

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

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

Our File [redacted]522

STATE OF [redacted]NNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : BARBARA L. SUNDQUIST
Commissioner of Employee Relations

Attn: SHARON L'HERAULT
Special Assistant
Attorney General

DATE: 12/31/80

FROM : JERRY S. ANDERSON
Special Assistant
Attorney General

PHONE: 296-1288

SUBJECT: Rules as Approved In the Matter of the Proposed Amendment of Rules of the State Department of Employee Relations Governing the Depositing of Social Security Contributions by Covered Public Employers.

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 No. 662

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 12/23/80
DATE FOR REVIEW _____
DATE DUE 1/6/81

Adopted w/a hearing _____
Adopted w/o a hearing X
Temporary rule _____

Approved _____ Disapproved _____ Returned to Agency _____

Resubmitted _____ Due _____
Approved _____ Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State _____

____ Rule as Adopted

____ Rule as Proposed

____ Order Adopting

____ Notice of Intent to Solicit Outside Opinion

____ Order for rulemaking
_____ Date of Hearing

____ Certificate of Board's Authorizing Resolution

____ Notice of rulemaking
_____ Sufficiency

____ Affidavit of Mailing Notice of rulemaking
_____ At least 30 days prior to hearing/adoption

____ Mailing list Certificate

____ Publication in State Register
_____ At least 30/20 days prior to hearing/adoption

____ Hearing Examiner's Report

____ Chief Hearing Examiner's Report(s)
_____ Approving H.E.'s Report
_____ Approving agency action

____ Agency's Findings of Fact

____ LCRAR Report or agency Affidavit

____ Certificate of Board's Resolution Adopting Rules

____ Order Approving Incorporation by Reference

____ Statement of Need and Reasonableness

____ Petition for Adoption of a Rule

____ Record (includes transcript or tape, exhibits, comments received by agency, requests for a hearing, and other relevant materials)

____ Certificate of Compliance w/Rulemaking Procedures

____ Affidavit of Mailing Notice of Submission to Attorney General

____ Notice of Submission to the Attorney General

STATE OF MINNESOTA

DEPARTMENT OF EMPLOYEE RELATIONS

In the Matter of the Proposed Adoption of the Amendment of Rules of the State Department of Employee Relations Governing the Depositing of Social Security Contributions by Covered Public Employers

ORDER ADOPTING RULES

Notice of the Commissioner's intent to adopt the above-entitled rules without a public hearing was published in the State Register on November 3, 1980, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4 on November 3, 1980. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving fewer than seven written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for and reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as the Proposed Amendment of the Rules Regarding Depositing of Social Security Contributions by Covered Public Employers are adopted this 23rd day of December, 1980, pursuant to authority vested in me by Minnesota Statutes section 35.05.

STATE OF MINNESOTA

Barbara T. Sundquist

COMMISSIONER OF EMPLOYEE RELATIONS

ADOPTED

Department of Employee Relations

Proposed Rules Regarding Depositing of
Social Security Contributions by Covered Public Employees

2 MCAR § 2.198

E. Employee's contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the State and the Secretary of Health, Education and Welfare (hereinafter referred to as "State Agreement") with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee during the remainder of the calendar year are not subject to deductions for social security taxes and no further wage contributions are required.

1. The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the payroll record unit of the State or political subdivision (hereinafter referred to as the "reporting unit") are the contribution rates established by Title II of the Federal Social Security Act.

2. Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, wages received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are not subject to tax. Therefore, where the State Agreement makes social security coverage effective January 1 of a calendar year, wages received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are not subject to tax.

3. Where an employee performs services during a calendar year for the State and one or more political subdivisions or for two or more political subdivisions, the wages paid in any calendar year to such employee by the State and each such political subdivision not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by the State and each political subdivision, with the following exception: Where the State of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota Public Schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate are subject to the social security tax and reported as wages.

4. The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in any medium other than cash. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the State Agency for credit to the Social Security Contributions Fund in accordance with the following schedule:

a. ~~Except as provided in paragraph c.,~~ For each month, the social security contributions due on the wages paid ~~during the first and second months of each quarterly period~~ shall be forwarded to the State Agency within ~~five working~~ the fifteen days ~~after~~ period following the end of each month beginning with the month of July 1980. Where the last day of the 15-day period is a legal holiday or a nonwork day, the social security contribution payment is due on the next preceding work day.

~~b. Except as provided in paragraph c., the social security contributions due on the wages paid during the third month of each quarterly period shall be forwarded to the State Agency within 20 days after the end of such month along with the quarterly report.~~

~~c.~~b. Where the State assumes the responsibility for the matching employer social security contribution pursuant to Minn. Stat. § 355.46, subd. 3(b), the payments under a. ~~and b.~~ above shall be equal to the required employee contribution withheld only.

~~d.~~c. In lieu of remitting at times indicated above, the reporting

unit may remit the required social security contribution payment at the end of each payroll period or after each salary payment made to the employees, but in no event shall the contribution payment be made later than the time periods specified in paragraphs a. ~~and b.~~ of this section.

~~c.~~d. With each contribution payment, the reporting unit must submit a completed approved Remittance Form prescribed by the State Agency.

~~d.~~e. If any monthly contribution payment is not received by the State Agency within the deadlines specified in paragraphs a. ~~and b.~~ above, interest will be charged to the reporting unit at the rate of six percent per annum on the contributions due for each month or part of a month from the due date, but in no case shall such interest charge or penalty be less than five dollars ($5.00).

5. The reporting unit is liable to the State Agency for the employee's share of the tax whether or not such share has been withheld from the employee's wages. Notwithstanding the foregoing, the employee remains liable for the employee's share of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

6. If any reporting unit fails to make the social security contribution payments required by law and these rules, the delinquent payments due with interest thereon at the rate of six percent per annum or the minimum penalty as established by these rules, whichever is greater, may be recovered in an action by the State Agency in a court of competent jurisdiction against

each and every political subdivision liable therefor or may, at the request of the State Agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

7. The State or a political subdivision is not authorized to begin making deductions for social security taxes from the earnings of employees until after the State Agreement has been approved on behalf of the Federal Government by the Secretary of Health, Education and Welfare. However, as soon as the State Agreement has been fully executed and has been approved, the political subdivision shall make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that the total contribution payments required from the effective date of the State Agreement are transmitted to the State Agency along with initial reports before the initial deadline as determined by the State Agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

8. The responsibility of each reporting unit to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

APPROVED AS TO FORM AND LEGALITY

12/29 1980

WARREN SPANNAUS, ATTORNEY GENERAL

BY _____

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
DEC 30 1980
Joan Anderson Growe
Secretary of State
3:20 PM

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

I, Special Assistant Attorney General Sharon L'Herault, do hereby declare that I have examined the proposed rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedures Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. Any exceptions are noted below.

Sharon L'Herault
Special Assistant Attorney General

Dated: 12/23/80

STATE OF MINNESOTA

DEPARTMENT OF EMPLOYEE RELATIONS

In the Matter of the Proposed Amendment of Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

FOX RIVER BOND

IT IS HEREBY ORDERED this 24th day of September, 1980, that the State Department of Employee Relations proceed to adopt the above entitled rules without a public hearing pursuant to the procedures set forth in Minnesota Statutes Section 15.0412, subdivision 4g (1980) for adoption of noncontroversial rules.

IT IS FURTHER ORDERED that the Notice of Intent to Adopt Rules Without A Public Hearing be published in the State Register.

IT IS FURTHER ORDERED that the Notice of Intent to Adopt Rules Without A Public Hearing be mailed to all persons or representatives of associations or other interested groups who have registered their names with the Department of Employee Relations for that purpose.

STATE OF MINNESOTA

Barbara L. Sundquist

COMMISSIONER OF EMPLOYEE RELATIONS

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

STATE OF MINNESOTA

DEPARTMENT EMPLOYEE RELATIONS

Office Memorandum

TO : Office of the Attorney General

DATE: December 23, 1980

FROM : Barbara L. Sundquist
Commissioner

Barbara L. Sundquist

PHONE: 296-8366

SUBJECT: Proposed Amendment of the Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

Attached are an Original and three copies of our agency's proposed rules regarding depositing of Social Security contributions. These rules have been adopted as originally proposed.

RECEIVED
DEC 23 1980
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

Department of Employee Relations

Proposed Amendment of the Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

NOTICE IS HEREBY GIVEN that the State Department of Employee Relations proposes to adopt the above entitled rules without a public hearing. The Commissioner has determined that the proposed adoption of these rules is noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes section 15.0412, subdivision 4h (1980) for adoption of noncontroversial rules.

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rules may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes section 15.0412, subdivisions 4-4f.

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

Patrick Halvorsen
Room 307, Space Center Building
444 Lafayette Road
St. Paul, Minnesota 55101

Telephone No. 296-4349

Authority for the adoption of these rules is contained in Minnesota Statutes section 355.05. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Patrick Halvorsen upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this Notice, the Statement of Need and Reasonableness, all written comments received, and the final Rules as Adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to Patrick Halvorsen.

The rules proposed for adoption relate to the following matter:

The time schedule for local governmental units to remit their social security contributions each month to the State Agency is being changed due to recently enacted Federal legislation. Under the proposed rules, the social security contributions must be submitted within the 15 day period following the end of each month. Under the existing rules, the contributions are submitted within five working days after the end of the first and second months of each quarterly period and within 20 days following the third month of each quarter.

Copies of this Notice and the proposed rules are available and may be obtained by contacting Patrick Halvorsen.

STATE OF MINNESOTA

BARBARA L. SUNDQUIST
COMMISSIONER OF EMPLOYEE RELATIONS

STATE OF MINNESOTA

DEPARTMENT OF EMPLOYEE RELATIONS

In the Matter of the Proposed Amendment of the Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

AFFIDAVIT OF MAILING OF AGENCY RULEMAKING NOTICE LIST

Affiant, being first duly sworn, deposes and says:

That on the 3rd day of November, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING by depositing in the United States Mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage paid to all persons and associations at the addresses listed on the attached Agency Rulemaking Notice List.

FURTHER AFFIANT SAYETH NOT.

Patrick Halloran

Subscribed and sworn to before me this 3 day of November, 1980.

Christine T. Goodwill
Notary Public

CHRISTINE T. GOODWILL
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES NOV. 18, 1982

Susan P. Robertson
Executive Director, LCRAR
Room 430
State Office Building
IO

Marylee Fithian, Director
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State Planning Agency
101 Capitol Sq. Bldg.
IO

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Dept. of Veterans Affairs
Veterans Service Bldg.
IO

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Council for the Handicapped
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Metro Square Building
IO

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Forest Lake, MN 55025

Bernard W. Kaye
Assoc. Supt.-Personnel
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Peter S. Popovich
Professional Association
314 Minnesota Bldg.
St. Paul, MN 55101

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IBM Corporation
Department 850
Highway 52 & N.W. 37th St.
Rochester, Minnesota 55901

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University of Minnesota
200 Shops Building
319 15th Avenue S.E.
Minneapolis, Minnesota 55455

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Director of Personnel
Department of Education
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IO

Conrad M. Fredin
Attorney at Law
811 First Nat'l Bank Bldg.
Duluth, Minnesota 55802

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Dept. of Econ. Development
480 Cedar Street
IO

Brian R. Isaacson
Mpls. Personnel Department
312 3rd Avenue South
Minneapolis, MN 55415

Bruce Rowe, Administrator
Community Health Services Bd
325 Lake Ave. So., Suite 604
Duluth, MN 55802

F. James Rybak
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690 American Ctr. Bldg.
150 E. Kellogg Blvd.
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James C. Shipman
Executive Director
Association of MN Counties
2305 Ford Parkway
St. Paul, MN 55116

Daniel Gustafson
MN State Fed. of Labor,
AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Janice M. Devens, Director
Human Service Agency
Wright County Courthouse
Buffalo, MN 55313

Jean Dawson, Editor
Minnesota Government Report
B-12, Press Room
State Capitol Bldg.
IO

Michael J. Ahern
Law Office
2350 ISD Center
80 South Eight Street
Minneapolis, Minnesota 55402

President
Interstate Power Company
1000 Main Street
Dubuque, IA 52001

Government Center Library
C-2359 Government Center
300 South 6th Street
Minneapolis, MN 55487

Richard C. Buske
Dept. of Econ. Development
480 Cedar Street
IO

Karen L. Ferrell
Energy Agency
980 American Center Bldg.
150 East Kellogg Blvd.
IO

Linda Sandvig
MN. Nurses Association
1821 University Avenue
St. Paul, MN 55104

Paul L. Groschen, Exec. Dir.
MN State Retirement System
529 Jackson Street
IO

Cathy Johnson
Oak Terrace Nursing Home
Minnetonka, MN 55343

Robert F. Rosenthal
Hospital Administrator
2110 East Center Street
Rochester, MN 55901

Advocate for the Blind
1821 University Ave., 389S
St. Paul, MN 55104

Barton Nelson
Dept. of Finance
114 Administration Bldg.
IO

M.S. Schumacher
Minneapolis Tribune
425 Portland Avenue
Minneapolis, Minnesota 55488

Mary Samoszuk, Admin. Assist
to the Executive Director
Higher Educ. Coord. Bd.
Suite 400, Capitol Square
IO

Agency Rulemaking
Notice List

3927B/68B

Charles Schaffer
Dept. of Econ. Development
480 Cedar Street
IO

Bernard L. Brommer
Executive Vice President
Minnesota AFL-CIO
175 Aurora Avenue
St. Paul, MN 55103

Bonnie Bannanno
1745 University Avenue
Room 300
St. Paul, MN 55104

Martin L. Garden
Law Offices of Martin Garden
811 LaSalle Court
Minneapolis, MN 55402

Int'l Union of Operating Eng
Local 34
1043 Midland Bank Bldg.
Minneapolis, MN 55401

SASOC Local 30
AFL-CIO
401 5th Street S.E.
Minneapolis, MN 55414

Executive Secretary
MN Board of Pharmacy
717 Delaware St. SE #351
IO

Executive Secretary
MN Board of Psychology
717 Delaware St. S.E. #343
IO

Thomas H. Polt
Law Offices
McCarthy Building
Eyota, Minnesota 55934

Phillips Legislative Serv. Inc
459 Rice Street
St. Paul, MN 55103

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Amendment of the Rules Regarding
Depositing of Social Security
Contributions by Covered
Public Employers

CERTIFICATION

I hereby certify that the attached 42 labels & 1 sheets constitute the complete and accurate list of persons, associations, and other interested groups who, as of 9:30 a.m., this 3rd day of Nov., 1980, have requested pursuant to Minn. Stat. § 15.0412, subd. 4, (1978), as amended by Laws of 1980, ch. 615 § 6, that their names be placed on the agency Rulemaking Notice List for the purpose of receiving notice of public hearings on proposed rules on the subject captioned above.

DEPARTMENT OF EMPLOYEE RELATIONS

Patrick Halvorsen

Patrick Halvorsen, Director
Evaluation and Planning

STATE OF MINNESOTA

DEPARTMENT OF EMPLOYEE RELATIONS

In the Matter of the Proposed Amendment of the Rules Regarding Depositing of Social Security Contributions by Covered Public Employers

AFFIDAVIT OF MAILING OF DISCRETIONARY NOTICE LIST

Affiant, being first duly sworn, deposes and says:

That on the 3rd day of November, 1980, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING by depositing in the United States Mail at said City of St. Paul, a true and correct copy thereof, properly enveloped, with postage paid to all persons and associations at the addresses listed on the attached Agency Discretionary Notice List.

FURTHER AFFIANT SAYETH NOT.

Patrick Halloran

Subscribed and sworn to before me this 3 day of November, 1980.

Christine F. Goodwill
Notary Public

CHRISTINE F. GOODWILL
NOTARY PUBLIC - MINNESOTA
DAKOTA COUNTY
MY COMMISSION EXPIRES NOV. 18, 1982

Department of Employee Relations

Proposed Rules Regarding Depositing of
Social Security Contributions by Covered Public Employees

2 MCAR § 2.198

E. Employee's contribution. The employee's contribution is measured by the amount of wages actually received on or after the effective date of the agreement or modification entered into between the State and the Secretary of Health, Education and Welfare (hereinafter referred to as "State Agreement") with respect to services performed in employment by the employee in a coverage group included in such agreement or modification. After the maximum reportable wages as provided in Title II of the Federal Social Security Act have been paid an employee during a calendar year, additional wages paid that employee during the remainder of the calendar year are not subject to deductions for social security taxes and no further wage contributions are required.

1. The social security tax rates to be applied against the wages of employees within the coverage group and which are to be matched with an equal amount by the payroll record unit of the State or political subdivision (hereinafter referred to as the "reporting unit") are the contribution rates established by Title II of the Federal Social Security Act.

2. Taxes shall be computed on the basis of the rate effective at the time the wages are actually or constructively received or paid.

However, wages received by an employee subsequent to the effective date of coverage for services rendered in a period prior to the effective date of coverage cannot be regarded as "wages received for employment" and such amounts are not subject to tax. Therefore, where the State Agreement makes social security coverage effective January 1 of a calendar year, wages received by an employee in such calendar year for services rendered in the previous calendar year cannot be regarded as "wages received for employment" and such amounts are not subject to tax.

3. Where an employee performs services during a calendar year for the State and one or more political subdivisions or for two or more political subdivisions, the wages paid in any calendar year to such employee by the State and each such political subdivision not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act shall be reported by the State and each political subdivision, with the following exception: Where the State of Minnesota pays the matching employer social security contributions tax, such as for teachers in Minnesota Public Schools, then only the maximum reportable wages as provided in Title II of the Federal Social Security Act paid to such individual in the aggregate are subject to the social security tax and reported as wages.

4. The reporting unit shall be responsible for and shall collect from each employee the amount of tax determined to be due by deducting said amount from employee's wages when actually or constructively paid. The reporting unit shall collect the tax notwithstanding the fact that the wages are paid in any medium other than cash. After the matching amount has been provided by the reporting unit, the total social security contribution shall be remitted to the State Agency for credit to the Social Security Contributions Fund in accordance with the following schedule:

a. ~~Except as provided in paragraph c.,~~ For each month, the social security contributions due on the wages paid ~~during the first and second months of each quarterly period~~ shall be forwarded to the State Agency within ~~five working~~ the fifteen days ~~after~~ period following the end of each month beginning with the month of July 1980. Where the last day of the 15-day period is a legal holiday or a nonwork day, the social security contribution payment is due on the next preceding work day.

~~b. Except as provided in paragraph c., the social security contributions due on the wages paid during the third month of each quarterly period shall be forwarded to the State Agency within 20 days after the end of such month along with the quarterly report.~~

~~c.~~b. Where the State assumes the responsibility for the matching employer social security contribution pursuant to Minn. Stat. § 355.46, subd. 3(b), the payments under a. ~~and b.~~ above shall be equal to the required employee contribution withheld only.

~~d.~~c. In lieu of remitting at times indicated above, the reporting

unit may remit the required social security contribution payment at the end of each payroll period or after each salary payment made to the employees, but in no event shall the contribution payment be made later than the time periods specified in paragraphs a. ~~and b.~~ of this section.

~~c.~~d. With each contribution payment, the reporting unit must submit a completed approved Remittance Form prescribed by the State Agency.

~~f.~~e. If any monthly contribution payment is not received by the State Agency within the deadlines specified in paragraphs a. ~~and b.~~ above, interest will be charged to the reporting unit at the rate of six percent per annum on the contributions due for each month or part of a month from the due date, but in no case shall such interest charge or penalty be less than five dollars ($5.00).

5. The reporting unit is liable to the State Agency for the employee's share of the tax whether or not such share has been withheld from the employee's wages. Notwithstanding the foregoing, the employee remains liable for the employee's share of the tax on all wages received by the employee not in excess of the maximum reportable wages as provided in Title II of the Federal Social Security Act per calendar year.

6. If any reporting unit fails to make the social security contribution payments required by law and these rules, the delinquent payments due with interest thereon at the rate of six percent per annum or the minimum penalty as established by these rules, whichever is greater, may be recovered in an action by the State Agency in a court of competent jurisdiction against

each and every political subdivision liable therefor or may, at the request of the State Agency, be deducted from any other moneys payable to such political subdivision by any department or agency of the state.

7. The State or a political subdivision is not authorized to begin making deductions for social security taxes from the earnings of employees until after the State Agreement has been approved on behalf of the Federal Government by the Secretary of Health, Education and Welfare. However, as soon as the State Agreement has been fully executed and has been approved, the political subdivision shall make the necessary deductions from earnings, retroactive to effective date of said agreement or modification thereof, so that the total contribution payments required from the effective date of the State Agreement are transmitted to the State Agency along with initial reports before the initial deadline as determined by the State Agency. The exact method and time of deducting retroactive contributions from employees are matters to be determined by each political subdivision individually.

8. The responsibility of each reporting unit to make the required deductions from earnings of all covered employees shall not be affected by the fact that some employees may, while employed, be receiving social security benefits.

DEPARTMENT OF EMPLOYEE RELATIONS

IN THE MATTER OF THE PROPOSED AMENDMENT OF RULES REGARDING DEPOSITING OF SOCIAL SECURITY CONTRIBUTIONS BY COVERED PUBLIC EMPLOYERS

STATEMENT OF NEED AND REASONABLENESS

The above captioned rules are amendments to existing social security rules of the Department of Employee Relations. The last time these sections of the above captioned rules were amended was June 2, 1980.

The need to adopt these amended rules arises from the need to implement the revised deposit schedule for social security contributions enacted into law by the passage in U.S. Congress of the Social Security Disability Amendments of 1980, PL 96-265, 94 Stat. 470-471 (Exhibit) superceding the Department of Health, Education and Welfare regulations, 20 CFR Part 404, Subpart M, adopted on November 20, 1978. Social Security Administration's record keeping and reporting instructions to State Social Security Administrators were revised to reflect the new deposit schedule for social security contributions. (Exhibit , Proposed Text for Handbook for State Social Security Administrators). The authority of the Department of Employee Relations to promulgate and adopt rules is Minn. Stat. S 355.05.

Specifically,

1. 2 MCAR S 2.198 E.4.a.

This section has been revised to require that the social security contributions for each month for the State and its political subdivisions be submitted to the State Agency within the 15-day period following the end of the month. This is an increase in the time allowed for submitting the contributions for the first and second months of each quarterly period and a slight reduction in the time allowed for making the remittance covering the third month of each quarterly period. Under existing rules, the contributions from the political subdivisions are due on wages paid during the first and second months of each quarterly period within five working days after the end of the month. And, the contributions on wages paid during the third month of each quarterly period are due within 20 days after the end of the third month of the quarterly period.

This revision is necessary because the present State rules are based upon Department of Health, Education and Welfare regulations, 20 CFR Part 404, Subpart M, adopted November 20, 1978, which have been negated and superceded by Social Security Disability Amendments of 1980, PL 96-265, 94 Stat. 470-471, specifying a revised deposit schedule for social security contributions due pursuant to Section 218 of the Social Security Act.

Under the revised deposit schedule set forth in the Federal legislation, the social security contributions for each month for the State, covering all State and local governmental subdivisions, are due within the 30-day period following the end of the month. Where the last day of the 30-day period is a legal holiday or a nonwork day, the contribution deposit is due on the next preceding work day.

The proposed time schedule is reasonable because it allocates additional time to the reporting units for making their social security contribution remittances to the State Agency while at the same time it provides the State Agency the time necessary to properly receive, record and deposit with the State Treasurer the contributions from the 2,300 covered reporting units before the deadline established for the consolidated deposit of social security contributions with the Federal Government.

2. 2 MCAR S 2.198 E.4.b.

Paragraph 2 MCAR S 2.198 E.4.b is being deleted as it no longer is necessary to differentiate between the third month of each quarterly period and the first and second months of such quarterly period. The revised deposit schedule is the same for all months of the year.

3. 2 MCAR S 2.198 E.4.c.

Paragraph 2 MCAR S 2.198 E.4.c. is renumbered 2 MCAR S 2.198 E.4.b. due to deletion of former paragraph b. Further, reference to former Paragraph b. is deleted.

4. 2 MCAR S 2.198 E.4.d.

Paragraph 2 MCAR S 2.198 E.4.d. is renumbered 2 MCAR S 2.198 E.4.c. due to deletion of former paragraph b. Further, reference to former paragraph b. is deleted.

5. 2 MCAR S 2.198 E.4.e.

Paragraph 2 MCAR S 2.198 E.4.e. is renumbered 2 MCAR S 2.198 E.4.d. due to deletion of former paragraph b. Further, reference to former paragraph b. is deleted.

STATE OF MINNESOTA

COUNTY OF RAMSEY

In the Matter of the Proposed
Amendment of the Rules Regarding
Depositing of Social Security
Contributions by Covered Public
Employers

CERTIFICATION

I hereby certify that no persons requested Notice of Submission to the Attorney General.

DEPARTMENT OF EMPLOYEE RELATIONS

Patrick Halvorsen

Patrick Halvorsen, Director
Evaluation and Planning