.

Q. (Mr. Murphy) Mr. Hanson, the next proposed change, if you please?

A. (Mr. Hanson) Under G, 2, b, "Federal-Aid Contracts. The commissioner under authority of an agency agreement, with the governing body of a county or urban municipality, and acting as its agent in Federal-Aid operations, will release from State-Aid funds available therefor, ninety percent

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of the county's or urban municipality's share of the entire contract obligation for immediate redeposit in an agency account, to be used in paying the county's or urban municipality's share of the partial estimates and for advancing the federal share of such estimate payments. The commissioner shall retain the remaining percentage of the contract cost of said project until the final cost is determined and the project accepted by the district engineer. Where other than State-Aid funds are to be used for depositing in the agency account, one hundred percent of the local governmental share of said contract amounts shall be deposited in the agency account prior to award of the contract."

Q Mr. Fay, the need for that?

MR. FAY: The revision of this clause has the effect of allowing or providing for all Federal-Aid contracts. At the inception of State-Aid, federal monies were allocated to counties for use on Federal-Aid secondary systems only. Today we have various Federal programs which afford aid to all levels of government. The requirement that one hundred percent of the local share of a project be deposited in the agency

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account rather than ninety percent insures the availability of a hundred percent of the contract amount upon completion of the project. The agency account is that account from which payments to contractors are made as the work progresses on the project. The State makes all payments to contractors.

Q. (Mr. Murphy) Mr. Hanson, the next proposed change?

A. (Mr. Hanson) Under G, 2, c, "Force Account Agreements. Partial estimates will be accepted on all projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall promptly release from funds available therefor ninety percent of the cost of current accomplishments as reported by said partial estimates. Upon request of the county or urban municipality, the commissioner will set aside and retain their State-Aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when final estimate is submitted and upon acceptance by the district engineer."

Q. The need for that, Mr. Fay?

MR. FAY: To be consistent with the other rules.

Q (Mr. Murphy) The next change, Mr. Hanson.

A (Mr. Hanson) Under G, 2, d "Payment Limitations. Approval of State-Aid projects by the commissioner does not imply that State-Aid payments will be made in excess of the construction funds available from current State-Aid allotments. Any county or urban municipality having depleted their currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless request for advance encumbrance has been approbed or a project is completed in a subsequent year and funds are available."

Q (Mr. Murphy) Mr. Fay, the need for that?

MR. FAY: Ma-- merely to clarify the requirements.

Q (Mr. Murphy) Mr. Hanson, the next change?

A (Mr. Hanson) Under G, 2, e "Engineering Costs. (1) Preliminary Engineering. Requests for reimbursement of preliminary engineering costs shall be submitted with the report of State-Aid contract or with initial partial estimate on an approved force account project. The commissioner shall

upon receipt of such request supplemented by such documentation as may be requested, by the commissioner authorize the reimbursement for actual engineering costs, not to exceed eight percent of the total estimated contract or agreement amount."

Q Mr. Fay.

MR. FAY: Experience has indicated to us that due to inflationary trends, five percent is not a realistic amount for engineering costs. The revision permits payment up to eight percent of the total contract or agreement amount. Revision also permits commissioner to request documentation if engineering costs seem unduly high.

Q (Mr. Murhpy) Are there any comments from the audience on that one, Mr. Greenberg?

EXAMINER GREENBERG: Are there any questions about that?

(No response.)

Q (Mr. Murphy) Mr. Hanson, will you point out the next proposed change, and read it? -- no comments having been heard from.

A (Mr. Hanson) On Page 11 under G, 2, h, (1) "Advance of Regular County State-Aid Highway Funds to

Municipal Account. Where the commissioner approves a request from the county board for the advance of regular County State-Aid highway funds for use on a municipal section of an approved County State-Aid highway project, and where repayments to the regular account of the County State-Aid highway fund are to be made from subsequent accruals to the county's municipal account, such repayments will be made by the commissioner, to the extent authorized by law, in the form of transfers from the county's municipal account to their regular account, in the amounts and at the time specified in the authorization."

Q Now the change in two under --

A "(2) Advance of County Municipal State-Aid Highway Funds to Regular Account. The commissioner may approve a request from a county board for the advance of County Municipal State-Aid highway funds for use on an approved County State-Aid highway project proveded that notification pursuant to law has been given those municipalities within the county haveing a population less than 5,000. Advances from the municipal account to the regular account must be repaid to the municipal account from monies accruing to the county regular account

within a maximum of five years unless the terms and conditions of repayment are otherwise agreed by the county and the governing bodies of those cities within the county having a population of less than 5,000. Repayments will be made by the commissioner to the extent authorized by law, in the form of transfers from the county's regular account to the county's municipal account, in the amounts and at the time specified in the agreement."

Q Mr. Fay, the reasons for those -- one and two is read --

MR. FAY: A revised to permit for G, 2, h (1) under G, 2, and the language in one is the same as under h. The 1975 legislature enacted law to permit transfer of county municipal funds to the county regular account. This rule speaks to that law, Minnesota Statutes 162.08 Subdivision 4.

Q (Mr. Murphy) But you consider these two changes necessary in the administration of that legislation?

A (Mr. Fay) Yes.

EXAMINER GREENBERG: Are there any questions or comments about that? I'd like to interject one other remark at this point. On the copies that everyone has and the copy that Mr. Hanson was reading from, there are deletions

that have been made prior to and after these additions that are being made. No comments have been made about those deletions and the Examiner has been advised at a conference with the Agency that these deletions are either for housekeeping purposes as is the case in the sections that were just read where two subsections were added in place of one section, or because obsolescence of the sections that were deleted. If there are any questions or comments on any of the deleted sections, members of the public are advised that they may also comment on those deletions. But those deletions are not being referred to, and I -- the Examiner feels that it is not necessary to refer to those deletions.

Q (Mr. Murphy) Are there any comments on any deletions so far? (No response.) Hearing none, Mr. Hanson, will you come to the next proposed change in the rules?

A (Mr. Hanson) On Page 12, under G, 2, k. "Municipal State-Aid Funds for County State-Aid or Trunk Highway Projects. The governing body of an urban municipality desiring to use a portion of its State-Aid funds for improvements within its boundaries of any state trunk highway or

County State-Aid highway, shall request such authorization by resolution. Before any such funds are released for said purposes, the resolution shall be approved by the commissioner. A copy of the approved resolution shall be filed with the State-Aid engineer. This subparagraph does not apply to payments made for interest on bonds sold under Laws of Minnesota 1959, Chapter 538 and Laws of Minnesota 1965, Chapter 443."

Q (Mr. Murphy) Mr. Fay.

MR. FAY: The addition of the reference to Chapter 443 from the 1965 Legislative Session is housekeeping in nature and is necessary to recognize special bonding permitted for the City of St. Louis Park, for which State-Aid maintenance monies may be used for payment of interest on the bonds.

Q (Mr. Murphy) Mr. Hanson, the next proposed change?

A (Mr. Hanson) Under G, 3, "Semi-annual statements. Within thirty days after the close of each six month period, the commissioner shall submit to each county or urban municipality semi-annual statements as to the status of its respective State-Aid accounts."

Q Mr. Fay.

MR. FAY: This clause was previously under F,5 on Page 7, State-Aid Apportionments. And has been relocated without change to a more appropriate area within the rules.

Q (Mr. Murphy) Mr. Hanson, the next proposed change.

A (Mr. Hanson) Mr. Murhpy, in reference to G, 3, we did have one change. It previously stated, "As to the status of the respective State-Aid accounts." And we changed it to, "As to the status of its respective State-Aid accounts.

Q Very well, will you go to the next change in the rule?

A On Page 13, under G, 4, c, "Construction --

Q Wait a minute! Is -- is the only change there from "Conservation" to "Natural Resources"?

A Yes.

Q And the reason for that is a change in the legal designation of that department?

A Yes.

Q All right. Will you go to the next change?

A Under G, 4, d, "Disaster Account. Any disaster appropriation approved by the Commissioner for a county or urban municipality in accordance with law, shall be promptly paid to the county or urban municipality for which such appropriation was authorized. The funds so allotted and paid to

the county or urban municipality can only be spent for the purpose for which they were authorized, and within a reasonable time period specified by the commissioner. Forthwith upon completion of the work for which the disaster payment was made, or the expiration of the time specified for doing such work, whichever occurs first, the county or urban municipality shall file a report certifying the extent of the authorized work completed, and showing the total expenditure made therein. In the event the total disaster allotment was not required or used for the purpose specified, the remainder shall be promptly returned to the commissioner for redeposit in the County State-Aid highway fund or the Municipal State-Aid street fund, as the case may be, and apportioned by law. Damage estimates submitted by a county or urban municipality must exceed ten percent of the current annual State-Aid allotment to the county or urban municipality before the commissioner shall authorize the disaster committee to inspect the disaster area."

Q Your statement, Mr. Fay?

MR. FAY: This is to eliminate minor claims for disaster. It was deemed advisable to

initiate a minimum amount relative to a county or municipal State-Aid allotment. In order to qualify as a disaster, changing the redeposit from the disaster account to the respective State-Aid account, has the effect of eliminating the possibility of depositing and excess amount from the county disaster account. The disaster accounts are established by law, provided under Minnesota Statutes Chapter 162.06 Subdivision 3, and 162.12 Subdivision 3.

Q (Mr. Murphy) Any audience comment on that, Mr. Greenberg?

EXAMINER GREENBERG: Does anyone wish to comment on that section? I see no comments.

MR. HANSON: Mr. Murphy, to maintain uniformity we should change the term, "municipality" to "urban municipality" third line from the bottom of the paragraph.

MR. MURPHY: Do you see what we're doing, Mr. Examiner, there?

EXAMINER GREENBERG: Yes, I do.

Q (Mr. Murphy) And that would be because of the change in definition, Mr. Hanson?

A (Mr. Hanson) Yes.

MR. FAY: Yes.

Q (Mr. Murphy) All right. Would you come to the next proposed change?

A (Mr. Hanson) On Page 14 under G, 4, f. "Turnback Accounts. A percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State-Aid highway fund and the Municipal State-Aid street fund, and respectively identified as the county turnback account and the municipal turnback account. Further, a percentage of the county turnback account has been set aside and shall be used for replacement or reconstruction of town bridges, 20 feet or more in length, in those counties that have two or more towns, pursuant to law. This latter account shall be known as the county town bridge account."

Q Mr. Fay?

MR. FAY: This par -- paragraph has been revised and recollected under part i, State-Aid Operations, 3, turnback accounts. The new language inserted was previously contained in part i old paren four, the modifications are necessary due to recent legislation amending Minnesota Statutes Chapter 161.082.

Q (Mr. Murphy) Mr. Hanson, the next proposed change?

A. (Mr. Hanson) On Page 15, under G, 4, f, (1). "Town Bridge Monies Allocation. The sums of monies set aside for town bridges shall be allocated to the eligible counties on the basis of town bridge needs.

Q. (Mr. Murphy) Mr. Fay?

MR. FAY: The new subclause has been added and was necessary to establish a formula to distribute monies to the town bridge account. Minnesota Statutes 165.03 Subdivision 2, requires annual inspection of all bridges in the State of Minnesota by the Commissioner of Highways, County Highway Engineer, City Engineer, or whomever has jurisdiction over the bridges and reports are filed with the Minnesota -- with the Department of Highways and include recommendations for corrections of any deficient bridges. The department maintains the inventory and establishes priority based on the deficiencies of the bridge, average daily traffic, detour length, age of structure, and the functional classification it will excel. The cost to correct the deficiencies is based upon current bridge replacement costs as determined by the Department of Highways. These costs are applied uniformly to all bridges depending on the

length of the replacement structure. The Minnesota Association of Township Officers Executive Committee in cooperation with the Office of State-Aid, Minnesota Highway Department determine that the legislature establish a town bridge account with deficient bridges in mind and that the money should therefore, be distributed on the basis of deficient town bridges. Therefore, it was the consensus that the estimated needs to correct the deficient bridges should be the basis for distribution of monies. It was also determined that to distribute money to each township individually would not permit the majority of townships to amass enough monies to construct a bridge. The allocation will be made on a couty basis considering all deficient town bridges within the county and then a public meetings will be held to determine the bridges to be built. A formal resolution by the County Board will be authority to initiate a bridge project.

Q (Mr. Murphy) Is there any audience comment on that rule change, Mr. Examiner?

EXAMINER GREENBERG: I see none, Mr. Murphy. You may continue.

Q (Mr. Murphy) Hearing none, Mr. Hanson, will you

read -- identify and read the next proposed change?

A. (Mr. Hanson) Under G, 4, f, (2) "Surplus Turnback Funds. At any time the commissioner determines that either the county or municipal turnback accounts, notwithstanding the town bridge accounts, has accumulated a surplus not needed for turnback purposes, he shall properly notify the state auditor requesting the transfer of such surplus to the respective County State-Aid highway fund or Municipal State-Aid street fund for apportionment as provided by law."

Q. Mr. Hanson, should that read "state auditor"? Does he still have that function or would it be finance?

A. As far as I know that's correct.

Q. It should be auditor, is that right?

A. As far as I know.

Q. All right, very well. Mr. Fay, the need for that proposed--

MR. FAY: This subclause was previously under part i, Statement of State-Aid Operations. Clause Paren 4,(aa), and has been revised to include the town bridge accounts on Page 21.

MR. MURPHY: I'm on 15 here.

MR. FAY: Right.

MR. FAY: The ol-- I've made reference

to the old --

MR. MURPHY: Oh.

MR. FAY: -- manual -- the old, pardon me, the old rules.

MR. MURPHY: Mr. Greenberg, may I check out this business of where that should read "state auditor" or "commissioner of finance" and submit something to you?

EXAMINER GREENBERG: By all means.

MR. MURPHY: Whatever the legal designation of the guy who's got the money should be, that's what I want to know.

EXAMINER GREENBERG: Fine.

MR. MURPHY: -- put in. Mr. Hanson, would you read the next proposed change?

A. (Mr. Hanson) On Page 16, under G, 4, f, (3).

EXAMINER GREENBERG: Excuse me, Mr. Hanson, for the benefit of those in the audience we're now at the bottom of Page 14 on your copy of the rules. It's paren triple i which has been changed in the numbering system of the -- that Mr. Hanson is reading from. Go ahead Mr. Hanson.

A. (Mr. Hanson) No response.

Q. (Mr. Murphy) You've just finished on Page 15, Mr. Hanson, --

A. Right.

Q. -- and you're going to the next change.

A. We're going to Page 16. "Advances from County or Urban Municipal Funds. When the commissioner approves a request from the governing body of a county or urban municipality for the construction of an approved County State-Aid or Municipal State-Aid turnback project which will require funds in excess of the available turnback fund balance and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the county's or urban municipality's turnback fund in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the respective turnback funds shall not exceed 40 percent of the last county or municipal turnback allotment. Any advances shall be repaid in accordance with the terms of the approved request from money accruing to the respective turnback funds."

Q. (Mr. Murphy) Mr. Fay.

MR. FAY: This subclause will permit

counties or municipalities the privilege of advancing local monies for construction of a former turn -- trunk highway turnback and will allow the state to reimburse the counties or municipalities from future turnback funds. It establishes a limitation as to how much money can be advanced. If a limitation has to -- advancement of funds is not required the state could probably advance encumber future turnback funds to the extent that an entire year's turnback allotment would be designated for payback. This could be to the state's disadvantage if a turnback required immediate funding for some unforseen event.

Q (Mr. Murphy) Mr. Hanson, the next proposed change?

A (Mr. Hanson) Under G, 4, f, (4), "Advances from the Town Bridge Account. When the commissioner approves a request from the governing body of a county for the replacement or reconstruction of a town bridge which will require funds in excess of the County's available town bridge account and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally

financed expenditures out of subsequent apportionments to the Town Bridge Account in accordance with the terms and conditions specified in the in the approved request. The total of such advances to be reimbursed from the town bridge account shall not exceed 40% of the last town bridge apportionment. Any advances shall be repaid in accordance with terms of the approved request from monies accruing to the respective town bridge accounts."

Q Mr. Fay.

MR. FAY: This subclause is similar to subclause three. It will permit the privilege of a town to advance local money for the construction of a town bridge and be reimbursed from future allocations.

Q (Mr. Murphy) Mr. Hanson, the next proposed change?

EXAMINER GREENBERG: Before proceeding with the next pro-- change, I'd just like to point out that two changes which appear in the material which Mr. Hanson has read do not appear in the changes -- or the proposed amendments as printed and for which notice was given. The word "never" was changed to "not" and in the

last line of both Subdivision 3 and Subdivision 4, the last sentence I should say, the word "agreement" was changed to "approved request". Both of those changes were made simply for clarification.

MR. MURPHY: You don't regard those as changes in substance, Mr. Fay?

MR. FAY: No, I do not.

Q (Mr. Murphy) Mr. Hanson, the next proposed change?

A (Mr. Hanson) Under G, 4, f, (5). "Release of Turnback Account Funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county or urban municipality from turnback account funds up to 90 percent of the turnback share of said contract. The commissioner shall retain the remaining percentage of the turnback share of said contract, until the final cost is determined and the project accepted by the district engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner

shall release from the respective turnback account 90 percent of the value as reported by said partial estimates on an eligible turnback project. Requests for reimbursement of preliminary and construction engineering costs on an eligible turnback project shall be submitted and payment will be authorized in accordance with Minnesota Rule Hwy. 32, G, 2, e(1), (2) engineering costs.

Q Mr. Fay.

MR. FAY: Partial eligible projects are no longer in existence. The subclause has been modified to reflect this change.

Q (Mr. Murphy) The next proposed change, Mr. Hanson?

A (Mr. Hanson) Under G, 4, f (6), "Release of Town Bridge Account Funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county, from town bridge account funds, up to 90 percent of the town bridge account share of said contract. The commissioner shall retain the remaining 10 percent until the final cost is determined and the project is accepted by the district engineer."

Q Mr. Fay.

MR. FAY: This clause is necessary in order to administer payments from the town bridge accounts funds and is consistent with other State-Aid procedures.

MR. MURPHY: Before skipping to another -- not skipping but preceeding to another subject in the rules, is there any audience comment on the changes proposed thus far, Mr. Greenberg?

EXAMINER GREENBERG: Does anyone have a comment or question? (No response.) I see no comments or questions. At this point we're going to take a 10 minute recess for resuscitation of the gentlemen's voices.

(Laughter)

(Ten minute recess)

EXAMINER GREENBERG: We're back on the record. Mr. Murphy, you may continue.

Q (Mr. Murphy) Mr. Hanson, I believe we're on Page 17 of your -- of your notes, what is it Highway 32 H, or have I missed a number?

A (Mr. Hanson) Right. That's correct.

EXAMINER GREENBERG: And that is at the bottom of Page 15 in the -- in the rules as they were published originally.

Q (Mr. Murphy) Ok, Mr. Hanson, referring you to

Highway Rule 32 H --

A. (Mr. Hanson) The next --

Q. -- is there a proposed change?

A. -- the next change is under 32 -- Highway Rule 32H-3. "Right-of-Way. The minimum --

Q. Wait, is there a change in 1, a, -- Oh, that's just a strikeover. -- substitute--

A. -- that's just a strike.

Q. -- taking out the word "village". All right, let's go to 32H3.

A. "Right-of-Way. The minimum widths of right- of-way for all State-Aid routes shall be not less than sixty feet within municipalities and sixty-six feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the commissioner. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section."

Q. Mr. Fay, the purpose of the -- necessity for that?

MR. FAY: This clause was previously contained within part e, Page 3, Selection and Designation of State-Aid Systems. Clause (2)

Criteria and under part i State-Aid Operations. There is no change in the language.

Q (Mr. Murphy) Mr. Hanson, is the next change in Rule 32 I?

A (Mr. Hanson) Yes.

Q Would you read the proposed change?

A Under I, 1, a, (2) "The maintenance and inspection of all bridges, culverts and other drainage structures."

Q All right. Mr. Fay, the reason for that addition.

MR. FAY: The Minnesota Law provides for annual inspection of all bridges by the counties. Additional language is intended to provide for maintenance monies to be expended for bridge inspection.

Q (Mr. Murphy) The next change, Mr. Hanson.

A (Mr. Hanson) The next change will be under I, 1, a, (5), on the documents that you have it shows the five as being crossed out. After careful consideration we're going to leave it as it originally was. The reading will be: "The enforcement of parallel parking on any approved State-Aid project;"

Q And the next change.

A Will be under I, 1, a, (6). After careful con-

sideration we will revise the original wording to read:

"The exclusion of advertising signs, billboards, buildings and other privately owned installations other than utilities of public interest from the right-of-way of any approved State-Aid project."

Q All right, Mr. Fay, the need for that.

MR. FAY: We revised it to permit for-- public utility, so it includes the public utilities now.

EXAMINER GREENBERG: Excuse me.

MR. MURPHY: I don't follow that either.

MR. FAY: There are instances when there are public utilities on the right-of-way which are acceptable, and the rule was rewritten to accommodate those situations.

MR. MURPHY: That is, with respect to public utilities which by law have the right to occupy right-of-way?

MR. FAY: Yes.

MR. HANSON: Correct.

Q (Mr. Murphy) All right, now, would you go to the next proposed change?

A (Mr. Hanson) We have a housekeeping rule under I, 1, a, b, third line up from the bottom we refer -- we've -- it states "municipality" and that should be

"urban municipality."

Q (Mr. Murphy) That's going to be consistent with your definition section?

A. Yes.

MR. FAY: Correct.

Q (Mr. Murphy) All right. What's the next proposed thing -- change?

A. Under I, 1, b, (1), "Route Markers. Approved route markers shall be installed on all rural County State-Aid highways in accordance with the current manual on uniform traffic control devices. Failure to comply with this requirement shall result in the withholding of 10 percent of the annual maintenance allocation until such markers are properly installed."

Q What's that change --

MR. FAY: This was --

Q (Mr. Murphy) -- required by Mr. Fay?

MR. FAY: -- This was revised to delete the absolute -- obsolete -- absolute -- obsolete date to specify the specific manual. Being the uniform traffic control devices.

EXAMINER GREENBERG: The word -- excuse me -- Mr. Hanson or Mr. Fay, the first word of that sentence "approved" should have a capital A,

is that correct?

MR. FAY: Right.

MR. HANSON: Yes.

Q (Mr. Murphy) All right, Mr. Hanson, the next change?

A. (Mr. Hanson) On the document before you we show proposed changes under I, 1, b, (2) and (3), we will strike those as we included them under I,1, A, (5), (6).

Q That was just a change in position of the proposed language?

A. Yes.

Q You've already read the language as proposed?

A. Correct.

Q What is the next change, Mr. Hanson?

A. The next change will be on Page 20. Under I, 3, "Turnback Accounts. The funds in the county and municipal turnback accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. Further, a percentage of the county turnback account has been set aside, as provided by law, and shall be used for replacement or

reconstruction of town road bridges that are 20 feet or more in length in those counties that have two or more towns."

Q Mr. Fay, your comment please.

MR. FAY: This clause was previously under clause G, State-Aid Payments and three other authorized payments of turnback accounts and has been slightly rewritten to include town bridges as provided in the law.

Q (Mr. Murphy) Mr. Hanson, the next proposed change.

A (Mr. Hanson) On Page 21, under I, 3, a, "Eligibility. (1) Any former trunk highway reverted to county or urban municipal jurisdiction subsequent to July 1, 1965, and which is part of the County State-Aid highway or Municipal State-Aid street systems, shall be eligible for payment from the turnback account to the county or urban municipality of all costs covering the reconstruction and improvement of said highway as detailed on approved plans. Approval of plans for the initial construction of such projects shall be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same

route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of said project. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds."

Q (Mr. Murphy) The need for that proposed rule, Mr. Fay.

MR. FAY: There is not sufficient monies in the turnback account to reconstruct in the time frame as originally established. Revision of this subclause will permit projects to be approved for construction and tabled until monies are available. Tha subclause was originally under part G, clause 4, (ff), (i), small i.

Q (Mr. Murphy) Mr. Hanson, the next proposed change.

A (Mr. Hanson) Under I, 3, a, (2). "Any town bridge, 20 feet or more in length, is eligible for replacement or reconstruction if after all

pertinent data supplied by local citizenry, local units of government, the Regional Development Commission or the Metopolitan Council, is reviewed by the county board and a formal resolution by the county board is adopted indentifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to 50% of the cost of the bridge, and will be made in accordance with Minnesota Rule Hwy. 32, G, 3, f, (4).

Q Mr. Fay.

MR. FAY: This clause has been added to establish criteria for the approval of town bridge reconstruction or replacement and reflects a change necessitating -- necessitated by legislation.

Q (Mr. Murphy) Mr Hanson, the next proposed change.

A (Mr. Hanson) Under I, 3, b, "Plan Approval and Construction Requirements. Plans for all County or Municipal State-Aid turnback or town bridge projects must be submitted to the commissioner and be approved before any reconstruction or improvement work is undertaken. All of the State-Aid rules that are consistent with the turnback regulations shall apply to all projects to be

to be financed from the county or municipal turnback accounts or the town bridge account."

Q Mr. Fay.

MR. FAY: The revision is to include township bridges and remove language that isn't necessary.

Q (Mr. Murphy) The next change Mr. Hanson.

A (Mr. Hanson) On Page 22, under I, 3, c, "Construction Authorization. As soon as the plans for a State-Aid turnback or town bridge project are approved, the county or urban municipality shall be furnished either an authorization to proceed with construction or a notice that sufficient funds are not available within the applicable turnback account or town bridge account and that a priority has been established for said project for construction authorization as soon as funds are available. Where local funds are advanced by the county or urban municipality to construct an approved project for which sufficient funds are not available in the turnback account or town bridge account authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with Minnesota Rule Hwy. 32, G, 4, f., (3) has

been approved by the commissioner."

Q Mr. Fay.

MR. FAY: This re-- revision is made to include town bridges, the revision of I, 3, permits deletion of language requiring resubmittal of plan.

Q (Mr. Murphy) Mr. Hanson, is the next change in Rule J?

A (Mr. Hanson) It's a housekeeping rule and we have struck the term, "and regulations".

Q Any other change in Rule J?

A We would like to have a housekeeping rule under J, 4, "Non-compliance." The last sentence of the paragraph should read:

"The amount withheld shall reasonably approximate the extent of the noncompliance or the value of the unfulfilled obligation."

Q (Mr. Murphy) Mr. Fay.

MR. FAY: This is a -- merely a housekeeping and clarity.

EXAMINER GREENBERG: I had a question in regard to J, 1. But I'm going to change the tape before I ask the question. My question was whether or not the word "rules" should be inserted after "ordinances" so that the first sentence

would read: "State-Aid construction projects shall comply with all federal, state, and local laws, together with all ordinances, rules, and regulations applicable to the work." I don't know if that is necessary or not but I ask the question.

MR. MURPHY: Mr. Hanson, I believe, you agree with that and do propose the addition of the word "rules" and are in the opinion that it is not a change in substance, is that all correct?

MR. HANSON: That's correct.

MR. MURPHY: Is that satisfactory, Mr. Examiner?

EXAMINER GREENBERG: Yes, it is.

Q (Mr. Murphy) Mr. Hanson, would you read the next proposed change in rules?

A. (Mr. Hanson) On Page 24 under K, 3, "Right-of-Way. The cost of any lands and properties required to accommodate the design width of the street or highway as governed by the State-Aid standards, including necessary width for sidewalks, shall be considered as eligible expense. This cost may include relocation and moving as provided by law and may include damages to

other lands if reasonably justified to the satisfaction of the commissioner."

Q Mr. Fay, the need for that.

MR. FAY: This language has been modified to bring it into compliance -- conformance with the State Statutes. References made to Minnesota Statutes Chapter 117.52 -- 32.

MR. MURPHY: And the statute provides for relocation and moving costs?

MR. FAY: That is right.

Q (Mr. Murphy) Mr. Hanson, the next proposed change appears to be in 4, under "Sidewalks," just putting in the word "urban" municipality?

A (Mr. Hanson) Yes.

Q And that's to be consistent with the definition?

A Correct.

Q The next proposed change?

A Under -- on Page 25, under O, We have added a paragraph, "Severability. The provisions of these rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision or any other part."

Q And Mr. Fay what do you say to that rule?

MR. FAY: The addition of this paragraph

provides that any portion of these rules declared void will not affect other rules.

Q (Mr. Murphy) All right, Mr. Hanson, it's my understanding that you have read into the record all of the proposed changes, all of the proposed new language which would change Highway Rule 32?

A (Mr. Hanson) That is correct.

Q Subject to my checking out the use of the word "auditor" whether or not that's the proper designation, we may -- we may yet change that. Do I understand that the Department will type up a new set of -- a new set of rules with all of the changes as you have read them into this record?

A Yes.

Q Will that be done?

A Yes.

Q And that will be made available to the Hearing Examiner?

A Yes.

Q And Mr. Fay it's my understanding of your testimony, so far, that all of the proposed changes are either housekeeping changes, grammatical changes, changes in -- in -- in sentence structure, and that the balance of the changes in your opinion, are needful for the administration of the State-Aid laws that now exist?

MR. FAY: That is correct.

MR. MURPHY: Mr. Hearing Examiner, are there any -- we've now completed reading into the record the proposed changes in -- in Highway Rule 32, are there any audience comments on the subject of the adoption of those rules? We have department people here to explain all or any of those rules, and if anyone has any comments, I believe, now is the time to make them.

EXAMINER GREENBERG: All right. Yes sir. Before you give your statements, comments on the changes that have been made will be accepted except with regard to those changes which appeared on Page 12 of the rules as originally proposed which dealt with "Construction of Selected Bridge Projects." Those particular changes are now contained in material which has been numbered as "Highway Rule -- Rule Highway 32 A" for which notice was properly given in terms of the material contained under that rule 32A, which was originally indicated as what appears as subsection dd in parenthesis with subsections i, ii, iii, on Page 12, of the originally proposed and mailed rules.

MR. MURPHY: Mr. Examiner, I intend to

go into that part of the rules after comments on Rule 32.

EXAMINER GREENBERG: I understand, Mr. Murphy, I just wanted to make sure that comment would not be directed to those particular rules at this time. Yes sir, would you please state your name and affiliation?

MR. LANGSETH: My name is Russell Langseth, I'm director of Public Works at the City of Bloomington, and I represent only the City of Bloomington and the Public Works Department of Bloomington.

EXAMINER GREENBERG: Would you spell your last name, Mr. Langseth?

MR. LANGSETH: L-A-N-G-S-E-T-H.

EXAMINER GREENBERG: Ok. And either before or after you give your testimony, please sign the register right by you.

MR. LANGSETH: I was -- I was going to ask about what happened to that one on sheet 12, but they explained that, so I had submitted some letters to the -- my Representative on the Rules Committee and I did not receive any response either that they had been received or that if they are part of the record. And --

EXAMINER GREENBERG: As far as the Examiner is concerned, any comments which you may have submitted are not part of the record, I have not received them, and they would not be considered until received by me.

MR. LANGSETH: The -- one comment that I would like to make is the State Highway Department is presently proposing that the frontage roads along Interstate Highway be turned back to municipality or turned over to municipality. And there is no provision for using turnback funds on those streets, however, at the present time with the frontage road designated as part of the State Highway system and it is possible to use Municipal State-Aid funds for construction on those frontage roads. With -- we think there's an advantage for the city to have control and own the frontage roads. However it's a disadvantage if you do take them over then you cannot use Municipal State-Aid funds on them unless they're designated as a Municipal State-Aid street. And they-- they may not necessarily fit that criteria and so we requested that the rule be considered that the -- if the city does accept the frontage road that they would

be able to use State-Aid funds for its construction.

EXAMINER GREENBERG: Does the Agency wish to respond?

MR. FAY: My name is Gordon Fay. The Agency hasn't taken a position on this. But it is my recollection -- rec -- I do recognize that the point that he raises has been discussed with the Rules Committee with no action being taken.

EXAMINER GREENBERG: Mr. Langseth, did you have a specific amendment that you -- or-- or some specific language that you wanted to see introduced into these rules?

MR. LANGSETH: I haven't written a -- a condition -- a rule to be added.

EXAMINER GREENBERG: Would the proposal that you are making alter the-substantially alter the thrust of the rules as they are currently written?

MR. LANGSETH: No, it would be an addition to --

EXAMINER GREENBERG: Well, would -- what I'm asking is would -- would the change that you're proposing, the inclusion of new

material, would that affect all municipalities or is it defined all urban municipalities?

MR. LANGSETH: It would not affect all of them. It would affect those with that situation which have -- have freeways or State Highways with frontage roads.

EXAMINER GREENBERG: But it would require as I understand it additional allocations in money from the State-Aid funds, is that correct?

MR. LANGSETH: No, the same, not additional allocations it's -- it's allowing the city to use their allocation on that street. It would not increase their needs, in fact, it may -- you know, it may --

EXAMINER GREENBERG: Now, I guess, my question is if monies were to be allowed for use for purposes which you indicated would that then take away from other possible allocations of -- other possible uses of that allocation of money, and that it would affect other municipalities in the community or other -- other use of monies within the State-Aid fund, from which monies would be appropriated for the use which you're intending?

MR. LANGSETH: In my opinion, it would affect -- it would just affect that city that used the funds for that purpose. It would not affect other municipalities in the State-Aid system.

EXAMINER GREENBERG: Now, the purpose of my question was to determine whether or not were the Agency or let me put it this way, were you to submit proposed language for inclusion in these rules and were they to be accepted by the Agency they would not be a -- they would or would not be appropriate for adoption at this time, depending upon whether or not they were-- they constituted a substantial change in the rules; for which additional notice would have to be given and an additional hearing would have to be held to consider those -- the proposal which you're making. I don't -- I can't make a ruling on that based upon the brief statement that you've made up to this point. But I just want you to understand that's the purpose of my question. The Agency, perhaps, would be able to give me a better idea of whether or not that would constitute substantial change and certainly other municipalities that -- other urban municipalities that might be

in the same situation as Bloomington is would then perhaps, wish to comment either in support or against your proposal. And certainly communities of under 5,000 or counties or whomever else might be affected by the use of funds that you're proposing would also require the opportunity to be heard.

MR. LANGSETH: Yes, I understand, the -- my intention that this be optional with the city and so that it would not necessarily affect another city one way or the other unless they chose, and I guess that --

EXAMINER GREENBERG: Well, I'll let Mr. --

MR. LANGSETH: Mr. Fay might --

EXAMINER GREENBERG: -- Fay respond further if they wish to.

MR. MURPHY: Do you have a response to that Mr. Fay?

MR. FAY: Gordon Fay. The affect of this type of an alteration in the rules would affect 50% of the apportionment of those cities over 5,000 population. What it constitutes is an expenditure of State-Aid funds off from the system, when monies are expended off from that system it does not reduce the remaining needs to that

system by whatever sum of money is expended off the system. Therefore, it would allow the needs of that community to remain higher and would affect future apportionments.

EXAMINER GREENBERG: Is the thrust of your comment that that would have a sub -- some type of substantial affect?

MR. FAY: It would have some affect, yes.

EXAMINER GREENBERG: The Examiner will take that under consideration. Mr. Langseth, did you have further comments that you wish to make?

MR. LANGSETH: In my -- in my correspondence to Mr. Hilde --

EXAMINER GREENBERG: To Mr. Who?

MR. LANGSETH: Hilde, who was our Representative on the Rules --

EXAMINER GREENBERG: Will you spell his name?

MR. LANGSETH: H-I-L-D-E. He represented our District and I commented regarding the engineering cos-- -- the preliminary engineering costs which I agree. I'm changing them to -- from five percent to higher I suggested they even be 10 percent but -- would be satisfied with the 8 percent. I -- we feel that

State-Aid fund should be eligible to be used on bike paths, sidewalks, and bike paths and along State-Aid streets and the rules do not address that. It's still just sidewalks is my understanding.

EXAMINER GREENBERG: Does the Agency wish to respond?

MR. FAY: The use of State-Aid funds for bicycle paths was des-- was spoken to by the Rules Committee in their meeting. It was the opinion that they would not include bicycle paths as a separate identity as eligible for the use of State-Aid funds in constructing them. It is felt that Federal-Aid funds now are allocated to the units of government and may be used for bicycle paths in addition to that, the legislature has passed a law under Chapter 199 providing additional funds for bicycle paths. These funds have not been used to date.

EXAM. GREENBERG: Mr. Langseth.

MR. LANGSETH: Well, there's some complications in obtaining those funds. First of all, the federal funds and the rules as we understand them -- they must be a bicycle path of national significance and -- and -- and several other rules which are not easy to comply -- to fulfill. And perhaps that's the reason that they haven't been used. That the -- we feel

that this bicycle path is an integral part of the roadway and helps the traffic on the highway by removing bicycles from the roadway, and so on as they are similar to the sidewalks, and so on by keeping people from walking on the road.

EXAMINER GREENBERG: Mr. Fay, you had some additional comment.

MR. FAY: Federal funds under the requirements -- it has to be demonstrated that the bicycle path is a convenience for those people commuting. Actually commuting back and forth to work or are actually traveling from one location to another. In addition to that, there are bicycle path funds available through the Department of Natural Resources for recreational bicycle trails. Unfortunately, I do not know the amount of funds, the total amount in that fund or the disposition of those funds at this time so I can't allude to that in greater detail.

MR. LANGSETH: That's the extent of my comments.

EXAM. GREENBERG: Ok. Thank you, Mr. Langseth. Is there anyone else who wish to comment generally about the rules that have been introduced, and the amendments that have been introduced, so far? Yes sir.

MR. BEAUCLAIR: My name is Ben Beauclair. B-E-A-U-C-L-A-I-R. I'm with St. Louis County as a Highway Engineer and I would like to comment on the disaster account. I realize that when there is a disaster there is a degree of damage done and I'd certainly agree with the Rules Committee that you can't literally be bothered with every culvert wash-out. But I do question the fact that the estimated damage must exceed 10 percent of your annual State-Aid allotment, in our particular county they have over 7,000 square miles and I believe we get something over $4 million per year. It is much larger than the average county and to have to have the degree of damage over $400,000 in each instance it appears to me to be something that should be changed. However, I do agree that it should be over a certain amount and I wonder Mr. Fay if you could inform me of the findings that the Rules Committee had on this.

MR. FAY: Gordon Fay. The State-Aid Rules Committee discussed this at length. I think originally they were intending that 20 percent would be the figure. As an Agency, we also felt that 20 percent of the last allotment was in excess of what a rule ought to provide. The concensus of the State-Aid Rules Committee settled on 10 percent and I think

as they finally agreed to their decision was unanimously 10 percent. As an agency, it would be our recommendation to go along with the Rules Committee recommendation.

EXAMINER GREENBERG: Mr. Beauclair, did you have a specific amount or a specific language?

MR. BEAUCLAIR: No, I didn't. I was just aware of it this morning and of what it would actually do to the county per se. I just want to enter it for the records, Mr. Greenberg.

EXAMINER GREENBERG: All right, thank you Mr. Beauclair, does the Agency have further response to that?

MR. HANSON: No.

EXAMINER GREENBERG: Are there any other comments with regard to the rules or amendments that have been proposed so far? I see no further comments. Mr. Murphy, if you'd like to proceed.

MR. MURPHY: Mr. Examiner, I would like to take up now what we have proposed as Highway Rule 32A. Now, I think it's unplanned. I want to get Mr. Benthin up here and ask him a few questions if you wouldn't --

EXAMINER GREENBERG: Again for the benefit of the public, Rule 32A, in its essential parts

as far as I can tell -- as far as the Examiner can tell are located on Page 12 of the originally proposed rules. There is an addition to that language, which is contained on Page 12, additional language which has been added. That language as far as the Examiner is able to determine right now is not particularly substantial in its nature and adequate notice would have been given for those changes under the notice which was mailed to the Secretary of State's List. Mr. Murphy, you may proceed.

MR. MURPHY: All right. Mr. Benthin will you identify yourself, please?

KEITH BENTHIN

was called as a witness and testified as follows:

A. Keith Benthin, Minnesota State Highway Bridge Engineer.

Q. (Mr. Murphy) What are your general duties as Minnesota Bridge Engineer?

EXAMINER GREENBERG: Excuse me, before you proceed would you put the microphone between the two of you?

BY MR. MURPHY:

Q. Would you state again your occupation?

A. My name is Keith Benthin, Minnesota State Highway Bridge Engineer.

Q. In general, what are your duties as bridge engineer?

A. I'm in charge of all the bridge designing on the Trunk Highway system in charge of the review of bridges on the State-Aid system, as well as some other functions, developing standards, and monitoring --

Q. Anywhere --

A. -- work.

Q. -- in a general way are you familiar with bridges throughout the State of Minnesota?

A. Yes I am.

Q. And in a general way have you got duties with respect to the inspection of bridges throughout the State of Minnesota?

A. I was instrumental in setting up the current bridge inspection system and part of my duties are in monitoring of that now.

Q. I'll ask you Mr. Benthin whether or not there is a serbus problem with respect to bridges in the State of Minnesota?

A. Well, we have identified over 600 million dollars worth of deficient bridge needs through an extensive study based on our rigid bridge inspection program, yes.

Q. And the -- is it true that the department as it was set up prior to this years legislation and the municipal-

ities and counties of the state, is it true that there were not sufficient funds available to care for all the bridges in the state?

A That's true. We've been accumulating a backlog in this area.

Q And in your opinion --

EXAMINER GREENBERG: Excuse me for just a minute.

(Pause.)

Q (Mr. Murphy) And is it your opinion in brief, Mr. Benthin, that there is a serious need in the State of Minnesota for expenditures of large amounts of money on bridges within the state?

A Yes, within the state and the nation as far as I know.

MR. MURPHY: I think that's all the questions I have for you at this time. Mr. Fay, you previously identified yourself on the record, are you familiar with this serious need in the state to give some attention to bridges?

MR. FAY: Yes I am.

MR.MURPHY: And are you aware that the legislature recently enacted a Transportation Act establishing a Department of Transportation, are you aware of that?

MR. FAY: Yes, I am.

MR. MURPHY: And that although that department was established by Chapter 166 of the Laws of 1976 there is nobody now acting as Commissioner of Transportation.

MR. FAY: That is correct.

MR. MURPHY: It's our understanding that a commissioner has been appointed but the appointment doesn't take affect until August of 1976.

MR. FAY: That is right.

MR. MURPHY: In the meantime it's the Commissioner of Highways that has authority over -- authority and responsibility with respect to bridges on the Trunk Highway system?

MR. FAY: Correct.

MR. MURPHY: And as the other duties with respect to other bridges in the state that were alluded to by Mr. Benthin?

MR. FAY: That is correct.

MR. MURPHY: And it is your -- also your understanding that the 1976 session of the Legislature enacted Chapter 339 and -- which had to do with the State Transportation Fund?

MR. FAY: Yes.

MR. MURPHY: And is it your understanding

of Chapter 339 that the Commissioner of the Department of Transportation -- it was given authority under that legislation to develop rules, standards, and criteria including bridge specifications for the use in the administrations of the fund appropriated by that Act for construction and to repair bridges.

MR. FAY: That is what I understand.

MR. MURPHY: And is it also your understanding that the funds so created is in existence and that there is money appropriated to it and in it?

MR. FAY: Correct.

MR. MURPHY: And yet there's no Department of Transportation effective to do anything with that fund or with those monies?

MR. FAY: Not at this time.

MR. MURPHY: There is at this time however, a Department of Highways of the State of Minnesota and a duly appointed, acting and qualified Commissioner of Highways of the State of Minnesota who has the power to organize his department and to implement the laws relating there to.

MR. FAY: Yes, that is true.

MR. MURPHY: And to do what can be done with respect to this situation of deficient bridges in the State of Minnesota, have you on the Commissioner's

behalf proposed some rules so that the recipients of the funds provided by the State Transportation Act can start putting in applications to have bridges considered for grants under that law?

MR. FAY: We have put together proposed rules in cooperation with the State-Aid Rules Committee and other units, City Engineers and County Engineers, to carry out that mandate.

MR. MURPHY: As far as you know is there any other state organization aside from the Department of Transportation which is not yet actively in existence who has -- that has any duty or responsibility with respect to that subject matter?

MR. FAY: Not to the best of my knowledge.

MR. MURPHY: All right. Now, you have prepared a statement of need as to Rule 32A, have you not?

MR. FAY: That is right.

MR. MURPHY: Would you read that into the record, please? It's under Roman numeral four.

MR. FAY: "The 1976 Legislature established a fund for bridge construction. This portion of the rules will permit administration of this special fund as it applies to counties, cities, and townships." This is under Chapter 339, Laws of Minnesota 1976.

MR. MURPHY: Ok. Mr. Hanson, in the notices that went out prior to this hearing, the rules you proposed for adoption pursuant to that Chapter 339, were located on Page 12 of the materials that was put out?

MR. HANSON: That is correct.

MR. MURPHY: And at the suggestion of one of the Senate Counsel of the State of Minnesota you have renumbered your proposal as Highway Rule 32A?

MR. HANSON: That is correct.

MR. MURPHY: In your opinion -- and have you reviewed the language that you are proposing as Rule 32A?

MR. HANSON: Yes.

MR. MURPHY: And in your opinion has the substance of the rule proposed changed from the -- from the substance of the rule previously proposed when you had it on Page 12 of the handout?

MR. HANSON: No.

MR. MURPHY: It's essentially the same rule?

MR. HANSON: Yes.

MR. MURPHY: Would you read -- I guess in its entirety rule proposed -- Highway Rule 32A?

MR. HANSON: "Highway 32A. Rules for

bridge construction program under Laws 1976, Chapter 339.

A. Purpose. The purpose of Minnesota Rule Highway 32A is to carry out the mandate of the legislature and to effectuate that mandate with respect to application, selection, and funding of bridge construction projects on key bridges under local jurisdiction as set forth in Minnesota Laws of 1976, Chapter 339.

B. Scope. The scope of Minnesota Rule Highway 32A is confined within the framework of and consistent with Minnesota Laws of 1976, Chapter 339, Section I, and Minnesota Statutes 1974, Chapter 161 and 162." I have a question myself. Should that state as amended?

MR. MURPHY: Yes.

MR. HANSON: Let the record show that it shall read, "Chapters 161 and 162 as amended."

"C. Definitions. For purposes of Minnesota Rule Highway 32A the terms defined in Minnesota Highway Rule 32 shall have the same meaning.

D. Any deficient bridge 20 feet or more in length is eligible to be financed wholly or partially by this fund and is subject to

State-Aid standards and specifications as provided in Minnesota Rule Highway 32H.

E. Application for State financing of a project shall be made by resolution of a County Board in the case of roads under the jurisdiction of counties, townships, or municipalities of less than 5,000 population or resolution of a City Council of an urban municipality. Prior to selection by the Commissioner every application shall be reviewed by the appropriate Regional Development Commission or Metropolitan Council for consistency with its long term comprehensive development plan and guides.

F. Criteria for the selection of specific bridge projects will be the same as the six factors required to be considered under Minnesota Laws 1976, Chapter 339, Section I, Subdivision 6. The Commissioner will make the final determination as to the priority of construction.

G. Release of funds to the local road authority will be in accordance with Minnesota Rule Highway 32G, 2, a.

H. Minnesota Rule Highway 32A shall expire at such time as rules of the Minnesota Department of Transportation implementing Minnesota Laws of 1976, Chapter 339 become affective. Any agreement,

obligation, or contract entered into pursuant to Minnesota Rule Highway 32A shall remain in full force and effect after expiration of the rule."

MR. MURPHY: All right, Mr. Fay, is that -- are those rules as read needful in the administration of the -- Chapter 339?

MR. FAY: It is our opinion that they are.

MR. MURPHY: Are they in the public interest?

MR. FAY: In our opinion they are in the public interest.

MR. MURPHY: And in your opinion do they give a head start for the Department of Transportation when it takes over?

MR. FAY: It is our opinion that it will and that is our intention.

MR. MURPHY: Mr. Examiner, I think that concludes our presentation.

EXAMINER GREENBERG: Do those present have any questions or comments with regard to proposed Rule Highway 32A?

(Pause.)

EXAMINER GREENBERG: Mr. Langseth.

MR. LANGSETH: Russ Langseth, Director

of Public Works in the City of Bloomington. Perhaps this administrative things, but how, in applying for these funds, how far along do plans need to be advanced and or is it just to apply for the funds for -- for -- to replace a deficient bridge, do you have to have new plans for the new bridge?

MR. FAY: The -- the -- Gordon Fay. I'll respond in this manner. It's a responsibility of each unit of government to determine its priorities and submit them to be prioritized statewide. There isn't at this time any prescribed position or advancement of the project that needs to be complied with for submittal.

EXAMINER GREENBERG: Does that answer your question, Mr. Langseth?

MR. LANGSETH: I think so, thank you.

EXAMINER GREENBERG: Are there any other questions or comments? The Examiner has one or two. First of all, in terms of consistency for what the rest of the -- with the other rules that have been proposed there -- I noticed that commissioner is capitalized occasionally and any change that may be made in capitalization or punctuation when the -- when the department or the Agency adopts these rules or promulgates these rules or submits them to the Attorney General for

the Attorney General's consideration it will not be considered substantial changes. That includes such things as changing periods to commas or commas to periods, or whatever may be required. Also, at the very end of Rule 32A, there's a quotation mark which may be removed, a more substantive comment however, deals with 32 A, Part D, where reference is made to "this fund". The Examiner is unable to determine what -- what fund is being referred to under Section D. There appears to be no reference to a fund under A, B, or C.

MR. MURPHY: Very well. Mr. Hanson, I'll ask you whether or not the "fund" referred to is the State Transportation Fund?

MR. HANSON: Yes, it is.

MR. MURPHY: It's set forth in Chapter 339 of Laws of Minnesota for 1976. And do you propose to -- do you propose to change the words, "this fund" in Paragraph D to --

MR. FAY: Minnesota Transportation Fund.

MR. MURPHY: -- the words, "the State Transportation Fund."

MR. FAY: -- Minnesota Transportation Fund.

MR. HANSON: I think yes. We will identify it as the Minnesota State Transportation Fund.

MR. MURPHY: After it is provided by Subdivision 2, of Section 1, of Chapter 339?

MR. HANSON: Correct.

MR. MURPHY: Does that clear that matter up, Mr. Examiner?

EXAMINER GREENBERG: Yes it does. That would be the Minnesota State --

MR. HANSON: State Transportation Fund.

EXAMINER GREENBERG: Mr. Murphy, could you give me the cite to that section again please?

MR. MURPHY: Chapter 339, Section 1, Subdivision 2. "A Minnesota State Transportation Fund is created," et cetera.

EXAMINER GREENBERG: I'll also ask whether or not under Chap -- under Section F of that section -- of the Rule 32A as proposed. The Agency would be amenable to adding the word in the third line "as amended" after the words -- after the Number 6 where it says Chapter 339, Section 1, Subdivision 6 as amended or perhaps the more appropriate would be "as it may be amended." The reason I make that comment is before the Department of Transportation has an opportunity to propose, publish, and promulgate its own rules with regard to this fund, the Legislature may deem it appropriate to amend the requirements

of the six factors that are indicated in that section.

MR. MURPHY: I see no difficulty in adding the words as amended. Mr. Hanson, will you propose that as a change rule to amend the first sentence of F so as to tack on the words, "as amended" at the completion of that sentence?

MR. HANSON: Yes. For the matter of record should I read the proposed changes under D and F?

EXAMINER GREENBERG: I don't think its necessary.

MR. HANSON: All right.

MR. MURPHY: But you have them for purposes of the rewrite?

MR. HANSON: I have made a note of that.

EXAMINER GREENBERG: For the record, also I'm going to note that the copy which I have -- which of these rules as they have been read both of Highway Rule 32 and 32A which has been marked Exhibit 8 is a part of the record, and I've made appropriate changes on this copy. So they will be part of the record and available for inspection and comment with reference to the sections as they appear on Exhibit 8, is that clear? Are there any other questions or comments from anyone whether it be from the public or the Agency

with regard to either Highway Rule 32 or 32A, as they have been discussed and introduced here this morning. If not, I will remind everyone present that under Minnesota Statutes Section 10A.01, Subdivision 11, "Any individual representing persons or associations attempting to influence administrative action such as the promulgation of these rules must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual." Also, any comments which people wish to have in the record must be received by me no later than 4:30 on July 14, 1976. I see no other comments or questions therefore, this hearing will be adjourned.

(Whereupon, the hearing was concluded.)

Attorney General

Eric W. Schultz
Deputy Attorney General

September 21, 1976

296-4692

Michael B. Miller
Special Assistant
Attorney General

State Aid and Bridge Construction Rules

The above-captioned rules are returned herewith, as the Notice of Hearing was not sent thirty days in advance as required by Minn. Stat. § 15.0412, subd. 4 (1974).

MBM/mb

Enclosure

Exhibit No. 1
File No. Hwy -3
Date

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in the Auditorium, Room 83, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 on June 24, 1976, commencing at 9:00 A. M. and continuing until all persons have had an opportunity to be heard.

IT IS FURTHER ORDERED that a Notice of Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Secretary of State for that purpose.

IT IS FURTHER ORDERED that the Notice of Hearing be published.

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli

Frank D. Marzitelli, Commissioner
Dated this 24th day of May 1976

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

AFFIDAVIT OF RECEIPT OF THE SECRETARY OF STATE'S LIST

Kenneth H. Bjork, being duly sworn on oath deposes and says:

1) That he is an employee of the State of Minnesota, Department of Highways.

2) That on the 26th day of May, 1976, he went to the Secretary of State's office for the State of Minnesota and requested a current list of all representatives of associations or other interested groups or persons who had registered their names with the Secretary of State for the purpose of obtaining notices of public hearings relating to the promulgation of rules pursuant to M. S. 15.0412.

3) That on the 26th day of May, 1976, in response to the above request, the Secretary of State provided him with such a list, a copy of which is attached hereto and incorporated by reference.

Further affiant sayeth not.

Kenneth H. Bjork

Subscribed and sworn to before me this 26th day of May, 1976.

Agnes I. Litfin

Notary Public,

Ramsey County, Minnesota

My Commission expires Nov. 21 1980.

AGNES I. LITFIN
Notary Public, Ramsey Co., Minn.
My Commission Expires
November 21, 1980

Exhibit No. 4
File No. Hwy-3
Date

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

CERTIFICATE

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482 labels &

I hereby certify that the attached one sheets constitute the complete list of persons, associations, and other interested groups who as of 9:15 o'clock A.M., this 26th day of May, 1976, have requested pursuant to Minnesota State Statutes Supplement 1974, Section 15.0412 that their names be placed on file with the Secretary of State for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

Joan Anderson Growe
Secretary of State

Joan Anderson Growe

By Ceil Dion

Exhibit No. 7
File No. HWY-3
Date

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104 and in support thereof the Department of Highways will introduce the following evidence:

Pursuant to relevant Minnesota law relating to bridge inspection the counties and municipalities of the State of Minnesota have established bridge appraisal ratings of record (M.S., Sec. 165.03, as amended). Therefore, the Commissioner of Highways acting by and through his agent Gordon M. Fay, State Aid Engineer would propose rules to administer the provisions of Minnesota Statutes, Section 161.082 (1975) which now authorizes the expenditure of county turnback account monies on town road bridge structures. Mr. Fay and the following employees of the Department of Highways will show the reasonableness of these rules given the appraisal ratings.

We may call one or more of the following expert witnesses to testify:

Gordon M. Fay, State Aid Engineer

Roy L. Hanson, Assistant State Aid Engineer

Keith V. Benthin, Bridge Engineer

Albert E. Holmboe, Bridge Design Supervisor

Donald J. Flemming, Bridge Standards Engineer

Matthew A. Lang, Bridge Data Supervisor

We intend to introduce the following manuals, books, scientific treatises, and other documentary evidence:

- *Bridge Inspector's Training Manual 70*. U. S. Department of Transportation, Federal Highway Administration, Washington, D. C. 20591. *Available from:* Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.
- *Highway Functional Classification, Concepts, Criteria and Procedures*, Transmittal 155 (Vol. 20, App. 12). U. S. Department of Transportation, Federal Highway Administration, July 1974. *Available from:* Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.
- *Manual for Maintenance Inspection of Bridges - 1974*. American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D. C. 20004.
- *Bridge Inventory, Inspection & Posting Listing of All Municipal Bridges - 11/17/75*. State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

- *Bridge Inventory, Inspection & Posting Listing of all County Bridges - 11/17/75.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Current Resolutions of the County Screening Committee, January 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Current Resolutions of the Municipal Screening Committee, November 1975.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Form 29171.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Form 17108A.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Form 22106A.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Form 2938.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Bridge 08501 File.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Minutes, State-Aid Rules Committee Meeting - February 27, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.
- *Minutes, State-Aid Rules Committee Meeting - April 23, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *1976 Functional Classification - General Highway Map, Rock County Minnesota.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Page 56, St. Paul Dispatch.* Northwest Publications, Saint Paul Minnesota 55101. (May 27, 1976)

. *Highway News - February 13, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Highway News - March 5, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Office Memorandum - Frank D. Marzitelli, Commissioner of Highways to Duane R. Harves, Acting Chief Hearing Examiner, dated May 25, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Order For Hearing...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Notice of Hearing...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Statement of Need...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Certificate... In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 26 May 1976, /ss/ Joan Anderson Growe, Secretary of State.*

. *Affidavit of reciept of the Secretary of State's List, /ss/ Kenneth H. Bjork.*

. *Affidavit of Mailing, /ss/ Kenneth H. Bjork.*

We will be citing the following statutes and case law:

Title 49, United States Code, Chapter 23

Title 23, U. S. C., 101-405

Minnesota Constitution, Article XIV.

Minnesota Statutes, Chapters 15, 160, 161, 162, 163, 164, 165; as amended.

Laws of Minnesota, Chapter 339 (1976)

Minnesota State Regulations, Rules and Regulations of the Department of Highways, 1974 Edition

Minn. Reg. Hwy. 32., Rules and Regulations for State-Aid Operations under Minnesota Statutes 1965, Chapters 161 and 162, as amended.

Minnesota State Regulations, Rules and Regulations of the Department of Highways, Annual Supplement 1975, Supplement No. 1.

Minn. Reg. Hwy. 38., Rules and Regulations for the Inspection and Inventory of Bridges in the State of Minnesota

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli, Commissioner
Dated this 28th day of May 1976.

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

AFFIDAVIT OF MAILING

Kenneth H. Bjork, being first duly sworn, deposes and says:

That on the 26th day of May, 1976, at the City of Saint Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Hearing by depositing in the United States mail at said City of Saint Paul, a true and correct copy thereof, on the attached Certificate of the Secretary of State.

Kenneth H. Bjork

Subscribed and sworn to before me this 26th day of May 1976

AGNES I. LITFIN
Notary Public, Ramsey Co., Minn.
My Commission Expires
November 21, 1980

Agnes I. Litfin
Notary Public,

Ramsey County, Minnesota

My Commissione expires Nov. 21, 1980

ADMIN. 1000

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT HIGHWAY - Administrative Mgt.
Room 407 - Extension 7840

TO : Warren R. Spannaus
Attorney General

DATE: August 31, 1976

ATTN: ~~Eric B. Schultz~~ Mike Miller
~~Deputy Attorney General~~

FROM : Kenneth H. Bjork
Senior Management Analyst

SUBJECT: Rules Relating to State Aid Operations &
Rules Relating to Bridge Construction Program

The attached constitutes the complete file for the rule proceedings conducted on June 24, 1976 in the matters of: 1) revising state aid rules and, 2) adopting new - albeit they somewhat temporary - rules for the bridge construction program authorized by Laws of Minnesota 1976, Chapter 339.

In accordance with Minn. Stat. Sec. 15.0412, Subd. 4 the Department hereby submits said file for review as to legality.

The Department would be pleased to answer any questions you may have regarding the rules.

Kenneth H. Bjork
Senior Management Analyst

Attachment: (2)
Rules

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption of rules of the Department of Highways relating to Bridge Construction Program Under Laws 1976, Chapter 339

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Highways of the State of Minnesota on the 24th day of June, 1976, at 9:00 A.M. in the Auditorium, Room 83, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 after proper notice required by Minn. Stat. 1975 (Supp), Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Hwy. 32A Rules for Bridge Construction Program Under Laws 1976, Chapter 339

are adopted this 25th day of August, 1976, pursuant to authority vested in me by Minnesota Statutes Chapters 15, 161 and 162 as amended.

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli

Frank D. Marzitelli, Commissioner

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations.

ORDER ADOPTING RULES

The above-entitled matter came on for hearing before the Commissioner of Highways of the State of Minnesota on the 24th day of June, 1976, at 9:00 A.M. in the Auditorium, Room 83, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 after proper notice required by Minn. Stat. 1975 (Supp), Section 15.0412 was served upon all persons, associations and other interested groups registered with the Secretary of State for that purpose.

After affording interested persons an opportunity to present written and oral data, statements and arguments, having heard all of the testimony, having considered all of the evidence adduced and upon the records, files and proceedings herein, and applicable statutory standards or criteria, and having confirmed the need for the above captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Hwy. 32 Rules for State Aid Operations under Minnesota Statutes 1975,

Chapters 161 and 162, as amended, are adopted this 16th day of August, 1976, pursuant to authority vested in me by Minnesota Statutes Chapters 15, 161 and 162 as amended.

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli

Frank D. Marzitelli, Commissioner

Hwy. 32 Rules ~~and Regulations~~ for State-Aid operations under Minnesota Statutes ~~1965~~, *1974*, Chapters 161 and 162, as amended.

A. Purpose. The purpose of Minnesota ~~Reg.~~ *Rule* Hwy. 32 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minnesota Statutes ~~1965~~, *1974*, Chapter 162, as amended.

B. Scope. The scope of Minnesota ~~Reg.~~ *Rule* Hwy. 32 is confined within the framework of and consistent with Minnesota Statutes ~~1965~~, *1974*, Chapters 161 and 162, as amended.

C. Definitions. For purposes of Minnesota ~~Reg.~~ *Rule* Hwy. 32 the following terms shall mean:

1. Commissioner. The Commissioner of Highways.

2. State-Aid Engineer. The State-Aid engineer of the Minnesota Highway Department.

3. District Engineer. A district engineer of the Minnesota Highway Department or his State-Aid assistant.

4. County Engineer. ~~The County Engineer of each respective county.~~ *A registered engineer employed as the county engineer or the director of public works-county engineer of each county.*

5. City Engineer. ~~The City Engineer of each respective urban municipality~~ *A registered engineer employed as the city engineer or the director of public works-city engineer of each urban municipality.*

6. Needs Report. A report of the estimated construction cost required to improve a State-Aid system to standards adequate for future traffic on a uniform basis.

7. County-Municipal Account. A separate record of that portion of the County State-Aid highway funds allocated for expenditure solely within cities, ~~villages, and boroughs~~ having less than 5,000 population.

8. Urban Municipality. Any city, ~~village, or borough~~ having 5,000 or more population, determined in accordance with the provisions of law.

9. Local Highway or Street Departments. The highway or appropriate department of each county and each urban municipality.

10. Township Allotment. The county apportionment of County State-Aid highway funds for use in the construction of township roads.

11. Advance Encumbrance. The authorized expenditure ~~by a county or urban municipality from other available funds~~, *of local funds, in lieu of State-Aid funds, by a county or urban municipality* for use on an approved ~~County~~ State-Aid ~~Highway or Municipal State Aid Street~~project. ~~under an~~ *By* agreement with the commissioner, *the local funds will be repaid to the county or urban municipality* ~~for repayment~~ from future county or municipal State-Aid allotments *or from future county or municipal turnback funds.*

12. Screening Committee. The county or municipal committee, appointed in accordance with law, and authorized to recommend to the commissioner the mileage and money needs for each of their ~~bodies~~ *State-Aid systems.*

13. Disaster Account. The accounts provided by law for use in aiding a county or urban municipality that has suffered a serious damage to its County State-Aid highway system or Municipal State-Aid street system from fire, flood, tornado or other uncontrollable forces of such proportion that the cost of repairs to such County State-Aid highway system or Municipal State-Aid street system is beyond the normal resources of the county or urban municipality.

14. *Trunk Highway Turnback. A former trunk highway or portion thereof that has reverted to a county or municipality in accordance with law.*

15. Turnback Accounts. The respective accounts provided by law for payment to a county or urban municipality for the reconstruction and improvement of former trunk highways that have reverted to the county or municipality and have become part of the State-Aid system.

16. *Disaster Committee. A committee, appointed in accordance with the law, to investigate and report its findings and recommendations to the commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its County State-Aid highway or Municipal State-Aid street system and resulting in a financial hardship.*

17. *Local Road Research Board. A board appointed in accordance with these rules to recommend specific research projects to the commissioner.*

18. *Town Bridge Needs. The estimated construction costs required to improve or replace town bridges to standards adequate for future traffic on a uniform basis.*

19. *Town Bridge Account. The apportionment of County State-Aid turnback funds for use in the construction or reconstruction of bridges on township roads.*

20. *Functional Classification Plan. A plan by which highways and streets are grouped into classes according to the character of service they are intended to provide.*

D. Organization and Powers of Local Highway Departments. Each county and each urban municipality shall establish and maintain a highway or street department. Such departments shall be adequately organized, staffed, and equipped to administer for the county or urban municipality all matters relating to the operations of the State-Aid program and to exercise all functions, incidental thereto, in accordance with law. All preparation of plans and specifications, and the supervision of construction and maintenance shall be under the control and direction of a professional engineer, registered in the State of Minnesota and employed or retained for that purpose.

E. Selection and Designation of State-Aid Systems. The State-Aid highways and streets designated to form the basis for a long range improvement program shall, in general, be so selected as to form an integrated network of highways and streets in accordance with the following provisions:

1. Systems.

   a. Final selection of routes to be included in the respective County State-Aid and Municipal State-Aid systems shall be subject to the approval of the commissioner.

   b. The highway and street systems to be selected and designated in accordance with law are:

      (1) County State-Aid highway system not exceeding 30,000 miles in extent, *excluding trunk highway turnback mileage.*

      (2) Municipal State-Aid Street system not exceeding ~~1,500~~ *2,000* miles in extent within urban municipalities, *excluding trunk highway turnback mileage.*

2. Criteria. ~~Highways and streets selected and designated as a part of the County State-Aid or Municipal State-Aid systems shall have, prior to construction, a minimum right-of-way of sixty (60) feet within municipalities and sixty-six (66) feet in rural areas, except for modifications that are approved by the Commissioner. In rural areas, the counties shall acquire control of such additional right-of-way as may be necessary to properly maintain the ditch section.~~ These *State-Aid* routes shall be selected on the basis of the following criteria:

   a. County State-Aid highways which:

      (1) Carry relatively heavier traffic volumes or *are functionally classified as collector or arterial as identified on the county's functional plans as approved by the county board;*

(2) And connect towns, communities, shipping points, and markets within a county or in adjacent counties;

(a) Or provide access to rural churches, schools, community meeting halls, industrial ~~plants~~ *areas*, state institutions, and recreational areas;

(b) Or serve as principal rural mail routes and school bus routes;

~~(v) Or act as collectors of traffic from several roads of local interest;~~

(3) And occur at reasonable intervals consistent with the density of population;

(4) And provide an integrated and coordinated highway system, affording within practical limits a State-Aid highway network consistent with ~~local~~ traffic demands.

b. Municipal State-Aid streets which:

(1) Carry relatively heavier traffic volumes *or are functionally classified as collector or arterial as identified on the urban municipality's functional plan as approved by the urban municipality's governing body;*

(2) And connect the points of major traffic interest within an urban municipality;

~~(iii) Or connect with rural roads or urban routes of community interest and carry major traffic into and through an urban municipality;~~

~~(iv) And form a system of streets which will effectively serve traffic within the urban municipality.~~

(3) *And provide an integrated street system affording within practical limits a State-Aid street network consistent with traffic demands.*

3. Route Designations. All County State-Aid highways and Municipal State-Aid streets shall be selected by resolution of the respective boards of county commissioners, or the respective governing bodies of urban municipalities. The highway or street designations, as contained in the resolution, shall be reviewed by the district engineer of that area and his recommendation shall be filed with the commissioner. Within three months after receipt by the commissioner of each such resolution and recommendation, he shall approve all or such part of said highway or street designations contained in the resolution, as complies with the criteria

and other requirements set out in these ~~regulations~~ *rules*. The commissioner shall certify to the respective boards of county commissioners or governing bodies of urban municipalities the approved portion of their resolution. All highways or streets so approved shall become a part of the County State-Aid highway system or the Municipal State-Aid street system, subject to such additions or revisions as may be, from time to time, requested and approved.

a. Turnback Designations. ~~New~~ Prior to release of a former trunk highways to the jurisdiction of a county or urban municipality, the commissioner shall notify the board of county commissioners or the governing body of the urban municipality, through its county or city engineer, which portions of the turnback are eligible for designation as part of its State-Aid system. Upon a request for the designation of such eligible portions from the board of county commissioners or the governing body of the urban municipality, the commissioner shall issue the official order for designation and notify the county or municipal screening committee of this action.

~~(bb) Turnback Designations Old. These former trunk highways that were reverted to local jurisdiction after January 1, 1957, and prior to July 1, 1965, and which had subsequently been designated as a County State-Aid Highway or Municipal State-Aid Street shall be eligible for payment on the basis set forth in Minn. Reg. Hwy. 32, (g)(3)(ff)(ii), Partial Eligibility.~~

F. State-Aid Apportionments. All State-Aid apportionments shall be made from the County State-Aid highway fund and the Municipal State-Aid street fund ~~respectively~~, as provided by law. Apportionments to the respective counties and urban municipalities shall be released in accordance with Minnesota ~~Reg.~~ *Rule* Hwy. 32, G. ~~of these regulations.~~

1. Money Needs.

a. Construction Costs Estimates. To provide data to implement the formulas for State-Aid apportionment, each county engineer and ~~urban municipal~~ *city* engineer shall prepare cost estimates of construction required to improve his County State-Aid or Municipal State-Aid system to approved standards.

b. Incidental Costs. In addition to the direct construction or maintenance costs permitted under law, the cost of the following incidental items will be considered as eligible for inclusion in the total estimate of needs:

(1) County State-Aid highways:

(a) Automatic traffic control signals.

(b) Lighting of intersections and bridges within approved standards.

(c) Proportionate share of all drainage costs within municipalities, to reflect the responsibility of the State-Aid highway.

(2) Municipal State-Aid streets:

(a) Right-of-way.

(b) Automatic traffic control signals.

(c) Lighting of intersections and bridges within approved standards.

(d) Proportionate share of all drainage costs, to reflect the responsibility of the State-Aid street.

c. Deductible Items. The respective screening committees shall consider reports from the commissioner, ~~listing~~ *consisting of, but not limited to,* the County State-Aid allotments to townships, or the Municipal State-Aid payments on state trunk highways or County State-Aid highways, covering all said allotments or payments made during the preceding year; and shall recommend to the commissioner the amount of deductions to be made in the money needs for each such county or municipality, in order to equalize their status with other counties or municipalities not making similar expenditures. ~~of their approved State-Aid system.~~

2. Screening Committees.

a. Annual Reports. A detailed report of the State-Aid mileage and cost estimates shall be tabulated and referred to the respective screening committees appointed pursuant to law. These committees shall investigate and review all such mileage, cost estimates and the reports of those expenditures listed under deductible items, and shall, on or before the first day of November of each year, submit their findings and recommendations in writing as to the mileage and adjusted money needs for each of the governmental subdivisions represented by the respective committees.

b. Local Road Research Account. Within the limitations provided by law, the respective screening committees shall annually determine, and recommend, the amount the commissioner shall set aside from the County State-Aid highway fund or the Municipal State-Aid street fund, for the purpose of local road research. These funds, along with such Federal funds as may be provided, shall be used ~~solely~~ for conducting research ~~in methods of, and materials for, the construction~~

~~and-maintenance-of-county-and-municipal-state-aid-highways-and-streets~~ *as provided by law.* The use and proportionate share of such county and municipal funds shall be as specifically authorized in the project approval as provided for in Minnesota ~~Reg.~~ *Rule* Hwy. 32, ~~(f)(1)~~ L, 5, c(2).

3. Compilation of Data by Commissioner. The commissioner shall determine the apportionment percentage due each county and urban municipality in accordance with the formulas established by law.

4. Notice of Annual Apportionment. Not later than January 25 of each year, the commissioner shall certify the annual apportionment to each respective county or urban municipality.

~~5.---Semi-annual-statements.--Within-Thirty-(30)-days-after-the-close-of-each-six-(6)-month-period,-the-Commissioner-shall-submit-to-each-county-or-urban-municipality-semi-annual-statements-as-to-the-status-of-the-respective-state-aid-accounts.~~

G. State-Aid payments. Annual apportionments to the respective counties and to urban municipalities shall be released in the following manner:

1. Maintenance Apportionments. As soon as the annual county and urban municipal State-Aid allotments have been determined, the commissioner shall apportion and set aside the following amounts:

   a. County - Regular Account. Forty percent of the regular County State-Aid allotment for the general maintenance of County State-Aid highways.

   b. County - Municipal Account. Forty percent of the County-Municipal account allotment for the maintenance of County-State-Aid highways within municipalities of less than 5,000 population.

   c. Revisions of *county maintenance* apportionments. The commissioner ~~will~~ *may, upon recommendation of the screening committee or* upon receipt of a resolution from a county board, and for good cause shown, increase or decrease the proportion to be used for maintenance under either Minnesota ~~Reg.~~ *Rule* Hwy. 32, G, 1, a *and/*or b above.

   d. Urban Account. Twenty-five percent of the total allocation, or $1,500.00 per mile of improved municipal State-Aid streets, whichever is the least, as the minimum allotment for the general maintenance of the approved State-Aid system. *The commissioner may modify the minimum payment to the extent necessary to accommodate the screening committee resolutions pertaining to trunk highway turnback maintenance allowances.* Those municipalities desiring to receive an amount greater than the established minimum shall file a request not later than December 15 preceding the annual allocation and shall agree to file a detailed annual maintenance expenditure report at the end of the year.

e. Transfer of Unexpended Balance. Any unobligated balance remaining in the State-Aid maintenance account to the credit of any county or urban municipality, after final settlement has been made for the annual maintenance expenditures, shall be automatically transferred to the construction account of said county or municipality.

~~(ff) Advance encumbrance for maintenance. Counties and Urban Municipalities. When the Commissioner approves a request from a county or urban municipality for authority to advance their local funds against future accruals to their State Aid Maintenance Account, because of an unusually burdensome or unprecedented condition requiring funds over and above the normal State Aid Maintenance allotment, such local expenditures will be repaid from their subsequent State Aid Maintenance allotments.~~

~~(gg)~~ f. Payment Schedule. At the earliest practical date, after the allotments have been determined, the commissioner shall release the following amounts to the respective counties and urban municipalities:

(1) Fifty percent of the maintenance allotment from the regular account of each county.

(2) Fifty percent of the maintenance allotment from the municipal account of each county that has filed a request for advance payments prior to the annual apportionment in January of each year. Such request shall include the estimate of the maintenance expenditures anticipated within said account during the calendar year.

(3) Fifty percent of the maintenance allotment to each urban municipality.

~~(hh)~~ g. On or about July 1 of each year, the commissioner shall release an additional advance from the respective maintenance accounts listed above, in an amount not to exceed forty percent of the total maintenance allocations. The commissioner shall retain the remaining amounts within said allocations pending determination of the final amount due, based upon a report of actual maintenance expenditures and receipt of the district engineer's certification of acceptable maintenance performance. Urban municipalities receiving the minimum maintenance allotment as outlined in Minnesota ~~Reg.~~ *Rule* Hwy. 32, G, 1, d above will be eligible to receive the balance remaining in their maintenance account upon *the commissioner's* receipt of the district engineer's certification of acceptable maintenance.

2. Construction Apportionments. The construction portion of the annual allocation to each county and urban municipality shall be credited to their respective accounts and retained by the commissioner for payment on approved projects in accordance with the following procedure:

a. State-Aid Contracts. The commissioner, upon receipt of an abstract of bids and a certification as to the execution of a contract and bond therein, shall promptly release from the funds available to said county or urban municipality up to ninety percent of the State-Aid portion of said contract. The commissioner, unless otherwise requested, shall retain the remaining percentage of the State-Aid share of said contract, provided funds are available therefor, until the final cost is determined and the project accepted by the district engineer.

b. Federal-Aid ~~secondary~~ Contracts. The commissioner, under authority of an agency agreement with *the governing body of* a county ~~board~~ *or urban municipality*, and acting as its agent in Federal-Aid operations, will release from *State-Aid* funds available therefor, ninety percent of the county*'s or urban municipality's* share of the entire contract obligation for immediate redeposit in an agency account, to be used in paying the county*'s or urban municipality's* share of the partial estimates and for advancing the federal share of such estimate payments. The commissioner shall retain the remaining percentage of the contract cost of said project until the final cost is determined and the project accepted by the district engineer. Where other than ~~County~~ State-Aid ~~Highway~~ funds are to be used for depositing *in the agency account,* ~~not-less-than-(90)~~ *one hundred* percent of the ~~county~~ *local governmental* share of said contract amounts ~~in-the-agency-account,-the-details for-such-deposits~~ shall be *deposited in the agency account prior to award of the contract.* ~~set-forth-in-the-respective agency-agreements.~~

c. Force Account Agreements. Partial estimates will be accepted on all projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall promptly release from funds available therefor ninety percent of the cost of current accomplishments as reported by said partial estimates. Upon request of the county or *urban* municipality, the commissioner will set aside and retain their State-Aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when final estimate is submitted and upon acceptance by the district engineer.

d. Payment Limitations. Approval of State-Aid projects by the commissioner does not imply that State-Aid payments will be made in excess of the construction funds available from current State-Aid allotments. Any county or urban municipality

having depleted their currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless request for advance encumbrance has been approved or a project is completed in a subsequent year and funds are available.

e. Engineering Costs.

(1) Preliminary Engineering. Requests for reimbursement of preliminary engineering costs shall be submitted with the report of State-Aid contract or with the initial partial estimate on an approved force account project. The commissioner shall upon receipt of such request *supplemented by such documentation as may be requested by the commissioner* authorize the reimbursement for actual engineering costs, ~~not to exceed five (5) percent of the total estimated construction costs. Where actual preliminary engineering costs are not available from the normal records of the county or urban municipality, reimbursement can be made on the basis of costs determined to be reasonable, but~~ not to exceed ~~five (5)~~ *eight* percent of the total estimated contract or agreement amount.

(2) Construction Engineering. Requests for payment of construction engineering costs shall be submitted along with the final estimate report. The commissioner shall, upon receipt of such request, authorize a construction engineering payment which will either be limited to five percent of the eligible construction costs where there are no unusual traffic or construction problems, or which may at the commissioner's discretion be paid in the maximum amount of ten percent of said construction costs on complex projects involving difficult construction features or the continuous movement of dense traffic.

f. Right-of-Way. State-Aid payments for right-of-way costs on approved projects shall be limited to ninety percent of the approved claim until the acquisition of all right-of-way required for the project is actually completed and the final costs established.

g. Advances from County Funds. When the commissioner approves a request from the county board for the construction of an approved County State-Aid project, which requires County State-Aid highway funds in excess of the available allotment and which excess costs will be initially paid for from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay those locally financed expenditures out of subsequent construction apportionments to the county's State-Aid accounts in accordance with the terms and conditions specified in the approved request.

h. Advance of ~~regular~~ County State-Aid Highway Funds. ~~to municipal account.--Where the Commissioner approves a request from the county board for the advance of regular County State-Aid Highway Funds for use on a municipal section of an approved County State-Aid Highway project, and where repayments to the Regular Account of the County State-Aid Highway Fund are to be made from subsequent accruals to the county's Municipal Account, such repayments will be made by the Commissioner, to the extent authorized by law, in the form of transfers from the county's Municipal Account to their Regular Account, in the amounts and at the time specified in the authorization.~~

(1) *Advance of County Regular Account Funds to County Municipal Account Fund. Where the commissioner approves a request from the county board for the advance of county regular account funds for use on a municipal section of an approved County State-Aid highway project, and where repayments to the county regular account fund are to be made from subsequent accruals to the county municipal account fund, such repayments will be made by the commissioner, to the extent authorized by law, in the form of transfers from the county municipal account fund to the county regular account fund, in the amounts and at the time specified in the authorization.*

(2) *Advance of County Municipal Account Funds to County Regular Account Fund. The commissioner may approve a request from a county board for the advance of County Municipal Account funds for use on an approved County State-Aid highway project provided that notification pursuant to law has been given those municipalities within the county having a population less than 5,000. Advances from the county municipal account fund to the county regular account fund must be repaid to the county municipal account fund from monies accruing to the county regular account fund within a maximum of five years unless the terms and conditions of repayment are otherwise agreed by the county and the governing bodies of those cities within the county having a population of less than 5,000. Repayments will be made by the commissioner to the extent authorized by law, in the form of transfers from the county regular account fund to the county municipal account fund, in the amounts and at the time specified in the agreement.*

i. Advances from Urban Municipal Funds. When the commissioner approves a request from the governing body of an eligible urban municipality for the construction of an approved Municipal State-Aid street project, which requires funds in excess of the available allotment and which excess costs will be initially paid from other local sources, then and in that event, the commissioner will, to the extent authorized by law, repay these locally financed expenditures out of subsequent construction apportionments to the urban municipal account

of that municipality in accordance with the terms and conditions specified in the approved request.

j. County or Municipal Bond Account. Any county or urban municipality that resolves to issue bonds payable from the appropriate State-Aid fund in accordance with law for the purpose of establishing, locating, relocating, constructing, reconstructing or improving State-Aid streets or highways under its jurisdiction shall certify to the commissioner within thirty days following issuance of the bond, the amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The commissioner shall set up a bond account therefor, itemizing the total amount of principal and interest involved and he shall annually certify to the ~~state auditor~~ *Commissioner of Finance* the amount needed from the appropriate State-Aid construction fund to pay the principal due on the obligation, and the amount needed from the appropriate State-Aid maintenance fund to pay the current interest. Proceeds from bond sales are to be expended only on approved State-Aid projects and for items determined to be eligible for State-Aid reimbursement. A county or urban municipality which intends to expend bond funds on a specific State-Aid project shall notify the commissioner of this intent forthwith upon the award of contract or the execution of a force account agreement. Upon completion of each such project, a statement of final construction costs shall be furnished to the commissioner by the county or the urban municipality.

k. Municipal State-Aid Funds for County State-Aid or Trunk Highway Projects. The governing body of an urban municipality desiring to use a portion of its State-Aid funds for improvements within its boundaries of any state trunk highway or County State-Aid highway, shall request such authorization by resolution. Before any such funds are released for said purposes, the resolution shall be approved by the commissioner. A copy of the approved resolution shall be filed with the State-Aid engineer. This subparagraph does not apply to payments made for interest on bonds sold under Laws of *Minnesota* 1959, Chapter 538 *and Laws of Minnesota 1965, Chapter 443.*

3. *Semi-annual statements. Within thirty days after the close of each six month period, the commissioner shall submit to each county or urban municipality semi-annual statements as to the status of its respective State-Aid accounts.*

4. Other authorized payments. Certain specific allotments or transfers of State-Aid funds have been authorized by law. These will be processed as hereinafter provided:

a. Transfers for Hardship Conditions or Other Local Use. The county board or governing body of any urban municipality desiring to use a part of its State-Aid funds for this purpose shall certify to the commissioner either that all of its existing State-Aid routes are improved to State-Aid standards or that it is experiencing a hardship condition in regard to financing its local roads or streets, while holding its current road and bridge levy equal to or greater than said levy for previous years. Where a hardship transfer is requested, the commissioner may require fiscal information showing the extent of the financial deficiency. Within thirty days of the receipt of a request for transfer, the commissioner shall act to authorize or deny the transfer of State-Aid funds for use outside of the approved State-Aid system. Upon approval of the requested transfer, the commissioner without requiring any progress reports, shall within thirty days, authorize immediate payment of not less than fifty percent of the total amount authorized, with the balance to be paid within ninety days; or schedule immediate payment of the entire amount authorized if he determines there are sufficient funds available.

b. Township Allotments. Upon receipt of a certified copy of a county board resolution, allocating a specific amount of its County State-Aid construction funds for aid to its townships, which resolution shall indicate compliance with the law governing such allocations and be forwarded to the commissioner on or before the second Tuesday of January of each year, the commissioner shall authorize payment of the amount requested for distribution by the county for the construction of township roads.

c. Construction of Selected Park Projects. As provided by law, a portion of the County State-Aid highway funds shall be set aside and used for the construction, reconstruction and improvement of County State-Aid highways which provide access to the headquarters of or the principal parking lot located within a state park. Such funds, so set aside, may be expended for this purpose only on a request from the Commissioner of ~~Conservation~~ *Natural Resources*. Projects so selected will be approved by the Commissioner of Highways in accordance with the procedure established for other State-Aid operations.

d. Disaster Account. Any disaster appropriation approved by the Commissioner for a county or *urban* municipality in accordance with law, shall be promptly paid to the county or urban municipality for which such appropriation was authorized. The funds so allotted and paid to the county or urban municipality can only be spent for the purpose for which

they were authorized, and within a reasonable time period specified by the commissioner. Forthwith upon completion of the work for which the disaster payment was made, or the expiration of the time specified for doing such work, whichever occurs first, the county or urban municipality shall file a report certifying the extent of the authorized work completed, and showing the total expenditure made therein. In the event the total disaster allotment was not required or used for the purpose specified, the remainder shall be promptly returned to the commissioner for redeposit *in the County State-Aid highway fund or the Municipal State-Aid street fund, as the case may be, and apportioned by law.* ~~in the disaster account from which it was obtained.~~ *Damage estimates submitted by a county or urban municipality must exceed ten percent of the current annual State-Aid allotment to the county or urban municipality before the commissioner shall authorize the disaster committee to inspect the disaster area.*

e. Research Account. County and Municipal State-Aid funds that may be annually allocated to the research account shall be used solely for those research projects recommended by the local road research board and approved by the commissioner. Unexpended balances in this account shall at the end of each year be transferred back to the State-Aid fund from which they were obtained.

f. Turnback Accounts. ~~The funds in the County and Urban Municipal Turnback Accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. These payments shall be made at the times and in the amounts hereinafter specified.~~ *A percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State-Aid highway fund and the Municipal State-Aid street fund, and respectively identified as the county turnback account and the municipal turnback account. Further, a percentage of the county turnback account has been set aside and shall be used for replacement or reconstruction of town bridges, 20 feet or more in length, in those counties that have two or more towns, pursuant to law. This latter account shall be known as the county town bridge account.*

~~(i)--Full-Eligibility.--Any-former-trunk-highway-reverted to-county-or-municipal-jurisdiction-subsequent-to July-1,-1965-and-which-is-part-of-the-County-State-Aid-Highway-or-Municipal-State-Aid-Street-Systems, shall-be-fully-eligible-for-payment-to-the-County or-Municipality-of-all-costs-covering-the-reconstruction-and-improvement-of-said-highway-as-detailed on-approved-plans.--The-duration-of-eligibility-for the-initial-construction-of-such-projects-shall-be limited-to-a-period-of-five-years-from-the-date-of-reversion-to-the-date-of-plan-approval.--After-plan approval-for-the-construction-of-the-initial-part-of a-turnback-project,-plans-for-other-portions-of-the same-route-must-be-approved-within-ten-years-from the-date-of-reversion-to-be-eligible-for-turnback funds.--Each-such-approved-project-shall-be-advanced to-construction-status,-within-one-year-after-plan approval.--Payment-for-such-reconstruction-and-improvement-of-any-section-will-terminate-all-eligibility for-reconstruction-and-improvement-of-that-section with-turnback-funds.~~

~~(ii)--Partial-eligibility.--The-Commissioner-may,-at-the request-of-a-county-or-urban-municipality-and-upon recommendation-of-the-district-engineer,-approve-for partial-payment-with-turnback-funds,-a-reconstruction or-improvement-project-on-a-former-trunk-highway-that was-reverted-to-local-jurisdiction-after-January-1, 1957-and-prior-to-July-1,-1965-and-which-is-part-of either-the-county-state-aid-highway-or-municipal state-aid-street-systems.--Such-projects-to-be-eligible for-payment-of-turnback-funds-must-have-the-contract awarded-or-force-account-agreement-signed-prior-to-July 1,-1970.--Participation-of-county-or-municipal-turnback funds-on-approved-state-aid-turnback-projects-within-this category-shall-be-limited-to-50%-of-the-total-cost-of said-reconstruction-or-improvement-project.~~

(1) *Town Bridge Monies Allocation. The sums of monies set aside for town bridges shall be allocated to the eligible counties on the basis of town bridge needs.*

(2) *Surplus Turnback Funds. At any time the commissioner determines that either the county or municipal turnback accounts, notwithstanding the town bridge accounts, has accumulated a surplus not needed for turnback purposes, he shall properly notify the ~~state-auditor~~ Commissioner of Finance requesting the transfer of such surplus to the respective County State-Aid highway fund or Municipal State-Aid street fund for apportionment as provided by law.*

(3) Advances from County or Urban Municipal Funds. When the commissioner approves a request from the governing body of a county or urban municipality for the construction of an approved County State-Aid or Municipal State-Aid turnback project which will require funds in excess of the available turnback fund balance and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the county's or urban municipality's turnback fund in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the respective turnback funds shall not exceed forty percent of the last county or municipal turnback allotment. Any advances shall be repaid in accordance with the terms of the approved request from money accruing to the respective turnback funds.

(4) Advances from the Town Bridge Account. When the commissioner approves a request from the governing body of a county for the replacement or reconstruction of a town bridge which will require funds in excess of the county's available town bridge account and which excess costs will be initially paid for from other sources, then and in that event, the commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the town bridge account in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the town bridge account shall not exceed forty percent of the last town bridge apportionment. Any advances shall be repaid in accordance with terms of the approved request from monies accruing to the respective town bridge accounts.

~~(iii)~~ *(5)* Release of Turnback Account Funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on *an* ~~fully~~ eligible project, the commissioner shall release to a county or urban municipality from turnback account funds up to ninety percent of the turnback share of said contract. ~~or on a partially eligible project, the Commissioner shall release to a county or urban municipality from turnback account funds up to 90% of the turnback share of said contract.~~ The commissioner shall retain the remaining percentage of the turnback share of said contract, until the final cost is determined and the project accepted by the district engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The commissioner shall release from the respective turnback account ninety percent

of the value as reported by said partial estimates on *an* ~~fully~~ eligible turnback project. ~~and 90% of the turnback share as reported on a partially eligible turnback project.~~ Requests for reimbursement of preliminary and construction engineering costs on an eligible turnback project shall be submitted and payment will be authorized in accordance with ~~and regulations~~ -- Minnesota ~~Reg.~~ *Rule* Hwy. 32, G, 2, e(1), (2) engineering costs.

(6) Release of Town Bridge Account Funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the commissioner shall release to a county, from town bridge account funds, up to ninety percent of the town bridge account share of said contract. The commissioner shall retain the remaining ten percent until the final cost is determined and the project is accepted by the district engineer.

H. State-Aid Standards. Subject to approval by the commissioner, geometric design standards shall be cooperatively determined for use on all County State-Aid highways and Municipal State-Aid streets.

1. Geometric Design Standards.

a. Adoption. The commissioner in cooperation with representatives of the Minnesota County Highway Engineers Association or the the City ~~and Village~~ Engineers Association of Minnesota, as the case may be, shall establish desirable minimum geometric design standards for use in improving County State-Aid highways and Municipal State-Aid streets.

b. Revisions. When need for revision of State-Aid standards arises, the commissioner shall confer with representatives of the county or city engineers associations and determine such change as might be necessary or desirable, and cause such change to be made in the same manner as outlined above.

2. Specifications. Specifications for construction shall be the latest approved Minnesota Department of Highways specifications, except as modified by special provisions which set forth conditions or requirements for work or materials not covered by the approved specifications, or which set forth conditions or requirements to meet exigencies of construction peculiar to the approved project.

3. Right-of-Way. The minimum widths of right-of-way for all State-Aid routes shall be not less than sixty feet within municipalities and sixty-six feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the commissioner. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section.

I. State-Aid Operations. State-Aid funds allotted to counties and urban municipalities shall be expended in accordance with the following provisions:

1. Maintenance.

a. The commissioner shall require a reasonable standard of maintenance on all State-Aid routes within the county or urban municipality, consistent with available funds, the existing street or road condition and the traffic being served. This maintenance shall be considered to include, but shall not be limited to:

(1) The maintenance of all road surfaces, shoulders, ditches and slopes and the cutting of brush and weeds;

(2) The maintenance *and inspection* of all bridges, culverts and other drainage structures;

(3) The maintenance of all regulatory and direction signs, markers, traffic control devices and protective structures in conformance with the current manual on *uniform* traffic control devices and consistent with state-wide application;

(4) The striping of all ~~properly-cured-bituminous~~ pavements of 22 feet or more in width, consistent with the traffic service provided, and for which there are no pending improvements;

(5) The enforcement of parallel parking on any approved state aid project;

(6) The exclusion of advertising signs, billboards, buildings and other privately owned installations *other than utilities of public interest* from the right of way of any approved State-Aid project.

b. Unsatisfactory Maintenance. When, in the opinion of the commissioner, the maintenance of any County or Municipal State-Aid route is determined to be unsatisfactory, he shall retain up to ten percent of the current annual maintenance apportionment to the responsible county or urban municipality. Funds so retained shall be held to the credit of that county or *urban* municipality until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

(1) Route Markers. ~~On or before January 1, 1973~~ Approved route markers shall be installed on all rural County State-Aid highways in accordance with the current manual on *uniform* traffic control devices. Failure to comply with this requirement shall result in the withholding of ten percent of the annual maintenance allocation until such markers are properly installed.

c. Biennial Report. The commissioner's biennial report to the legislature shall enumerate all such funds retained more than ninety days, together with an explanation for this action.

2. Construction. Survey, plans and estimates for all State-Aid projects shall be made by or under the immediate direction of the county or city engineer in accordance with standards as to form and arrangement prescribed by the commissioner.

a. Plans and Estimates. Plans and estimates for each State-Aid construction project must be submitted for review. Each plan shall show all subsequent stages required for the completion of the improvement, portions of which may be covered by later contracts or agreements. Only those projects for which plans are approved by the State-Aid engineer prior to the award of contract or approval of a force account agreement shall be eligible for State-Aid construction funds.

b. Project Numbers. Approved projects will be assigned State-Aid project numbers and shall be so identified in records of the State Highway Department and the local governmental unit.

c. Contract Information. Upon award of a State-Aid contract by any county or urban municipality the engineer thereof shall furnish the commissioner with an abstract of bids and a certification as to the specific contract and bond executed for said approved construction work.

d. Force Account. Any county or urban municipality desiring to use funds credited to it on a force account basis shall have its engineer file a request with the commissioner for each construction project to be built by the county or urban municipality at agreed unit prices, which shall be based upon estimated prices for contract work, less a reasonable percentage to compensate for move-in, move-out, taxes and contractor's profit. Such requests shall contain a complete list of pay items and the unit prices at which it is proposed to do the work. Prior to the approval by the commissioner, the district engineer shall file his recommendations with the commissioner as to the request and the cost estimate. Items of work other than those listed as a pay item or approved by supplemental agreements shall be considered incidental work not egible for state-aid payment.

e. Project Reports. Prior to final acceptance of each construction project by the commissioner, the county engineer or the city engineer shall submit to the commissioner such final project records as the commissioner may deem necessary or desirable.

f. Project Payments. On all State-Aid construction projects, the commissioner shall pay a maximum of ninety percent of the contract amount, or of each partial estimate in the case of force account agreements, until final acceptance of the completed work. Upon receipt of required reports and data and a recommendation of final acceptance by the district engineer, the commissioner shall, within the limits of funds available therefor, authorize final payment for said project within the limitation hereinbefore established.

~~(3)--Right-of-way.--The-minimum-widths-of-right-of-way-for-all-State-Aid-routes-shall-be-not-less-than-sixty-(60)-feet-within-municipalities-and-sixty-six-(66)-feet-in-rural-areas,-except-for-conditions-where-modifications-can-be-justified-to-the-satisfaction-of-the-Commissioner.--Prior-to-construction-the-counties-shall-acquire-control-of-such-additional-widths-of-right-of-way-in-rural-areas,-as-may-be-necessary-to-properly-maintain-the-ditch-section.~~

~~(4)~~ 3. Turnback Accounts. ~~A-percentage-of-the-Net-Highway-User-Tax-Distribution-Fund-has-been-set-aside-by-law-and-apportioned-to-separate-accounts-in-the-County-State-Aid-Highway-Fund-and-the-Municipal-State-Aid-Street-Fund,-respectively-identified-as-the-County-Turnback-Account-and-the-Municipal-Turnback-Account.~~ *The funds in the county and municipal turnback accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. Further, a percentage of the county turnback account has been set aside, as provided by law, and shall be used for replacement or reconstruction of town road bridges that are 20 feet or more in length in those counties that have two or more towns.*

~~(aa)--Surplus-turnback-funds.--At-any-time-the-Commissioner-determined-that-either-the-County-or-Municipal-Turnback-Accounts-has-accumulated-a-surplus-not-needed-for-Turnback-purposes,-he-shall-properly-notify-the-State-Auditor-requesting-the-transfer-of-such-surplus-to-the-respective-County-State-Aid-Highway-Fund-or-Municipal-State-Aid-Street-Fund-for-apportionment-as-provided-by-law.~~

a. Eligibility.

(1) Any former trunk highway reverted to county or urban municipal jurisdiction subsequent to July 1, 1965, and which is part of the County State-Aid highway or Municipal State-Aid street systems, shall be eligible

for payment from the turnback account to the county or urban municipality of all costs covering the reconstruction and improvement of said highway as detailed on approved plans. Approval of plans for the initial construction of such projects shall be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of said project. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds.

(2) Any town bridge, 20 feet or more in length, is eligible for replacement or reconstruction if after all pertinent data supplied by local citizenry, local units of government, the Regional Development Commission or the Metropolitan Council, is revieved by the county board and a formal resolution by the county board is adopted identifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to fifty percent of the cost of the bridge, and will be made in accordance with Minnesota Rule Hwy. 32 G, 3, f, (4).

b. Plan Approval and Construction Requirements. Plans for all County or Municipal State-Aid turnback *or town bridge* projects must be submitted to the commissioner and be approved before any reconstruction or improvement work is undertaken. All of the State-Aid rules ~~and Regulations~~ that are ~~not in~~ consistent with the turnback regulations shall apply to all projects to be financed from the county or municipal turnback accounts~~.~~ *or the town bridge account.*

c. Construction Authorization. As soon as the plans for a State-Aid turnback *or town bridge* project are approved, the county or *urban* municipality shall be furnished either an authorization to proceed with construction or a notice that sufficient funds are not available within the applicable turnback account *or town bridge account* and that a priority has been established for said project for construction authorization as soon as funds are available ~~therefore~~. Where local funds are ~~used~~ *advanced by the county or urban municipality* to construct an approved project for which sufficient funds are not available in the turnback account *or town bridge account* ~~such project may be resubmitted in the following year for consideration~~

~~by the Commissioner in making reimbursement from subsequent accruals to said Turnback Account.~~ *authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with Minnesota Rule Hwy. 32 G, 4, f., (3) has been approved by the commissioner.*

J. General Rules ~~and regulations~~. In addition to those provisions heretofore mentioned, expenditures of State-Aid funds by any county or urban municipality shall conform to the following rules: ~~and Regulations~~

1. Legal Requirements. State-Aid construction projects shall comply with all federal, state, and local laws, together with all ordinances *rules* and regulations applicable to the work. Responsibility for compliance shall rest entirely with the local unit of government.

2. Bridge Plans. Plans for all bridge construction or bridge reconstruction projects shall be approved by the bridge engineer of the Minnesota Department of Highways, prior to the approval by the State-Aid engineer.

3. Reports and Records. Annual reports, status maps, and all maintenance and construction reports and records shall be filed at the time and in the form specifically requested by the commissioner or his authorized representatives.

4. Non-compliance. The commissioner, upon determination that a county or urban municipality has failed to comply with the established State-Aid requirements, other than for unsatisfactory maintenance, or has failed to fulfill an obligation entered into for the maintenance or improvement of any portion of a state trunk highway or interstate route, shall determine the extent of the failure and the amount of such county's or urban municipality's apportionment that shall be retained until such time as suitable compliance is accomplished, or the obligation fulfilled, as the case may be. The amount withheld shall reasonably approximate the extent of the noncompliance or the value of the ~~obligation unfulfilled.~~ *unfulfilled obligation.*

5. Defective Work. Whenever unsatisfactory conditions are found to exist on an approved construction project, the district State-Aid engineer can, if necessary, order the suspension of all work affected thereby until said condition is satisfactorily corrected. Failure to conform with such suspension order shall be considered willful non-compliance. All work or materials which fail to conform to the requirements of the contract or force account agreement shall be considered as defective. Unless the work is satisfactorily remedied or repaired before final acceptance is requested, the commissioner shall either withhold funds in accordance with paragraph 4 ~~above~~, or shall establish the reasonable value of the defective work as the basis for settlement with the county or urban municipality.

6. Engineering and Technical Assistance. The commissioner may, as authorized by law, execute agreements with any county or urban municipality for technical assistance from the Department of Highways. These services, if furnished, shall be paid for by the governmental subdivision at the rates established by the Department of Highways.

K. General State-Aid Limitations. The extent of State-Aid participation on special items shall be limited as follows:

1. Lighting. The lighting of hazardous or accident-prone locations, where concurred in by the traffic engineer of the Minnesota Department of Highways, shall be considered as eligible expense to the following extent:

   a. New Construction. Cost of complete lighting at approved locations only on multiple-lanes. (More than one lane in each direction.)

   b. Cost of lighting approved intersections on single-lane design. (One lane in each direction.)

   c. Locations where the municipality would normally install lighting units are not considered as an eligible expense. The county or urban municipality shall furnish traffic information or other needed data to support its request.

   d. Reconstruction. All costs incidental to the necessary revision or relocation of existing lighting facilities, up to and including the cost of completing the new base.

2. Traffic Control Signals. Plans for the construction or reconstruction of all traffic control signals shall be approved by the traffic engineer of the Minnesota Department of Highways, prior to the approval of the State-Aid engineer. The extent of State-Aid participation in all signal installations shall be determined by the State-Aid engineer in relation to the proportion of State-Aid routes involved at each installation.

3. Right-of-Way. The cost of any lands and properties required to accommodate the design width of the street or highway as governed by the State-Aid standards, including necessary width for sidewalks, shall be considered as eligible expense. This cost may include *relocation and moving costs as provided by law and may include* damages to other lands if reasonably justified to the satisfaction of the commissioner.

4. Sidewalks. On County State-Aid projects, sidewalks shall be considered as an eligible expense only where the proposed construction necessitates the alteration of existing walks. On Municipal State-Aid street projects, State-Aid payment for sidewalk may be made when requested by the *urban* municipality.

5. Storm Sewers. Plans containing items for storm drainage shall be reviewed by the hydraulics engineer for the Minnesota Department of Highways and his recommendations obtained as to design features and the proportionate share chargeable to the State-Aid system. These recommendations, along with those of the district engineer shall be considered in determining the maximum State-Aid participation in said work.

L. Local Road Research Board. The commissioner shall appoint a local road research board consisting of the following members:

1. Four county engineers, only one of whom may be from a county containing a city of first class.

2. Two city engineers, only one of whom may be from a city of first class.

3. Two Department of Highway staff engineers.

4. One University of Minnesota staff engineer.

5. One Ex officio secretary, who shall be the department's research coordination engineer.

a. Initial Appointments. The initial terms of the appointees shall be as follows, beginning January 1, 1960:

(1) One county engineer -- 1 year.

(2) One county engineer -- 2 years.

(3) Two county engineers -- 3 years.

(4) One city engineer -- 2 years.

(5) One city engineer -- 3 years.

b. Future Appointments. All future appointments of county and city engineers, except for unexpired terms shall be for three years. The other members shall serve at the will of the commissioner.

c. Operating Procedure:

(1) The board shall initially meet on call from the commissioner, at which time they shall elect a chairman, and establish their own procedure for the selection of research projects to be recommended to the commissioner. Final determination on all such research projects shall be made by the commissioner, and the cost thereof shall be paid out of the State-Aid research accounts provided for by law.

(2) In the event that the board recommends a project covering research in methods of and materials for the construction and maintenance of both the County State-Aid highway system and the Municipal State-Aid street system, the board shall also recommend to the commissioner the proportionate share of the cost of such project to be borne by the respective County State-Aid highway research account and the Municipal State-Aid street research account, based on the benefits to be realized by each system from such research project.

M. Personal expenses of authorized board or committee members. The commissioner will authorize the payment of all necessary personal expenses in connection with meetings of board and committee members, appointed by him for State-Aid purposes. These expenses shall be reported on forms furnished by the commissioner and paid from the State-Aid administrative fund.

N. Identification and numbering. The commissioner is authorized and empowered to change the numbering system of the approved rules. ~~and Regulations.~~

O. Severability. The provisions of these rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision or any other part.

Highway 32A Rules for Bridge Construction Program Under Laws 1976, Chapter 339

A. Purpose. The purpose of Minnesota Rule Hwy. 32A is to carry out the mandate of the legislature and to effectuate that mandate with respect to application, selection and funding of bridge construction projects on key bridges under local jurisdiction as set forth in Minnesota Laws of 1976, Chapter 339.

B. Scope. The scope of Minnesota Rule Hwy. 32A is confined within the framework of and consistent with Minnesota Laws of 1976, Chapter 339, Section 1, and Minnesota Statutes 1974, Chapters 161 and 162 as amended.

C. Definitions. For purposes of Minnesota Rule Hwy. 32A the terms defined in Minnesota Rule Hwy. 32 shall have the same meaning.

D. Any deficient bridge, 20 feet or more in length, is eligible to be financed wholly or partially by the Minnesota state transportation fund and is subject to State-Aid Standards and Specifications as provided in Minnesota Rule Hwy. 32H.

E. Application for state financing of a project shall be made by resolution of a county board in the case of roads under the jurisdiction of counties, townships or municipalities of less than 5,000 population, or resolution of a city council of an urban municipality. Prior to selection by the commissioner, every application shall be reviewed by the appropriate Regional Development Commission or Metropolitan Council for consistency with its long-term comprehensive development plan and guides.

F. *Criteria for the selection of specific bridge projects will be the same as the six factors required to be considered under Minnesota Laws 1976, Chapter 339, Section 1, Subdivision 6 as it may be amended. The commissioner will make the final determination as to priority of construction.*

G. *Release of funds to the local road authority will be in accordance with Minnesota Rule Hwy. 32 G, 2, a.*

H. *Minnesota Rule Hwy. 32A shall expire at such time as rules of the Minnesota Department of Transportation implementing Minnesota Laws of 1976, Chapter 339, become effective. Any agreement, obligation or contract entered into pursuant to Minnesota Rule Hwy. 32A shall remain in full force and effect after expiration of the rule.*

Exhibit No. 2
File No. Hwy - 3
Date

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS
ST. PAUL, MINN. 55155

I, FRANK D. MARZITELLI, Commissioner of Highways of the State of Minnesota, do hereby certify that the annexed is a full, true and correct photocopy of

NOTICE OF HEARING, as mailed on May 26, 1976.

as the same appears of record in this office, and of the whole thereof.

In Testimony Whereof, I have hereunto set my hand and affixed the Seal of the Department of Highways, at the Capitol in Saint Paul, this

28 day of May

A. D. 19 76.

Frank D. Marzitelli
COMMISSIONER OF HIGHWAYS

Exhibit No._____
File No._____
Date_____

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

NOTICE OF HEARING

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in the Auditorium, Room 83, State Office Building, Park Avenue, between Aurora and Fuller, Saint Paul, Minnesota 55155 on June 24, 1976, commencing at 9:00 A. M., and continuing until all persons have had an opportunity to be heard.

All interested or affected persons will have an opportunity to participate. Statements may be made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Myron Greenberg, Hearing Examiner, Office of the Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104.

Said statements may provided either before the hearing or within 20 days after the close of the hearing.

The proposed rules, if adopted, would authorize the expenditure of county turnback account monies on town road bridge structures, among other matters. Included are a number of changes to existing rules which are deemed to be of a housekeeping nature due to the passage of related Minnesota law bearing on the rules. The attached list of parts affected speaks to these proposals. A copy of the proposed rules is enclosed. Additional copies will be available at the door on the date of the hearing. The Department's authority to promulgate the proposed rules is contained in Minnesota Statutes, Chapters 161 and 162, as amended. The Commissioner is required by Minnesota Statutes, Section 162.02, subdivision1 and Section 162.09, subdivision 1 to adopt rules governing the establishment, location, construction, reconstruction, improvement and

maintenance of county and municipal state-aid public highways. The Commissioner's authority to promulgate the proposed rules is found in Minnesota Statutes, Chapters 15, 161 and 162, as amended.

A "s tatement of need" explaining why the Department of Highways feels the proposed rules are necessary and a " statement of evidence" outlining the testimonly they will be introducing will be filed with the Hearing Examiner's Office at least 25 days prior to the hearing and will be available there for public inspection.

Please be advised that pursuant to Minnesota Statutes, Section 10A. 01, Subdivision 11 (1974) any individual engaged for pay or other consideration for the purpose of representing persons or associations attempting to influence administrative action, such as the promulgation of these rules, must register with the State Ethics Commission as a lobbyist within five days of the commencement of such activity by the individual.

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli, Commissioner

Dated this 24th day of May, 1976.

LIST OF PARTS AFFECTED BY PROPOSED
RULE CHANGES

Minor changes are made throughout the Rules such as:

deletion of the term "Reg." or "Regulations"
deletion of the term "villages and boroughs"

Part (c) - Definitions

(c) (4) . . . . . (Page 1)	The responsibilities of the County Engineer are becoming more diverse. Therefore, some counties are changing the title of the County Engineer to more appropriately identify this new authority. Change is necessary to recognize title.
(c) (5) . . . . . (Page 1)	Same as (c) (4). The change is necessary to recognize new title.
(c) (11). . . . . (Page 1)	The definition of "advance encumbrance" has been rewritten to be more easily interpreted and to include Trunk Highway Turnback monies.
(c) (12). . . . . (Page 2)	"Systems" is proper word usage.
(c) (15). . . . . (Page 2)	The rules have been broadened in part (m) to create the possibilities of remunerating Disaster Committees, and is defined in this part for informational purposes.
(c) (16). . . . . (Page 2)	Same as (c) (15). The rules have been broadened to recognize the Local Road Research Board.
(c) (17). . . . . (Page 2)	Same as (c) (16). The rules have been broadened to recognize the Town Bridge Account.

Part (e) - Selection and Designation of State-Aid Systems

(e) (1) (bb) (i). . . . (Page 3)	Law permits mileage in excess of 30,000 miles (see Mn. Chapter 162.02 Sub. 11).
(e) (1) (bb) (ii) . . . (Page 3)	Minnesota Statutes 162.09 now provides for a Municipal State-Aid street system of 2000 miles. The rules have been modified to recognize the increase in mileage from 1500 to 2000 plus turnback mileage.
(e) (2) . . . . . (Page 3)	References to right of way have been deleted from State-Aid System selection criteria as they do not play a role in selection. The language has been included in part (h), "State-Aid Standards".

(e) (2) (aa) (i). . . . (e) (2) (bb) (i) (Page 3) — Every county and urban municipality in Minnesota has an approved functional plan. The plan identifies those roads and streets in the County or Municipality of higher value as arterials or collectors. The revision of (i) to part (e), "Selection and Designation of State-Aid Systems", (2) Criteria etc. enhances the State-Aid system.

(e) (2) (aa) (iii) . . . (Page 3) — By changing the word "plants" to "areas" provides a broader interpretation.

(e) (2) (aa) (v) . . . . (Page 3) — Deletion acceptable as (e) (2) (aa) (i) as revised covers.

(e) (2) (aa) (vii)(old). (vi) (new) (Page 3) — Removal of word "local" removes any possible misinterpretation as to traffic demands.

(e) (2) (bb) (iii)(old). and (iv) (old) (Page 4) — Deletion acceptable as revision of (e) (2) (bb) (i) and (iv) covers these two areas.

(e) (2) (bb) (iii)(new). (Page 4) — To provide an integrated transportation system, continuity of the systems is necessary. This is a criteria for present county State-Aid designation and should be required of municipal state-aid streets also. Supports language under (e).

(e) (3) (bb) . . . . . (Page 4) — This portion of the rules is outdated and is deleted. There are no trunk highways which were turned back to local authority prior to July 1, 1965 that are presently eligible for turnback funds.

Part (f) - State-Aid Apportionments

(f) (1) (aa) . . . . . (Page 5) — "City" engineer conforms to (5) under (c) Definitions.

(f) (1) (cc) . . . . . (Page 5) — The respective screening committees have the authority by law to recommend to the Commissioner of Highways the money needs to be used in determining the annual allocation to the respective counties and municipalities. The accumulation of substantial state-aid funds over a period of years indicates that a county or municipality is not expending their monies and thereby reducing their needs. The screening committees thereby adjust the needs of those counties and municipalities with large State-Aid balances.

By revising the rule as indicated, the screening committees may also analyze federal allocations and if a county or municipality does not utilize their federal allocations, needs adjustments may be in order.

This procedure is deemed a method of equalizing needs, as a county or municipality that continually expends their state or federal allocations reduces their needs and resultant state-aid apportionment. A county or municipality that accumulates their allocations earns needs on mileage that would have been improved had their allocations been utilized.

(f) (2) (bb) . . . . . Language revised to conform to law.
(Page 6)

(f) (5) . . . . . The clause dealing with "semi-annual" statements relates more to part (g) "State-Aid Payments" and has therefore been deleted and reinserted at a later point.
(Page 6)

Part (g) - State-Aid Payments

(g) (1) (cc). . . . . The terms "County Maintenance" have been added to clearly identify a specific apportionment. The deletion of the word "will" and the addition of the words "may, upon recommendation of the Screening Committee or" gives authority to the Screening Committee to review requests made by Counties for transfer of construction monies to maintenance accounts and gives the Screening Committee authority to make recommendations to the Commissioner of Highways relative to any such requests. The Commissioner of Highways will make the final decision as to such requests. This procedure also will permit monies allocated for maintenance of trunk highway turnbacks, as authorized by Screening Committee resolution, to be credited to the specific maintenance account of the affected county.
(Page 6)

(g) (1) (dd). . . . . Municipal Screening Committee resolutions allow specific monies to be allocated for maintenance of Trunk Highway turnbacks until such time as the trunk highway turnbacks are reconstructed with monies from turnback accounts. The rules at present do not permit a specific amount to be credited to the maintenance account. This change will permit maintenance monies for trunk highway turnbacks be in addition to the normal maintenance allocation.
(Page 7)

(g) (1) (ff). . . . . This clause has been deleted for purposes of clarity and simplicity, since it is not a necessary rule. A County or Municipality may request additional maintenance monies pursuant to the rules in part (g) (1) (cc) (dd).
(Page 7)

(g) (2) (bb). . . . . The revision of this clause has the effect of allowing or providing for all federal aid contracts.
(Page 8)

(g) (2) (ee) (i). . . . Experience indicates that due to inflationary trends 5% is not a realistic amount for engineering costs. The revision permits payment up to 8% of the total contract or agreement amount. Revision also permits Commissioner to request documentation if engineering costs seem unduly high.
(Page 9)

(g) (2) (hh)(old). . . . (i) (new) (Page 10)	Revised to permit (g) (2) (hh) (ii) under (g) (2) (hh).
(g) (2) (hh) (ii). . . . (Page 10)	The 1975 Legislature enacted law to permit transfer of county municipal funds to the county regular account. This rule speaks to that law. (M.S. 162.08 Sub. 4).
(g) (2) (kk). . . . . (Page 11)	The addition of reference to Chapter 443 from the 1965 Legislative session is "housekeeping" in nature and is necessary to recognize special bonding permitted for the City of St. Louis Park for which state-aid maintenance monies may be used for payment of interest on the bonds.
(g) (3) . . . . . (Page 11)	This clause was previously under part (f) "State-Aid Apportionments", and has been relocated without change to a more appropriate area within the rule.
(g) (4) (dd) (i) (ii) . (iii) (new) (Page 12)	The 1976 Legislature established a fund for bridge construction. This portion of the rules will permit administration of this special fund as it applies to counties, cities and townships.
(g) (4) (dd) (old). . . (ee) (new) (Page 12)	To eliminate minor claims for "disaster", it was deemed advisable to initiate a minimum amount, relative to a county or municipal state-aid allotment, in order to qualify as a "disaster". Changing the redeposit from the disaster account to the respective State-Aid account has the effect of eliminating the possibility of depositing an excess amount in the disaster accounts.
(g) (4) (ff)(old) . . . (gg) (new) (Page 12)	This paragraph has been revised and relocated under part (i) "State-Aid Operations" (3). The new language inserted was previously contained in part (i), clause (4). The modifications are necessary due to recent legislation amending Minnesota Statutes, Section 161.082.
(g) (4) (ff). . . . . (i) & (ii)(Old) (Page 13)	These paragraphs have been revised and relocated under part (i), "State-Aid Operations" at Clause 3, (aa) (i) et. seq. (Page 16)
(g) (4) (gg) (i). . . . (new) (Page 14)	A new subclause has been added and was necessary to establish a formula to distribute monies to the Town Bridge Account.
(g) (4) (gg) (ii) . . . (new) (Page 14)	This subclause was previously under part (i), "State-Aid Operations", Clause 4(aa). It has been revised to include Town Bridge Accounts.
(g) (4) (gg) (iii). . . (new) (Page 14)	This subclause will permit counties or municipalities the privilege of advancing local monies for construction of a trunk highway turnback and will allow the State to reimburse the counties or municipalities from future turnback funds. It establishes a limitation as to how much money can be advanced.

(g) (4) (gg) (iv) . . . (new) (Page 15)	This subclause is similar to subclause (iii). It will permit a town to advance local money for construction of a town bridge and be reimbursed from future allocations.
(g) (4) (ff) (iii)(old) (g) (4) (gg) (v) (new) (Page 15)	Partially eligible projects are no longer in existence. The subclause has been modified to reflect this.
(g) (4) (gg) (vi) (new) (Page 15)	This subclause is necessary in order to administer payments from Town Bridge Account funds and is consistent with other State-Aid procedures.

Part (h) - State-Aid Standards

(h) (3) . . . . . (Page 16)	This clause was previously contained within part (e), "Selection and Designation of State-Aid Systems" at clause 2, Criteria, and under part (i) "State-Aid Operations". There is no change in language.

Part (i) - State-Aid Operations

(i) (1) (aa) (ii) . . . (Page 16)	Minnesota law provides for the annual inspection of all bridges by the counties. Additional added language is intended to provide for maintenance monies to be expended for bridge inspection.
(i) (1) (aa) (iv) . . . (Page 17)	Revision includes all pavements.
(i) (1) (aa) (v) (old). and (vi) (old) (Page 17)	Paragraphs inserted under (bb) unsatisfactory maintenance.
(i) (1) (bb) (i). . . . (Page 17)	Revised to delete obsolete date and to specify specific manual.
(i) (1) (bb) (ii)(new). (Page 17)	Previously under (i) (1) (aa) (v).
(i) (1) (bb) (iii). . . (new) (Page 17)	Previously under (i) (1) (aa) (vi). Revised to include utilities.
(i) (3) . . . . . (old) (Page 18)	This clause has been relocated to part (h), "State-Aid Standards". No change in wording.
(i) (4) & (aa). . . . . (old) (Page 18)	Turnback Accounts has been revised and inserted under part (g) "State-Aid Payments", clause (4). Other authorized payments, (ff) Turnback Accounts.
(i) (3) . . . . . (new) (Page 18)	This clause was previously under clause (g), "State-Aid Payments", (3) Other authorized payments, (ff) Turnback Accounts. It has been slightly rewritten to include town road bridges as provided in law.

(i) (3) (aa) (i). . . . (Page 19) — There is not sufficient monies in the turnback account to reconstruct in the time frame as originally established. The revision of this subclause will permit projects to be approved for construction and tabled until monies are available. The subclause was originally under part (g), Clause (4) (ff) (i).

(i) (3) (aa) (ii) . . . (Page 19) — This clause has been added to establish criteria for the approval of town bridge reconstruction or replacement.

(i) (3) (bb). . . . . (Page 20) — Revised to include town bridges, with superfluous language deleted.

(i) (3) (cc). . . . . (Page 20) — Revised to include town bridges. Revision of (1) (3) (aa) permits deletion of language requiring resubmittal of plans.

Part (k) - General State-Aid Limitations

(k) (3) . . . . . (Page 21) — This language has been modified to bring it into conformance with State Statutes.

Part (m) - Personal Expenses of Authorized Board or Committee Members

(o) . . . . . (Page 23) — Addition of this paragraph provides that any portion of these Rules declared void will not affect other Rules.

Hwy. 32 Rules ~~and Regulations~~ for State Aid Operations under Minnesota Statutes ~~1965~~, *1975*, Chapters 161 and 162, as amended.

(a) Purpose. The purpose of Minn. ~~Reg.~~ *Rule* Hwy. 32 is to carry out the mandate of the legislature and to effectuate that mandate as set forth in Minnesota Statutes ~~1965~~, *1975*, Chapter 162, as amended.

(b) Scope. The scope of Minn. ~~Reg.~~ *Rule* Hwy. 32 is confined within the framework of and consistent with Minnesota Statutes ~~1965~~, *1975*, Chapters 161 and 162, as amended.

(c) Definitions. For purposes of Minn. ~~Reg.~~ *Rule* Hwy. 32 the following terms shall mean:

(1) Commissioner. The Commissioner of Highways.

(2) State-Aid Engineer. The State-Aid Engineer of The Minnesota Highway Department.

(3) District Engineer. A District Engineer of the Minnesota Highway Department or his State-Aid Assistant.

(4) County Engineer. ~~The County Engineer of each respective county.~~ *A registered engineer employed as the County Engineer or the Director of Public Works-County Engineer of each respective county.*

(5) City Engineer. ~~The City Engineer of each respective urban municipality~~ *A registered engineer employed as the City Engineer or the Director of Public Works-City Engineer of each respective urban municipality.*

(6) Needs Report. A report of the estimated construction cost required to improve a State-Aid system to standards adequate for future traffic on a uniform basis.

(7) County Municipal Account. A separate record of that portion of the County State-Aid Highway Funds allocated for expenditure solely within cities, ~~villages, and boroughs~~ having less than 5,000 population.

(8) Urban Municipality. Any city, ~~village, or borough~~ having 5,000 or more population, determined in accordance with the provisions of law.

(9) Local Highway or Street Departments. The highway or appropriate department of each county and each urban municipality.

(10) Township Allotment. The County Apportionment of County State-Aid Highway Funds for use in the construction of township roads.

(11) Advance Encumbrance. The authorized expenditure ~~by a county or urban municipality from other available funds~~, *of local funds, in lieu of State-Aid funds, by a County or Urban Municipality* for use on an approved ~~County~~ State-Aid ~~Highway or Municipal State Aid Street~~ project. ~~under an~~ *By* agreement with the Commissioner, *the local funds will be repaid to the County or Urban Municipality* ~~for repayment~~ from future County or Municipal State-Aid Allotments *or from future County or Municipal Turnback Funds.*

(12) Screening Committee. The County or Municipal committee, appointed in accordance with law, and authorized to recommend to the commissioner the mileage and money needs for each of their respective ~~bodies~~. *systems*.

(13) Disaster Account. The respective accounts provided by law for use in aiding a county or urban municipality that has suffered a serious damage to its County State-Aid Highway System or Municipal State-Aid Street System from fire, flood, tornado or other uncontrollable forces of such proportion that the cost of repairs to such County State-Aid Highway System or Municipal State-Aid Street System is beyond the normal resources of the county or urban municipality.

(14) Turnback Accounts. The respective accounts provided by law for payment to a county or urban municipality for the reconstruction and improvement of former trunk highways that have reverted to the county or municipality and have become part of the State-Aid System.

(15) Disaster Committee. A committee, appointed in accordance with the law, to investigate and report its findings and recommendations to the Commissioner as to a county's or urban municipality's claim of a disaster or unforeseen event affecting its respective County State-Aid Highway or Municipal State-Aid Street system and resulting in a financial hardship.

(16) Local Road Research Board. A board appointed in accordance with these Rules to recommend specific research projects to the Commissioner.

(17) Town Bridge Account. The apportionment of County State-Aid Turnback funds for use in the construction or reconstruction of bridges on township roads.

(d) Organization and powers of local highway departments. Each county and each urban municipality shall establish and maintain a highway or street department. Such departments shall be adequately organized, staffed, and equipped to administer for the county or urban municipality all matters relating to the operations of the State-Aid Program and to exercise all functions incidental thereto in accordance with law. All preparation of plans and specifications, and the supervision of construction and maintenance shall be under the control and direction of a professional engineer, registered in the State of Minnesota and employed or retained for that purpose.

(e) Selection and Designation of State-Aid Systems. The State-Aid Highways and Streets designated to form the basis for a long range improvement program shall, in general, be so selected as to form an integrated network of highways and streets in accordance with the following provisions:

(1) Systems

(aa) Final selection of routes to be included in the respective County State-Aid and Municipal State-Aid Systems shall be subject to the approval of the Commissioner.

(bb) The highway and street systems to be selected and designated in accordance with law are:

(i) A County State-Aid Highway System not exceeding 30,000 miles in extent. *excluding Trunk Highway turnback mileage.*

(ii) A Municipal State-Aid Street System not exceeding ~~1,500~~ *2,000* miles in extent within urban municipalities *excluding Trunk Highway turnback mileage.*

(2) Criteria. ~~Highways and streets selected and designated as a part of the County State Aid or Municipal State Aid systems shall have, prior to construction, a minimum right of way of sixty (60) feet within municipalities and sixty six (66) feet in rural areas, except for modifications that are approved by the Commissioner. In rural areas, the counties shall acquire control of such additional right of way as may be necessary to properly maintain the ditch section.~~ These *State-Aid* routes shall be selected on the basis of the following criteria:

(aa) County State-Aid Highway System, highways which:

(i) Carry relatively heavier traffic volumes *or be functionally classified as a collector or arterial as identified on the County's approved functional plans*,

(ii) And connect towns, communities, shipping points, and markets within a county or in adjacent counties.;

(iii) Or provide access to rural churches, schools, community meeting halls, industrial ~~plants~~ *areas*, state institutions, and recreational areas;

(iv) Or serve as principal rural mail routes and school bus routes;

~~(v) Or act as collectors of traffic from several roads of local interest;~~

~~(vi)~~ *(v)* And occur at reasonable intervals consistent with the density of population;

~~(vii)~~ *(vi)* And provide an integrated and coordinated highway system, affording within practical limits a state-aid highway network consistent with ~~local~~ traffic demands.

(bb) Municipal State-Aid Street System, Streets which:

(i) Carry relatively heavier traffic volumes *or be identified as a collector or arterial as identified on the municipality's approved functional plan*,

(ii) And connect the points of major traffic interest within an urban municipality;

~~(iii) Or connect with rural roads or urban routes of community interest and carry major traffic into and through an urban municipality;~~

~~(iv) And form a system of streets which will effectively serve traffic within the urban municipality.~~

(iii) And provide an integrated street system affording within practical limits a state-aid street network consistent with traffic demands.

(3) Route Designations. All County State-Aid Highways and Municipal State-Aid Streets shall be selected by resolution of the respective boards of county commissioners, or the respective governing bodies of urban municipalities. The highway or street designations, as contained in the resolution, shall be reviewed by the District Engineer of that area and his recommendation shall be filed with the Commissioner. Within three (3) months after receipt by the Commissioner of each such resolution and recommendation, he shall approve all or such part of said highway or street designations contained in the resolution, as complies with the criteria and other requirements set out in these regulations. The Commissioner shall certify to the respective boards of county commissioners or governing bodies of urban municipalities the approved portion of their resolution. All highways or streets so approved shall become a part of the County State-Aid Highway System or the Municipal State-Aid Street System, subject to such additions or revisions as may be, from time to time, requested and approved.

(aa) Turnback Designations - ~~New~~. Prior to release of a former trunk highways to the jurisdiction of a county or urban municipality, the Commissioner shall notify the board of county commissioners or the governing body of the urban municipality, through its county or city engineer, which portions of the turnback are eligible for designation as part of its State-Aid System. Upon a request for the designation of such eligible portions from the board of county commissioners or the governing body of the urban municipality, the Commissioner shall issue the official order for designation and notify the County or Municipal Screening Committee of this action.

~~(bb) Turnback Designations - Old. Those former trunk highways that were reverted to local jurisdiction after January 1, 1957, and prior to July 1, 1965, and which had subsequently been designated as a County State-Aid Highway or Municipal State-Aid Street shall be eligible for payment on the basis set forth in Minn. Reg. Hwy. 32, (g)(3)(ff)(ii), Partial Eligibility.~~

(f) State-Aid apportionments. All state-aid apportionments shall be made from the County State-Aid Highway Fund and the Municipal State-Aid Street Fund, respectively, as provided by law. Apportionments to the respective counties and urban municipalities shall be released in accordance with Minn. ~~Reg.~~ *Rule* Hwy. 32, (g) of these ~~regulations~~ *Rules*.

(1) Money Needs

(aa) Construction costs estimates. To provide data to implement the formulas for state-aid apportionment, each county engineer and ~~urban-municipal~~ *city* engineer shall prepare cost estimates of construction required to improve his County State-Aid or Municipal State-Aid System to approved standards.

(bb) Incidental costs. In addition to the direct construction or maintenance costs permitted under Law, the cost of the following incidental items will be considered as eligible for inclusion in the total estimate of needs;

(i) County State-Aid Highways:

(aaa) Automatic traffic control signals.

(bbb) Lighting of intersections and bridges within approved standards.

(ccc) Proportionate share of all drainage costs within municipalities, to reflect the responsibility of the state-aid highway.

(ii) Municipal State-Aid Streets:

(aaa) Right of way.

(bbb) Automatic traffic control signals.

(ccc) Lighting of intersections and bridges within approved standards.

(ddd) Proportionate share of all drainage costs, to reflect the responsibility of the state-aid street.

(cc) Deductible items. The respective Screening Committees shall consider reports from the Commissioner, ~~listing~~ *consisting of but not limited to* the County State-Aid allotments to townships, or the Municipal State-Aid payments on State Trunk Highways or County State-Aid Highways, covering all said allotments or payments made during the preceding year; and shall recommend to the Commissioner the amount of deductions to be made in the money needs for each such county or municipality, in order to equalize their status with other counties or municipalities not making similar expenditures *off* of their approved State-Aid System.

(2) Screening Committees

(aa) Annual reports. A detailed report of the state-aid mileage and cost estimates shall be tabulated and referred to the respective Screening Committees appointed pursuant to Law. These committees shall

investigate and review all such mileage, cost estimates and the reports of those expenditures listed under "Deductible Items", and shall, on or before the first day of November of each year, submit their findings and recommendations in writing as to the mileage and adjusted money needs for each of the governmental subdivisions represented by the respective committees.

(bb) Local road research account. Within the limitations provided by Law, the respective Screening Committees shall annually determine, and recommend, the amount the Commissioner shall set aside from the County State-Aid Highway Fund or the Municipal State-Aid Street Fund, for the purpose of Local Road Research. These Funds, along with such federal funds as may be provided, shall be used ~~solely~~ for conducting research ~~in methods of, and materials for, the construction and maintenance of county and municipal state aid highways and streets~~ *as provided by law*. The use and proportionate share of such county and municipal funds shall be as specifically authorized in the project approval as provided for in Minn. ~~Reg.~~ *Rule* Hwy. 32, ~~(f)(1)~~ *(1)(5)(cc)(ii)*.

(3) Compilation of data by Commissioner. The Commissioner shall determine the apportionment percentage due each county and municipality in accordance with the formulas established by law.

(4) Notice of annual apportionment. Not later than January 25, of each year, the Commissioner shall certify the annual apportionment to each respective county or urban municipality.

~~(5) Semi-annual statements. Within Thirty (30) days after the close of each six (6) month period, the Commissioner shall submit to each county or urban municipality semi-annual statements as to the status of the respective state aid accounts.~~

(g) State-aid payments. Annual apportionments to the respective counties and to urban municipalities shall be released in the following manner:

(1) Maintenance apportionments. As soon as the annual County and Urban Municipal State-Aid Allotments have been determined, the Commissioner shall apportion and set aside the following amounts:

(aa) County - regular account. Forty (40) percent of the regular County State-Aid Allotment for the general maintenance of County State-Aid Highways.

(bb) County - municipal account. Forty (40) percent of the County Municipal Account Allotment for the maintenance of County State-Aid Highways within municipalities of less than 5,000 population.

(cc) Revisions of *county maintenance* apportionments. The Commissioner ~~will~~ *may upon recommendation of the Screening Committee or*, upon receipt of a resolution from a county board, and for good cause shown, increase or decrease the proportion to be used for maintenance under either Minn. ~~Reg.~~ *Rule* Hwy. 32, (g)(1)(aa) or (bb) above.

(dd) Urban account. Twenty-five (25) percent of the total allocation, or $1,500.00 per mile of improved Municipal State-Aid Streets, whichever is the least, as the minimum allotment for the general maintenance of the approved State-Aid System. *The Commissioner may modify the minimum payment to the extent necessary to accommodate the Screening Committee resolutions pertaining to Trunk Highway turnback maintenance allowances.* Those municipalities desiring to receive an amount greater than the established minimum shall file a request not later than December 15 preceding the annual allocation and shall agree to file a detailed Annual Maintenance Expenditure Report at the end of the year.

(ee) Transfer of unexpended balance. Any unobligated balance remaining in the State-Aid Maintenance Account to the credit of any county or urban municipality, after final settlement has been made for the annual maintenance expenditures, shall be automatically transferred to the construction account of said county or municipality.

~~(ff)--Advance-encumbrance-for-maintenance.--Counties-and-Urban Municipalities.--When-the-Commissioner-approves-a-request-from-a county-or-urban-municipality-for-authority-to-advance-their-local funds-against-future-accruals-to-their-State-Aid-Maintenance-Account, because-of-an-unusually-burdensome-or-unprecedented-condition-requiring-funds-over-and-above-the-normal-State-Aid-Maintenance-allotment, such-local-expenditures-will-be-repaid-from-their-subsequent-State-Aid-Maintenance-allotments.~~

~~(gg)~~ *(ff)* Payment schedule. At the earliest practical date, after the allotments have been determined, the Commissioner shall release the following amounts to the respective counties and urban municipalities:

(i) Fifty (50) percent of the maintenance allotment from the Regular Account of each county.

(ii) Fifty (50) percent of the maintenance allotment from the Municipal Account of each county that has filed a request for advance payments prior to the annual apportionment in January of each year. Such request shall include the estimate of the maintenance expenditures anticipated within said account during the calendar year.

(iii) Fifty (50) percent of the maintenance allotment to each urban municipality.

~~(hh)~~ *(gg)* On or about July 1, of each year, the Commissioner shall release an additional advance from the respective maintenance accounts listed above, in an amount not to exceed forty (40) percent of the total maintenance allocations. The Commissioner shall retain the remaining amounts within said allocations pending determination of the final amount due, based upon a report of actual maintenance expenditures and receipt of the District Engineer's certification of

acceptable maintenance performance. Urban municipalities receiving the minimum maintenance allotment as outlined in Minn. ~~Reg.~~ *Rule* Hwy. 32, (g)(1)(dd) above will be eligible to receive the balance remaining in their maintenance account upon receipt of the District Engineer's certification of acceptable maintenance.

(2) Construction apportionments. The construction portion of the annual allocation to each county and urban municipality shall be credited to their respective accounts and retained by the Commissioner for payment on approved projects in accordance with the following procedure:

(aa) State-Aid Contracts. The Commissioner, upon receipt of an Abstract of Bids and a certification as to the execution of a Contract and Bond therein, shall promptly release from the funds available to said county or urban municipality up to ninety (90) percent of the State-Aid portion of said contract. The Commissioner unless otherwise requested shall retain the remaining percentage of the State-Aid share of said contract, provided funds are available therefor, until the final cost is determined and the project accepted by the District Engineer.

(bb) Federal-Aid ~~secondary~~ contracts. The Commissioner, under authority of an Agency Agreement with *the governing body of* a county ~~board~~ *or urban municipality*, and acting as its agent in Federal-Aid operations, will release from *State-Aid* funds available therefor, ninety (90) percent of the county*'s or municipality's* share of the entire contract obligation for immediate redeposit in an agency account, to be used in paying the county*'s or urban municipality's* share of the partial estimates and for advancing the federal share of such estimate payments. The Commissioner shall retain the remaining percentage of the contract cost of said project until the final cost is determined and the project accepted by the District Engineer. Where other than ~~County~~ State-Aid ~~Highway~~ funds are to be used for depositing *in the agency account*, ~~not less than ninety (90)~~ *one hundred (100)* percent of the ~~county~~ *local governmental* share of said contract amounts ~~in the agency account, the details for such deposits~~ shall be *deposited in the agency account prior to award of the contract.* ~~set forth in the respective agency agreements.~~

(cc) Force account agreements. Partial estimates will be accepted on all projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The Commissioner shall promptly release from funds available therefor ninety (90) percent of the cost of current accomplishments as reported by said partial estimates. Upon request of the county or municipality, the Commissioner will set aside and retain their State-Aid funds in an amount equal to the agreed total cost of the entire project to ensure final settlement of the completed construction when final estimate is submitted and upon acceptance by the District Engineer.

(dd) Payment limitations. Approval of State-Aid projects by the Commissioner does not imply that State-Aid payments will be made in excess of the construction funds available from current State-Aid allotments. Any county or urban municipality having depleted their currently available funds during the calendar year will not be eligible for reimbursement from future allotments unless request for advance encumbrance has been approved or project is completed in a subsequent year and funds are available.

(ee) Engineering Costs.

(i) Preliminary engineering. Requests for reimbursement of preliminary engineering costs shall be submitted with the Report of State-Aid Contract or with the initial partial estimate on an approved Force Account project. The Commissioner shall, upon receipt of such request, *supplemented by documentation when requested,* authorize the reimbursement for actual engineering costs, ~~not to exceed five (5) percent of the total estimated construction costs. Where actual preliminary engineering costs are not available from the normal records of the county or urban municipality, reimbursement can be made on the basis of costs determined to be reasonable, but~~ not to exceed ~~five (5)~~ *eight (8)* percent of the total estimated contract or agreement amount.

(ii) Construction engineering. Requests for payment of construction engineering costs shall be submitted along with the final estimate report. The Commissioner shall, upon receipt of such request, authorize a construction engineering payment which will either be limited to five (5) percent of the eligible construction cost where there are no unusual traffic or construction problems, or which may at the Commissioner's discretion be paid in the maximum amount of ten (10) percent of said construction costs on complex projects involving difficult construction features or the continuous movement of dense traffic.

(ff) Right of way. State-Aid payments for right of way costs on approved projects shall be limited to ninety (90) percent of the approved claim until the acquisition of all right of way required for the project is actually completed and the final costs established.

(gg) Advances from county funds. When the Commissioner approves a request from the county board for the construction of an approved County State-Aid project, which requires County State-Aid Highway funds in excess of the available allotment and which excess costs will be initially paid for from other local sources, then and in that event, the Commissioner will to the extent authorized by law repay those locally financed expenditures out of subsequent construction apportionments to the county's State-Aid Accounts in accordance with the terms and conditions specified in the approved request.

(hh) Advance of ~~regular~~ county state-aid highway funds. ~~to-municipal-account.--Where-the-Commissioner-approves-a-request-from-the-county-board-for-the-advance-of-regular-County-State-Aid-Highway-Funds-for-use-on-a-municipal-section-of-an-approved-County-State-Aid-Highway-project,-and-where-repayments-to-the-Regular-Account-of-the-County-State-Aid-Highway-Fund-are-to-be-made-from-subsequent-accruals-to-the-county's-Municipal-Account,-such-repayments-will-be-made-by-the-Commissioner,-to-the-extent-authorized-by-law,-in-the-form-of-transfers-from-the-county's-Municipal-Account-to-their-Regular-Account,-in-the-amounts-and-at-the-time-specified-in-the-authorization.~~

(i) Advance of regular county state-aid highway funds to municipal account. Where the Commissioner approves a request from the county board for the advance of regular County State-Aid Highway Funds for use on a municipal section of an approved County State-Aid Highway project, and where repayments to the Regular Account of the County State-Aid Highway Fund are to be made from subsequent accruals to the county's Municipal Account, such repayments will be made by the Commissioner, to the extent authorized by law, in the form of transfers from the county's Municipal Account to their Regular Account, in the amounts and at the time specified in the authorization.

(ii) Advance of municipal county state-aid highway funds to regular account. The Commissioner may approve a request from a county board for the advance of municipal county state-aid highway funds for use on an approved County State-Aid Highway Project provided that notification pursuant to law has been given those municipalities within the County having a population less than 5,000. Advances from the municipal account to the regular account must be repaid to the municipal account from monies accruing to the county regular account within a maximum of five years unless the terms and conditions of repayment are otherwise agreed by the county and the governing bodies of those cities within the county having a population of less than 5,000. Repayments will be made by the Commissioner to the extent authorized by law, in the form of transfers from the County's Regular Account to the County's Municipal Account, in the amounts and at the time specified in the agreement.

(ii) Advances from urban municipal funds. When the Commissioner approves a request from the governing body of an eligible urban municipality for the construction of an approved Municipal State-Aid Street project, which requires funds in excess of the available allotment and which excess costs will be initially paid from other local sources, then and in that event the Commissioner will to the extent authorized by law repay these locally financed expenditures out of subsequent construction apportionments to the Urban Municipal Account of that municipality in accordance with the terms and conditions specified in the approved request.

(jj) County or municipal bond account. Any county or urban municipality that resolves to issue bonds payable from the appropriate State-Aid fund in accordance with law for the purpose of

establishing, locating, relocating, constructing, reconstructing or improving State-Aid Streets or Highways under its jurisdiction shall certify to the Commissioner within thirty (30) days following issuance of the bond the amount of the total obligation and the amount of principal and interest that will be required annually to liquidate the bonded debt. The Commissioner shall set up a Bond Account therefor, itemizing the total amount of principal and interest involved and he shall annually certify to the State Auditor the amount needed from the appropriate State-Aid Construction Fund to pay the principal due on the obligation, and the amount needed from the appropriate State-Aid Maintenance Fund to pay the current interest. Proceeds from bond sales are to be expended only on approved State-Aid projects and for items determined to be eligible for State-Aid reimbursement. A county or urban municipality which intends to expend bond funds on a specific State-Aid project shall notify the Commissioner of this intent forthwith upon the award of contract or the execution of a Force Account Agreement. Upon completion of each such project, a statement of final construction costs shall be furnished to the Commissioner by the county or the urban municipality.

(kk) Municipal state-aid funds for county state-aid or trunk highway projects. The governing body of any urban municipality desiring to use a portion of its State-Aid funds for improvements within its boundaries of any State Trunk Highway or County State-Aid Highway, shall request such authorization by resolution. Before any such funds are released for said purposes, the resolution shall be approved by the Commissioner. A copy of the approved resolution shall be filed with the State-Aid Engineer. This subparagraph does not apply to payments made for interest on bonds sold under Laws of *Minnesota* 1959, Chapter 538 *and Laws of Minnesota 1965, Chapter 443.*

(3) Semi-annual Statements. Within thirty (30) days after the close of each six (6) month period, the Commissioner shall submit to each county or urban municipality semi-annual statements as to the status of the respective state-aid accounts.

~~(3)~~ (4) Other authorized payments. Certain specific allotments or transfers of State-Aid Funds have been authorized by law. These will be processed as hereinafter provided:

(aa) Transfers for hardship conditions or other local use. The county board or governing body of any urban municipality desiring to use a part of its state-aid funds for this purpose shall certify to to the Commissioner either that all of its existing state-aid routes are improved to state-aid standards or that it is experiencing a hardship condition in regard to financing its local roads or streets, while holding its current road and bridge levy equal to or greater than said levy for previous years. Where a hardship transfer is requested, the Commissioner may require fiscal information showing the extent of the financial deficiency. Within thirty (30) days of the receipt of a request for transfer, the Commissioner shall act to

authorize or deny the transfer of State-Aid funds for use outside of the approved State-Aid system. Upon approval of the requested transfer, the Commissioner without requiring any progress reports, shall within thirty (30) days, authorize immediate payment of not less than fifty (50) percent of the total amount authorized, with the balance to be paid within ninety (90) days; or schedule immediate payment of the entire amount authorized if he determines there are sufficient funds available.

(bb) Township allotments. Upon receipt of a certified copy of a county board resolution, allocating a specific amount of its County State-Aid Construction funds for aid to its townships; which resolution shall indicate compliance with the law governing such allocations and be forwarded to the Commissioner on or before the second Tuesday of January of each year; the Commissioner shall authorize payment of the amount requested for distribution by the county for the construction of township roads.

(cc) Construction of selected park projects. As provided by law, a portion of the County State-Aid Highway Funds shall be set aside and used for the construction, reconstruction and improvement of County State-Aid Highways which provide access to the headquarters of or the principal parking lot located within a State Park. Such funds, so set aside, may be expended for this purpose only on a request from the Commissioner of ~~Conservation~~ *Natural Resources*. Projects so selected will be approved by the Commissioner of Highways in accordance with the procedure established for other State-Aid operations.

(dd) Construction of Selected Bridge Projects. As provided by law, a Minnesota State Transportation Fund has been established to finance the construction or reconstruction of key bridges under local jurisdiction.

(i) Any deficient bridge, 20' or over, is eligible to be financed wholly or partially by this fund and is subject to State-Aid Standards and Specifications as provided in these Rules. Minn. Rule Hwy. 32(h).

(ii) Criteria for the selection of specific bridge projects will be as provided by law. The Commissioner will make the final determination as to priority of construction.

(iii) Release of funds to the local road authority will be in accordance with these Rules. Minn. Rule Hwy. 32(g)(2)(aa).

~~(dd)~~ *(ee)* Disaster account. ~~Any disaster appropriation approved by the Commissioner for a county or municipality in accordance with law, shall be promptly paid to~~ *The respective accounts provided by law for use in aiding a county, or urban municipality that has suffered serious damage to its County State-Aid Highway System or Municipal*

State-Aid Street System from fire, flood, tornado or other uncontrollable forces of such proportion that the cost of repairs to the County State-Aid Highway System or Municipal State-Aid Street System is beyond the normal resources of the county or urban municipality. ~~for which such appropriation was authorized.~~ The funds so allotted and paid to the county or urban municipality can only be spent for the purposes for which it was authorized, and within a reasonable time period specified by the Commissioner. Forthwith upon completion of the work for which the disaster payment was made, or the expiration of the time specified for doing such work, whichever occurs first, the county or urban municipality shall file a report certifying the extent, of the authorized work completed, and showing the total expenditure made therein. In the event the total disaster allotment was not required or used for the purpose specified, the remainder shall be promptly returned to the Commissioner for redeposit *in the County State-Aid Highway Fund or the Municipal State-Aid Street Fund, as the case may be, and apportioned by law.* ~~in the disaster account from which it was obtained.~~ *Damage estimates submitted by a county or urban municipality must exceed ten (10) percent of the current annual State-Aid allotment to the county or municipality before the Commissioner shall authorize the Disaster Committee to inspect the disaster area.*

~~(ee)~~ *(ff)* Research account. County and Municipal State-Aid Funds that may be annually allocated to the Research Account shall be used solely for those research projects recommended by the Local Road Research Board and approved by the Commissioner. Unexpended balances in this account shall at the end of each year be transferred back to the State-Aid Fund from which they were obtained.

~~(ff)~~ *(gg)* Turnback accounts. ~~The funds in the County and Urban Municipal Turnback Accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. These payments shall be made at the times and in the amounts hereinafter specified:~~ *A percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State-Aid Highway Fund and the Municipal State-Aid Street Fund, and respectively identified as the County Turnback Account and the Municipal Turnback Account. Further, a percentage of the County Turnback Account has been set aside and shall be used for replacement or reconstruction of town bridges, 20 feet or more in length, in those counties that have two or more towns, pursuant to law. This latter account shall be known as the County Town Bridge Account.*

~~(1) Full Eligibility. Any former trunk highway reverted to county or municipal jurisdiction subsequent to July 1, 1965 and which is part of the County State-Aid Highway or Municipal State-Aid Street Systems, shall be fully eligible for payment to the County or Municipality of all costs covering the reconstruction and improvement of said highway as detailed on approved~~

~~plans.--The-duration-of-eligibility-for-the-initial-construction of-such-projects-shall-be-limited-to-a-period-of-five-years-from the-date-of-reversion-to-the-date-of-plan-approval.--After-plan approval-for-the-construction-of-the-initial-part-of-a-turnback project,-plans-for-other-portions-of-the-same-route-must-be approved-within-ten-years-from-the-date-of-reversion-to-be eligible-for-turnback-funds.--Each-such-approved-project-shall be-advanced-to-construction-status,-within-one-year-after-plan approval.--Payment-for-such-reconstruction-and-improvement-of any-section-will-terminate-all-eligibility-for-reconstruction and-improvement-of-that-section-with-turnback-funds.~~

~~(ii)--Partial-eligibility.--The-Commissioner-may,-at-the-request of-a-county-or-urban-municipality-and-upon-recommendation-of-the-district-engineer,-approve-for-partial-payment-with-turnback-funds,-a reconstruction-or-improvement-project-on-a-former-trunk-highway-that was-reverted-to-local-jurisdiction-after-January-1,-1957-and-prior-to July-1,-1965-and-which-is-part-of-either-the-county-state-aid-highway or-municipal-state-aid-street-systems.--Such-projects-to-be-eligible for-payment-of-turnback-funds-must-have-the-contract-awarded-or-force account-agreement-signed-prior-to-July-1,-1970.--Participation-of county-or-municipal-turnback-funds-on-approved-state-aid-turnback-projects-within-this-category-shall-be-limited-to-50%-of-the-total-cost of-said-reconstruction-or-improvement-project.~~

(i) Town bridge monies allocation. The sums of monies set aside for town bridges shall be allocated to the eligible counties on the basis of town bridge needs.

(ii) Surplus turnback funds. At any time the Commissioner determines that either the County or Municipal Turnback Accounts, notwithstanding the Town Bridge Accounts, has accumulated a surplus not needed for Turnback purposes, he shall properly notify the State Auditor requesting the transfer of such surplus to the respective County State-Aid Highway Fund or Municipal State-Aid Street Fund for apportionment as provided by law.

(iii) Advances from county or urban municipal funds. When the Commissioner approves a request from the governing body of a county or urban municipality for the construction of an approved County State-Aid or Municipal State-Aid turnback project which will require funds in excess of the available turnback fund balance and which excess costs will be initially paid for from other sources, then and in that event, the Commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the county's or urban municipality's turnback fund in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the respective Turnback Funds shall never exceed 40% of the last County or Municipal Turnback allotment. Any advances shall be repaid in accordance with the terms of the agreement from money accruing to the respective Turnback Funds.

(iv) Advances from the town bridge account. When the Commissioner approves a request from the governing body of a County for the replacement or reconstruction of a town bridge which will require funds in excess of the County's available Town Bridge Account and which excess costs will be initially paid for from other sources, then and in that event, the Commissioner will reimburse those locally financed expenditures out of subsequent apportionments to the Town Bridge Account in accordance with the terms and conditions specified in the approved request. The total of such advances to be reimbursed from the Town Bridge Account shall never exceed 40% of the last Town Bridge apportionment. Any advances shall be repaid in accordance with terms of the agreement from monies accruing to the respective Town Bridge Accounts.

~~(iii)~~ *(v)* Release of turnback account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an ~~fully~~ eligible project, the Commissioner shall release to a county or urban municipality from turnback account funds up to 90% of the turnback share of said contract, ~~or on a partially eligible project, the Commissioner shall release to a county or urban municipality from turnback account funds up to 90% of the turnback share of said contract.~~ The Commissioner shall retain the remaining percentage of the turnback share of said contract, until the final cost is determined and the project accepted by the District Engineer. On force account agreements partial estimates will be accepted on turnback projects approved for construction by local forces, using the agreed unit prices for determining the value of the completed work. The Commissioner shall release from the respective turnback account 90% of the value as reported by said partial estimates on an ~~fully~~ eligible turnback project. ~~and 90% of the turnback share as reported on a partially eligible turnback project.~~ Requests for reimbursement of preliminary and construction engineering costs on an eligible turnback project shall be submitted and payment will be authorized in accordance with these rules ~~and regulations~~ -- Minn. ~~Reg.~~ *Rule* Hwy. 32, (g)(2)(ee)(i) and (ii) engineering costs.

(vi) Release of town bridge account funds. Upon receipt of an abstract of bids and a certification as to the execution of a contract and bond on an eligible project, the Commissioner shall release to a county, from Town Bridge Account Funds, up to 90% of the Town Bridge Account share of said contract. The Commissioner shall retain the remaining 10% until the final cost is determined and the project is accepted by the District Engineer.

(h) State-Aid standards. Subject to approval by the Commissioner, geometric design standards shall be cooperatively determined for use on all County State-Aid Highways and Municipal State-Aid Streets.

(1) Geometric Design Standards

(aa) Adoption. The Commissioner, in cooperation with representatives of the Minnesota County Highway Engineers Association or the City ~~and Village~~ Engineers Association of Minnesota, as the case may be, shall establish desirable minimum geometric design standards for use in improving County State-Aid Highways and Municipal State-Aid Streets.

(bb) Revisions. When need for revision of state-aid standards arises, the Commissioner shall confer with representatives of the county or city engineers associations and determine such change as might be necessary or desirable, and cause such change to be made in the same manner as outlined above.

(2) Specifications. Specifications for construction shall be the latest approved Minnesota Department of Highways specifications, except as modified by special provisions which set forth conditions or requirements for work or materials not covered by the approved specifications, or which set forth conditions or requirements to meet exigencies of construction peculiar to the approved project.

(3) Right of way. The minimum widths of right of way for all State-Aid routes shall be not less than sixty (60) feet within municipalities and sixty-six (66) feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the Commissioner. Prior to construction the counties shall acquire control of such additional widths of right of way in rural areas, as may be necessary to properly maintain the ditch section.

(i) State-Aid operations. State-Aid funds allotted to counties and urban municipalities shall be expended in accordance with the following provisions:

(1) Maintenance.

(aa) The Commissioner shall require a reasonable standard of maintenance on all State-Aid routes within the county or urban municipality, consistent with available funds, the existing street or road condition and the traffic being served. This maintenance shall be considered to include, but shall not be limited to:

(i) The maintenance of all road surfaces, shoulders, ditches and slopes and the cutting of brush and weeds.

(ii) The maintenance *and inspection* of all bridges, culverts and other drainage structures;

(iii) The maintenance of all regulatory and direction signs, markers, traffic control devices and protective structures in conformance with the current Manual on Traffic Control Devices and consistent with state-wide application;

(iv) The striping of all ~~properly-cured-bituminous~~ pavements of 22 feet or more in width, consistent with the traffic service provided, and for which there are no pending improvements;

~~(v)--The-enforcement-of-parallel-parking-on-any-approved state-aid-project;~~

~~(vi)--The-exclusion-of-advertising-signs,-billboards,-buildings-and-other-privately-owned-installations-from-the-right-of-way of-any-approved-State-Aid-project.~~

(bb) Unsatisfactory maintenance. When, in the opinion of the Commissioner, the maintenance of any county or municipal state-aid route is determined to be unsatisfactory, he shall retain up to ten (10) percent of the current annual maintenance apportionment to the responsible county or urban municipality. Funds so retained shall be held to the credit of that county or municipality until the unsatisfactory condition has been corrected and a reasonable standard of maintenance is provided.

(i) Route Markers. ~~On-or-before-January-1,-1973~~ approved Route Markers shall be installed on all rural County State-Aid Highways in accordance with the current manual on *Uniform* Traffic Control Devices. Failure to comply with this requirement shall result in the withholding of 10% of the Annual Maintenance allocation until such markers are properly installed.

(ii) The enforcement of parallel parking on any approved state-aid project;

(iii) The exclusion of advertising signs, billboards, buildings and other privately owned installations other than utilities of public interest, from the right of way of any approved State-Aid project.

(cc) Biennial report. The Commissioner's Biennial Report to the Legislature shall enumerate all such funds retained more than ninety (90) days, together with an explanation for this action.

(2) Construction. Survey, plans and estimates for all State-Aid projects shall be made by or under the immediate direction of the county or city engineer in accordance with standards as to form and arrangement prescribed by the Commissioner.

(aa) Plans and estimates. Plans and estimates for each State-Aid Construction project must be submitted for review. Each plan shall show all subsequent stages required for the completion of the improvement, portions of which may be covered by later contracts or agreements. Only those projects for which plans are approved by the State-Aid Engineer prior to the award of contract or approval of a Force Account agreement shall be eligible for State-Aid Construction Funds.

(bb) Project numbers. Approved projects will be assigned state-aid project numbers and shall be so identified in records of the State Highway Department and the local governmental unit.

(cc) Contract information. Upon award of a state-aid contract by any county or urban municipality the engineer thereof shall furnish the Commissioner with an abstract of bids and a certification as to the specific contract and bond executed for said approved construction work.

(dd) Force account. Any county or urban municipality desiring to use funds credited to it on a force account basis shall have its engineer file a request with the Commissioner for each construction project to be built by the county or urban municipality at agreed unit prices, which shall be based upon estimated prices for contract work, less a reasonable percentage to compensate for move-in, move-out, taxes and contractor's profit. Such requests shall contain a complete list of pay items and the unit prices at which it is proposed to do the work. Prior to the approval by the Commissioner, the District Engineer shall file his recommendations with the Commissioner as to the request and the cost estimate. Items of work other than those listed as a pay item or approved by supplemental agreements shall be considered incidental work not eligible for state-aid payment.

(ee) Project reports. Prior to final acceptance of each construction project by the Commissioner, the county engineer or the city engineer shall submit to the Commissioner such final project records as the Commissioner may deem necessary or desirable.

(ff) Project payments. On all state-aid construction projects, the Commissioner shall pay a maximum of ninety (90) percent of the contract amount, or of each partial estimate in the case of force account agreements, until final acceptance of the completed work. Upon receipt of required reports and data and a recommendation of final acceptance by the District Engineer, the Commissioner shall, within the limits of funds available therefor, authorize final payment for said project within the limitations hereinbefore established.

~~(3) Right-of-way. The minimum widths of right-of-way for all State-Aid routes shall be not less than sixty (60) feet within municipalities and sixty-six (66) feet in rural areas, except for conditions where modifications can be justified to the satisfaction of the Commissioner. Prior to construction the counties shall acquire control of such additional widths of right-of-way in rural areas, as may be necessary to properly maintain the ditch section.~~

~~(4)~~ *(3)* Turnback accounts. ~~A percentage of the Net Highway User Tax Distribution Fund has been set aside by law and apportioned to separate accounts in the County State Aid Highway Fund and the Municipal State Aid~~

~~Street-Fund,-respectively-identified-as-the-County-Turnback-Account-and the-Municipal-Turnback-Account.~~ *The funds in the County and Municipal Turnback Accounts shall be expended only as payments to a county or urban municipality for the approved reconstruction or improvement of those former trunk highways that have reverted to county or municipal jurisdiction and which meet the eligibility requirement as set forth herein. Further, a percentage of the County Turnback Account has been set aside, as provided by law, and shall be used for replacement or reconstruction of town road bridges that are 20 feet or more in length in those counties that have two or more towns.*

~~(aa)-Surplus-turnback-funds.--At-any-time-the-Commissioner-determined-that-either-the-County-or-Municipal-Turnback-Accounts-has-accumulated-a-surplus-not-needed-for-Turnback-purposes,-he-shall-properly notify-the-State-Auditor-requesting-the-transfer-of-such-surplus-to-the respective-County-State-Aid-Highway-Fund-or-Municipal-State-Aid-Street Fund-for-apportionment-as-provided-by-law.~~

(aa) Eligibility

(i) Any former trunk highway reverted to county or municipal jurisdiction subsequent to July 1, 1965, and which is part of the County State-Aid Highway or Municipal State-Aid Street Systems, shall be eligible for payment to the County or urban Municipality of all costs covering the reconstruction and improvement of said highway as detailed on approved plans. Approval of plans for the initial construction of such projects shall be limited to a period of five years from the date of reversion. After plan approval for the construction of the initial part of a turnback project, plans for other portions of the same route must be approved within ten years from the date of reversion to be eligible for turnback funds. Each such approved project shall be advanced to construction status within one year after notification to the county or urban municipality that sufficient funds are available for the construction of said project. Payment for such reconstruction and improvement of any section will terminate all eligibility for reconstruction and improvement of that section with turnback funds.

(ii) Any town bridge, 20 feet or over in length, is eligible for replacement or reconstruction if after all pertinent data supplied by local citizenry, local units of government, the Regional Development Commission or the Metropolitan Council, is reviewed by the County Board and a formal resolution by the County Board is adopted identifying the town bridge or bridges to be replaced or reconstructed. Payment to the counties will be limited to 50% of the cost of the bridge, and will be made in accordance with these rules Minn. Rule Hwy. 32 (g)(3)(ff)(iv).

(bb) Plan approval and construction requirements. Plans for all County or Municipal State Aid Turnback *or town bridge* projects must be submitted to the Commissioner and be approved before any reconstruction or improvement work is undertaken. All of the State-Aid Rules ~~and Regulations~~ that are ~~not~~ inconsistent with the Turnback Regulations shall apply to all projects to be financed from the County or Municipal Turnback Accounts~~.~~ *or the Town Bridge Account.*

(cc) Construction authorization. As soon as the plans for a State-Aid Turnback *or Town Bridge* Project are approved, the County or *urban* Municipality shall be furnished either an Authorization to proceed with construction, or a notice that sufficient funds are not available within the applicable Turnback Account *or Town Bridge Account* and that a priority has been established for said project for construction authorization as soon as funds are available ~~therefor~~. Where local funds are ~~used~~ *advanced by the County or urban Municipality* to construct an approved project for which sufficient funds are not available in the Turnback Account, *or Town Bridge Account* ~~such project may be resubmitted in the following year for consideration by the Commissioner in making reimbursement from subsequent accruals to said Turnback Account.~~ *authorization to proceed with construction will be notification that the agreement for reimbursement of funds, in accordance with Minn. Rule Hwy. 32 (g)(4)(ff)(iii) has been approved by the Commissioner.*

(j) General rules ~~and regulations~~. In addition to those provisions heretofore mentioned, expenditures of state-aid funds by any county or urban municipality shall conform to the following Rules ~~and Regulations~~:

(1) Legal requirements. State-Aid construction projects shall comply with all Federal, State, and local laws, together with all ordinances and regulations applicable to the work. Responsibility for compliance shall rest entirely with the local unit of government.

(2) Bridge plans. Plans for all bridge construction or bridge reconstruction projects shall be approved by the Bridge Engineer of the Minnesota Department of Highways, prior to the approval by the State-Aid Engineer.

(3) Reports and records. Annual reports, status maps, and all maintenance and construction reports and records shall be filed at the time and in the form specifically requested by the Commissioner or his authorized representatives.

(4) Non-compliance. The Commissioner, upon determination that a county or urban municipality has failed to comply with the established State-Aid requirements, other than for unsatisfactory maintenance, or has failed to fulfill an obligation entered into for the maintenance or improvement of any portion of a State Trunk Highway or Interstate Route, shall determine the extent of the failure and the amount of such county's or urban municipality's apportionment that shall be retained until such time as suitable compliance is accomplished, or the obligation fulfilled, as the case may be. The amount withheld shall reasonably approximate the extent of the noncompliance or the value of the obligation unfulfilled.

(5) Defective work. Whenever unsatisfactory conditions are found to exist on an approved construction project, the District State Aid Engineer can, if necessary, order the suspension of all work affected thereby until said condition is satisfactorily corrected. Failure to conform with such suspension order shall be considered willful non-compliance. All work or materials which fail to conform to the requirements of the contract or force account agreement shall be considered as defective. Unless the work is satisfactorily remedied or repaired before final acceptance is requested, the Commissioner shall either withhold funds in accordance with paragraph (4) above, or shall establish the reasonable value of the defective work as the basis for settlement with the county or urban municipality.

(6) Engineering and technical assistance. The Commissioner may, as authorized by law, execute agreements with any county or urban municipality for technical assistance from the Department of Highways. These services, if furnished, shall be paid for by the governmental subdivision at the rates established by the Department of Highways.

(k) General State-Aid limitations. The extent of State-Aid participation on special items shall be limited as follows:

(1) Lighting. The lighting of hazardous or accident-prone locations, where concurred in by the Traffic Engineer of the Minnesota Department of Highways, shall be considered as eligible expense to the following extent:

(aa) New construction. Cost of complete lighting at approved locations only on multiple lanes. (More than one lane in each direction.)

(bb) Cost of lighting approved intersections on single-lane design. (One lane in each direction.)

(cc) Locations where the municipality would normally install lighting units are not considered as an eligible expense. The County or urban municipality shall furnish traffic information or other needed data to support its request.

(dd) Reconstruction. All costs incidental to the necessary revision or relocation of existing lighting facilities, up to and including the cost of completing the new base.

(2) Traffic Control Signals. Plans for the construction or reconstruction of all traffic control signals shall be approved by the Traffic Engineer of the Minnesota Department of Highways, prior to the approval of the State-Aid Engineer. The extent of State-Aid participation in all signal installations shall be determined by the State-Aid Engineer in relation to the proportion of State-Aid routes involved at each installation.

(3) Right of Way. The cost of any lands and properties required to accommodate the design width of the street or highway as governed by the State-Aid standards, including necessary width for sidewalks, shall be considered as eligible expense. This cost may include *relocation and moving costs as provided by law and may include* damages to other lands if reasonably justified to the satisfaction of the Commissioner.

(4) Sidewalks. On County State-Aid projects, sidewalks shall be considered as an eligible expense only where the proposed construction necessitates the alteration of existing walks. On Municipal State-Aid Street Projects, State-Aid payment for sidewalk may be made when requested by the *urban* Municipality.

(5) Storm Sewers. Plans containing items for storm drainage shall be reviewed by the Hydraulics Engineer for the Minnesota Department of Highways and his recommendations obtained as to design features and the proportionate share chargeable to the State-Aid System. These recommendations, along with those of the District Engineer shall be considered in determining the maximum State-Aid participation in said work.

(1) Local road research board. The Commissioner shall appoint a Local Road Research Board consisting of the following members:

(1) 4 County Engineers, only one of whom may be from a county containing a city of first class.

(2) 2 City Engineers, only one of whom may be from a city of first class.

(3) 2 Department of Highway Staff Engineers.

(4) 1 University of Minnesota Staff Engineer.

(5) 1 Ex officio secretary, who shall be the Department's Research Coordination Engineer.

(aa) Initial appointments. The initial terms of the appointees shall be as follows, beginning January 1, 1960:

(i) 1 County Engineer -- 1 year

(ii) 1 County Engineer -- 2 years

(iii) 2 County Engineers -- 3 years

(iv) 1 City Engineer -- 2 years

(v) 1 City Engineer -- 3 years

(bb) Future appointments. All future appointments of County and City Engineers, except for unexpired terms shall be for three (3) years. The other members shall serve at the will of the Commissioner.

(cc) Operating Procedure:

(i) The board shall initially meet on call from the Commissioner, at which time they shall elect a chairman, and establish their own procedure for the selection of research projects

to be recommended to the Commissioner. Final determination on all such research projects shall be made by the Commissioner, and the cost thereof shall be paid out of the State-Aid Research Accounts provided for by law.

(ii) In the event that the board recommends a project covering research in methods of and materials for the construction and maintenance of both the County State-Aid Highway System and the Municipal State-Aid Street System, the board shall also recommend to the Commissioner the proportionate share of the cost of such project to be borne by the respective County State-Aid Highway Research Account and the Municipal State-Aid Street Research Account, based on the benefits to be realized by each system from such research project.

(m) Personal expenses of authorized board or committee members. The Commissioner will authorize the payment of all necessary personal expenses in connection with meetings of board and committee members, appointed by him for State-Aid purposes. These expenses shall be reported on forms furnished by the Commissioner and paid from the State-Aid Administrative Fund.

(n) Identification and numbering. The Commissioner is authorized and empowered to change the numbering system of the approved Rules ~~and Regulations.~~

(o) Severability. The provisions of these Rules shall be severable, and the invalidity of any paragraph, subparagraph or subdivision thereof shall not make void any other paragraph, subparagraph or subdivision or any other part.

April, 1976

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS
ROOM 300 - 1745 UNIVERSITY AVENUE
ST. PAUL, MINNESOTA 55104
(612) 296-6910

August 6, 1976

Mr. John R. Murphy
Assistant Attorney General
Department of Highways
State Highway Building
St. Paul, Minnesota - 55155

RE: In the Matter of the Proposed Adoption, Amendment, and Repeal of the Rules of the Department of Highways relating to State-Aid Operations.
Our File No. HWY-76-003-MG

Dear Mr. Murphy:

I transmit herewith the Report of the Hearing Examiner in the above-entitled matter, together with your file papers, and I am closing our file in this case.

Yours very truly,

Myron Greenberg

MYRON GREENBERG
Hearing Examiner

MG/eag

Encs.

CC: Mr.Roy Hanson
Assistant State-Aid Engineer

STATE OF MINNESOTA
OFFICE OF HEARINGS EXAMINERS

FOR THE DEPARTMENT OF HIGHWAYS

In the Matter of the Proposed Adoption, Amendment, and Repeal of the Rules of the Department of Highways relating to State-Aid Operations.

REPORT OF HEARING EXAMINER

The above-entitled matter came on for hearing before Myron Greenberg, Hearing Examiner, 1745 University Avenue, St. Paul, Minnesota on June 24, 1976 at 9:00 o'clock a.m. in Room 83 of the State Office Building, St. Paul, Minnesota.

The hearing continued until all representatives of associations or other interested groups or persons had an opportunity to participate and be heard concerning the adoption of the proposed rules noted above.

John R. Murphy, Assistant Attorney General, represented the Department of Highways (hereinafter "Department"). Also appearing on behalf of the Department were Roy Hanson, Assistant State-Aid Engineer; Gordon M. Fay, State-Aid Engineer; Matt Lang, Bridge Data Unit employee; and Keith Benthin, Bridge Engineer.

The record in this matter was kept open for 20 days after the close of the hearing to July 14, 1976. All comments and statements, whether oral or written, offered during the hearing and through July 14, 1976, have been considered as part of the record in this matter. No comments were received after July 14, 1976 relating to this proceeding.

Pursuant to Minn. Stat. § 15.052, subd. 3 (1975 Supp.), this report will include Findings of Fact, Conclusions and Recommendations. The Department and the Office of Hearing Examiners will make a copy of this Report available for review to any interested person upon request. Copies of the Report will be furnished at a nominal cost.

The Department shall, if it proposes to adopt the rules as originally proposed or amended, submit the complete hearing record to the Chief Hearing Examiner, pursuant to HE 108, no

earlier than ten days subsequent to the receipt of this Report. It shall include the rules as originally proposed, and the rules as proposed for adoption in final form. The submission to the Chief Hearing Examiner shall precede review by the Attorney General. The Chief Hearing Examiner shall complete his review and submit his report to the Department on the issue of substantial changes in the rule within ten calendar days. The Department will be responsible for filing the rules with the Attorney General.

Upon all the records, files, evidence and written comments, the Hearing Examiner makes and issues the following as his

FINDINGS OF FACT

1. That the Notice of Hearing, Order for Hearing, Proposed Rules and Statement of Need in support of said rules were filed with the Office of Hearing Examiners on May 27, 1976.

2. That all other exhibits, marked as Exhibits 1 through 29, including copies of the documents noted in paragraph 1 above, were received by and on file with the Office of Hearing Examiners from June 1, 1976.

3. That the record contains an affidavit (Ex. 5) that Kenneth H. Bjork mailed the Notice of Hearing (with a copy of the proposed rules attached) (Ex. 2) on May 26, 1976 to the names appearing on the Secretary of State's list (Ex. 4), received by Bjork on May 26, 1976 (See Ex. 3). Said Notice indicated the possibility of changes to the rules which might be proposed and considered at the hearing. All other substantive and procedural requirements of statute and rule have been complied with.

4. That the Department, in the text of the proposed rules and in its presentation at the hearing, cited its authority to promulgate and amend rules as granted by the Legislature under and pursuant to Minn. Stat. Chapters 161 and 162, as amended, and Minn. Stat. § 162.09.

Exhibit 8 contains the rules as proposed at the hearing and references to statutory authority for the proposed new and amended rules. Exhibit 8 consists of (a) one copy of the proposed rules as presented at the hearing, such copy being highlighted in yellow; (b) one copy of the rules as proposed at the

hearing without any marking thereon (such copy being marked in the upper right-hand corner as "Ex. 8, (clean copy)"); and (c) a document entitled "List of Parts Affected by Proposed Rule Changes." Additional reference to statutory authority for the newly proposed rules or the amended rules is found throughout the hearing transcript. By such reference in the various places indicated, the Department has adequately documented its statutory authority to take the proposed action.

5. That the Statement of Need (Ex. 6) for the proposed rules was not specifically criticized in testimony or written comments.

6. That the rules proposed at the hearing differed from those which accompanied the Notice of Hearing in non-substantive and non-substantial ways.

The great majority of changes made to the rules consist of "housekeeping" changes such as the deletion of the term "Reg." or "Regulations" and the substitution therefor of the terms "rule" or "rules"; deletion of the term "villages and boroughs"; citation to the 1975 codification of Minnesota Statutes; grammatical corrections of punctuation, capitalization and syntax; elimination of inconsistent phraseology; elimination of superfluous and/or obsolete language; language clarifications; and relocation of certain provisions within the rules to more appropriate locations for ease in understanding the rules. The numbering system of Rule Hwy 32 was also completely changed. The aforementioned changes were made for the purpose of either conforming to legislation or simply to clarify and correct oversights or unclear material contained in the rules. The change in numbering was done for clarification purposes only.

7. The rules proposed at the hearing further differed from those which accompanied the Notice of Hearing in that new proposed rules dealing with State-Aid bridges were removed from originally proposed Rules Hwy 32 and established as a separate Rule Hwy 32A. Although certain additional prefatory language is added to this rule (Hwy 32A), the content and substance of that rule does not differ substantially from the originally proposed

language contained in the body of proposed rules accompanying the Notice of Hearing.

8. That most of the proposed amendments to the rules were not criticized or commented upon either during or after the hearing. Such amendments consisted generally of (a) definitions; (b) relocated existing rules; (c) deleted rules, and (d) changes noted in Paragraph 6 above. Many of the existing rules were amended in substance only slightly for clarification purposes only.

9. That all rules changed to reflect and implement statutory changes and grammatical or syntactical changes are reasonable and necessary for purposes of compliance with statutory mandate and clarification.

10. That rules which have been changed in sequence only are reasonable and necessary for clarification and ease of understanding the rules in general.

11. That amendment of the rules by deletion of obsolete and/or superfluous material is reasonable and necessary to clarify the rules and bring them up to date. Such deletions, in whole or in part, received no comment during or after the hearing.

12. That no comments were received during or after the hearing with regard to any of the proposed or amended rules unless specifically noted hereinafter.

13. That Hwy 32.C.4 and 32.C.5, as amended, are reasonable and necessary to define more clearly who may be recognized as a "county engineer" or "city engineer".

14. That Hwy 32.C.11 is amended to more clearly define the term "advance encumbrance" and to include trunk highway turnback monies. (Trunk highway turnback monies are monies established by law under Minn. Stat. § 161.081, "for use on former trunk highways that had been turned back to local authority.")

15. That Hwy 32.C.12 is reasonably amended for clarification purposes.

16. That Hwy 32.C.14 is proposed to provide a definition of the term "trunk highway turnback" as that term is used in

the rules. The proposed definition is reasonable as a paraphrase of Minn. Stat. § 161.081.

17. That Hwy 32.C.16 is necessary to define the term "disaster committee" as used in the rules and to delineate the responsibility of such committee.

18. That Hwy 32.C.17 is necessary to define the responsibility of the "local road research board".

19. That Hwy 32.C.18 is necessary to define the term "town bridge needs" as used in the rules.

20. That Hwy 32.C.19 is necessary because the proposed rules have been broadened to recognize the "town bridge account" which was established by amendment of Minn. Stat. § 161.081 to give townships a percentage of the county turnback account for use on town road bridge structures.

21. That Hwy 32.C.20 is reasonable and necessary to define the term "function and classification plan" as used within the rules.

22. That Hwy 32.C.1.b (1) and (2) have been amended to reasonably reflect changes to Minn. Stat. §§ 162.02 and 162.09.

23. That Hwy 32.E.2, and the subsections thereunder, are necessary to set forth and advise the public of the criteria used in selecting State-Aid routes, whether such routes be for county highways or municipal streets. The numbering of this section and subsections has been changed to clarify the mandatory and alternative standards to be used in such selection process.

Changing the term "plants" to "areas" in Hwy 32.E.2.a(2)(a) recognizes the development of industrial areas, as opposed to single-plant sites, and the need to service such industrial areas with adequate roads.

This rule was criticized by the Norman County Board of Commissioners as incorporating (in Hwy 32.E.2.a(1) and b(1)), a federal plan of some sort by reference to or use of the term "functionally classified." (Ex. 33, p.1) No indication of the federal plan which would be "overlayed" was given, nor was a reason given why such a result (if such were to be the consequence of

the language used in the rule) would be undesirable. In fact, the originally proposed language (that criticized in Ex. 33) was changed prior to the hearing in order to clarify and specify that "functionally classified" refers to identification on the functional plan adopted by the county or urban municipality, respectively. The criticism is, therefore, not appropriate; the proposed rule is reasonable.

24. That Hwy 32.F.1.c. is amended to reflect the fact that the respective screening committees have the authority under Minn. Stat. §§ 162.07, subd. 5, and 162.13, subd. 3, to recommend to the Commissioner of Highways (hereinafter "Commissioner") the money needs to be used in determining the annual allocation to the counties and municipalities. The accumulation of substantial State-Aid funds over a period of years indicates that a county or municipality is not spending their monies and thereby reducing their needs. The revised rule allows the screening committees to analyze federal and state allocations, and, if the county or municipality does not utilize those allocations, the committee may adjust the needs.

The Department indicated that this procedure is a method of equalizing needs because a county or municipality that continually expends their state or federal allocations reduces their needs and resultant State-Aid proportionately. The county or municipality that accumulates their allocations earns needs and mileage that would have been improved had their allocations been utilized.

The amendment to the rule is reasonable and necessary to improve the procedure for equalization of county and municipal needs.

25. That Hwy 32.F.2.b is amended to remove certain specific language and add general language ("as provided by law") to reflect the purposes established by statute for which funds from the Local Road Research Account may be used. The general language included in the rule is adequate to indicate statutory provisions for use of such research funds, however, specific reference to Minn. Stat. §§ 162.06, subd. 4, and 162.12, subd. 4 might

further clarify the rules by directing attention to the specific statutory provisions.

The Examiner suggests as a footnote and not as a specific finding that the language "as provided by law" and similar language used in the highway rules to refer to statutory provisions would be clarified by the use of the specific statutory provision instead of the general reference.

26. That Hwy 32.G.1.c has been amended by the addition of the term "county maintenance" in its title to clearly identify the specific apportionment referred to by that section. In the body of the rule, the deletion of the word "will" and the substitution of the phrase "may, upon recommendation of the screening committee or" gives authority to the screening committee to review requests made by counties for transfer of construction monies to maintenance accounts and gives the screening committee authority to make recommendations to the Commissioner relative to any such requests. The Commissioner then makes the final decision regarding such requests. The amendment is reasonable and necessary to establish a more localized and responsive system for revising a maintenance apportionment of State-Aid payments to counties.

27. That Hwy 32.G.1.d is necessary to permit specific amounts of money to be credited to maintenance accounts for trunk highway turnbacks prior to the time such turnbacks are reconstructed with monies from turnback accounts (in addition to the normal maintenance allocation).

28. That Hwy 32.G.2.b is reasonable and necessary to allow the Department to provide for the deposit of 100% of the local share of federal aid project funds (under a federal aid contract) in the appropriate agency account (instead of the 90% deposit currently provided for). The agency account is that account from which payments to contractors are made as the work progresses on a specific project.

The Norman County Board of Commissioners suggested that use of the phrase "governing body of a county or urban municipality" could be interpreted to mean a regional development commission or

the Metropolitan Council. No indication was given of why such interpretation might be applied to the rule, nor was there consideration of whether suchbbodies are empowered by statute to contract with the Commissioner for State-Aid funds or to have the Commissioner act as an agent in Federal-Aid operations. In the absence of such basis for changing the proposed amended language (T.34-35), the Examiner finds the proposed change reasonable.

It is suggested that the Department and its legal counsel study the language objected to, determine whether there is any possibility of confusion, and, if such possibility is found to exist, change the language toclarify the intended meaning.

29. That Hwy 32.G.2.e(1) is amended to provide for payment of 8% of a total contract or agreement for preliminary engineering services on a State-Aid project, as opposed to the 5% provided by the rule before amendment. The rule's revision also permits the Commissioner to request documentation of actual engineering costs if, in his opinion, such costs seem unduly high. The rule is reasonable to allow a more realistic amount of money for the function involved and was supported at the hearing (T. 76).

30. That Hwy 32.G.2.h(2) is proposed as a new rule to permit transfer of county municipal funds to the county regular account. This rule is authorized by and necessary to implement the provisions of Minn. Stat. § 162.08, subd. 4, as enacted in Laws 1975, Chapter 193.

31. That some confusion was noted regarding the use of the term "regular account" as it appears in the heading and body of Hwy 32.G.2.h(1) and (2). (Ex. 33, p.2) The term "County-Regular Account" is used (although not defined) in Hwy 32.G.1.a. That term is used in various places in the rules in forms such as "regular County State-Aid highway funds (Hwy 32.G.2.h(1))," and "regular account" or "county's regular account" (Hwy 32.G. 2.h(1) and (2)). The Examiner finds that the rules are understandable as written with the references noted herein, but suggests that the Department consider eliminating any possible confusion by use of uniform terminology.

32. That Hwy 32.G.4.d is amended by the addition of language establishing a minimum monetary amount of damage (10% of the total county or municipal State-Aid allotment) for qualification as a "disaster". The purpose of this change is to eliminate minor claims for "disasters". The rule is further amended to provide for redeposit of any unused portion of a disaster apportionment to an appropriate State-Aid account for reapportionment and re-distribution as provided by law.

Mr. Ben Beauclair, a highway engineer for St. Louis County, noted that the 10% qualification for disaster assistance may create difficulties for counties (such as St. Louis County) with large State-Aid allotments (T. 79). The Department pointed out that the State-Aid Rules Committee unanimously agreed that 10% was a reasonable criteria for disaster aid. The Examiner suggested in an off-the-record discussion with Department personnel, and hereby reiterates his suggestion, that some formula might be considered to allow disaster assistance when such a "disaster" would require the expenditure of 10% of the total county or municipal State-Aid allotment or a specific minimum amount of money, whichever is less.

The requirement of the 10% qualification for disaster assistance is both reasonable and necessary to accomplish the desired goal of eliminating minor claims. The suggested language is offered only as a possible alternative to avoid what may be a somewhat inequitable and undesirable result of such requirement.

33. That Hwy 32.G.4.f, although essentially a relocation of an existing rule, is amended by the provision for and definition of a county town bridge account. This is necessary to recognize the statutory provisions of Minn. Stat. § 161.082, as amended by Laws 1975, Chapter 203.

34. That Hwy 32.G.4.f(1) is a new rule which is necessary to establish a formula for distribution of funds to town bridge accounts. Minnesota Statutes, § 165.03, subd. 2, requires annual inspection of all bridges in this state by an official having jurisdiction over such bridges. Reports of these inspections are filed with the Department and include recommendations for

corrections of any deficient bridges. The Department maintains the inventory of the bridges (see Exs. 23 and 24), and establishes priorities for their correction based on criteria enumerated in the rules. The cost of correction is based upon current bridge replacement costs as determined by the Department. These costs are applied uniformly to all bridges depending upon length of the replacement structure. The estimated monetary needs to correct the deficient bridges was established as the basis for the distribution of funds. The Department noted in its statement supporting this rule that to distribute money to each township individually would not permit the majority of townships to amass enough money to construct a bridge. Thus, the allocation of funds for correction of bridge deficiencies is, according to the rule, made on a county-wide basis considering all deficient town bridges within the county. A formal resolution by the county board serves as authority to initiate a bridge project.

35. That Hwy 32.G.4.f(2) has been relocated to its present position within the rules and amended to recognize the existence of town bridge accounts for the purpose of clarification. Subsequent to the hearing, the Department indicated its intent to change the term "state auditor" as it appears in this rule (and as it appears in Hwy 32.G.2.j) to "commissioner of finance" because of the provisions of Laws 1973, Chapter 492, § 2. (See Ex. 34)

36. That Hwy 32.G.4.f(3) is necessary to allow counties or municipalities to use funds from local sources to construct a trunk highway turnback and be reimbursed for such construction disbursements from future state turnback funds. The rule also establishes a limitation (40% of the last county or municipal turnback allotment) on the amount of money which can be advanced for such construction. The rule is reasonable in that without such limitation, it is possible that an entire year's turnback allotment could be designated for "payback". This could be to the state's disadvantage if a turnback required immediate funding for some unforeseen event.

37. That Hwy 32.G.4.f(4) applies to advances from town bridge accounts in the same manner or with the same provisions as those which apply to advances from county or urban municipal funds as indicated in the immediately preceding paragraph. The rule is reasonable and necessary for the reasons stated therein.

38. That Hwy 32.G.4.f(6) is necessary to establish a method of administering payments from town bridge accounts. The procedure established by this rule appears to be consistent with other procedures established for release of State-Aid funds.

39. That Hwy 32.I.1.a(2), by its amendment to provide for inspection as well as maintenance of bridges, culverts and other drainage structures, is reasonable to make the rule be consistent with the provisions of Minnesota laws. Such amendment is intended to and does provide that maintenance funds may be expended for bridge inspection.

40. That the insertion of the word "uniform" in Hwy 32.I.1.b(1) is necessary to indicate the specific manual referred to in the rule by its proper and commonly used name. This same change should be made to Hwy 32.I.1.a(3), as noted in Exhibit 33, p.2, for consistency and clarity in reference.

41. That Hwy 32.I.3 is a relocation of a clause which appeared in a different part of the rules. This rule has been slightly rewritten to include town road bridges "as provided by law", such law apparently being Minn. Stat. § 161.082, subd. 2a (Laws 1975, Chapter 203). The rule is reasonable in that it takes cognizance of new statutory provisions.

42. That Hwy 32.I.3.a(1) is relocated and amended to clarify the procedures and requirements for eligibility to obtain funds from turnback accounts for reconstruction and improvement of former trunk highways which have reverted to the county or urban municipality. Because there may not be sufficient funds available to finance the reconstruction or improvement of such reverted trunk highways, the rule was revised and is needed to permit projects to be approved for construction and "tabled" until funds are available to pay for such construction.

43. That Hwy 32.I.3.a(2) is proposed to establish criteria for the approval of town bridge reconstruction or replacement.

This provision is necessary to implement the legislation establishing the town bridge accounts and providing for such town bridge replacement or reconstruction.

The Norman County Board of Commissioners suggested that reference to the Regional Development Commissions and Metropolitan Council be stricken from the rule and cited various statutory provisions, without further comment, in support of the suggestion (Ex. 33, p.2). The Examiner is unable to determine from a review of the statutes why the Norman County Board feels the references should be removed. Further, the Examiner finds that Minn. Stat. § 174.03, subd. 5 (Laws 1976, Ch. 166, § 3), specifically mandates that the Metropolitan Council and Regional Development Commissions be involved with transportation policy planning, that such planning includes town bridges, and, therefore, that the rule is reasonable as proposed.

44. That Hwy 32.I.3.b is reasonably amended to include town bridges in the provision dealing with plan approval and construction requirements.

45. That Hwy 32.I.3.c is reasonably and necessarily amended to include town bridges in the provision for construction authorization. The rule is further amended to simplify the authorization procedure by eliminating the requirement of resubmittal of plans to the Commissioner for projects which have been approved in accordance with Hwy 32.G.4.f(3).

46. That Hw 32.K.3 is amended to make the rule conform with Minn. Stat. §§ 117.232 (1975 Supp.) and 117.52 (1974), by providing for reimbursement of relocation and moving costs.

47. That Hwy 32.O is reasonable and necessary to provide that, if any portion of the highway rules are declared void, the remaining portions will remain valid and in force. This provision minimizes the expense attendant to rules hearings and the promulgation or amendment of rules.

48. That Hwy 32A. was, in its substantive portions, originally proposed as part of Hwy 32, and appropriate notice was given therefor. (See foregoing paragraphs 2 and 6) The provisions of Hwy 32A were isolated as a separate rule pursuant to

comments and suggestions contained in a memo to Mr. Murphy from Alan Williams, Assistant Senate Counsel. (Ex. 31)

49. That authority for the promulgation and administration of rules, standards and criteria for bridge specifications and appropriation of funds for construction and repair of bridges is vested in the Department of Transportation by virtue of the provisions of Laws 1976, Chapters 166 and 339. The appointment of a Commissioner of Transportation, and the establishment of the Department of Transportation, however, does not become effective until August, 1976. Currently, and until the Department of Transportation becomes established, the Commissioner of Highways has authority and responsibility with respect to bridges on the trunk highways system. Testimony at the hearing indicates that over $600,000,000 worth of deficient bridge needs currently exists within the state and that the fund created by Laws 1976, Chapter 339, is in existence and that money has been appropriated thereto.

50. That the purpose of the promulgation at the present time of Hwy 32A is to establish procedures by which the recipients of the funds provided by the State Transportation Act (Laws 1976, Chapter 339), can begin applying for grants for bridge construction under that Act. Hwy 32A, by its own terms (Hwy 32A.H), expires when Department of Transportation rules dealing with the same subject became effective.

51. That Hwy 32A, in its entirety and with the minor changes suggested and incorporated at the hearing, is necessary to provide administrative procedures for the application for, criteria for the selection of, and procedures for the release of funds for bridge projects under the State Transportation Act. This rule was not criticized at the hearing, but the West Central Regional Development Commission (Ex. 32), and the Norman County Board of Commissioners (Ex. 33,p.2), expressed the view that Regional Development Commissions (or the Metropolitan Council) should not determine the relative needs of townships for financial assistance for bridges (as is provided by proposed Hwy 32A.e). The Development Commission did not state a reason for

its position (Ex. 32), and the Norman County Board indicated only a belief that such provision was unconstitutional.

The Examiner, after examination of relevant statutes, finds that authority exists for review by the Regional Development Commissions or the Metropolitan Council (see Paragraph 42, above), and that Hwy 32A.E, as well as the other provisions of Hwy 32A are reasonable as temporary procedures. More extensive examination of such procedures might be more appropriately considered when the Department of Transportation proposes its own rules to deal with township bridge projects.

52. That considerable attention was addressed to Hwy 32. K.4 at the hearing (T. 76-78) and in written comments (Ex. 30). Thatrule deals with the limitation of availability of State-Aid funds for use in construction of sidewalks, specifically, the ineligibility of county State-Aid highway projects for such funds. The rule, as written, was presumably duly adopted. Although the committee established to revise the State-Aid rules considered this rule, a decision was made not to change it. (Ex. 9,pp. 46-51; Ex. 10, pp. 13-18) There was no notice given that this rule would be discussed or possibly changed at or after the hearing. It would be inappropriate for the Examiner to make Findings and Recommendations on a rule which was not properly noticed as a subject for hearing. Procedures do exist to petition a state agency for revision of rules. If proponents of a change to Hwy 32.K.4 wish to pursue this,such procedures should be followed.

53. That comment was received from Mr. Langseth at the hearing noting there is no provision in the proposed rules for using municipal State-Aid funds for construction and maintenance of frontage roads designated as part of the State Highway System which are turned back to municipalities. (T.71, 72) Discussion regarding the comment was inconclusive as to whether a change to the rules which would allow municipalities to use State-Aid funds for such stated purpose would constitute a substantial change in the rules and thus require specific notice. It was noted, however, that the State-Aid Rules Committee had considered Mr.

Langseth's proposal and had not taken any action thereon. Mr. Langseth, furthermore, did not offer any specific amendment for consideration. As in the immediately preceding paragraph, the Examiner cannot make Findings or Conclusions on matters not properly before him, and the procedures for petition to change the rules may be used.

54. That Exhibit 34, received after the hearing, contains a complete version of the proposed rules with all corrections and changes adopted at the hearing.

Based on the foregoing Findings of Fact, the Hearing Examiner makes the following as his

CONCLUSIONS

1. That due, timely and adequate legal notice of the hearing was properly served and filed by the Department of Highways. All of the substantive and procedural requirements of statute or rule have been complied with.

2. That the Department documented its statutory authority to promulgate the proposed rules and amendments.

3. That the Department demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.

Based on the foregoing Conclusions, the Hearing Examiner makes the following as his

RECOMMENDATION

That all the proposed rules and amendments thereto, as contained in Exhibit 34, be promulgated, approved and adopted, as modified where appropriate, pursuant to the suggestions contained herein.

Dated this 6th day of August, 1976.

Myron Greenberg

MYRON GREENBERG
Hearing Examiner

Exhibit No. 6
File No. HWY -3
Date

STATE OF MINNESOTA

DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

STATEMENT OF NEED

The above captioned rules are amendments to existing rules of the Department of Highways.

The last time the above captioned rules were amended was on January 25, 1968.

The need to adopt these rules arises because of recent changes made in Minnesota law. The provisions of Minnesota Statutes, Section 161.082 (1974) now authorize the expenditure of county turnback account monies on town road bridge structures. At this time the Commissioner also desires to make certain changes to existing rules that are of a housekeeping nature due to changes made in related Minnesota law which bears on these rules or which due to administrative experience are deemed to be desireable.

County turnback account monies in the future may be expended under these rules on town road bridge structures, based upon town bridge needs. Bridge needs are established upon inspection and inventory following Department of Highways rules established in 1975 *(Minn. Reg. Hwy. 38., Rules and Regulations For the Inspection and Inventory of Bridges in the State of Minnesota.)* All bridges in the State of Minnesota over twenty feet in length have been inspected and rated in accordance with these rules. The bridge is rated following procedures specified in the *Manual for Maintenance Inspection of Bridges,* published by the American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D. C. 20004. Inspection is accomplished following procedures specified in the *Bridge Inspector's Training Manual,* published by the United States Department of Transportation. The Inspector's manual is available from the Superintendant of Documents, United States Govern ment Printing Office, Washington, D. C. 20402.

Statement of Need - Continued

Minnesota Statutes, Section 162.02, Subdivision 1, and Section 162.09, Subdivision 9 provide the Commissioner of Highways with general authority to adopt these rules. The "housekeeping" contemplated is discussed in the attached *List of Parts Affected*, which list was provided along with the rules as proposed to all interested parties as provided under Minnesota Statutes, Section 15.0412.

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli

Frank D. Marzitelli, Commissioner

STATE OF NEED
LIST OF PARTS AFFECTED BY PROPOSED
RULE CHANGES

Minor changes are made throughout the Rules such as:

"Rules and Regulations" or "Reg." is changed to "Rules" or "Rule".

"Minnesota Statutes 1965" is changed to "Minnesota Statutes 1975".

"Cities, villages and boroughs" is changed to "cities".

Part (c) - Definitions

(c) (4) . . . . . (Page 1)	The responsibilities of the County Engineer are becoming more diverse. Therefore, some counties are changing the title of the County Engineer to more appropriately identify this new authority. Change is necessary to recognize title.
(c) (5) . . . . . (Page 1)	Same as (c) (4). The change is necessary to recognize new title.
(c) (11). . . . . (Page 1)	The definition of "advance encumbrance" has been rewritten to be more easily interpreted and to include Trunk Highway Turnback monies. Trunk Highway Turnback monies are monies established by law (Minnesota Statutes, Section 161.081) for use on former trunk highways that have been turned back to local authority.
(c) (12). . . . . (Page 2)	"Systems" is proper word usage.
(c) (15). . . . . (Page 2)	The rules have been broadened in part (m) to create the possibilities of remunerating Disaster Committees, and is defined in this part for informational purposes.
(c) (16). . . . . (Page 2)	Same as (c) (15). The rules have been broadened to recognize the Local Road Research Board.
(c) (17). . . . . (Page 2)	Same as (c) (16). The rules have been broadened to recognize the Town Bridge Account. Minnesota Statutes, Section 161.081 were revised by the 1975 Legislature to give townships a percentage of the County turnback account for use on town road bridge structures.

Part (e) - Selection and Designation of State-Aid Systems

(e) (1) (bb) (i). . . . (Page 3)	Law permits mileage in excess of 30,000 miles (see M. S. Chapter 162.02 Sub. 11).

(e) (1) (bb) (ii) . . . (Page 3) — Minnesota Statutes 162.09 now provides for a Municipal State-Aid street system of 2000 miles. The rules have been modified to recognize the increase in mileage from 1500 to 2000 plus turnback mileage.

(e) (2) . . . . . (Page 3) — References to right of way have been deleted from State-Aid System selection criteria as they do not play a role in selection. The language has been included in part (h), "State-Aid Standards".

(e) (2) (aa) (i). . . . (e) (2) (bb) (i) (Page 3) — Every county and urban municipality in Minnesota has an approved functional plan. The plan identifies those roads and streets in the County or Municipality of higher value as arterials or collectors. The functional plan is initiated by the County or City Engineer as the case may be, and is discussed at a public meeting for local citizenry input. Final adoption of the functional plan is by resolution of the county board or City Council, which ever is appropriate. The revision of (i) to part (e), "Selection and Designation of State-Aid Systems", (2) Criteria etc. enhances the State-Aid system.

(e) (2) (aa) (iii) . . . (Page 3) — By changing the word "plants" to "areas" provides a broader interpretation.

(e) (2) (aa) (v) . . . . (Page 3) — Deletion acceptable as (e) (2) (aa) (i) as revised covers.

(e) (2) (aa) (vii)(old). (vi) (new) (Page 3) — Removal of word "local" removes any possible misinterpretation as to traffic demands.

(e) (2) (bb) (iii)(old). and (iv) (old) (Page 4) — Deletion acceptable as revision of (e) (2) (bb) (i) and (iv) covers these two areas.

(e) (2) (bb) (iii)(new). (Page 4) — To provide an integrated transportation system, continuity of the systems is necessary. This is a criteria for present county State-Aid designation and should be required of municipal state-aid streets also. Supports language under (e).

(e) (3) (aa). . . . . When the turnback account was established on July 1, 1965 turnbacks previous to that date were eligible for partial payment on construction projects. The time frame in which to take advantage of this partial eligibility was limited to July 1, 1970. That date has now passed therefore, any reference to "old" or "new" has been deleted.

(e) (3) (bb) . . . . . (Page 4) — This portion of the rules is outdated and is deleted. There are no trunk highways which were turned back to local authority prior to July 1, 1965 that are presently eligible for turnback funds.

Part (f) - State-Aid Apportionments

(f) (1) (aa) . . . . . "City" engineer conforms to (5) under (c) Definitions. (Page 5)

(f) (1) (cc) . . . . . The respective screening committees have the authority by law (See Mn. Statutes 162.07 Subd. 5 and 162.13 Subd. 3) to recommend to the Commissioner of Highways the money needs to be used in determining the annual allocation to the respective counties and municipalities. The accumulation of substantial state-aid funds over a period of years indicates that a county or municipality is not expending their monies and thereby reducing their needs. The screening committees thereby adjust the needs of those counties and municipalities with large State-Aid balances. (Page 5)

By revising the rule as indicated, the screening committees may also analyze federal allocations and if a county or municipality does not utilize their federal allocations, needs adjustments may be in order. See Minnesota Statutes, Section 162.07 Subd. 2 and 162.13 Subd. 2 for definition of "money needs".

This procedure is deemed a method of equalizing needs, as a county or municipality that continually expends their state or federal allocations reduces their needs and resultant state-aid apportionment. A county or municipality that accumulates their allocations earns needs on mileage that would have been improved had their allocations been utilized.

(f) (2) (bb) . . . . . Language revised to conform to law. See Minnesota Statutes, Section 162.06 Subd. 4 and 162.12 Subd. 4. (Page 6)

(f) (5) . . . . . The clause dealing with "semi-annual" statements relates more to part (g) "State-Aid Payments" and has therefore been deleted and reinserted at a later point. (Page 6)

Part (g) - State-Aid Payments

(g) (1) (cc). . . . . The terms "County Maintenance" have been added to clearly identify a specific apportionment. The deletion of the word "will" and the addition of the words "may, upon recommendation of the Screening Committee or" gives authority to the Screening Committee to review requests made by Counties for transfer of construction monies to maintenance accounts and gives the Screening Committee authority to make recommendations to the Commissioner of Highways relative to any such requests. The Commissioner of Highways will make the final decision as to such (Page 6)

requests. This procedure also will permit monies allocated for maintenance of trunk highway turnbacks, as authorized by Screening Committee resolution, to be credited to the specific maintenance account of the affected county. The county screening committee has determined by resolution that when a county is required to assume responsibility of a former trunk highway that until such time when turnback monies are available for the construction or reconstruction of said turnback, a specific maintenance allotment would be allocated to the county in addition to the normal maintenance allocation.

(g) (1) (dd). . . . . (Page 7) — Municipal Screening Committee resolutions allow specific monies to be allocated for maintenance of Trunk Highway turnbacks until such time as the trunk highway turnbacks are reconstructed with monies from turnback accounts. The rules at present do not permit a specific amount to be credited to the maintenance account. This change will permit maintenance monies for trunk highway turnbacks be in addition to the normal maintenance allocation.

(g) (1) (ff). . . . . (Page 7) — This clause has been deleted for purposes of clarity and simplicity, since it is not a necessary rule. A County or Municipality may request additional maintenance monies pursuant to the rules in part (g) (1) (cc) (dd).

(g) (2) (bb). . . . . (Page 8) — The revision of this clause has the effect of allowing or providing for all federal aid contracts. At the inception of State Aid, federal monies were allocated to counties for use on the Federal-Aid secondary system only. Today we have various federal programs which afford aid to all levels of local government. The requirement that 100% of the local share of a project be deposited in the agency account, rather than 90%, insures the availability of 100% of the contract amount upon completion of a project. The agency account is that account from which payments to contractors are made as the work progresses on a project. The State makes all payments to contractors.

(g) (2) (ee) (i). . . . (Page 9) — Experience indicates that due to inflationary trends 5% is not a realistic amount for engineering costs. The revision permits payment up to 8% of the total contract or agreement amount. Revision also permits Commissioner to request documentation if engineering costs seem unduly high.

(g) (2) (hh)(old). . . . (i) (new) (Page 10) — Revised to permit (g) (2) (hh) (ii) under (g) (2) (hh). The language in (i) is the same as under (hh) old.

(g) (2) (hh) (ii). . . . (Page 10)	The 1975 Legislature enacted law to permit transfer of county municipal funds to the county regular account. This rule speaks to that law. (M.S. 162.08 Sub. 4).
(g) (2) (kk). . . . . (Page 11)	The addition of reference to Chapter 443 from the 1965 Legislative session is "housekeeping" in nature and is necessary to recognize special bonding permitted for the City of St. Louis Park for which state-aid maintenance monies may be used for payment of interest on the bonds.
(g) (3) . . . . . (Page 11)	This clause was previously under part (f) "State-Aid Apportionments", and has been relocated without change to a more appropriate area within the rule.
(g) (4) (cc).	Change of title necessitates change.
(g) (4) (dd) (i) (ii) . (iii) (new) (Page 12)	The 1976 Legislature established a fund for bridge construction. This portion of the rules will permit administration of this special fund as it applies to counties, cities and townships. See Chapter 339, Laws of Minnesota 1976.
(g) (4) (dd) (old). . . (ee) (new) (Page 12)	To eliminate minor claims for "disaster", it was deemed advisable to initiate a minimum amount, relative to a county or municipal state-aid allotment, in order to qualify as a "disaster". Changing the redeposit from the disaster account to the respective State-Aid account has the effect of eliminating the possibility of depositing an excess amount in the County disaster account. The disaster accounts are established by law. See Minnesota Statutes, Section 162.06 Subd. 3 and 162.12 Subd. 3.
(g) (4) (ff)(old) . . . (gg) (new) (Page 12)	This paragraph has been revised and relocated under part (i) "State-Aid Operations" (3). The new language inserted was previously contained in part (i), clause (4). The modifications are necessary due to recent legislation amending Minnesota Statutes, Section 161.082.
(g) (4) (ff). . . . . (i) & (ii) (old) (Page 13)	These paragraphs have been revised and relocated under part (i), "State-Aid Operations" at Clause 3, (aa) (i) et. seq.
(g) (4) (gg) (i). . . . (new) (Page 14)	A new subclause has been added and was necessary to establish a formula to distribute monies to the Town Bridge Account. Minnesota Statutes, Section 165.03 Subd. 2 requires annual inspection of all bridges in the State of Minnesota by the Commissioner of Highways, county highway engineer and city engineer, whomever has jurisdiction over the bridges. Their reports are filed with the Department of Highways and include recommendations for corrections of any deficient bridge. The

Department maintains the inventory and establishes priority based on deficiencies of the bridge, average daily traffic, detour length, age of structure and the functional classification of the road itself. The cost to correct the deficiencies is based on current bridge replacement costs as determined by the Department of Highways. These costs are applied uniformily to all bridges dependent on length of the replacement structure. The Minnesota Association of Township Officers executive committee in cooperation with the Office of State Aid, Minnesota Highway Department, determined that the legislature established the "Town Bridge Account" with deficient bridges in mind and that the monies should therefore be distributed on the basis of deficient town bridges. Therefore, it was the consensus that the estimated needs to correct the deficient bridges should be the basis for distribution of monies. It was also determined that to distribute money to each township individually would not permit the majority of townships to amass enough monies to construct a bridge. The allocation will be made on a county basis considering all deficient town bridges within the county and then a public meeting will be held to determine the bridges to be built. A formal resolution by the County board will be authority to initiate a bridge project.

(g) (4) (gg) (ii) . . . (New) (Page 14)

This subclause was previously under part (i), "State-Aid Operations", Clause 4(aa). It has been revised to include Town Bridge Accounts.

(g) (4) (gg) (iii). . . (new) (Page 14)

This subclause will permit counties or municipalities the privilege of advancing local monies for construction of a trunk highway turnback and will allow the State to reimburse the counties or municipalities from future turnback funds. It establishes a limitation as to how much money can be advanced. If a limitation as to advancement of funds is not applied, the State could possibly advance encumber future turnback funds to the extent that an entire years turnback allotment would be designated for "pay back". This could be to the states disadvantage if a turnback required immediate funding for some unforseen event.

(g) (4) (gg) (iv) . . . (new) (Page 15)

This subclause is similar to subclause (iii). It will permit a town to advance local money for construction of a town bridge and be reimbursed from future allocations.

(g) (4) (ff) (iii)(old)
(g) (4) (gg) (v) (new) (Page 15)

Partially eligible projects are no longer in existence. The subclause has been modified to reflect this.

(g) (4) (gg) (vi) (new) (Page 15)

This subclause is necessary in order to administer payments from Town Bridge Account funds and is consistent with other State-Aid procedures.

Part (h) - State-Aid Standards

(h) (3) . . . . . (Page 16)	This clause was previously contained within part (e), "Selection and Designation of State-Aid Systems" at clause 2, Criteria, and under part (i) "State-Aid Operations". There is no change in language.

Part (i) - State-Aid Operations

(i) (1) (aa) (ii) . . . (Page 16)	Minnesota law provides for the annual inspection of all bridges by the counties. Additional added language is intended to provide for maintenance monies to be expended for bridge inspection.
(i) (1) (aa) (iv) . . . (Page 17)	The present language restricts striping to bituminous pavements only. The change will permit striping of concrete pavements also.
(i) (1) (aa) (v) (old). and (vi) (old) (Page 17)	Paragraphs inserted under (bb) unsatisfactory maintenance.
(i) (1) (bb) (i). . . . (Page 17)	Revised to delete obsolete date and to specify specific manual.
(i) (1) (bb) (ii)(new). (Page 17)	Previously under (i) (1) (aa) (v).
(i) (1) (bb) (iii). . . (new) (Page 17)	Previously under (i) (1) (aa) (vi). Revised to include utilities.
(i) (3) . . . . . (old) (Page 18)	This clause has been relocated to part (h), "State-Aid Standards". No change in wording.
(i) (4) & (aa). . . . . (old) (Page 18)	Turnback Accounts has been revised and inserted under part (g) "State-Aid Payments", clause (4) other authorized payments, (gg) Turnback Accounts.
(i) (3) . . . . . (new) (Page 18)	This clause was previously under clause (g), "State-Aid Payments", (3) Other authorized payments, (ff) Turnback Accounts. It has been slightly rewritten to include town road bridges as provided in law.
(i) (3) (aa) (i). . . . (Page 19)	There is not sufficient monies in the turnback account to reconstruct in the time frame as originally established. The revision of this subclause will permit projects to be approved for construction and tabled until monies are available. The subclause was originally under part (g), Clause (4) (ff) (i).
(i) (3) (aa) (ii) . . . (Page 19)	This clause has been added to establish criteria for the approval of town bridge reconstruction or replacement.

(i) (3) (bb). . . . . (Page 20) Revised to include town bridges, with superfluous language deleted.

(i) (3) (cc). . . . . (Page 20) Revised to include town bridges. Revision of (i) (3) (aa) permits deletion of language requiring resubmittal of plans.

Part (k) - General State-Aid Limitations

(k) (3) . . . . . (Page 21) This language has been modified to bring it into conformance with State Statutes. See Minnesota Statutes, Section 117.232.

Part (o) - Severability

(o) . . . . . (Page 23) Addition of this paragraph provides that any portion of these Rules declared void will not affect other Rules.

Exhibit No. 7
File No. HWY-3
Date

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations

STATEMENT OF EVIDENCE

In addition to the "Statement of Need" which is available for inspection or purchase at the Office of Hearing Examiners, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104 and in support thereof the Department of Highways will introduce the following evidence:

Pursuant to relevant Minnesota law relating to bridge inspection the counties and municipalities of the State of Minnesota have established bridge appraisal ratings of record (M.S., Sec. 165.03, as amended). Therefore, the Commissioner of Highways acting by and through his agent Gordon M. Fay, State Aid Engineer would propose rules to administer the provisions of Minnesota Statutes, Section 161.082 (1975) which now authorizes the expenditure of county turnback account monies on town road bridge structures. Mr. Fay and the following employees of the Department of Highways will show the reasonableness of these rules given the appraisal ratings.

We may call one or more of the following expert witnesses to testify:

Gordon M. Fay, State Aid Engineer

Roy L. Hanson, Assistant State Aid Engineer

Keith V. Benthin, Bridge Engineer

Albert E. Holmboe, Bridge Design Supervisor

Donald J. Flemming, Bridge Standards Engineer

Matthew A. Lang, Bridge Data Supervisor

We intend to introduce the following manuals, books, scientific treatises, and other documentary evidence:

- *Bridge Inspector's Training Manual 70.* U. S. Department of Transportation, Federal Highway Administration, Washington, D. C. 20591. *Available from:* Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

- *Highway Functional Classification, Concepts, Criteria and Procedures,* Transmittal 155 (Vol. 20, App. 12). U. S. Department of Transportation, Federal Highway Administration, July 1974. *Available from:* Superintendent of Documents, U. S. Government Printing Office, Washington, D. C. 20402.

- *Manual for Maintenance Inspection of Bridges - 1974.* American Association of State Highway and Transportation Officials, 341 National Press Building, Washington, D. C. 20004.

- *Bridge Inventory, Inspection & Posting Listing of All Municipal Bridges - 11/17/75.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Bridge Inventory, Inspection & Posting Listing of all County Bridges - 11/17/75.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Current Resolutions of the County Screening Committee, January 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Current Resolutions of the Municipal Screening Committee, November 1975.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Form 29171.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Form 17108A.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Form 22106A.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Form 2938.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Bridge 08501 File.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Minutes, State-Aid Rules Committee Meeting - February 27, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Minutes, State-Aid Rules Committee Meeting - April 23, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *1976 Functional Classification - General Highway Map, Rock County Minnesota.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Page 56, St. Paul Dispatch.* Northwest Publications, Saint Paul Minnesota 55101. (May 27, 1976)

. *Highway News - February 13, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Highway News - March 5, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Office Memorandum - Frank D. Marzitelli, Commissioner of Highways to Duane R. Harves, Acting Chief Hearing Examiner, dated May 25, 1976.* State of Minnesota, Department of Highways, State Highway Building, Saint Paul, Minnesota 55155.

. *Order For Hearing...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Notice of Hearing...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Statement of Need...In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 24 May 1976, /ss/ Frank D. Marzitelli, Commissioner of Highways.*

. *Certificate... In the matter of the proposed adoption, amendment and repeal of rules of the Department of Highways relating to State Aid Operations, dated 26 May 1976, /ss/ Joan Anderson Grove, Secretary of State.*

. *Affidavit of reciept of the Secretary of State's List, /ss/ Kenneth H. Bjork.*

. *Affidavit of Mailing, /ss/ Kenneth H. Bjork.*

We will be citing the following statutes and case law:

Title 49, United States Code, Chapter 23

Title 23, U. S. C., 101-405

Minnesota Constitution, Article XIV.

Minnesota Statutes, Chapters 15, 160, 161, 162, 163, 164, 165; as amended.

Laws of Minnesota, Chapter 339 (1976)

Minnesota State Regulations, Rules and Regulations of the Department of Highways, 1974 Edition

Minn. Reg. Hwy. 32., Rules and Regulations for State-Aid Operations under Minnesota Statutes 1965, Chapters 161 and 162, as amended.

Minnesota State Regulations, Rules and Regulations of the Department of Highways, Annual Supplement 1975, Supplement No. 1.

Minn. Reg. Hwy. 38., Rules and Regulations for the Inspection and Inventory of Bridges in the State of Minnesota

STATE OF MINNESOTA
DEPARTMENT OF HIGHWAYS

Frank D. Marzitelli, Commissioner
Dated this 28th day of May 1976.