

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 771

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 1-7-82
DATE FOR REVIEW [redacted] 1-18-82
DATE DUE [redacted] 1-27-82

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

Approved 1-26-82 Disapproved Returned to Agency 1-26-82

Resubmitted Due
Approved Disapproved Returned to Agency

Date filed w/Secretary of State 1-26-82 Revisor approved 1/7/82 disapproved

---

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 1.7.82 Date combined with FofF

N/A Notice of Intent to Solicit Outside Opinion

✓ Order for rulemaking
12.11.81 date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency substantially complies - minor typo

✓ Affidavit of Mailing Notice or rulemaking
11/4 and 11/10/81 At least 30 days prior to hearing/~~adoption~~

✓ Mailing list Certificate

✓ Publication in State Register
11.9.81 At least 30/~~20~~ days prior to ~~hearing/adoption~~ hearing

✓ Hearing Examiner's Report

N/A Chief Hearing Examiner's Report(s)
Approving H.E.'s Report
↓ Approving agency action

✓ Agency's Findings of Fact combined with Order Adopting

N/A LCRAR Report or agency Affidavit

N/A Certificate of Board's Resolution Adopting Rules

N/A Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

N/A 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
not in form suggested by AG. but substantially complies

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : CLYDE E. ALLEN
Commissioner of Revenue

DATE: January 26, 1982

ATTN: DALE H. BUSACKER, Division Attorney

FROM : TED A. MARTINEZ
Special Assistant Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax (13 MCAR Section 1.6301.)

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. Please 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 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 to the rules in the approved set.

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

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

TAM:drw

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3439

RECEIVED
JAN 7 1982
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

January 7, 1982

Office of Attorney General
5th Floor State Office Building
St. Paul, Minnesota 55155

Re: Review of Rule Governing Filing and Payment of Withholding Tax

Dear Sir or Madam:

In accordance with Minn. Stat. Section 15.0412, subd. 4e and 1 MCAR Section 1.202, I enclose the following documents for your review:

1. Rule as Adopted (original and three copies).
2. Rule as Adopted showing the change made to the rule after it was published.
3. Order Adopting including Findings of Fact and Conclusions (two copies).
4. Order for Hearing.
5. Notice of Hearing.
6. Affidavit of Mailing (Notice of Hearing).
7. Certificate of Completeness and Accuracy (Mailing List Certificate).
8. Rule as Proposed and as published in the November 9, 1981 State Register.
9. Hearing Examiner's Report.
10. Statement of Need and Reasonableness.
11. The tape recording of the hearing as prepared by the Office of Administrative Hearings. Also contained are letters written to the Hearing Examiner which are part of the record.
12. Certificate of Compliance with Rulemaking Procedure.
13. Notice of Submission to the Attorney General.

January 7, 1982

14. Affidavit of Mailing Notice of Submission to the Attorney General.

As required under Minn. Stat. Section 15.0412, subd. 10, I have today submitted a copy of the rule as adopted to the Revisor for her approval.

Please contact the undersigned if there are any questions.

Sincerely,

Dale H. Busacker

Dale H. Busacker
Division Attorney
Income Tax Division

DHB/ml

Enclosures

AG copy

shows chge from Rule as Proposed

Department of Revenue

Income Tax Division

Adopted Rule Governing Filing and Payment of Withholding Tax

Rule as Adopted

13 MCAR S 1.6301 Filing and payment of withheld tax. For purposes of determining the timeliness of withholding tax payments, returns, or deposits under Minn. Stat. S 290.92, subd. 6, clause (1), the payment, return, or deposit shall be treated as having been made on the earlier of the following dates:

A. The date actually received by the Department of Revenue; or

B. The date of mailing, but only if the payment, return, or deposit was mailed on or before the ~~second~~ HE 12 & F of F day prior to the due date, including any extension of time granted for making the payment, return, or deposit. The person required to make the payment, return, or deposit shall have the burden of establishing that the payment, return, or deposit was timely mailed in the United States by United States mail in an envelope or other appropriate wrapper, postage prepaid, and properly addressed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
Secretary of State

APPROVED AS TO LEGALITY

Jan 26 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A. Mondale

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JAN 26 1982
Joan Anderson Growe
Secretary of State
11:00 AM

10/22/81
RD118

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

Agency Department of Revenue

Division

Agency Contact Dale Busacker Phone Number

Title: Filing and Payment of Withholding Tax

Type of Rules: Permanent X Temporary_____

Incorporations by References:

Rule Number	Material Incorporated
13 MCAR S 1.6301	Author Title Place Publisher Date Cost Places Available

See Additional references on back Yes___ No X

Duplication of Statutory Language.

Rule Number	Statutory Section Duplicated

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Janet C. Rahm
Janet C. Rahm

Title: Assistant Revisor

Phone: 296-0952

RECEIVED
NOV 16 1981
ADMINISTRATIVE HEARINGS

Rule as Proposed (all new material)

13 MCAR S 1.6301 Filing and payment of withheld tax. For purposes of determining the timeliness of withholding tax payments, returns, or deposits under Minn. Stat. S 290.92, subd. 6, clause (1), the payment, return, or deposit shall be treated as having been made on the earlier of the following dates:

A. The date actually received by the Department of Revenue; or

B. The date of mailing, but only if the payment, return, or deposit was mailed on or before the second day prior to the due date, including any extension of time granted for making the payment, return, or deposit. The person required to make the payment, return, or deposit shall have the burden of establishing that the payment, return, or deposit was timely mailed in the United States by United States mail in an envelope or other appropriate wrapper, postage prepaid, and properly addressed.

Dept. Exh. No. 1
File No. Date

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

ORDER ADOPTING RULE
FINDINGS OF FACT
AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner George Beck on the 11th day of December, 1981 at 9:00 A.M. in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155 after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the Revenue Department for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and argument, and after hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, I have confirmed the need for and reasonableness of the above-captioned rule. I accept the recommendation of the Hearing Examiner and adopt the rule as amended, which amendment was accepted by the Hearing Examiner in Finding of Fact #12 and Conclusion #5.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 13 MCAR section 1.6301 is adopted this 7th day of January, 1982 pursuant to authority vested in me by Minnesota Statutes section 290.52.

State of Minnesota

Clyde E. Allen, Jr.
Commissioner of Revenue

RECEIVED
NOV 16 1981
ADMINISTRATIVE
HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF A NEW RULE OF THE DEPARTMENT OF
REVENUE GOVERNING FILING AND PAYMENT
OF WITHHOLDING TAX
(13 MCAR SECTION 1.6301)

ORDER FOR HEARING

It is hereby ordered that a public hearing on the above captioned rule be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155, on December 11, 1981, 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 Department of Revenue for that purpose.

It is further ordered that the Notice of Hearing be published in the State Register.

October 22, 1981

Clyde E. Allen, Jr.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

RECEIVED
NOV 16 1981
ADMINISTRATIVE
HEARINGS

IN THE MATTER OF THE PROPOSED ADOPTION
OF A NEW RULE OF THE DEPARTMENT OF
REVENUE GOVERNING FILING AND PAYMENT
OF WITHHOLDING TAX
(13 MCAR SECTION 1.6301)

NOTICE OF HEARING

A public hearing concerning the adoption of the proposed new rule will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155, on Friday, December 11, 1981, commencing at 9:00 a.m. The proposed new rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed new rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or materials may be submitted to Peter Erickson, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, 612-296-8118, either before the hearing or within five working days after the close of the hearing. The Hearing Examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is covered by Minn. Stat. Sections 15.0411 to 15.0417 and 15.052 and by 9 MCAR Sections 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the Hearing Examiner.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review of the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and arguments which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of this statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed new rule (13 MCAR Section 1.6301) reads as follows:

"For purposes of determining the timeliness of withholding tax payments, returns, or deposits under Minn. Stat. Section 290.92, subd. 6, clause (1), the payment, return, or deposit shall be treated as having been made on the earlier of the following dates:

A. the date actually received by the Department of Revenue; or

B. the date of mailing, but only if the payment, return, or deposit was mailed on or before the second day prior to the due date, including any extension of time granted for making the payment, return, or deposit. The person required to make the payment, return, or deposit shall have the burden of establishing that the payment, return, or deposit was timely mailed in the United States by United States mail in an envelope or other appropriate wrapper, postage prepaid and properly addressed."

The agency's authority to adopt the proposed new rule is contained in Minn. Stat. Section 290.52.

The agency estimates that there will be no cost to local public bodies in the state to implement the rule for the next two years immediately following its adoption within the meaning of Minn. Stat. Section 15.0412, subd. 7.

Copies of the proposed rule are now available. Persons with questions about the rule or who desire a free copy of the rule should contact:

Mr. Dale H. Busacker
Attorney, Income Tax Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

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.

Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. Section 10A.01, subd. 11 (1980) 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612-296-5615.

October 22, 1981

Clyde E. Allen, Jr.
Commissioner of Revenue

Dept. Exh. No. A
File No. Date

RECEIVED
NOV 16 1981
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF the proposed adoption of a new rule governing Filing and Payment of Withholding Tax (13 MCAR Section 1.6301).

AFFIDAVIT

Mary Lacho, being first duly sworn, deposes and says:

That on the 10th day of November, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing in the matter of the proposed adoption of a rule governing filing and payment of withholding tax by depositing in the United States mail at the City of St. Paul, a true and correct copy of the Notice, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached list.

Mary Lacho

Subscribed and sworn to before me this 10th day of November, 1981.

Diane C. Walsh

DIANE C. WALSH
NOTARY PUBLIC MINNESOTA
My Commission Expires July 27, 1985
RAMSEY COUNTY

Copy of Notice of Hearing on Rule Governing Filing and Payment of Withholding Tax (13 MCAR Section 1.6301) sent to the following on November 10, 1981:

Mr. Larry Peterson
Anderson & Peterson, LPA
Dodge Professional Building
Moose Lake, Minnesota 55767

Lee B. Hockert, LPA
1124 3rd Avenue East
Alexandria, Minnesota 56308

Wilbur G. Lieske, LPA
220 East Jackson Street
P. O. Box 368
Mankato, Minnesota 56001

Mr. Ray C. Olson
229 West Broadway
St. Peter, Minnesota 56082

Mr. Lyle Reimnitz
161 North Concord Street
South St. Paul, Minnesota 55075

Mr. Lloyd R. Palmer
Palmer's Accounting Service
Staples, Minnesota 56479

Charles R. Nolop, D.D.S. P.A.
1120 Birch Street
Fairmont, Minnesota 56031

Kenneth H. T. Olson, C.P.A.
4039 West Division - Suite 308
Stearns County Bank Building
St. Cloud, Minnesota 56301

Mr. Mark C. Nicholson
Schulz and Nicholson
Litchfield, Minnesota 55355

Minnesota Addictions Center
410 Martin Building
Mankato, Minnesota 56001

Mr. Howard M. Guthmann
Wilkerson, Guthmann & Johnson, Ltd.
Certified Public Accountants
1300 Northwestern Natl. Bank Bldg.
St. Paul, Minnesota 55101

Strand, Hammer, Danielson and Westland
135 South Broadway - Box 987
Albert Lea, Mineesota 56007

Mr. Charles E. House
Stillman, House, Swanson
and Company, Limited
900 Alworth Building
Duluth, Minnesota 55802

Mr. William D. Willhite
Suite 208
4039 West Division Street
Stearns County Bank Building
St. Cloud, Minnesota 56301

W. F. Tobin, President
Electronic Design Company
2958 Cleveland Avenue North
St. Paul, Minnesota 55113

Robert P. Saunders, LPA
Minnesota Business Services
Bird Island, Minnesota 55310

Southern Minnesota
Psychological and Stress Clinic
350 Martin Building
Mankato, Minnesota 56001

Mr. Patrick E. Rogers
Rogers, Knutson and Co., Ltd.
211 South Front Street
P. O. Box 876
Mankato, Minnesota 56001

Roger L. Reinhart, LPA
Caron-Reinhart and Company
607 Washington St., Box 425
Brainerd, Minnesota 56401

Oren R. Quill
Accounting Service
115 West James
Paynesville, Minnesota 56362

The Honorable Tom A. Nelson
Senator, District 31
1206 5th Avenue, N.W.
Austin, Minnesota 55912

Honorable Marcus Marsh
Representative, District 17A
313 State Office Building
St. Paul, Minnesota 55155

Mr. James McComb
James B. McComb and Associates
380 TCF Tower - 121 South 8th St.
Minneapolis, Minnesota 55402

Mr. Wilbur Lieske
220 East Jackson St., Box 368
Mankato, Minnesota 56001

Mary Kuznia
GM Contracting, Incorporated
P. O. Box W
Lake Crystal, Minnesota 56055

K. G. Jackson
4502 Grand Avenue
Duluth, Minnesota 55807

John H. Havemeier, LPA
Havemeier's Accounting
P. O. Box 367
Hutchinson, Minnesota 55350

Harold E. Johnson
Johnson and Giere
Osseo, Minnesota 55369

Donald W. Feuerhake, LPA
Erickson, Zierke, Kuderer,
Myster & Madsen, P. A.
114 West Second Street
P. O. Box 571
Fairmont, Minnesota 56031

Eck's Living Center
305 South Minnesota Avenue
St. Peter, Minnesota 56082

Chalgren and Lund, Ltd.
400 Martin Building
120 South Front Street
Mankato, Minnesota 56001

Gary J. Bluth, LPA
Freeman-Kummet & Company
309 Northwest 3rd Street, Box 504
Brainerd, Minnesota 56401

Dept. Exh. No. 4
File No. Date

RECEIVED
NOV 16 1981
ADMINISTRATIVE HEARINGS

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF the proposed adoption of a new rule governing Filing and Payment of Withholding Tax (13 MCAR Section 1.6301)

AFFIDAVIT

Mary Lacho, being first duly sworn, deposes and says:

That on the 4th day of November, 1981, at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Hearing in the matter of the proposed adoption of a rule governing filing and payment of withholding tax by depositing in the United States mail at the City of St. Paul, a true and correct copy of the Notice, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached list received from the Department of Revenue.

Mary Lacho

Subscribed and sworn to before me this 4th day of November, 1981.

Diane C. Walsh

DIANE C. WALSH
NOTARY PUBLIC - MINNESOTA
My Commission Expires July 27, 1985
RAMSEY COUNTY

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE GOVERNING FILING AND PAYMENT OF WITHHOLDING TAX. (13 MCAR SECTION 1.6301.)

AFFIDAVIT

Dale H. Busacker, being first duly sworn, deposes and says:

That on the 2nd day of November, 1981, at the city of St. Paul, County of Ramsey, State of Minnesota, he personally received the list of persons, associations and other interested groups who had registered with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules. A copy of this list is attached.

Dale H. Busacker

Subscribed and sworn to before me
this 2nd day of November, 1981.

Ruth Anderson

RUTH ANDERSON
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
My Commission Expires Mar. 1, 1988

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of a New Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached 15 sheets constitute the complete list of persons, associations and other interested groups who, as of 8:00 o'clock A.M., this 2nd day of November, 1981, have requested, pursuant to Minn. Stat. Section 15.0412, subd. 4, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

STATE OF MINNESOTA
CLYDE E. ALLEN, JR.
COMMISSIONER OF REVENUE

By Dorothy A. McClung
Dorothy McClung, Attorney
Commissioner's Staff

MAILING LIST FOR OFFICIAL NOTICE OF AGENCY RULEMAKING

INDEP. BANKERS OF MN
Attn: Norbert McCrady, Exec. V.P.
327 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

Paul M. Leegard
Personnel Administrator
White Motor-Hopkins
130 - 9th Avenue South
Hopkins, MN 55343

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

Peter S. Popovich
Peterson, Popovich, Knutson
and Flynn,
314 Minnesota Building
St. Paul, MN 55101

James C. Shipman
Executive Director
Association of MN Counties
2305 Ford Parkway
St. Paul, MN 55116

Paul J. Huber LTD
Certified Public Accountants
1821 University Avenue
St. Paul, MN 55104

Kent E. Eklund, Commissioner
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Richard C. Buske
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Charles Schaffer
MN Dept. of Economic Development
480 Cedar Street
St. Paul, MN 55101

Susan P. Robertson, Exec. Dir.
Legis. Comm. to Review
Admin. Rules
Room 430, State Office Bldg.
St. Paul, MN 55155

Gordon Forbes
MN Railroads Association
303 Hanover Building
480 Cedar Street
St. Paul, MN 55101

David R. Knodell, Esq.
Olson, Gunn and Seran, Ltd.
315 Peavey Building
730 Second Avenue South
Minneapolis, MN 55402

Darrel Johnson, Finance Dir.
City of Winona
City Hall
4th & Lafayette St.
Winona, MN 55987

Mr. James N. Denn
MN Motor Transport Assoc.
1821 University Avenue, Rm 134N
St. Paul, MN 55104

John T. Farmer, Exec. Dir.
MN Manufactured Housing Assoc.
222 E Little Canada Rd, Ste. 222
Little Canada, MN 55117

John G. Horner
Minn. Multi-Housing Ass'n.
3100 West Lake Street
Minneapolis, MN 55416

Michael J. Ahern
Moss, Flaherty, Clarkson &
Fletcher
2350 IDS Center
80 South 8th Street
Minneapolis, MN 55402

P. D. Brick
Pickands Mather & Co.
Ste. 811, 200 W. Superior St.
Duluth, MN 55802

T. J. Manthey
Pickands Mather & Co.
1100 Superior Avenue
Cleveland, OH 44114

Bob Franklin, City Editor
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

Claudia Smith
Corp. Law Dept.
The St. Paul Co., Inc.
385 Washington Street
St. Paul, MN 55102

Janice M. Devens
Dir. Human Service Agency
Wright Co. Courthouse
Buffalo, MN 55313

Jean Dawson, Editor
The MN Government Report
B-12, Press Room
State Capitol
St. Paul, MN 55155

John S. Jackson
General Counsel
Minnesota Bankers Association
332 Baker Building
Minneapolis, MN 55402

Abe Rosenthal, Executive Vice President
Minnesota Transport Services Association
1821 University Avenue (N310)
St. Paul, MN 55104

Ronald B. Sieloff, P.A.
Attorney at Law
9th Floor, Commerce Building
St. Paul, MN 55101

L. H. Biegert, Partner
Peat, Marwick, Mitchell & Co.
Certified Public Accountants
1700 IDS Center
Minneapolis, MN 55402

Harold R. Johnson
LANCO Data Proc. Serv., Inc.
219 Little Canada Road
St. Paul, MN 55117

R. A. Garvey
Vice President/General Manager
NORTH STAR STEEL CO.
P. O. Box 43189
1678 Red Rock Road
St. Paul, MN 55164

Robert H. Dillon
Director, Tax Admin.
Honeywell Inc.
Honeywell Plaza, MN 12-4184
Minneapolis, MN 55408

James C. Berger, Vice President
Tax-MEN, Inc.
923 W. Excelsior
Hopkins, MN 55343

J. J. Knip, Jr.
Treasurer
Peavey Company
Peavey Building
730 - 2nd Avenue South
Minneapolis, MN 55402

F. James Rybak, PhD.
MN Department of Economic Security
690 American Center Building
150 E. Kellogg Boulevard
St. Paul, MN 55101

Kenneth A. Johnson
Director of Taxation
Pillsbury Company - MS 1075
608 - 2nd Avenue South
Minneapolis, MN 55402

MN Chapter of Associated Builders &
Contractors, Inc.
Attn: Donald E. Montgomery, Exec. Director
6300 Walker Street, Ste. 109
(Hwy 7 at Woodale)
Minneapolis, MN 55416

Jerome A. Geis, Esq.
Briggs & Morgan, P.A.
W-2200 First National Bank Building
St. Paul, MN 55101

Philip M. Hanft
Attorney at Law
1200 Alworth Building
Duluth, MN 55802

General Mills, Inc.
c/o R. D. Mueller, Tax Manager
P. O. Box 1113
Minneapolis, MN 55440

Corporate Tax Division/3M
Attention: W. R. Spangler
Director of Tax Compliance
P. O. Box 33441
St. Paul, MN 55133

President
Interstate Power Company
1000 Main Street
Dubuque, IA 52001

Hilory Soltanoff
Staff Attorney
Office of the Legislative Auditor
Program Evaluation Division
1st Floor, Veterans Service Building
St. Paul, MN 55155

LARSON, ALLEN, WEISHAIR & CO.
Certified Public Accountants
Attention: David A. Krahn, CPA
Shelard Tower, Ste. 1560
600 South Co. Rd. 18
Minneapolis, MN 55426

Tri-County Community Action
Program, Inc.
Attention: Mark G. Sexton, Planner
404 NE 2nd Avenue
Little Falls, MN 56345

G. F. Blissenbach, Income Tax Spec.
3M
3M Center, Tax Division
220-13W
St. Paul, MN 55144

Robert J. Murphy
Corporate Tax Manager
Super Valu Stores, Inc.
101 Jefferson Avenue South
Hopkins, MN 55343

Rosa Richs
c/o Department of Energy
Room 5114 - H
2000 M Street NW
Washington, DC 20461

Lake Superior Industrial Bureau
Attention: Alfred E. France, President
828 First National Bank Building
Duluth, MN 55802

Thomas M. Polt
Attorney at Law
McCarthy Building
Eyota, MN 55934

R. W. Brust, Vice Pres., Taxes
3M Company
3M Center - 220 - 13W
St. Paul, MN 55144

Research Manager
TYMSHARE, Inc.
212 No. Market, Ste. 208
Wichita, KS 67202

Mr. W. C. Viitala
Dir. of Public Affairs
Honeywell Inc.
Honeywell Plaza
Minneapolis, MN 55408

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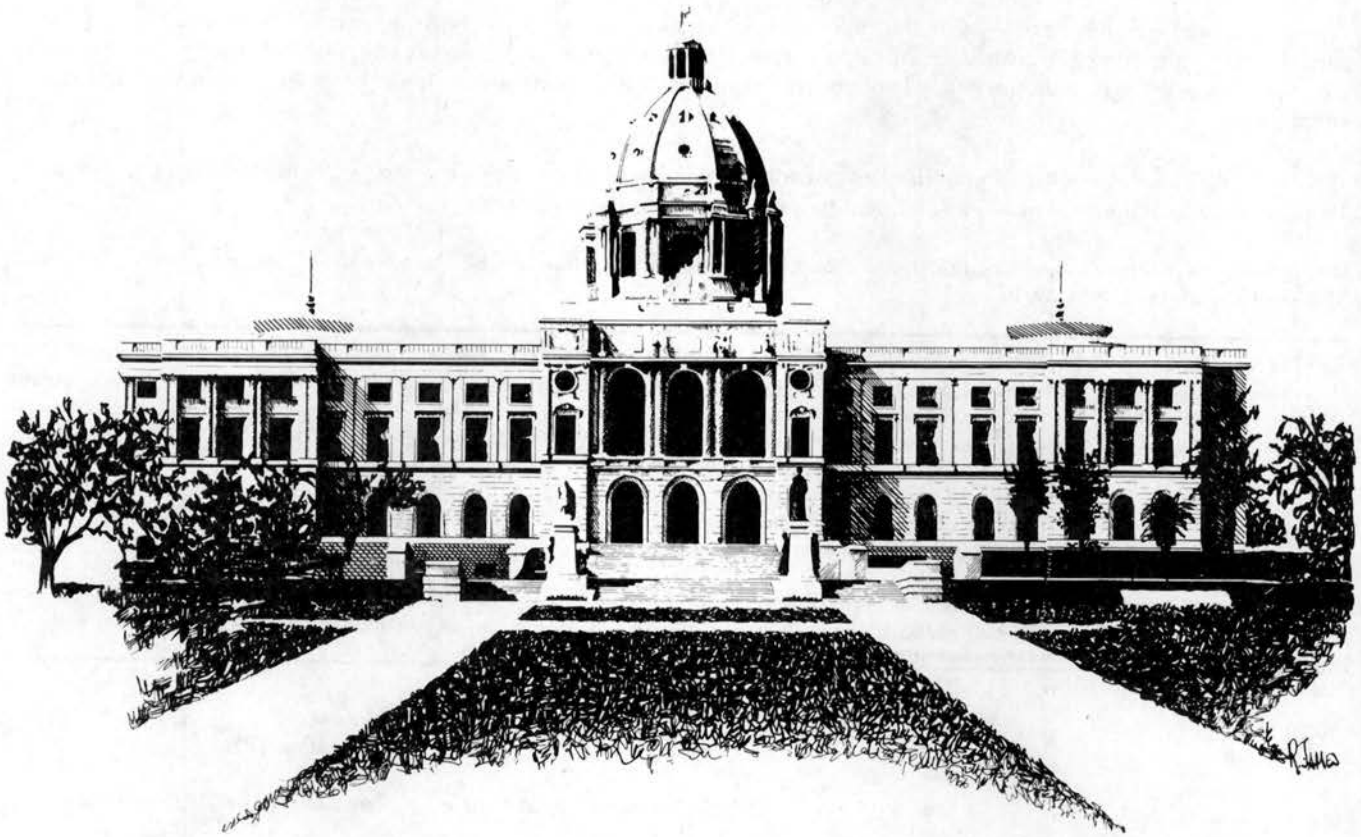

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20	Monday Nov 2	Friday Nov 6	Monday Nov 16
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**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

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NOTICE

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

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION.** Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The PROPOSED RULES section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted TEMPORARY RULES appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

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

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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless seven or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules;

and

4. that the rule may be modified if modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of § 15.0412, subds. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 20 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Proposed Rule Amending Licensing Fee Requirement

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the State Board of Architecture, Engineering, Land Surveying, and Landscape Architecture proposes to adopt the above-entitled rule without a public hearing. The board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h.

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the board 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 rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the board will proceed according to the provisions of Minn. Stat. § 15.0412, subds. 4 to 4f.

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

Lowell E. Torseth
Executive Secretary
Board of Architecture, Engineering, Land
Surveying and Landscape Architecture
500 Metro Square
Saint Paul, Minnesota 55101
(612) 296-2388

Authority for the adoption of this rule is contained in Minn. Stat. §§ 214.06 and 326.06. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule, and that identifies the data and information relied upon to support the proposed rule, has been prepared and is available from Mr. Torseth upon request.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule as adopted will be delivered to a designee of the Attorney General who will review the rule as to its legality, including the issue of substantial change, and its form as it relates to legality. Persons who wish to be advised of the submission of this rule for approval, or who wish to receive a copy of the final rule as adopted, should submit a written statement of such request to Mr. Torseth.

A copy of the proposed rule is attached to this notice. Additional copies of this notice and the proposed rule are available and may be obtained by contacting Mr. Torseth.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 as 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 $250.00, 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 $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

Lowell E. Torseth, Executive Secretary

Rule as Proposed

4 MCAR § 7.004 Fees.

C. The fee for licensure, or renewal of licensure, as an architect, professional engineer, land surveyor, or landscape architect shall ~~be $15~~ not exceed $25 per year. The initial license fee shall be prorated at six month intervals during each biennium not to exceed the amount indicated. The fee for months 24 to 18 ~~shall be $30,~~ is $50; for months 18 to 12 ~~shall be $22.50~~, $37.50; for months 12 to 6 ~~shall be $15~~, $25; and for months 6 to 0 ~~shall be $7.50~~, $12.50. The renewal fee for fiscal year 1978 shall be paid on or before June 30, 1977 and biennially on or before June 30 of each even numbered year thereafter, as required by Minn. Stat. § 326.10, subd. 4. The board may delete from the roster the name of any licensee who fails to timely pay the required renewal fee or if such renewal fee, when paid by mail, is not postmarked on or before June 30 of the year specified herein.

Minnesota Housing Finance Agency

Proposed Amendment to and Adoption of Rules Governing Income Limits for Limited Unit Developments

Notice of Correction of Previously Published "Notice of Intent to Adopt Rules without a Public Hearing"

The "Notice of Intent to Adopt Rules without a Public Hearing" published in the *State Register* along with the Proposed Amendment to and Adoption of Rules Governing Income Limits for Limited Unit Developments (6 S.R. 213, August 24, 1981) did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed in the original notice.

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412 subd. 4h(1980).

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 Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200—Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
Telephone (612) 296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Monte Aaker 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 a designee of 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 these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) 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 $250.00, 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 $250.00, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 26, 1981

James J. Solem
Executive Director

Rule as Proposed

12 MCAR § 3.002 O. "Persons and families of low and moderate income" means:

1. With respect to limited-unit mortgage loans pursuant to Chapter Four of these rules, development cost loans pursuant to Chapter Three of these rules, planning grants pursuant to Chapter Five of these rules, and American Indian housing loans pursuant to Chapter Eight of these rules, which loans and grants are intended for a limited-unit development, or a dwelling unit in a planned unit development or a condominium, those persons and families whose adjusted income does not exceed ~~$19,000 in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2 and $17,500 in the remainder of the state~~ the amounts set forth in Exhibit 12 MCAR § 3.002 O.-1. or such lower amount as shall be required to assure that the interest on obligations of the agency will be exempt from federal income taxation~~, and~~. "Metropolitan area" has the meaning given it in Minn. Stat. § 473.121, subd. 2.

Exhibit 12 MCAR § 3.002 O.-1.

Mortgage Interest Rate	Nonmetropolitan Area Maximum Adjusted Income	Metropolitan Area Maximum Adjusted Income
0-10.59%	$19,000	$24,000
10.60-11.09%	$20,000	$25,000
11.10-11.59%	$21,000	$26,000
11.60-12.00%	$22,000	$27,000

Minnesota Housing Finance Agency

Proposed Amendment to and Adoption of Rules Governing Eligibility for the Home Ownership Assistance Fund

Notice of Correction of Previously Published "Notice of Intent to Adopt Rules without a Public Hearing"

The "Notice of Intent to Adopt Rules without a Public Hearing" published in the *State Register* along with the Proposed Amendment to and Adoption of Rules Governing Eligibility for the Home Ownership Assistance Fund (6 S.R. 214, August 24, 1981) did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed with the original notice.

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412 subd. 4h(1980).

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 Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200—Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
Telephone (612) 296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Monte Aaker 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 a designee of the Attorney Genearl for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) 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 $250.00, 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

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

(b) Who spends more than $250.00, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 26, 1981

James J. Solem
Executive Director

Rule as Proposed

12 MCAR § 3.133 Homeownership assistance fund ~~monthly assistance~~.

A. Monthly assistance. The agency may provide eligible recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on the limited-unit development mortgage on qualifying property. Such payments shall not exceed ~~$75~~ $100 per month and shall decrease by ~~$5~~ $10 per month ~~(or $60~~ $120 per year~~)~~ each year. The maximum amount of monthly assistance to which a recipient is originally entitled shall be determined by the agency from time to time on the basis of the percentage of income which may reasonably be spent on mortgage payments, the interest rate charged for limited-unit development mortgage loans, and general housing and construction costs in the State of Minnesota, provided however, that the initial maximum monthly assistance which the agency shall determine to be available shall not exceed the following amounts for persons and families within the following annual adjusted income ranges~~.~~ as set forth in Exhibit 12 MCAR § 3.133 B.-1. and Exhibit 12 MCAR § 3.133 C.-2. for various potential interest rates to be charged by the agency on its limited-unit development mortgage loans.

~~Annual Adjusted Income Between~~	~~Initial Maximum Monthly Assistance~~
~~-11,500~~	~~75~~
~~10,000-12,000~~	~~65~~
~~10,500-12,500~~	~~55~~
~~11,000-13,000~~	~~45~~
~~11,500-13,500~~	~~35~~
~~12,000-14,000~~	~~25~~
~~12,500-16,000~~	~~15~~

B. Metropolitan area. Exhibit 12 MCAR § 3.133 B.-1. applies to eligible recipients whose qualifying property is in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2.

Exhibit 12 MCAR § 3.133 B.1.

Initial Maximum Monthly Assistance

Mortgage Interest Rate		$100	$80	$60	$40	$20
0-10.59%	Adj. Hshld. Income	0-15000	15001-16000	16001-17000	17001-18000	18001-19000
10.60-11.09%	Adj. Hshld. Income	0-16000	16001-17000	17001-18000	18001-19000	19001-20000
11.10-11.59%	Adj. Hshld. Income	0-17000	17001-18000	18001-19000	19001-20000	20001-21000
11.60-12.00%	Adj. Hshld. Income	0-18000	18001-19000	19001-20000	20001-21000	21001-22000

C. Nonmetropolitan area. Exhibit 12 MCAR § 3.133 C.-2. applies to eligible recipients whose qualifying property is not in the metropolitan area as defined in Minn. Stat. § 473.121, subd. 2.

Exhibit 12 MCAR § 3.133 C.-2.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		$100	$80	$60	$40	$20
0-10.59%	Adj. Hshld. Income	0-10000	10001-11000	11001-12000	12001-13000	13001-14000
10.60-11.09%	Adj. Hshld. Income	0-11000	11001-12000	12001-13000	13001-14000	14001-15000
11.10-11.59%	Adj. Hshld. Income	0-12000	12001-13000	13001-14000	14001-15000	15001-16000
11.60-12.00%	Adj. Hshld. Income	0-13000	13001-14000	14001-15000	15001-16000	16001-17000

Minnesota Housing Finance Agency

Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program

Notice of Correction of Previously Published "Notice of Intent to Adopt Rules without a Public Hearing"

The "Notice of Intent to Adopt Rules without a Public Hearing" published in the *State Register* along with the Proposed Amendment to and Adoption of Rules Governing the Rental Rehabilitation Loan Program (6 S.R. 216, August 24, 1981) did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are identical to those printed in the original notice.

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412, subd. 4h(1980).

Persons interested in these rules shall have 30 days to submit comments on the proposed rules. The proposed rule 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 Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Mary Tingerthal, Manager
Home Improvement Programs
Minnesota Housing Finance Agency
Suite 200—Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
Telephone (612) 297-3126

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

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Ms. Tingerthal 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 a designee of 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 these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Ms. Tingerthal.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Ms. Tingerthal.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) 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 $250.00, 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 $250.00, not including *his own* traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 26, 1981

James J. Solem
Executive Director

Rules as Proposed (all new material)

Chapter Six A:
Rental Rehabilitation Loans

12 MCAR § 3.053 Eligible applications.

A. Property interest. Each applicant for a rental rehabilitation loan must individually or in the aggregate possess at least a one-third interest in a fee, or a contract for deed, or a life estate in the property to be improved. However, occupancy of the property by the applicant shall not be required.

B. Credit risk. Each applicant must be a reasonable credit risk with the ability to pay the loan obligation, as determined by the agency or by the lending institution, if any, servicing the loan on behalf of the agency.

C. Eligible improvements. To be eligible, the structure must be in need of repairs in order to bring it into compliance with Minn. Stat. § 116H.129, subd. 3, state energy conservation standards. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible. Further explanation of this requirement is in 12 MCAR § 3.054.

D. Compliance with zoning ordinances. The structure to be improved must not be in violation of applicable zoning ordinances or other applicable land use guides.

E. Use of property restricted. The property must be used primarily for residential purposes and must consist primarily of comprehensive living units including kitchen and bathroom facilities. Mobile homes and trailers shall not be eligible for rental rehabilitation Loans.

F. Restriction on loan use. Rental rehabilitation loan proceeds must be used to finance only improvements upon or in connection with existing structures.

G. Time of completion. All improvements must be reasonably capable of being completed within nine months of the date of the first disbursement of funds pursuant to the rental rehabilitation loan except for delays due to causes beyond the applicant's reasonable control, such as fire, strike, and shortage of materials.

H. Unavailability of financing. At the time of application, conventional financing must not be available from private lenders upon equivalent terms and conditions.

I. Required occupancy. The structure to be improved must be occupied at the time of loan closing primarily by persons and families of low and moderate income. Structures containing six rental units or fewer must be occupied by persons and families of low and moderate income in at least one of the units in the case of a one-unit or two-unit rental structure, two of the units in the case of a three-unit rental structure, three of the units in the case of a four-unit rental structure, four of the units in the case of a five-unit or six-unit rental structure, and at least 75 percent of the rental units in the case of rental structures containing more than six units.

12 MCAR § 3.054 Eligible improvements.

A. Restrictions in general. Improvements made with rental rehabilitation loan proceeds shall be in compliance with 1.-3.

1. The structure must be brought into compliance with the standards established in Minn. Stat. § 116H.129, subd. 3, state energy conservation standards.

2. For structures less than 15 years old, only improvements necessary to bring the structure into compliance with the state energy conservation standards are eligible.

3. For structures more than 15 years old, permanent general improvements as described in B. are eligible if the structure has been or will be brought into compliance with the state energy conservation standards.

B. Permanent general improvements. Each improvement must be a permanent general improvement. Permanent general improvements shall include additions, alterations, renovations, or repairs upon or in connection with existing structures which materially preserve or improve the basic livability, safety, or utility of the property. However, conversions of structures, or portions thereof, from nonresidential use to residential use are not eligible. Permanent general improvements shall not include materials, fixtures, or landscaping of a type or quality exceeding that customarily used in the locality for properties of the same general type as the property to be improved.

C. Other codes and standards. Each improvement must be made in compliance with all applicable health, fire prevention, building, and housing codes and standards, but no application for a rental rehabilitation loan for property occupied by the owner shall be denied solely because the improvements will not bring the property into full compliance with all codes and standards, except that the property must be brought into compliance with state energy conservation standards as specified in A.1.

D. Public improvements. Rental rehabilitation loan proceeds shall not be used for the payment, wholly or in part, of assessments for public improvements; provided, however, that the proceeds may be used for improvements which will bring an individual sewage disposal system located on the property, including septic systems, into compliance with local, state, or federal environmental and sanitary standards.

E. Warranty. All contracts covering all or any portion of an improvement must contain an agency approved warranty of workmanship and materials.

Minnesota Housing Finance Agency

Proposed Rules Amending Provisions Relating to Downpayments under the Homeownership Assistance Fund

Notice of Correction of Previously Published "Notice of Intent to Adopt Rules without a Public Hearing"

The "Notice of Intent to Adopt Rules without a Public Hearing" published in the *State Register* along with the Proposed Rules Amending Provisions Relating to Downpayments under the Homeownership Assistance Fund (6 S.R. 536 on September 28, 1981) did not include certain information required in the notice by the rules adopted by the Attorney General. Accordingly, the corrected notice is published below. The rules are idential to those printed in the original notice.

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency ("agency") proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. § 15.0412 subd. 4h(1980).

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

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 Minn. Stat. § 15.0412, subds. 4-4f. If a public hearing is requested, identification of the particular objection, the suggested modifications to the proposed language, and the reasons or data relied on to support the suggested modifications is desired.

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

Monte Aaker, Research Coordinator
Research Division
Minnesota Housing Finance Agency
Suite 200—Nalpak Building
333 Sibley Street
St. Paul, Minnesota 55101
Telephone (612) 296-9952

Authority for the adoption of these rules is contained in Minn. Stat. § 462A.06, subds. 4 and 11(1980). Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules, has been prepared and is available from Monte Aaker 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 a designee of 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 these rules for approval, or who wish to receive a copy of the final rules as adopted, should submit a written statement of such request to Monte Aaker.

A copy of the proposed rules is attached to this notice. Additional copies may be obtained by contacting Monte Aaker.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11(1980) 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 $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administration action by communicating or urging others to communicate with public officials; or

(b) Who spends more than $250.00, not including his own traveling expenses and membership dues, in any year for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 40 State Office Building, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

October 26, 1981

James J. Solem
Executive Director

Rule as Proposed

12 MCAR § 3.134 Homeownership assistance fund; downpayment assistance. The agency may provide interest-free downpayment assistance loans to eligible recipients who are determined, on the basis of normal credit procedures, to lack the cash or land equity necessary to pay the required downpayment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the downpayment assistance loan shall equal the amount by which the sum of the downpayment, closing costs, expenses, and origination fees exceeds five percent of the purchase price of the dwelling, but it shall not exceed the lesser of 50 percent of the downpayment or ~~$1,000~~ $1,500.

Department of Public Service

Proposed Rule Governing the Director of the Department of Public Service's Authority to Grant Variances with Regard to the Installation of Commercial Scales, Weighing Devices and Measuring Devices Not in Compliance with the Stated Rules of 4 MCAR (PSC Rules 120-145)

Notice of Intent to Adopt Rule without a Public Hearing

Notice is hereby given that the Minnesota Department of Public Service proposes to adopt the above-entitled rule without a public hearing. The director of the Department of Public Service has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0142, subd. 4(h) (1980).

Persons interested in this rule shall have 30 days to submit comment on the proposed rule. The proposed rule 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 rule 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 § 15.0412, subd. 4-4f.

Persons who wish to submit comments or a written request for a public hearing should submit such comments to: Richard Auld, Minnesota Department of Public Service, 790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612) 296-6025.

A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available upon request from: Richard Auld, Minnesota Department of Public Service, 790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota, 55101, (612) 296-6025.

The authority to adopt this rule is contained in Minn. Stat. § 239.06 (1980), which provides that the Department of Public Service shall prescribe and adopt such rules and regulations as it deems necessary to discharge its duties under Minnesota Statutes, chapter 239 (1980).

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final rule 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 rule as proposed for adoption, should submit a written statement of such request to Richard Auld, Minnesota Department of Public Service, 790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota, 55101, (612) 296-6025.

Copies of this notice and proposed rule are available and may be obtained by contacting Richard Auld, Minnesota Department of Public Service, 790 American Center Building, 160 East Kellogg Boulevard, St. Paul, Minnesota 55101, (612) 296-6025.

October 26, 1981

Richard Auld, Director
Minnesota Department of Public Service

Rule as Proposed (all new material)

4 MCAR § 3.0146 Variances.

A. Director to grant. No commercial scale, commercial weighing device, or commercial measuring device which fails to comply with any rule in Chapter Four shall be installed unless the Director of the Division of Weights and Meusures has first granted a variance to those rules for the scale or device.

B. Request. To apply for a variance for any rule within Chapter Four, the owner or operator of the commercial scale or device must submit a request in writing to the Director of Weights and Measures. The request shall:

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

1. Explain why a variance is sought;

2. Explain how the applicant meets the criteria for a variance set forth in C.;

3. Specify the desired alternative standard to the rule and demonstrate that under the alternative standard the scale or device will conform to good commercial practices;

4. Provide a detailed plan showing the following:

a. The dimensions for all parts of the scale or device;

b. The materials from which those parts are made; and

c. The construction of the scale or device, including its foundation and location.

C. Approval criteria. No request for a variance shall be granted unless all the following criteria are met:

1. The rule for which a variance is sought works an undue hardship on the applicant, or it is impossible for the applicant to comply with the rule;

2. The variance sought will not work a harm to the public interest;

3. The director is able to determine, after investigation, that under normal operating conditions the scale or device for which a variance is sought will:

a. Maintain the applicable accuracy standards;

b. Maintain the permanence of adjustments required; and

c. Contain operating parts which function as intended.

D. Denial. No variance will be granted if it is a variance of a tolerance or would apply to the value of the minimum graduated interval of a device.

E. Response by the division to request. All requests will be answered by the division in writing, setting forth the reasons for granting or denying the variance.

Department of Public Welfare
Income Maintenance Bureau

Proposed Rule Governing the Administration and Provision of Pre-admission Screening and Long-term Care and Alternative Care Grants (12 MCAR § 2.065)

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Room A, 4th Floor, Centennial Office Building, St. Paul, Minnesota, 55155 on December 15, 1981 commencing at 9:00 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Jon Lunde, Hearing Examiner, Office of Administrative Hearings, 1745 University Avenue, Room 300, St. Paul, Minnesota 55104, (612) 296-5938, either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052, and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

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 Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The purpose of 12 MCAR § 2.065 is to set forth procedures and standards for establishing county based pre-admission screening programs and alternative care services as required in Minn. Stat. § 256B.091. The screenings are mandatory for nursing home applicants who are eligible for Medical Assistance or who will be eligible within 90 days of admission, and is also available to others on a sliding fee schedule.

The screening team of a public health nurse, social worker and consulting physician determine whether the applicant requires institutionalization, or can be maintained in the community with home-based services. Services specified in a plan of care are provided through existing community programs and the supplementary alternative care grant programs. The plan of care must include provisions for follow-up to assure that services provided meet applicable standards.

The intent of the program is to establish a mechanism so that nursing home applicants are directed to appropriate care, and to ensure that public funding for long-term care are spent in a cost effective manner. Statewide implementation of the program will also provide basic information for assessing future service needs.

The rule addresses the following concerns:

(a) Assigns responsibility for the program;

(b) Defines program scope including eligible persons;

(c) Specifies notification about the program to potential recipients, providers and others affected by the requirement;

(d) Describes resources material to be used by the screening team;

(e) Sets forth screening procedures to be used by the county;

(f) Defines when nursing home admission should be approved, and when to recommend alternative care services;

(g) Specifies that the plan of care assign responsibilities, list services, and include a component for follow-up care;

(h) Provides instructions on uses of the alternative care grants, including providers, reimbursement, and assurances of how the funds are to be used;

(i) Sets guidelines for reimbursement of nursing homes for admissions in the following instances: emergency and non-emergencies, screened and non-screened applicants; and medical assistance eligible and ineligible persons;

(j) Sets guidelines for reimbursement of screening costs for the following categories: applicants who are eligible for Medical Assistance, applicants who will be eligible for Medical Assistance in 90 days, and applicants who volunteer for the screening who will be assessed on a sliding fee schedule;

(k) Assures persons being screened of their right to appeals; and

(l) Requires that the county submit reports on specific items, and other information as determined necessary by the Commissioner of Public Welfare.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. § 256B.091.

Cost to the county agencies for the pre-admission and alternative care grant program will be $62,456.00 for F.Y. 1981-1982 and $12,981.00 for F.Y. 1982-1983. This estimate is based on 4.5 percent match for reimbursement of the screening teams and 10 percent match on the alternative care grants. These amounts can be separated out as follows: F.Y. 1981-1982 Pre-admission screening $2,456.00 and alternative care grants $60,000.00; F.Y. 1982-1983 Pre-admission screening $9,812 and alternative care grants $120,000.00.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to Marie Scheer, Department of Public Welfare, 444 Lafayette Road, Box #43170, St. Paul, Minnesota 55164, telephone 612/296-2274. Additional copies will be available at the hearing. If you have any questions on the content of the proposed rule, contact Marie Scheer at 612/296-2274.

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.

Minn. Stat. ch. 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11, 1979 supp., as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends

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more than five hours in any month or more than $250, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone (612) 296-5615.

October 23, 1981

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed (all new material)

12 MCAR § 2.065 Pre-admission screening for persons entering long term care facilities and alternative care grant services.

A. Responsibility for the program. The county agency responsible for administering the medical assistance program in each participating county shall be responsible for complying with requirements of the pre-admission screening program.

B. Program scope. In counties participating in the program, screening teams shall review and make recommendations for nursing home applicants who are eligible for medical assistance and those who will be eligible within 90 days of admission to a nursing home. The procedures and criteria used by the screening team shall be in accordance with D.-H. Participating counties shall be eligible for the alternative care grant program described in H.

C. Notification about program.

1. Notice to eligible persons. The county agency responsible for the screening program shall refer to a screening team all persons eligible for the screening as described in B. When possible, these persons shall be notified of the screening requirement by direct mail.

2. Public notice. The county agency responsible for the screening program shall provide public notification of the screening requirement. The methods of public notification shall include publication in available appropriate newsletters, display and dissemination of information leaflets in a readable form and in an accessible location, and promotion through other local media sources. The public notification shall include information on how to contact the screening team, implications of the screening team's recommendations, and the individuals' rights to appeal the screening team's recommendations.

3. Notice to officials and health care professionals. The Department of Public Welfare shall provide formal notification about the screening program to county commissioners, local health and welfare agencies, state hospitals, nursing homes, and physicians. The department shall assist participating counties in providing information sessions and materials to further explain the program.

D. Resource material for screening programs.

1. Screening tool. The department shall recommend a screening tool to be used as a guide in conducting the screening interview. The screening tool recommended by the department shall obtain consistent categories of information and ensure that persons are receiving uniform screening. The state agency shall allow counties flexibility in using the recommended tool or a comparable one approved by the state agency.

2. Technical assistance. Department staff shall be available to provide technical assistance in conducting the screenings, including special training sessions.

3. Directory of services. The county agency shall develop a resource directory of available non-institutional services to be used by the screening team in determining how well an applicant's needs can be met by existing community services.

E. Screening procedures. The screening team shall begin the screening process within five working days after receiving the request, and it shall issue a recommendation within ten working days after receiving the request. The screening team shall notify the applicant or appropriate relative or responsible party of the decision. The team shall also notify the referring physician, the referring local welfare department if the applicant is a medical assistance recipient, and the nursing home if placement is recommended. Reconsideration of a previously denied application shall be given when there has been a change in circumstances. The application shall be resubmitted with a written explanation of the change in circumstances.

F. Criteria for screening team recommendations.

1. Nursing home admission. The screening team shall recommend admission to a nursing home when it is determined that the individual requires care or services which are not available to the recipient outside of the nursing home.

2. Use of community services. The screening team shall not recommend admission to a nursing home when it is determined that the individual can remain in the community and that care and services are available and accessible.

G. Plan of care required. A recommendation for the applicant to remain in the community shall be accompanied by a plan of care including referral to service providers and assignment of responsibility for implementing the plan.

1. Development of the plan. The plan of care shall be developed by the screening team in consultation with the individual, the treating physician, and appropriate family members or responsible parties. The resource directory described in D.3. shall be used in determining what services are available.

2. Availability of services. Where the plan of care includes services that are not available at that time through other public assistance sources, the services shall be provided through an alternative care grant described in H.

H. Alternative care grant.

1. Use of grant. The grant shall be used to provide services to those persons who have been screened and found appropriate for home or community care. The grant shall supplement but not supplant services available through other public assistance or service programs. The grant shall not be used to establish new programs for which public money is available through other sources.

2. Service provision. The services shall be provided by a licensed health care provider; a home health service eligible for reimbursement under 42 United States Code, Subchapters XVIII or XIX, as amended through December 31, 1981; or by persons employed by, or under contract to, the county board or the local welfare agency.

3. Reimbursement of services. Services shall be reimbursed at a level no greater than that which is allowed under 42 United States Code, Subchapters XIX and XX, as amended through December 31, 1981, unless lower rates are negotiated with providers at a level sufficient to insure the availability of such services in the community.

4. Assurances. The county shall provide the Commissioner of Public Welfare with assurances that the alternative care grant is used for purposes specified in Minn. Stat. § 256B.091, subd. 8 and in Public Law 97-35, Section 2176 relating to community-based services.

I. Reimbursement of nursing home costs.

1. Nonemergencies; unscreened applicants. When an individual covered by the mandatory screening requirement is admitted to a nursing home on a nonemergency basis and has not obtained the required pre-admission screening, the nursing home shall notify the screening team within two working days. The screening team shall make a decision on the case within five working days of being contacted by the nursing home. If the screening team fails to review the case within five working days or recommends that institutionalization is necessary, medical assistance shall cover the cost of the care. If the screening team determines that the individual does not require institutionalization, the admitting facility shall not be reimbursed for any costs incurred, and patient days resulting from that stay must be counted in the facility's patient day statistics for the purposes of rate calculation under 12 MCAR § 2.049.

2. Emergencies; unscreened applicants. When an individual covered by the mandatory screening requirement is admitted to a nursing home on an emergency basis and has not obtained the required pre-admission screening, the nursing home shall notify the screening team within two working days. The screening team shall make a decision on the case within five working days of being contacted by the nursing home. If the screening team fails to review the case within five working days or recommends that institutionalization is necessary, the costs of nursing home care shall be covered by medical assistance. If the screening team reviews the admission within the five working days and determines that the individual does not require institutionalization, medical assistance shall cover the costs only for the period through the date the screening team notified the nursing home of its decision, and until a plan for alternative care can be implemented. If the admitting facility fails to contact the screening team within the prescribed period, the facility shall not be reimbursed for any costs incurred, and patient days resulting from that stay must be counted in the facility's patient day statistics for the purposes of rate calculation under 12 MCAR § 2.049. Reimbursement for emergencies of unscreened persons shall be allowed for medical emergencies only, as certified by the attending physician.

3. Screened applicants. Medical assistance shall not be available to reimburse the nursing home in instances when an individual is admitted to a nursing home after the screening team has determined that institutionalization is not necessary. The individual has the right to notification and a fair hearing on such denial of payment in accordance with K.

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

4. Persons not screened. Nursing home applicants who have not been screened and are not medical assistance recipients shall be asked by the nursing home if they have sufficient funds to cover 90 days of nursing home care or whether they will be applying for medical assistance within that time period. If, based on the information given and recorded, the nursing home determines that the person is not subject to the screening requirement the applicant may be admitted. The nursing home shall maintain documentation of the basis for this decision in the patient's file.

J. Reimbursement for screening costs.

1. Persons eligible for medical assistance. The Department of Public Welfare shall reimburse the county agency for the pre-admission screening required for persons who are eligible for medical assistance and those who will be eligible for medical assistance within 90 days of admission to a nursing home. Reimbursement shall be in a manner agreed upon by both parties.

2. Persons not receiving assistance. The Department of Public Welfare shall reimburse the county agency for all or a portion of the cost of screening for a person whose costs are not reimbursed under 1. The percentage rate of reimbursement by the department shall be determined according to the schedule in Exhibit 12 MCAR § 2.065 J.-1., except that the maximum amount of reimbursement from the department for a screening shall not exceed the maximum reimbursement available to a county agency for the cost of a screening reimbursed under 1. The county agency may assess the person who is screened for the part of the screening cost not reimbursed by the department.

Exhibit 12 MCAR § 2.065 J.-1.

Annual Gross Income per Individual	Screening Fee Reimbursement for Applicants not Eligible for Medical Assistance
under-13,000	100%
13,001-13,500	90
13,501-14,000	80
14,001-14,500	70
14,501-15,000	60
15,001-15,500	50
15,501-16,000	40
16,001-16,500	30
16,501-17,000	20
17,001-17,500	10
17,501-and over	0

K. Right to appeal.

1. Appeal procedures. Persons who are recipients of or applying for medical assistance have the right to a fair hearing pursuant to Minn. Stat. § 256.045 to challenge the decision of the screening team. The hearing shall be conducted in accordance with appeal procedures set forth in Minn. Stat. § 256.045. An appeal must be made within 30 days after receiving written notice of the screening team's recommendation. If it appears at the hearing that circumstances are different than they were at the time the initial recommendation was made, the referee may refer the case back to the screening team for reevaluation.

2. Appeal by the physician. When the treating physician disagrees with the screening team's decision, the physician shall notify the screening team and request an appeal on behalf of the individual. The appeal may be withdrawn with the consent of the individual and the treating physician.

3. Persons not receiving assistance. Persons who are not applying for or receiving medical assistance shall consider the recommendation by the screening team to be advisory, unless the person applies for medical assistance within 90 days following admission to a nursing home.

L. County reports. The county agency shall submit a report to the Department of Public Welfare according to a schedule agreed upon by the department and the county agency. The report shall be submitted on forms provided by the commissioner and include the number of persons screened, results of each screening, and the rationale for each screening recommendation. The county agency shall retain the plan of care for persons who are to remain in the community and shall make it available to the department on request. The county agency shall also provide information as requested by the commissioner for ongoing evaluation of the program.

Department of Revenue
Income Tax Division

Proposed Adoption of a New Rule Governing Filing and Payment of Withholding Tax (13 MCAR § 1.6301)

Notice of Hearing

A public hearing concerning the adoption of the proposed new rule will be held in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155, on Friday, December 11, 1981, commencing at 9:00 a.m. The proposed new rule may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed new rule, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested (or affected) persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or materials may be submitted to Peter Erickson, Office of Administrative Hearings, Room 300, 1745 University Avenue, St. Paul, Minnesota 55104, (612) 296-8118, either before the hearing or within five working days after the close of the hearing. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is covered by Minn. Stat. §§ 15.0411 to 15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Twenty-five days prior to the hearing a statement of need and reasonableness will be available for review of the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and arguments which will be presented by the agency at the hearing justifying both the need for and the reasonableness of the proposed rule. Copies of this statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

The proposed new rule (13 MCAR § 1.6301) reads as follows:

"For purposes of determining the timeliness of withholding tax payments, returns, or deposits under Minn. Stat. Section 290.92, subd. 6, clause (1), the payment, return, or deposit shall be treated as having been made on the earlier of the following dates:

A. the date acutally received by the Department of Revenue; or

B. the date of mailing, but only if the payment, return, or deposit was mailed on or before the second day prior to the due date, including any extension of time granted for making the payment, return, or deposit. The person required to make the payment, return, or deposit shall have the burden of establishing that the payment, return, or deposit was timely mailed in the United States by United States mail in an envelope or other appropriate wrapper, postage prepaid and properly addressed."

The agency's authority to adopt the proposed new rule is contained in Minn. Stat. § 290.52.

The agency estimates that there will be no cost to local public bodies in the state to implement the rule for the next two years immediately following its adoption within the meaning of Minn. Stat. § 15.0412, subd. 7.

Copies of the proposed rule are now available. Persons with questions about the rule or who desire a free copy of the rule should contact:

Mr. Dale H. Busacker
Attorney, Income Tax Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

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

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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.

Minn. Stat. Chapter 10A requires each lobbyist to register with the State Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. § 10A.01, subd. 11 (1980) 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.

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, telephone 612-296-5615.

October 22, 1981

Clyde E. Allen, Jr.
Commissioner of Revenue

Rule as Proposed (all new material)

13 MCAR § 1.6301 Filing and payment of withheld tax. For purposes of determining the timeliness of withholding tax payments, returns, or deposits under Minn. Stat. § 290.92, subd. 6, clause (1), the payment, return, or deposit shall be treated as having been made on the earlier of the following dates:

A. The date actually received by the Department of Revenue; or

B. The date of mailing, but only if the payment, return, or deposit was mailed on or before the second day prior to the due date, including any extension of time granted for making the payment, return, or deposit. The person required to make the payment, return, or deposit shall have the burden of establishing that the payment, return, or deposit was timely mailed in the United States by United States mail in an envelope or other appropriate wrapper, postage prepaid, and properly addressed.

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 Labor and Industry
Occupational Safety and Health Division

Adoption by Reference of Occupational Safety and Health Standards

Pursuant to Minn. Stat. § 182.655 (1980) notice was duly published at *State Register,* Volume 6, Number 8, p. 218 (6 S.R. 218) dated August 24, 1981 specifying the establishment and modification of certain Occupational Safety and Health Standards, specifically, the proposed adoption of revised Subpart S, "Electrical," of 29 CFR Part 1910.

Subpart S establishes "Design Safety Standards for Electrical Systems" by incorporating relevant requirements of the National Electrical Code into the text of OSHA regulations, making it unnecessary for employers to refer to the National Electrical Code (NEC) to determine their obligations and unnecessary for OSHA to continue incorporating NEC requirements by reference. On July 7, 1980, the provisions of the 1978 NEC were incorporated by reference into the Minnesota Occupational Safety and Health Codes; adoption of revised Subpart S makes this incorporation by reference unnecessary.

No written comments or requests for hearing on objections have been received. Therefore, revised 29 CFR Part 1910, Subpart S, is hereby adopted and is identical in every respect to its proposed form. The incorporation by reference of provisions of the 1978 NEC into the Minnesota Occupational Safety and Health Codes is hereby repealed.

Russell B. Swanson
Commissioner

TAX COURT

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

State of Minnesota
County of Chisago

Tax Court
Regular Division

Allan R. Johnson,

Appellant,

v.

Commissioner of Revenue,

Appellee.

Findings of Fact, Conclusions of Law, and Order for Judgment

Docket No. 2989

Order Dated: 10-22-81

The above matter came on for hearing before the Minnesota Tax Court in Center City on October 2, 1981, with Judge Carl A. Jensen presiding.

Allan R. Johnson, Appellant, appeared on his own behalf.

Paul R. Kempainen, Assistant Attorney General, appeared for the Appellee.

1. Appellant was a resident of Minnesota all his life prior to 1978. During the year 1978 he spent a total of 115 days traveling outside the state of Minnesota. Forty-five of these days were spent in Spain, where Appellant lived in an apartment which he co-owned along with 139 other persons. The remainder of the 115 days were spent chiefly in Mexico. For the remaining days of 1978 Appellant returned to the State of Minnesota, where he lived with his mother on a 206 acre farm in Chisago County.

2. During his stays in Spain and Mexico Appellant had no present intention of taking up permanent residence in either of those countries.

3. Appellant filed his Minnesota income tax return for 1978 wherein he deducted the income received while he was in Spain and Mexico and claimed that he was only a part-year resident of Minnesota for 1978. The Commissioner's Order of September 11, 1979, assessed additional income tax to the Appellant on the basis that Appellant was domiciled in Minnesota for the entire year of 1978. Appellant has appealed from this Order.

4. Appellant's domicile was Minnesota for the entire year of 1978 and he is subject to Minnesota income tax for all of his income.

5. In filing his 1978 return Appellant, who was a federal pensioner retired in 1973, failed to take a subtraction from his pension income for the employee contributions made by him to the pension fund. Under the Tax Court's decision in *Noreen v. Commissioner of Revenue*, Docket No. 2878 (Jan. 26, 1981), Appellant would be entitled to such a subtraction and the commissioner has agreed to recalculate his 1978 tax liability accordingly. Such a recalculation results in a refund due the Appellant of $486.60.

Conclusions of Law

1. The Commissioner's Order of September 11, 1979, is affirmed on the residency issue. However, because of the recalculation required by *Noreen, supra,* the Appellant is entitled to a 1978 refund of $486.60. The Commissioner's Order is amended to provide for said refund.

IT IS SO ORDERED.

By the Court,
Carl A. Jensen, Judge
Minnesota Tax Court

SUPREME COURT

Decisions Filed Friday, October 30, 1981

Compiled by John McCarthy, Clerk

50587/Sp. Carvell B. Wright, *et al.*, Appellants v. Laura Lee Wright, a.k.a. Laura Lee Tracy. Hennepin County.

Affirmed. Sheran, C. J. Dissenting: Otis, Peterson, and Yetka, JJ.

51930/Sp. State of Minnesota v. O'Darius Fields, Appellant. Hennepin County.

Trial court did not err in denying request by criminal defendant, after jury had been selected, for appointment of different counsel.

Trial court did not violate defendant's constitutional or statutory rights in making sentence run consecutively to previously imposed prison term.

Affirmed. Sheran, C. J.

50845, 50879, 50914/364 (1980) In the Matter of the Trust Known as Great Northern Iron Ore Properties. Ramsey County.

Income beneficiaries and the reversioner of a trust, who intervened in the trustees' action for instructions, may be allowed attorney fees and expenses from the trust under the principles of *In re Living Trust Created by Atwood*, 227 Minn. 495, 35 N.W.2d 736 (1949).

Where the litigation was protected, and much of it was motivated by the self-interest of the intervening income beneficiaries and reversioner and did not inure to the benefit of the trust, certain allowances for attorney fees and expenses were clearly excessive. Those allowances must be reconsidered in light of the limitations stated herein.

Attorney fees and expenses allowed from the trust are to be charged against trust principal. Minn. Stat. §§ 501.49, subd. 1, .59, subd. 3(a) (1980).

Affirmed in part, reversed in part, and remanded with directions.

Peterson, J. Dissenting, Sheran, C. J., Otis, Wahl, and Amdahl, JJ.

51750/Sp. State of Minnesota v. Ka-Felling Beeks, Appellant. Hennepin County.

Evidence was sufficient to support defendant's convictions of criminal sexual conduct in the first degree.

Defense counsel, by failing to object, forfeited right to have this court consider on appeal certain claims of trial error.

Affirmed. Todd, J.

51122/Sp. Joy Ganyo, petitioner, Appellant v. Independent School District No. 832. Washington County.

The decision of respondent school district to terminate petitioner as a tenured teacher was not supported by substantial evidence on the entire record.

Eight weeks from notice of deficiency to notice of termination was not the reasonable time required by Minn. Stat. § 125.12, subd. 6 (1980) for a teacher of 17 years in respondent school district to remedy teaching practices which were now labeled deficient for the first time.

Reversed. Wahl, J.

51544/Sp. The First National Bank of St. Paul, Appellant v. George R. Ramier, as Special Administrator of the Estate of Ronald A. Rohloff, deceased, Betty J. Rohloff and Lawrence O. Hoff, *et al.*, Defendants. Hennepin County.

An equitable mortgage or lien was not created when the documents of record disclose no indication that the parties intended the loan agreement to be a security transaction but rather indicated that it was an unsecured loan.

A constructive trust will not be imposed where a banking institution could have required security for a loan or obtained the signature of the potential joint tenant of the property to be purchased with the bank and chose not to do so.

Affirmed. Wahl, J. Dissenting: Sheran, C. J., and Yetka, J.

Took no part, Otis, J.

51889/Sp. State of Minnesota v. John H. Hudson, Appellant. Ramsey County.

Evidence was sufficient to sustain defendant's conviction for criminal sexual conduct in the first degree.

Testimonial reference by state's witness to fact that defendant had been in jail does not require a new trial because defense counsel elicited the evidence and there is no showing that the evidence prejudiced defendant who credibility was properly impeached by evidence of a prior conviction when he testified.

Four of five defendant's convictions are vacated pursuant to Minn. Stat. § 609.04 (1980), which forbids two or more convictions for the same offense (or one offense and an included offense) based on the same criminal act.

Affirmed in part, reversed in part. Simonett, J.

81-295/Sp. State of Minnesota v. Dennis D. Linehan. Washington County.

District court properly denied, as moot, petition for writ of habeas corpus by prison inmate.

Affirmed. Rogosheske, J. Retired.

Opinions Filed October 26, 1981

81-474/Sp. State of Minnesota v. Tommy J. Evans, Appellant. Hennepin County.

Trial court was justified in departing from presumptive sentence but we reduce the total length of defendant's prison term to double that of the presumptive sentence.

Affirmed as modified. Amdahl, J.

81-977/Sp. State of Minnesota v. Jeffrey Scott Hernandez, Appellant. Ramsey County.

Trial court, in sentencing defendant on the same day for three convictions based on different offenses not part of the same behavioral incident or course of conduct and involving different victims, properly considered first two convictions in determining defendant's criminal history score for third conviction.

Affirmed as modified. Amdahl, J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over $2,000.

Department of Administration procedures require that notice of any consultant services contract or professional and technical services contract which has an estimated cost of over $10,000 be printed in the *State Register*. These procedures also require that the following information be included in the notice: name of contact person, agency name and address, description of project and tasks, cost estimate, and final submission date of completed contract proposal.

Department of Administration Intergovernmental Information Systems Advisory Council

Notice of Request for Proposals for the Continued Development of an Automated Utility Billing System to Serve Small Minnesota Cities

The Intergovernmental Information Systems Advisory Council (IISAC), in conjunction with a grant awarded to the City of Wayzata is assisting with the issuance of a Request for Proposal (RFP). The RFP delineates the specific requirements for the development of detailed program specifications, programming, testing and documentation of the system. A major part of the RFP is a detailed system design document, already completed. The system will be installed on an Apple II Plus microcomputer at the City of Wayzata. The programming language will be BASIC.

A pre-bidders conference will be held at the Business and Technology Center, 245 E 6th Street, conference room A, at 1:30 p.m., on Monday, November 16, 1981.

Selection criteria, along with price considerations, will include length of time in business, previous experience with local government systems, previous experience with microcomputer developed systems, and staff to be assigned to the project.

Critical dates:
11/16/81 Pre-bidders conference
11/20/81 Bid submission deadline
11/25/81 Target date to select winning bid

The maximum amount of funds available for this effort is $13,250.00.

The RFP will be sent to those contacting Roger Sell, Executive Director of IISAC, Business and Technology Center, 245 East 6th Street, St. Paul, MN 55101, (612) 297-2172.

Department of Natural Resources

Notice of Sale of State Peat Lease

Notice is hereby given that a lease sale to remove peat in swamp fund lands located in 629 acres, more or less, of the West Central Lakes Bog, St. Louis County, Minnesota will be held in Room 130 of the State Capitol Building, St. Paul, Minnesota, at 9:30 o'clock a.m. CST on December 15, 1981.

The Commissioner of Natural Resources, Box 45, Centennial Office Building, St. Paul, Minnesota 55155, will receive sealed bids and applications for a lease to remove peat under the authority of Minnesota Statutes, § 92.50 (1980), as amended by Laws of Minnesota, ch. 328, § 1, up to the time specified below.

Each application and bid must be submitted in a bid envelope obtained from the Division of Minerals and each sealed bid envelope must be enclosed in another envelope and delivered to the Commissioner of Natural Resources, Attention: Division of Minerals, Box 45, Centennial Office Building, St. Paul, Minnesota 55155. Bids must be received by 4:30 o'clock p.m. CST on December 14, 1981 and no bids received after that time will be considered.

At the time specified for the lease sale, the commissioner, together with the State Executive Council, will publicly open the bids and announce the amount of each bid separately. A lease will be awarded by the commissioner, with approval of the State Executive Council, to the highest responsible bidder; but no bids will be accepted that do not equal or exceed the base royalty rates set forth in the prospectus. The right is reserved to the state, through the Executive Council, to reject any or all bids. All bids not accepted will become void.

In the absence of satisfactorily demonstrated past technical and financial competence to perform under similar circumstances, the commissioner may require bidders to submit information relating to their technical and financial competence to perform under the state's lease to remove peat. If the commissioner makes such a request of a bidder, the information shall be submitted within 30 days after the date of the commissioner's request.

Application and bid forms, bid envelopes, instructions on how bids are to be submitted, and copies of the prospectus may be obtained from the Department of Natural Resources, Division of Minerals Offices at Box 45, Centennial Office Building, St. Paul, Minnesota 55155, or Box 567, Hibbing, Minnesota 55746.

November 2, 1981

Joseph N. Alexander
Commissioner
Department of Natural Resources

Pollution Control Agency

Request for Proposals for Assistance with Review of State Noise Standards

I. Background

On November 27, 1974, the Minnesota Pollution Control Agency adopted State Noise Standards, NPC 1 and 2. These standards were adopted pursuant to a mandate of the legislature set forth in Minn. Stat. § 116.07, subd. 2 (1980), which states:

The pollution control agency shall also adopt standards describing the maximum levels of noise in terms of sound pressure levels which may occur in the outdoor atmosphere, recognizing that due to variable factors no single standard of sound pressure is applicable to all areas of the state. Such standards shall give due consideration to such factors as the intensity of the noises, the types of noises, the frequency with which noises occur, and such other factors as could affect the extent to which noises may be injurious to human health or welfare, animal or plant life, or property, or could interfere unreasonably with the enjoyment of life or property. In adopting standards, the pollution control agency shall give due recognition to the fact that the quantity or characteristics of noise or the duration of its presence in the outdoor atmosphere, which may cause noise pollution in one area of the state, may cause less or not cause noise pollution in another area of the state, and it shall take into consideration in this connection such factors, including others which it may deem proper, as existing physical conditions, zoning classifications, topography, meteorological conditions and the fact that a standard which may be proper in an essentially residential area of the state, may not be proper as to a highly developed industrial area of the state. Such noise standards shall be premised upon scientific knowledge as well as effects based on technically substantiated criteria and commonly accepted practices. No local governing unit shall set standards describing the maximum levels of sound puressure which are more stringent than those set by the pollution control agency.

In adopting State Noise Standards[1] the agency has set forth the limiting levels of sound in the outdoor atmosphere which are consistent with speech, sleep, annoyance and hearing conservation requirements for people (receivers) depending upon the activities on the land where the sound levels are located. The land areas are classified according to their actual use, each parcel of land being given a Noise Area Classification (NAC).

The Noise Area Classifications take into account the amount of noise which is safe for people to encounter in their dialy lives. For example, a person needs and desires a quieter outdoor environment surrounding a residence than at a factory or a shopping center. Therefore land uses which are more "sensitive" to noise are classified an NAC-1 and have the most stringent noise standards applied to them. NAC-1 land activities include household units, medical and other health services, and religious activities. NAC-2 land activities have less stringent standards and include railroad and bus terminals and commercial centers. NAC-3 land activities have even less stringent standards. They include manufacturing activities, agricultural activities, and mining activities. The fourth type of land activity classification, NAC-4, may receive unlimited noise and includes undeveloped and unused land.

The limiting levels of sound for land areas classified as NAC-1, NAC-2 and NAC-3 are as follows:

	Day		Night	
NAC	L_{50}	L_{10}	L_{50}	L_{10}
1	60	65	50	55
2	65	70	65	70
3	75	80	75	80

These standards incorporate the intensity (decibel level) and duration of noise. The "L_{10}" is defined by NPC 1(a)(15) as "the sound level, expressed in dBA, which is exceeded ten percent of a one hour survey." Thus a violation of an L_{10} standard of 65 dBA occurs when noise monitoring shows that the outdoor sound level exceeded 65 dBA for over six minutes of a one-hour survey. The "L_{50}" standard is defined by NPC 1(a)(16) as "the sound level, expressed in dBA, which is exceeded fifty percent of the time for a one hour survey." Thus a violation of an L_{50} standard of 60 dBA occurs when noise monitoring shows that the outdoor sound level exceeded 60 dBA for over thirty minutes of a one-hour survey.

[1] Copies of NPC 1 and 2 are available at the MPCA.

On June 5, 1979, the Minnesota Pollution Control Agency adopted a resolution stating that noise standards would be reviewed. The Minnesota Pollution Control Agency by this Request for Proposals is seeking assistance with the review it is conducting pursuant to that resolution.

II. Approach

The agency in its review of the State Noise Standards desires to focus mainly upon two aspects of the rules: 1) information related to the health and welfare effects attributable to noise exposures; and 2) the technical information that formed the basis for individual components of the rules, such as descriptors, designation of hours constituting daytime and nighttime, and the exceptions to the rules. The agency specifically desires to update and supplement the report of the consultant which provided technical assistance to the agency in the original formulation of the rules. This report, entitled *Noise Pollution Standards and Regulation*, by Noise Control Systems, Inc., is dated December 1972.

The person or persons awarded a contract baesd on a proposal submitted in response to this Request for Proposal will also be required to participate in any rulemaking proceeding which may be initiated by the Agency as a result of the review of State Noise Standards.

III. Scope of Work

Specifically the agency is requesting at least the following tasks to be completed:

Task I

Develop an assessment of the health/welfare effects attributable to noise and at what levels these effects occur to include but not limited to:

1. Supplement and update the information contained in the *Public Health and Welfare Criteria for Noise* document compiled by the EPA, with regards to health/welfare effects.

2. Conduct a literature review on health/welfare effects since the above document was published (including impulsive noise).

3. Assess health/welfare basis for a more stringent standard during night time hours (2200 to 0700) than during daytime hours.

4. Provide a written document addressing the elements of Task I.

Task II

Develop a technical assessment of the current noise standard as to its technical merit for regulating noise to include but not limited to:

1. Update the *Noise Control Systems, Inc.*, report.

2. Assess the current descriptors, L_{10} and L_{50} as they apply to airports and other special sources such as highways. Make recommendations if additional or other descriptors are necessary.

3. Assess the one hour averaging time currently used in the regulation.

4. Assess the "exceptions" as stated in the current regulation.

5. Make recommendations.

6. Provide a written document addressing the elements of Task II.

Task III

At a minimum the contractor should assess the current descriptors, L_{10} and L_{50}, or any other descriptor as recommended by the contractor by Task II, as to compatibility with current computer modeling knowledge for noise from airports and other special sources of noise such as highways.

Task IV

Provide a review of the original public hearing record conducted by the MPCA in June 1974 and comments received in response to the Agency's solicitation of public opinion to include but not limited to:

1. Assess the recommendations made through public testimony.

2. Assess the recommendations made through written comments.

3. Make recommendations.

4. Provide a written document addressing the elements of Task IV.

In summary, the Agency expects the contractor to:

1. Make current the type of information contained in the following: *Noise Control Systems, Inc.*, report and *Public Health and Welfare Criteria for Noise*.

2. Assess the technical merit of the existing standard.

3. Provide modeling compatibility with existing descriptors or any additional descriptors as recommended.

4. Provide a review of the original hearing record and written comments.

5. Make recommendations.

6. Provide written documents.

7. Participate in the rule making process.

IV. Preparation of the Proposal.

Proposals should include at least the following information:

1. Introduction to the consultant. A brief description of the contractor should be presented focusing primarily on unique capabilities relating to noise pollution and environmental standard setting.

Proposals should describe the contractors experience and qualifications to prepare technical reports, assess noise standards and assess health/welfare effects of noise. Proposals should demonstrate that the contractor understands that the MPCA is requesting an assessment of the health/welfare effects of noise and an assessment of the technical basis for the existing standard.

2. Staff availability. A brief description of the staff planned for use on this project must be included with resumes highlighting experience in noise pollution and standard setting processes. A description of the organization and management must also be included.

3. Description of proposed services—scope of work.

4. Detailed schedule of tasks and completion date.

5. Time and cost estimates for each task.

The total cost of the contract should not exceed $30,000.

6. References.

The contractor should provide references to contracts completed in noise pollution and environmental standard setting.

V. Consultant Selection.

1. Submittal of proposals

a. Proposals should be submitted to:

Dave Kelso
Program Development/Noise
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113
(612) 296-7372

b. Deadline for submittal is January 4, 1982.

2. Selection will be based on relevant qualifications, past experience and project cost. An MPCA selection committee will evaluate the proposals. Qualifications and relevant experience will be the primary determinants in the selection of the contractor.

3. Finalists will be interviewed by telephone and/or in person.

VI. Report Completion. The MPCA is requesting that the selected consultant perform all duties and tasks, except testimony at the public hearing, within six months from the time the contract is awarded.

Water Planning Board

Amended Notice of Request for Proposals for Preparation of a Slide Presentation Illustrating Water Management Problems and the Need for New Local Government Response

This notice supersedes the Request for Proposals appearing in the *State Register*, Volume 6, Number 15 on Monday, October 12, 1981, pages 652-654. This modified Request for Proposals incorporates specifications changes and the deadline for

submission has been revised accordingly. A revised specifications sheet will be provided upon request. All proposals must utilize this bid sheet format.

I. Scope of Project. This project will produce an automated 35mm color slide presentation with an audio component consisting of a narrative and background music. The slide show will examine selected water management problems from across the state and present observations of affected citizens concerning the obstacles encountered in addressing these problems. The slide show will also present the conclusions and recommendations of the Water Planning Board's "Special Study on Local Water Management."

The "Special Study on Local Water Management" was approved by the Minnesota Water Planning Board in January 1981. The study was prepared pursuant to Laws of 1980, ch. 548. In this study, the board identified a range of water management problems which demonstrate the need for a stronger local governmental role in water management. The purpose of this Request for Proposals is to develop a slide presentation which illustrates water management problems encountered across the state and communicates the need for new participation by local governments in addressing these problems.

II. Project Completion Date. The project shall be completed by March 31, 1982.

III. Department Contact. Prospective responders may call or write John Wells for copies of the amended specifications sheet or to address questions concerning this request at the Minnesota Water Planning Board, 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101 (612) 297-2377. Please note: Other board personnel are not permitted to discuss the project with responders before the proposal submittal deadline.

IV. Submission of Proposals. All proposals must be sent to and received by John Wells at the above address no later than 4:30 p.m. November 30, 1981. Late proposals will not be accepted. Prices and terms of the proposal as stated must be valid for the length of the project. Proposals must utilize the bid sheet format available through the board and include a description of the responder's background and experience.

V. Evaluation. All proposals received by the deadline will be evaluated by representatives of the Water Planning Board. If deemed necessary, an interview may be included in the evaluation process. Evaluation and selection will be completed by December 7, 1981. Results will be sent immediately by mail to all responders.

This Request for Proposals does not obligate the state to complete the project and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

OFFICIAL NOTICES

Pursuant to the provisions of Minn. Stat. § 15.0412, subd. 6, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

The *State Register* also publishes other official notices of state agencies, notices of meetings, and matters of public interest.

State Board of Education
Department of Education
Special and Compensatory Education Division

Notice of Cancellation of Public Hearing and Withdrawal of Proposed Rules Governing Special Education Staff-to-student Ratios (5 MCAR §§ 1.0120-1.0122)

Notice is hereby given that the public hearing on the proposed rules as noticed in the October 12, 1981 issue of the *State Register* at 6 S.R. 624 has been cancelled. The agency will reschedule the hearing for a later date. The proposed rules as noticed in the same issue of the *State Register* at 6 S.R. 624 through 6 S.R. 630 and as corrected in the October 26, 1981 issue of the *State Register* at 6 S.R. 710 through 6 S.R. 711 are withdrawn.

Questions regarding this matter should be directed to:

Wayne A. Erickson, Manager
Special Education Section
802 Capitol Square Building
550 Cedar Street
St. Paul, Minnesota 55101
(612) 296-4163

John J. Feda, Secretary
State Board of Education

Department of Commerce
Banking Division

Bulletin No. 2472: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of November 1981

Notice is hereby given that pursuant to Minnesota Statutes, § 47.20, subd. 4a (1980), the maximum lawful rate of interest for conventional home mortgages for the month of November 1981 is eighteen and three-quarters (18.75) percentage points. Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended Minnesota Statutes § 4720, the maximum lawful rate of interest for contracts for deed for the month of November, 1981, is eighteen and three-quarters (18.75) percentage points.

It is important to note that this maximum lawful interest rate does not apply to all real estate loans and contracts for deed. Under Minnesota's interest rate moratorium, which is identical to the Federal Usury Preemption, in most instances any rate may be charged on real estate mortgages and contracts for deed that constitute first liens.

The maximum rate is based on the Federal National Mortgage Association October 27, 1981, auction results and an average yield for conventional mortgage commitments of 18.614%. Current rates regarding this monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

October 28, 1981

Michael J. Pint
Commissioner of Banks

Department of Commerce
Insurance Division

Meeting Notice

Minnesota Comprehensive Health Association
Board of Directors
Tuesday, January 26, 1982, 9:00 a.m.
Northwestern National Life Insurance Company
20 Washington Avenue South
Minneapolis, Minnesota

Changes in any scheduled meetings and notices of any additional meetings will be posted or otherwise be available upon inquiry at the office of the Insurance Division, and may also be obtained by telephone from the Life and Health Section, telephone (612)-296-2202.

Minnesota Cosmetology Advisory Council
Office of Consumer Services
Cosmetology Unit

Notice of Meetings

The Minnesota Cosmetology Advisory Council will meet according to the following schedule:

November 17, 1981, 1:00-3:30 p.m.
December 1, 1981, 1:00-3:30 p.m.

First Tuesday of every month in 1982, 1:00-3:30 p.m.

Meetings will be held in the Office of Consumer Services, Room 128, Metro Square Building, 7th & Robert Streets, St. Paul, Minnesota 55101.

Minnesota Energy Agency
Data and Analysis Division

Application of Minnesota Alcohol Producers for a Certificate of Need for an Ethanol Production Facility

Order for and Notice of Hearing

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter will commence at 1:00 p.m. and continue at 7:00 p.m. on December 7, 1981, in the Minnesota Valley Regional Library, 100 East Main Street, Mankato, Minnesota. The hearing will continue at times and places to be specified by the hearing examiner if further hearing time is necessary.

This matter is being heard upon the Application for a Certificate of Need to construct an Ethanol Production Facility filed by Minnesota Alcohol Producers ("MAP") on October 22, 1981. The application was submitted, and the agency is convening the hearing on the authority of Minn. Stat. § 116H.13 and 6 MCAR §§ 2.1101-1186.

The hearing will be held before Myron Greenberg, Hearing Examiner, Room 300, 1745 University Avenue, Saint Paul, Minnesota 55104, telephone (612) 296-8110, an independent hearing examiner appointed by the chief hearing examiner of the State of Minnesota. All parties have the right to represent themselves or to be represented by legal counsel or any other representative of their choice throughout the contested case proceeding. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411 through 15.052 and procedural rules 9 MCAR §§ 2.201-2.299 and EA 500-520 (6 MCAR §§ 2.500-2.520). Where the procedural rules conflict, the hearing examiner's rules, 9 MCAR §§ 2.201-2.299, supersede the agency's rules, EA 500-520. Questions concerning the issues raised in this order or concerning informal disposition or discovery may be directed to Special Assistant Attorney General Dwight S. Wagenius, 720 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101, telephone (612) 296-8278.

The Minnesota Energy Agency has designated a person to facilitate citizen participation in the hearing process. That person is David L. Jacobson, who can be reached by mail or telephone at 980 American Center Building, Saint Paul, Minnesota 55101, (612) 296-7502.

The purpose of the hearing is to determine whether MAP (hereinafter sometimes the "applicant") has justified the need for the facility proposed in its application. The application is for the construction of an ethanol production facility which would be located at Mankato, Minnesota. The proposed facility would convert approximately 152,000 tons of starch annually into 20,000,000 gallons of anhydrous ethanol. The initial planned source of starch, no. 2 yellow corn, would generate approximately 78,000 tons of distillers' dried grains and solubles annually as a co-product of the alcohol production process.

The hearing will address, among other things, the accuracy of the applicant's forecast of demand for the type of energy that will be supplied by the proposed facility, the effect of the proposed facility upon the future adequacy, reliability, safety, or efficiency of energy supply to applicant's customers or the people of Minnesota and neighboring states, and alternative ways of meeting the demand. Determination must be made whether the consequences of granting the certificate of need outweigh the consequences of denying it, considering socioeconomic and environmental factors. In addition, a certificate of need cannot be granted if it has been demonstrated on the record that the proposed facility will fail to comply with relevant policies, rules and regulations of other state agencies, federal agencies, and local governments which have been considered during the hearing process.

Any person wishing to become a party to the proceeding must file a Notice of Intervention or a Petition to Intervene with the hearing examiner pursuant to 9 MCAR § 2.210 and EA 506. The notice of petition must be received by the hearing examiner on or before November 25, 1981, and a copy must be served on the Energy Agency (% Dwight Wagenius at his address, given above), on the applicant (at Muller Associates, Inc., 1500 South Lilac Drive, Suite 360, Minneapolis, Minnesota 55416, % David R. Kuechenmeister), and on known parties at time of intervention. Early intervention is strongly encouraged. Late interventions will be granted for good reasons. Parties must file a Notice of Appearance at least ten (10) days prior to the hearing. (The Notice of Appearance is not a substitute for a Petition to Intervene.)

A prehearing conference will be held pursuant to HE 213 A. at 1:30 p.m. on November 30, 1981, at the Office of Administrative Hearings, Room 300, 1745 University Avenue, Saint Paul, Minnesota. The applicant shall have its prefiled testimony available for distribution at the prehearing conference. Intervenors must attend the prehearing conference and be prepared to present a complete list of witnesses with prepared testimony or a summary of testimony to be presented. All parties must also present at the prehearing conference the exhibits to be sponsored and relied upon by their witnesses, clearly indicating the witness who will sponsor each exhibit.

Any person who wishes to give testimony, present other evidence or exhibits, or note his appearance at the hearing may do so, pursuant to 9 MCAR § 2.210 E., without having attained party status by intervention. Registration forms for such appearances will be available at the heraing. No special time has been specified for receipt of testimony from persons not parties to the proceeding. They should come to either hearing session on December 7, 1981.

All persons are advised that no factual information or evidence, except tax returns and tax reports, which is not part of the hearing record shall be considered by the hearing examiner or by the director in the determination of the above-entitled matter. Persons attending the hearing should bring all evidence bearing on the case including any records or other documents.

The procedural rules cited above are available for review at the Office of Administrative Hearings (9 MCAR §§ 2.201-2.299) and at the offices of the Energy Agency (EA 500-520). The applicant's application for a certificate of need and the substantive rules applicable to this matter, 6 MCAR §§ 2.1101-2.1186, are also available for review at the offices of the Energy Agency and at the Minnesota Valley Regional Library, Mankato, the Legislative Reference Library, State Capitol, Saint Paul, and the Environmental Conservation Library, Minneapolis. All rules may be purchased from the State Register and Public Documents Division, Department of Administration, 117 University Avenue, Saint Paul, Minnesota 55155, telephone (612) 297-3000. The cited procedural rules provide generally for the procedural rights and obligations of the parties including the right to advance notice of witnesses and evidence, the right to present evidence and cross-examine witnesses, the right to purchase a record or transcript, the right to object to petitions for intervention, the obligation to meet certain time limits, the obligation to file proposed findings and conclusions, and the right to file comments on and exceptions to the findings and recommendation of the Hearing Examiner.

Parties are entitled to issuance of subpoenas to compel witnesses to attend and produce documents and other evidence. Requests for subpoenas must be made of the hearing examiner in writing, pursuant to 9 MCAR § 2.216.

If persons have good reason for requesting a delay in the hearing, the request must be made in writing to the hearing examiner as soon as possible but at least five (5) days prior to the hearing. A copy of the request must be served on the agency and any other parties.

October 30, 1981

Mark Mason, Director
Minnesota Energy Agency

Department of Energy, Planning and Development
Energy Policy Development Council

Notice of First Council Meeting

The first meeting of the council is scheduled for November 16, 1:30 to 4:00 p.m. in Room 118 of the State Capitol. This first meeting will review and discuss the draft report to the legislature on the reorganization of statewide energy functions. Organization of the council will also be a topic of discussion.

Department of Natural Resources
Parks and Recreation Division

Notice of Intent to Solicit Outside Opinion Regarding the Proposed Concession Announcement for Hydroelectric Power Redevelopment at the Kettle River Dam Located in the City of Sandstone, Pine County

Notice is hereby given that the Parks and Recreation Division is seeking information and opinions from sources outside the agency in preparing to make a concession announcement requesting proposals for redevelopment of hydroelectric generating capability at the Kettle River Dam located in the City of Sandstone, Pine County, consistent with Minnesota Statutes § 105.482,

subd. 1. It is the intent of the Parks and Recreation Division that hydropower redevelopment at the site utilize modern technology so as to optimize interpretive possibilities for Banning State Park.

The Parks and Recreation Division requests information and comments concerning the term of the conession agreement, any constraints which should be imposed to protect public interests, and appropriate fee to be paid to the state for the developmental rights, and other matters affecting the subject of the proposed concession announcement.

Interested or affected persons or groups may submit written or oral information and comments to:

Milton Krona
(612) 296-4778
DNR Parks and Recreation Division
444 Lafayette Road
St. Paul, MN 55101

or

Craig Regalia
(612) 296-0525
DNR Waters Division
444 Lafayette Road
St. Paul, MN 55101

Information should be received by November 13, 1981, in order to be considered by the Parks and Recreation Division. Any written material received will become part of the record of this matter.

Steven G. Thorne
Deputy Commissioner of Natural Resources

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Stat. § 169.832.

Order No. 66221

Whereas, the Commissioner of Transportation has made his Order No. 65851, which has been amended by Orders 65929, 65932, 65933, and 66058, designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.832, and

Whereas, the commissioner has determined that the additional following routes, or segment of routes, should be designated to carry the gross weights allowed under Minnesota Statutes § 169.832.

It is hereby ordered that Commissioner of Transportation Order No. 65851 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

Trunk Highways

Temporary Route
T.H. 56 Kenyon to Hampton

Seasonal Routes
T.H. 59 Worthington to Fulda

County Roads

Becker	CSAH 7	Fm TH #10 to Front St. (City of Lake Park)
	CSAH 10	Fm TH #87 to South County Line
	CSAH 13	Fm TH #10 to Eagle St. (City of Audubon)
	CSAH 30	Fm TH #87 to River Drive (City of Frazee)
	CSAH 84	Fm TH #59 to Soo Line R.R. (City of Callaway)
Martin	Martin Co. Rd. 145	Fm CSAH 38 to T.H. 15
Ottertail	CSAH 8	Fm TH #10 to the North City Limits of Perham
	CSAH 80	Fm Southeast Jct. T.H. #10 to the Northwest Jct. of T.H. #10

Dated this 2nd day of November, 1981

Richard P. Braun
Commissioner of Transportation

Waste Management Board

Proposed Hazardous Waste Processing Facility Area in the City of Grand Rapids and the Townships of Grand Rapids and Harris

Notice of Change of Location of Hearing

The location of the hearing in the above-captioned matter originally scheduled to be held at Itasca Community College on December 9, 1981, has been changed to the Holiday Inn, 2301 Pokegama Avenue, Grand Rapids, Minnesota at the same time and on the same day as previously scheduled.

October 30, 1981

Robert G. Dunn, Chairman
Waste Management Board

STATE OF MINNESOTA

State Register and Public Documents Division
117 University Avenue
St. Paul, Minnesota 55155

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FOR LEGISLATIVE NEWS

Publications containing news and information from the Minnesota Senate and House of Representatives are available free to concerned citizens and the news media. To be placed on the mailing list, write or call the offices listed below:

Briefly/Preview—Senate news and committee calendar; published weekly during legislative sessions. Contact Senate Public Information Office, Room B29 State Capitol, St. Paul MN 55155, (612) 296-0504.

Perspectives—Publication about the Senate. Contact Senate Information Office.

Weekly Wrap-Up—House committees, committee assignments of individual representatives, news on committee meetings and action, House action and bill introductions. Contact House Information Office, Room 8 State Capitol, St. Paul, MN, (612) 296-2146.

This Week—weekly interim bulletin of the House. Contact House Information Office.

DR-82-007-GB

STATE OF MINNESOTA
OFFICE OF ADMINISTRATIVE HEARINGS

FOR THE DEPARTMENT OF REVENUE
INCOME TAX DIVISION

In the Matter of the Proposed
Adoption of a New Rule Governing
Filing and Payment of Withholding
Tax (13 MCAR § 1.6301).

REPORT OF THE HEARING EXAMINER

The above-entitled matter came on for hearing before State Hearing Examiner George A. Beck on Friday, December 11, 1981, at 9:00 a.m. in Room 83 of the State Office Building, 435 Park Street, in the City of Saint Paul, Minnesota.

This Report is a part of a rule hearing proceeding pursuant to Minn. Stat. §§ 15.0411 through 15.0417 and 15.052 to determine whether the proposed rule should be adopted by the Department of Revenue.

Members of the agency panel appearing at the hearing included: Dale Busacker, Division Attorney; Maggie Nomeland, Tax Examiner; Kathleen Stewart; and Jerry Mannie, Assistant Director.

Three people signed the hearing register. Two public witnesses appeared and spoke at the hearing. The Department submitted 15 written exhibits. Sixteen written comments were received from the public.

Pursuant to Minn. Stat. § 15.0412, subd. 4d and 4e (1980), this Report shall be available for review to all affected individuals upon request for at least five working days. Thereafter, the Commissioner of Revenue shall, if he proposes to adopt the rule as recommended herein, submit the rule, together with the complete hearing record to the Attorney General and shall be responsible for notifying persons who have indicated that they wish to be notified of such filing. If the Commissioner of Revenue makes changes in the rule other than those recommended herein, he shall submit the rule with the complete hearing record to the Chief Hearing Examiner for a review of the changes prior to submitting it to the Attorney General for review.

Based upon all the testimony, exhibits, and written comments, the Hearing Examiner makes the following:

FINDINGS OF FACT

Procedural Requirements

1. On October 22, 1981, the Department filed the following documents with the Chief Hearing Examiner:

(a) A copy of the proposed rules.
(b) The Order for Hearing.
(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 November 9, 1981, a Notice of Hearing and a copy of the proposed rules were published at 6 State Register 889.

3. On November 4, 1981, the Department mailed the Notice of Hearing to all persons and associations who had registered their names with the Department for the purpose of receiving such notice.

4. On November 16, 1981, the Department filed the following documents with the Hearing Examiner:

(a) The Notice of Hearing as mailed.
(b) The Agency's certification that its mailing list was accurate and complete.
(c) The Affidavit of Mailing the Notice to all persons on the Agency's list.
(d) The Statement of Need and Reasonableness.
(e) The names of Department 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.
(f) A copy of the State Register containing the proposed rules.
(g) An Affidavit of Additional Notice.

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

5. The record remained open through December 18, 1981, for the receipt of written comments and statements, the comment period having been set by order of the Hearing Examiner at five working days following the hearing.

Statutory Authority

6. The purpose of the proposed rule is to clarify when a withholding tax return must be received by the Department of Revenue in order to be considered timely. Minn. Stat. § 290.92, subd. 6, as amended by Minn. Laws 1981, Ch. 13, § 1, governs the submission of withholding taxes to the Department. The Session Law sets a submission date for quarterly and monthly returns "on or before the last day of the month following the close of each quarterly period, unless otherwise prescribed by the commissioner". The Session Law also provides that "the commissioner shall have the power by rule to prescribe other return periods or deposit requirements". Additionally, Minn. Stat. § 290.52 provides that the Commissioner may "make, publish, and distribute rules and regulations" enforcing the provisions of Ch. 290. The Department has demonstrated the statutory authority to adopt the proposed rule.

Discussion

7. The 1981 Session Law provides that beginning in 1982, any employer whose withholding exceeds $500 in a quarter must deposit the amount collected with the Commissioner within 15 days after the close of a calendar month. A different method is provided for larger employers. If at the close of any eighth monthly period (a three or four-day period) the undeposited taxes held by the employer exceeds $3,000, it must be deposited within three banking days of the close of the eighth monthly period. Beginning in 1982, those employers with less than $500 in taxes accumulated would file only quarterly. The proposed rule seeks to define when a deposit has been made by stating that it is either the date actually received by the Department or the date of mailing. The date of mailing under the rule as originally proposed must be on or before the second day prior to the statutory due date.

8. The Department's best estimate as to the number of employers within each of the statutory categories is as follows:

Size by Monthly Withholding Tax Liability	Number
Over $3,000	7,477
$500 - $3,000	13,250
$200 - $500	14,650
$1 - $200	48,000

9. The general purpose of the 1981 legislation is to speed up the collection of withholding tax deposits by the state. The Commissioner adopted a temporary rule in June of 1981 (5 State Register 1820), which is very similar to the rule proposed in this proceeding except that the temporary rule applied only to those employers falling under the eighth monthly reporting period requirement. The proposed rule is modeled on federal law which also requires that a bank depository must have received the payment of the withholding tax by the due date or the payment must have been mailed at least two days before the due date to be timely. The Department believes that the rule is reasonable in that it parallels federal law. The Department notes that the Minnesota Statute provides that the deposit must be made upon or before the due date and does not, therefore, permit the deposit to simply be placed in the mail on the due date. The Department states that the permanent rule will treat the quarterly return, the monthly deposit and the eighth monthly deposit in the same manner so that all employers will be treated uniformly and those employers with variable payrolls will be faced with only one rule.

10. The comments at the rule hearing and the written comments were generally divided into two groups. A number of comments from small businessmen stated that the proposed rule would be a hardship to them. (Exs. A, B, E, H, M). These businessmen generally fell below the $3,000 threshold and would therefore be filing within 15 days after the close of a calendar month. Several commentors pointed out that if the federal deposits were made in person at a bank depository, then a different due date would be created for state and federal deposits. (Exs. J, K, O). These commentors generally favored allowing the deposits to be timely if postmarked by the due date. (Exs. D, F, G). The Minnesota Association of Public Accountants (MAPA), composed of accountants who represent small businessmen, pointed out that it was necessary to complete payroll records, reconcile bank accounts and prepare payroll deposits before sending the withholding deposits to the state. MAPA argued that the proposed rule narrowed the time available to accomplish these tasks by two days to a nine or 10-day period. MAPA suggested that most small businesses would have difficulty complying with the statute in that diminished time period and asked that the proposed rule apply only to those employers exceeded the $3,000 threshold. (Ex. L).

11. A second group of comments came from corporations exceeding the $3,000 per eighth monthly period threshold. General Mills (Ex. C), United States Steel (Ex. I) and Honeywell (Ex. N) documented the mechanical actions which they had to complete subsequent to the eighth monthly period and before forwarding a deposit and stated that this simply cannot be accomplished in a 24-hour period as would be required by the new rule if the deposit is to be

mailed. They pointed out that there is a large difference between the federal law and the state rule since there are approximately 100 bank depositories in the State of Minnesota where an employer can deposit the federal withholding taxes in person. The large employers indicated that they would be able to comply with a rule that allowed mailing on the due date or one day prior to the due date. The Minnesota Association of Commerce and Industry likewise supported a rule allowing mailing on the due date or the day before. (Ex. B).

12. As a result of a review of the comments made in this rule hearing proceeding, the Commissioner submitted a post-hearing memorandum (Ex. 15), in which he suggested that the word "second" be deleted from line 10 of the proposed rule. The effect of this amendment would be that all employers would have an additional day in which to mail in their withholding tax deposits and returns. The amendment would meet completely the objections of the larger employers. It would also provide some relief to monthly filers by allowing them an extra day to accomplish the collection of data which is necessary. So amended, the proposed rule has been shown to be needed and reasonable. The amendment does not create a rule which is substantially different from that which was published in the State Register.

Based upon the foregoing Findings of Fact, the Hearing Examiner makes the following:

CONCLUSIONS

1. That the Department of Revenue gave proper notice of the hearing in this matter.

2. That the Department of Revenue has fulfilled the procedural requirements of Minn. Stat. § 15.0412, subd. 4-4f (1980) and all other procedural requirements of law or rule.

3. That the Department of Revenue has documented its statutory authority to adopt the proposed rules, and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 15.0412, subd. 4e and 15.052, subd. 3(4)(i) and (ii) (1980).

4. That the Department of Revenue has demonstrated the need for and reasonableness of the proposed rules by an affirmative presentation of facts in the record within the meaning of Minn. Stat. § 15.0412, subd. 4c (1980).

5. That the additions and amendments to the proposed rules which were suggested by the Department after publication of the proposed rules in the State Register do not result in rules which are substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. § 15.0412, subd. 4d (1980) and 9 MCAR §§ 2.110 A. and 2.111 (1980 Ed.).

6. That any Findings which might properly be termed Conclusions and any Conclusions which might properly be termed Findings are hereby adopted as such.

7. That a finding or conclusion of need and reasonableness in regard to any particular rule subsection does not preclude and should not discourage the Department from further modification of the rules based upon an examination of the public comments, provided that no substantial change is made from the proposed rules as originally published, and provided that the rule finally adopted is based upon facts appearing in this rule hearing record.

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

RECOMMENDATION

It is hereby recommended that the proposed rules be adopted consistent with the Findings and Conclusions made above.

Dated: December 29, 1981.

George A. Beck

GEORGE A. BECK
State Hearing Examiner

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

ORDER ADOPTING RULE
FINDINGS OF FACT
AND CONCLUSIONS

The above-entitled matter came on for hearing before Hearing Examiner George Beck on the 11th day of December, 1981 at 9:00 A.M. in Room 83, State Office Building, 435 Park Street, St. Paul, Minnesota 55155 after proper notice required by Minnesota Statutes section 15.0412 was served upon all persons, associations, and other interested groups registered with the Revenue Department for that purpose.

After affording interested persons an opportunity to present written and oral data, statements, and argument, and after hearing all of the testimony, considering all of the evidence adduced and upon the records, files, and proceedings herein and applicable statutory standards or criteria, I have confirmed the need for and reasonableness of the above-captioned rule. I accept the recommendation of the Hearing Examiner and adopt the rule as amended, which amendment was accepted by the Hearing Examiner in Finding of Fact #12 and Conclusion #5.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 13 MCAR section 1.6301 is adopted this 7th day of January, 1982 pursuant to authority vested in me by Minnesota Statutes section 290.52.

State of Minnesota

Clyde E. Allen, Jr.
Commissioner of Revenue

Dept. Exh. No. 8
File No. Date

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

RECEIVED
NOV 16 1981
ADMINISTRATIVE HEARINGS

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE GOVERNING FILING AND PAYMENT OF WITHHOLDING TAX. (13 MCAR SECTION 1.6301)

STATEMENT OF NEED AND REASONABLENESS

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 rule. It is submitted pursuant to 9 MCAR Section 2.104 requiring a Statement of Need and Reasonableness.

Authority to Adopt the Rule

Minn. Stat. Section 290.52 gives the Commissioner authority to "administer and enforce the assessment and collection of the taxes imposed by this chapter. He may, from time to time, make, publish, and distribute rules and regulations in enforcing its provisions." The withholding taxes assessed under the provisions of Section 290.92 are a tax imposed by Chapter 290. The Commissioner is given the authority in numerous places in Section 290.92 to administer and enforce the assessment and collection of the withholding taxes. Under Section 290.52 he, therefore, has the authority to make rules governing the withholding tax law.

Purpose of the Rule

The purpose of the rule is to clarify when a withholding tax return, whether it be eighth monthly, monthly, or quarterly, must be received by the Department of Revenue in order to be considered timely. Historically, the Department has said that these returns must be received by

the Department by the due date in order to be considered timely. This rule will put that administrative practice into effect.

History

In order to better understand the administrative policy and the reasons behind this rule, it is important to explore the history of the withholding tax and especially the due dates. The withholding tax law first came into existence for Minnesota purposes in Laws 1961, Chapter 213, Article I, Section 1. Subdivision 6 of this section is the beginning of Minn. Stat. Section 290.92, subd. 6. Basically, this law stated that withholding would start on January 1, 1962. The quarterly return for the period January 1, 1962 to March 31, 1962 would need to be filed "with the Commissioner of Taxation, on or before April 30, 1962." (Emphasis added.) The law went on to specify that for other quarters beginning after April 1, 1962 the return would have to be made and filed with the Commissioner "on or before the last day of the month following the close of each quarterly period." (Emphasis added.) The law also provided that a monthly return would be due from an employer if the amount of the withholding tax which was accumulated at the end of that calendar month exceeded $25. The law required that the employer "shall deposit such aggregate amount within 15 days after the close of such calendar month with the Commissioner of Taxation." It is important to note that from the very beginning the law has always stated that the returns are due to be filed and paid with the Commissioner on or before the due date.

In a special session of the legislature in 1961 the beginning of the withholding tax was moved up to begin on October 1, 1961 instead of January 1, 1962. (See Extra Session Laws 1961, Chapter 91, Article II, Section 3.) This law also made some technical changes and made it

clear that the general provisions of the law applying to withholding tax payments would also apply to withholding tax deposits.

The Commissioner of Taxation provided withholding tax instructions to employers effective October 1, 1961. These instructions were contained in Circular MW-B. (See Appendix A.) It should be noted on page 4 of these instructions the Commissioner provided the due dates of the returns. Basically, it was a copying of the law as it existed at that time. If a monthly return was due, the instructions said that it needs to be filed on or before the 15th day of the month. If quarterly returns were due, they were due to be filed on or before the end of the appropriate month. The same statements are also contained on page 6 of these instructions, and on the top of page 9.

The withholding tax rules that were adopted as part of the income tax rules in 1963 do not specifically define the due dates for withholding tax quarterly or monthly returns in any more specifics. (See Income Tax Regulation 2092(6)).

Ignoring the addition of clause (12) to Section 290.92, subd. 6 and ignoring the changes that were made to that clause, the next important change to this section of the law was made in Laws 1969, Chapter 326. This law eliminated the requirement that the Revenue Department give an employer receipts for the monthly deposits that were made and also eliminated the requirement that the employer attach the receipts to the quarterly return.

Laws 1971, Chapter 514 increased the amount of withholding taxes that need to be accumulated before a monthly deposit was required from $25 to $100. Some obsolete language was also deleted.

Laws 1973, Chapter 73 corrected a statutory cross-reference and also eliminated the necessity of the Commissioner prescribing forms by

regulation only and in making other adjustments by regulation.

Laws 1975, Chapter 349, Section 21 granted authority to the Commissioner to prescribe other reporting periods other than quarterly. The law did allow the Commissioner to classify employers according to the amount of their tax liability. However, the law provided that the reporting period could not be longer than one year or less than one month and that certain small employers would not be required to report more than quarterly. Basically, this paragraph of the law was never used by the Department.

The most important changes since the beginning of the withholding tax law were made in Laws 1981, Chapter 13. In Section 1 of this law the provision concerning the requirement for quarterly returns was rewritten. The law requires that the quarterly return must be filed with the Commissioner "on or before the last day of the month following the close of each quarterly period." This language is identical with the previously existing language. However, the law goes on to give the Commissioner broader discretion than that which existed in prior law. The law states that this is the due date for the quarterly return "unless otherwise prescribed by the Commissioner." The law has given the Commissioner broad authority to prescribe the due date of the quarterly returns. Clause (b)(i) of this law describes the monthly deposits that are to be made. The aggregate amount of the tax withheld which requires a monthly return was increased from $100 to $200 effective on April 1, 1981. Beginning with January 1, 1982, the monthly amount will be increased to $500. Again, the law states that the employer must "deposit the aggregate amount with the Commissioner within 15 days after the close of the calendar month." This is almost identical with the prior law. In clause (b)(ii) the new eighth monthly reporting periods were

provided. Basically, the months were divided up into eight parts. If after the end of any one of these eighth monthly periods an employer had more than $3,000 of undeposited Minnesota withholding tax, a deposit was required. The law prescribes that "the employer shall deposit the undeposited taxes with the Commissioner within three banking days after the close of the eighth monthly period." The whole purpose of this law was to conform Minnesota withholding tax deposits and law more closely with the federal provisions which have also required an eighth monthly report from employers having more than $3,000 of undeposited federal withholding tax and social security tax at the end of any eighth monthly period. Another purpose of the law was to speed up the collection by the state of the withholding taxes that are withheld from the employee's check by the employer. In clause (c) of this law the Commissioner is given broad authority. The law says, "The Commissioner shall have the power by rule to prescribe other return periods or deposit requirements." The legislature was giving the Commissioner broad authority to prescribe the provisions relating to the deposit and collection of the withholding tax.

Temporary Rule

Laws 1981, Chapter 13, Section 2 granted the Commissioner the authority to establish temporary rules to implement the provisions of that law. Any temporary rule adopted under the provisions of Chapter 13 was to remain in effect until April 1, 1982 or until permanent rules were adopted, whichever came first. The legislature attached special importance to these temporary rules that would be adopted by the Commissioner and made them effective for up to one year. The Commissioner did exercise his discretion and did propose a temporary rule which is almost identical with the proposed rule here being considered. This temporary

rule was published in the State Register on Monday, May 11, 1981 at 5 State Register 1820. This temporary rule applies only to the new eighth monthly reporting periods, whereas this permanent rule applies not only to the eighth monthly deposits but also to the monthly deposits and the quarterly returns. This temporary rule was approved by Jerry Anderson of the Attorney General's Staff on June 3, 1981 and became effective at that time. The temporary rule was filed with the Secretary of State on June 5, 1981 and a notice of this was published in the State Register for Monday, June 22, 1981, at 5 State Register 2060.

Several conclusions can be drawn from this history of the law and the promulgation of the temporary rule: (1) The legislature by law in Laws 1981, Chapter 13, Section 2 attached much significance to the proper implementation of the withholding tax provisions. The Commissioner was granted longer authority than normal to have temporary rules. (2) The Commissioner has recognized the importance of the rapid collection of revenue as provided in the law and has adopted a temporary rule to insure that the deposits would be made on time. (3) It is easy to see the legislative intention from reading Laws 1981, Chapter 13, that the purpose of the law was to insure a more rapid receipt by the state of the withholding tax payments. That is the whole purpose of the new eighth monthly deposits. (4) The Commissioner was given broad discretion in the 1981 law to prescribe other return periods or deposit requirements. The legislature knew that the law might not be precise enough and that the Commissioner would need additional authority and flexibility to make sure that the revenues were properly received. (5) The due dates have always said that the quarterly returns were due on or before the last day of the month, the monthly deposits were due within 15 days after the close of the calendar month, and the new law provides that the eighth

monthly deposits must be deposited with the Commissioner within three banking days.

Federal Law

The proposed rule is closely copied from federal law. The federal law that was used is Section 7502(e) of the Internal Revenue Code (Title 26 United States Code). This is the law that has been used for federal purposes to determine the timeliness of their withholding tax returns and deposits. (See Regulation Section 31.6302(c)-1(a)(3)(iii)). This regulation says, "The timeliness of the deposit will be determined by the date the deposit is received (or is deemed received under Section 7502(e)) by a federal reserve bank or by the authorized commercial bank, whichever is earlier." The Department realizes that there are some differences between federal and state in that the federal law allows the use of bank depositories when there is no provision in the state law for that; however, the principle remains the same. The bank depository must have received the payment of the withholding tax by the due date or the return and the payment must have been mailed at least two days before the due date in order for that payment to be timely. The principle is the same in the application to the receipt of these payments by the Department of Revenue. The Commissioner is not proposing anything that has not already been imposed under federal law. Revenue Ruling 75-331 provides some explanation as to the application by the Internal Revenue Service of these due date provisions. The summary of the Revenue Ruling says, "Section 7503 doesn't extend [the] mailing date for tax deposits required under Section 31.6302(c)-1(a) and [because of this,] withheld employment taxes due to be deposited within three days with [the] third day falling on [a] Saturday [, the deposits] that are mailed on [the] following Monday and delivered on Tuesday aren't timely deposited." The

Revenue Ruling goes on to conclude that these deposits which are due on a Monday must have been mailed on the Saturday in order to be timely under the provisions of Section 7503. This proposed rule would adopt the same interpretation that the Internal Revenue Service has provided in this Revenue Ruling. Section 7503 of the Internal Revenue Code provides that when the last day prescribed for performing an act falls on a Saturday, Sunday, or a legal holiday, the act is considered timely if it is performed on the next succeeding day which is not a Saturday, Sunday, or legal holiday. Minnesota has adopted this provision and would follow the same provisions provided in that federal code section. The authority for this is contained in Section 290.42, clause (5) and Section 270.27.

Enforcement

Beginning with the 1977 tax year, the Department began enforcing the monthly deposit requirements. Taxpayers had been previously notified by general mailing of these deposit requirements. The 25 percent willful neglect penalty was now assessed against taxpayers for failure to make the monthly deposits during 1977. This led to three Tax Court decisions in which the main issue was what penalty should be assessed--the willful neglect 25 percent penalty, the failure to file 10 percent penalty, or no penalty at all. These cases are North Star Distributors, Inc. v. The Commissioner of Revenue, Tax Court Docket No. 2613, February 7, 1979, Moorman Manufacturing Company v. The Commissioner of Revenue, Tax Court Docket No. 2957, May 12, 1981, and Combustion Engineering, Inc. v. The Commissioner of Revenue, Tax Court Docket No. 2991, May 12, 1981. These cases are the only withholding tax decisions that exist at this time. Unfortunately, they deal with the issue of which penalty should be assessed and do not address the due date concern which is addressed

by this rule.

Income Tax Due Dates

It is important to note the distinction that the law draws between the depositing and payment of the withholding tax amounts and the filing and payment of normal income tax returns. The withholding tax payments are in the nature of a trust fund which is held by the employer in trust for the Department of Revenue. These funds have already been collected by the employer from the employee's paycheck, and the employer is merely holding them until they need to be turned over to the Commissioner. The income tax return payments are a tax assessed on the employer and is to be paid by him. Section 290.42, clauses (1) and (2) provide that the income tax returns shall be filed on the 15th day of April for individual income tax returns and on the 15th day of March for corporation income tax returns. Clause (2) deals with fiscal year income tax returns. Section 290.43 states that these returns shall be filed with the Commissioner. Section 290.45, subd. 1 says that the tax shall be paid to the Commissioner at the same time a return is filed, with some exceptions not here at issue. The withholding tax law is structured differently. As was previously pointed out, it says that the quarterly return must be filed and paid on or before the last day of the month. The monthly return is due to be filed and paid within 15 days after the close of the month. The eighth monthly return is to be paid to the Commissioner within three banking days.

Need For the Rule

The rule is needed for one basic reason. It is needed to make sure that the withholding tax revenues are received promptly and as quickly as the law prescribes. The rule is needed to give the full effect to the purpose of Laws 1981, Chapter 13. This law provided for the more

rapid collection of the withholding tax receipts. The rule and, as previously adopted, the temporary rule make clear that the law is to be enforced to provide for the proper receipt of the withholding tax trust fund dollars.

Attached as Appendix B is a letter to the Commissioner from Gerry Benting, Assistant Commissioner of Finance, prescribing the normal rules for governmental accounting. The letter states that in order for revenue funds to be accounted for under a modified accrual basis of accounting, the revenues must be measurable and must be available. As stated at the second to the last paragraph of this memo, it says, "This means that sales tax money due on June 25, 1981, but not received until July 1, 1981, could not be accrued to F.Y. 81, because the amount cannot be measured at June 30." In order to apply this to the withholding tax provisions here at issue, this means that the Finance Department is saying that withholding tax money collected under the eighth monthly deposit system which is due on June 30 but not received until July 1 cannot be accounted for as a receipt in fiscal year 1981. The significance of this memo and the significance of this rule is to make sure that the withholding tax deposits and receipts are received as promptly as possible to be properly accounted for in the fiscal year and are available to finance state government operations.

Reasonableness of the Rule

The rule is reasonable and should be adopted as presented for several reasons. First, the rule does not break new ground; the rule is patterned after and closely parallels the federal law. The rule will make the Minnesota provisions the same as the federal provisions concerning the mailing and receipt of the withholding tax. Secondly, the rule is in conformance with the law. The law states that the quar-

terly returns are to be filed and paid on or before the last day of the month. The law does not state that it is o.k. if the return is mailed to the Commissioner on the last day of the month. The law states that the monthly deposits are to be made with the Commissioner within 15 days after the close of the month. The law is clear on its face when read. The law does not state that it is o.k. for an employer to mail the deposit to the Commissioner on the 15th day after the end of the calendar month. The law on the eighth monthly deposit is even tighter. The law states that the employer is to deposit these taxes with the Commissioner within three banking days after the close of the eighth monthly period. The law does not allow an employer to meet this requirement by simply mailing the deposit to the Commissioner on the third banking day. The law states that the money must be on deposit with the Commissioner at the end of that third banking day. In fact, this rule and the previous temporary rule give the employer some assurance as to the timeliness of the deposit. An employer who mailed his eighth monthly deposit to the Commissioner on the same day as the end of the eighth monthly period could not even be sure that the deposit would still be timely. The law requires that the deposit be received by the Commissioner within three banking days. This rule adopts some discretion and gives the employer the Department's assurance that the deposit will be considered to be timely if the employer mails the deposit to the Commissioner at least two days before the third banking day. Third, this proposed rule will treat all withholding tax returns and deposits the same. The temporary rule applied only to eighth monthly deposits. This permanent rule will treat the quarterly return, the monthly deposit, and the eighth monthly deposit in the same manner. In this way, the rule will be more fair because it will treat all employers the same. It is especially important

to note that those employers who have variable payrolls and so can be on an eighth monthly reporting system one month, a monthly reporting system the next month, and perhaps only a quarterly reporting system the following quarter would be treated the same regardless of what reporting method they are required to use to pay their withholding taxes to the Commissioner. This would eliminate some confusion that employers have. Now they will all know that they are required to have the deposit in the Commissioner's hands on the due date or be mailed on or before the second day before the due date. Fourth, the law grants the Commissioner authority to prescribe other return periods or deposit requirements. The plain language of the law needs to be given effect. This language is contained in clause (c) of part 1 of subdivision 6. The Commissioner was given this discretion to assure that the withholding tax trust fund receipts from the employers would be received by the state in the proper time. The Commissioner was given the discretion to make the law administratable for both the Department and the employers. Under this proposed rule the Commissioner is adopting the federal requirements that already exist and already apply to all employers. Fifth, the rule does not require that the payments actually be received by the Department on the due date. The rule does not make the employer the insurer of the mail system. The rule gives the employer the discretion of mailing the payment on or before the second day prior to the due date. Proof of when this payment or return was mailed would be up to the employer. The employer could, of course, use certified mail and in that way have a receipt showing when the form was mailed. The employer could also demonstrate as part of his normal business practice when the return was mailed. If the envelope is retrievable, the Department can, of course, examine it and determine when the envelope was postmarked by the U.S. Postal Service.

Conclusion

The rule is needed to effect the obvious intention of the legislature to make sure that the revenues are reported on time. The rule is reasonable because it conforms with federal law, it gives the employers assurance that they will not be penalized if the payment is mailed on or before the second day prior to the due date, and it conforms with the law and the Commissioner's discretion to provide for reporting periods under the law.

Appendix A

STATE OF MINNESOTA

INCOME TAX

WITHHOLDING

INSTRUCTIONS FOR EMPLOYERS AND TAX TABLES

EFFECTIVE OCTOBER 1, 1961

CIRCULAR MW-B

DEPARTMENT OF TAXATION
Centennial Office Building
St. Paul 1, Minnesota

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A – GENERAL INFORMATION

The Minnesota Legislature at its 1961 session amended the Minnesota Income Tax Act to provide for employers to withhold Minnesota Income Taxes from the wages of their employees paid on or after October 1, 1961.

Although the withholding provision is commonly referred to as a "withholding tax," it is not, in fact, a tax at all. It is a method of collecting taxes.

Many of the features of the Federal Withholding Law are embodied in the Minnesota Withholding Law. The due dates for filing reports and remitting the tax collected coincide with Federal due dates; and definitions of many of the terms used conform to the Federal Law. In general, the rules and policies established for Federal withholding will be followed where practical. However, the Minnesota and Federal Withholding Laws differ in some respects. Such differences may create problems unless the regulations and instructions provided are specifically followed.

This booklet is designed to help you determine if you are required to withhold Minnesota State Income Taxes and to guide you in the proper use of the forms and the withholding tax tables.

Every employer subject to the provisions of the Minnesota Withholding Law is assigned a Minnesota Department of Taxation identification number. All new employers should apply for their number at the beginning of their operations by filing the Minnesota Department of Taxation registration form (MW-A), (See Section E). The identification number assigned is a permanent number and will appear on all monthly, quarterly, and end-of-year report forms sent by the Department of Taxation to the employer. It must be shown on all Minnesota withholding statements prepared by the employer and should be used in all correspondence pertaining to Minnesota income tax withholding. If the employer goes out of business or if there is any change in business name, address, or ownership, our office should be immediately notified so that proper adjustment may be made in our records. It is extremely important that employers do not use any report forms that bear a number different from their Department of Taxation identification number. If an employer receives a form with a different number from the one assigned to him, he should notify the Department of Taxation immediately to prevent improper crediting of his withholding payments.

All questions concerning withholding should be addressed to Department of Taxation, Withholding Unit, Centennial Office Building, Saint Paul 1, Minnesota.

B – DEFINITIONS

EMPLOYER DEFINED – An employer is any person (including individuals, fiduciaries, estates, trusts, partnerships and corporations), transacting business in or deriving any income from sources within the State of Minnesota who controls the payment of wages to an individual who performs any service as an employee. The term includes organizations which may themselves be exempt from Minnesota income tax, such as religious, educational, and governmental organizations.

EMPLOYEE DEFINED – An employee is any resident individual performing services subject to the will and control of an employer, regardless of where the services are performed, and *every nonresident individual performing services within the State of Minnesota.* (For further detail, see Minnesota Income Tax Regulation 2092 (1)-3 and 2092 (4a)). This includes an officer of a corporation and an officer, employee or elected official of any political subdivision.

WAGES DEFINED – The term "wages" means all remuneration, whether in cash, or other medium, for services performed by an employee for his employer, but does not include:

1. Fees paid to public officials;
2. Payment for active service as a member of the Armed Forces of the U. S.;
3. Payment for agriculture labor (as defined in Section 3121(g), Internal Revenue Code of 1954);
4. Payment for domestic service in private home, college club, fraternity or sorority;
5. Payment for casual labor, not in the course of the employer's trade or business, if less than $50 for a calendar quarter;
6. Payment for service performed by a duly ordained minister of a church or a member of a religious order performing duties required by such church or order;
7. Wages of newspaper carriers under the age of 18 delivering to consumers;
8. Wages of newspaper and magazine vendors selling to consumers at a fixed price, their compensation being based on the excess of the fixed price over the price charged to them.

SICK PAY – (Wage Continuation Plan) An employer is not required to withhold income tax from excludable sick pay provided his records: (1) separately show the amount of each such payment and the excludable portion thereof, and (2) contain either a written statement from the employee specifying whether his absence from work during the period for which the payment was made was due to a personal injury or due to sickness and, if the latter, whether he was hospitalized for at least one day during this period; or any other information which the employer reasonably believes establishes the employee's entitlement to the exclusion.

All such payments must be included in the amount shown as total wages on Form MW-2. However, an employer who maintains the records specified above may also show excludable sick pay on Form MW-2 as a separate item regardless of whether or not income tax was withheld from such amounts.

For additional information on wages subject to withholding, contact the Department of Taxation.

C – CALENDAR OF EMPLOYERS' DUTIES

Before October 1, 1961: Or for new employers, before first wage payment subject to Minnesota withholding	File Department of Taxation Registration Form MW-A. (See page 5.)
Before October 1, 1961: Or on hiring new employees	Secure a Minnesota Withholding Exemption Certificate (Form MW-4) from each employee who desires to claim a different number of exemptions for Minnesota withholding from that claimed for Federal purposes. (See page 5.)
On each payment of wages to an employee on or after October 1, 1961	Withhold Minnesota income tax from each wage payment in accordance with the employee's withholding exemption certificate and the applicable withholding table or formula. (See pages 16-26.)
On or before the 15th day of February, March, May, June, August, September, November, and December	After each of the first two months of each quarter, deposit the Minnesota income tax withheld, if the total is more than $25, with the Commissioner of Taxation. (Form MW-5) (See page 8.)
On or before each April 30, July 31, October 31 and January 31	File a Quarterly Return (Form MW-1) with the Department of Taxation and pay the full amount (less deposits made on Form MW-5 during the quarter) of Minnesota income tax withheld from wages during the previous quarter. (For 1961 only, the first return is due January 31, 1962.) (See page 6.)
On or before January 31, or within thirty days after termination of employment	Give each employee a withholding statement in duplicate (Form MW-2) showing (1) the total wages, and (2) the amount of Minnesota income tax withheld. (See Section I.) (See page 10.)
On or before January 31 of each year or within thirty days after termination of business	File Form MW-3, Reconciliation of Minnesota Income Tax Withheld From Wages, together with State Copy (A) of all withholding statements furnished employees on Form MW-2 for the preceding year. (See page 12.)

D – FORMS – STATE AND FEDERAL

The Minnesota Income Tax Forms described in this booklet and their Federal counterparts are listed below.

FORM NUMBER	FORM TITLE	FEDERAL COUNTERPART
MW-A	Minnesota Department of Taxation Registration Form	SS-4
MW-1	Employer's Quarterly Return of Minnesota Income Tax Withheld	941
MW-2	Minnesota Withholding Tax Statement	W-2
MW-3	End of Year Reconciliation of Minnesota Income Tax Withheld	W-3
MW-4	Employees Minnesota Withholding Exemption Certificate	~~W-4~~ Each employer should have
MW-5	Deposit Receipt of Minnesota Income Tax Withheld	450
M-9	Minnesota Information Return	1099
M-10	Minnesota Annual Information Return (Summary)	1096

MW 1040ES Estimated forms

E – MINNESOTA DEPARTMENT OF TAXATION – REGISTRATION FORM (MW-A)

Registration—Before making his first wage payment subject to Minnesota withholding, an employer should file a Registration Form (MW-A) with the Department of Taxation, Withholding Unit, Centennial Office Building, Saint Paul 1, Minnesota.

Every employer who is required to withhold Minnesota income taxes will be identified by a Minnesota Department of Taxation identification number. This number is *different from the Federal identification number* assigned by the District Director of Internal Revenue.

The identification number will be permanently assigned to an employer when he files the Registration Form (Form MW-A) and will appear on all report forms sent by the Department of Taxation to employers. Each employer should make a permanent record of his Minnesota identification number.

All the necessary forms and instructions for Minnesota withholding will be mailed to the employer after his registration form has been received by the Department of Taxation.

Registration Forms (MW-A) are available upon request from the Department of Taxation.

F – EMPLOYEE'S MINNESOTA WITHHOLDING EXEMPTION CERTIFICATE (MW-4)

WITHHOLDING EXEMPTIONS—Every employee shall on or before October 1, 1961, or thereafter on commencement of employment, furnish his employer with a signed exemption certificate showing the number of withholding exemptions he claims, which shall not exceed the number to which he is entitled under Minnesota law. *The federal exemption certificate Form W-4 already on file for the employee may be used as the basis for Minnesota withholding provided the number of exemptions claimed by the employee does not exceed the number to which he is entitled under Minnesota law.*

Any employee who desires to claim a different number of exemptions for state witholding purposes from those he is presently claiming for federal purposes, must file a Minnesota exemption certificate Form MW-4.

Once filed, a certificate remains in effect until an amended certificate is furnished. If an employee has no federal certificate already on file and fails to file a Minnesota exemption certificate, the employer is required to withhold the tax as if the employee had claimed no withholding exemptions.

The "Withholding Exemptions" in general correspond with the credits to be allowed the employee in computing his annual Minnesota tax. Where an employee does not expect that his income tax withheld will equal his final tax liability, he should be informed that he may claim fewer exemptions (than those to which he is entitled) or he may enter into an agreement with his employer whereby a greater amount of tax will be withheld—use line 6 of Form MW-4 to indicate the added amount to be withheld.

FORM MW-4
State of Minnesota
Department of Taxation

EMPLOYEE'S MINNESOTA WITHHOLDING EXEMPTION CERTIFICATE

Print full name DONALD BRIAN SMITH Social Security Account Number 000-00-0000

Print home address 432 CAPITOL PLACE City ANYTOWN Zone 11 State MINNESOTA

EMPLOYEE: File this form if you wish to claim a different number of exemptions than you are claiming for federal withholding purposes.

EMPLOYER: Keep this certificate with your records. If the employee is believed to have claimed too many exemptions, the Commissioner of Taxation should be so advised.

HOW TO CLAIM YOUR MINNESOTA WITHHOLDING EXEMPTIONS

1. If SINGLE, and you claim an exemption, write the figure "1" .....
2. If MARRIED, one exemption each for husband and wife if not claimed on another certificate.
   (a) If you claim both of these exemptions, write the figure "2"
   (b) If you claim one of these exemptions, write the figure "1"
   (c) If you claim neither of these exemptions, write "0" 2
3. Exemptions for age and blindness (applicable only to you and your wife but not to dependents):
   (a) If you or your wife will be 65 years of age or older at the end of the year, and you claim this exemption, write "1"; if both will be 65 or older, and you claim both of these exemptions, write "2" .....
   (b) If you or your wife are blind, and you claim this exemption, write the figure "1"; if both are blind, and you claim both of these exemptions, write the figure "2" .....
4. If you claim exemptions for one or more dependents, write the number of such exemptions. (Do not claim exemption for a dependent unless you are qualified under instruction 4 on other side.) 2
5. Add the number of exemptions which you have claimed above and write the total 4
6. Additional withholding per pay period under agreement with employer. *See* Instruction 1 ..... $.....

I CERTIFY that the number of withholding exemptions claimed on this certificate does not exceed the number to which I am entitled under Minnesota Law.

(Date) October 6, 19 61 (Signed) Donald B Smith

Sample of Form MW-4 (showing how it should be completed)

An employee may file a new certificate at any time if the number of withholding exemptions to which he is entitled increases. However, an employee must file a new certificate within ten days if the number of withholding exemptions previously claimed decreases.

The employer may make the amended certificate effective with the next payment of wages, but he is permitted by law to postpone the effective date until the first status determination date (that is, January 1st or July 1st), which occurs at least 30 days after the date on which the certificate is filed with the employer.

Minnesota withholding exemption certificates Form MW-4, for those employees desiring to claim a different number of exemptions for Minnesota than for Federal purposes, may be obtained by writing to the Department of Taxation, Withholding Unit, Centennial Office Building, St. Paul 1, Minnesota.

G – EMPLOYER'S QUARTERLY REPORT (FORM MW-1)

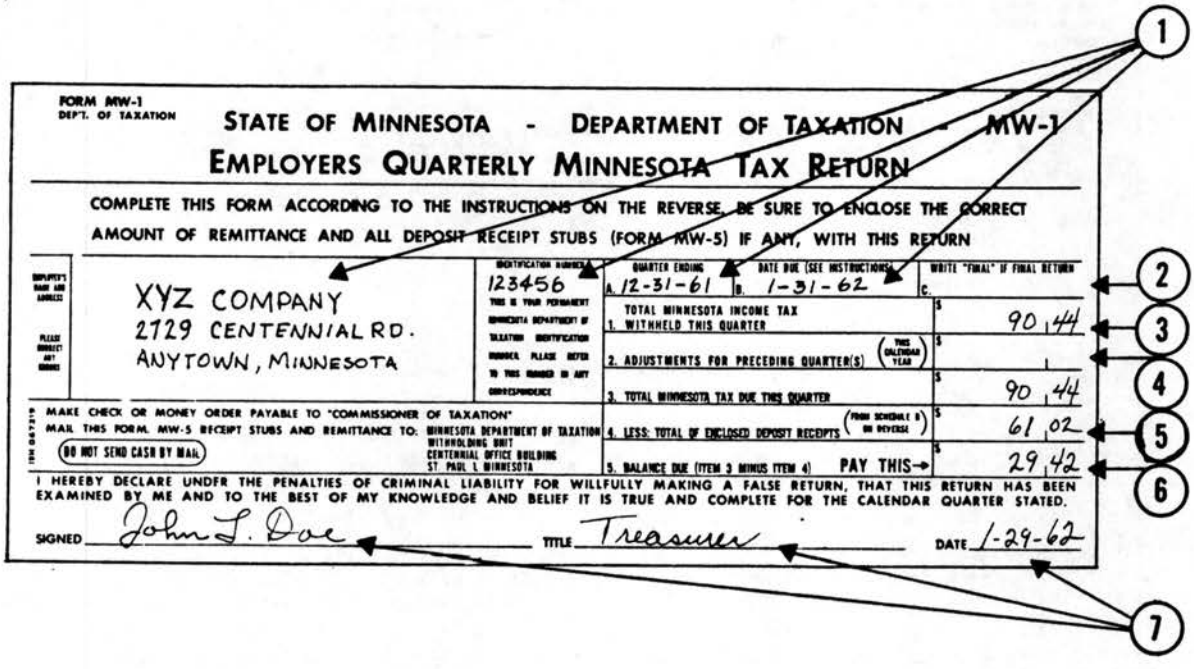
Every employer required to withhold Minnesota income taxes from wages or salaries must file a quarterly return on Form MW-1.

The calendar quarter to be covered by these returns, and the dates on which the returns and tax payments are due, are as follows:

QUARTERS	QUARTER ENDING	DUE DATE
January-February-March	March 31st	April 30th
April-May-June	June 30th	July 31st
July-August-September	September 30th	October 31st
October-November-December	December 31st	January 31st

An employer who witholds more than $25 of Minnesota income tax during either of the first two months of a quarter must deposit such amounts monthly with the Commissioner of Taxation on Form MW-5. (See Section H.)

Under no circumstances may a return be filed for more than one calendar quarter. Pre-numbered forms mailed to employers should be used in filing returns. If the pre-numbered form is lost, a new one should be requested if sufficient time remains before the filing date. If it is necessary to make a payment of Minnesota taxes without a pre-numbered form, care should be exercised to show the employer's name and Minnesota identification number exactly as they appeared on previous returns, and to identify the purpose of the payment.



FORM MW-1
DEPT. OF TAXATION

STATE OF MINNESOTA - DEPARTMENT OF TAXATION - MW-1

EMPLOYERS QUARTERLY MINNESOTA TAX RETURN

COMPLETE THIS FORM ACCORDING TO THE INSTRUCTIONS ON THE REVERSE. BE SURE TO ENCLOSE THE CORRECT AMOUNT OF REMITTANCE AND ALL DEPOSIT RECEIPT STUBS (FORM MW-5) IF ANY, WITH THIS RETURN

EMPLOYER'S NAME AND ADDRESS — PLEASE CORRECT ANY ERRORS

XYZ COMPANY
2729 CENTENNIAL RD.
ANYTOWN, MINNESOTA

IDENTIFICATION NUMBER: 123456
THIS IS YOUR PERMANENT MINNESOTA DEPARTMENT OF TAXATION IDENTIFICATION NUMBER. PLEASE REFER TO THIS NUMBER IN ANY CORRESPONDENCE

QUARTER ENDING	DATE DUE (SEE INSTRUCTIONS)	WRITE "FINAL" IF FINAL RETURN
A. 12-31-61	B. 1-31-62	C.

TOTAL MINNESOTA INCOME TAX 1. WITHHELD THIS QUARTER		$ 90,44
2. ADJUSTMENTS FOR PRECEDING QUARTER(S) (THIS CALENDAR YEAR)		$
3. TOTAL MINNESOTA TAX DUE THIS QUARTER		$ 90,44
4. LESS: TOTAL OF ENCLOSED DEPOSIT RECEIPTS (FROM SCHEDULE B ON REVERSE)		$ 61,02
5. BALANCE DUE (ITEM 3 MINUS ITEM 4)	PAY THIS→	$ 29,42

MAKE CHECK OR MONEY ORDER PAYABLE TO "COMMISSIONER OF TAXATION"
MAIL THIS FORM, MW-5 RECEIPT STUBS AND REMITTANCE TO: MINNESOTA DEPARTMENT OF TAXATION, WITHHOLDING UNIT, CENTENNIAL OFFICE BUILDING, ST. PAUL 1, MINNESOTA
DO NOT SEND CASH BY MAIL

I HEREBY DECLARE UNDER THE PENALTIES OF CRIMINAL LIABILITY FOR WILLFULLY MAKING A FALSE RETURN, THAT THIS RETURN HAS BEEN EXAMINED BY ME AND TO THE BEST OF MY KNOWLEDGE AND BELIEF IT IS TRUE AND COMPLETE FOR THE CALENDAR QUARTER STATED.

SIGNED John L. Doe TITLE Treasurer DATE 1-29-62

Sample of Form MW-1 (showing how it should be completed)

(1) These spaces are for your name, address, Minnesota identification number, the ending date of the quarter covered by the return and the date the return is due. (For due date exceptions, see Section H) Be sure to write this information on your copy of the return. If this information is incorrect, or if your address changes, draw a line through the error and type or print in the necessary correction.

(2) Enter "final" here if you have ended your business operations or otherwise ceased paying wages. An employer who has only temporarily ceased to pay wages, including an employer engaged in seasonal activities, shall continue to file returns but shall enter "none" in the spaces on the front of the return until such time as he resumes paying wages and withholding Minnesota income tax.

(3) Enter the total Minnesota income tax withheld from all your employees for the quarter.

(4) If more or less than the correct amount of tax is paid to the Commissioner of Taxation during a quarter, proper adjustment may be made on the first quarterly return filed after the error is discovered. Any such adjustment should be entered here. However, if a mistake in income tax withholding cannot be adjusted in the return of a subsequent quarter in the same calendar year, the Commissioner of Taxation should be consulted as to the proper method of correction. Every return on which an adjustment is reported must have an accompanying statement showing the return period to which the adjustment relates and the reason the adjustment is necessary.

(5) Enter the total taxes deposited during the quarter on Form MW-5 (from Schedule B on back of card).

(6) Enter the balance of Minnesota income taxes due and to be paid with Form MW-1 (Item 3 less Item 4).

(7) Sign, date and show your title.

INSTRUCTIONS:

EMPLOYER'S QUARTERLY RETURN FORM MW-1 MUST BE FILED BY THE LAST DAY OF THE MONTH FOLLOWING EACH CALENDAR QUARTER.
DO NOT USE ANY FORM NOT NUMBERED WITH YOUR PERMANENT MINNESOTA DEPARTMENT OF TAXATION IDENTIFICATION NUMBER.

A. THIS IS THE LAST DAY OF THE QUARTER FOR WHICH THIS RETURN IS DUE.
B. THIS IS THE DATE THIS RETURN IS DUE (FOR EXCEPTIONS, SEE YOUR MINNESOTA EMPLOYERS INSTRUCTION BOOKLET, CIRCULAR MW-8).
C. IF FOR ANY REASON SUCH AS QUITTING BUSINESS, ETC., YOU WILL NOT BE REQUIRED TO WITHHOLD MINNESOTA INCOME TAXES DURING SUCCEEDING QUARTERS, WRITE "FINAL" IN THE SPACE PROVIDED AND ENCLOSE A SIGNED EXPLANATION.
1. ENTER THE TOTAL MINNESOTA INCOME TAXES YOU HAVE WITHHELD DURING THE CALENDAR QUARTER.
2. ENTER ANY ADJUSTMENTS FOR PRECEDING QUARTERS OF THIS CALENDAR YEAR. ENCLOSE A STATEMENT EXPLAINING ANY SUCH ADJUSTMENTS.
3. ITEM 1 PLUS OR MINUS ADJUSTMENTS IF ANY.
4. SEE SCHEDULE B BELOW.
5. BALANCE DUE, ITEM 3 MINUS ITEM 4.

SCHEDULE B—DEPOSIT RECEIPT RECORD

SCHEDULE B MUST BE USED BY THOSE EMPLOYERS WHO MAKE DEPOSITS OF MINNESOTA STATE INCOME TAXES WITHHELD. EVERY EMPLOYER WHO IS LIABLE FOR MORE THAN $25 OF THESE TAXES DURING A MONTH IS REQUIRED TO DEPOSIT SUCH TAXES MONTHLY WITH THE COMMISSIONER OF TAXATION. SUCH DEPOSITS FOR THE THIRD MONTH OF ANY QUARTER, AND DEPOSITS OF $25 OR LESS, ARE PERMISSABLE BUT NOT REQUIRED. EACH DEPOSIT MUST BE ACCOMPANIED BY A MINNESOTA RECEIPT FORM MW-5, WHICH WILL BE VALIDATED BY THE DEPARTMENT OF TAXATION AND RETURNED TO THE EMPLOYER. THE VALIDATED RECEIPTS SHOULD BE LISTED IN SCHEDULE B AND THE SMALL PORTIONS ENCLOSED WITH THIS RETURN. A PENALTY IS PROVIDED BY LAW FOR FAILURE TO MAKE SUCH DEPOSITS. SEE YOUR MINNESOTA EMPLOYER'S INSTRUCTIONS, BOOKLET MW-8.

SERIAL NUMBER OF FORM MW-5	DATE OF DEPOSIT (LIST IN DATE ORDER)	AMOUNT
2345678	Nov. 13, 1961	33.21
2345679	Dec. 11, 1961	27.81
TOTAL OF ALL ENCLOSED DEPOSIT RECEIPTS (ENTER IN ITEM 4 ON OTHER SIDE)		61.02

(1)

Sample of Schedule B of Form MW-1 (showing how it should be completed)

(1) Enter in the spaces provided, all deposits made on Form MW-5 during the quarter. List in the order of date paid, the serial number of the deposit receipts, the date of the deposits, and the amount of the deposits. Enter the total on line 4 on the front of the return.

Deposit receipts must be submitted with the quarterly return to which they relate.

If no tax or less than the amount of the tax is deducted from any wage payment, the employer is authorized to deduct the amount of the undercollection from later payments to the employee. However, the employer is liable for any underpayment. Reimbursement is a matter for settlement between the employer and the employee.

The employer is responsible for the Minnesota income tax required to be withheld from the wages of his employees. The amount of tax withheld by him is a special fund held in trust for the state of Minnesota. He is relieved of liability to any other person for any such amount.

H – WITHHOLDING DEPOSIT RECEIPT (MW-5)

Monthly Deposits, Who Must Make Deposits—Each month the employer must compute the amount of Minnesota Income Tax Withheld during such month. If the total for any month (except the third month of a quarter) exceeds $25, the total amount of such taxes for such month must be deposited with the Commissioner of Taxation by the 15th day of the following month.

An employer whose monthly total of Minnesota Income Tax withheld amounts to $25 or less is not required to make monthly deposits, but may do so if he desires. Likewise, any employer who wishes to make a deposit of Minnesota Income Taxes withheld during the third month of a quarter and an employer who wishes to make more frequent deposits of Minnesota Income Taxes withheld may do so.

When To Make Deposits—Deposits covering Minnesota Income Tax withheld during the first two months of a quarter must be made within fifteen days after the close of the month during which they were collected.

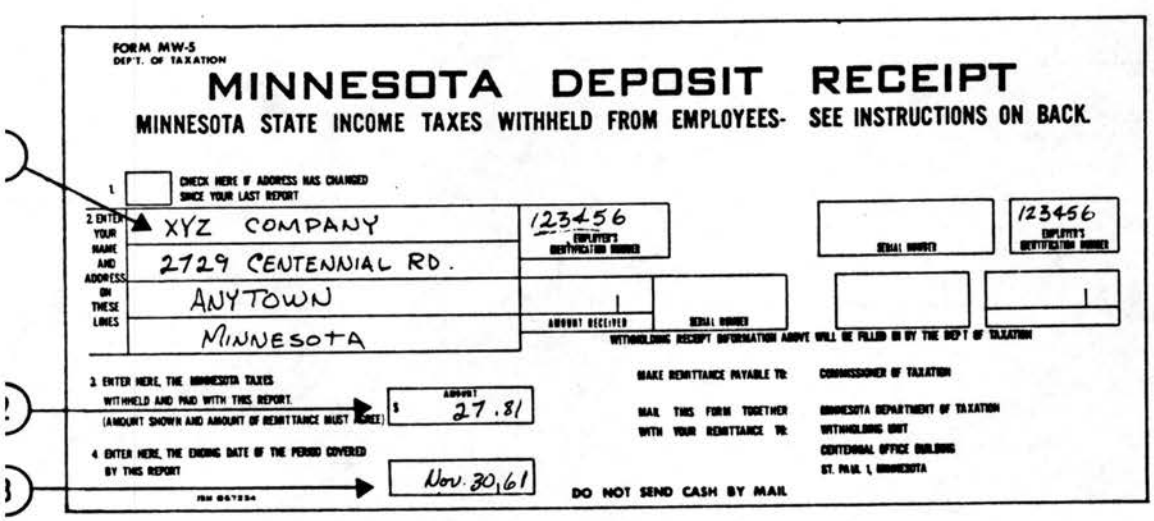
For those employers desiring to make deposits of taxes withheld during the third month of a quarter; such deposits must be made on or before the last day of the month following the close of the quarter.

EXAMPLES:

If During the Month of:	You Withheld:	You are Required To:	You May:
January	$18.00		Pay with Deposit Form MW-5 $18.00 by February 15th.
February	$27.00	Pay with Deposit Form MW-5, $27.00 by March 15th.	If the $18.00 withheld in January has not been paid, pay with Deposit Form MW-5, $45.00 by March 15th.
March	$22.00	File Quarterly Return Form MW-1, and pay $40.00 by April 30th.	Pay with Deposit Form MW-5, $22.00 by April 30th. OR: If $18.00 withheld in January has not been paid, pay $40.00 with Deposit Receipt Form MW-5 by April 30th. OR: File Quarterly Return Form MW-1 by April 30th, and pay any balance of tax due.

Subsequent quarters of a calendar year may be substituted above by changing the dates to correspond with the due dates for returns for such quarters.

How To Make Deposits of Minnesota Income Tax Withheld—Deposit Receipts, Form MW-5, are supplied by the Minnesota Department of Taxation. Each employer will initially receive two blank receipt forms; thereafter, you will automatically receive a blank receipt Form MW-5 when your receipted form for the previous month is returned to you by the department. An employer needing additional forms should contact the Department of Taxation stating his identification number.


FORM MW-5
DEPT. OF TAXATION

MINNESOTA DEPOSIT RECEIPT

MINNESOTA STATE INCOME TAXES WITHHELD FROM EMPLOYEES- SEE INSTRUCTIONS ON BACK.

1 ☐ CHECK HERE IF ADDRESS HAS CHANGED SINCE YOUR LAST REPORT

2 ENTER YOUR NAME AND ADDRESS ON THESE LINES
XYZ COMPANY
2729 CENTENNIAL RD.
ANYTOWN
MINNESOTA

123456 EMPLOYER'S IDENTIFICATION NUMBER

SERIAL NUMBER

123456 EMPLOYER'S IDENTIFICATION NUMBER

AMOUNT RECEIVED

SERIAL NUMBER

WITHHOLDING RECEIPT INFORMATION ABOVE WILL BE FILLED IN BY THE DEPT OF TAXATION

3 ENTER HERE, THE MINNESOTA TAXES WITHHELD AND PAID WITH THIS REPORT. (AMOUNT SHOWN AND AMOUNT OF REMITTANCE MUST AGREE) $ AMOUNT 27.81

MAKE REMITTANCE PAYABLE TO: COMMISSIONER OF TAXATION

MAIL THIS FORM TOGETHER WITH YOUR REMITTANCE TO: MINNESOTA DEPARTMENT OF TAXATION
WITHHOLDING UNIT
CENTENNIAL OFFICE BUILDING
ST. PAUL 1, MINNESOTA

4 ENTER HERE, THE ENDING DATE OF THE PERIOD COVERED BY THIS REPORT
Nov. 30, 61

DO NOT SEND CASH BY MAIL

Sample of Form MW-5 (showing how it should be completed)

(1) Enter your name and address (show any change in your address since your last report).

(2) Enter the amount of Minnesota Income Taxes withheld during the period for which the deposit is made, (amount entered here and amount of remittance must agree).

(3) Enter the ending date of the period covered by the deposit.

DO NOT WRITE IN ANY OTHER SPACES ON THE FORM.

Each Form MW-5 and a single remittance covering the amount of Minnesota income taxes to be deposited should be sent to the Department of Taxation, Withholding Unit, Centennial Office Building, St. Paul 1, Minnesota.

An employer who has not been assigned an identification number should, nevertheless, make deposits at the proper time. He should enclose a statement showing his name and address and identifying the purpose of the payment.

What To Do With Validated Receipts—The employer's depository receipts, Form MW-5, will be validated and perforated by the Department of Taxation and returned to the employer. These validated receipts should be separated at the perforation and the larger left hand portion retained for the employer's records, and the small right hand portion returned with the quarterly report for the period during which these deposits were made.

If the employer makes timely deposits sufficient to pay the total amount of Minnesota Income taxes, he is allowed ten additional days for filing his quarterly return, Form MW-1, beyond the due date for employers generally. The timeliness of the deposit will be determined by the earliest date stamped on the validated receipt by the Department of Taxation.

Inquiries concerning deposit receipts should be directed to the Department of Taxation, Withholding Unit. Such inquiries should state the employer's name, address and Minnesota identification number.

I – MINNESOTA WITHHOLDING STATEMENT (MW-2)

Receipts for Employees—Employers must furnish to each employee two copies of the withholding statement (Form MW-2) if Minnesota income tax was withheld, or would have been withheld if the employee had claimed no more than one withholding exemption. Thus, even though no Minnesota income tax was withheld, the employer must give withholding statements to each employee whose wages for any payroll period exceeded $14.42 for a weekly payroll period, $28.85 for a bi-weekly period, $31.25 for a semi-monthly period, $62.50 for a monthly period, $187.50 for a quarterly period, or $2.50 a day for a daily or miscellaneous period.

XYZ COMPANY #123456
2729 CENTENNIAL ROAD
ANYTOWN, MINNESOTA

Type or print EMPLOYER'S Minnesota identification number, name, and address above.

MINNESOTA WITHHOLDING TAX STATEMENT MW-2

Taxes Withheld From Wages **1961**

Copy A—For Commissioner of Taxation

INCOME TAX INFORMATION

$ 144.00	$ 5,200.00	$ 505.44	$ 23.80
F.I.C.A. employee tax withheld, if any	Total Wages* paid in 1961	Federal Income Tax withheld, if any	Minnesota Income Tax withheld, if any

DONALD B SMITH 000-00-000
432 CAPITOL PLACE
ANYTOWN, MINNESOTA

Type or print EMPLOYEE'S social security account no., name, and address above.

EMPLOYER: Forward This Copy Along with Your End of Year Reconciliation (Form MW-3) to the Commissioner of Taxation on or Before Jan. 31, 1962. (See Your Minnesota Employers Instruction Booklet MW-B.)

FOR USE OF DEPARTMENT OF TAXATION

Employee's Copy and Employer's Copy compared.....

*Before payroll deductions or "sick pay" exclusion.

Sample of Form MW-2 (showing how it should be completed)

SF-00006-01

Appendix B

STATE OF MINNESOTA

DEPARTMENT of Finance

Office Memorandum

TO : Clyde Allen
Commissioner
Department of Revenue

DATE: November 9, 1981

FROM : Geri Benting
Assistant Commissioner

PHONE: 296-1699

SUBJECT: Accrual of Revenue

Robert Turnquist has asked for a clarification of when certain types of tax revenue may be accrued. The Department of Finance uses the 1980 edition of Governmental Accounting, Auditing, and Financial Reporting (GAAFR) as its basis for accruing revenue.

GAAFR contains the following statements on revenue accrual:

> Governmental fund types are accounted for using the modified accrual basis of accounting. Under the modified accrual basis, revenues are recognized when they become susceptible to accrual - that is, when they become both "measurable" and "available to finance expenditures of the current period".
>
> Taxpayer assessed income, gross receipts, and sales taxes are not generally considered "measurable" at the point in time when income is earned, receipts are collected, or sales are made.

This means that sales tax money due on June 25, 1981, but not received until July 1, 1981, could not be accrued to FY 81, because the amount cannot be measured at June 30.

If you have any further questions regarding revenue accrual, please feel free to call me at 296-1699.

GEB:RSM/las

cc: R. Greeman
R. Turnquist

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment Withholding Tax. (13 MCAR Section 1.6301.)

Statement of Compliance With Rulemaking Procedures

I, Dale H. Busacker, Income Tax Division Attorney, do hereby declare that I have examined the rule and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Procedure Act, the rules of the Office of Administrative Hearings, and the rules of the Attorney General have been followed. There are no exceptions.

Dale H. Busacker

Dale H. Busacker

Dated: 7 January 1982

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

AFFIDAVIT OF MAILING NOTICE OF SUBMISSION TO THE ATTORNEY GENERAL

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Mary Lacho, being first duly sworn, deposes and says:

That on the 7th day of January, 1982, in the City of St. Paul, County of Ramsey, State of Minnesota, she served the attached Notice of Submission to the Attorney General by depositing in the United States mail at City of St. Paul, a copy thereof properly enveloped, with postage prepaid, on the persons who requested notice that the rule in the above-entitled matter, was submitted to the Attorney General.

Mary Lacho

Mary Lacho

Subscribed and sworn to before me this 7th day of January, 1982.

Ruth Anderson

RUTH ANDERSON
NOTARY PUBLIC-MINNESOTA
DAKOTA COUNTY
My Commission Expires Mar. 1, 1988

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3439

January 7, 1982

Mr. Roger Reinhart
Minnesota Association of Public
Accountants
Box 425
Brainerd, Minnesota 56401

Re: In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

Dear Mr. Reinhart:

I have today submitted the above-captioned rule to the Attorney General for his approval.

Attached is a copy of the rule as submitted to the Attorney General showing the change that was made. The word "second" was deleted. The rule will now require that all withholding returns and deposits must be received on the due date or mailed one day before the due date to be timely.

Sincerely,

Dale H. Busacker

Dale H. Busacker
Division Attorney
Income Tax Division

DHB/ml

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3439

January 7, 1982

Mr. Bob Dillon
Honeywell, Inc.
Honeywell Plaza
MN 12-4184
Minneapolis, Minnesota 55408

Re: In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

Dear Mr. Dillon:

I have today submitted the above-captioned rule to the Attorney General for his approval.

Attached is a copy of the rule as submitted to the Attorney General showing the change that was made. The word "second" was deleted. The rule will now require that all withholding returns and deposits must be received on the due date or mailed one day before the due date to be timely.

Sincerely,

Dale H. Busacker

Dale H. Busacker
Division Attorney
Income Tax Division

DHB/ml

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-3439

January 7, 1982

Mr. Chad Piehl
Minnesota Association of Public
Accountants
Box 66
Hutchinson, Minnesota 55350

Re: In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Governing Filing and Payment of Withholding Tax. (13 MCAR Section 1.6301.)

Dear Mr. Piehl:

I have today submitted the above-captioned rule to the Attorney General for his approval.

Attached is a copy of the rule as submitted to the Attorney General showing the change that was made. The word "second" was deleted. The rule will now require that all withholding returns and deposits must be received on the due date or mailed one day before the due date to be timely.

Sincerely,

Dale H. Busacker

Dale H. Busacker
Division Attorney
Income Tax Division

DHB/ml

Enclosure

AN EQUAL OPPORTUNITY EMPLOYER