

Minnesota Attorney General: Administrative Rules Proceedings

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ADMIN 1000 (Rev. 1 78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : CLYDE E. ALLEN, JR.
Commissioner of Revenue

DATE: Oct. 16, 1980

ATTN: DOROTHY A. MCCLUNG, Dir. Legal Research

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the matter of the Proposed Adoption Rules of the Department of Revenue Governing the Ad Valorem (Property) Taxes Imposed on Railroad Companies

Enclosed herewith are the rules you have submitted for approval. These rules have been approved by this office and filed with the Secretary of State. Note that they have NOT been filed with the State Register; this must be done promptly by your agency.

Upon receipt and before transmittal to your agency, however, it is important that you recheck these rules as to:

1. Affixation of the stamps of the Attorney General and Secretary of State to the last page of the rules;

2. Coverage by these stamps of all rules submitted; and

3. Inclusion of all pages of the rules in the approved set.

Directly following the approved rules is a complete set of required documents and transcript which must be retained with the rules by you or your agency.

If you have any questions in this regard, please contact me.

JSA/bw
Encl.
cc: Duane Harves
Susan Robertson

Our File 63

Permanent Rule X

Temporary Rule _____

Note: see our File 577 - Temporary Rule, same subject

RULES REVIEW CHECKLIST

DATE RULES RECEIVED 9/26 (10/6) DUE DATE 10/16

Resubmitted and Received _____

a. Returned to Agency w/o Filing w/Secretary of State _____
b. Approved _____ Date Sent Back to Agency _____

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1. Rules as Adopted ✓ attached to #15 - order adopting
2. Rules as Proposed ✓
3. Certificate of Board's Authorizing Resolution, where applicable N/A
4. Order for Hearing ✓
5. Notice of Hearing ✓ 5.15.80
   Sufficiency ✓
6. Secretary of State's List ✓ (one copy only)
7. Certificate of Acquisition of Secretary of State's List ✓
8. Secretary of State's Certification of Delivery of Secretary of State's List to Agency ✓
9. Affidavit of Mailing ?
   At least 30 days prior to hearing ✓
10. Publication in State Register ✓
    At least 30 days prior to hearing 4.14.80
11. Statement of Need and Evidence ✓
12. Hearing Examiner's Report ✓
13. Agency's Findings of Fact ✓
14. Certificate of Board's Resolution Adopting Rules, where applicable N/A
15. Order Adopting ✓
16. Report of Chief Hearing Examiner ✓
17. Order Approving Incorporation by Reference, where applicable N/A
18. Certificate of Compliance with Rulemaking Procedures ✓
19. Copy of Notice of Intent to Solicit Outside Opinion, where applicable ✓ 6.18.79
20. Petition by Public, where applicable N/A.

21 "Notice of submission to AG." ✓

(12) Rules As Proposed

RECEIVED
APR 15 1980
OFFICE OF HEARING EXAMINERS

Department of Revenue
Ad Valorem Tax Rules
Chapter Two: Valuation and Assessment of Railroads

13 MCAR §1.0021 General Procedures. The 1979 Minnesota Legislature included in its Omnibus Tax Bill a Section, Article VII, dealing with the taxation of railroads. The article provides for an ad valorem tax on railroads in place of the gross earnings tax. The Article also charges the Commissioner of Revenue with the responsibility of developing rules, both temporary and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

The first valuation of railroad operating property will be made for the assessment year 1979. No apportionment of value to the local taxing districts will be made until 1981 for ad valorem taxes payable in 1982.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors and apportionment standards will be used as described in this chapter for 1979 and subsequent years.

13 MCAR §1.0022 Definitions. As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this rule. Some of the words, terms and phrases listed below are defined by statute but are included here for completeness.

A. Allocation --- the process of dividing the unit value of a railroad company among the states in which the railroad operates.

B. Apportionment --- the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and non-operating property to the various taxing districts in which the railroad company operates.

C. Book depreciation --- the depreciation shown by a railroad company on its corporate books, and allowed the company by the Interstate Commerce Commission.

D. Capitalization rate --- an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

E. Exempt property --- property which is non-taxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted, and personal property such as office furniture and licensed vehicles.

F. Non-operating property --- all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. It shall also include land which is

not necessary and intregal to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services. This property shall be valued by the local or county assessor rather than by the Commissioner of Revenue.

G. Operating property --- all property owned or used on a regular basis by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridge trestles, shops, docks, wharves, buildings and structures.

H. Original Cost --- the amount paid for an asset as recorded on the railroad's books in accordance with ICC accounting rules and regulations.

I. Railroad Company --- any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

J. System --- the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

K. Unit value --- the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

L. Weighting --- the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100%.

13 MCAR §1.0023 Reports Required.

A. The data used in the valuation, allocation and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies and other sources the Commissioner believes are pertinent. These reports are to be filed with the Commissioner on or before April 30 of each year and shall include:

1. The Minnesota Department of Revenue Annual Railroad Report.

2. Annual Report to the Interstate Commerce Commission (ICC).

3. Annual Report to the Minnesota Public Service Commission (P.S.C.)

4. Annual Stockholders Report.

B. Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The Commissioner shall upon written application from the railroad, extend the filing date 30 days.

C. In the event any railroad company shall fail to file the required reports, the Commissioner shall make a valuation according to his best judgment based on available information.

13 MCAR §1.0024 Valuation.

A. General: The Minnesota Legislature has specified that railroads must be valued using the unit basis of estimating value. The approaches to value which will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided for in 13 MCAR §1.0024, D and F. It is the decision of the Commissioner of Revenue that for 1979 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided for in this section.

B. Cost approach to valuation. The cost factor that will be considered in the railroad valuation method is the original cost of the railroad system, plus the original cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following I.C.C. accounts: all road and equipment accounts, all general expenditures and other elements of investment accounts, and railroad property owned but leased to others. As required by statute, no depreciation or obsolescence shall be allowed as a deduction from the original cost of the railroad's assets enumerated above.

The following is an example of how the cost indicator of value is to be computed:

XYZ Railroad

Account	Amount
Road	$13,000,000
Equipment	9,000,000
Construction Work in Progress	1,000,000
Leased Property	500,000
General Expenditures	1,500,000
Cost Indicator of Value	$25,000,000

This cost indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024, F.

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as defined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider:

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.

3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

For 1979 and subsequent years this capitalization rate will be 11%.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income

1974	$1,500,000
1975	2,000,000
1976	2,600,000
1977	3,001,000
1978	2,600,250
Total	$11,701,250
Average	$ 2,340,250

Five year average Net Railway Operating Income Capitalized at 11% (2,340,250 ÷ 11%) equals $21,275,000.

The income indicator of value computed in accordance with this rule will be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads have no net operating income as provided for in 13 MCAR §1.0024, F; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75%.

D. Stock and Debt approach to valuation. The "Stock and Debt" approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: Assets = Liabilities + Equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting certain qualifications listed below:

1. The stock of the railroad must be traded on a recognized stock exchange.

2. The bonds of the railroad must be traded or have a rating by a recognized financial rating service.

3. If the railroad is part of a diversified company the value of the railroad portion of the total stock prices must be able to be separated on an earnings basis.

For example if a railroad is part of a conglomerate whose stock sells at $100 per share and 50% of the net earnings of the conglomerate are from railroad operations then the value of the railroad's portion of the stock is $50 per share.

If a railroad has no net earnings, making it impossible to separate the stock value into its parts, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month ending stock prices for the twelve months immediately preceding the assessment date. The value of the bonds, equipment obligations and conditional sales contracts and other long term debts shall also be an average of the cost of money quotes for the twelve months immediately preceding the assessment date. The source for these stock and bond prices shall be Standard and Poor's Stockguide, or other applicable financial service.

An illustration of a computation of the stock and debt approach to value is as follows:

XYZ Railroad Company

Shares of Common Stock issued x Average price for preceeding year	
1,000,000 x $12 =	$12,000,000
Shares of Preferred Stock x Average price for preceeding year	
100,000 x $15 =	$ 1,500,000
Rate and face value of bonds x Average price for class of bonds for preceeding year	
A rated 8% bonds $10,000,000 x 99% of par =	$ 9,900,000
Stock and Debt Indicator of Value	$23,400,000

After the gross stock and debt indicator of value has been computed an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five year average of Net Revenue from Railway Operations, as defined by the I.C.C., to a similar five year average of Income Available for Fixed Charges as defined by the I.C.C. The five year average will be the most recent five years preceding the assessment date.

An example of this computation is as follows:

XYZ Railroad Company

	Net Revenue from Railway Operations	Income Available for Fixed Charges
1974	$ 3,000,000	$ 3,500,000
1975	4,000,000	4,300,000
1976	5,200,000	5,700,000
1977	6,000,000	6,800,000
1978	5,200,000	5,400,000

	$ 23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

Gross Stock and Debt Indicator of Value	$23,400,000
Ratio of Operating to Non-Carrier Earnings	91%
Net Stock and Debt Indicator of Value	$21,300,000

The stock and debt indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024, F.

E. Unit Value Computation. The estimated unit value of the railroad property will be the total of the three weighted indicators of value.

The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value		Weighting	
Cost indicator of value	$25,000,000		25%	6,250,000
Income indicator of value	21,275,000	x	50%	10,637,500
Stock and debt indicator of value	21,300,000		25%	5,325,000
			Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided for in 13 MCAR § 1.0024 B, C, and D, depending on the conditions and circumstances involved in each valuation. For example a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value, and therefore the income indicator of value would be weighted 75%.

F. Railroads Operating at a Loss and Bankrupt Railroads. Railroads which are involved in bankruptcy proceedings, or railroads having no net railway operating income will be valued using whatever indicators of value are workable. If the stock or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value then these railroads will be valued using the cost approach to value only.

13 MCAR §1.0025 Allocation.

A. General. After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states

and its Minnesota operations. These relationships are expressed in a percentage figure. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in §1.0025, be subject to ad valorem tax in the State of Minnesota.

B. Allocation Factors. The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

1. Miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states.

2. Ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states.

3. Gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states.

4. Original cost of road property in Minnesota divided by the original cost of road property in all states.

The following example illustrates the allocation method to be applied to the unit value of railroad property.

XYZ Railroad

Minnesota miles of track / Total miles of track	$\frac{100}{500}$ =	20%
Minnesota ton miles of revenue freight / Total ton miles of revenue freight	$\frac{2,200,000}{9,000,000}$ =	24%
Minnesota gross transportation revenue / Total gross transportation revenues	$\frac{\$10,000,000}{\$40,000,000}$ =	25%
Minnesota Cost of Road Property / Total Cost of Road Property	$\frac{2,990,000}{13,000,000}$ =	23%
Total		92%
Minnesota Percent of Unit Value		23%

Total Unit Value ($22,212,500) x
Minnesota Percent (23%) = Minnesota Portion of Unit Value $5,108,875

13 MCAR § 1.0026 Adjustments for non-formula assessed property or exempt property. After the Minnesota portion of the unit value of the railroad company is determined property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as non-operating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

Property which has been included in the computation of the unit value but has been defined as non-operating property will be valued by the local assessor. The Minnesota portion of the unit value will be reduced by the

original cost of this property. Only non-operating property located within the State of Minnesota will be eligible for this exclusion.

The railroad company shall have the responsibility to submit to the Commissioner of Revenue, in the form required by the Commissioner, such schedules of non-operating property as he may require.

In addition to non-operating property which will be valued and assessed locally a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit; therefore, it is extremely difficult to make a separation of this value into real and personal property.

A percentage of the Minnesota portion of the unit value after deducting non-operating and exempt property will be excluded as personal property. This percentage will be computed in the following way:

The following I.C.C. accounts for property within Minnesota will be totaled:

That portion of coal and ore wharves determined to be personal property less applicable depreciation;

Communication equipment less applicable depreciation;

Roadway machines less applicable depreciation;

Shop machinery less applicable depreciation;

Power plant machines less applicable depreciation;

Equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles, less applicable depreciation.

The total of these accounts will then be divided by the total of the Minnesota road, equipment, leased property, general expenditures, construction work in progress, and other elements of investment accounts; all less applicable depreciation. The resulting percentage will be used to determine the personal property amount of the Minnesota portion of the unit value. This portion will not be taxable for ad valorem purposes.

The following is an illustration of the computation for the personal property exclusion.

XYZ Railway

Personal Property Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Coal & Ore Wharves	$ 500,000	$ 250,000	$ 250,000
Communication Equip.	100,000	50,000	50,000
Roadway Machines	200,000	100,000	100,000
Shop Machinery	100,000	50,000	50,000
Power Plant Machinery	500,000	203,000	297,000
Equipment*	2,250,000	1,250,000	1,000,000
			1,747,000

*Total Equipment Account	$9,000,000
Car and Locomotive Miles in Minnesota	1,000,000
Total Car and Locomotive Miles	4,000,000
Ratio of Minnesota to Total	25%
Minnesota Allocated Equipment Account	$2,250,000

Cost Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Road	$2,990,000	$1,400,000	$1,590,000
Equipment	2,250,000	1,250,000	1,000,000
C.W.I.P.	800,000	-	800,000
General Expenditures	500,000	250,000	250,000
			$3,640,000

Minnesota Depreciated Personal Property Accounts		$1,747,000
Minnesota Depreciated Cost		$3,640,000
Ratio of Personal Property to Cost		48%
Minnesota portion of unit value	5,108,875	
Personal Property exclusion at 48%	2,452,260	
Taxable Minnesota Portion of Unit Value	$2,656,615	

SP:N

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT REVENUE

Office Memorandum

TO : JERRY ANDERSON, Special Assistant Attorney General

DATE: October 14, 1980

FROM : DOROTHY A. McCLUNG, Director Legal Research

PHONE: 6-1022

SUBJECT: RAILROAD AD VALOREM TAX RULES

This will confirm our telephone conversation. We have found two typographic errors in the rules:

1. Page 1, Section 1.0021, contains a citation to Minn. Stat. Sec. 270.08. It should read 270.80.

2. Page 7, Section 1.0025 (A), contains a citation to Section 1.0025. It should read 1.0026.

Please make these corrections.

Also attached is the original and one copy of the notice furnished to us when we picked up the Secretary of State's list. It directs us to sort interoffice mail. You will note that the mailing labels furnished by the Secretary of State in certain cases can only be used interoffice--they cannot be sent U.S. mail.

DAM:dlw
Attachment.

RECEIVED
OCT 1
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

AG copy

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION)	FINDINGS OF FACT
RULES OF THE DEPARTMENT OF REVENUE)	AND
GOVERNING THE AD VALOREM (PROPERTY))	ORDER ADOPTING RULES
TAXES IMPOSED ON RAILROAD COMPANIES)	+ Rules As Adopted

The above-entitled matter came on for hearing before Jon L. Lunde, a hearing examiner appointed by the Chief Hearing Examiner on Thursday, May 15, 1980, at 9:00 a.m. in Room 51 of the State Office Building, Wabasha Street and Park Avenue, St. Paul, Minnesota, after proper notice required by Minnesota Statutes, Section 15,0412, was served upon all persons, associations, and other interested groups registered with the Secretary of State for that purpose.

I have now reviewed the record of the hearing, the exhibits and written materials submitted before the close of the record including the data and views submitted pursuant to the Notice of Intent to Solicit Outside Opinion which was published in the State Register, the report of the Hearing Examiner, and materials submitted directly to me following my receipt of the hearing record.

Based upon all the records and proceedings herein, I make the following findings of fact:

1. The rules as proposed, with the modifications indicated below, are necessary and the valuation process outlined in these rules is a reasonable process to fulfill the legislative mandate of valuing railroad operating property in this State for ad valorem tax purposes.

2. The changes recommended in the Hearing Examiner's Report at numbers 8, 10, 11, 12, 13, 14, 16, 17, 18, 46, 49, and 51 are reasonable and necessary to clarify the rules yet do not substantially change the substance of the rules.

3. The recommendation in number 47 suggesting clarification of standards to be used in applying the stock and debt approach has been noted. The new language in Section 1.0024D, clauses 1 and 2 is reasonable because of the availability of New York and American Stock Exchange data and Moody's or Standard and Poor's ratings and further because of their acceptability as source data. p. 5

4. Specifying the January 2 date as the assessment date was recommended by the Hearing Examiner (#48) and is necessary and reasonable. p. 5

5. The new language in Section 1.0024F clarifies the Department's intent as to what constitutes a "bankrupt railroad." This change is necessary and reasonable. p. 6, 7

6. The recommendation of the Hearing Examiner at number 53 and 54 is accomplished by clarifying that only the cost and stock and debt approaches will be used if a railroad operates at a loss. The original language appeared to be too broad and seemed to allow unspecified factors to be used. This clarification is both necessary and reasonable. p. 6, 7

see .0026 - no change - HE 56-60

7. The rules as proposed compute the value of the operating property of the entire system and do not include non-operating, non-railroad, property in the entire system for valuation purposes. Attached are actual schedules from an ICC report filed by an actual railroad. These schedules are shown as Exhibits A, B, and C. Exhibit A is a list of assets owned by the railroad. They are listed by class of assets: Current, Other, and Road and Equipment. Current and Other assets would contain the non-operating, non-railroad property owned by the railroad. The assets used in the valuation process are those contained in the Road and Equipment category. These are operating railroad assets only.

Exhibit B details the sub-accounts which make up the Road and Equipment category. These sub-accounts are all railroad oriented. These are the operating accounts that are used in the valuation process.

Exhibit C shows the income of the railroad. The income is categorized by Operating Income and Other. It is only the Net Revenue from Railway Operations which is used in the valuation process.

Non-operating, railroad property which usually consists of excess land or old buildings which at one time were used in railroad operation but no longer qualify as operating property, is insignificant. In only one railroad is the percentage of non-operating railroad property to total Minnesota value in excess of one-half of one percent. This property is subtracted out of the unit value pursuant to section 1.0026 of the proposed rules.

The hearing examiner may have confused "exempt" i.e. personal property with non-operating, non-railroad property.

8. The use of a stated capitalization rate for all railroads is reasonable and necessary to ensure that each railroad being valued pursuant to the proposed rules is treated equally with other railroads in this State. Conditions may change making an 11% rate either too high or too low. It can be argued that expressing a formula method of determining a capitalization rate may save future administrative problems rather than stating a single rate which must be reviewed periodically. We have chosen to undertake periodic reviews.

9. The method of classifying the unit value into real and personal property for the purpose of subtracting exempt personal property from the unit value is reasonable and necessary. As noted in the Agency's Statement of Need and Reasonableness, it would be nearly impossible for both the railroads and the agency to inventory and classify every single item, composing the unit value. This process was a subject of great discussion at the meetings of my Railroad Advisory Committee. The records of those committee meetings held pursuant to the Notice of Intent to Solicit Outside Opinion published in the State Register were made a part of the hearing record. Based on my review of the complete record and discussions with representatives of the railroads, I find that the process outlined in Section 1.0026 is reasonable, necessary, and administratively feasible.

Now, Therefore, It Is Ordered that these rules identified as rules of the Department of Revenue Governing the Ad Valorem (Property) Taxes Imposed on Railroad

Companies as published at State Register, Volume 4, Number 41, page 1637-1642, April 14, 1980, (4 S.R. 1637-1642) and as amended as shown in the attached Exhibit D are adopted this 27th day of August, 1980, pursuant to authority vested in me by Minnesota Statutes , 1979 Supplement, Section 270.81 and Minnesota Statutes, Section 270.06.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

Clyde E. Allen Jr.

CLYDE E. ALLEN, JR.
Commissioner of Revenue

200. COMPARATIVE STATEMENT OF FINANCIAL POSITION - ASSETS

Line No.	Account No.	Title (a)	Balance at Close of Year (b)	Balance at Beginning of Year (c)
		Current Asset	$	$
1	701	Cash	27 883	3 782
2	702	Temporary Cash Investments (Sch. 300)	7 082	64 680
3	703	Special Deposits (Sch. 300)	608	1 030
4	705	Accounts Receivable – Interline and Other Balances	3 351	6 905
5	706	– Customers	96 371	67 295
6	707, 704	– Other	32 876	25 612
7	709, 708	– Accrued Accounts Receivables	212 115	139 359
8	708.5	– Receivables from Affiliated Companies	11 763	6 330
9	709.5	– Less: Allowance for Uncollectible Accounts	500	500
10	711, 714, 710	Prepayments (and working funds) (Sch. 300)	9 180	6 716
11	712	Materials and Supplies	268 062	211 829
12	713	Other Current Assets (Sch. 300)	2 390	1 717
13		Total Current Assets	671 181	534 755
		Other Assets		
14	715, 716, 717, 722, 723, 724	Special Funds and Other Investments and advances (Sch. 315)	35 944	29 723
15	721, 721.5	Investments and Advances: Affiliated Companies (Sch. 310)	309 609	288 796
16	737, 738	Property used in other than Carrier Operations (less depreciation $ 45 560). (Sch. 325)	107 949	99 745
17	739, 741	Other Assets (Sch. 329)	8 551	5 186
18	743, 744	Other Deferred Debits (Sch. 329)	16 820	16 741
19		Total Other Assets	478 873	440 191
		Road and Equipment		
20	731, 732	Road (Sch. 330 & 330A)	2 400 479	2 258 446
21		Equipment	1 688 315	1 620 752
22		Unallocated Items	76 959	55 048
23	733, 734, 735, 736	Accumulated Depreciation and amortization (Schs. 332, 342, 352, 355)	1 223 940	1 182 724
24		Net road and Equipment	2 941 813	2 751 522
25		Total Assets	4 091 867	3 726 468

NOTES AND REMARKS

330. ROAD AND EQUIPMENT PROPERTY (See Instructions)

Line No.	Account (Dollars in thousands) (a)	Balance at beginning of year (b)	Expenditures during the year for original road and equipment, and road extensions (c)	Expenditures during the year for purchase of existing lines, reorganizations, etc. (d)
1	(1) Engineering	$ 54 636	$	$
2	(2) Land for transportation purposes	100 983		
3	(3) Grading	431 731		
4	(4) Other right-of-way expenditures	3 623		
5	(5) Tunnels and subways	40 951		
6	(6) Bridges, trestles, and culverts	240 652		
7	(7) Elevated structures	-		
8	(8) Ties	108 085		
9	(9) Rails	225 625		
10	(10) Other track material	204 850		
11	(11) Ballast	98 480		
12	(12) Track laying and surfacing	116 167		
13	(13) Fences, snowsheds, and signs	13 970		
14	(16) Station and office buildings	108 471		
15	(17) Roadway buildings	8 644		
16	(18) Water stations	3 654		
17	(19) Fuel stations	6 294		
18	(20) Shops and enginehouses	76 595		
19	(22) Storage warehouses	-		
20	(23) Wharves and docks	1 972		
21	(24) Coal and ore wharves	22 783		
22	(25) TOFC/COFC terminals	8 765		
23	(26) Communication systems	62 748		
24	(27) Signals and interlockers	147 993		
25	(29) Power plants	1 203		
26	(31) Power-transmission systems	5 260		
27	(35) Miscellaneous structures	2 908		
28	(37) Roadway machines	58 631		
29	(39) Public improvements–Construction	50 352		
30	(44) Shop machinery	44 427		
31	(45) Power-plant machinery	2 942		
32	Other (specify and explain)	-		
33	Total expenditures for road	2 253 395		
34	(52) Locomotives	388 342		
35	(53) Freight-train cars	1 146 419		
36	(54) Passenger-train cars	10 885		
37	(55) Highway revenue equipment	5 856		
38	(56) Floating equipment			
39	(57) Work equipment	46 354		
40	(58) Miscellaneous equipment	21 308		
41	Total expenditures for equipment	1 619 164		
42	(76) Interest during construction	4 441		
43	(77) Other expenditures–General	797		
44	Total general expenditures	5 238		
45	Total	3 877 797		
46	(80) Other elements of investment	142		
47	(90) Construction work in progress	49 668		
48	Grand Total	3 927 607		

210. RESULTS OF OPERATIONS

1. Disclose the requested information for the respondent pertaining to the results of operations for the year.
2. Report total operating expenses from Schedule 410 of this report. Any disparities in expense amounts shown in this schedule and expense amounts reported in Schedule 410 must be fully explained.
3. List dividends from investments accounted for under the cost method on the appropriate line for Account No. 513, "Dividend income." List dividends accounted for by the equity method on the appropriate dividend line under the "Income from Affiliated Companies" subsection of this schedule.
4. All contra entries hereunder should be indicated in parenthesis.
5. Report dollars in thousands.

Line No.	Item (a)	Amount for Current Year (b)	Amount for Preceding Year (c)	Freight-Related Revenues & Expenses (d)	Passenger-Related Revenues & Expenses (e)
	ORDINARY ITEMS				
	OPERATING INCOME				
	Railway Operating Income				
1	(101) Freight ** #	$ 2 370 650	$ 1 912 480	$ 2 370 650	$
2	(102) Passenger **	13 193	11 629		13 193
3	(103) Passenger-Related				
4	(104) Switching	20 027	19 654	20 027	
5	(105) Water Transfers				
6	(106) Demurrage	20 917	15 360	20 917	
7	(110) Incidental	9 435	7 324	7 132	2 303
8	(121) Joint Facility-Credit	2 100	2 012	654	1 446
9	(122) Joint Facility-Debit	67	10	67	
10	(501) Railway operating revenues (Exclusive of transfers from Government Authorities)	2 436 255	1 968 449	2 419 313	16 942
11	(502) Railway operating revenues-Transfers from Government Authorities for current operations	10 147	7 959		10 147
12	(503) Railway operating revenues-Amortization of deferred transfers from Government Authorities				
13	Total railway operating revenues (lines 10-12)	2 446 402	1 976 408	2 419 313	27 089
14	(531) Railway operating expenses	2 340 185	1 899 194	2 311 233	28 952
15	*Net revenue from railway operations	106 217	77 214	108 080	(1 863)
	OTHER INCOME				
16	(506) Revenue from property used in other than carrier operations	117 962	89 554		
17	(510) Miscellaneous rent income	18 716	13 094		
18	(512) Separately operated properties-Profit	345	853		
19	(513) Dividend Income	139	182		
20	(514) Interest income	7 699	9 695		
21	(516) Income from sinking and other funds	1 566	823		
22	(517) Release of premiums of funded debt				
23	(518) Contributions from other companies				
24	(519) Miscellaneous income	17 974	18 829		
	Income from affiliated companies:				
25	Dividends	3 647	1 786		
26	Equity in undistributed earnings (losses)	27 788	22 286		
27	Total other income (lines 16-26)	195 836	157 102		
28	Total income (lines 15, 27)	302 053	234 316		
	MISCELLANEOUS DEDUCTIONS FROM INCOME				
29	(534) Expenses of property used in other than carrier operations	45 648	35 496		
30	(535) Taxes on property used in other than carrier operations	6 082	6 005		
31	(543) Miscellaneous rent expense	3 510	2 941		
32	(544) Miscellaneous taxes				
33	(545) Separately operated properties-Loss				
34	(549) Maintenance of investment organization				
35	(550) Income transferred to other companies				
36	(551) Miscellaneous income charges	13 755	17 525		
37	(553) Uncollectible accounts	147	18		
38	Total miscellaneous deductions (lines 29-37)	69 142	61 985		
39	Income available for fixed charges (lines 28, 38)	232 911	172 331		

EXHIBIT D.

Department of Revenue
Ad Valorem Tax Rules
Chapter Two: Valuation and Assessment of Railroads

13 MCAR §1.0021 General Procedures. ~~The 1979 Minnesota Legislature included in its Omnibus Tax Bill a Section, Article VII, dealing with the taxation of railroads. The article provides for an ad valorem tax on railroads in place of the gross earnings tax~~. Laws 1979, Chapter 303, Article VII (the so-called Omnibus Tax Bill) codified as Minn. Stat. § 270.80 et seq. (1979 Supp.) eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The Article also charges the Commissioner of Revenue with the responsibility of developing rules, both temporary and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

new language HE 8

The first valuation of railroad operating property will be made for the assessment year 1979. No apportionment of value to the local taxing districts will be made until 1981 for ad valorem taxes payable in 1982.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors and apportionment standards will be used as described in this chapter for 1979 and subsequent years.

13 MCAR §1.0022 Definitions. As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this rule. Some of the words, terms and phrases listed below are defined by statute but are included here for completeness.

A. "Allocation" ~~the process of dividing the unit value of a railroad company among the states in which the railroad operates.~~ means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

new language HE 10

B. "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and non-operating property to the various counties and taxing districts in which the railroad company operates.

add per HE 11

C. "Book depreciation" means the depreciation shown by a railroad company on its corporate books, and allowed the company by the Interstate Commerce Commission.

D. "Capitalization rate" means an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

E. "Exempt property" means property which is non-taxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted, and personal property ~~such as office furniture and licensed vehicles~~ otherwise exempt from taxation under Minn. Stat. Chapter 272.

add per HE 12

F. "I.C.C." means the Interstate Commerce Commission, a Federal regulatory agency. add HE 18

G. "Non-operating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. It shall also include land which is not necessary and intregal to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services. ~~This property shall be valued by the local or county assessor rather than by the Commissioner of Revenue~~. deleted HE 13

H. "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings and structures. add HE 14

I. "Original Cost" means the amount paid for an asset as recorded on the railroad's books in accordance with ICC accounting rules and regulations.

J. "P.U.C." means the Minnesota Public Utilities Commission.

K. "Railroad Company" means any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

L. "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

M. "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

N. "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100%.

13 MCAR §1.0023 Reports Required.

A. The data used in the valuation, allocation and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies ~~and other sources the Commissioner believes are pertinent.~~ These reports are to be filed with the Commissioner on or before April 30 of each year and shall include: deletion HE 17

1. The Minnesota Department of Revenue Annual Railroad Report.

2. Annual Report to the Interstate Commerce Commission ~~(ICC)~~.

3. Annual Report to the Minnesota Public ~~Service~~ Utilities Commission ~~(P.S.C.)~~. HE 18

4. Annual Stockholders Report.

5. Other commonly accepted sources of railroad income, expense, capitalization and debt and stock values such as Standard & Poor's Stock Guide, Standard & Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States compiled by the Interstate Commerce Commission.

B. Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The Commissioner shall upon written application from the railroad, extend the filing date 30 days.

C. In the event any railroad company shall fail to file the required reports, the Commissioner shall make a valuation according to his best judgment based on available information.

D. Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation and apportionment required by §§ 1.0021 to 1.0026. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved. add HE 17

13 MCAR §1.0024 Valuation.

A. General: The Minnesota Legislature has specified that railroads must be valued using the unit basis of estimating value. The approaches to value which will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided for in 13 MCAR §1.0024 D. and E. It is the decision of the Commissioner of Revenue that for 1979 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided for in this section.

B. Cost approach to valuation. The cost factor that will be considered in the railroad valuation method is the original cost of the railroad system, plus the original cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following I.C.C. accounts: all road and equipment accounts, all general expenditures and other elements of investment accounts, and railroad property owned but leased to others. As required by statute, no depreciation or obsolescence shall be allowed as a deduction from the original cost of the railroad's assets enumerated above.

The following is an example of how the cost indicator of value is to be computed:

XYZ Railroad

Account	Amount
Road	$13,000,000
Equipment	9,000,000
Construction Work in Progress	1,000,000
Leased Property	500,000
General Expenditures	1,500,000
Cost Indicator of Value	$25,000,000

This cost indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024 F.

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as ~~defined~~ determined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider: HE 46

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.
3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

For 1979 and subsequent years this capitalization rate will be 11%.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income

1974	$1,500,000
1975	2,000,000
1976	2,600,000
1977	3,001,000
1978	2,600,250
Total	$11,701,250
Average	$ 2,340,250

Five year average Net Railway Operating Income Capitalized at 11% (2,340,250 ÷ 11%) equals $21,275,000.

The income indicator of value computed in accordance with this rule ~~will~~ shall be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in 13 MCAR §1.0024 F.; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75%. HE 46 HE 46

D. Stock and Debt approach to valuation. The "Stock and Debt" approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: Assets = Liabilities + Equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting certain qualifications listed below:

1. The stock of the railroad must be traded on ~~a recognized stock exchange.~~ either the New York or American Stock Exchange. HE 47

2. The bonds of the railroad must be traded or have a rating by ~~a recognized financial rating service.~~ either Standard and Poor's or Moody's rating services. HE 47

3. If the railroad is part of a diversified company the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the method described below.

~~For example if a railroad is part of a conglomerate whose stock sells at $100 per share and 50% of the net earnings of the conglomerate are from railroad operations then the value of the railroad's portion of the stock is $50 per share.~~

deletion, add HE 47

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

Net Earnings of ABC Industries	$5,200,500
Net Earnings of XYZ Railroad	$2,600,250
% of XYZ net earnings to total conglomerate earnings	50%
Value of share of ABC Industries stock	$ 100
XYZ Railroad portion of stock value	$ 50

If a railroad has no net earnings, ~~making it impossible to separate the stock value into its parts;~~ and is part of a conglomerate, then the stock and debt indicator of value will not be used. HE 51

The value of the stock used in the stock and debt method shall be an average of the month ending stock prices for the twelve months immediately preceding the assessment date of January 2nd. The value of the bonds, equipment obligations and conditional sales contracts and other long term debts shall also be an average of the cost of money quotes for the twelve months immediately preceding the assessment date of January 2nd. The source for these stock and bond prices shall be Standard and Poor's Stockguide, or other applicable financial service. HE 48

An illustration of a computation of the stock and debt approach to value is as follows:

XYZ Railroad Company

Shares of Common Stock issued x Average price for preceeding year	1,000,000 x $12 = $12,000,000
Shares of Preferred Stock x Average price for preceeding year	100,000 x $15 = $ 1,500,000
Rate and face value of bonds x Average price for class of bonds for preceeding year	
A rated 8% bonds $10,000,000 x 99% of par =	$ 9,900,000
Stock and Debt Indicator of Value	$23,400,000

After the gross stock and debt indicator of value has been computed an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five year average of Net Revenue from Railway Operations, as ~~defined~~ determined by the I.C.C., to a similar five year average of Income Available for Fixed Charges as ~~defined~~ determined by the I.C.C. The five year average will be the most recent five years preceding the assessment date. HE 49

An example of this computation is as follows:

XYZ Railroad Company

	Net Revenue from Railway Operations	Income Available for Fixed Charges
1974	$ 3,000,000	$ 3,500,000
1975	4,000,000	4,300,000
1976	5,200,000	5,700,000
1977	6,000,000	6,800,000
1978	5,200,000	5,400,000
	$ 23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

Gross Stock and Debt Indicator of Value	$23,400,000
Ratio of Operating to Non-Carrier Earnings	91%
Net Stock and Debt Indicator of Value	$21,300,000

The stock and debt indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024 F. HE 52

E. Unit Value Computation. The estimated unit value of the railroad property will be the total of the three weighted indicators of value.

The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value		Weighting	
Cost indicator of value	$25,000,000		25%	6,250,000
Income indicator of value	21,275,000	x	50%	10,637,500
Stock and debt indicator of value	21,300,000		25%	5,325,000
			Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided for in 13 MCAR § 1.0024 B., C. and D. depending on the conditions and circumstances involved in each valuation. For example a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value, and therefore the income indicator of value would be weighted 75%.

F. Railroads Operating at a Loss, ~~and Bankrupt~~ Railroads Involved in Federal Bankruptcy Proceedings, and Railroads Adjudged Bankrupt by a Federal Court. Railroads which are involved in Federal bankruptcy proceedings, adjudged bankrupt or railroads having no net railway operating income will be valued ~~using whatever indicators of value are workable~~ using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value then these railroads will be valued using the cost approach to value only.

13 MCAR §1.0025 Allocation.

A. General. After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in a percentage figure. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in §1.0026, be subject to ad valorem tax in the State of Minnesota.

B. Allocation Factors. The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

1. Miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states.

2. Ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states.

3. Gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states.

4. Original cost of road property in Minnesota divided by the original cost of road property in all states.

The following example illustrates the allocation method to be applied to the unit value of railroad property.

XYZ Railroad

Minnesota miles of track / Total miles of track	100 / 500	= 20%
Minnesota ton miles of revenue freight / Total ton miles of revenue freight	2,200,000 / 9,000,000	= 24%
Minnesota gross transportation revenue / Total gross transportation revenues	$10,000,000 / $40,000,000	= 25%
Minnesota Cost of Road Property / Total Cost of Road Property	2,990,000 / 13,000,000	= 23%
Total		92%
Minnesota Percent of Unit Value		23%

Total Unit Value ($22,212,500) x
Minnesota Percent (23%) = Minnesota Portion of Unit Value $5,108,875

13 MCAR § 1.0026 Adjustments for non-formula assessed property or exempt property. After the Minnesota portion of the unit value of the railroad company is determined property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as non-operating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

Property which has been included in the computation of the unit value but has been defined as non-operating property will be valued by the local assessor. The Minnesota portion of the unit value will be reduced by the original cost of this property. Only non-operating property located within the State of Minnesota will be eligible for this exclusion.

The railroad company shall have the responsibility to submit to the Commissioner of Revenue, in the form required by the Commissioner, such schedules of non-operating property as he may require.

In addition to non-operating property which will be valued and assessed locally a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit; therefore, it is extremely difficult to make a separation of this value into real and personal property.

A percentage of the Minnesota portion of the unit value after deducting non-operating and exempt property will be excluded as personal property. This percentage will be computed in the following way:

The following I.C.C. accounts for property within Minnesota will be totaled:

That portion of coal and ore wharves determined to be personal property less applicable depreciation;

Communication equipment less applicable depreciation;

Roadway machines less applicable depreciation;

Shop machinery less applicable depreciation;

Power plant machines less applicable depreciation;

Equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles, less applicable depreciation.

The total of these accounts will then be divided by the total of the Minnesota road, equipment, leased property, general expenditures, construction work in progress, and other elements of investment accounts; all less applicable depreciation. The resulting percentage will be used to determine the personal property amount of the Minnesota portion of the unit value. This portion will not be taxable for ad valorem purposes.

The following is an illustration of the computation for the personal property exclusion.

XYZ Railway

Personal Property Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Coal & Ore Wharves	$ 500,000	$ 250,000	$ 250,000
Communication Equip.	100,000	50,000	50,000
Roadway Machines	200,000	100,000	100,000
Shop Machinery	100,000	50,000	50,000
Power Plant Machinery	500,000	203,000	297,000
Equipment*	2,250,000	1,250,000	1,000,000
			1,747,000

*Total Equipment Account	$9,000,000
Car and Locomotive Miles in Minnesota	1,000,000
Total Car and Locomotive Miles	4,000,000
Ratio of Minnesota to Total	25%
Minnesota Allocated Equipment Account	$2,250,000

Cost Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Road	$2,990,000	$1,400,000	$1,590,000
Equipment	2,250,000	1,250,000	1,000,000
C.W.I.P.	800,000	-	800,000
General Expenditures	500,000	250,000	250,000
			$3,640,000

Minnesota Depreciated Personal Property Accounts	$1,747,000
Minnesota Depreciated Cost	$3,640,000

Ratio of Personal Property to Cost 48%

Minnesota portion of unit value	5,108,875
Personal Property exclusion at 48%	2,452,260
Taxable Minnesota Portion of Unit Value	$2,656,615

SP:N

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 1 3 1990
Secretary of State

APPROVED AS TO FORM AND LEGALITY

10/15 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
OCT 16 1980
Joan Anderson Growe
Secretary of State
3:08 PM

(11)

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APR 15 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Lyle H. Ask, being first duly sworn, deposes and says that he is the Director, Property Equalization Division, Minnesota Department of Revenue, and as such is charged with the responsibility for mailing of Notice of Hearing to all interested parties in the matter of the proposed adoption of rules governing the ad valorem (property) taxes imposed on railroad companies. As such affiant has caused to be mailed or sent inter-office messenger a Notice of Hearing to each person named on the attached list. These mailings were made April 10, 1980.

Further affiant sayeth not.

Lyle H. Ask

LYLE H. ASK, Director
Property Equalization Division
Minnesota Department of Revenue

Subscribed and sworn to before me this 11th
day of April, 1980.

Patricia Zentzis Notary Public

Ramsey County, Minnesota

My commission expires May 9, 1982.

PATRICIA ZENTZIS
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm Expires May 9, 1982

(10)

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EXAMINERS

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the matter of the Proposed Adoption of Rules of Property Equalization Division Governing Ad Valorem Tax on Railroads

---

I hereby certify that the attached 3 labels 3 sheets constitute the complete list of persons, associations, and other interested groups who as of 2:00 o'clock P .M, this 1st day of April, 1980, have requested pursuant to M.S. 1976, 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.

Secretary of State

Franklin Noon

By Donna Lutt

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21 x 25 = 525
23
548 mailed on 4-10-80
18 sent inter-office
566

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ACKLAND, K. CRIM JUST COUN.
1422 CITY HALL ANNEX
ST. PAUL, MN
55102

ALLERS JOHN
7529 LYNDALE AVE SO
MPLS MN
55423

AMERICAN CAMPING ASSN
4132 88TH LANE
ST PAUL MN
55112

ANDERSON HERBERT
418 8TH ST. SO.
VIRGINIA MN
55792

ANDERSON JAMES
7703 NORMANDALE RD
MPLS MN
55435

ANDERSON STANFORD
14600 MINNETONKA BLVD
MINNETONKA MN
55343

ANTHONY DICK WDSM RADIO
1105 E. SUPERIOR ST.
DULUTH, MN
55802

ARROWHEAD REG. DEV COMM.
211 W 2ND ST
DULUTH MN
55802

ARROWHEAD REGIONAL DEV COMM
200 ARROWHEAD PLACE
DULUTH MN
55802

ASSOCIATED GEN CONTR.OF M
111 E. KELLOGG BLVD.
ST. PAUL, MN
55101

ASSN OF MINN COUNTIES
2305 FORD PKWY
ST PAUL MN
55116

BARATTO DIVINE M
1192 BUSH ST
ST PAUL MN
55106

BEGALKA D REV
212 N ELK ST
BELLE PLAINE MN
56011

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~~MPLS~~ MN

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BLOHM, JOHN D.
BOX 1065
[illegible] MN

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55402

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115 1ST ST SW
GRAND RAPIDS MN
55744

BLAHA GERALD
457 GOODHUE ST
ST PAUL MN
55102

BLOHM, JOHN D.
BOX 1065
MARSHALL, MN
56258

BOYUM BURDETTE
250 SO 4TH ST
MPLS MN
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BRICK PHILIP D
807 SELLWOOD BLDG
DULUTH MN
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BROEKER JOHN
2850METRO DR. SUITE 504
BLOOMINGTON MN
55420

BROOKS WILLIAM F JR.
900 MIDLAND BK. BLDG.
MPLS., MN
55401

BROWN D M GOODRIDGE PUB SCH
IND DIST #561
GOODRIDGE MN
56725

BRUNING C.R.DEPT.CLINIC.EXP.
BURTON HALL
MPLS. MN
55455

BUSCH NOEL
SUITE 705 510 MARQUETTE
MPLS MN
55402

CARRISON DALE K
MANKATO STATE COLLEGE
MANKATO MN
56001

CARVER CO. AUDITOR
600 E. 4TH. ST.
CHASKA, MN
55318

CHIEF EDITOR ST INFO UNIT
1231 25TH ST NW
WASHINGTON DC
20037

CHILDS J L
4012 LYNN AVE S
MPLS MN
55416

CHRISTIAN SCI COMM ON PUB
1821 UNIV AVE SUITE 271
ST PAUL MN
55104

CHRISTIANSEN FREDRIK
RM 505 CAPITOL SQ BLDG
ST PAUL MN
55155

CITIZENS LEAGUE
530 SYNDICATE BLDG
MPLS MN
55402

CITY CLERKS OFFICE
126 NO. MARSHALL
LITCHFIELD, MN
55355

CITY OF ALBERT LEA
221 E CLARK ST
ALBERT LEA MN
56007

CITY OF ALEXANDRIA
114 7TH AVE W BOX 231
ALEXANDRIA MN
56308

CITY OF ANOKA
CITY HALL 2015 1ST AVE
ANOKA MN
55303

CITY OF APPLE VALLEY
14200 CEDAR AVE SO
APPLE VALLEY MN
55124

CITY OF BLAINE
9150 CENTRAL AVE NE
BLAINE MN
55434

CITY OF BRAINERD
CITY HALL
BRAINERD MN
56401

CITY OF BRECKENRIDGE
CITY HALL
BRECKENRIDGE MN
56520

CITY OF BROOKLYN CENTER
6301 SHINGLE CREEK PKWY
BROOKLYN CTR MN
55430

CITY OF BROOKLYN PARK
5800 85TH AVE NO
BROOKLYN PARK MN
55443

CITY OF BURNSVILLE
1313 E HWY 13
BURNSVILLE MN
55337

CITY OF CAMBRIDGE
139 E FIRST AVE
CAMBRIDGE MN
55008

CITY OF CHAMPLIN
12001 HWY 52
CHAMPLIN MN
55316

CITY OF CHANHASSEN
7610 LAREDO
CHANHASSEN MN
55317

CITY OF CHASKA
205 E 4TH ST
CHASKA MN
55318

CITY OF COTTAGE GROVE
7516 80TH ST SO
COTTAGE GROVE MN
55016

CITY OF CRYSTAL
4141 DOUGLAS DRIVE NO
CRYSTAL MN
55422

CITY OF DETROIT LAKES
106 E HOLMES ST
DETROIT LAKES MN
56501

CITY OF DULUTH
CITY HALL
DULUTH MN
55802

CITY OF EAGAN
3795 PILOT KNOB ROAD
EAGAN MN
55122

CITY OF EAST BETHEL
2751 VIKING BLVD NE
WYOMING MN
55092

CITY OF E GRAND FORKS
P O BOX 453
E GRAND FORKS MN
46721

CITY OF EDEN PRAIRIE
8950 EDEN PRAIRIE RD
EDEN PRAIRIE MN
55343

CITY OF EDINA
4801 W 50TH ST

CITY OF GOLDEN VALLEY

CITY OF HASTINGS

CITY OF HUTCHINSON

CITY OF EDINA
4801 W 50TH ST
EDINA MN
55424

CITY OF GOLDEN VALLEY
7800 GOLDEN VALLEY RD
GOLDEN VALLEY MN
55427

CITY OF HASTINGS
100 SIBLEY ST
HASTINGS MN
55033

CITY OF HUTCHINSON
37 WASHINGTON AVE WEST
HUTCHINSON MN
55350

CITY OF JORDAN FRANK HOUSER2
10 E 1ST
JORDAN MN
55352

CITY OF LAKE INDEPENDENCE
RT 1 BOX 123A
MAPLE PLAIN MN
55359

CITY OF MAPLE GROVE
9401 FERNBROOK LANE
MAPLE GROVE MN

CITY OF MAPLEWOOD
1380 FROST AVE
MAPLEWOOD MN
55109

CITY OF MINNEPOLIS
3801 66TH AVE NO
BROOKLYN CTR MN
55429

CITY OF MINNETONKA
74600 MINNETONKA BLVD
MINNETONKA MN
55343

CITY OF MORRIS
CITY HALL
MORRIS MN
56244

CITY OF MOUNDSVIEW
2401 HWY 10
ST PAUL MN
55113

CITY OF NEW HOPE
4401 XYLON AVE NO
NEW HOPE MN
55428

CITY OF ORONO
PO BOX 66
CRYSTAL BAY MN
55323

CITY OF ROCHESTER
1421 3RD AVE SE
ROCHESTER MN
55901

CITY OF ROSEMOUNT
BOX 455
ROSEMOUNT MN
55068

CITY OF ROSEVILLE
2701 NO LEXINGTON AVE
ROSEVILLE MN
55113

CITY OF ST CLOUD
CITY HALL
ST CLOUD MN
56301

CITY OF ST LOUIS PARK
5005 MINNETONKA BLVD
ST LOUIS PARK MN
55416

CITY OF ST PAUL
445 CITY HALL
ST PAUL MN
55102

CITY OF SHAKOPEE
129 E 1ST AVE
SHAKOPEE MN
55379

CITY OF SHOREVIEW
4665 NO VICTORIA ST
SHOREVIEW MN
55112

CITY OF WAYZATA
600 RICE STREET
WAYZATA MN
55391

CITY OF WHITE BEAR LAKE
250 MILLER AVE
WHITE BEAR LK MN
55110

CLARKSON J.B.
2350 I.D.S. CENTER
MINNEAPOLIS MN
55402

CLAUSEN PHILLIP
2307 STANDISH ST
ST PAUL MN
55108

COHEN LAWRENCE
1291 L APPLETREE SQU
MPLS MN
55420

CONCORDIA COLLEGE
DEAN
MOORHEAD MN
56560

CONSUMER SERVICES DEPT COMM
5TH FLR METRO SQ BLDG
ST PAUL MN
55101

COUNTY ATTYS COUNCIL
40 NO MILTON ST STE 106
ST PAUL MN
55104

DAILEY THOMAS ECONOMICS LAB
370 WABASHA ST
ST PAUL MN
55102

DAKOTA CO MENTAL HEALTH CTR
744 19THAVE NO
SO ST PAUL MN
55075

DANIELSON RODNEY L.
411 MAIN ST. SU 210
ST. PAUL, MN
55102

DAVIS & RACETTE
6100 EXCELSIOR BLVD
ST LOUIS PK MN
55416

DAWSON JEAN MN GOV'T REPORT
ROOM 612 CAPITOL
ST PAUL MN
55155
E N E & M-OFFICE

DAYTON, HERMAN, ET AL
800 MIDLAND BANK BLDG.
MPLS., MN
55401

DEVELOP DISABILITIES PROG
STATE PLAN 200 CAP SQ.
ST. PAUL, MN
55155

DICKSON GARY L
4665 NO VICTORIA ST
SHOREVIEW MN
55112

DUPONT MIKE
5720 EXCELSIOR BLVD
MPLS MN
55416

DZUGAN KEN ST.PAUL PLANNING
25 W. 4TH. ST.
ST PAUL, MN
55102

E CENTRAL REG. DEV. COMM
COURTHOUSE 18 N VINE ST
MORA MN
55051

[illegible] ECKLUND WM ECLEHARLE-LARSON [illegible]
161 W MAIN

55416

EBELING EDWARD H.
161 W. MAIN
PERHAM MN
56573

ENDERSON WILLIAM
3644 NICOLLET AVE
MINNEAPOLIS MN
55409

FARMERS ELEVATOR ASSN
852 GRAIN EXCH BLDG
MPLS MN
55415

FELHABER R S
W 1ST NATL BANK BLDG
ST PAUL MN
55101

FORBES GORDON MINN RRS ASSN
203 HANOVER 480 CEDAR
ST PAUL MN
55101

FRIESEN MILLER A
RAHR BD 624 13TH ST S
VIRIGINIA MN
55792

GEBERT KENNETH L
300 PUBLIC HEALTH CTR
MPLS MN
55415

GRAHAM THOS H.
900 MIDLAND BK. BLDG.
MPLS., MN
55401

HALLMAN W A
1745 UNIVERSITY AVE
ST PAUL MN
55104

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

55102

ECKLUND WM EELLHABER-LARSON
W 1080 1ST NATL BANK
ST PAUL MN
55101

ENNIS A F BOISE CASCADE
PO BOX 713
INTL FALLS MN
56649

FARRELL FRANK BUR NOR
RM 1180 176 E 5TH ST
ST PAUL MN
55101

FERGUSON BEVERLY
2122 CARROLL AVE
ST PAUL MN
55104

FORSBERG AGR SERV
518 SUMMIT AVE
NEW ULM MN
56073

FRISON FRANK NECA
RM 305 200 SO ROBERT
ST PAUL MN
55107

GEO A HORMEL & CO LAW DEPT
PO BOX 800
AUSTIN MN
55912

GREATER MET AREA HOSPITALITY
5152 CEDAR AVE S
MPLS MN
55417

H B FULLER CO
2400 KASOTA AVE
ST PAUL MN
55108

HAMMER HENRY
11445TH AVE SO
ANOKA MN
55303

HAVEN HOUS TWIN TN TREATMENT
1706 UNIV AVE
ST PAUL MN
55104

EDINA HEALTH DEPT
4801 W 50TH ST
EDINA MN
55424

ERNEST K LEHMANN & ASSOC.
1409 WILLOW ST.
MPLS MN
55403

FARSETH PAUL FOOD STAMPS PRO
WELFARE DEPT 690 N ROBT
ST PAUL MN

FITZGERALD DR BOB
3007 LYNDALE AVE SO
MPLS MN
55408

FOX W.E. LINDQUIST & VENNUM
4200 IDSCTR 80 S.8TH ST
MINNEAPOLIS MN
55402

FURRY CATHERINE
2174 COMMONWEALTH AVE
ST PAUL MN
55108

GODIN RALPH J
3824 47TH AVE SO
MPLS MN
55406

GREEN GARY J
41 SHERBURNE AVE
ST PAUL MN
55102

HAIDER MARYLOU
1757 PRINCETON AVE
ST PAUL MN
55105

HARRY, RICK
1000 LAKESHORE DR.
MOOSE LAKE, MN
55767

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

EIMER EDWIN W
2901 PLEASANT AVE
MPLS MN
55408

FFD-ST REPORTS INC.
5203 LEESBURGPIKE S1201
FALLS CHURCH, VA
22041

FITZPATRICK LFO
8138 HENSLOWE AVE S
COTTAGE GROVE MN
55016

FREDIN CONRAD M
811 FIRST NATL BK BLDG
DULUTH MN
55802

GOLDBERG PROF MELVIN
WM MITCHELL COL OF LAW
ST PAUL MN
55105

GRUMMERT REV DONALD
1435 ADAMS ST
MPLS MN
55413

HAIK RAYMOND A
4344 IDS CENTER
MPLS MN
55402

HARTFELDT WILL
2850 METRO DRIVE STE800
BLOOMINGTON MN
55420

HEADWATERS REG DEV. COMM
BOX 586 MENTAL HEALTH
BEMIDJI MN
56601

HEALTH CENTER

HEARING EX. SEE M.GREENOE

HAUN DR J W GEN MILLS
PO BOX 1113
MPLS MN
55440

HAVEN ROBT TWIN TN TREATMENT
1706 UNIV AVE
ST PAUL MN
55104

HEAD & TRUHN
1007 SOO LINE BLDG
MPLS MN
55402

HEADWATERS REG DEV. COMM
BOX 586 MENTAL HEALTH
BEMIDJI MN
56601

HEALTH CENTRAL
2810 57TH. AVE. NO.
MINNEAPOLIS, MN
55430

HEALTH MANPOWER C LARSON
717 DELAWARE ST SE
MPLS MN
55440

HEANEY BILL
30 W SUPERIOR ST
DULUTH MN
55802

HEARING EX.OFF. M GREENBE
1745 UNIV AVE
ST PAUL MN
55104

HECKT PAUL
720 AMERICAN CENTER BLD
ST PAUL MN
55101
INITIAL OFFICE

HEIM, PAUL M.
5501 NORMAN CENTER DR.
MPLS., MN
55437

HELTZER JAMES DAYTON HUDSON
777 NICOLLET MALL
MPLS MN
55402

HINIKER JAMES COMM OF ADM
200 ADMIN BLDG
ST PAUL MN
INITIAL OFFICE

HOGLUND RICHARD C
BOX 755
WILLMAR MN
56201

HOLEY GEORGE
1509 SW SIXTH STREET
FARIBAULT MN
55021

HOLMES EUSTIS ET AL
4610 IDS CENTER
MPLS MN
55402

HORNER WALDORF - KAZIUKEW
PO BOX 3260
ST PAUL MN
55165

HULSTRAND ANDERSON & LARSON
PO BOX 130
WILLMAR MN
56201

HUNTER LAWRENCE
STE 115 NALPAK BLDG
ST PAUL MN
55101

HUTCHISON R.M. ANOKA CO.COMP
COURT HOUSE
ANOKA MN
55303

IMS PAUL

ECHO MN

INGRAM ALAN NASW MN CH
22 NO DALE ST
ST PAUL MN

INGVALDSON ERIC
1036 MIDLAND BK BLDG
MPLS MN
55401

INGVALSON VERN MN.FARM BU
1976 WOODDALE BOX 43370
ST PAUL MN
55164

INTERSTATE POWER RW STEELE
1000 MAIN ST
DUBUQUE IA
52001

IVERSON DR JOS DEPT ED
ST OLAF COLLEGE
NORTHFIELD MN
55057

IZAAK WALTON LEAGUE OF AM
111 E FRANKLIN SU 201
MPLS MN
55404

JAIN NIRMAL ENIV PROCESS
1220 GLENWOOD AVE
MPLS MN
55405

JACK JAMES DEPT OF REC PARKS
MANKATO ST UNIVERSITY
MANKATO MN
56001

JENOS INC
525 LAKE AVE SO
DULUTH MN
55801

JENSEN MRS GAYNOLD
111 WEST 107TH ST
MPLS MN
55420

JOHANSEN BUS SERV INC.
11911 HWY. 52
CHAMPLIN, MN
55316

JOHNSON & SANDERSON
ST MARYS HOSPITAL
ROCHESTER MN
55901

JOHNSON CLARENCE IBEW LU 292
3615 37TH AVE S
MPLS MN
55406

JOHNSON G ROBERT
4344 IDS CENTER
MPLS MN
55402

JOHNSON KEL MACI
HANOVER BLDG
ST PAUL MN
55101

JOHNSON LEROY
1207 98TH LANE NW
COON RAPIDS MN
55433

JOHNSON M.D. FRUNDT & FRUNDT

BLUE EARTH MN
56013

JOHNSON LANCE J
265 S LAFAYETTE RD
ST PAUL MN
55107

KAVANEY RICHARD
1220 NORTHERN FED BLDG
ST PAUL MN
55102

KEENAN RICHARD J
4444 IDS BLDG
MPLS MN
55402

KELLY BARBARA SOLID WASTE
4001 PEBBLEBROOK DR
BLOOMINGTON MN
55437

KNODELL DAVID

KNOPP TIMOTHY

KNUTSON R N GRANNIS ETAL

KRAMER ERNEST W

KNODELL DAVID 31
5 PEAVEY BLDG
MPLS MN
55402

KNOPP TIMOTHY
COLLEGE FORESTRY U OF M
ST PAUL MN
55108

KNUTSON R N GRANNIS ETAL
F J SCHULT BLDG
ST ST PAUL MN
55075

KRAMER ERNEST W
717 DELAWARE ST SE
MPLS MN
55440

KRONLOKKEN J E
10048 NORD RD
BLOOMINGTON MN
55437

LAKE SUPERIOR INDUSTRIAL BUR
828 FIRST AN. BK. BLDG.
DULUTH MN
55802

LANGEVIN, DAVID P.
8748 IDEN AVE. SO.
COTTAGE GROVE MN
55016

LEAGUE WOMEN VOTERS OF MINN
555 WABASHA
ST PAUL MN
55102

LEG.REF.LIB-Z. DEWITT
RM 111 STATE CAPITOL
ST PAUL MN
55155

LEG REPORT SERV-P STURDEVANT
PO BOX 3259
ANNAPOLIS MD
2140

LEWIS DR.G.M JR.
ABBOTT 110 E 18TH ST
MPLS MN
55403

LOCH DAVID REG 5 REG DEV COG
11 IOWA AVE
STAPLES MN
56479

LOEFFLER DOROTHY MRS
U OF M 101 EDDY HALL
MPLS MN
55455

LUTH SOC SERVICE OF MN
2414 PARK AVE
MPLS MN
55404

MAHCF RICK CARTER
2850 METRO DR SUITE 431
BLOOMINGTON MN
55420

MALECKI JAMES
1 SO STATE ST
NEW ULM MN
56073

MANKATO STAT STUDENT SENA
CENTENNIAL STUDENT UN
MANKATO MN
56001

MANTHEY T J PICKANDS MATHER
1100 SUPERIOR AVE
CLEVELAND OH
44114

MARLATT RALPH J
1320 SOO LINE BLDG
MPLS MN
55402

MARQUARDT PHILIP
RTE 2 BOX 209
JANESVILLE MN
56048

MASTOR & BALE, LTD.
315 PEAVEY BLDG.
MPLS. MN
55402

MAUL WARREN E.
605 4TH. AVE. SO.
MPLS., MN
55415

MC KEE MICHAEL
2721 CHISHOLM
NO ST PAUL MN
55109

MCDONALD PHILIP M
2077 SELBY AVE
ST PAUL MN
55104

MCNEILLY GREG MNDSVIEW ED
41 SHERBURNE AVE
ST PAUL MN
55103

MET. WASTE CONTOL COMM.
350 METRO SQ BLG
ST PAUL MN
55101

METROPOLITAN COUNCIL LIBRARY
300 METRO SQUARE
ST PAUL MN
55155

MEYER HERBERT
10824 ZENITH AVE S
BLOOMINGTON MN
55431

MIDLAND GLASS-BARTO R.J.
P.O. BOX 69
SHAKOPEE, MN
55379

MILLER OPTICS

MILLER DAVID S
2845 QUEBEC AVE SO
ST LOUIS PK MN
55426

MILLER PAUL J PHARMACY SERV
ST MARYS HOSP
ROCHESTER MN
55901

MILLER SHERMAN E
RFD 2 BOX 28
WELLS MN
56097

MILLER TOM
6921 YORK AVE SO
EDINA MN
55435

MILLER THOMAS F
1628 IDS CENTER
MPLS MN
55402

MILLMAN DEBBY
2616 HARRIET AVE SO 104
MPLS MN
55408

MINN ASPHALT PAVEMENT ASSN
555 WABASHA RM 209
ST PAUL MN
55102

MINN ASSN COOPERATIVES
55 SHERBURNE AVE
ST PAUL MN
55103

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55114

MINN CHAP ASSOC BLDRS-CONTRS
7204 W 27TH ST
MPLS MN
55426

MINN DACA GRIGGS MIDWAY BLDG
RM SO 280 1821 UNIV AVE
ST PAUL MN
55104

MINN DEPT HEALTH J C MCKA
717 DELAWARE S E
MPLS MN
55440

MINN GOV ENG COUNCIL
722 [illegible] AVE N

MINN HOSPITAL ASSN

MINN LP GAS ASSN

MINN MTR TRANSP [illegible]

55402

55408

55102

55103

MINN ASSN VOL SOC SERVICE
1821 UNIV SUITE 389
ST PAUL MN
55115

MINN CHAP ASSOC BLDRS-CONTRS
7204 W 27TH ST
MPLS MN
55426

MINN DACA GRIGGS MIDWAY BLDG
RM SO 280 1821 UNIV AVE
ST PAUL MN
55104

MINN DEPT HEALTH J C MCKA
717 DELAWARE S E
MPLS MN
55440

MINN GOV ENG COUNCIL
722 91ST AVE NE
BLAINE MN
55434

MINN HOSPITAL ASSN
2333 UNIV AVE SE
MPLS MN
55414

MINN LP GAS ASSN
7515 WAYZATA BLVD 106
MPLS MN
55426

MINN.MTR.TRANSP. .J.N.D
1821 UNIV.
ST.PAUL MN
55104

MINN MULTI HOUSING ASSN
3100 W LAKE ST
MPLS MN
55416

MINN NEWSPAPER ASSN
84 S 6TH ST STE 400
MPLS MN
55402

MINN PCA WATER QUALITY
1935 W CO RD B 2
ROSEVILLE MN
55113

INTL

MINN PETROLEUM COUNCIL
1020 NORTHERN FED BLDG
ST PAUL MN
55102

MINN POLLUTION CONTROL AGCY
1935 W CO RD B2
ROSEVILLE MN
55113

INTL

MINN RETAIL FEDERATION
180 METRO SQUARE BLDG
ST PAUL MN
55101

MINN RETAIL HARDWARE ASSN
3033 EXCELSIOR BLVD 313
MPLS MN
55416

MINN RURAL ELECTRIC ASSN
4901 W 77TH ST
MPLS MN
55435

MINN. SERV. STA. ASSN.
1115 2ND. AVE. SO.
MPLS., MN
55403

MINN STATE BD PHARMACY
717 DELAWARE ST SE #351
MPLS MN
55414

MINN STATE MEDICAL ASSOC
STE 900 AM NATL BK BLDG
STPAUL MN
55101

MINN TEAMSTERS CRFDIT UNI
2021 HENN AVE E
MPLS MN
55413

MINN. TBR. PRODUCERS ASSN.
333 W. SUPERIOR ST.
DULUTH, MN
55802

MINN.TURKEY GROWERS ASSN
2383 UNIV AVE
ST PAUL MN
55114

MINN WATER RESOURCES BD
RM 206 555 WABASHA ST
ST PAUL MN
55102

INTL OFFICE

MINN-WISC BOUNDARY AREA C
600 2ND ST
HUDSON WI
54016

MINNESOTA AFL-CIO
175 AURORA AVE
ST PAUL MN
55103

MIXA FRANK LK MNTKA CONS DIS
402 E LAKE ST
WAYZATA MN
55391

MN AUTOMOBILE DEALERS ASSN
277 UNIV AVE
ST PAUL MN
55103

MN.BD OF NURSING
717 DELAWARE ST SE
MPLS MN
55414

MN ELECTRICAL ASSN
3100 HUMBOLT SO
MPLS MN
55408

MN PUB INT RESEARCH GROUP
3036 UNIV AVE SE
MPLS MN
55414

[illegible] REP STATE CENTRAL COMM
555 WABASHA AVE
ST PAUL MN
55102

MN SOC SERV ASS J HOOD
614 PORTLAND
ST PAUL MN
55102

MN ST COUNCIL FOR HANDICAPP
METRO SQ 7TH & ROBERT
ST PAUL MN
55101

INTL

MN ST PHARMACEUTICAL ASSN
2469 UNIVERSITY AVE
ST PAUL MN
55114

MOFFITT R C
RM 301 M MPLS CITYHALL
MPLS MN
55415

MOSS DR JEROME
125 PEIK 159 PILLSBURY
MPLS MN
55455

MOSTCA
PO BOX J
PERHAM MN
56573

MOTOR VEHICLE MFRS ASSN
411 MAIN ST (215)
ST PAUL MN
55102

MPLS ASSN RETARDED CITIZENS
2344 NICOLLET AVE. SO.
MPLS., MN
55404

MPLS TRIBUNE CITY DESK
425 PORTLAND AVE
MPLS MN
55415

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

NATL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NELSON HOWARD I

LINDSROM MN
55045

NEMDA

MT OLIVET ROLLING ACRES
R 1 BOX 576
EXCELSIOR MN
55331

NAIL FAMILY INS CO
2147 UNIV AVE
ST PAUL MN
55114

NCEC INC C/O DR DAHLBERG
CONCORDIA COLLEGE
MOORHEAD MN
56560

NELSON HOWARD I
LINDSROM MN
55045

NEMDA
800 ALWORTH BLDG
DULUTH MN
55802

NOZISKA HOWARD
7851 METRO PKWY S 103
MPLS MN
55420

NURSING HOME ADMRS BD EXAMRS
RM 340 717 DELAWARE SE
MPLS MN
55414

NURSING HOME RES ADV CO.
111 E FRANKLIN S210
MPLS MN
55404

NW BELL TEL CO LEGAL DEPT
224 S 5TH ST RM 2000
MPLS MN
55402

NW COUNTRY ELEVATOR ASSN
P.O.BOX.15004COMM.STAT
MPLS., MN
55415

NW REG. DEV. COMM
425 WOODLAND AVE
CROOKSTON MN
56716

O'BRIEN J.DENNIS
1100 1ST NATL.BANK BLDG
MINNEAPOLIS MN
55402

O'CONNELL RAY
MN GAS CO 733 MARQ AVE
MPLS MN
55402

OFFICE OF THE GOVERNOR
130 STATE CAPITOL
ST PAUL MN
55101

INTL' OFFICE

OLOFSON ARTHUR MBO & MAI
927 SOO LINE BLDG
MPLS MN
55402

OTTER TAIL POWER CO.
215 S. CASCADE ST.
FERGUS FALLS MN
56537

PARKER PAMELA J SUITE 204
METRO SQ BLDG
ST PAUL MN
55101

PAYNE COL ALVIN
DEGRAFF MN
56233

PETERSON DOUG AM RED CROSS
11 DELL PLACE
MPLS MN
55403

PETERSON, H. COMM LABOR&IND.
444 LAFAYETTE RD.5TH FL
ST. PAUL, MN
55101

INTL' OFFICE

PHAR MFGRS ASSN GROSSMAN S.
1155 15TH. ST. N.W.
WASHINGTON,DC
20005

PHILLIPS LEGISLATIVE SERV
459 RICE ST
ST PAUL MN
55103

PIDGEON, JOHN G. CITY MGR.
BLOOMINGTON CITY HALL
BLOOMINGTON, MN
55431

PINNETTI NICK M HALEY & ASS.
40 CENTRAL PARK S
NEW YORK NY
10019

PLRC HAMLINE U LAW SCHOOL
1536 HEWITT AVE
ST PAUL MN
55104

POLT THOMAS M
MCCARTHY BLDG
EYOTA MN
55934

POPOVICH PETER S
314 MINN BLDG
ST PAUL MN
55101

PORTER DAVID
3002 27 AVE S
MPLS MN
55406

POYZER ROBT
BOX 675
FERGUS FALLS MN
56357

PRAUSE J.C.
1313 COON RAPIDS BLVD.
COON RAPIDS, MN
55433

PRICE WALT C REISS COAL CO
1011 SO 8TH ST
SHEBOYGAN WI
53081

PUBLIC LAW RESEARCH CENTER
1536 HEWITT AVE
ST PAUL MN
55104

RADMAN RICHARD-LABOR TEMPLE
411 MAIN STREET
ST. PAUL, MN
55102

RALPH BURKE ASSOCIATES
5200 W 73RD ST
MPLS MN
55435

RAMSEY CO MEDICAL SOC
908 AM NATL BK BLDG
ST PAUL MN
55101

RAUENHORSTCORP-RONALD G K
7900 XERXES S S-2200
MPLS MN
55431

REAGAN MICHAEL
% MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

RED OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

REGION NINE DEV. COMM.
120 S. BROAD ST.
MANKATO, MN
56001

RENNER R.H. ST [illegible] CC

RICHARDS MONTGOMERY II AL

RITTER, DAVID

RITTER, JERRY

REAGAN MICHAEL
& MINN LEARNING CTR
BRAINERD MN
56401

REARDON MRS HELEN
1125 S E 6TH ST
WILLMAR MN
56201

REO OWL STORES INC
215 E EXCELSIOR AVE
HOPKINS MN
55343

REGION NINE DEV. COMM.
120 S. BROAD ST
MANKATO, MN
56001

RENNER R.H. ST PAUL AREA CC
300 OSBORN BLDG.
ST PAUL MN
55102

RICHARDS MONTGOMERY ET AL
1430 RAND TOWER
MPLS MN
55402

RIEKE, DAVID
SCORPION IND. INC.
CROSBY, MN
56441

RITTER, JERRY
1011 NICOLLET MALL
MPLS., MN
55403

ROSENTHAL ABE MN TRANS SERV
SUITE 310 N 1821 UNIV
ST PAUL MN
55104

ROSS ALFRED
6356 WARE RD
LINO LAKES MN
55014

ROYAL ESQUIRE REALTY INC
1612 PIONEER BLDG
ST PAUL MN
55101

SANFORD S M
7000 PORTLAND AVE
RICHFIELD MN
55423

SAX DOVE & STENSON
310 ENDICOTT BLDG
ST PAUL MN
55101

SCARBOROUGH WILLIAM
DIV.ED. U.M.
MORRIS MN
56267

SCHAEN ETHEL
1821 UNIV AVE RM 3895
ST PAUL MN
55104

SCHMIDT WARREN WELLCOME MH5
GARDEN CITY MN
56034

SCHNEIDER MAHLON
GREEN GIANT
LESUEUR MN
56058

SCHUTZ LINDA
RM 328 CAPITOL BLDG
ST PAUL MN
55155
EXT. OFFICE

SCHWINN, ROBT. P.
1830 SOO LINE BLDG.
MPLS., MN
55402

SE MN REG DEV COMM
301 MAKO BK BLDG
ROCHESTER MN
55901

SHABATURA EUGENE H
2833 LAKE AVE. SO.
DULUTH, MN
55802

SIX EAST REG. DEV. COMM.
311 W 6TH ST
WILLMAR MN
56201

SMITH BOB III
PIONEER BLDG
ST PAUL MN
55101

SNYDER, R.W. U OF M
RM 248C CLASS OFF BLDG.
ST PAUL MN
55108

SODERBERG HAROLD J
1500 MIDWEST PLAZA BLDG
MPLS MN
55402

SOUTHWEST REGIONAL DEV CO
25TH & BROADWAY
SLAYTON MN
56172

SPRAGUE CHARLOTTE B
AREA HOSPITAL BOX 339
WINDOM MN
56101

ST. PAUL FOOD RETAILERS ASSN
555 WABASHA ST. STE.204
ST. PAUL, MN
55102

STATE & FEDERAL AGENCIES
1101-15TH NW
WASHINGTON DC
20005

STD AM LIFE & ANNUITY CO
3801 W 50TH ST
MPLS MN
55410

STEELWORKERS CREDIT UNION
BOX 250
BABBITT MN
55706

STONE JOHN F MOSS FLAHERTY
2350 IDS CENTER
MPLS MN
55402

SUDDUTH JR APT 206
2100 BLOOMINGTON AVE SO
MPLS MN
55404

SULLIVAN J KIRK
P.O. BOX 50
BOISE, IDAHO
83728

SULLIVAN JEANETTE
CDIC SW STATE UNIV
MARSHALL MN
56258

SWANSON DALE
1068 SO LAKE ST
FOREST LAKE MN
55025

TATE VERN 3M CO
3M CENTER 220/6W
ST PAUL MN
55101

TENNESSEN SEN ROBERT J
RM 309 STATE CAPITOL
ST PAUL MN
55165

THORNTON, P.J.
107 SO. 15TH. AVE. W.
VIRGINIA, MN
55792

TOWNSHIP OF WHITE BEAR
1281 HAMMOND RD
WHITE BEAR LK MN
55110

UNION STOCK YARDS
ATTN

US DEPT OF AGRICULTURE

UNION STOCK YARDS
ATTN PRES
SO ST PAUL MN
55075

US DEPT OF AGRICULTURE
252 FEDERAL BLDG
ST PAUL MN
55101

VALLY CENTER DRUG
4827 W 124TH ST
SAVAGE MN
55378

VIITALA, W.C. HONEYWELL
HONEYWELL PLAZA
MPLS MN
55408

VOS LEROY
2137 BURNS AVE
ST PAUL MN
55119

WALTERS THOMAS MN MFG HOUSE
4530 W 77TH ST STE 227
MPLS MN
55435

WALZ SAM CO ADMINISTRATION
ANOKA CTY COURTHOUSE
ANOKA MN
55303

WAMPLER LINUS DIR USW OF AM
609 PROVIDENCE BLDG
DULUTH MN

WASHINGTON COUNTY
14900 61ST ST NO
STILLWATER MN
55082

WATERS, DONNA M.
110506 WINDMILL COURT
CHASKA MN
55318

WEHRWEIN JUDITH
625 ADMIN BLDG
ST PAUL MN
55155
INTER-OFFICE

WELK G V NORTHERN STATES
414 NICOLLET MALL
MPLS MN
55401

WEST CENTRAL REG. DEV.
ADM BLDG,COMMUNITY COLL
FERGUS FALLS MN
56537

WHITLOCK A G
ECON LAB OSBORN BLDG
ST PAUL MN
55102

WHITLOCK MARSHALL LCRAR
RM.44 ST. OFF. BLDG.
ST. PAUL, MN
55155
INTER-OFFICE

WM. MITCHELL LAW LIB.
875 SUMMIT AVE.
ST. PAUL, MN
55105

WIS FEEDER PIG MARKET CO-

FRANCIS CREEK WI

WOODSTROM SUSAN
2211 COLFAX AVE SO #311
MPLS MN
55405

WOZNIAK D D
401 FIRST FED BLDG
ST PAUL MN
55101

WRIGHT CO COMMUNITY SERVICES
7NW 1ST ST
BUFFALO MN
55313

Duane Jorgensen
645 W. 3rd Street
Zumbrota, MN 55992

Jerry R. Alba, Planning Coordinator
Prentice-Hall, Inc.
Englewood Cliffs, N.J. 07632

Gary W. Bastian, Senate IRC
110 State Office Building
St. Paul, MN 55155

Robert F. Christensen
Minn. Assn Rehab. Fac.
3915 Golden Valley Road
Golden Valley, MN 55422

J. J. Cronin, Mgr. State/Local Taxes
JC Penney
1301 Ave. of the Americas
New York, N.Y. 10019

James A. Dickinson
1200 NW National Bank Bldg.
55 E. 5th St.
St. Paul, MN 55101

Charles J. Doidge
309 E. Wyoming St.
Redwood Falls, MN 56283

J. C. Higgins
Brotherhood Rwy Clks
2317 W. 7th St.
Duluth, MN

Investors Syndicate Life Ins./Annuity Co
ATT: Gen. Counsel Investors Bldg.
Minneapolis, MN 55402

Jeffrey A. Marcus
Gen. Television - Suite 115
2021 E. Henn. Dr.
Minneapolis, MN 55413

Daniel Mundt
c/o Van Evera, Mundt et al
700 Torrey Bldg.
Duluth, MN 55802

Vern Ekola
Sup't of Proctor #704
Proctor, MN

Prudential Inc. Co. of America
ATT: Law Dept.
Box 1143
Minneapolis, MN 55440

S & FA Reporting Services, Inc.
1101 15th St. N.W.-Suite 205
Washington, D.C.

Savings & Loan League of Minn.
625 2nd Ave. So. - Suite 303
Minneapolis, MN

John Stone
Dome Petroleum Corp - Box 200
Calgary, Canada T2P 2H8

Gordon Forbes, Counsel
MN RR Ass'n - 203 Hanover Bldg.
480 Cedar St.
St. Paul, MN 55101

Mervin J. Herrmann, Assessor
City of Fridley
6431 University Ave.
Fridley, MN 55432

Richard C. Hoglund, Assessor
City of Willmar
Box 755
Willmar, MN 56201

Wilbur E. Morse, Assessor
City of Moorhead
Box 779
Moorhead, MN 56560

Terry Erickson
Senate Research
State Office Building

Karen Baker
House Research
Room 17 - State Capitol

Susie Jacobson - B 46 Tax Study Comm.
State Capitol

Don Vellenga
Supt. of Dilworth Schools
Dilworth, MN. 56529

D. F. Wells, Reg. Controller
CANADIAN NAT'L RAILWAYS
123 Main St.
Winnipeg Manitoba, Canada R3C 2P8

U. C. Brown, Gen. Mgr. Property Taxes
CHICAGO, ROCK ISLAND & PACIFIC RR CO.
332 South Michigan Avenue.
Chicago, Illinois 60604

T. E. Fearnall, Comp./Treas.
DULUTH, WINNIPEG & PACIFIC RAILWAY
401 Board of Trade Bldg.
Duluth, MN 55802

Don R. Montgomery, Comptroller
ILLINOIS CENTRAL GULF RAILROAD CO.
233 N. Michigan Ave. - 24th Floor
Chicago, Illinois 60601

R. A. Nelson, Sec'y/Treas.
MPLS., NORTHFIELD & SOUTHERN RAILWAY
2859 Louisiana Ave. No.
Minneapolis, MN 55427

Mr. J. C. Kennedy, Tax Commissioner
DUL., MISS. & I.R. RAILWAY COMPANY
600 Grant St. - P. O. Box 536
Pittsburgh, Pennsylvania 15230

M. D. Ross, Jr., Director of Taxes
SOO LINE RAILROAD CO.
405 Soo Line Bldg.
Minneapolis, MN 55440

M. A. Schensted, Comptroller
MN. TRANSFER RAILWAY CO.
2071 University Ave.
St. Paul, MN 55104

R. F. Kratochwill, Vice-Pres.
Finance & Accounting
CHIC., MIL. ST. PAUL & PAC. R.R.
516 West Jackson Blvd. - Union Sta.
Chicago, Illinois 60606

J. L. Wright, Auditor
DULUTH & NORTHEASTERN RR COMPANY
Cloquet, MN 55720

J. M. Van Oss, Treasurer
GREEN BAY & WESTERN RAILROAD CO.
P. O. Box 2507
Green Bay, Wisconsin 54306

J. G. Gendron, Gen. Mgr.
MINN., DAKOTA & WESTERN RAILWAY
P. O. Box 19
International Falls, MN 56649

W. D. Anderson, Dir. of Taxation
RAILWAY TRANSFER CO.
400 West Madison St. - Room 716
Chicago, Illinois 60606

Charles E. Mosby, Property Tax Mgr.
NAT'L RAILROAD PASSENGER CORPORATION
400 No. Capitol St. N.W.
Tax & Ins. Dept.
Washington, D.C. 20001

R. R. Passaglia, Mgr. Tax Accounting
MPLS. EASTERN RAILWAY COMPANY
516 West Jackson Blvd. - Union Station
Chicago, Illinois 60606

M. A. Schensted, Comptroller
ST. PAUL UNION DEPOT COMPANY
Accounting Dept. - 2071 University Ave.
St. Paul, MN 55104

R. J. Molitor, Tax Accounting Office
BURLINGTON NORTHERN, INC.
B.N. Bldg. - 176 East 5th St.
St. Paul, MN 55101

INTERSTATE

Ike McCrary
Policy and Planning
Room 820 - Transportation Bldg.
Dept. of Transportation

W. D. Anderson, Dir. of Taxation
CHICAGO & NORTHWESTERN TRANSPORTATION
Room 716 - 400 West Madison St.
Chicago, Illinois 60606

Aitkin County Assessor & Auditor Aitkin, Mn. 56431

Anoka County Assessor & Auditor Anoka, Mn. 55303

Becker County Assessor & Auditor Detroit Lakes, Mn. 56501

Beltrami County Assessor & Auditor Bemidji, Mn. 56601

Benton County Assessor & Auditor Foley, Mn. 56329

Big Stone County Assessor & Auditor Ortonville, Mn. 56278

Blue Earth County Assessor & Auditor Mankato, Mn. 56001

Brown County Assessor & Auditor New Ulm, Mn. 56073

Carlton County Assessor & Auditor Carlton, Mn. 55718

Carver County Assessor & Auditor Chaska, Mn. 55318

Cass County Assessor & Auditor Walker, Mn. 56484

Chippewa County Assessor & Auditor Montevideo, Mn. 56265

Chisago County Assessor & Auditor Center City, Mn. 55012

Clay County Assessor & Auditor Moorhead, Mn. 56560

Clearwater County Assessor & Auditor Bagley, Mn. 56621

Cook County Assessor & Auditor Grand Marais 55604

Cottonwood County Assessor & Auditor Windom, Mn. 56101

Crow Wing County Assessor & Auditor Brainerd, Minn. 56401

Dakota County Assessor & Auditor Hastings, Mn. 55033

Dodge County Assessor & Auditor Mantorville, Mn. 55955

Douglas County Assessor & Auditor Alexandria, Mn. 56308

Faribault County Assessor & Auditor Blue Earth, Mn. 56013

Fillmore County Assessor & Auditor Preston, Mn. 55965

Freeborn County Assessor & Auditor Albert Lea, Mn. 56007'

Goodhue County Assessor & Auditor Red Wing, Mn. 55066

Grant County Assessor & Auditor Elbow Lake, Mn. 56531

Hennepin County Assessor & Finance Director Minneapolis, Mn. 55487

Houston County Assessor & Auditor Caledonia, Mn. 55921

Hubbard County Assessor & Auditor Park Rapids, Mn. 56479

Isanti County Assessor & Auditor Cambridge, Mn. 55008

Itasca County Assessor & Auditor Grand Rapids, Mn. 55744

Jackson County Assessor & Auditor Jackson, Mn. 56143

Kanabec County Assessor & Auditor Mora, Mn. 55051

Kandiyohi County Assessor & Auditor Willmar, Mn. 56201

Kittson County Assessor & Auditor Hallock, Mn. 56728

Koochiching County Assessor & Auditor Int'l Falls, Mn. 56649

Lac qui Parle County Assessor & Auditor Madison, Mn. 56256

Lake County Assessor & Auditor Two Harbors, Mn. 55616

Lake of the Woods Coutny Assessor & Auditor Baudette, Mn. 56623

LeSueur County Assessor & Auditor LeCenter, Mn. 56057

Lincoln County Assessor & Auditor Ivanhoe, Mn. 56142

Lyon County Assessor & Auditor Marshall, Mn. 56258

McLeod County Assessor & Auditor Glencoe, Mn. 55336

Mahnomen County Assessor & Auditor Mahnomen, Mn. 56557

Marshall County Assessor & Auditor Warren, Mn. 56762

Martin County Assessor and Auditor Fairmont, Mn. 56031

Meeker County Assessor & Auditor Litchfield, Mn. 55355

Mille Lacs County Assessor & Auditor Milaca, Mn. 56353

Morrison County Assessor & Auditor Little Falls, Mn. 56345

Mower County Assessor & Auditor Austin, Mn. 55912

Murray County Assessor & Auditor Slayton, Mn. 56172

Nicollet County Assessor & Auditor St. Peter, Mn. 56082

Nobles County Assessor & Auditor Worthington, Mn. 56187

Norman County Assessor & Auditor Ada, Mn. 56510

Olmsted County Assessor & Auditor Rochester, Mn. 55901

Ottertail County Assessor & Auditor Fergus Falls, Mn. 56537

Pennington County Assessor & Auditor Thief River Falls, Mn. 56701

Pine County Assessor & Auditor Pine City, Mn. 55063

Pipestone County Assessor & Auditor Pipestone, Mn. 56164

Polk County Assessor & Auditor Crookston, Mn. 56716

Pope County Assessor & Auditor Glenwood, Mn. - 56334

Ramsey County Assessor & Auditor - St. Paul, Minn. 55102

Roseau County Assessor & Auditor Roseau, Mn. 56751

St. Louis County Assessor & Auditor (Finance Officer) Duluth, Mn. 55802

Red Lake County Assessor & Auditor Red Lake Falls, Mn. 56750

Redwood County Assessor & Auditor Redwood Falls, Mn. 56283

Renville County Assessor & Auditor Olivia, Mn. 56277

Rice County Assessor & Auditor Faribault, Mn. 55021

Rock County Assessor & Auditor LuVerne, Mn. 56156]

Scott County Assessor & Auditor Shakopee, Mn. 55379

Sherburne County Assessor & Auditor Elk River, Minn. 55330

Sibley County Assessor & Auditor Gaylord, Mn. 55334

Stearns County Assessor & Auditor St. Cloud, Mn. 56301

Steele County Assessor & Auditor Owatonna, Mn. 55060

Stevens County Assessor & Auditor Morris, Mn. 56267

Swift County Assessor & Auditor Benson, Mn. 56215

Todd County Assessor & Auditor Long Prairie, Mn. 56347

Traverse County Assessor & Auditor Wheaton, Mn. 56296

Wabasha County Assessor & Auditor Wabasha, Mn. 55981

Wadena County Assessor & Auditor Wadena, Mn. 56482

Waseca County Assessor & Auditor Waseca, Mn. 56093

Washington County Assessor & Auditor Stillwater, Mn. 55082

Watonwan County Assessor & Auditor St. James, Mn. 56081

Wilkin County Assessor & Auditor Breckenridge, Mn. 56522

Winona County Assessor & Auditor Winona, Minn. 55987

Wright County Assessor & Auditor Buffalo, Mn. 55313

Yellow Medicine County Assessor & Auditor Granite Falls, Mn. 56241

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Eq.

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

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Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

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Section Prop Eq

Sub Activity	Sub Task
332	312

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Sub Activity	Sub Task
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Signature JUDY

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Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

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Section Prop Eq

Sub Activity	Sub Task
332	312

Signature JUDY

Total 566

21 x 25 = 525
23
548 Mailed on 4-10-80

18 cent
Inter-Office

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

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Section Prop Eq.

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

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Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Eq

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

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Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

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Class of Postage: 1st

Section Prop Eq

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Eq

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

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Section Prop Equal

Sub Activity	Sub Task
332	312

Signature JUDY

DOR-A21 (Rev. 7/77) **REVENUE MAIL SLIP**

Number of Pieces: 25

Class of Postage: 1st

Section Prop Equal

Sub Activity	Sub Task
332	312

Signature

(9)

RECEIVED
APR 15 1980
OFFICE OF HEARING
EXAMINERS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF REVENUE) AFFIDAVIT OF RECEIPT OF THE
GOVERNING THE AD VALOREM (PROPERTY)) SECRETARY OF STATE'S LIST
TAXES IMPOSED ON RAILROAD COMPANIES)

Judith M. Carling, being duly sworn on oath, deposes and says:

1. That she is an employee of the Revenue Department of the State of Minnesota.

2. That on the 1st day of April, 1980, she 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 10th day of April, 1980, in response to the above request, the Secretary of State provided her with such list, a copy of which is attached hereto and incorporated by reference.

Further, affiant sayeth not.

Judith M Carling

Subscribed and sworn to before me this

10th day of April, 1980.

Patricia Zentzis

PATRICIA ZENTZIS
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Comm. Expires May 9, 1982

DR-80-050-JL

STATE OF MINNESOTA
OFFICE OF HEARING EXAMINERS

FOR THE DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the Department of Revenue Governing the Ad Valorem (Property) Taxes Imposed on Railroad Companies.

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before Jon L. Lunde, duly appointed Hearing Examiner, on Thursday, May 15, 1980, at 9:00 a.m. in Room 51 of the State Office Building, Wabasha Street and Park Avenue, St. Paul, Minnesota, 55155, pursuant to an Order for Hearing dated March 17, 1980.

Dorothy A. McClung, Research Attorney, Centennial Office Building, 658 Cedar Street, St. Paul, Minnesota, 55145 appeared as counsel for the Commissioner of the Minnesota Department of Revenue (hereinafter the "Commissioner"). Appearing as witnesses for the Commissioner were Lyle H. Ask, Director, Property Equalization Division, Gerald D. Garski, Manager, State Assessed Property Section of the Property Equalization Division, and Wayne Gerwig, Railroad Examiner, all employees of the Department of Revenue.

This was a rule hearing conducted pursuant to Minn. Stat. Ch. 15 to determine whether the Department has authority to adopt the rules proposed and whether they are necessary and reasonable and may be adopted.

Approximately 50 persons appeared at the hearing, 27 of whom signed the hearing register. The hearing continued through the day and until all persons present had had an opportunity to be heard. The record remained open for 20 calendar days following the hearing, through Wednesday, June 4, 1980, for the submission of written comments by interested parties. Fourteen departmental exhibits (Nos. 1-14) and five public exhibits (Nos. 1-5) were offered and received into evidence at the hearing. In addition, seven written comments were separately submitted to the Hearing Examiner before the record closed.

Pursuant to Minn. Stat. § 15.0412, subd. 4 (1978), this Report shall be available for review to all affected individuals upon request for at least five days. Thereafter, the Commissioner shall, if he proposes to adopt the rules as originally proposed or amended, submit a copy of the Order Adopting Rules, a copy of any additional agency findings, a copy of the rules as originally proposed, and a copy of the rules as adopted to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4 (1978). 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 Commissioner on the issues of substantial changes in the rule and compliance with Minn. Stat. § 15.0412 (1978) within ten calendar days. The Commissioner will be responsible for filing the rules with the Attorney General and for notifying persons who have indicated that they wish to be notified of such filing.

Based upon all the records and proceedings herein, the Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On March 10, 1980, the Commissioner filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing proposed to be issued.
(c) The Notice of Hearing proposed to be issued.
(d) A Statement of the number of persons expected to attend the hearing and estimated length of the Agency's presentation.

2. On Monday, April 14, 1980, a Notice of Hearing and a copy of the proposed rules were published at 4 State Register 1637-1642.

3. On April 10, 1980, the Commissioner mailed the Notice of Hearing to all persons and associations who had registered their names with the Secretary of State for the purpose of receiving such notice.

4. On April 15, 1980, the Commissioner filed the following documents:

(a) The Order for Hearing.
(b) The Notice of Hearing as mailed.
(c) The Affidavit of Receipt of the Secretary of State's list.
(d) The Affidavit of Mailing the Notice to all persons on the Secretary of State's list.
(e) The Secretary of State's Certificate and list.
(f) The Statement of Need and Reasonableness.
(g) All materials received following a Notice of Intent to Solicit Outside Opinion published on Monday, June 18, 1979, in State Register 2253-2254.
(h) The names of Department of Revenue personnel who will represent the Agency at the hearing together with the names of any other witnesses solicited by the Agency to appear on its behalf.

The documents were available for inspection at the Office of Hearing Examiners from the date of filing to the date of the hearing.

5. The record remained open through Wednesday, June 4, 1980 for the receipt of written comments and statements, the period having been extended by order of the Hearing Examiner to 20 calendar days following the hearing.

6. As authority for the adoption of the proposed rules, the Commissioner cited inter alia Minn. Stat. §§ 270.06 (14) (1978), and 270.81(1) and (5) (1979 Supp.). Pursuant to § 270.06 (14), the Commissioner has general rulemaking authority with respect to the property tax. That section provides as follows:

> (14) The commissioner of revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law. . . .

In addition, the Commissioner has been specifically directed to value the operating property of every railroad in the state. In so doing, the adoption of permanent rules was contemplated by the Legislature. The provisions pertaining to that valuation and the adoption of those rules are found in Minn. Stat. § 270.81 (1) and (5) (1979 Supp.) which provide as follows:

> Subdivision 1. The operating property of every railroad company doing business in Minnesota shall be valued by the commissioner in the manner prescribed by Laws 1979, Chapter 303, Article VII, Sections 1 to 13.[1]
>
> Subd. 5. Prior to the promulgation of permanent rules, the commissioner may exercise temporary rule-making authority as provided in section 15.0412, subd. 5, to implement the provisions

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[1] This provision has been codified as Minn. Stat. § 270.80 et seq. (1979 Supp.)

of Laws 1979, Chapter 303. The commissioner shall solicit information and opinions from outside his department as provided in section 15.0412, subd. 6, before adopting these rules.

7. Laws 1979, Chapter 303, Article VII (hereinafter the "1979 amendment" and hereinafter cited to Minn. Stat. § 270.80 et seq. (1979 Supp.)) provides for the ad valorem taxation of railroad property. The tax is imposed on railroad operating property and replaces the gross earnings tax previously imposed on railroad revenues.[2] Implementation of this new tax is the responsibility of the Commissioner who, pursuant to Minn. Stat. § 270.81, is directed to value all such operating property, and given the exclusive primary jurisdiction to determine what property is, in fact, operating property. The adoption of both temporary and permanent rules regarding this new tax are clearly contemplated by subdivision 5 thereof which was previously cited.

8. The Commissioner adopted temporary rules implementing the 1979 amendment which were approved by the Attorney General on March 6, 1980 and as directed, solicited outside opinions and information regarding the proposed permanent rules under consideration herein. The rules are divided into six sections codified as 13 MCAR § 1.0021-1.0026. The first three sections pertain to the purpose of the rules, definitions and required reporting forms. The last three sections, containing the substance of the rules, provides for the method by which the total unit value of each railroad is computed; the allocation where necessary of that portion taxable by Minnesota; and the exclusion therefrom of non-taxable property located within the state. The six sections will be considered consecutively herein.

Section 1.0021 is intended as an historical introduction and explanation of the purpose of the proposed rules and consists of three short paragraphs generally alluding to the 1979 amendment adopting the ad valorem tax and the dates when the various provisions thereof are applicable. Such an introductory provision is helpful, necessary and reasonable. It is noted, however, that the reference contained in the first paragraph alludes only to the so-called Omnibus Tax Bill of 1979 and contains no acceptable or readily recognizable legal citation to the legislative enactment itself. In order to clarify the legislation involved, the Hearing Examiner recommends that the first two sentences of that section be amended to read as follows:

> Laws 1979, Chapter 303, Article VII (the so-called Omnibus Tax Bill) codified as Minn. Stat. § 270.08 et seq. (1979 Supp.) eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property.

complied p. 1

9. Section 1.0022 contains the definitions applicable for purposes of the proposed rules. Some of the definitions follow those found in the 1979 amendment and others are standard appraisal terms commonly used and understood throughout the country. Repetition of statutory definitions in these rules, as proposed by the Commissioner, is crucial to an understanding of the rules

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2 The gross earnings tax (Minn. Stat. § 295.02 (1978)) was repealed effective January 1, 1981 by the 1979 amendment. Although the first valuation of railroad operating property under the statute was made for the assessment year 1979, no apportionment of value to local taxing districts is provided for until 1981 for ad valorem taxes payable in 1982. For taxes payable by railroads in 1980 and 1981, a special transitory provision was adopted. See Minn. Stat. § 270.90 (1979 Supp.).

and is, therefore, permissible under Minn. Stat. § 15.0412(1) (1978). However, some comments are in order.

10. Section 1.0022 A. defines "Allocation" as follows:

> "The process of dividing the unit value of a railroad company among the states in which the railroad operates."[3]

The use of the term "allocation" and the definition of that word in the rule is necessary. It is the very same word as that used but not defined in Minn. Stat. § 270.84(1) for describing the process by which the taxable portion of the unit value of a railroad is assigned to the state. However, the definition proposed does not correctly define the process followed. The rules do not divide the unit value of a railroad "among the states" as the proposed definition reads. On the contrary, they merely determine what portion of the railroad's total unit value is allocable to and taxable by this state. Accordingly, the definition should be amended to specify what is actually allocated by the rules. It is recommended, therefore, that it be amended to read as follows:

> A. "Allocation" means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

complied p. 1

11. Section 1.0022 B. defines "apportionment" as the process of dividing Minnesota's allocated share of each railroad's total unit value among the various taxing districts in which it operates. The use of this term and its definition in the rule is necessary. Again, it is the same word used but not defined in Minn. Stat. § 270.86. Its use in the rules is consistent with the law and the definition proposed is reasonable. The Department did not explain the reason for its use of the term "taxing districts" in the rule rather than the language in § 270.86 itself which refers to apportionment to "the respective counties and to the taxing districts therein." For the sake of consistency between the rules and the statutes, the latter quoted language appears more appropriate and is recommended.

complied p. 1

12. Section 1.0022 E. defines "Exempt property" which is not taxable under the proposed rules. In order to clarify the personal property exemption, it is recommended that the following language, consistent with Minn. Stat. § 270.81(4), be added to the very end thereof: "Otherwise exempt from taxation under Minn. Stat. Chapter 272." This clearly references the statutory provisions determinative of the taxable status of personal property and is helpful for an understanding of the rule as a whole.

complied p. 1.

13. Section 1.0022 F. defines "Non-operating property" as follows:

> F. Non-operating property --- all property owned by a railroad company which does not fall under the definition of operating property. Non-operating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. It shall also include land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual

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[3] It is noted that the proposed rules do not put quotation marks around the various terms defined. Since this is the usual practice in the drafting of agency rules, it is recommended that that practice be followed in this case and instead of merely inserting three dashes between the definition and the word defined, that the word "means" be inserted therein. Thus, for subsection A., the definition would start "Allocation" means . . . .

complied p. 1, 2

basis in the performance of these services. This property shall be valued by the local or county assessor rather than by the Commissioner of Revenue.

Except for the last sentence, the proposed definition closely parallels the definition contained in Minn. Stat. § 270.80(4) and is consistent with it in all material respects. The definition is essential to an understanding of the rules and is, for that reason, both necessary and reasonable. However, the last sentence thereof, while explanatory and informative, not only deviates substantially from the statutory definition but was not shown to be authorized. Therefore, it is recommended that it be deleted.

complied p. 2

14. Section 1.0022 G., defining "Operating property", provides as follows:

> G. Operating property --- all property owned or used on a regular basis by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridge (sic) trestles, shops, docks, wharves, buildings and structures.

Except for the words "on a regular basis", and the typographical failure to make "bridge" plural and follow it with a comma, the proposed definition is identical to that of Minn. Stat. § 270.80(3) and repetition of the statutory definition is crucial to an understanding of the rule and is, therefore, necessary and reasonable. Since the Commissioner has the authority under § 270.81(3) to determine what operating property is, his decision to clarify it to include only that used on a regular basis is clearly authorized. However, the definition does not appear to be wholly consistent with the statutory definition of non-operating property which includes property "which is not used on a regular and continual basis." The Commissioner did not explain his proposed departure from the statutory definition, and since it raises a potential inconsistency with the definition of non-operating property found in the statute, it should be deleted or replaced by the language "on a regular and continual basis."

complied p. 2

15. The other definitions in the proposed rule all are a necessary and reasonable implementation of the Commissioner's authority and discretion which properly define necessary terms. None of the proposed definitions were criticized by interested parties. One party did mention that a more specific definition of non-operating property would be helpful to local assessors in their assessment duties but further specificity in the definition is not required and has not been proposed.

16. Proposed § 1.0023 specifies those reports each railroad company is required to file with the Commissioner by April 30th of each year and provides that the data used in the valuation, allocation and apportionment process will be drawn from those reports and from "other sources the Commissioner believes are pertinent." Three of the specified reports which must be submitted by railroad companies are merely copies of documents prepared for other administrative agencies and the fourth requests operating information readily available to railroad companies. Submittal of the reports specified is necessary to enable the Commissioner to determine the taxable value of each railroad's operating property and its submittal by April 30th of each year is specifically mandated for that purpose in Minn. Stat. § 270.82(1). As such, the rule is a necessary and reasonable exercise of the Commissioner's discretion in that respect. It is noted, however, that the sources relied upon in determining

the proposed capitalization rate used in determining the unit value of railroad companies under § 1.0024 C., as well as the sources referenced in § 1.0024 D., in determining the valuation of railroad stock, have not been listed here, even though they are known. These other sources of data that are used by the Commissioner in computing unit value should be included in a new subsection A.5. which could read as follows:

> 5. Other commonly accepted sources of railroad income, expense, capitalization and debt and stock values such as Standard & Poor's Stock Guide, Standard & Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States compiled by the Interstate Commerce Commission.

complied p. 5.

The inclusion of such a provision makes the rules more specific and provides some guarantee that the same sources of information will be consulted on a uniform basis in computing the various values involved. As will be discussed in more detail below, the same kind of statistical information should be used on a consistent basis in determining future values and capitalization rates and the sources of the statistical information from which such data will be extracted and interpolated should be set forth in the rule where those sources are known.

17. The provision permitting the Commissioner to consider other unidentified sources he "believes are pertinent" on a case-by-case basis must be deleted. As written, it would permit the Commissioner to ignore reports submitted by railroads in favor of other possibly different or conflicting information and would permit him to use different sources of information in the computation of the value of different railroads or the use of data in one case that is not used in computing the value of railroads, generally. The rule must provide for predictability and non-discriminatory action. The discretionary provision in this rule was not shown to be necessary or reasonable.

complied p. 2

While not every conceivable source of information necessary to a determination of railroad value must be listed, and in many cases may be unknown, some attempt must be made to specify when other data will be used and the source or type of report or information to be consulted. Furthermore, the rule should provide that any unspecified source of information consulted will, when applicable, be used uniformly in computing various railroad values. To accomplish this, the rule could have the following or similar language inserted at the very end of § 1.0023 A.

> Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation and apportionment required by §§ 1.0021 to 1.0026. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

complied p. 3

18. The parenthetical abbreviations found in § 1.0023 A.2. and 3. are indirect definitions of "I.C.C." and "P.S.C." and should more appropriately be included in the definitions section of the rule. It should be further noted that the Public Service Commission's title was changed by the Legislature in 1980 to the Public Utilities Commission and the initials "P.U.C." should be substituted for "P.S.C."

complied p. 3.

19. Section 1.0023 C., which permits the Commissioner to use any available information to value a railroad in the event required reports are not

filed is, of course, essential to the administration of the new tax law and is specifically authorized by Minn. Stat. § 270.83(3) (1979 Supp.). As such, it is a reasonable and necessary rule.

20. 13 MCAR § 1.0024 is one of the major substantive provisions of the proposed rules and provides for the manner in which railroads are valued for purposes of the new tax. Generally speaking, the rules provide for an initial valuation of the entire system of each railroad company subject to the tax. Use of a "unit value" of railroads is specifically required by Minn. Stat. § 270.84(1) which requires the Commissioner to value the "operating property as a unit, taking into consideration the value of the operating property of the entire system." However, the proposed unit valuation procedure of the Department appears inconsistent with the statutory language regarding unit value. The Department initially values the entire railroad (including both operating and non-operating property) in arriving at the unit or system value. It proceeds to allocate a portion thereof to Minnesota and then deducts non-operating property in the state to arrive at a taxable value. The statute, on the other hand, provides for consideration of the "operating property as a unit" and the "operating property of the entire system" and does not direct or apparently permit allocation of a system valuation which includes non-operating property as the Commissioner proposes. The proposed rule nowhere computes the value of the "operating property of the entire system", and such a value is not used or taken into consideration in making the requisite allocation.

21. If a system or unit valuation is made initially, which includes both operating and non-operating property, the statute calls for a reduction of that value by the value of non-operating property of the entire system so that the "operating property of the entire system" is known. A fair and reasonable portion of the "operating property of the entire system" (emphasis added) is then to be allocated to the state. The difference is this: The statute requires consideration of the entire value of non-operating property to be deducted from the total value of all railroad property before allocation, whereas the rule apparently does not consider the value of non-operating property until after allocation. What difference this would make in the ultimate value for purposes of taxation is not known but a difference might likely exist. Consequently, it is concluded that the valuation process proposed by the Commissioner is inconsistent with the plain language of § 270.84 and should not be adopted because it does not allocate the unit value of the operating property of a railroad but allocates the entire unit value of all property (including non-operating property) of the railroads.

The income approach to the unit valuation of railroad property under § 1.0024 C. capitalizes only Net Railway Operating Income but it was not shown whether income from non-operating property is included in that account. Similarly, the stock and debt approach to unit valuation, while containing an adjustment for non-railway operations, was not shown to adjust for income from non-operating property. Likewise, no evidence was presented that the cost was reduced for the value of non-operating property and it no doubt was not in view of the deductions permitted for non-operating property permitted under § 1.0026.

22. The inclusion of the value of non-operating property in computing the "unit value" of each railroad company for purposes of allocation was challenged by Mr. M. A. Letvin, Assistant Treasurer of Corporate Taxes for the Duluth, Winnipeg and Pacific Railway Company in his written posthearing comments. He stated therein (p. 3) as follows:

> . . . the Legislature has directed that "... the commissioner shall value the operating property as a unit..." Section 270.84 subd. 1. (emphasis added) The key here is the requirement that the valuation be of each railroad's taxable property as a whole. This encompasses only that tangible property which is subject to taxation. Thus, any valuation method must be able to demonstrate the true value of the taxable property of the particular railroad being valued. This concept does not allow the value subject to tax to reflect any worth not transferable as part of the taxable property. Nor does it permit a method which doesn't reflect that property's true value. Nor does it permit a value which includes worth attributable to exempt property.

It is true that the use of the entire system value for purposes of allocation includes non-operating property and by merely deducting non-operating property in this state after allocation, an excess or residual may still exist. The Department did not discuss this apparent departure from the statutory methodology to be used, and it is unknown if the value of non-operating property in each state is known or if it can be computed. Furthermore, while the results or value ultimately reached, using either of these two methodologies, might yield the same or approximately the same valuation figure, the methodology specified in the statute should be followed. In spite of the questionable nature of the methodology proposed, the rule, in other respects, will be considered herein as though the process were, in all repects, proper.

23. Section 1.0024 A. provides that the entire unit value of each railroad, as defined in the rule, will be made using the "cost" "capitalized income" and "stock in debt" approaches.[4] Each of these approaches will be considered separately.

24. The cost approach determines the value of all railroad property based on its original cost, plus the original cost of construction work in progress on the assessment date. This approach is recognized in Minn. Stat. § 270.84 and consistent with that section, no allowance is made for depreciation or obsolescence. In support of its use of the cost approach, the Statement of Need and Reasonableness (hereinafter the "Statement") provides as follows (p. 3):

> . . . The cost approach to value has long been used as one of the best means of measuring the worth of an entity. It is based on the simple premise that something is worth what you have paid for it. In many instances cost is the only method which can be used to value special purpose property. In the case of valuing railroad property, the agency believes that the cost approach to value is a practicable and necessary means of arriving at market value. The cost used is the original cost of the property, that is the actual acquisition cost of a property when it was first acquired or constructed. Items which are included in this cost figure are closely controlled by regulatory agencies.

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[4] The rule citations in this section, which include a comma after the section number, are improper. (i.e., 13 MCAR § 1.0024, D and F) and the comma should be deleted and periods inserted after the capitalized letters D. and F.

This cost approach for determining the entire system value of each railroad company is weighted at 25%. That is, only 25% of the value computed by this approach is used in the usual case in computing the entire unit value calculation for purposes of allocation.

25. The use of the cost approach to valuation and weighting it at 25% was questioned by several interested persons. Donald C. Knickerbocker, Assistant General Counsel for the Burlington Northern, stated as follows:

> . . . the railroads believe that the cost approach to valuation is the least reliable indicator of market value. It is recognized by virtually all authorities that one of the most significant requirements of the cost approach is a suitable allowance for depreciation and obolescence (sic). The Appraisal of Real Estate (7th Ed., rev. 1978, p.263); Encyclopedia of Real Estate Appraising (Friedman Ed., rev. 1968, p. 77). It is axiomatic that application of the cost approach without such an allowance produces an artifically (sic) inflated value that lacks reliability. The Department's weighting of the cost approach at 25 percent ignores this unreliability and is in conflict with established appraisal technique.
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> * * *
>
> We recognize that the Legislature has mandated that if the Commissioner uses original cost as a factor in determining the unit value, no depreciation or obsolescence allowance is permitted. However, the Legislature has not mandated that the Commissioner must use original cost as a factor, nor did the Legislature mandate that if the Commissioner uses original cost, it should be weighted at 25 percent.
>
> As indicated above, we believe that the cost approach is the least reliable indicator of value and that this lack of reliability becomes even more pronounced when no allowance is made for depreciation or obsolescence. This being so, we question both the use of cost as a factor, and the 25 percent weighting. If the Commissioner feels compelled to use unadjusted original cost in his valuation, he should recognize its inherent weaknesses and assign it a weighting substantially less than 25 percent."

26. Most assessors who commented on the proposed rules expressed a general dissatisfaction and disagreement with the valuation approaches proposed by the Commissioner. They not only felt that the methodology adopted value the railroad's "business" more than its "property", but they also challenged the particular approaches and the weighting assigned to them. Thus, Robert T. Iocky, St. Louis Park City Assessor, stated:

> Upon reviewing the proposed regulations to be adopted, we cannot accept the valuation concept for the value of railroad lands on the ad valorem tax structure that is universally adopted throughout our City and State.
>
> The proposition, if adopted, is so preposterous, that it will haunt our citizens and their leaders for many years to come and cause chaos in the administration of other ad valorem assessed properties.
>
> It is very obvious that the valuation concept is structured and designed to reach a specific amount of tax. The most significant disparity is using original acquisition costs and business intangible incomes to conclude value (a different standard compared to existing standards).
>
> The significant value of railroad property lies in its land holdings. Their lands should be taxed on the same concepts and standards as other lands are taxed. "We should not adopt a different standard in the approach to land values because it serves as a basis for taxation."

Donald F. Monk, Hennepin County Assessor, speaking on behalf of himself and five others who jointly sat as an advisory body to the Commissioner in preparing these rules, stated:

> The formula as presented appears to value the business rather than the ad valorem concept of valuing the property. This is evidenced by the use of net income from the business rather than income a property generates if rented.
>
> The use of original or historic cost, when used in the cost approach, is of little or no value as an indicator of today's value. Current cost less appropriate depreciation would represent a more realistic approach, especially in light of the fact that railroads acquired some property with no cost. The formula also calls for 50% weight to be given to the original cost and in the case of no acquisition cost, this provision would be seriously in error. This also leads us into one of our most serious concerns. If this formula is adopted with the 50% weight to original rather than current cost, will other industries in the state than ask that they be given a formula system that weights their historic costs. The approaches to value as recognized by appraisers, assessors and the courts as well utilized (sic) current market, current income and current cost less depreciation.
>
> Another key factor that may be absent is the most identifiable and tangible property the railoads own; that is the land. If the land were to be valued and assessed on its current market value basis, such as other commercial and industrial property is valued, this would be in concert with the ad valorem system in this state. Then the peculiar aspects of the individual railroad, such as a very profitable, mediocre or even a bankrupt railroad could be adjusted by a weighting given to income, stock and debt if present, etc. We would recommend serious consideration be given to weighting the current cost less depreciation at 75% and the income approach at 25%. This weighting is also more consistanct (sic) with other valuation formulas utilized and developed by the Commissioner of Revenue for Public Utilities.

Although he mistakenly cites the weighting to be given the original cost approach to valuation as 50% when it is, in fact, 25%, his comments are, nonetheless, noteworthy.

27. Mr. Gordon E. Moe, Minneapolis City Assessor, was similarly concerned and pointed out particular inequities he believed were involved in the use of the original cost approach. He stated:

> The basic problem as I see it is: one, using original cost as a value rather than replacement cost less depreciation; and two, using capitalization of income from a business rather than using the net income a property would generate if rented. The stock and debt approach would be appropriate to use for the market data approach, but requires a valid method of removing the non-operational and non-taxable property. It further seems that undue weight (50%) is being attached to the income approach. It should be noted that the formula established for valuing utility properties uses the cost approach for 85% of the value and the income approach to the extent of 15% with no consideration for stock and debt (or market). In the case of railroads showing a loss over a five-year period only the cost approach is to be used. To correlate better with those roads that are showing a profit it would seem appropriate to give a larger weight to the cost approach.
>
> This would give more consistent results when one considers railroads which show very minimal net income (obviously their real property would sell for a much higher value than would be indicated by the income approach). It would seem to me that the weighting for the income approach should not be over a maximum of 25%.

The problems with the cost approach using original costs is the tremendous discrepancies which will show up if comparisons between operational and non-operational properties are made. Land costs will particularily distort these results since there has been such incredible inflation in these values over the years, but also will show up in building values. One example that can be cited would be the Soo Line office building in Minneapolis. This property is 62.5% rented out and so this part is non-operational. Under the proposed formula, the non-operational part would be valued by the assessor according to its market value in comparison with other office buildings downtown, but the operational part would be valued at original cost by the Commissioner of Revenue. It currently has a total value of $5,600,000.

This is currently broken down by the assessor as follows:

	Land	Building	Total
Operational	$300,000	$1,800,000	$2,100,000
Non-Operational	640,000	2,860,000	3,500,000

I am sure we would find the original cost for this building built in 1915 was quite low in relation to its market value today and the original cost of the land extremely low in relation to today's market value. Under these circumstances, the operational value per sq. ft. of land and building would have to be much lower than the non-operational value (and yet should have the same per sq. ft. value for sale or taxation purposes--assuming we are comparing similar space in the building). Differences in the original cost of vacant land would be even more sriking where the original cost of land acquired by the railroad may be measured in only cents per sq. ft.; whereas the average railroad land in Minneapolis is probably worth $1.50 per sq.ft.

There may even be lands in the railroad systems which were given to them free by the government in order to get the railroads built. It is my opinion there is absolutely no valid relationship between original cost and market value today. It should be noted that the rules for valuing utility properties using the cost approach includes a factor for increasing costs (average cost of construction per KWH over the last ten years). There are other indices of cost that could be applied to railroad land and buildings that would make the proposed rules for the cost approach more equitable. However, replacement cost less depreciation would yield the best results (contrary to the Department of Revenue's statement of need and reasonableless that "inflating the old dollars to current levels and then applying a depreciation or obsolescence allowance to this figure would produce much the same value as using original cost and allowing no depreciation)." The discrepancy in value using original cost will be most apparent on the land. Again I would cite the example of a bankrupt railroad which could have land in at a very low original cost but could sell the land at a substantial figure. A comparison of the average value of land in any taxing district with the original cost of the railroad land in the same district would quickly show the inequity of this approach.

28. The Commissioner's Statement professes the "belief" that original cost is generally equivalent to replacement cost less depreciation and obsolescence, depreciation being offset by inflation, but he presented no evidence that such was the case and this belief was criticized by Mr. Moe, who himself is apparently an expert in his own right. As Moe mentioned, much railroad land was obtained by the railroads at no cost. The cost of obtaining similar lands today would, of course, be substantial and since land is not depreciable, the replacement cost of lands, even if they had been purchased, would not be essentially equivalent to original cost. Therefore, to the extent that land values make up the total value of operating property, original cost standing alone does not provide a reasonable gauge of fair market value. The extent of

railroad land holdings subject to the tax was not established, but common sense leads to the conclusion that they are substantial. In the city of St. Louis Park, alone, for example, Mr. Iocky testified that 40% of all land is owned by railroads.

29. No system of valuation is perfect, of course, and in spite of the drawbacks mentioned to the use of the cost approach to the valuation of railroad property, such an approach is not unreasonable. Not only is it impliedly sanctioned by statute, but cost is a legitimate consideration in establishing value and has been long recognized as such. While not ideal standing alone, it has only been rated at 25% of the total value of each railroad's system. Furthermore, the Commissioner does have expertise in the areas of the valuation and taxation of property and retained expert consultation in the preparation of the proposed rules and methods of valuation.[5]

While assessors suggested that replacement cost, less depreciation, be adopted, and weighed it as high as 85%.[6] The Commissioner argued that historical costs and replacement costs, less depreciation, are similar in effect, as was previously discussed, and that the computation of replacement costs is nearly impossible for each item of each railroad's total system with its current staff of one person. While administrative inconvenience is not a sufficient basis for an unfair valuation methodology, it is a factor that should be considered in choosing between two available approaches. Furthermore, even if replacement cost is more indicative of value, by weighting the original cost figure, adjustment is made for the degree to which it should be determinative, and while the cost approach does not reflect obsolescence, the other two approaches do, as was pointed out in In Re Chicago and Northwestern Railway Company, infra. The specific reasons for adoption of a 25% weighting were not discussed by the Commissioner at the hearing, but it is not unreasonable and was not shown to produce an unfair figure.

Interestingly, the Commissioner noted that the cost approach proposed in the rule normally yielded the highest valuation figure of the three proposed approaches, but no specific comparisons were presented showing by what percentage a cost valuation exceeded the valuations made following the other two specified approaches. However, it is clear that reducing the weight assigned to historical cost would generally produce lower values for tax purposes (supported by the railroads) while increasing the weight assigned to historical costs would normally increase taxable values (favored by taxing districts).

Although the assessors believed that the proposed valuation methods value the railroad "business" rather than their taxable property, such a valuation approach is implicit in § 270.84 calling for the computation of a unit value of railroad property, and although Minnesota assessors could easily determine

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[5] The Department retained the consulting services of Mr. Robert H. McSwain, a nationally known expert in the valuation field. He has experience in railroad valuation. Unfortunately, he did not testify at the hearing regarding his expert opinions of the valuation methodology proposed and his opinions are, therefore, unknown.

[6] See comment of Gayle Leone, Anoka County Assessor. Utility property in the state is currently valued at cost (85%) and income (15%) with a factor for increasing costs each year.

CAPITALIZATION OF AVERAGE RAILROAD WORKSHEET

10 YEAR STUDY - HOW THE AVERAGE RAILROAD IS CAPITALIZED

YEAR	FUNDED DEBT (Millions)	EQUITY (Millions)	TOTAL (Millions)
1968	8002	6575	14577
1969	8129	6572	14698
1970	8016	6323	14339
1971	7204	6384	13588
1972	7063	5905	12968
1973	7198	5894	13092
1974	7088	5870	12958
1975	7633	5840	13473
1976	8870	5106	13976
1977	9810	4971	14781

YEAR	% OF DEBT TO TOTAL	% OF EQUITY TO TOTAL
1968	54.89%	45.11%
1969	55.29%	44.71%
1970	55.90%	44.10%
1971	53.02%	46.98%
1972	54.46%	45.54%
1973	54.98%	45.02%
1974	54.70%	45.30%
1975	56.65%	43.35%
1976	63.46%	36.53%
1977	66.37%	33.63%
Average	56.97%	43.03%
Rounded Average	55%	45%

SOURCE:

Transport Statistics in the US - Table 84
Interstate Commerce Commission

15 YEAR STUDY

COST OF MONEY

YEAR	%
1963	4.65%
1964	4.67%
1965	4.72%
1966	5.37%
1967	5.89%
1968	6.77%
1969	7.46%
1970	8.77%
1971	8.38%
1972	7.99%
1973	8.12%
1974	8.98%
1975	9.39%
1976	8.85%
1977	8.13%
Average	7.21%

Source: Moody's Transportation Manual (pp a32 - a33)

COMPUTATION OF AVERAGE CAPITALIZATION RATE

1.	Average Railroad Debt Cost	7.21%
2.	Average Funded Debt % of Capitalization	55 %
3.	Weighted Debt Cap Rate Factor	3.97%
4.	Average Railroad Equity Return	15.23%
5.	Average Equity % of Capitalization	45 %
6.	Weighted Equity Cap Rate Factor	6.85%
7.	Average Railroad Capitalization Rate (Line 3 + Line 6)	10.82%
8.	Capitalization Rate Rounded To	11 %

5 YEAR RAILROAD COMMON STOCK YIELD STUDY

YEAR	AV MKT PRICE	DIVIDENDS PER SHARE	DIVIDEND YIELD %	EARNINGS PER SHARE	5 YR MOVING AVER E PER S	% OF E/S INCREASE	INDICATED RATE
1973	38.01	1.96	5.16%	4.34	3.42	3.01%	8.17%
1974	37.53	2.18	5.81%	5.63	3.86	12.87%	18.68%
1975	37.48	2.14	5.71%	4.69	4.31	11.67%	17.38%
1976	45.87	2.16	4.71%	5.71	4.84	12.30%	17.01%
1977	49.94	2.49	4.99%	6.25	5.32	9.92%	14.91%
AVERAGE	41.77	2.19	5.28%	5.32	4.35	9.95%	15.23%

SOURCE: Standard & Poors Statistical Service Security Price Index Record

the average taxable value of land in any particular taxing district and could apply that value to railroad land, the legislature rejected an amendment providing for such a valuation procedure by local assessors. Furthermore, as is discussed in the attached memorandum, the valuation approaches adopted by the Commissioner have been uniformly approved by the courts throughout the country.

30. Section 1.0024 C. provides for the second methodology to be used computing the system value of Minnesota railroad companies, the so-called "income approach". This methodology capitalizes net railway operating income for the most recent five-year period preceding the assessment by a percentage (capitalization rate) computed using the band of investment method. The income approach to value is, according to the Commissioner's Statement, based on "the simple axiom that a property is worth what it can earn." The reason for the adoption of an income approach and a description of the band of investment method is described in the Commmissioner's Statement (pp. 4-5) as follows:

> The band of investment method is a synthesis of mortgage and equity rates which market data disclosed as applicable to comparable properties. The rate developed is a weighted average, the weighting being for percentages of the value which would be occupied by the mortgage and equity position, or bands of investment.
>
> * * *
>
> . . . The method employed again uses averages, just as the income stream does, to insure stability. The agency has developed one capitalization rate for all railroads doing business within Minnesota. We believe this is reasonable in that it follows the practice of both the legislature and the courts in Minnesota of treating all members of one class of property alike. The classification system is a good example: Minnesota has many different classifications of property. Some classes of property are assessed at a higher rate than others, but all property within one class is assessed at the same rate. This is analogous to what the agency has attempted to do within the framework of these proposed rules: treat all property owners of one class, i.e., railroads, alike. For this reason we have not developed individual capitalization rates, one for each road, but an average rate to be applied to all roads.

31. The "income stream" which is capitalized is the average net railway operating income for the specified period. Five years was selected by the Commissioner because of the cyclic nature of railroad earnings which occur every three to four years. Use of a five-year period yields a relatively stable picture of railroad income for capitalization purposes and is reasonable.

32. The rule itself contains no express formula or methodology for computing the capitalization rate proposed. It merely provides that the band of investment method will consider:

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to embedded debt of railroads.
3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

However, in an attachment to its statement (Ex. 1), the methodology utilized for computing the initial capitalization rate is set out. That attachment is included herein as page 13-A.

33. Examination of the Commissioner's calculations reveals that based on various sources, the average U. S. railroad during the ten-year period ending 1977 was capitalized at a ratio of 55% debt and 45% equity, and that the average cost of money on railroad debt over a 15-year period, and the average common stock yield (dividend yield plus increases in earnings per share over a five-year period), when factored by these capitalization percentages, yielded a capitalization rate of 11% (10.82%).

34. In addition, from 1968 through 1975, the percentage of debt and equity to total capital remained relatively stable. As to debt, it ranged from a low of 53.02% to a high of 56.65%. However, in 1976 and 1977, it rose to 63.46% and 66.37%, respectively. Furthermore, after 1974 it steadily increased. Although the more recent capitalization figures are not known, if the trend of the last three years reported continued, the use of a debt to equity ratio of 55:45 is questionable. The potential disparity is particularly magnified by the Commissioner's rounding of the average attained (56.97%) down to 55% instead of rounding it to the nearest percent (i.e., 57%). This has the effect of reducing the ultimate capitalization rate and increasing the final valuation.

35. M. A. Letvin and Burlington Northern witnesses at the hearing both questioned the valuation of the debt:equity ratio by considering only the face value of debt and capital stock without also considering the capital surplus and retained earnings accounts. They argued that those accounts also make up each railroad's shareholder's equity. Including the capital surplus and retained earnings accounts in computing the debt:equity ratio produces dramatic results. Using the Commissioner's figures, Mr. M. D. Ross, Jr., Director of Taxes, Soo Line Railway Co., calculated (Pub. Ex. 3, p. 3) a capitalization rate of 12.82% as follows:

COMPUTATION OF AVERAGE CAPITALIZATION RATE

1.	Average railroad debt cost	7.21%
2.	Average funded debt percent of capitalization	30.00
3.	Weighted debt capital rate factor	2.16
4.	Average railroad equity return	15.23
5.	Average equity percent of capitalization	70.00
6.	Weighted equity capital rate factor	10.66
7.	Average railroad capitalization rate Line 3 + Line 6)	12.82%
8.	Capitalization rate rounded to	13.00%

Using a ten and five-year cost of money study and applying it to the new proposed debt:equity ratio yields a 13.14% capitalization rate as follows: (Pub. Ex. 4, p. 3, and Ex. 5, p. 3):

COMPUTATION OF AVERAGE CAPITALIZATION RATE

1.	Average railroad debt	8.28%
2.	Average funded debt percent of capitalization	30.00
3.	Weighted debt capital rate factor	2.48
4.	Average railroad equity return	15.23
5.	Average equity percent of capitalization	70.00

6.	Weighted equity capital rate factor	10.66
7.	Average railroad capitalization rate (Line 3 + Line 6)	13.14%
8.	Capitalization rate rounded to	13.00%

COMPUTATION OF AVERAGE CAPITALIZATION RATE

1.	Average railroad debt cost	8.69%
2.	Average funded debt percent of capitalization	32.00
3.	Weighted debt capital rate factor	2.78
4.	Average railroad equity return	15.23
5.	Average equity percent of capitalization	68.00
6.	Weighted equity capital rate factor	10.36
7.	Average railroad capitalization rate (Line 3 + L ine 6)	13.14%
8.	Capitalization rate rounded to	13.00%

Using the railroad's proposed debt:equity ratio, which assumes a greater percentage of equity to total capital, reduces the valuation figures computed by increasing the capitalization rate. The capitalization rate is also increased by using a shorter time period for calculating the cost of debt and average capitalization.

36. The use of a higher capitalization rate yields a lower assessed valuation and a lower tax. In the posthearing comments of the Commissioner, Mr. McSwain notes that the debt:equity ratio adopted excluded strict "book relationships" which presumably include capital surplus and retained earnings accounts in favor of the approach taken which he believed more nearly resembled "market value" and that a market relationship, such as that proposed, was more appropriately based on current market conditions. As such, the Commissioner's decision to exclude the capital surplus and retained earnings account for purposes of computing the debt:equity ratio is reasonable. While other experts may disagree with Mr. McSwain as to the best method for determining that ratio, that disagreement does not render the decision arbitrary or unreasonable.

37. While the railroads argued for a higher capitalization rate, Gordon E. Moe, on the other hand, argued that the method used to calculate the equity yield of 15.23% was erroneous. In that respect, he stated:

> The income approach to value would seem to have a flaw in the method of determining the capitalization rate. The "band of investment" method would be satisfactory for determining the "cap" rate but I don't agree with the computation of the equity yield percentage part of the overall cap rate. Here the state has added the percent of earnings per share increase to the dividend yield. The percent return to the investor is really the gain in stock price plus the dividend. The dividend is part of the earnings per share and whether you're considering stock in a company or a piece of real estate, percent return is a function of the appreciation in value plus the net cash return divided by the original cash investment. In the particular example cited, the stock has increased in value from $38.01 in 1973 to $49.94 in 1977 for a gain of $11.93. The dividends paid total $10.93. The total gain is $22.86 which shows a return of $12.03\% \left(\frac{22.86}{38.01} \div 5 \text{ years}\right)$ per year.
>
> Taking 45% of the equity return gives 5.41% which added to the weighted debt capitalization rate gives an overall capitalization rate of 9.38%. This could be rounded to 9.4%. . . .

Adoption of his approach would substantially reduce the capitalization rate thereby increasing the taxable value. The rationale for using the earnings per share increase, in part, for determining the equity yield percentage was not discussed at the hearing and while earnings per share increase is not the same as the increase in value of the shares, there is no doubt a relation between the two; however, there is no affirmative evidence in the record that it is reasonable or that it is a recognized and accepted method for computing equity yield. Therefore, the reasonableness of the proposed use of dividends per share and a five-year moving average of earnings per share in computing the percentage yields on railroad equity was not established.

38. By using a 15-year cost of money study (instead of the ten-year period used for computing the debt:equity ratio, or the five-year period used for computing income and equity yields), debt costs are further minimized. During the first five years, all cost of money percentages were in the four to five percent range from a low in 1963 of 4.65% to a high in 1967 of 5.89%. During the ten-year period ending 1977, however, all interest rates were in the six to nine percent rate, and only one year (1968) was the interest in the six percent range, and then it was 6.77%. Again, while recent figures are unknown, recent high interest rates are a matter of common knowledge. By using this 15-year study, therefore, the cost of money is minimized as is the resulting capitalization rate and the ultimate valuation is increased accordingly.

Since the debt on which the cost of money is applied consists of long-term debt, the use of 15-year cost of money study may be appropriate, but the record contains no evidence in that regard. The only evidence in the record shows that the funded debt of railroads increased from 56.65% in 1975 to 66.37% in 1977. This increased debt, of course, would have been incurred at more recent and therefore higher interest rates (over 8%).

39. The Commissioner's figures for the cost of equity were computed using the five-year period ending 1977 (instead the ten-year period used for computing the debt:equity ratio, or the 15-year period used for computing the cost of money or the five-year period used for computing a railroad's income). The rationale for using the five-year period was not discussed but equity return, unlike debt, can perhaps be properly evaluated over a shorter period of time. At the hearing, no one suggested that the five-year period for computing common stock yield was inappropriate.

The Commissioner's use of different time periods for calculating the various factors used in computing the capitalization rate proposed was challenged as a comparison of "apples and oranges." While the Commissioner's approach may not be the most reasonable or the soundest method for reflecting current value, it is nonetheless reasonable and gives a reasonably recent picture of the railroad industry.

40. The Commissioner argued, in his posthearing comments, that the final capitalization rate is reasonable and that the formula or methodology used in arriving at that figure cannot be properly analyzed separately but only the ultimate rate should be considered, and if that rate is reasonable, the rule should be found acceptable. In that respect, the capitalization rate of other midwestern states was cited as evidence of the ultimate reasonableness of the proposed rate. Those other rates are as follows:

State	Cap Rate	Income Stream
North Dakota	7.5% Industry Rate	3 year average of N.R.O.I.*
Wisconsin	11% Basic Rate	Combination of averages using N.R.O.I.
Iowa	12% Average rate	1 year N.R.O.I. plus Deferred Taxes and Investment Tax Credit
Illinois	11.5-12% Basic Rate	5 year average N.R.O.I. plus rentals and taxes
Montana	11.5% Industry Rate	2 year average N.R.O.I.
Kansas	11% Industry Rate	Combination of averages using N.R.O.I.
Nebraska	11% Average Rate	Trended N.R.O.I.
Minnesota	11% Industry Rate	5 year average N.R.O.I.

*N.R.O.I. = Net Railway Operating Income

This is persuasive evidence of the reasonableness of the capitalization rate proposed by the Commissioner but is not sufficient standing alone to justify adoption of an 11% capitalization rate. It is essential, apart from the figures adopted in other states, that the methodology for computing the ad valorem values of railroad property subject to tax be computed in a reasonable manner consistent with state law and an examination of the method by which values are computed is essential. In addition, it is required that the Commissioner establish the reasonableness of the proposed rules with an affirmative presentation of facts under Minn. Stat. Chapter 15. For that reason, comparisons of the capitalization rate computed in Minnesota and in other states, is only one of several factors which must be considered.

41. It is noted that while the Department's calculations were attached to the statement, no formula or methodology for computing the capitalization rate is contained in the rule itself which merely lists four considerations. Since the rate adopted and the procedure used in computing it was revealed and does comport with the considerations listed, it is permissible not to adopt a fixed formula. This is especially true because the rate selected is effective indefinitely and not subject to change pursuant to the terms of the rule itself. The real issued posed, however, is whether or not a uniform capitalization rate should be adopted which is applicable to all railroads and whether that rate must be recomputed annually using current information. Mr. Knickerbocker addressed both of these issues, stating in his posthearing comment, as follows (pp. 5-6):

> Initially, we feel that the utilization of a single industry-wide capitalization rate ignores the vast fundamental differences between the railroads operating in the state of Minnesota. We believe that the capitalization rate should be determined each year for each railroad utilizing current data. We believe that a railroad should be permitted in the development of its capitalization rate to demonstrate the rating of its predominate (sic) debt securities, or some reasonable alternative where no

rating is available such as the comparison to other rated railroads. We further believe that only by development of an individual capitalization rate and resulting valuation may the relative riskiness of the particular railroad be reflected.

It should be noted that the railroads have already been valued under temporary rules for the year 1979 using an 11 percent capitalization rate and accordingly, if the 11 percent rate is specified in the permanent rules, that rate will be used in determining the value for 1980 and probably for subsequent years. Exhibit 1 to the Department's Statement of Need and Reasonableness reveals that the most current data used in the development of the rate was 1977 data. Because of the rapid and massive changes in the nation's economy since 1977, we do not feel it is correct to utilize a capitalization rate based upon 1977 and prior data to determine 1980 value. The 1980 capitalization rate should be calculated using 1979 data; the 1981 rate shoul be calculated using 1980 data; etc. Rather than specifying a rate in the rules, the rules should identify data sources upon which the Department will rely (which it has done in Exhibit 1 to its Statement of Need and Reasonableness). Moreover, if averages are to be used in the development of the capitalization rate for such items as the cost of money and the stock yield, a moving average rather than a fixed average should be utilized. By this, we mean that the rules should provide for the addition each year of the most current data and concomitantly, for the elimination of the oldest data. This procedure is provided for in the proposed rules for purposes of determining the net railway operating income to be capitalized and we feel should also be used to determine the appropriate capitalization rate. Only in this manner can the capitalization rate properly match the income stream to which it is applied. While we believe the best approach and the most accurate would simply be to use current figures without average, if averages are to be utilized, it would appear to be a matter of simple fairness and statistical integrity that the same years be utilized in the various averages.

Mr. Letvin had a similar comment. He said (pp. 4-5):

> The 11% capitalization rate in the proposed rules is based upon a 55:45 debt to equity ratio. Thus, it assumes imbedded debt equal to 55% of the company. However, the Duluth, Winnipeg & Pacific Railway has virtually no debt. By applying this imbedded debt to a company which has none must overstate the value of the property by 40%.
>
> In its statement of Need and Reasonableness the single rate is justified by saying it treats all railroads alike, analogizing this situation to the classification of property whereby ". . . all property within one class is assessed at the same rate." The difference here, of course, is that all railroads are not assessed at the same rate. By using a single capitalization rate some roads' calculated value is lower than their true market value. Consequently the assessed value in relation to true value will vary between roads, treating them all differently. An extension of this "equal treatment" would be to take the average value per square foot of office building and value all office buildings, wherever located, however maintained, however constructed, by multiplying this average value by the buildings' individual square footage - an obviously improper method of valuation.

43. Gordon E. Moe also advocated the use of a separate capitalization rate for each railroad, and according to the Commissioner's exhibits,[7] Mr. McSwain, himself, believed (initially, at least), that a new capitalization

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[7]See, Commissioner's Ex. 2, Summary of Railroad Advisory Committee Meeting, September 5, 1979, ¶ 3b.

rate should be adopted each year and that a separate capitalization rate for each railroad should be utilized. The Commissioner did not explain the reason for updating net railway operating income on an annual basis (as required by § 1.0024 C.), but capitalizing it with progressively stale figures for cost of debt, yield on equity and the debt:equity ratio but he did discuss the adoption of a uniform capitalization rate in the Statement (p. 5) as follows:

> . . . The agency has developed one capitalization rate for all railroads doing business within Minnesota. We believe this is reasonable in that it follows the practice of both the legislature and the courts in Minnesota of treating all members of one class of property alike. The classification system is a good example: Minnesota has many different classifications of property Some classes of property are assessed at a higher rate than others, but all property within one class is assessed at the same rate. This is analogous to what the agency has attempted to do within the framework of these proposed rules: treat all property owners of one class, i.e, railroads, alike, For this reason we have not developed individual capitalization rates, one for each road, but an average rate to be applied to all roads.

He elaborated on his position in the posthearing comments submitted by Dorothy A. McClung, Esq., stating at page 2 thereof, as follows:

> Minnesota courts have long held tht property valued for ad valorem purposes must be evalued equally. The very name of the Division reponsible for these rules within the Department of Revenue reinforces this fact. The Property Equalization Division is charged with the responsibility of insuring that the various county and local assessors value property in a consistent manner. This is accomplished in a number of ways, one of which is the establishment of certain guidelines and procedures which we require all assessors to use. This procedure assures some measure of equality. By the same token we believe the use of definite rules assures that all railroads will be valued equally. The more special concessions are used the more inequality and favoritism begin to creep into the valuation process. Subjective judgments should be avoided; equality can best be served when the rules govern.

While railroads operating in Minnesota are unique in many respects and differ one from the other, the record does not disclose that due to their differences a uniform capitalization rate should not be adopted. On the other hand, the Commissioner presented no affirmative evidence that the use of a uniform capitalization rate fairly or reasonably values their property or that the use of a uniform rate is a commonly accepted appraisal technique. Indeed, the railroad industry, local assessors, and the Commissioner's expert all disagreed with such an approach. Apparently, several states utilize a uniform capitalization rate but the record does not disclose whether or not those states also permit adjustments thereto based on the circumstances of each individual railroad or whether conditions in those states are even remotely similar to conditions in Minnesota. Accordingly, the reasonableness of using a uniform capitalization rate has not been established. The Commissioner may desire equal treatment of all railroads but that approach was not shown to be suitable in this situation.

44. A reasonable and uniform capitalization rate may, if not updated periodically, cause an unreasonable result, but the Hearing Examiner cannot speculate that conditions will so change as to render a particular rate unreasonable at some indefinite time in the future or that the Commissioner would not respond to those changed conditions with appropriate changes in his rules. Furthermore, the reasonableness of the proposed rule cannot be considered by

the Hearing Examiner in its application to the special conditions of each particular railroad because the record contains insufficient information to undertake such an evaluation. Thus, the lack of any substantial funded debt in a particular railroad, standing alone, does not justify a finding of unreasonableness. However, such a situation is worthy of the serious consideration of the Commissioner prior to his final adoption of these rules.

45. Furthermore, while the adoption of a formula for computing an annual capitalization rate is certainly reasonable and lends credibility, uniformity and certainty to the valuation process, to say nothing of avoiding the necessity for future rule hearings on subsequently proposed capitalization rates, economic conditions can change dramatically from time to time rendering today's formula inappropriate for tomorrow. For that reason, when given the subjective nature of the valuation process, the Commissioner's decision not to use a rigid formulaic approach to the adoption of an annual capitalization rate is not unreasonable. However, future capitalization rates should not be calculated using other factors than those used to compute the rate presently proposed unless changed circumstances require departure from the current methodology. Of course, if the Commissioner were to adopt a formula for the calculation of an annual capitalization rate, using updated and recent information, such a formula would have to be specifically set forth in the rules if adopted. While such an approach is not required, it is recommended.

46. Section 1.0024 C., as proposed, contains an inappropriate incorporation by reference prohibited by Minn. Stat. § 15.0412(3) in the language "Net Railway Operating Income (as defined by the I.C.C.)." To eliminate that problem here and in subsequent sections such as 1.0024 B., the parenthetical language should be changed to "(as determined by the I.C.C.)." In addition, in the last paragraph of the same section, the word "will" in the second line should read "shall", the word "have" in the fourth line should read "having", and on the same line, the comma following "13 MCAR § 1.0024" should be deleted.

47. The third valuation method proposed by the Commissioner is the so-called "stock and debt" approach contained in § 1.0024 D. It is based on the principle that the value of the assets of a business is equivalent to the sum of its liabilities and its equity. The rationale for adopting this approach was set forth on page 5 of the Commissioner's Statement. It provides:

> . . . In normal appraisal practice, the most important tool that the appraiser has available is market data. The courts, not only in Minnesota but nationwide, place a great deal of emphasis on the market approach. In normal appraisal practice, it is possible to find actual sales of similar properties which have sold on the open market. Sales of houses, farms, factories, etc. can be compared with the house, farm or factory under appraisal and, after proper adjustment for variations, they will produce a reasonable indication of the value of the subject property. This approach is usually not possible in appraising railroads because railroads are generally not sold as operating units. Those sales which do occur have factors present which make it difficult to compare them with other railroads. For this reason the agency has chosen to use an alternative to the market approach.

The approach is limited to those railroads whose stocks are traded on a "recognized exchange" and whose bonds are rated by a "recognized financial rating service"; and for those railroads who are part of a diversified company, the value of the railroad portion of the total stock parcels must "be able to be

separated on an earnings basis." The rules make no attempt to define "recognized exchange", "recognized financial rating service" or what procedures will be recognized to determine whether the stock prices of the conglomerate are "able to be separated on an earnings basis." And the standards and criteria contemplated are ambiguous. While it is clearly necessary to have a valid source for computing the value of debt and equity, the rule should be made more specific where possible. Thus, those specific exchanges constituting a "recognized exchange" should be specified or the criteria used to determine recognized exchanges listed. Similarly, the criteria for determining whether a rating service is a qualifying "recognized financial rating service" should be set out. While it may be more difficult to determine when stock prices can be satisfactorily separated on an earnings basis, the Commissioner should specify the degree of certainty needed or some other criteria.

complied p.5

complied p.5

complied p.5

48. The method for computing stock and bond values is specified in the rules. For stocks, it is the average of the month-ending stock prices for the 12 months preceding the "assessment date." For bonds and other long-term debts, the value is the average of the cost of money quotes for the 12 months immediately preceding the same assessment date. The "assessment date" to be used is not specified in the rules and the term is also ambiguous. To clarify the meaning thereof, the date contemplated and to be uniformly used, should be specified.

complied p.5

49. Once the total value of each railroad's debt and equity is determined an adjustment is made for the effect of revenue from non-railway operations, using the so-called "influence method." The adjustment is based on the ratio of Net Revenue from Railway Operations" to "Income Available for Fixed Charges". The resultant percentage multiplied by the gross stock and debt value yields the value figure to be used. This value is rated 25% for purposes of computing the unit value used for allocation. The use of these two items (accounts) was not questioned by industry representatives and they are, therefore, concluded to be reasonable for the use of computing the value of the stock and debt of railroad companies operating income. It is noted, however, that the section improperly incorporates a definition not contained in the rules in a manner previously discussed. Again, this problem could be resolved by substituting the language "as determined by the I.C.C."

complied p.6

50. Use of the stock and debt approach to the valuation of railroad property is necessary and reasonable and has been used and upheld in many states. Furthermore, the influence method for deducting revenues from non-operating or non-taxable property, using five-year averages to eliminate unusual changes which could occur in any particular year, based as it is on established and audited I.C.C. accounts is reasonable and necessary.

51. The fourth paragraph of Section 1.0024 D. provides that if the railroad has "no net earnings, making it impossible to separate the stock value into its parts," this method will not be used. What is meant by the word "impossible" is not known and some criteria should be established for determining when the Commissioner will consider it possible to separate stock values, even though there are no total net earnings, or the language "making it impossible to separate the stock value into its parts" should be eliminated.

complied p.5.

52. "Bankrupt" railroads and those having no income to be capitalized are valued specially under section 1.0024 F.[8] That section provides as follows:

> F. Railroads Operating at a Loss and Bankrupt Railroads. Railroads which are involved in bankruptcy proceedings, or railroads having no net railway operating income will be valued using whatever indicators of value are workable. If the stock or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value then these railroads will be valued using the cost approach to value only.

No explanation was provided for the use of the term "bankrupt" railroads on the one hand, and railroads "which are involved in bankruptcy proceedings" on the other and the use of a consistent terminology is recommended. Usually, the term "bankrupt" applies only to those who have been so adjudged and is not applicable to those who are involved in bankruptcy proceedings. The Commissioner's intent should therefore be clarified.

complied p. 6, 7

53. The language "using whatever indicators of value are workable" is ambiguous. It is not known, for example, if that means any one of the three specified in the rules or any method whatsoever that happens to be selected. This ambiguity should be clarified, and if other additional methods are to be used, they must be specified as should the conditions when they will be used.

complied p. 7

54. Section 1.0024 E. simply provides that the unit value of the railroad will be the total of the three separate valuations factored by their designated weightings except for those exceptions just discussed and others scattered throughout the rules. A sample calculation is shown as follows:[9]

XYZ Railroad

Valuation Approach	Value	Weighting	
Cost indicator of value	$25,000,000 x	25%	6,250,000
Income indicator of value	21,275,000 x	50%	10,637,000
Stock and debt indicator of value	21,300,000 x	25%	5,325,000
	Unit Value		$22,212,500

The designated weighting can vary as provided for in 13 MCAR § 1.0024 B., C., D., and F. For railroads with no outstanding stock, the stock and debt approach is not used. In such a case, the income indicator of value is weighted at 75% and the cost indicator is weighted at 25%. Railroads which are involved in bankruptcy proceedings or those having no net railway operating income are valued using the cost approach only if the stock and debt approach is not applicable. As to other bankrupt railroads, or those having no net railway operating income, the rules provide that they will be valued using whatever indicators of value are "workable." The latter provision gives the Commissioner unnecessary and unfettered discretion to value some railroad properties without stated criteria. Such a provision was not shown to have been necessary or reasonable and may not be adopted. There are only a limited number

language changed p. 7

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[8] The comma after "section 1.0024" should be eliminated.

[9] Throughout the rules, the Commissioner has included examples of how the various calculations and methodologies are computed. In his Statement, the Commissioner has specifically indicated that these examples are not, themselves, to be construed as rules but only as an aid to their clarification and only in order to avoid unnecessary confusion.

of situations where a departure from the standard valuation approach is necessary. Each of those situations can be set out and the approach to be used stated.

55. Section 1.0025 pertains to the allocation of that part of the unit value attributable to Minnesota. Allocation is made on the basis of four allocation factors. The relationship of these factors in Minnesota, compared to the total for each railroad, yields a percentage. The average of the four percentages is that portion of the value attributable to or allocated to the state. The allocation procedure and the factors considered is contained in section 1.0025 B. and is reproduced here. It shows as follows:

XYZ Railroad

Minnesota miles of track / Total miles of track	100 / 500	= 20%
Minnesota ton miles of revenue freight / Total ton miles of revenue freight	2,200,000 / 9,000,000	= 24%
Minnesota gross transportation revenue / Total gross transportation revenues	$10,000,000 / 40,000,000	= 25%
Minnesota Cost of Road Property / Total Cost of Road Property	2,990,000 / 13,000,000	= 23%
Total		92%
Minnesota Percent of Unit Value		23%
Total Unit Value ($22,212,500) x Minnesota Percent (23%) - Minnesota Portion of Unit Value		$5,108,875

This is a reasonable and necessary allocation methodology.

56. From the total amount attributable to Minnesota is deducted the original cost of non-operating property and other exempt property located in Minnesota but not subject to tax. The non-operating property exclusion is determined by reports to be submitted to the Commissioner. Finally, the value of non-taxable personal property is deducted from this total. The personal property deduction is computed as a percentage of the allocated value after deductions for operating and exempt property. The percentage is the ratio of the total personal property accounts for Minnesota, less applicable depreciation to the total of all Minnesota investment accounts. That percentage of all the investment accounts is the amount by which the allocated value is reduced.

Mr. Letvin challenged this methodology. He said (p. 6):

> It is submitted that this percentage inadequately reflects the value attributable to the exempt personal property. First, certain accounts which are exempt from tax and which have contributed to the value of the property under the proposed rules are not part of the exclusion percentage.
>
> For example, materials and supplies, which are clearly exempt personal property, contribute to the value of the railroad as a whole. However, these assets are not included in the exemption exclusion. Other accounts have assets which would be personal property except for the fact that they are attached to or installed in real property. These items under Minnesota laws Section 272, including 272.03 noted above, are exempt from taxation to other commercial and industrial taxpayers. Consequently

under Section 270.81 subd. 4, supra, and the 4-R[10] Act these accounts must likewise be exempt from railroad ad valorem taxation. These include at the very least, signals and interlockers. It is also likely that ties, rail and other track material may also be exempt.

Secondly, many railroads lease their equipment from others. It is without question that this leased equipment contributes to the railroads' Net Railway Operating Income. For example, the Duluth, Winnipeg & Pacific Railway leases almost all of its rolling stock. Without these assets the company could not function, let alone be profitable. Yet, these items of exempt personal proeprty are not part of the exclusion percentage. Again, this has the effect of taxing exempt property in contravention of the mandates of the Minnsota Legislature and the 4-R Act.

Finally, it seems incongruous to value a railroad at original cost and then say that the portion of that value attributable to exempt property should be calculated using depreciation cost. This again gets into the realm of "apples and oranges".

57. Mr. Knickerbocker of the Burlington Northern made some similar observations. He said (p. 7):

> The statute provides that if the Commissioner uses original cost in determining the unit value of operating property, no depreciation or obsolescence allowance shall be permitted. Proposed § 1.0024 B. provides that the Commissioner will use original cost without an allowance for depreciation or obsolescence and that the cost factor will bear a weighting of 25 percent. The railroads believe it is inconsistent for the Commissioner to take undepreciated cost into account for proposes (sic) of determining value, and then to utilize depreciated cost for purposes of determining the personal property exclusion. If personal property is to be taken into account at original cost without depreciation for purposes of determining the unit value, that same criteria should be applied in determining the exclusion.
> In its statement of need and reasonableness the Department indicates that it believes that the use of depreciated original cost rather than undepreciated original cost is a reasonable proposal because personal property normally wears out much faster than real property. The Department also indicates that to compare "old" real estate dollars to "new" personal property dollars in computing a ratio would produce a skewed effect. We believe that just the opposite is true - that it is the use of depreciated cost for personal property which produces the skewed

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[10] The Act alluded to is the Railroad Revitalization and Regulatory Reform Act of 1976, 49 U.S.C. § 26C as amended by the Revised Interstate Commerce Act, Pub.L. No. 95-473, § 11503, 92 Stat. 1445. In pertinent part it provides as follows:

> (b) The following acts unreasonably burden and discriminate against interstate commerce, and a State, subdivision of a State, or authority acting for a State or subdivision of a state may not do any of them:
>
> (1) assess rail transportation property at a value that has a higher ratio to the true market value of the rail transportation property than the ratio that the assessed value of other commercial and industrial property in the same assessment jurisdiction has to the true market value of the other commercial and industrial property.
>
> (2) levy or collect a tax on an assessment that may not be made under clause (1) of this subsection.
>
> (3) levy or collect an ad valorem property tax on rail transportation property at a tax rate that exceeds the tax rate applicable to commercial and industrial property in the same assessment jurisdiction.

effect. What the Department ignores is that it is putting personal property into the cost indicator at full undepreciated cost, yet it is excluding personal property at depreciated cost. This results in the property going into the value equation at a high value, but this same property being taken out at a much reduced value. Even the circuitous logic of the Department cannot justify this obvious attempt to inflate taxable value. The Department cannot have it both ways.

58. In his Statement, the Commissioner alluded to the difficulty of separating the value of personal property from the unit value of a railroad, stating as follows (pp. 8-9):

> . . . The major thrust of this statement is that railroads cannot be taxed on an ad valorem basis on their personal property, but only on their real property. Therefore, some division must be made of the Minnesota unit value into the classes of real and personal property. This classification of the system unitary value defies the very concept of the unit value philosophy. The unit value method presupposes that the value of any one piece of property is interdependent upon all other parts of the unit. The classic appraisal question asked in this regard is, "What is the value of one link of a chain?" Obviously once the unit, like the chain, becomes broken up, much of its value becomes lost. Nevertheless, the agency has proposed a plan which will accomplish the difficult task of classifying the unit into the categories of real and personal property.
>
> * * *
>
> The computation of this ratio uses depreciated original cost rather than undepreciated original cost. The agency believes that this is a reasonable proposal because personal property normally wears out much faster than real property. Therefore, it has larger allowances for depreciation and, more important, is replaced frequently with inflated dollars. For example, a railroad owns land (real estate) which never wears out or depreciates. This land was no doubt purchased years ago when the value of a dollar was much greater than it is today. The railroad also owns diesel locomotives (personal property) which do wear out and are depreciated at a high rate and replaced frequently. Every time they are replaced, it takes more dollars to buy the same equipment. To compare the "old" real estate dollar to the "new" personal property dollars when computing a ratio would produce a skewed effect. The agency believes that by applying depreciation to these costs, both real and personal, a leveling effect is achieved and a more accurate ratio is determined.

He elaborated on this in his posthearing comments (p. 5) as follows:

> The agency believes it is most important to bear in mind that the process of separating the unit into real and personal property is <u>not</u> a valuation process, but the division of a whole into its parts. The rules as proposed contain many concepts: valuation, allocation, averaging of income, computation of capitalization rates, operating vs non-operating property, etc. While all of these concepts are part of the process whereby the taxable value of railroad operating property is estimated, it is not necessary to use the same formula for each concept. Thus, the valuation process uses non-depreciated cost while the separation process uses depreciated cost. As noted in our Statement of Need, the agency believes that because of the different nature of depreciation as it affects real and personal property the use of depreciated cost produces a much more accurate ratio and is most reasonable both in its concept and its application.
> . . .

59. In order to demonstrate the effect of depreciation on real and personal property, the Commissioner compared the depreciation on land acquired in 1970 for $10,000, and on a locomotive acquired in 1970 at $10,000. After ten years, using common depreciation rates for locomotives, the land would still

have a $10,000 book value, while the locomotive would have a $5,000 book value based on 5% depreciation. While land stays constant in value and does not depreciate but may, in fact, appreciate, the book value of the locomotive decreases each year. To develop a ratio based on original cost only without depreciation for purposes of determining the personal property exclusion would, therefore, according to the Department, produce an erroneous result. The Department did not respond to Mr. Letvin's comments regarding its failure to include personal property such as materials and supplies, signals, interlockers and the value of leased equipment in determining the deduction from unit value. Furthermore, the Commissioner failed to establish, with an affirmative presentation of facts, that the use of only six Interstate Commerce accounts reasonably reflects personal property owned by the various railroad companies. Since there are other personal property accounts or other accounts containing personal property, they should have been included in the rules or some reasons given for their exclusion. However, these matters were not discussed. Consequently, their reasonableness cannot be ascertained.

60. While the railroads objected to the Commissioner's failure to value personal property at cost in determining the extent of the personal property deduction, the use of full cost in determining the value of personal property for purposes of that deduction would be inappropriate because cost initially was weighted at only 25%. On the other hand, at least for those railroads whose value is determined solely on the basis of cost (historical costs), with no allowance for depreciation, it is equally inappropriate to use depreciated cost for determining the value of the personal property deduction. No reason was given for using depreciated cost in determining the personal property deduction for those railroads valued solely on the basis of historical cost or why the total amount of depreciation should be deducted rather than some portion thereof. Therefore, the provision cannot, as currently proposed, be considered reasonable.

61. Congress just enacted and the President just signed major legislation deregulating the transportation industry and restricting the regulatory powers of the Interstate Commerce Commission. This legislation should be examined prior to the adoption of final rules to ascertain problems, if any, which it might cause.

CONCLUSIONS

1. The Department of Revenue gave due, timely and adequate legal notice of the hearing.

2. Pursuant to Minn. Stat. § 15.052, subd. 3 (1978), it is the duty of the Hearing Examiner to: ". . . (4) make a report on each proposed agency action . . . taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action; (ii) fulfilled all relevant, substantive and procedural requirements of law or rule, and (iii) demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts".

3. The Commissioner has documented its statutory authority to promulgate the proposed rules except as specifically noted in the Findings of Fact.

4. The Department has fulfilled all relevant, substantive and procedural requirements of law or rule except as specifically noted in the Findings of Fact.

5. The Commissioner has demonstrated the need for and reasonableness of the proposed rules, with the exceptions noted in the Findings of Fact by an affirmative presentation of facts.

Based upon the foregoing Conclusions, the Hearing Examiner makes the following:

RECOMMENDATION

That the rules unless modified to reflect the recommendations contained in this Report and demonstrated to be reasonable at a subsequent hearing not be adopted.

Dated this 3rd day of July, 1980.

JON L. LUNDE
Hearing Examiner

M E M O R A N D U M

The adoption of rules for the valuation of railroad properties is a difficult task and considerable discretion is vested by necessity in taxing authorities in determining the actual value of railroad properties. Chicago & Northwestern Ry. Co. v. Prentis, 161 N.W.2d 84 (Iowa 1968). The United States Supreme Court has noted this difficulty as follows:

> "The ascertainment of the value of a railway system is not a matter of arithmetical calculation, is not governed by any fixed and definite rule. Facts of a great variety and number, estimates that are exact and those that are approximations, forecasts based on probabilities and contingencies have bearing and properly may be taken into account to guide judgment in determining what is the money equivalent - the actual value - of the property." Rowley v. Chicago & Northwestern Railway Co., 293 U.S. 102, 109, 55 S.Ct. 55, 58, 79 L.Ed. 222.

> "In determining the amount of the assessment, the Board was not bound by any formula, rule, or method, but for guidance to right judgment, it was free to consider all pertinent facts, estimates, and forecasts and to give them such weight as reasonably they might be deemed to have." Great Northern Railway Co. v. Weeks, 297 U.S. 135, 139, 56 S.Ct. 426, 428, 80 L.Ed. 532.

In determining the value of railroad property, several states have upheld a three-factor approach to valuation weighting equally the capitalization of net operating income during a five-year period, the average net stock and bond value of the railroad over a five-year period and a consideration of reproduction cost with an allowance for depreciation of property located in the state. See, e.g., Prentis, supra; Florida East Coast Railway Co. v. Green, 178 So. 2nd, 355 (Fla.App. 1965), and In re Chicago and Northwestern Railway Co., 170 Neb. 106, 101 N.W.2d 873 (1960). Thus, the factors considered by the Commissioner in valuing the system value of the operating property of Minnesota railroads is an approach which has been taken in other states. While the courts in those other states also upheld the use of a judgment factor to increase or

reduce the ultimate value reached, using the three approaches specified, the Commissioner's decision not to use such a judgment factor in Minnesota is not unreasonable even though it does provide flexibility to make adjustments deemed necessary for the particular circumstances of a given railroad.

In In re Chicago & Northwestern Railway Co., 170 Neb. 106, 101 N.W.2d 873 (1960), the Court upheld the use of the allocation of a portion of the state's total value based on traffic units, gross earnings, car and locomotive miles and track mileage in the state compared to total track mileage. Those factors are similar to those proposed by the Commissioner.

In the Prentis case, the Supreme Court of Nebraska cited with approval the following remarks of the lower court:

> "A widely accepted approach to the valuation of a railroad for ad valorem tax purposes is set forth in the book or pamphlet entitled "Appraisal of Railroad and other Public Utility Property for Ad Valorem Tax Purposes", published in June of 1954 by the National Association of Tax Administrators.
>
> * * *
>
> "In general, the method of valuation outlined therein considers and uses three elements or factors as evidence or indicators of value, as follows: (1) Capitalized earnings, (2) market value of stock and debt, and (3) either original or reproduction costs less depreciation."

The use of cost in determining the value of railroad property has been held to be an important factor in fixing values for taxation purposes. See, Chicago & Northwestern Railway Co. v. Department of Revenue, 6 Ill. 2d 278, 128 N.E. 2d 722 (1955), cert. den. 351 U.S. 9, 50, 76 S.Ct 84, 100 L.Ed. 1474, reh. den. 352 U.S. 859, 77 S.Ct. 22, 1 L.Ed. 2d 69, and In re Chicago & Northwestern Railway Company, 170 Neb. 106, 101 N.W.2d 873, 887 (1960).

Furthermore, in Independent School District No. 99 v. Commissioner of Taxation, 297 Minn. 378, 211 N.W. 2d 886 (1973), the Minnesota Supreme Court noted that as many indicia of value as possible should be used in determining the value of property for ad valorem tax purposes. This case considered in the context of other reported decisions regarding the valuation of railroad property disclosed that the basic approach taken by the Commissioner is a reasonable one, and while reproduction cost is more frequently utilized, the use of historical cost is not unreasonable where weighted at 25%. It has also been held that the most reliable and influential evidence of the value of railroad property is the net earnings of the property and the market value of its stocks and bonds for a reasonable period prior to the assessment date. See, Harris Trust & Savings Bank v. Earl, 26 F.2d 617, 618 (8th Cir.), cited with approval in In re Chicago & Northwestern Railway Company, supra. The Commissioner has rated these factors at 75% in determining the normal value of the average railroad operating in the state. While the Commissioner values bankrupt railroads solely on the basis of cost in some circumstances, that is not inappropriate because the failure to operate it at a profit does not, in and of itself, relieve a railroad from paying its portion of taxes due.

These cases lend support to the basic approach taken by the Commissioner in the weightings assigned to the factors considered and the weighting of replacement costs less depreciation at 75% or more, as suggested by various appraisers is inconsistent therewith. If placing greater weight on capitalized earnings and the stock and debt value does tend to value the "business" rather

than the property, such a valuation methodology is nonetheless proper under the holdings of various state courts.

In addition, while use of historical costs, as proposed by the Commissioner, yields a higher valuation than that produced by the other approaches that is probably not relevant. In Chicago and N.W. Railway Co. v. Department of Revenue, supra, the Court sustained the use of reproduction cost depreciated even though it yielded a figure four times greater than capitalized earnings and twice as great as capitalized earnings and stock and debt together.

While various allegations were made to the effect that the proposed rules violated the so-called "4-R Act" cited in Footnote No. 10, the record contains insufficient evidence to make a determination on that issue.

J. L. L.

ADMIN 1000 (Rev. 1/78)
SF-00006-01

STATE OF MINNESOTA

DEPARTMENT of Revenue

Office Memorandum

TO : JOANNE HENDERAKER
Special Assistant Attorney General

DATE: September 26, 1980

FROM : DOROTHY A. McCLUNG
Director of Legal Research

PHONE: 1022

SUBJECT: RULES GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

Attached is the file on the above-captioned rules. Notices were sent today to all persons listed on the attached sheet that the file is being submitted to you.

DAM:kjz
Attachments

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION)
OF RULES OF THE DEPARTMENT OF REVENUE)
GOVERNING THE VALUATION AND ASSESSMENT)
OF RAILROAD OPERATING PROPERTY)

You are hereby notified that the entire record of the above-entitled matter has been submitted to the Attorney General on tis 26th day of September, 1980. Minnesota Statu

Steven L. Wood
Burlington Northern
176 East 5th Street
St. Paul, Minnesota 55101

Byron D. Olson
Soo Line Railroad Company
Soo Line Building
Box 530
Minneapolis, Minnesota 55440

Gordon Forbes
Minnesota Railway Association
480 Cedar Street
St. Paul, Minnesota 55101

Donald C. Knickerbocker
Burlington Northern
176 East 5th Street
St. Paul, Minnesota 55101

Jim Steele
Chicago & Northwestern
400 North Madison Street
Chicago, Illinois 60606

Robert Ellis
Ramsey County Assessor
Room 138, Courthouse
St. Paul, Minnesota 55102

T. E. Fearnall
DW &P Railway
301 - 1st Avenue West
Duluth, Minnesota 55802

Dennis Kowal
M.N.S. Railway
2859 Louisiana Avenue No.
Minneapolis, Minnesota

Marc Letvin
DW & P Railway
131 West Lafayette
Detroit, Michigan 48226

M. Delores Shoburg
Ind. School District 704
702 - 4th Street
Proctor, Minnesota

Dennis Ralle
Proctor Schools
201 - 1st Avenue No.
Proctor, Minnesota 55810

Delmar R. Sembra
Proctor Schools
201 - 1st Avenue North
Proctor, Minnesota 55810

Gordon Moe
Assessor, City of Minneapolis
2106A Hennepin County Government Center
Minneapolis, Minnesota

Mervin J. Herrmann
City of Fridley
6431 University Avenue
Fridley, Minnesota 55432

Maureen Novak
House Tax Committee
274 State Office Building

Scott Lindquist
City of Duluth
108 City Hall
Duluth, Minnesota 55802

A. A. Griffin
Crow Wing County Assessor
Courthouse
Brainerd, Minnesota 56401

Ben Hawkins
Lake Superior Schools #381
District Office
Two Harbors, Minnesota 55616

cancellation whenever the commissioner determines that the person has violated the restrictions imposed. The commissioner may notify local law enforcement agencies of the issuance of any special restricted license and of the restrictions involved. Any report of a violation of the restrictions shall be referred to the Chief Driver Evaluator for consideration. Any conviction indicating a violation of the restrictions shall result in cancellation. After cancellation, no driving privileges may be allowed until the commissioner determines that the licensee can be trusted to operate within the restrictions imposed. Any reinstatement may be conditioned upon compliance with additional restrictions for such period as the commissioner may direct.

Department of Revenue

Proposed Rules Governing the Ad Valorem (Property) Taxes Imposed on Railroad Companies

Notice of Hearing

Notice is hereby given that a public hearing in the above-entitled matter will be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Thursday, May 15, 1980 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 Jon L. Lunde, Office of Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, (612) 296-5938, either before the hearing or within five working days after the close of the hearing. The hearing examiner may extend this time limit for a longer period, however, the extension cannot exceed 20 calendar days.

The proposed rules if adopted will establish methods and procedures to be used by the Department of Revenue relating to ad valorem (property) taxes imposed on railroad companies. The proposed rules deal generally with general procedures, definition of terms, reports required of railroad companies, valuation of railroad property using the cost, income and stock and debt indicators of value, computation of the unit value, valuation of bankrupt railroads, allocation procedures and factors used to establish the Minnesota portion of the unit value and deductions from the Minnesota unit value for exempt, non-operating property and personal property.

Copies of the proposed rules are now available, and one free copy may be obtained by writing to G. D. Garski, Manager of State Assessed Property, Property Equalization Division, Second Floor, Centennial Office Building, Saint Paul, Minnesota 55145, (612) 296-5131. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minn. Stat. §§ 270.06; 270.11, subds. 1 and 6; 270.81, subd. 1; and subd. 5.

Notice is hereby given that 25 days prior to the hearing a Statement of Need and Reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This Statement of Need and Reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the Statement of Need and Reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

Notice: The proposed rule is subject to change as a result of the rule hearing process. The agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

Minn. Stat. ch. 10A.03 (1978) requires each lobbyist to register with the State Ethical Practices Board within five (5) days of the commencement of such activities by the individual.

Minn. Stat. § 10A.01., subd. 11 (Supp. 1979), defines a lobbyist as any individual:

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

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

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged

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

in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in Minn. Stat. § 500.24, subd. 1, who does not spend over $250, excluding *his own* travel expenses in any year in communicating with public officials;

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Questions should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, Saint Paul, Minnesota 55155, phone number (612) 296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the hearing examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

March 20, 1980

Clyde E. Allen, Jr.
Commissioner of Revenue

Rules as Proposed (all new material)

[Proposed temporary rules numbered as 13 MCAR §§ 1.0021-1.0026 were published at *State Register*, Volume 4, Number 29, pp. 1169-1173, January 21, 1980.]

Chapter Two: Valuation and Assessment of Railroads

13 MCAR § 1.0021 General procedures. The 1979 Minnesota Legislature included in its Omnibus Tax Bill a section, Article VII, dealing with the taxation of railroads. The article provides for an ad valorem tax on railroads in place of the gross earnings tax. The article also charges the Commissioner of Revenue with the responsibility of developing rules, both temporary and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

The first valuation of railroad operating property will be made for the assessment year 1979. No apportionment of value to the local taxing districts will be made until 1981 for ad valorem taxes payable in 1982.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors and apportionment standards will be used as described in this chapter for 1979 and subsequent years.

13 MCAR § 1.0022 Definitions. As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this rule. Some of the words, terms and phrases listed below are defined by statute but are included here for completeness.

A. Allocation—the process of dividing the unit value of a railroad company among the states in which the railroad operates.

B. Apportionment—the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and non-operating property to the various taxing districts in which the railroad company operates.

C. Book depreciation—the depreciation shown by a railroad company on its corporate books, and allowed the company by the Interstate Commerce Commission.

D. Capitalization rate—an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

E. Exempt property—property which is non-taxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted, and personal property such as office furniture and licensed vehicles.

F. Non-operating property—all property owned by a railroad company which does not fall under the definition of operating property. Non-operating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. It shall also include land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services. This property shall be valued by the local or county assessor rather than by the Commissioner of Revenue.

G. Operating property—all property owned or used on a regular basis by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridge trestles, shops, docks, wharves, buildings and structures.

H. Original cost—the amount paid for an asset as recorded on the railroad's book in accordance with ICC accounting rules and regulations.

I. Railroad company—any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

J. System—the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

K. Unit value—the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

L. Weighting—the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100%.

13 MCAR § 1.0023 Reports required.

A. The data used in the valuation, allocation and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies and other sources the commissioner believes are pertinent. These reports are to be filed with the commissioner on or before April 30 of each year and shall include:

1. The Minnesota Department of Revenue Annual Railroad Report.

2. Annual Report to the Interstate Commerce Commission (ICC).

3. Annual Report to the Minnesota Public Service Commission (P.S.C.)

4. Annual stockholders report.

B. Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The commissioner shall upon written application from the railroad, extend the filing date 30 days.

C. In the event any railroad company shall fail to file the required reports, the commissioner shall make a valuation according to his best judgment based on available information.

13 MCAR § 1.0024 Valuation.

A. General. The Minnesota Legislature has specified that railroads must be valued using the unit basis of estimating value. The approaches to value which will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided for in 13 MCAR § 1.0024 D. and F. It is the decision of the Commissioner of Revenue that for 1979 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided for in this section.

B. Cost approach to valuation. The cost factor that will be considered in the railroad valuation method is the original cost of the railroad system, plus the original cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following I.C.C. accounts: all road and equipment accounts, all general expenditures and other elements of investment accounts, and railroad property owned but leased to others. As required by statute, no depreciation or obsolescence shall be allowed as a deduction from the original cost of the railroad's assets enumerated above.

The following is an example of how the cost indicator of value is to be computed:

XYZ Railroad

Account	Amount
Road	$13,000,000
Equipment	9,000,000
Construction Work in Progress	1,000,000
Leased Property	500,000
General Expenditures	1,500,000
Cost Indicator of Value	$25,000,000

This cost indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR § 1.0024 F.

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as defined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider:

1. The capital structure of railroads.

2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.

3. The yield on preferred stock of railroads.

4. The yield on common stock of railroads.

For 1979 and subsequent years this capitalization rate will be 11%.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income	
1974	$1,500,000
1975	2,000,000
1976	2,600,000
1977	3,001,000
1978	2,600,250
Total	$11,701,250
Average	$ 2,340,250

Five year average Net Railway Operating Income Capitalized at 11% (2,340,250 ÷ 11%) equals $21,275,000.

The income indicator of value computed in accordance with this rule will be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads have no net operating income as provided

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

for in 13 MCAR § 1.0024 F; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75%.

D. Stock and Debt approach to valuation. The "Stock and Debt" approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: Assets = Liabilities + Equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting certain qualifications listed below:

1. The stock of the railroad must be traded on a recognized stock exchange.

2. The bonds of the railroad must be traded or have a rating by a recognized financial rating service.

3. If the railroad is part of a diversified company the value of the railroad portion of the total stock prices must be able to be separated on an earnings basis.

For example if a railroad is part of a conglomerate whose stock sells at $100 per share and 50% of the net earnings of the conglomerate are from railroad operations then the value of the railroad's portion of the stock is $50 per share.

If a railroad has no net earnings, making it impossible to separate the stock value into its parts, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month ending stock prices for the twelve months immediately preceding the assessment date. The value of the bonds, equipment obligations and conditional sales contracts and other long term debts shall also be an average of the cost of money quotes for the twelve months immediately preceding the assessment date. The source for these stock and bond prices shall be Standard and Poor's Stockguide, or other applicable financial service.

An illustration of a computation of the stock and debt approach to value is as follows:

XYZ Railroad Company

Shares of Common Stock issued x Average price for preceding year	
1,000,000 x $12 =	$12,000,000
Shares of Preferred Stock x Average price for preceding year	
100,000 x $15 =	$ 1,500,000
Rate and face value of bonds x Average price for class of bonds for preceding year	
A rated 8% bonds $10,000,000 x 99% of par =	$ 9,900,000
Stock and Debt Indicator of Value	$23,400,000

After the gross stock and debt indicator of value has been computed an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five year average of Net Revenue from Railway Operations, as defined by the I.C.C., to a similar five year average of Income Available for Fixed Charges as defined by the I.C.C. The five year average will be the most recent five years preceding the assessment date.

An example of this computation is as follows:

XYZ Railroad Company

	Net Revenue from Railway Operations	Income Available for Fixed Charges
1974	$ 3,000,000	$ 3,500,000
1975	4,000,000	4,300,000
1976	5,200,000	5,700,000
1977	6,000,000	6,800,000
1978	5,200,000	5,400,000
	$23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000
Ratio $4,680,000 ÷ $5,140,000 = 91%		
Gross Stock and Debt Indicator of Value		$23,400,000
Ratio of Operating to Non-Carrier Earnings		91%
Net Stock and Debt Indicator of Value		$21,300,000

The stock and debt indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR § 1.0024 F.

E. Unit value computation. The estimated unit value of the railroad property will be the total of the three weighted indicators of value.

The following is an example of the computation of the unit value.

Valuation Approach	XYZ Railroad Value	Weighting	
Cost indicator of value	$25,000,000	25%	6,250,000
Income indicator of value	21,275,000	x 50%	10,637,500
Stock and debt indicator of value	21,300,000	25%	5,325,000
		Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided for in 13 MCAR § 1.0024 B. C. and D. depending on the conditions and circumstances involved in each valuation. For example a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value, and therefore the income indicator of value would be weighted 75%.

F. Railroads operating at a loss and bankrupt railroads. Railroads which are involved in bankruptcy proceedings, or railroads having no net railway operating income will be valued using whatever indicators of value are workable. If the stock or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value then these railroads will be valued using the cost approach to value only.

13 MCAR § 1.0025 Allocation.

A. General. After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in a percentage figure. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in § 1.0025, be subject to ad valorem tax in the State of Minnesota.

B. Allocation factors. The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

1. Miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states.

2. Ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states.

3. Gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states.

4. Original cost of road property in Minnesota divided by the original cost of road property in all states.

The following example illustrates the allocation method to be applied to the unit value of railroad property.

XYZ Railroad

Minnesota miles of track	$\frac{100}{500}$ =	20%
Total miles of track		
Minnesota ton miles of revenue freight	$\frac{2,200,000}{9,000,000}$ =	24%
Total ton miles of revenue freight		
Minnesota gross transportation revenue	$\frac{\$10,000,000}{\$40,000,000}$ =	25%
Total gross transportation revenues		
Minnesota Cost of Road Property	$\frac{2,990,000}{13,000,000}$ =	23%
Total Cost of Road Property		
Total		92%
Minnesota Percent of Unit Value		23%
Total Unit Value ($22,212,500) x		
Minnesota Percent (23%) =		
Minnesota Portion of Unit Value		$5,108,875

13 MCAR § 1.0026 Adjustments for non-formula assessed property or exempt property. After the Minnesota portion of the unit value of the railroad company is determined property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as non-operating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

Property which has been included in the computation of the unit value but has been defined as non-operating property will be valued by the local assessor. The Minnesota portion of the unit value will be reduced by the original cost of this property. Only non-operating property located within the State of Minnesota will be eligible for this exclusion.

The railroad company shall have the responsibility to submit to the Commissioner of Revenue, in the form required by the commissioner, such schedules of non-operating property as he may require.

In addition to non-operating property which will be valued and assessed locally a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit; therefore, it is extremely difficult to make a separation of this value into real and personal property.

A percentage of the Minnesota portion of the unit value after deducting non-operating and exempt property will be excluded as personal property. This percentage will be computed in the following way:

The following I.C.C. accounts for property within Minnesota will be totaled:

That portion of coal and ore wharves determined to be personal property less applicable depreciation;

Communication equipment less applicable depreciation;

Roadway machines less applicable depreciation;

Shop machinery less applicable depreciation;

Power plant machines less applicable depreciation;

Equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles, less applicable depreciation.

The total of these accounts will then be divided by the total of the Minnesota road, equipment, leased property, general expenditures, construction work in progress, and other elements of investment accounts; all less applicable depreciation. The resulting percentage will be used to determine the personal property amount of the Minnesota portion of the unit value. This portion will not be taxable for ad valorem purposes.

The following is an illustration of the computation for the personal property exclusion.

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

XYZ Railway

Personal Property Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Coal & Ore Wharves	$ 500,000	$ 250,000	$ 250,000
Communication Equip.	100,000	50,000	50,000
Roadway Machines	200,000	100,000	100,000
Shop Machinery	100,000	50,000	50,000
Power Plant Machinery	500,000	203,000	297,000
Equipment*	2,250,000	1,250,000	1,000,000
			1,747,000

*Total Equipment Account	$9,000,000
Car and Locomotive Miles in Minnesota	1,000,000
Total Car and Locomotive Miles	4,000,000
Ratio of Minnesota to Total	25%
Minnesota Allocated Equipment Account	$2,250,000

XYZ Railway

Cost Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Road	$2,990,000	$1,400,000	$1,590,000
Equipment	2,250,000	1,250,000	1,000,000
C.W.I.P.	800,000	—	800,000
General Expenditures	500,000	250,000	250,000
			$3,640,000

Minnesota Depreciated Personal Property Accounts	$1,747,000
Minnesota Depreciated Cost	$3,640,000
Ratio of Personal Property to Cost	48%
Minnesota portion of unit value	5,108,875
Personal Property exclusion at 48%	2,452,260
Taxable Minnesota Portion of Unit Value	$2,656,615

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Public Welfare
Bureau of Social Services

Adopted Temporary Rules Governing Subsidized Adoption

The proposed temporary rule 12 MCAR § 2.200 (DPW 200a) published at *State Register*, Volume 4, Number 29, p. 1164, January 21, 1980 (4 S.R. 1164) was adopted on March 5, 1980, approved by the Office of the Attorney General on March 13, 1980 and filed with the Secretary of State on March 20, 1980, with the following amendments:

Amendments as Adopted

C.4.d. When determining the amount of subsidy, the placing agency shall consider the financial resources, social security and veterans benefits health insurance coverage, medical assistance programs, and other resources available or which may be available to the child.

(1) Maintenance payments may be provided when it is necessary to ensure the adoption of a child. The placing agency shall refer to DPW Rule 44, 12 MCAR 2.044, to determine the amount of a child's monthly maintenance needs for food, shelter, ~~and~~ clothing, allowances, supplies, and transportation. The total monthly maintenance needs may be less than, equal to or more than the basic rate. Amounts greater than the basic rate shall be set according to the difficulty of care standards and the need for the greater amount shall be documented.

(2) The placing agency shall determine the medical, dental, surgical, psychiatric, and psychological expenses ~~and other costs~~ necessary for the child's care and well-being. In determining the costs the placing agency shall identify the child's circumstances or conditions that require subsidy. The placing agency shall:

(a) Document the kind and amount of health insurance or other financial resources available to meet the needs of the child.

(b) Document the actual or estimated expenses for medical, dental, surgical, psychiatric, and psycho-

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE VALUATION AND ASSESSMENT OF RAILROAD OPERATING PROPERTY	))))	NOTICE OF SUBMISSION OF HEARING RECORD TO ATTORNEY GENERAL

You are hereby notified that the entire record of the above-entitled matter has been submitted to the Attorney General on this 26th day of September, 1980. Minnesota Statutes, Section 15.0412, Subdivision 4e, provides that the Attorney General shall approve or disapprove the rules within 20 days.

Dorothy A. McClung
Director: Legal Research

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE VALUATION AND ASSESSMENT OF RAILROAD OPERATING PROPERTY	))))	STATEMENT OF COMPLIANCE WITH MANUAL OF RULE MAKING PROCEDURES

I Dorothy A. McClung, do herby declare that I have examined the proposed rules and all related documents and that, based on them and my personal familiarity with the applicable procedures, the Manual of Rule Making Procedures has been followed. Any expections are noted below.

Dorothy A. McClung
Director: Legal Research

Dated: Sep. 26, 1980

R-80-050-JL

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED)
ADOPTION OF RULES OF THE)
DEPARTMENT OF REVENUE GOVERNING)
THE AD VALOREM (PROPERTY) TAXES)
IMPOSED ON RAILROAD COMPANIES.)

ORDER OF THE
CHIEF HEARING EXAMINER

WHEREAS, a hearing was held on May 15, 1980, before Jon L. Lunde, a Hearing Examiner of the State Office of Administrative Hearings, on the above-entitled matter in compliance with Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Report of the Hearing Examiner made pursuant to Minn. Stat. § 15.052, subd. 3, was issued to the Department of Revenue on July 3, 1980; and

WHEREAS, the Department of Revenue has now determined to adopt rules pursuant to Minn. Stat. § 15.0412, subd. 4; and

WHEREAS, the Department of Revenue has submitted said rules to the Chief Hearing Examiner for review pursuant to Minn. Stat. § 15.052, subd. 4, and Rule 9 MCAR § 2.110; and

WHEREAS, the Chief Hearing Examiner finds that the final proposed rules are not substantially different from those proposed at the public hearing and that the Department of Revenue has met all requirements of Minn. Stat. § 15.0412, subd. 4.

NOW, THEREFORE, upon receipt of this Order, the Department of Revenue has the responsiblity of submitting the complete hearing record and the rules as adopted by the Department to the Attorney General, notifying all persons who requested to be informed that the hearing record has been submitted to the Attorney General, and publishing in the State Register, all pursuant to Minn. Stat. § 15.0412, subd. 4.

Dated this 22nd day
of September, 1980.

DUANE R. HARVES
Chief Hearing Examiner

EXHIBIT D.

Department of Revenue
Ad Valorem Tax Rules
Chapter Two: Valuation and Assessment of Railroads

13 MCAR §1.0021 General Procedures. ~~The 1979 Minnesota Legislature included in its Omnibus Tax Bill a Section, Article VII, dealing with the taxation of railroads. The article provides for an ad valorem tax on railroads in place of the gross earnings tax~~. Laws 1979, Chapter 303, Article VII (the so-called Omnibus Tax Bill) codified as Minn. Stat. § 270.08 et seq. (1979 Supp.) eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The Article also charges the Commissioner of Revenue with the responsibility of developing rules, both temporary and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

The first valuation of railroad operating property will be made for the assessment year 1979. No apportionment of value to the local taxing districts will be made until 1981 for ad valorem taxes payable in 1982.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors and apportionment standards will be used as described in this chapter for 1979 and subsequent years.

13 MCAR §1.0022 Definitions. As used in this chapter, the following words, terms and phrases shall have the meanings given to them by this rule. Some of the words, terms and phrases listed below are defined by statute but are included here for completeness.

A. "Allocation" ~~the process of dividing the unit value of a railroad company among the states in which the railroad operates.~~ means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

B. "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and non-operating property to the various counties and taxing districts in which the railroad company operates.

C. "Book depreciation" means the depreciation shown by a railroad company on its corporate books, and allowed the company by the Interstate Commerce Commission.

D. "Capitalization rate" means an anticipated rate of return from an investment; a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

E. "Exempt property" means property which is non-taxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted, and personal property ~~such as office furniture and licensed vehicles~~ otherwise exempt from taxation under Minn. Stat. Chapter 272.

F. "I.C.C." means the Interstate Commerce Commission, a Federal regulatory agency.

G. "Non-operating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property shall include real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land shall be presumed to be available for lease or rent if it has not been used as operating property for a period of one year preceding the valuation date. It shall also include land which is not necessary and intregal to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services. ~~This property shall be valued by the local or county assessor rather than by the Commissioner of Revenue~~.

H. "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings and structures.

I. "Original Cost" means the amount paid for an asset as recorded on the railroad's books in accordance with ICC accounting rules and regulations.

J. "P.U.C." means the Minnesota Public Utilities Commission.

K. "Railroad Company" means any company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

L. "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

M. "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

N. "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100%.

13 MCAR §1.0023 Reports Required.

A. The data used in the valuation, allocation and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies ~~and other sources the Commissioner believes are pertinent.~~ These reports are to be filed with the Commissioner on or before April 30 of each year and shall include:

1. The Minnesota Department of Revenue Annual Railroad Report.

2. Annual Report to the Interstate Commerce Commission ~~(ICC)~~.

3. Annual Report to the Minnesota Public ~~Service~~ Utilities Commission ~~(P.S.C.)~~.

4. Annual Stockholders Report.

5. Other commonly accepted sources of railroad income, expense, capitalization and debt and stock values such as Standard & Poor's Stock Guide, Standard & Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States compiled by the Interstate Commerce Commission.

B. Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The Commissioner shall upon written application from the railroad, extend the filing date 30 days.

C. In the event any railroad company shall fail to file the required reports, the Commissioner shall make a valuation according to his best judgment based on available information.

D. Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation and apportionment required by §§ 1.0021 to 1.0026. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

13 MCAR §1.0024 Valuation.

A. General: The Minnesota Legislature has specified that railroads must be valued using the unit basis of estimating value. The approaches to value which will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided for in 13 MCAR §1.0024 D. and F. It is the decision of the Commissioner of Revenue that for 1979 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided for in this section.

B. Cost approach to valuation. The cost factor that will be considered in the railroad valuation method is the original cost of the railroad system, plus the original cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following I.C.C. accounts: all road and equipment accounts, all general expenditures and other elements of investment accounts, and railroad property owned but leased to others. As required by statute, no depreciation or obsolescence shall be allowed as a deduction from the original cost of the railroad's assets enumerated above.

The following is an example of how the cost indicator of value is to be computed:

XYZ Railroad

Account	Amount
Road	$13,000,000
Equipment	9,000,000
Construction Work in Progress	1,000,000
Leased Property	500,000
General Expenditures	1,500,000
Cost Indicator of Value	$25,000,000

This cost indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024 F.

C. Income approach to valuation. The income indicator of value will be calculated by averaging the Net Railway Operating Income (as ~~defined~~ determined by the I.C.C.) of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the Band of Investment Method. This method will consider:

1. The capital structure of railroads.
2. The cost of debt or interest rate paying particular attention to imbedded debt of railroads.
3. The yield on preferred stock of railroads.
4. The yield on common stock of railroads.

For 1979 and subsequent years this capitalization rate will be 11%.

An example of a computation of the capitalized income approach to value is as follows:

XYZ Railroad

Net Railway Operating Income

1974	$1,500,000
1975	2,000,000
1976	2,600,000
1977	3,001,000
1978	2,600,250
Total	$11,701,250
Average	$ 2,340,250

Five year average Net Railway Operating Income Capitalized at 11% (2,340,250 ÷ 11%) equals $21,275,000.

The income indicator of value computed in accordance with this rule ~~will~~ shall be weighted 50 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in 13 MCAR §1.0024 F.; and railroads not meeting the requirements for the use of the stock and debt indicator of value. Where no stock and debt indicator of value is used the income indicator will be weighted 75%.

D. Stock and Debt approach to valuation. The "Stock and Debt" approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: Assets = Liabilities + Equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting certain qualifications listed below:

1. The stock of the railroad must be traded on ~~a recognized stock exchange.~~ either the New York or American Stock Exchange.

2. The bonds of the railroad must be traded or have a rating by ~~a recognized financial rating service.~~ either Standard and Poor's or Moody's rating services.

3. If the railroad is part of a diversified company the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the method described below.

~~For example if a railroad is part of a conglomerate whose stock sells at $100 per share and 50% of the net earnings of the conglomerate are from railroad operations then the value of the railroad's portion of the stock is $50 per share.~~

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

Net Earnings of ABC Industries	$5,200,500	
Net Earnings of XYZ Railroad	$2,600,250	
% of XYZ net earnings to total conglomerate earnings		50%
Value of share of ABC Industries stock	$	100
XYZ Railroad portion of stock value	$	50

If a railroad has no net earnings, ~~making it impossible to separate the stock value into its parts;~~ and is part of a conglomerate, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month ending stock prices for the twelve months immediately preceding the assessment date of January 2nd. The value of the bonds, equipment obligations and conditional sales contracts and other long term debts shall also be an average of the cost of money quotes for the twelve months immediately preceding the assessment date of January 2nd. The source for these stock and bond prices shall be Standard and Poor's Stockguide, or other applicable financial service.

An illustration of a computation of the stock and debt approach to value is as follows:

XYZ Railroad Company

Shares of Common Stock issued x Average price for preceeding year	1,000,000 x $12 = $12,000,000
Shares of Preferred Stock x Average price for preceeding year	100,000 x $15 = $ 1,500,000
Rate and face value of bonds x Average price for class of bonds for preceeding year	
A rated 8% bonds $10,000,000 x 99% of par =	$ 9,900,000
Stock and Debt Indicator of Value	$23,400,000

After the gross stock and debt indicator of value has been computed an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five year average of Net Revenue from Railway Operations, as ~~defined~~ determined by the I.C.C., to a similar five year average of Income Available for Fixed Charges as ~~defined~~ determined by the I.C.C. The five year average will be the most recent five years preceding the assessment date.

An example of this computation is as follows:

XYZ Railroad Company

	Net Revenue from Railway Operations	Income Available for Fixed Charges
1974	$ 3,000,000	$ 3,500,000
1975	4,000,000	4,300,000
1976	5,200,000	5,700,000
1977	6,000,000	6,800,000
1978	5,200,000	5,400,000
	$ 23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

Gross Stock and Debt Indicator of Value	$23,400,000
Ratio of Operating to Non-Carrier Earnings	91%
Net Stock and Debt Indicator of Value	$21,300,000

The stock and debt indicator of value computed in accordance with this rule will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings or railroads with no income to be capitalized as provided for in 13 MCAR §1.0024 F.

E. Unit Value Computation. The estimated unit value of the railroad property will be the total of the three weighted indicators of value.

The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value		Weighting	
Cost indicator of value	$25,000,000		25%	6,250,000
Income indicator of value	21,275,000	x	50%	10,637,500
Stock and debt indicator of value	21,300,000		25%	5,325,000
			Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided for in 13 MCAR § 1.0024 B., C. and D. depending on the conditions and circumstances involved in each valuation. For example a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value, and therefore the income indicator of value would be weighted 75%.

F. Railroads Operating at a Loss, ~~and Bankrupt~~ Railroads Involved in Federal Bankruptcy Proceedings, and Railroads Adjudged Bankrupt by a Federal Court. Railroads which are involved in Federal bankruptcy proceedings, adjudged bankrupt or railroads having no net railway operating income will be valued ~~using whatever indicators of value are workable~~ using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value then these railroads will be valued using the cost approach to value only.

13 MCAR §1.0025 Allocation.

A. General. After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in a percentage figure. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in §1.0025, be subject to ad valorem tax in the State of Minnesota.

B. Allocation Factors. The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

1. Miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states.

2. Ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states.

3. Gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states.

4. Original cost of road property in Minnesota divided by the original cost of road property in all states.

The following example illustrates the allocation method to be applied to the unit value of railroad property.

XYZ Railroad

Minnesota miles of track / Total miles of track	$\frac{100}{500}$	= 20%
Minnesota ton miles of revenue freight / Total ton miles of revenue freight	$\frac{2,200,000}{9,000,000}$	= 24%
Minnesota gross transportation revenue / Total gross transportation revenues	$\frac{\$10,000,000}{\$40,000,000}$	= 25%
Minnesota Cost of Road Property / Total Cost of Road Property	$\frac{2,990,000}{13,000,000}$	= 23%
Total		92%
Minnesota Percent of Unit Value		23%

Total Unit Value ($22,212,500) x
Minnesota Percent (23%) = Minnesota Portion of Unit Value $5,108,875

13 MCAR § 1.0026 Adjustments for non-formula assessed property or exempt property. After the Minnesota portion of the unit value of the railroad company is determined property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as non-operating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

Property which has been included in the computation of the unit value but has been defined as non-operating property will be valued by the local assessor. The Minnesota portion of the unit value will be reduced by the original cost of this property. Only non-operating property located within the State of Minnesota will be eligible for this exclusion.

The railroad company shall have the responsibility to submit to the Commissioner of Revenue, in the form required by the Commissioner, such schedules of non-operating property as he may require.

In addition to non-operating property which will be valued and assessed locally a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit; therefore, it is extremely difficult to make a separation of this value into real and personal property.

A percentage of the Minnesota portion of the unit value after deducting non-operating and exempt property will be excluded as personal property. This percentage will be computed in the following way:

The following I.C.C. accounts for property within Minnesota will be totaled:

That portion of coal and ore wharves determined to be personal property less applicable depreciation;

Communication equipment less applicable depreciation;

Roadway machines less applicable depreciation;

Shop machinery less applicable depreciation;

Power plant machines less applicable depreciation;

Equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles, less applicable depreciation.

The total of these accounts will then be divided by the total of the Minnesota road, equipment, leased property, general expenditures, construction work in progress, and other elements of investment accounts; all less applicable depreciation. The resulting percentage will be used to determine the personal property amount of the Minnesota portion of the unit value. This portion will not be taxable for ad valorem purposes.

The following is an illustration of the computation for the personal property exclusion.

XYZ Railway

Personal Property Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Coal & Ore Wharves	$ 500,000	$ 250,000	$ 250,000
Communication Equip.	100,000	50,000	50,000
Roadway Machines	200,000	100,000	100,000
Shop Machinery	100,000	50,000	50,000
Power Plant Machinery	500,000	203,000	297,000
Equipment*	2,250,000	1,250,000	1,000,000
			1,747,000

*Total Equipment Account	$9,000,000
Car and Locomotive Miles in Minnesota	1,000,000
Total Car and Locomotive Miles	4,000,000
Ratio of Minnesota to Total	25%
Minnesota Allocated Equipment Account	$2,250,000

Cost Account	Amount in Minnesota	Depreciation	Net Amount in Minnesota
Road	$2,990,000	$1,400,000	$1,590,000
Equipment	2,250,000	1,250,000	1,000,000
C.W.I.P.	800,000	-	800,000
General Expenditures	500,000	250,000	250,000
			$3,640,000

Minnesota Depreciated Personal Property Accounts	$1,747,000
Minnesota Depreciated Cost	$3,640,000

Ratio of Personal Property to Cost 48%

Minnesota portion of unit value	5,108,875
Personal Property exclusion at 48%	2,452,260
Taxable Minnesota Portion of Unit Value	$2,656,615

SP:N

(13)

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

RECEIVED
APR 15 1980
OFFICE OF HEAR
EXAMINER

IN THE MATTER OF THE PROPOSED RULES OF)
THE DEPARTMENT OF REVENUE GOVERNING THE)
VALUATION AND ASSESSMENT OF RAILROAD) STATEMENT OF NEED AND REASONABLENESS
OPERATING PROPERTY)

The above-captioned rules are being proposed in order to fulfill the charge given to the Department of Revenue by the 1979 Minnesota Legislature. Article VII of the Omnibus Tax Bill passed by the 1979 Legislature deals with the ad valorem (property) taxation of railroads. Part of Article VII, Minn. Statute 270.81, Subdivision 5, instructs the Commissioner of Revenue to promulgate both temporary and permanent rules necessary to implement the various provisions of Article VII. Temporary rules have been adopted; they were approved for use by the Attorney General's Office on March 6, 1980. These proposed rules, when they are adopted, will meet the agency's obligation to promulgate permanent rules.

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of, the proposed new rules. It is submitted pursuant to 9MCAR § 2.104 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion Regarding the Method of Valuation of Railroad Operating Property was published in the State Register prior to the preparation of these proposed rules on June 18, 1979, Volume 3, Number 50, page 2253. Open forum-type discussion meetings were held on June 27, September 5, November 7 and December 19, 1979. These meetings were attended by members of the Department of Revenue, county assessors, city assessors, representatives of the railroad industry, employees of various railroads, representatives of the Minnesota Department of Transportation, representatives of House and Senate research, and representatives of the Tax Study Commission. Lists of those in attendance, agendas, meeting notes, and correspondence relative to these meetings will be submitted by the Department as an exhibit at the public hearing. Various suggestions and comments made at these meetings were received and duly considered by the agency.

AUTHORITY TO ADOPT RULES

Minn. Statute § 270.06 (14) states that the ... "Commissioner of Revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law..." Clearly, the above rules are encompassed within this authority.

Further, Minn. Statute § 270.11, Subd. 1 and 6 give the Commissioner of Revenue the authority to review, modify, revise, raise or lower the assessed valuation of the real or personal property of any individual, copartnership, company, association or corporation. This authority certainly would include railroad property.

Specifically, Minn. Statute § 270.81, Subdivision 1 states that, "The operating property of every railroad company doing business in Minnesota shall be valued by the commissioner ..." In addition, Subd. 5 requires the commissioner to..."exercise temporary rule-making authority...solicit information and opinions from outside his

department", and adopt permanent rules pursuant to Chapter 15 in order to implement the provisions of this act. This statute therefore not only gives the commissioner the authority to adopt rules but also the duty and responsibility to do so.

ADOPTION OF PROPOSED RULES

NEED AND REASONABLENESS

13 MCAR § 2.0001 General Procedures. This section is needed as an introduction to the rules in that it explains the history and purpose of the rules. The agency believes that this section is reasonable in both its scope and approach.

13 MCAR § 2.0002 Definitions. This section is needed in order to establish a common language for the body of the rules. Some of the definitions are drawn from Minn. Statute § 270.80 and are included in the rules for the sake of completeness. Many of the definitions are those used by appraisers throughout the nation, and in fact are drawn from such publications as the Encyclopedia of Real Estate Appraising and Appraisal Terminology and Handbook. The language used in defining the list of terms is as straightforward and non-technical as possible while still conveying the necessary meaning. The agency believes that the definitions are necessary, useful and reasonable and should be adopted as proposed.

13 MCAR § 2.0003 Reports Required. In order to make a proper and correct estimate of the value of railroad operating property, certain information is needed. This information is most easily obtained from the railroad owning and operating the property to be valued. The agency is proposing that the railroads be required to submit four reports. Three of these reports provide information that is not unique to the requirements of the Department of Revenue but are merely copies of reports prepared for other agencies. The remaining report is merely a compilation of information, mainly operating statistics, which is readily available to the taxpayer. The agency believes that requiring these reports from railroads places no undue administrative burden on them and is certainly a necessary and integral part of the valuation process.

13 MCAR § 2.0004 Valuation.

A. General. This section specifies the fact that the unit value method will be used to value the operating property of the railroads. The Legislature has instructed the agency in Minn. Stat. § 270.84, Subd. 1 to use the unit method in determining the fair market value of the operating property of every railroad company doing business in Minnesota.

The use of the unit value method is not unique to Minnesota. The majority of states that centrally assess railroads use the unit rule of appraisal. The essence of the unit rule is simple. It is an appraisal technique that produces a valuation of a whole property without geographical or functional division of the whole. The unit is usually a group of properties acting as a team which are put together for operational and efficiency purposes. The properties are generally specialized and are integrated into an operating unit.

In determining the unit or system value of a railroad, an estimate is made of the price at which the property could be bought and sold. This price is determined through the use of three approaches or indicators of value: cost, income, and stock and debt. These methods of estimating value are widely used and accepted by virtually every appraiser who employs the unit method of determining value.

In the Independent School District No. 99, et al v. Commissioner of Taxation, 297 Minn. 378 (1973) the court advocated the use of as many indicators of value as were pertinent.

The agency is convinced, therefore, that the use of the unit method of valuation and the three approaches to value are both necessary to carry out the mandates of the legislature and the courts and are reasonable in their application.

B. Cost approach to valuation. The cost approach to value has long been used as one of the best means of measuring the worth of an entity. It is based on the simple premise that something is worth what you have paid for it. In many instances cost is the only method which can be used to value special purpose property. In the case of valuing railroad property, the agency believes that the cost approach to value is a practicable and necessary means of arriving at market value. The cost used is the original cost of the property, that is the actual acquisition cost of a property when it was first acquired or constructed. Items which are included in this cost figure are closely controlled by regulatory agencies.

The Legislature has instructed the agency in M.S. § 270.84, Subd. 1 that, "If the commissioner uses original cost as a factor in determining the unit value of operating property, no depreciation or obsolescence allowance shall be permitted". The agency has chosen to use original cost as a factor and therefore the rules do not make any provision for applying any depreciation or obsolescence allowances to the original cost of the railroad property.

The statute goes on to say, "However, if the commissioner uses replacement cost as a factor in determining the unit value of operating property, then a reasonable depreciation and obsolescence allowance may be used". Replacement cost is the present dollar cost to replace a property with one having similar or equal utility. Replacement cost does not require an exact replica of the installation, but only one which can serve the same purpose as the original. The key words in the replacement cost definition are "present dollar cost". While it is true that some depreciation or wearing out may occur in certain items of railroad property, it is also true that inflation has had a dramatic effect on the value of almost everything. Much of the original cost of property on the railroad's books was incurred at the time the roads were first built. Such components as land, rails, roadbed, engineering, office buildings, may well date to the early 1900's. It would be foolish to suggest that the value of those dollars is the same as the value of 1979 dollars. The agency believes that inflating the old dollars to current levels and then applying a depreciation or obsolescence allowance to this figure would produce much the same value as using original cost and allowing no depreciation.

Another consideration the agency used in choosing original cost over replacement cost is the "we wouldn't build it like that today" argument. Since the definition of replacement cost does not require an exact replica but only the same utility for the property in question, many differences of opinion would arise as to what type of property would be used to replace an existing installation. For example, the Burlington Northern owns a very long stone arch bridge over the Mississippi River in Minneapolis. Certainly this structure if built today would not be built of stone, but of steel. If a replacement cost basis were to be used, the agency would be charged with the responsibility of estimating the cost of building such a new bridge. This task would require a great deal of engineering knowledge and the most efficient way to build such a bridge would be open to conjecture. Since we are required to use the unit method of valuation, this task would be multiplied by the number of bridges and trestles contained in the Burlington Northern's entire system...obviously an impossible task.

Because of these difficulties and particularly because of the inflation vs depreciation concept, the agency believes the use of original cost as a factor in estimating the value of railroad property is both reasonable and necessary.

C. Income approach to valuation. The income approach to valuation is based on the simple axiom that a property is worth what it can earn. This concept has been upheld any number of times by various courts throughout the United States. A hotel built in the middle of a desert would most likely have a much lower value or selling price than a hotel built on a Florida beach, because the earning power of the Florida property is higher. The task, therefore, in the income approach to value, is to estimate what future earnings a prospective buyer could anticipate. This is accomplished by capitalizing the earnings of the railroad. The capitalization process is composed of two parts, the income to be capitalized, or income stream, and the capitalization rate.

Estimating future earnings is a difficult process. One of the best methods of estimating what will happen in the future is to look at what occurred in the past. For this reason, the agency has decided to look at the past earnings of the railroad being valued. Because railroad earnings are cyclical, going up and down in approximately three to four year cycles, the agency has opted to use a five year average of earnings in order to encourage a stable income stream without peaks and valleys. This stability benefits not only the railroads but also the taxing districts which will be the recipient of the taxes paid by the railroads. Both are ensured of a relatively constant base from which to plan budgets, expenditures and revenues. The income to be capitalized will be Net Railway Operating Income. This term represents income of a specific nature as defined by the Interstate Commerce Commission. Net Railway Operating Income is basically operating revenue, less operating expenses and taxes. It is a common figure easily obtainable by each railroad and easily audited by various regulatory bodies.

The use of this income for the income stream is not unique to Minnesota. Most states which use the unit method of valuing railroads capitalize Net Railway Operating Income or a variation of it.

The second portion of the income approach to valuation involves the establishment of a capitalization rate to be applied to the income stream. It is most important to match the proper capitalization rate to the income being capitalized. There are three basic approaches which can be used to establish a capitalization rate: the Summation Method, the Comparative Method and the Band of Investment Method. Without going into a technical explanation of each, the summation method is a method whereby a rate is built by starting with the "safe rate" (government bonds) and adding to it increments which would be required to reflect the lesser desirability (risk) of a given investment. The comparative method recognizes the reaction of the market to a specific investment; that is, it compares the known selling price and known income of investments to the investment under examination. It is commonly shown by the following equation:

$$\frac{\text{Income}}{\text{Selling Price}} = \text{Indicated Capitalization Rate}$$

The band of investment method is a synthesis of mortgage and equity rates which market data disclosed as applicable to comparable properties. The rate developed is a weighted average, the weighting being for percentages of the value which would be occupied by the mortgage and equity position, or bands of investment.

The agency has chosen the Band of Investment method to develop a capitalization rate. The numerical development of this rate is shown in Exhibit I attached to this Statement. The method employed again uses averages, just as the income stream does, to

insure stability. The agency has developed one capitalization rate for all railroads doing business within Minnesota. We believe this is reasonable in that it follows the practice of both the legislature and the courts in Minnesota of treating all members of one class of property alike. The classification system is a good example: Minnesota has many different classifications of property. Some classes of property are assessed at a higher rate than others, but all property within one class is assessed at the same rate. This is analogous to what the agency has attempted to do within the framework of these proposed rules: treat all property owners of one class, i.e., railroads, alike. For this reason we have not developed individual capitalization rates, one for each road, but an average rate to be applied to all roads.

The agency believes that using the income approach to value is both necessary to arrive at a fair determination of value and reasonable in its application through the use of matched income streams and capitalization rates.

D. Stock and Debt approach to valuation. In normal appraisal practice, the most important tool that the appraiser has available is market data. The courts, not only in Minnesota but nationwide, place a great deal of emphasis on the market approach. In normal appraisal practice, it is possible to find actual sales of similar properties which have sold on the open market. Sales of houses, farms, factories, etc. can be compared with the house, farm or factory under appraisal and, after proper adjustment for variations, they will produce a reasonable indication of the value of the subject property. This approach is usually not possible in appraising railroads because railroads are generally not sold as operating units. Those sales which do occur have factors present which make it difficult to compare them with other railroads. For this reason the agency has chosen to use an alternative to the market approach.

The nearest alternative approach to an objective market value of railroads is the stock and debt approach. This approach is based on the theory that the market value of a railroad may be obtained by computing the value of all the items which constitute the liability and capital accounts of the enterprise. In other words, it relies on the balance sheet equation that total assets must equal the total of all liabilities and capital.

The stock and debt approach for the valuation of railroad companies has been supported by a large number of court cases (Northern Pacific Railway Company vs. Adams County, 1 Fed. Supp. 163, Page 172, the District Court, E. D. Washington; Louisville and Nashville Railroad Company vs. Robert L. Greene, Auditor of Public Accounts et al, 244 U.S. 522, The Supreme Court of the United States; Parsons vs. Detroit and Canada Tunnel Co., 15 Fed. Supp. 986, at Pages 997, 998, 999 and 1002.

If a railroad's stocks and bonds are actively traded in the securities market, the value placed on these securities, plus liabilities, will provide an estimate of the total market value of the railroad's assets as placed on them by people in the marketplace. The value of the listed securities is the amount which the investing public is willing to pay for the various classes of securities in expectation of either dividend or interest yield plus, in some instances, anticipation of appreciation. It is also necessary to add liabilities to the market value of its listed securities in order to arrive at the total indicated value of its assets. The key words in the above explanation are "actively traded". A stock or bond that is not traded has no market established for it. Without marketplace activity, the theory behind the stock and debt approach breaks down, and it loses much of its credibility. For example, if all the stock in a small railroad is owned by one or two persons, or one family, what value should be placed on a share of this stock? Estimates can be made, but they do not have the same validity as a true marketplace price would have. For this reason,

the agency has proposed that only railroads who have stock traded on a recognized stock exchange, and whose bonds are traded, or at least rated by a recognized financial service, are eligible to be valued via the stock and debt approach to value. The agency believes this is a reasonable and necessary restriction on the use of this approach to value in order to preserve and protect its credibility.

Similarly, the agency has placed a restriction on the use of the stock and debt approach where a railroad is part of a conglomerate or diversified company. Unless the railroad portion of the stock price can be isolated from the total price of the stock, the stock price becomes meaningless. Consider the fact that one railroad operating in Minnesota is a subsidiary of U.S. Steel. To value this railroad based on the value of the stock of U.S. Steel would produce a completely false estimate of value. The agency has proposed, therefore, that unless the railroad's contribution to the total stock price can be determined, using net earnings as a basis for this determination, the stock and debt approach to value is not appropriate and will not be used. The agency believes that this restriction is both reasonable and necessary in order to preserve the integrity of this approach to value.

Once the market value of the equity, creditor claims and current liabilities have been established, a reasonable estimate of the value of the total corporate enterprise will have been determined. The result of this summation is that all of the corporation's assets, whether taxable or non-taxable, are included in the figure arrived at by the stock and debt approach. It then becomes necessary to remove the value of the non-taxable property (cash, investments, stock in other companies, rents from non-railroad property, etc.) from this figure. Several methods of removing the non-operating or non-taxable property from the gross stock and debt value are available. These methods include: 1) the influence method, whereby a ratio of non-operating income to total income is computed, 2) the capitalization of income method whereby non-operating income is capitalized, 3) the ratio of non-operating assets method whereby the ratio of non-operating assets to total assets is computed, 4) the summation method whereby the market value of non-operating or non-taxable assets is computed. The agency has chosen to use the influence method because it believes that this method is most consistent with our method of separating the railroad value from the total stock price in the case of a conglomerate, and also because earnings, or revenues, are a good measure of value when viewed from the eyes of an investor.

The influence method proposed by the rules uses a ratio of a five-year average of Net Revenue from Railway Operation to a five-year average of Income Available for Fixed Charges. The five-year average is used to promote stability, as was discussed in the income approach to valuation in C above. This average eliminates peaks and valleys which could result from a railroad having an extraordinary amount of non-operating income, from the sale of stock in another company, for example, in any one year. Both Net Revenue from Railway Operation and Income Available for Fixed Charges are figures which are easily obtainable by the railroads, in that they are required by the Interstate Commerce Commission in their annual reports. These figures are also subject to audit by various regulatory agencies which insure their accuracy.

The agency believes that the use of the proposed influence method to deduct the value of non-operating or non-taxable property is consistent with the use of the stock and debt approach to value; further, we believe that the use of the stock and debt approach and all the various ramifications as outlined in the proposed rules is a necessary and integral factor in the process of valuing railroad operating property.

E. Unit Value Computation. The three approaches to value discussed above must be correlated in some way to arrive at a final unit value. This computation is accom-

plished by weighting each of the approaches or indicators of value. The weighting applied to each factor denotes the credibility, or amount of confidence, the agency places in the ability of each of the indicators of value to reflect the true market value of the operating property of the railroad. After careful consideration, the agency has determined that the cost approach to value should bear a weight of 25%, that is, it should make up 25% of the final value of the railroad property. The stock and debt approach to value will also be weighted 25%. The income indicator of value has been determined to be the most important indicator of value by the agency. We believe that, since the railroads are operated as profitmaking concerns, the earning capability of the property is the most important issue in its valuation. For this reason, the income approach will be weighted 50%, making up one half of the final value of the railroad. If a railroad is not eligible to be valued using the stock and debt approach to value because it does not meet the criteria imposed by the rules for the use of this approach, the income indicator will be weighted at 75% of the total value.

The agency firmly believes that these weightings are a fair and equitable method of arriving at a final value of the railroad property. The use of such weightings in the final correlation of value is both reasonable and necessary in order to insure equal treatment for a unique class of property owner.

F. Railroads Operating at a Loss and Bankrupt Railroads. It is readily apparent that railroads operating at a loss over a five-year period or railroads involved in bankruptcy proceedings are different from viable profitmaking railroads. Railroads finding themselves in this position cannot simply go out of existence as many other businesses would do; they are under certain restrictions of the Interstate Commerce Commission and are required to continue operation and offer service to shippers even though it may mean operating at a continuing loss. A railroad with no 5-year average Net Railway Operating Income cannot be valued using the income approach to value which capitalizes net income. In addition, these railroads usually have had the trading of their stocks and bonds suspended or, if not, the value of the stock is indicative of non-operating rather than operating railroad property. Because of this, the agency has determined that, for these railroads, the income and stock and debt approaches to value are not workable because they would not produce a true indication of the value of the railroad's operating property. Therefore, the only approach to value which is usable for these railroads is the cost approach to value. The agency believes that it is reasonable in proposing this rule. Most other states using the unit method of valuation and faced with the problem of valuing bankrupt railroads also rely heavily, if not solely, on the cost approach. The agency also believes that this rule is necessary because if the cost approach to value is not utilized and the other two approaches to value are not workable, the agency is placed in the position of being required to value a railroad using the unit method without the benefit of any technique of doing so.

13 MCAR § 2.0005 Allocation. Minn. Stat. § 270.84, Subd. 1 requires the Commissioner of Revenue to "...value the operating property as a unit, taking into consideration the value of the operating property of the entire system, and shall allocate to this state that part thereof which is a fair and reasonable proportion of said entire system valuation." Therefore, after the various indicators of value have been correlated into the final unit value, this value must be allocated among the various states in which the railroad operates. Of course if the railroad operates in only one state, Minnesota, no allocation process is necessary. The value of any portion of a railway system should be determined by what that portion contributes to the value of the system as a whole. This is a formidable problem and the agency has approached it by using principles and techniques which are accepted and used by appraisers and other states nationwide.

This division of the unit value is normally accomplished through the use of apportionment factors. An apportionment factor is a tool. It measures a characteristic of a system within one area and relates that area's characteristic to the total system. In order to be an effective allocation tool, the factor should: a) be a readily available statistic, b) be a raw statistic and not an allocated statistic in itself, c) be a statistic reflecting property, income or use, and d) be such a statistic that when totalled in a system application will equal 100%.

After giving careful consideration to a great number of factors, the agency has chosen four which appear to meet every one of the desirable characteristics. These factors are: miles of railroad track, a property factor; ton miles of revenue freight, a use factor; gross revenues from transportation operations, an income factor; and original cost of road property, another property factor. The agency believes it is reasonable to use two property factors because the valuation process under discussion here is one which will be used for property tax purposes. Therefore, it is fitting that the property factors should play the most important role in the allocation process. All of the factors meet the other tests of being readily available, a raw statistic and when totaled will equal 100% within the system.

The agency believes that the use of four factors is a reasonable decision. The use of only one or two factors could, in some cases, result in an unrealistic allocation while the use of ten or twelve factors usually produces nothing materially different from the employment of four carefully chosen, relevant factors.

Each of the four factors discussed bears an equal weight of 25% of the total allocation percentage. Weighting one factor more or less than another was considered by the agency, but rejected because we believe that, due to the careful selection of the factors, each factor has equal validity and is equally as creditable as the others. The agency is confident that the allocation method which is proposed in the rules is reasonable in both its scope and its application. Further, the agency believes that the use of this allocation process is necessary if the agency is to carry out the charge given to it by Minn. Stat. § 270.84.

13 MCAR § 2.0006 Adjustments for non-formula assessed property or exempt property. Minn. Stat. § 270.81 Subd. 4 states, "In no event shall property owned or used by a railroad, whether operating property or non-operating property, be subject to tax hereunder unless such property is of a character which would otherwise be subject to tax under the provisions of Minnesota Statutes, Chapter 272." The major thrust of this statement is that railroads cannot be taxed on an ad valorem basis on their personal property, but only on their real property. Therefore some division must be made of the Minnesota unit value into the classes of real and personal property. This classification of the system unitary value defies the very concept of the unit value philosophy. The unit value method presupposes that the value of any one piece of property is interdependent upon all other parts of the unit. The classic appraisal question asked in this regard is, "What is the value of one link of a chain?" Obviously once the unit, like the chain, becomes broken up, much of its value becomes lost. Nevertheless, the agency has proposed a plan which will accomplish the difficult task of classifying the unit into the categories of real and personal property.

The proposed rule does not contemplate making a complete inventory of every item of railroad property within Minnesota. To do so would be almost an impossible task. Instead, the rule states that a percentage of personal property will be deducted from the Minnesota unit value based on the ratio of six Interstate Commerce Commission accounts to the railroad's total investment in Minnesota. These six accounts include communication equipment, roadway machines, shop machines, power plant machines, a portion of the ore docks and wharves, and equipment (rolling stock).

The equipment account which consists of locomotives, freight cars, work trains, etc., by its very nature cannot be said to have situs in one state or another if the railroad is a multi-state operation. For this reason the equipment is allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total car and locomotive miles. The agency believes this is a reasonable basis for the allocation of this account in that the miles traveled in one state or another indicate the use and hence the value of the cars. The allocation is also necessary since some basis of dividing up the value of the equipment account must be used if the personal property classification system is to be workable and effective.

The computation of this ratio uses depreciated original cost rather than undepreciated original cost. The agency believes that this is a reasonable proposal because personal property normally wears out much faster than real property. Therefore, it has larger allowances for depreciation and, more important, is replaced frequently with inflated dollars. For example, a railroad owns land (real estate) which never wears out or depreciates. This land was no doubt purchased years ago when the value of a dollar was much greater than it is today. The railroad also owns diesel locomotives (personal property) which do wear out and are depreciated at a high rate and replaced frequently. Every time they are replaced, it takes more dollars to buy the same equipment. To compare the "old" real estate dollars to the "new" personal property dollars when computing a ratio would produce a skewed effect. The agency believes that by applying depreciation to these costs, both real and personal, a leveling effect is achieved and a more accurate ratio is determined.

In addition to the personal property, some items of real property will also be deducted from the taxable unit value. These items are those which are either exempt by statute, such as approved pollution control facilities, or are valued and assessed locally rather than centrally because they are non-operating railroad property. The proposed rules state that these items will be deducted at the same original cost basis that they were incorporated into the unit value computation. The agency believes that this proposal is very reasonable and equitable. To deduct a greater or lesser amount would be inconsistent with accepted appraisal practices.

The agency, while acknowledging the fact that the problem in classifying the unit value into real and personal property is an extremely difficult one, firmly believes that the proposed rules solve this problem in a very reasonable, workable manner. Further, the proposed system is essential if the final taxable value of the operating railroad peoperty is to be in compliance with Minnesota Statutes.

There are a great number of numerical examples woven throught the narrative of the proposed rules. These examples are for purposes of illustration and explanation only, and are not intended to supercede or modify the rules in any manner. The agency prefers the placement of the examples within the body of the rules rather than in an appendix because it believes they serve to bring more clarity to the rules with a minimum of confusion. The agency believes that the examples are reasonable in their scope and purpose and necessary as an aid to understanding the text of the rules.

In summary, the agency is convinced that all the rules it is proposing at this hearing are not only reasonable and proper, but are also necessary to comply with the mandates of the legislature.

RECEIVED
APR 15 1980
OFFICE OF HEARING
EXAMINERS

EXHIBIT I

STATEMENT OF NEED AND REASONABLENESS

CAPITALIZATION RATE WORK-UP

A. The figures used in the study on the capitalization of the average railroad (left side of the worksheet) were obtained from the I.C.C. and represent historic face value figures. The results showed a make-up of 55% debt and 45% equity for the average railroad.

B. The rates used in the Cost of Money Study (Columns 5 and 6) represent the average of four different railroad bonds: Aaa, Aa, A, Baa. This study considered the imbedded debt of railroads and calculated a rate of 7.21%.

C. The indicated rates shown in the Common Stock Yield Study (lower right corner of worksheet) represent yields obtained by adding the dividend yield to the percent of earnings per share increase over a five-year moving average. This study not only considers dividend yield but appreciation in per share prices. The average indicated rate was calculated to be 15.23%.

D. The resulting capitalization rate calculation (upper right hand corner of worksheet) was obtained by adding a weighted debt cap rate percentage and a weighted equity cap rate percentage.

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES)
OF THE DEPARTMENT OF REVENUE GOVERNING THE) NOTICE OF HEARING
AD VALOREM (PROPERTY) TAXES IMPOSED ON RAILROAD)
COMPANIES)

NOTICE IS HEREBY GIVEN that a public hearing in the above-entitled matter will be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Thursday, May 15, 1980 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 Jon L. Lunde, Office of Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, (612) 296-5938, either before the hearing or within five working days after the close of the hearing. The Hearing Examiner may extend this time limit for a longer period, however, the extension cannot exceed 20 calendar days.

The proposed rules if adopted will establish methods and procedures to be used by the Department of Revenue relating to ad valorem (property) taxes imposed on railroad companies. The proposed rules deal generally with general procedures, definition of terms, reports required of railroad companies, valuation of railroad property using the cost, income and stock and debt indicators of value, computation of the unit value, valuation of bankrupt railroads, allocation procedures and factors used to establish the Minnesota portion of the unit value and deductions from the Minnesota unit value for exempt, non-operating property and personal property.

Copies of the proposed rules are now available, and one free copy may be obtained by writing to G. D. Garski, Manager of State Assessed Property, Property Equalization Division, Second Floor, Centennial Office Building, Saint Paul, Minnesota 55145, (612) 296-5131. Additional copies will be available at the door on the date of the hearing. The agency's authority to promulgate the proposed rules is contained in Minnesota Statutes 270.06; 270.11, Subdivision 1 and 6; 270.81, Subdivision 1; and Subdivision 5.

Notice is hereby given that 25 days prior to the hearing a statement of need and reasonableness will be available for review at the agency and at the Office of Hearing Examiners. This statement of need and reasonableness will include a summary of all of the evidence which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rules. Copies of the statement of need and reasonableness may be obtained from the Office of Hearing Examiners at a minimal charge.

NOTICE: The proposed rule is subject to change as a result of the rule hearing process. The Agency therefore strongly urges those who are potentially affected in any manner by the substance of the proposed rule to participate in the rule hearing process.

Minnesota Statutes, Chapter 10A.03 (1978) requires each lobbyist to register with the State Ethical Practices Board within five (5) days of the commencement of such activities by the individual.

Minn. Stat. § 10A.01. subd. 11 (Supp. 1979), defines a lobbyist as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more

than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

"Lobbyist" does not include any:

(a) Public official or employee of the state or any of its political subdivisions or public bodies acting in his official capacity;

(b) Party or his representative appearing in a proceeding before a state board, commission or agency of the executive branch unless the board, commission or agency is taking administrative action;

(c) Individual while engaged in selling goods or services to be paid for by public funds;

(d) News media or their employees or agents while engaged in the publishing or broadcasting of news items, editorial comments or paid advertisements which directly or indirectly urge official action;

(e) Paid expert witness whose testimony is requested by the body before which he is appearing but only to the extent of preparing or delivering testimony; or

(f) Stockholder of a family farm corporation as defined in Minn. Stat. § 500.24, Subdivision 1, who does not spend over $250, excluding his own travel expenses in any year in communicating with public officials;

(g) Party or his representative appearing to present a claim to the legislature and communicating to legislators only by the filing of a claim form and supporting documents and by appearing at public hearings on the claim.

Questions should be directed to the State Ethical Practices Board, Room 41, State Office Building, Wabasha Street, Saint Paul, Minnesota 55155, phone number (612) 296-5615.

Notice: Any person may request notification of the date on which the Hearing Examiner's Report will be available, after which date the agency may not take any final action on the rules for a period of five working days. Any person may request notification of the date on which the hearing record has been submitted (or resubmitted) to the Attorney General by the agency. If you desire to be so notified, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the Hearing Examiner (in the case of the Hearing Examiner's Report), or to the agency (in the case of the agency's submission or resubmission to the Attorney General).

Dated: April 10, 1980

Clyde E. Allen, Jr.
Commissioner of Revenue

SP:N

(5)

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED ADOPTION OF RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE AD VALOREM (PROPERTY) TAXES IMPOSED ON RAILROAD COMPANIES) ORDER FOR HEARING

IT IS HEREBY ORDERED that a public hearing on the above-captioned rules be held in Room #51, Ground Floor, State Office Building, Wabasha Street and Park Avenue, Saint Paul, Minnesota 55155, on Thursday, May 15, 1980, 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 in the State Register.

George W. Winter
Assistant Commissioner of Revenue

Date: 17 March 1980

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