

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 785A — Campaign Financing / Economic Interest Disclosure / Lobbyists — Conflict of Interest / Representation Disclosure / Hearings

-9 MCAR 1.0001-1.0043; RULE REVIEW CHECKLIST

0100-0111; etc.

DATE RULE RECEIVED 2-8-82
DATE FOR REVIEW 2-17-82
DATE DUE 2-22-82

Adopted w/a hearing ____
Adopted w/o hearing ✓
Temporary rule ____

Approved 2-22-82 Disapproved ____ Returned to Agency 2-23-82

Resubmitted ____ Due ____
Approved ____ Disapproved ____ Returned to Agency ____

Date filed w/Secretary of State 2-23-82 Revisor approved ____ disapproved ____

✓ Rule as Adopted

✓ Rule as Proposed see SR.

? Order Adopting 2.3.82 Date see my note –

✓ Notice ~~of~~ Intent to Solicit Outside Opinion SR. 2.16.81

____ Order for rulemaking
____ date of Hearing DOES NOT EXIST

✓ Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
? Sufficiency see my note –

✓ Affidavit of Mailing Notice or rulemaking but see my note
12.11.81 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

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

N/A Hearing Examiner's Report

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

✓ Agency's Findings of Fact

N/A LCRAR Report or agency Affidavit

? Certificate of Board's Resolution Adopting Rules see my note

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

SF-00006-02

DEPARTMENT ATTORNEY GENERAL

STATE OF MINNESOTA

Office Memorandum

TO : JUDITH G. SCHOTZKO
Chairperson, Ethical Practices Bd.

DATE: 2/22/82

ATTN: DOUGLAS C. BLOMGREN, Spec. Ass't. Atty. Gen.

FROM : TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-0315

SUBJECT: In the Matter of the Proposed Adoption of Rules of the Ethical Practices Board Governing Campaign Financing (9 MCAR §§ 1.001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC601-623)

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.

TAM:drw

Encs.

cc: Ms. Kathy Burek
Mr. Duane Harves

SF-00006-02

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO : Judith Wehrwein
Attorney General's Office
Administration

DATE: February 8, 1982

FROM : Douglas C. Blomgren
Special Assistant
Attorney General

PHONE: 6-3206

SUBJECT: Ethical Practices Board Rules

Transmitted to you with this memo are two sets of rules adopted without hearing by the Ethical Practices Board. Please contact me if you have any questions.

DCB/rmm
Enclosure

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ETHICAL PRACTICES BOARD
41 State Office Building

TO : Douglas Blomgren
Special Assistant Attorney General

DATE: February 5, 1982

FROM : Mary Ann McCoy MMcC
Executive Director

PHONE: 296-1720

SUBJECT: Review of Rules Adopted Without a Public Hearing
(as published in State Register December 7, 1981)

As directed by action of the Ethical Practices Board on February 3, 1982, I am pleased to forward the following documents for your review under 1MCAR§1.0203:

1. Rules as Adopted
2. Order Adopting Rules
3. Certificate of Board's Resolution Adopting Rules
4. Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules and Amendments to Rules Governing Campaign Financing, Economic Interest Disclosure, Lobbyists, Conflict of Interest, Representation Disclosure and Hearings
5. Notice of Intent to Adopt Rules Without a Hearing
6. Certificate of Board's Resolution Authorizing Adoption of Noncontroversial Rules
7. Notice of Intent to Adopt Rules Without a Public Hearing
8. Affidavit of Mailing Notice of Intent to Adopt Rules Without a Public Hearing
9. Mailing List Certificate
10. Copy of State Register (Volume 6, Number 23, December 7, 1981)
11. Findings of Fact and Conclusions
12. Statement of Need and Reasonableness
13. Certificate of Compliance with Rulemaking Procedures

785 A
AG copy

Ethical Practices Board

Adopted Rules Governing Campaign Financing; Economic Interest Disclosure; Lobbyist Registration and Reporting; Conflicts of Interest; Representation Disclosure; and Hearings

Rules as Adopted

Chapter One: Campaign Financing Rules

9 MCAR S 1.0001 Applicability. Chapter One applies to principal campaign committees, political committees, political funds, individuals and associations that raise or expend more than $100 in a calendar year to influence the nomination or election of a candidate or to promote or defeat a ballot question.

9 MCAR S 1.0008 Association newsletters on behalf of a candidate. Unless an association as defined in Minn. Stat. S 10A.01, subd. 3 is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9 MCAR S 1.0012 Change of office sought by candidate.

C. Tax credit and public financing agreements. A candidate may sign a tax credit agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement by September 1 automatically rescinds a previously filed agreement for another office.

9 MCAR S 1.0016 Contributions from non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds. Non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds which contribute more than $100 in a calendar year to a political committee or political fund may,

in lieu of registration with the board, provide the recipient political committee or political fund with a report of receipts and expenditures containing all information required by Minn. Stat. S 10A.20 for the reporting period in which the contribution was made.

9 MCAR S 1.0017 Contribution limits; political party definition. For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization; a social club of a political party in a congressional district, legislative district, municipality or precinct; an auxiliary committee of a political party unit defined by Minn. Stat. S 10A.27, subd. 4; or an association as defined in Minn. Stat. S 10A.01, subd. 3 which uses a political party name and is not listed in Minn. Stat. S 10A.27, subd. 4.

9 MCAR S 1.0025 Joint limits for Governor and Lieutenant Governor.

A. Public financing or tax credit agreements. A candidate seeking the endorsement for Lieutenant Governor who signs a tax credit agreement does not bind either the candidate for Governor or his own candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign either the public financing agreement or the tax credit agreement or both agreements if they wish to participate in public financing.

9 MCAR S 1.0029 Noncampaign disbursements; constituent services.

A. Expenses to be reported. Expenses paid by the principal campaign committee of a candidate in a nonelection year and until 60 days after adjournment sine die of the Legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursement. Only that portion of the

expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursement.

B. Constituent services from personal funds until 60 days following adjournment. Costs of providing constituent services which are paid from personal funds of an officeholder and incurred until 60 days following adjournment sine die of the Legislature in the election year for the office held are not required to be reported by the principal campaign committee of the officeholder.

C. Constituent services after 60 days following adjournment. Costs of providing constituent services by an officeholder who is a candidate which are incurred after 60 days following adjournment sine die of the Legislature in the election year for the office held and sought are reportable by the principal campaign committee of the officeholder as campaign expenditures.

D. Constituent services from personal funds after 60 days following adjournment. Costs of providing constituent services which are paid from personal funds of an officeholder and incurred after 60 days following adjournment sine die of the Legislature in the election year for the office held and sought are a donation in kind and must be reported as such by the principal campaign committee of the officeholder.

E. Constituent services after the general election. Costs of providing constituent services which are incurred in an election year after the general election are noncampaign disbursements.

F. Print media report. A print media column or legislative report to constituents which is authored by a candidate shall be considered an effort by the candidate to influence his nomination or election if it is prepared and inserted in a newspaper or recurring periodical after 60 days after adjournment of the Legislature sine die in an election year when the candidate's name will appear on the ballot. A letter, authored by a candidate, appearing in a section of a newspaper or recurring periodical, designated for letters to the editor

shall not be considered a campaign expenditure.

9 MCAR S 1.0031 Organization of political committees and political funds.

A. Registration required. Any group of two or more persons which receives contributions or which makes expenditures, transfers of funds, or independent expenditures in aggregate more than $100 to influence the nomination or election of one or more candidates for statewide or legislative office or to promote or defeat a ballot question must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, or to promote or defeat a ballot question, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, or to promote or defeat a ballot question, it shall register as a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

E. Certificate in other financial institution. If a political committee or fund purchases a certificate of deposit or money market certificate from a financial institution other than that which has been previously disclosed as a depository, the treasurer must amend the Statement of Organization by adding the name of the new depository.

9 MCAR S 1.0040 Tax credit agreement. A candidate may sign a tax credit agreement at any time after registration of his principal campaign committee for the office sought or held through December 31. An agreement signed on or after January 1 shall not be applicable to a preceding calendar year.

9 MCAR S 1.0041 Tax credit agreement and public financing agreement. A candidate must sign a separate agreement in order to participate in each public financing program.

Chapter Two: Economic Interest Disclosure Rules

9 MCAR S 1.0100 Public official. An individual who is employed or appointed as an acting public official or who is employed part-time as a public official is required to file a Statement of Economic Interest.

9 MCAR S 1.0101 Definitions. For the purposes of 9 MCAR SS 1.0100-1.0112, the terms defined in this rule have the meanings given them.

A. Compensation. "Compensation" includes every kind of compensation for labor or personal services from private or public employment. It does not include alimony or child support payments.

B. Compensation in any month.

1. For the purpose of an original Statement of Economic Interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.

2. For the purpose of supplementary Statements of Economic Interest to be filed, "compensation in any month" includes compensation and honorariums received in any month between the end of the period covered in the preceding Statement of Economic Interest and the end of the current period.

3. For the purpose of calculating the amount of compensation received from any single source in a single month, the amount shall include the total amount received from the source during the month, whether or not the amount covers compensation for more than one month.

C. Date of appointment. "Date of appointment" means the effective date of appointment to a position.

D. Source of compensation. "Source of compensation" means the name of the corporation, partnership or other entity from which the individual receives compensation. A self-employed individual is required to list only a description of the occupation in which the individual is self-employed, for

example, farming or practice of law, and is not required to list the names of corporations, partnerships, or other entities which pay compensation to the public official or candidate as a self-employed individual.

9 MCAR S 1.0109 Securities.

A. Securities, defined. "Securities" includes any stock, share, bond, warrant, option, pledge, note, mortgage, debenture, lease, or commercial paper in any corporation, partnership, trust, or other association. "Securities" does not include deposits in a savings account, certificates of deposit, money market certificates, treasury notes, dividends from securities or shares in a pension fund.

F. Exception. Exception to B. is made for trustees of associations organized exclusively for social, religious, educational, medical, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, industrial development, trade, or professional association purposes and not for pecuniary gain, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

9 MCAR S 1.0112 Joint interests. A public official who holds a joint interest in a security, or in a partnership, shall disclose ownership in the security or the partnership if the official's proportionate share of the holding is valued at $2,500 or more.

Chapter Three: Lobbyist Registration and Reporting Rules

9 MCAR S 1.0200 Purpose. The purpose of 9 MCAR SS 1.0200-1.0210 is to implement the lobbyist registration and reporting provisions of Minn. Stat. ch. 10A.

9 MCAR S 1.0202 Obligation to register. An individual shall register as a lobbyist as required by Minn. Stat. SS 10A.01, subd. 11, and 10A.03, subject to the following:

B. Paid expert witness registration. An individual who is hired or paid by a lobbyist as an expert witness and whose

testimony is requested by a legislative committee, or an agency defined by Minn. Stat. S 15.0411, subd. 2, or a state hearing examiner, shall not be required to register as a lobbyist if the committee, agency, or hearing examiner, by order, resolution, recorded vote or other formal means requests such expert testimony. This exclusion is applicable only to the extent of preparing or delivering the requested testimony.

9 MCAR S 1.0203 Obligation to report.

B. Alternative report. Notwithstanding A., a lobbyist whose reportable disbursements in a reporting period total less than $100 and whose disclosure under 9 MCAR S 1.0204 B. would be less than $20 may file a statement to that effect in lieu of a lobbyist disbursement report. All previously unreported disbursements shall be disclosed annually on the October 15 report, even though the total for the year is less than $100.

B. [Reletter as C.]

9 MCAR S 1.0204 Lobbyist disbursement reports and reporting.

A. Disbursement reports.

3. A lobbyist disbursement report shall include the total disbursements for the reporting period by the lobbyist, and any employer or employee of the lobbyist, for lobbyist activities in each of the following categories:

c. Telegraph and telephone. The cost includes a reasonable estimate of a pro rata share of business office telephone expense incurred for lobbying purposes.

9 MCAR S 1.0210 Contested case hearing.

A. Representative of a party must register. A representative of a party to a contested case rate proceeding before a state hearing examiner is required to register as a lobbyist provided other qualifying requirements of Minn. Stat. S ~~10A.02~~ 10A.01, subd. 11, are met. FofF 1

B. Attempt to influence appeals. An individual who attempts to influence appeals proceedings which may follow determination of a rate, power plant and powerline siting, or granting of a certificate of need under Minn. Stat. ch. 116H is not required FofF 2.

to register as a lobbyist.

Chapter Four: Conflicts of Interest Rules

9 MCAR S 1.0300 Purpose. The purpose of 9 MCAR SS 1.0300-1.0307 is to implement the conflicts of interest provisions of Minn. Stat. ch. 10A.

EC 301 [Renumber as 9 MCAR S 1.0301.]

9 MCAR S 1.0302 Applicability of the conflicts of interest provisions. Any public official who, in the discharge of his official duties, would be required to take action or make a decision which would substantially affect his financial interests, or those of a business with which he is associated, must file a Potential Conflict of Interest Notice, unless the effect on him is no greater than on other members of his business classification, profession or occupation.

9 MCAR S 1.0303 Notice of conflict of interest.

A. Normal procedure. Whenever a public official is required to file a conflict of interest statement he shall prepare a Potential Conflict of Interest Notice describing the matter requiring action or decision and the nature of his potential conflict of interest. The public official shall deliver copies of the Potential Conflict of Interest Notice to the board and to his immediate superior.

B. Insufficient time available. If a potential conflict of interest presents itself and there is insufficient time to comply with the provisions of A., the public official shall orally inform his immediate superior of the potential conflict. He shall file a Potential Conflict of Interest Notice with the board within one week after the potential conflict presents itself. This notice shall indicate the reason for noncompliance with the provisions of A.

9 MCAR S 1.0304 Removal from conflict of interest.

A. Non-Legislator. If the public official is not a legislator:

1. Subsequent to the filing of a Potential Conflict of Interest Notice, or subsequent to oral notice of a potential conflict of interest by a public official, his immediate superior shall assign the matter, if possible, to another employee who does not have a potential conflict of interest.

2. If the public official who has a potential conflict of interest does not have an immediate superior except for notification purposes, the public official shall do one of the following:

~~(a)~~ a. Where the public official having the potential conflict of interest is not required by law to determine the matter, he shall either assign the matter to a subordinate for disposition or request the appointing authority to designate another to determine the matter.

~~(b)~~ b. Where the public official having the potential conflict of interest is required by law to determine the matter, he shall so notify by certified mail all affected parties known to him by providing these parties with copies of the Potential Conflict of Interest Notice.

~~(c)~~ c. A public official having the potential conflict of interest shall not chair a meeting, participate in any vote, or offer any motion on the matter giving rise to his potential conflict of interest.

B. Legislator. If the public official is a legislator, the house of which he is a member may, at his request, excuse him from taking part in the action or decision in question.

9 MCAR S 1.0305 Obtaining and filing forms. All Potential Conflict of Interest Notices shall be on the forms made available by the board and must be filed with the board.

9 MCAR S 1.0306 Changes and corrections. Any material changes in information contained in a Potential Conflict of Interest Notice previously submitted, and any corrections, shall be reported in writing to the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or

correction shall identify the form and paragraph containing the information to be changed or corrected and shall be signed and certified to be true by the person filing it.

9 MCAR S 1.0307 Filing of false statements. Any statement or notice required by 9 MCAR SS 1.0300-1.0307 shall be signed and certified to be true by the person required to file the statement or notice. Any person who signs and certifies to be true a statement or notice which he knows contains false information or who knowingly omits required information is guilty of a gross misdemeanor.

Chapter Five: Representation Disclosure Rules

9 MCAR S 1.0500 Purpose. The purpose of this chapter is to implement the representation disclosure provisions of Minn. Stat. ch. 10A.

9 MCAR S 1.0502 Applicability of representation disclosure provisions. The representation disclosure provisions of Minn. Stat. ch. 10A apply to any public official who represents a client for a fee before any individual, board, commission, or agency with rule making authority in a hearing conducted under Minn. Stat. ch. 15 or authority to set rates, site power plants and powerlines, and grant certificates of need under Minn. Stat. ch. 116H. This provision applies only to a public official and does not apply to the official's spouse or family, or to business or professional associates of the official.

9 MCAR S 1.0503 Obligation and time to report. Any public official who represents a client for a fee before any individual, board, commission or agency with rule making authority in a hearing conducted under Minn. Stat. ch. 15, or authority to set rates, site power plants and powerlines, and grant certificates of need under Minn. Stat. ch. 116H shall disclose his participation in the action within 14 days after his initial appearance by filing a Representation Disclosure Statement with the board.

9 MCAR S 1.0504 Required reporting information. Each public official required to report shall provide the following information:

A. Name, address and office held;

B. Name and address of each client;

C. The name of the individual, board, commission or agency conducting the hearing and the date and location of the initial appearance at the hearing; and

D. A general description of the subject or subjects on which the public official represented the client in the hearing.

9 MCAR S 1.0505 Obtaining and filing forms. All Representation Disclosure Statements shall be on the forms made available by the board and must be filed with the board.

9 MCAR S 1.0506 Changes and corrections. Any material changes in information contained in a Representation Disclosure Statement previously submitted, and any corrections, shall be filed in writing with the board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and paragraph containing the information to be changed or corrected, and shall be signed and certified to be true by the person filing it.

9 MCAR S 1.0507 ~~Penalty for~~ Filing of false statements. Any statement required by 9 MCAR SS 1.0500-~~1.0508~~ 1.0507 shall be signed and certified to be true by the person required to file the statement. Any person who signs and certifies to be true a statement which he knows contains false information, or who knowingly omits required information, is guilty of a gross misdemeanor.

Chapter Six: Hearing Rules

9 MCAR S 1.0604 Initiating a contested case.

A. Initiation by application. Any person requesting an exemption under Minn. Stat. S 10A.20, subds. 8 and 10, or any

other person whose rights, privileges, and duties the board is authorized by law to determine after a hearing, may initiate a contested case by making application. Except in anonymous proceedings, an application shall contain:

1. The name and address of the applicant;

2. A statement of the nature of the determination requested including the statutory sections on which the applicant wishes a determination made and the reasons for the request;

3. The names and addresses of all persons known to the applicant who will be directly affected by such determination; and

4. The signature of the applicant.

B. Initiation by board order. Where authorized by law, the board may order a contested case commenced to determine the rights, duties and privileges of specific parties.

9 MCAR S 1.0605 Initiating anonymous proceedings.

A. Authority. Any person making application for an exemption from campaign reporting requirements under Minn. Stat. S 10A.20 subds. 8 and 10, may proceed anonymously if the board determines that identification of the person for the purpose of the hearing would result in exposure to economic reprisals, loss of employment, or threat of physical coercion.

B. Application. Any person wishing to proceed anonymously under this rule shall make an application under 9 MCAR S 1.0604 A., which shall contain:

1. A name by which the person wishes to be known for the purposes of the proceeding;

2. The name and address of a person upon whom service can be made;

3. A statement of the facts which lead the applicant to believe that identification of the applicant for purposes of the hearing would result in exposure to economic reprisals, loss of employment or threat of physical coercion;

4. The name and address of a person who will appear for the applicant during the proceedings if the applicant wishes to

remain anonymous. The person may be the same person on whom service is to be made;

5. A statement of the facts which lead the applicant to believe that exposure to economic reprisal, loss of employment or threat of physical coercion would result from the applicant's compliance with the reporting and disclosure requirements of Minn. Stat. S 10A.20; and

6. The signature of the applicant in the name by which the person wishes to be known during the proceedings or the signature of the person designated to appear for the applicant.

C. Determination. Upon receipt of an application for initiation of anonymous proceedings, the board may require the applicant or the person designated to appear for the applicant to appear before a closed meeting of the board with appropriate precautions taken to preserve the anonymity of the applicant from persons other than the board and its employees. The purpose of the appearance is to enable the board to decide whether an anonymous proceeding is required.

Repealer. Rules 9 MCAR SS 1.0039; and 1.0110; EC 601; EC 604; EC 607; EC 608; EC 609; EC 610; EC 611; EC 612; EC 613; EC 614; EC 615; EC 616; EC 617; EC 618; EC 619; EC 620; EC 621; EC 622; and EC 623 are repealed.

APPROVED AS TO LEGALITY

Feb. 22 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A. Martinez

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 23 1982
Joan Anderson Growe
Secretary of State

12:30 PM

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. § 15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. § 10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the board.

A statement of need and reasonableness describing the board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 6, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. A person who desires a public hearing must submit a written request which identifies the particular provisions to which the person objects, the suggested modifications to the proposed language, and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or requests to Ms. McCoy at the address above.

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 sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Ms. McCoy.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone: (612) 296-5615.

Rules as Proposed

Chapter One: Campaign Financing Rules
~~(Effective October 1, 1979)~~

9 MCAR § 1.0001 Applicability ~~of rules~~. ~~These rules apply~~ Chapter One applies to principal campaign committees, political committees, political funds, individuals and associations that raise or expend ~~in excess of~~ more than $100 in a calendar year to influence the nomination or election of a candidate or to promote or defeat a ballot question.

9 MCAR § 1.0008 Association newsletters on behalf of a candidate. Unless ~~the~~ an association as defined in Minn. Stat. § 10A.01, subd. 3 is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which

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.

STATE OF MINNESOTA
ETHICAL PRACTICES BOARD

In the matter of the Proposed Adoption Without a Public Hearing of Rules of the Ethical Practices Board governing Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1.0111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

ORDER ADOPTING RULES

Notice of the Board's intent to adopt the above-entitled rules without a Public Hearing was published in the State Register on December 7, 1981, and was sent by United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 15.0412, subdivision 4, on December 11, 1981. After affording interested and affected persons an opportunity to submit comments for 30 days after Notice, receiving no written requests for a public hearing within the 30-day comment period, reviewing and considering the comments, and determining the need for a reasonableness of the above-captioned rules,

NOW, THEREFORE, IT IS ORDERED that these rules identified as 9MCAR§§1.0001; 1.0008; 1.0012; 1.0016; 1.0017; 1.0025; 1.0029, A., B., C., D., E., and F.; 1.0031; 1.0040; 1.0041; 1.0100; 1.0101; 1.0109; 1.0200; 1.0202; 1.0203; 1.0204; 1.0210; 1.0300; 1.0302; 1.0303; 1.0304; 1.0305; 1.0306; 1.0307; 1.0500; 1.0502; 1.0503; 1.0504; 1.0505; 1.0506; 1.0507; 1.0604; and 1.0605, as revised consistent with the Board's Findings of Fact and Conclusions dated February 3, 1982, are adopted this 3rd day of February, 1982, pursuant to authority vested in the Board by Minnesota Statutes section 10A.02, subdivision 13.

STATE OF MINNESOTA

Judith H. Schaffner

Chairperson

ETHICAL PRACTICES BOARD

NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION REGARDING PROPOSED RULES AND AMENDMENTS TO RULES GOVERNING CAMPAIGN FINANCING, ECONOMIC INTEREST DISCLOSURE, LOBBYISTS, CONFLICT OF INTEREST, REPRESENTATION DISCLOSURE AND HEARINGS

Notice is hereby given that the Ethical Practices Board is seeking information or opinions from sources outside the Board in preparing to propose amendments and additions to the rules governing:

Campaign Financing (9MCAR § 1.0001-1.0043)
Economic Interest Disclosure (9MCAR § 1.0100-1.0111)
Lobbyists (9MCAR § 1.0200-1.0209)
Conflict of Interest (EC 300 - EC 307)
Representation Disclosure (EC 500 - EC 507)
Hearings (EC 601 - EC 623)

Amendments to these rules are necessary as a result of statutory amendments, and to further implement and clarify the provisions of the Minnesota Ethics In Government Act, Minnesota Statutes, ch. 10A (1980). Minnesota Statutes § 10A.02, subd. 13 (1980), authorizes the Board to promulgate rules to carry out the purposes of sections 10A.01 to 10A.34 of the Minnesota Statutes.

Interested or affected persons may submit written or oral comments, views or information concerning the subject matter of these rules. Written statements should be addressed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155. Oral statements will be received during regular business hours over the telephone at (612) 296-5148 and in person at the address above.

Comments, statements and information should be submitted by March 16, 1981. Any written material received by the Board will become part of the hearing record when the amended rules are promulgated.

Persons submitting comments, statements or information should be aware that, pursuant to Minnesota Statute, §§ 10A.01, subd. 11 and 10A.03, subd. 1 (1980), certain persons who spend time or money attempting to influence administrative action, such as the adoption or amendment of rules, must register with the Ethical Practices Board as a lobbyist within five days after commencing such activity. Any questions concerning this requirement may be directed to the Board at the address or telephone number listed above.

February 9, 1981

Mary Ann McCoy, Executive Director

Department of Commerce Insurance Division

Meeting Notices

Minnesota Comprehensive Health Association

Board of Directors
Tuesday, April 14, 1981
11:00 a.m.
Blue Cross and Blue Shield
3535 Blue Cross Road
St. Paul, Minnesota and

Annual Meeting
Tuesday, June 16, 1981
10:00 a.m.
Room 51 State Office Building
St. Paul, 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.

Department of Education Executive Division

Applicants Sought for Minnesota Commissioner of Education

The Minnesota Board of Education/Board for Vocational Education is seeking applicants for the Minnesota Commissioner of Education. The appointment will be made on 6/1/81 with the position to be effective 7/1/81. Minimum qualifications include:

at least three years experience in educational administration, including responsibility for budgeting;

experience in working with local, state and national agencies and legislative bodies to promote legislation and secure funds;

experience in designing, organizing and implementing educational programs including those with multiple sources of funding;

an earned master's degree.

Applications and job description can be obtained from:

Minnesota Department of Education
Office of Employee Relations
754 Capitol Square Bldg.
St. Paul, MN 55101
(612) 296-3377

Ethical Practices Board

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules and Amendments to Rules Governing Campaign Financing, Economic Interest Disclosure, Lobbyists, Conflict of Interest, Representation Disclosure and Hearings

Notice is hereby given that the Ethical Practices Board is seeking information or opinions from sources outside the Board in preparing to propose amendments and additions to the rules governing:

Campaign Financing (9 MCAR §§ 1.0001-1.0043)
Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111)
Lobbyists (9 MCAR §§ 1.0200-1.0209)
Conflict of Interest (EC 300—EC 307)
Representation Disclosure (EC 500—EC 507)
Hearings (EC 601—EC 623)

Amendments to these rules are necessary as a result of statutory amendments, and to further implement and clarify the provisions of the Minnesota Ethics In Government Act, Minn. Stat. ch. 10A (1980). Minn. Stat. § 10A.02, subd. 13 (1980) authorizes the board to promulgate rules to carry out the purposes of §§ 10A.01 to 10A.34 of the Minnesota Statutes.

Interested or affected persons may submit written or oral comments, views or information concerning the subject matter of these rules. Written statements should be addressed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155. Oral statements will be received during regular business hours over the telephone at (612) 296-5148 and in person at the address above.

Comments, statements and information should be submitted by March 16, 1981. Any written material received by the Board will become part of the hearing record when the amended rules are promulgated.

Persons submitting comments, statements or information should be aware that, pursuant to Minn. Stat. §§ 10A.01, subd. 11 and 10A.03, subd. 1 (1980), certain persons who spend time or money attempting to influence administrative action, such as the adoption or amendment of rules, must register with the Ethical Practices Board as a lobbyist within five days after commencing such activity. Any questions concerning this requirement may be directed to the Board at the address or telephone number listed above.

February 9, 1981

Mary Ann McCoy, Executive Director

Ethical Practices Board

Request for Advisory Opinion Re: Campaign Finance Contributions; Securities

The Minnesota State Ethical Practices Board solicits opinions and comments on the following request for an advisory opinion which will be discussed at its February 27, 1981 Board meeting. Written comments concerning the opinion request should be forwarded to arrive at the board's office prior to February 23, 1981.

Ms. Mary Ann McCoy, Executive Director
Minnesota Ethical Practices Board
41 State Office Building
St. Paul, MN 55155

Dear Ms. McCoy:

Per your request in a telephone conversation last week, this letter serves as a written request for information.

We have been informed by several potential contributors that they would prefer to make their contributions in the form of stock versus cash. Accordingly, we are currently investigating the possibility of establishing an account in the name of the MN. DFL Party with a local brokerage. Prior to initiating such an account, however, we would appreciate your advice on the establishment and reporting of such contributions.

It is my assumption that, should we establish such an account with a local brokerage, we would have to amend our Statement of Organization with the State of Minnesota to specify the location of such an account. Furthermore, it is my assumption that such contributions would be reported as in-kind contributions with a value of the stock on the specific date of transfer. Would you kindly inform me if these assumptions are accurate. Also, we would like complete information regarding the eligibility of contributions and the corresponding reporting requirements for both certificated securities and non-certificated securities, and any other information you might be able to provide regarding transference of shares of common stock, municipal bonds, or other non-cash assets which might be offered as contributions to a political party.

Your assistance in clarifying the above assumptions and questions will be greatly appreciated.

Very truly yours,

Bruce Beattie
Finance Director

CERTIFICATE OF BOARD'S RESOLUTION
AUTHORIZING ADOPTION OF NONCONTROVERSIAL RULES

I, VERNON JENSEN, do hereby certify that I am a member and the chairperson of the Ethical Practices Board, a board duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Ethical Practices Board duly and properly called and held on the 2nd day of December, 1981, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that Vernon Jensen, Chairperson, and Mary Ann McCoy, Executive Director, of the Ethical Practices Board, be and they hereby are granted the authority and directed to sign an Order of the Board directing that Notice be given of the Board's intent to adopt without a public hearing rules governing

Campaign Financing (9MCARSS1.0001-1.0043; Economic Interest Disclosure (9MCARSS1.0100-1.0111; Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623),

to sign the Notice thereof, and to perform any and all acts incidental thereto. In the event a public hearing becomes necessary, they hereby are granted the authority and directed to call a hearing for the purpose of promulgating said rules as well as perform any and all acts incidental thereto, including but without being limited to signing an Order for Hearing and Notice of Hearing as well as acting as the Board's representatives at all hearings."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 2 day of December, 1981.

Vernon K. Jensen
Vernon Jensen, Chairperson

Judith A Schatzka
Attest by one other Board member

To: Ted M.
Date: 2/19/82
Re: Ethical Practices Board - Campaign Financing, etc.

Notice of Intent to Adopt w/o Hearing

Does not comply with Atty. Gen. rule 1.203 & 2 and 6.7 — does not contain statements re finding of controversiality and rules governing procedure if public hearing is requested

Affidavit of Mailing

Does not specify that "attached list" is of persons requesting Notice of rule-making

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. §15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. §10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the Board.

A statement of need and reasonableness describing the Board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 6, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the Board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. A person who

desires a public hearing must submit a written request which identifies the particular provisions to which the person objects, the suggested modifications to the proposed language, and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above.

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 sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Ms. McCoy.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone: (612) 296-5615.

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

NOTICE OF INTENT TO ADOPT RULES WITHOUT A HEARING

Does not contain .203 G.7.

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. §15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. §10A.02, subd. 13.

? is this good enough for .203 G.2 9

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the Board. ? 10

A statement of need and reasonableness describing the Board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 6, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the Board warrant modification and the modification does not result in a substantial change in the proposed language. 3 4

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. A person who desires a public hearing must submit a written request which identifies the particular provisions to which the person objects, the suggested modifications to the proposed language, and the reasons and data relied upon to support the suggested modifications. 5 6

Persons who wish to submit comments or a written request for a public hearing should send their comments or request to Ms. McCoy at the address above. 6

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 sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Ms. McCoy. 8

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone: (612) 296-5615.

Vernon Jensen
Chairperson

November 6, 1981

STATE OF MINNESOTA,)
) ss
COUNTY OF RAMSEY)

Cecilia Gerlach, Administrative Secretary, Ethical Practices Board, being first duly sworn, deposes and says that on December 11, 1981, she prepared copies of a Notice of Intent to Adopt Rules without a Public Hearing and Proposed Rules Governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612); placed such Notices and Copies of Proposed Rules in envelopes addressed to persons named on the attached list, and deposited the same with the Central Mail Department of the State of Minnesota, to have prepaid postage affixed to the envelopes and deposited in the United States mails at St. Paul, Minnesota.

Subscribed and sworn to before me
this 11th day of December, 1981

Cecilia Gerlach
Cecilia Gerlach

MARY ANN McCOY
Notary Public, Hennepin.Co., MN
My Commission Expires
June 30, 1983

Mary Ann McCoy
Notary Public,
My commission expires
June 30, 1983

STATE OF MINNESOTA
COUNTY OF RAMSEY

CERTIFICATE

In the Matter of the Proposed Adoption of Rules of the Ethical Practices Board Governing Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1.0111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

I hereby certify that the list of persons, associations, and other interested groups who have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with and maintained by the State Ethical Practices Board for the purpose of receiving notice of the proposed adoption of rules by this Board is accurate and complete as of 1:00 p.m., this 11th day of December, 1981.

Mary Ann McCoy

Mary Ann McCoy, Executive Director
Ethical Practices Board

Jean Dawson, Editor
The Minnesota Government Report
B-12, Press Room
State Capitol Building

Professor Larry Bakken
Hamline Law School
536 Hewitt Avenue
St. Paul, MN 55104

Mr. Abe Rosenthal
Executive Vice President
Minnesota Transport Serv.Assn
1821 University Ave. (N310)
St. Paul, MN 55104

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

Phillips Legislative Service
459 Rice Street
St. Paul, MN 55103

Norbert McCrady, Exec. V.P.
Independent Bankers of Minn.
327 Plymouth Building
12 South 6th Street
Minneapolis, MN 55402

M. S. Schumacher
News Assistant
Minneapolis Tribune
425 Portland Avenue
Minneapolis, MN 55488

Minnesota Board of Nursing
717 Delaware Street SE
Minneapolis, MN 55414

John G. Pidgeon
City Manager
City of Bloomington
2215 W. Old Shakopee Road
Bloomington, MN 55431

Herbert W. Meyer
City Manager's Office
2215 W. Old Shakopee Road
Bloomington, MN 55431

General Mills, Inc.
Attn.: Dr. J. W. Haun
P. O. Box 1113
Minneapolis, MN 55440

Dominic J. Sposeto
Dir. of Governmental Relation
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

John A. Knapp
Hessian, McKasy & Soderberg
1500 Midwest Plaza Building
Minneapolis, MN 55402

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

Minnesota Ass'n. of Health
Care Facilities
Attn: Rick Carter
2850 Metro Dr., Suite 429
Minneapolis, MN 55420

Linda Ewen
Anoka County Financial Serv.
Courthouse, Third Floor
Anoka, MN 55303

Kirk O. Kuwitzky, Attorney
Minnesota Power & Light Co.
30 West Superior Street
Duluth, MN 55802

Wayne H. Olson, Esq.
Olson, Gunn & Seran, Ltd.
315 Peavey Building
730 Second Avenue South
Minneapolis, MN 55402

Kenneth Peterson
Executive Director
MN Public Interest Research Gr
2412 University Avenue S.E.
Minneapolis, MN 55414

James Miller
Senior Attorney
MN Public Interest Research Gr.
2412 University Avenue S.E.
Minneapolis, MN 55414

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

John T. Farmer
Executive Director
MN Manufactured Housing Ass'n.
222 E. Little Canada Rd. #222
Little Canada, MN 55117

Robert F. Piculell
Ashland Petroleum Co.
P. O. Box 9
St. Paul Park, MN 55071

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

Ms. Patsy Randell
Honeywell Plaza
MN 12-5215
Minneapolis, MN 55408

Wendy M. Borsheim
Minnesota Retail Merchants Assn
180 Metro Square Building
St. Paul, MN 55101

Susan P. Robertson
Executive Director
LCRAR
430 State Office Building
St. Paul, MN 55155

Office of Counsel
Dept. 809/Bldg. 006-1
IBM Corporation
Highway 51 & NW 37th Street
Rochester, MN 55901

George C. Mastor, General Coun.
Minnesota Gas Company
Legal Division
300 Peavey Building
Minneapolis, MN 55402

Donald E. Montgomery, Ex. Dir
Minnesota Chapter of
Associated Builders/Contract.
6300 Walker St., Suite 109
Minneapolis, MN 55416

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

Elaine J. DeBeir
Govn'l. Affairs Assistant
Minnesota Power & Light Co.
30 West Superior Street
Duluth, MN 55802

Lynn R. Gruber, Director
Dept. Medical Serv. & Researc
MN. Medical Association
Suite 400, 2221 University SE
Minneapolis, MN 55414

Eric W. Ingvaldson, Esq.
Harstad & Rainbow
Attorneys at Law
Midland Bank Building
Minneapolis, MN 55401

Linda Falkman
Minnesota Newspaper Association
84 South Sixth Street
Minneapolis, MN 55402

Pete Lansdowne
310 Medical Arts Building
Albert Lea, MN 56007

Kristin Larson
2215 W. 21st Street
Minneapolis, MN 55405

Ms. Norma Schumacher
38th Floor
IDS Tower
Minneapolis, MN 55402

Mr. Michael Flanagan
1200 Pillsbury Center
Minneapolis, MN 55402

Mr. Paul Hess
315 State Office Building
St. Paul, MN 55155

Mr. Barry Tilley
265 State Office Building
St. Paul, MN 55155

Dr. Charles Backstrom
1414 Social Science Tower
University of Minnesota
Minneapolis, MN 55455

Mr. Edward J. Ilsley
Compliance Services
Metropolitan Property and
Liability Insurance Company
700 Quaker Lane, P.O. Box 350
Warwick, RI 02887

Phyllis Dorsey
414 Nicollet Mall
Minneapolis, MN 55401

Conrad M. Fredin, Esq.
Johnson, Fredin, Killen,
Thibodeau & Seiler
811 First National Bank Bldg.
Duluth, MN 55802

Loni Kemp
The Minnesota Project
618 East 22nd Street
Minneapolis, MN 55404

Bettye Willis
6 West 5th Street, Ste. 770
St. Paul, MN 55102

John M. Broeker, Esq.
2850 Metro Drive, Suite 800
Minneapolis, MN 55420

Tom Anderson, Legal Counsel
Metropolitan Airports Comm.
P. O. Box 1700
Twin City Airport Station
St. Paul, MN 55111

Mr. William Brooks, Jr.
900 Midland Bank Building
Minneapolis, MN 55401

Mr. Dan McGowan
Senate Counsel
480 State Office Building
St. Paul, MN 55155

Mr. Jerry Pahl
Hennepin County
606A Hennepin Cty. Govt. Ctr.
Minneapolis, MN 55487

Ms. Jeanie W. Williams
Legal Assistant, Legal Div.
The Coca-Cola Company
P. O. Drawer 1734
Atlanta, GA 30301

Rep. Gerald C. Knickerbocker
395 State Office Building
St. Paul, MN 55155

Byron Laher
Government Relations Director
United Way of Mpls. Area
404 South 8th Street
Minneapolis, MN 55404

Eileen Wells
204½ Chestnut Street
Virginia, MN 55792

Ken Kadlec
762 Holly Avenue
St. Paul, MN 55104

Ms. Gretchen Haase
Oppenheimer,Wolff,Foster, et a
W-1781 First Natl. Bank Bldg.
St. Paul, MN 55101

Ms. Connie Howard
Legal Department
Minneapolis Star & Tribune Co.
425 Portland Avenue
Minneapolis, MN 55488

Ms. Joyce Lake
Common Cause/Minnesota
555 Wabasha
St. Paul, MN 55102

Mr. Ray Joachim
G2 State Capitol
St. Paul, MN 55155

Mr. John Grzybeck
Faegre & Benson
1300 Northwestern Bank Bldg.
Minneapolis, MN 55402

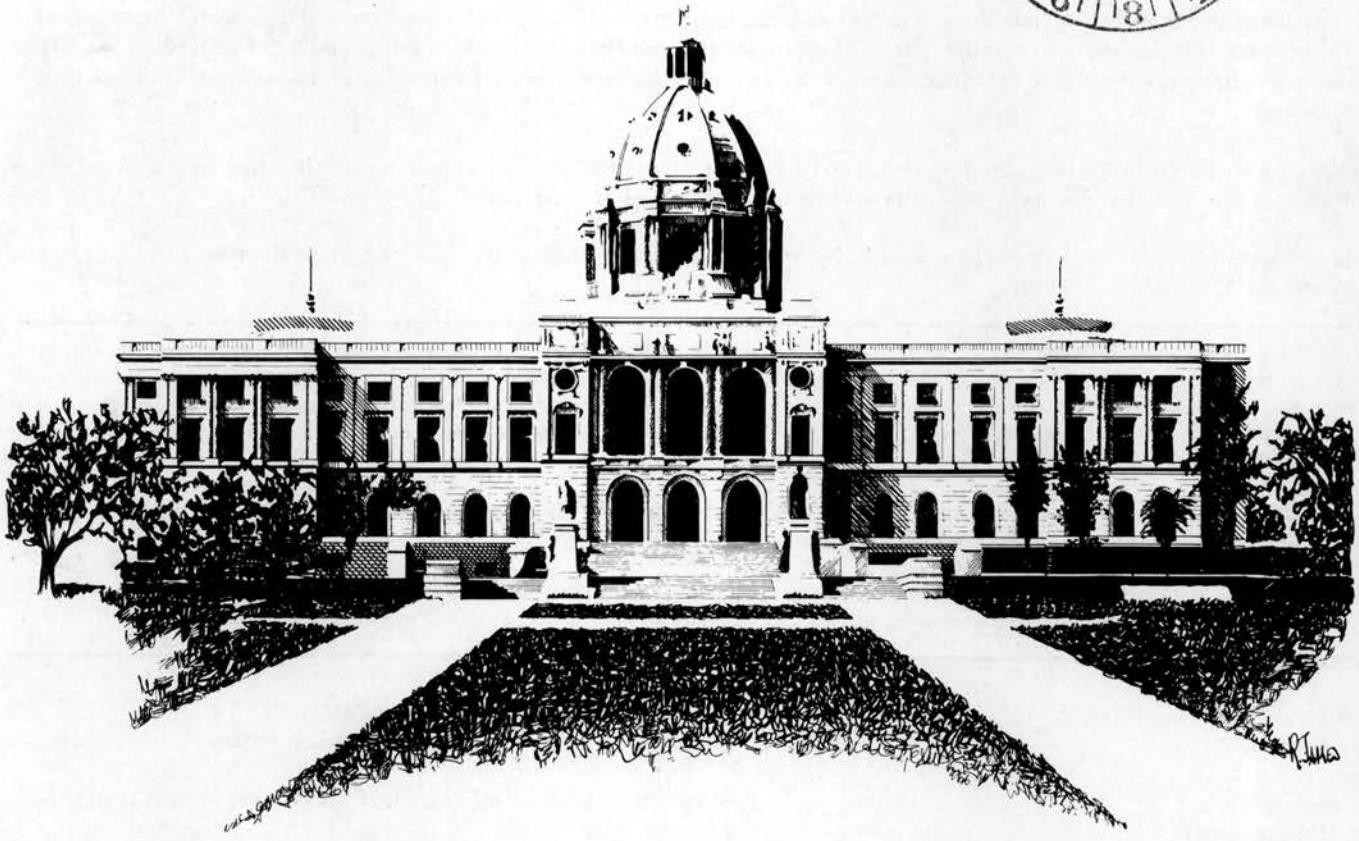
Ms. Elizabeth L. Gradie
Dir. of Governmental Relations
Minnesota Dental Association
2236 Marshall Avenue
St. Paul, MN 55104

Chuck Wiger
Minnesota Medical
2221 University Avenue SE
Room 4
Minneapolis, MN 55414

STATE REGISTER

STATE OF MINNESOTA

RECEIVED
DEC 4 1981
ETHICAL PRACTICES BOARD



VOLUME 6, NUMBER 23

December 7, 1981

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STATE REGISTER

Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
	SCHEDULE FOR VOLUME 6		
24	Monday Nov 30	Monday Dec 7	Monday Dec 14
25	Monday Dec 7	Monday Dec 14	Monday Dec 21
26	Monday Dec 14	Friday Dec 18	Monday Dec 28
27	Monday Dec 21	Monday Dec 28	Monday Jan 4

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

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

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

The *State Register* is published by the State of Minnesota, State Register and Public Documents Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to Minn. Stat. § 15.0411. Publication is weekly, on Mondays, with an index issue in September. In accordance with expressed legislative intent that the *State Register* be self-supporting, the subscription rate has been established at $130.00 per year, postpaid to points in the United States. Second class postage paid at St. Paul, Minnesota. Publication Number 326630. (ISSN 0146-7751) No refunds will be made in the event of subscription cancellation. Single issues may be obtained at $3.00 per copy.

Subscribers who do not receive a copy of an issue should notify the *State Register* Circulation Manager immediately at (612) 296-0931. Copies of back issues may not be available more than two weeks after publication.

6-930 cwk

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

Albert H. Quie
Governor

James J. Hiniker, Jr.
Commissioner
Department of Administration

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Carol Anderson Porter
Editor

David Zunker
Information Officer

Paul Hoffman, Robin PanLener, Roy Schmidtke, Jean Walburg
Editorial Staff

Debbie Kobold
Circulation Manager

Margaret Connelly
State Register Index Editor

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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:

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issue 27-38, inclusive
Issue 39, cumulative for 1-39
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Issue 52, cumulative for 1-52

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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.

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-623)

Notice of Hearing

Notice is hereby given that a public hearing in the above entitled matter will be held under Minn. Stat. § 15.0412, subd. 4, in Room 51, State Office Building, 435 Park Street, St. Paul, Minnesota, on Friday, January 8, 1982, beginning at 9:30 a.m. and continuing until all persons have had an opportunity to be heard. The proposed rules may be modified as a result of the hearing process; therefore if you are affected in any manner by the proposed rules, you are urged to participate in the rule hearing process.

Statutory authority to promulgate the proposed rules is vested in the Ethical Practices Board by Minn. Stat. § 10A.02, subd. 13.

The board proposes to amend existing rules pertaining to several areas within its jurisdiction. The board proposes to amend Campaign Financing rules, (9 MCAR §§ 1.0001-1.0043) with respect to filing deadlines, allocation of campaign literature expenses, treatment of contribution and expenditure limits for candidates who seek more than one office, contribution limitations for judicial candidates, assessment and waiver of late filing fees, allocation of the cost of radio and television reports to constituents, allocation of the costs of preparation and distribution of sample ballots, application of contribution limits and tax credit receipt provisions to special elections, termination of political committees and political funds, return of public financing money, expenditures by state political parties in support of more than one candidate, application of registration-reporting requirements, contributions-expenditures limitations and expenditure allocation provisions to ballot questions. The board proposes to amend existing Economic Interest Disclosure rules (9 MCAR §§ 1.0100-1.0111) pertaining to the assessment and waiver of late filing fees, and filing deadlines. The Board proposes to amend existing Lobbyist rules (9 MCAR §§ 1.0200-1.0209) pertaining to filing requirements and the assessment and waiver of late filing fees. The board proposes to amend existing Conflict of Interest rules (EC 300-307) pertaining to filing requirements and deadlines, identification of the immediate superior of public officials, and to remove the definition of public official. The board proposes to amend existing Representation Disclosure rules (EC 500-507) pertaining to filing requirements, the assessment and waiver of late filing fees, and to remove the definition of public official. The board proposes to amend existing Hearings rules (EC 601-623) by updating and incorporating references to contested case procedures, identifying those matters which are contested cases, establishing procedures and requirements for submission, consideration, and disposition of complaints under the Ethics in Government Act,

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.

Minn. Stat. ch. 10A, and establishment of procedures for meetings related to investigations and audits. The board proposes to repeal rules 9 MCAR § 1.0013 and EC 603. The proposed amendments are intended to reflect legislative changes in Minn. Stat. ch. 10A, to remove obsolete provisions and language, and to incorporate applicable advisory opinions which have been rendered by the board.

A free copy of the proposed rules is available and may be obtained from the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, or by calling (612) 296-5148. Additional copies will be available at the hearing.

A statement of need and reasonableness explaining why the board believes the proposed rules are necessary will be filed with the hearing examiner at least 25 days prior to the hearing and will be available for public inspection.

All interested and affected persons will have an opportunity to participate. Statements made orally and written materials may be submitted at the hearing. In addition, written materials may be submitted by mail to Peter Erickson, Hearing Examiner, Room 300, 1745 University Avenue, St. Paul, MN 55104, telephone (612) 296-8118, either before the hearing or within five working days after the public hearing or for a longer period not to exceed 20 calendar days if ordered by the hearing examiner at the hearing. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.113 (Minnesota Code of Agency Rules). If you have questions about the procedure, call or write the hearing examiner.

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 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, Saint Paul, Minnesota 55155, telephone (612) 296-5615.

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

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

November 10, 1981

Vernon Jensen, Chairperson

Rules as Proposed

9 MCAR § 1.0002 Definitions. For the purposes of 9 MCAR §§ 1.0001-1.0046 the terms defined in this rule have the meanings given them.

A. ~~"Act" means the Ethics In Government Act, Minn. Stat. ch. 10A. as amended by Laws of 1978, ch. 463, 793, and Laws of 1979, ch. 59.~~

~~B. "Business Day" means 8:00 a.m. to 4:30 p.m. Monday through Friday except for official state holidays.~~ Board. "Board" means the Ethical Practices Board.

~~C.~~ B. File, filed, filing. "File," ~~,~~ "filed," ~~,~~ and "filing" ~~means~~ mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the following day.

Relettering. Reletter 9 MCAR § 1.0002 D.-G. as 9 MCAR § 1.0002 C.-F.

9 MCAR § 1.0010 Campaign literature.

A. Pictures; references to other candidates. Campaign literature paid for and distributed by a candidate or a principal campaign committee of a candidate running for office which contains pictures of~~,~~ or incidental references to another candidate or officeholder will not be considered an approved and authorized expenditure on behalf of the other candidate provided the candidacy of the other candidate is not mentioned and no direct or indirect appeal for support of the other candidate is made, or if there is an independent expenditure disclaimer as defined in Minn. Stat. § 10A.17, subd. 4.

B. Distribution by principal campaign committee. Literature distributed by a candidate's principal campaign committee is presumed to influence the nomination or election of the candidate. Cost of the literature must be reported by the candidate's principal campaign committee. For material obtained free of charge, the fair market value must be estimated for reporting purposes. The cost of printed material which does not identify the candidate and in no way furthers the candidate's nomination or election is not a campaign expenditure.

9 MCAR § 1.0012 Change of office sought by candidate.

A. Contribution and expenditure limits.

1. When a candidate~~,~~ who sought the nomination or election to one office~~,~~ subsequently seeks the nomination or election to another office in which there is an election in the same election year, expenditures incurred and contributions received to influence the nomination or election to the first office will not be counted toward the campaign contribution and expenditure limits applicable to the subsequent office sought.

2. In each election year after a candidate establishes more than one principal campaign committee, both the contribution limits and the spending limits of the office for which there is an election shall apply to all of the candidate's principal campaign committees jointly.

B. Registration requirement. A candidate who seeks another office must designate a separate principal campaign committee and a separate account for funds for the office sought. For purposes of Minn. Stat. § 10A.20, subd. 2, clause (a), both committees shall be considered principal campaign committees.

9 MCAR § 1.0015 ~~Contribution disclosure judgeship.~~ A Judicial candidate ~~subject to Chapter 10A shall be considered a statewide candidate for purposes of the contribution disclosure requirements set forth in Minn. Stat. 10A.20, subd. 3(b).~~

A. Aggregate contributions. Pursuant to Minn. Stat. § 10A.20, subd. 3, clause (b):

1. Contributions to a candidate for the supreme court which in aggregate exceed $100 shall be disclosed; and

2. Contributions to a candidate for district court or county court which in aggregate exceed $50 shall be disclosed.

B. Contributions from one source. Pursuant to Minn. Stat. § 10A.20, subd. 5:

1. Contributions to a candidate for the supreme court from any one source totaling $2,000 or more shall be disclosed; and

2. Contributions to a candidate for district court or county court from any one source totaling $200 or more shall be disclosed.

9 MCAR § 1.0026 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to the treasurer of a political committee or political fund within ten ~~business~~ days after a filing date. A copy of the notice shall be sent by first class mail to the candidate and the chairman of a political committee or political fund. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the ~~addresses~~ addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered shall be forwarded by first class mail to the treasurer. ~~An undelivered notice of late filing shall be considered received by the recipient five business days after the first class mailing~~ The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing period. A late filing fee will be charged through the day preceding the day of filing of a late statement or ~~late periodic~~ report.

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.

C. ~~A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~D.~~ Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement or report was not filed on time due to sickness, injury, or other compelling reason ~~upon receipt of a written request for a waiver~~.

9 MCAR § 1.0029 Noncampaign disbursements; constituent services.

G. Radio or television report. A radio or television report to constituents which is authorized by a candidate shall be considered an effort by the candidate to influence his nomination or election if it is presented after 60 days after adjournment of the Legislature sine die in an election year when the candidate's name will appear on the ballot and before the radio or television station provides equal time in the manner prescribed by federal regulations.

9 MCAR § 1.0038 Sample ballot prepared by a candidate.

A. Reporting and disclaimer requirements. A candidate who prepares and distributes a sample ballot which contains the names of other candidates must include the proper disclaimer required for independent expenditures and must report the total cost of the preparation, printing and distribution of the sample ballot unless the candidate is making an approved expenditure.

B. Distribution of sample ballot by association. A candidate's participation in an association's pre-endorsement interview shall not of itself be construed as authorizing an approved expenditure; thereafter, if the association prepares and distributes a sample ballot on behalf of the candidates, it must request written authorization from the treasurer of the principal campaign committee of the candidate before expending over $20 on behalf of that candidate. If the expenditure is authorized, Minn. Stat. § 10A.17, subd. 2 applies. If the authorization is not received and the expenditure is made without consultation or assistance of the candidate, the expenditure is an independent expenditure under Minn. Stat. § 10A.17, subd. 4.

9 MCAR § 1.0042 ~~Tax credit subsidy receipts~~ Special elections.

A. Applicability of statutes. Contribution limits in Minn. Stat. § 10A.27 apply to general elections and to special elections.

B. Separate application. Contribution limits for a general election and for a special election shall apply separately.

C. Official Tax Credit Receipts prohibited. Candidates shall not issue Official Tax Credit Receipts for special elections.

9 MCAR § 1.0043 Termination of registration.

A. Termination report. A termination report shall cover the period from the closing date of the last previous report filed through the date of termination.

B. Termination procedure. If except for an unpaid bill, an inactive committee designated in A. meets the termination requirements of Minn. Stat. § 10A.24, after six years from the date of the bill the committee may terminate when filing the Report of Receipts and Expenditures for that calendar year by certifying the report to the board and by forwarding to the creditor or to the board the cash balance, if any, remaining in the committee account.

C. Deposit of payments received. Any payments received pursuant to B. shall be deposited in the general fund.

D. Reregistration. Any terminated political committee or political fund which subsequently becomes subject to the registration and reporting requirements of the ~~act~~ Minn. Stat. ch. 10A is required to reregister.

9 MCAR § 1.0044 Return of public financing.

A. Determination.

1. If the aggregate amount of expenditures of a candidate and approved expenditures made on his behalf are less than the amount received from the state elections campaign fund, the difference shall be returned to the board with the Report of Receipts and Expenditures due January 31 of the year following the election.

2. If the aggregate contributions received exceed the aggregate contribution limit, which is the sum of the campaign expenditure limit for that office and the total of noncampaign disbursements including expenditures to promote or defeat a ballot question, the difference shall be returned to the board with the Report of Receipts and Expenditures due January 31 of the year following the election.

B. Enforcement. The amount of public financing which shall be returned to the state according to Minn. Stat. § 10A.32 shall be forwarded to the board for deposit in the general fund in the state treasury.

1. If payment does not accompany the January 31 report or if the board's audit of the report indicates that an amount is owed, the board shall notify the treasurer of the candidate's principal campaign committee by first class mail and stipulate the

amount of public financing which shall be returned to the state general fund. A copy of the notice shall be sent by first class mail to the candidate.

2. The treasurer shall remit the amount owed within ten days following receipt of the board's notification. The notice of the amount owed shall be considered received by the treasurer seven days after the first class mailing.

3. If the board does not receive payment as required by Minn. Stat. § 10A.32 the board may initiate proceedings to recover the amount of public financing owed to the state.

9 MCAR § 1.0045 Multi-candidate support by state political parties.

A. Sample ballot or phone bank contributions and expenditures. When a state political party or a substate unit of a state political party makes expenditures for an official party sample ballot or phone bank in accordance with Minn. Stat. § 10A.275, the pro rata contributions and expenditures relevant to candidates defined in Minn. Stat. § 10A.01, subd. 5, must be disclosed as required by Minn. Stat. § 10A.20, subd. 3. Disclosure of contributions and expenditures related to other individuals whose names appear on the ballot is not required.

B. Written statement required. All contributions used in accordance with A. for candidates defined in Minn. Stat. § 10A.01, subd. 5, must comply with Minn. Stat. § 10A.22, subd. 7.

9 MCAR § 1.0046 Ballot questions.

A. Registration and reporting.

1. An individual or association other than a candidate or a candidate's principal campaign committee must register and report as a ballot question political committee or fund if over $100 is raised or spent to expressly advocate a position with regard to a clearly identified ballot question or questions.

2. An association may establish a single political fund to receive contributions and make expenditures on behalf of its affiliates to promote or defeat a ballot question. If, independently, an affiliate raises or spends money in excess of $100 to influence the vote on a ballot question, it must register a separate political fund.

3. A corporation may spend money to promote or defeat ballot questions either by registering its own political fund or by contributing to an already registered political fund which will itemize that contribution if it is in excess of $100.

B. Contributions.

1. Contributions to a candidate's principal campaign committee are considered to be made to influence the nomination or election of the candidate and are subject to limits imposed by Minn. Stat. § 10A.27 even though the committee funds are used to promote or defeat a ballot question.

2. For the purpose of contribution limits imposed by Minn. Stat. § 10A.27, contributions from an association's political committee or fund shall be aggregated with contributions from the association's ballot question committee or fund.

3. For reporting purposes, mailing expenditures for ballot issues literature mailed with noncampaign material shall be calculated at what the postage, envelopes, and labor would cost to mail the literature by itself even though the literature was included in another mailing; when mailed by a political committee or political fund along with campaign materials, the costs should be allocated on a pro rata share basis.

C. Expenditures.

1. Expenditures by a candidate or by a candidate's principal campaign committee and candidate "approved expenditures" will be considered to promote or defeat a ballot question only if the communication:

a. Does not identify the candidate;

b. Expressly advocates a position with regard to a ballot question using terms such as "vote for," "support," "cast your ballot for," "yes on amendment X," "defeat," or other language urging a particular position; and

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c. Clearly identifies the ballot question or questions on which the position is advocated, for example, by the question's formal or popular title, by number, or by any other unambiguous reference.

2. Expenditures by a candidate or by a candidate's principal campaign committee and "approved expenditures" are not considered to promote or defeat a ballot question if the communication clearly identifies the candidate; such expenditures are considered campaign expenditures and are counted toward the candidate's expenditure limits, according to Minn. Stat. § 10A.25.

3. An "independent expenditure" by an individual or organization other than the candidate or the candidate's principal campaign committee is considered as promoting or defeating a ballot question if the communication expressly advocates a position with regard to a clearly identified ballot question or questions. An "independent expenditure" meeting these criteria may at the same time promote the candidacy of a particular candidate and therefore a reasonable pro rata estimate of the cost shall be allocated as an expenditure to promote or defeat a ballot question and as an independent expenditure on behalf of the candidate.

4. Expenditures made by a political committee or political fund other than the principal campaign committee of a candidate which are "approved" by the candidate, according to Minn. Stat. § 10A.01, subd. 10a, may be considered as expenditures to promote or defeat a ballot question if the communication meets the criteria outlined in 1.

5. Costs of newspaper advertisements and public forums incurred by a political committee or political fund organized solely to promote or defeat a ballot question are ballot question expenditures; however, if nomination or election of a candidate is expressly advocated, costs must be allocated on a reasonable pro rata estimate to the candidate as independent or approved campaign expenditures.

6. Public financing received by a candidate in accordance with Minn. Stat. § 10A.31 shall not be used to promote or defeat a ballot question.

9 MCAR § 1.0105 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to a public official or candidate within ten ~~business~~ days after a filing date. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the public official or candidate. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing period. A late filing fee will be charged through the ~~business~~ day preceding the day of filing of a late statement.

C. ~~A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~D.~~ Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement ~~or report~~ was not filed on time due to sickness, injury, or other compelling reason ~~upon receipt of a written request for a waiver~~.

9 MCAR § 1.0111 Time for filing.

A. Delivery to board. A Statement of Economic Interest is considered filed if it is delivered to the ~~Ethical Practices~~ office of the board by 4:30 p.m. ~~of~~ on the prescribed filing date or postmarked ~~by~~ on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

9 MCAR § 1.0201 Definitions. For the purposes of Chapter Three the terms in this rule have the meanings given to them.

A. ~~"File", "Filed" and "Filing" means date of postmark or personally delivered to the Ethical Practices Board by the close of a business day.~~ Board. "Board" means the Ethical Practices Board.

B. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

B. [Reletter as C.]

C. [Reletter as D.]

9 MCAR § 1.0209 Late filing fees.

A. Delinquency notice. The board shall ~~grant a waiver of late filing fees for sickness or injury of the filer, or other compelling reason when a written request for waiver is submitted not later than the fifth business day following the day of filing the late statement or report~~ send a delinquency notice by certified mail to a lobbyist within ten days after a filing date. If a

certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the lobbyist. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

~~B. A late filing fee shall not be assessed for Saturday, Sunday or legal holidays.~~

~~C. The late filing fee shall commence the eighth day following receipt of a late filing notice, unless the eighth day falls on Saturday, Sunday, or a legal holiday. The late filing fee shall then commence the next business day.~~

~~D.~~ B. Late filing fee period. A late filing fee shall be charged through the ~~business~~ day preceding the day of filing of a late registration, statement or ~~late periodic~~ report.

~~E. A certified letter returned to the Board by the U.S. Post Office marked "refused" shall be deemed to have been received by the addressee on the date of refusal. The late filing fee shall commence the first business day following the seventh day after refusal.~~

~~F. Except as provided in 9 MCAR § 1.0209 E, a certified letter returned to the Board by the U.S. Post Office undelivered for any reason shall be forwarded by first class mail to the lobbyist, addressed to the lobbyist at the address shown on his latest registration statement or disbursement report. The late filing fee shall then commence the first business day following the seventh day after deposit in First Class U.S. mail.~~

C. Waiver. Upon receipt of a written request, the board shall grant a waiver of a late filing fee if it is satisfied that the registration, statement or report was not filed on time due to sickness, injury, or other compelling reason.

~~EC-301~~ 9 MCAR § 1.0301 Definitions. For the purposes of 9 MCAR §§ 1.0300-1.0307, the terms defined in this rule have the meanings given them.

~~(a) "Act" means Minnesota Laws 1974, Chapter 470, approved April 22, 1974, and effective April 13, 1974 (Minn. Stat. 1974, Section 10A.01-10A.34).~~

~~(b)~~ A. Address. "Address" means street and number ~~(~~or post office box or rural route if appropriate~~)~~, room number ~~(~~if any~~)~~ city, state, ~~(if other than Minnesota)~~ and zip code.

~~(c) "Business with which he is associated" means any association in connection with which the individual is compensated in excess of $50 except for actual and reasonable expense in any month as a director, officer, owner, member, partner, employer or employee, or is a holder of securities worth $2,500 or more at fair market value.~~

~~Minn. Stat. 10A01, Subd. 4 (1974)~~

B. Board. "Board" means the Ethical Practices Board.

(d) [Reletter as C.]

D. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

(e) [Reletter as E.]

~~(f) "Public Official" means:~~

~~(1) Any member of the legislature;~~

~~(2) Any person holding a constitutional office in the executive branch and his chief administrative deputy;~~

~~(3) Any member of a state board or commission with rule making authority as provided in MS 15.1411;~~

~~(4) Any person employed by the executive branch in a position specified in MS 15A.081;~~

~~(5) Any person employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, legislative auditor, or researcher or attorney in the office of legislative research;~~

~~(6) Any member of the metropolitan council, metropolitan transit commission, metropolitan sewer board or metropolitan airports commission.~~

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~~Minn. Stat. 10A.01, Subd. 18, 1974~~

~~(g) "Superior for purposes of notification of a potential conflict of interest"~~ F. Immediate superior. "Immediate superior" means:

~~(1)~~ 1. If the public official is a member of a board ~~or~~, commission ~~having rule making authority, or a member of a metropolitan agency~~, or council, the chairman of ~~such~~ the board, commission, or ~~agency~~ council, or, if the potential conflict of interest of interest involves the chairman, the immediate superior shall be deemed to be the appointing authority for that office;

~~(2)~~ 2. If the public official is an employee of a state agency, the department head of that agency, or, if the potential conflict of interest involves the department head, the immediate superior shall be deemed to be the appointing authority for that office;

~~(3)~~ 3. If the public official is a member of the Legislature, the presiding officer of the body in which the public official serves, or, if the potential conflict of interest involves the presiding officer, the acting presiding officer; and~~,~~

~~(4)~~ 4. If the public official is a member of the staff of the Legislature, the chief clerk of the house or the secretary of the senate shall be deemed to be the immediate superior, or, if the potential conflict should involve the chief clerk of the house or the secretary of the senate, the presiding officer of the legislative body which the public official serves.

~~EC 501~~ 9 MCAR § 1.0501 Definitions. For the purposes of 9 MCAR §§ 1.0500-1.0508, the terms defined in this rule have the meanings given them.

~~(a) "Act" means Minnesota Laws 1974, Chapter 470, approved April 12, 1974, and effective April 13, 1974 (Minn. Stat., 1974, Sec. 10A.01-10A34).~~

~~(b)~~ A. Address. "Address" means street and number ~~(~~or post office box or rural route, if appropriate~~),~~ room number ~~(~~, if any~~)~~; city~~,~~; state; and zip code.

~~(c) "Association" means business, corporation, firm, partnership, committee, labor organization, club or any other group of two or more persons, which includes more than an immediate family, acting in concert. Minn. Stat. 10A.01, Subd. 3 (1974).~~

B. Board. "Board" means the Ethical Practices Board.

(d) [Reletter as C.]

~~(e)~~ D. File; filed; filing. "File," ~~,~~ "filed," ~~,~~ and "filing" ~~means~~ mean delivery to the ~~Minnesota State Ethics Commission~~ office of the board by ~~midnight of~~ 4:30 p.m. on the prescribed ~~date for~~ filing date or ~~deposit as certified mail in an established U.S. Post Office, postage prepaid, no later than midnight two days before the prescribed~~ postmarked on the filing date. If the filing date is a Saturday, Sunday or legal holiday, the filing date is the following day.

(f) [Reletter as E.]

~~(g) "Public Official" means:~~

~~(1) Any member of the legislature;~~

~~(2) Any person holding a constitutional office in the executive branch and his chief administrative deputy;~~

~~(3) Any member of a state board or commission with rule making authority as provided in MS 15.0411, Subd. 3;~~

~~(4) Any person employed by the legislature as secretary of the senate, chief clerk of the house, revisor of statutes, legislative auditor, or researcher or attorney in the office of legislative research;~~

~~(5) Any person employed by the executive branch in a position specified in MS 15A.081;~~

~~(6) Any member of the metropolitan council, metropolitan transit commission, metropolitan sewer board or metropolitan airports commission.~~

~~Minn. Stat. 10A.001, Subd. 18 (1974).~~

9 MCAR § 1.0508 Late filing fees.

A. Delinquency notice. The board shall send a delinquency notice by certified mail to a public official within ten days after a filing date. If a certified letter is returned by the post office to the board as refused, then the letter shall be deemed to have been received by the addressee on the date refused. The late filing fee will then commence accumulating on the eighth day after refusal. A certified letter returned to the board as undelivered or refused shall be forwarded by first class mail to the public official. The late filing fee for an undelivered notice will commence on the eighth day after the notice is deposited in first class mail.

B. Late filing fee period. A late filing fee will be charged through the day preceding the day of filing of a late statement.

C. Waiver. Upon receipt of a written request for a waiver, the board shall grant a waiver of a late filing fee if it is satisfied that the statement was not filed on time due to sickness, injury, or other compelling reason.

~~EC 602~~ 9 MCAR § 1.0601 Definitions. For the purposes of Chapter Six the terms defined in this rule have the meanings given to them.

~~(a)~~ A. Board. ~~"Commission"~~ "Board" means ~~Minnesota State Ethics Commission~~ the Ethical Practices Board.

~~(b)~~ B. Contested case. "Contested case" means a proceeding before the ~~Commission~~ board in which the legal rights, duties or privileges of specific parties are required by law or constitutional right to be determined after a ~~Commission~~ board hearing. "Contested case" ~~shall include~~ includes:

~~(1)~~ 1. A proceeding pursuant to a request for exemption from campaign reporting requirements under Minn. Stat. § 10A.20, ~~subd. 8-10 (1974)~~ subds. 8 and 10;

~~(2)~~ 2. A proceeding to suspend a public official without pay for failure to file a Statement of Economic Interest under Minn. Stat. § 10A.09, subd. 8 ~~(1974.~~;

~~For purposes of these rules, "contested case" shall also include:~~

~~(1)~~ 3. A hearing ordered by the ~~Commission pursuant to EC 605(b)~~ board under 9 MCAR §§ 1.0602 and 1.0603 concerning a complaint, investigation or audit; and

~~(2)~~ 4. Any other hearing which may be ordered by the ~~Commission pursuant to these rules~~ board under 9 MCAR §§ 1.0601-1.0605 or which may be required by law.

~~For purposes of these rules,~~ "Contested case" ~~shall~~ does not include a ~~Commission~~ board investigation or audit conducted ~~pursuant to~~ under Minn. Stat. § 10A.02, ~~subd. 8-10 (1974)~~ subds. 9 and 10.

C. File; filed; filing. "File," "filed," and "filing" mean delivery to the office of the board by 4:30 p.m. on the prescribed filing date or postmarked on the filing date. If the filing date is a Saturday, Sunday, or legal holiday, the filing date is the following day.

~~(c)~~ D. Party. "Party" means ~~any~~ a person whose legal rights, duties, or privileges may be determined in a contested case. "Party" ~~shall include~~ includes the ~~Commission~~ board except when the ~~Commission~~ board participates in the contested case in a neutral or quasi-judicial capacity only. In anonymous proceedings, "party" ~~shall include~~ includes the person designated to appear by the applicant~~.~~ ~~(See~~ under EC 606~~(b) (3))~~. In a contested case commenced by the ~~Commission~~ board following a complaint ~~(see EC 603 (b) (4) and EC 605 (b))~~, "party" ~~shall include~~ includes both the person who filed the complaint and the person against whom it was filed.

~~(d)~~ E. Person. "Person" means any individual, partnership, corporation, joint stock company, unincorporated association or society, or any government or governmental subdivision, unit or agency, other than a court of law.

~~(e)~~ F. Service; serve. "Service~~;~~" or "serve" means service by ~~registered or~~ certified ~~United States~~ mail~~, postage prepaid, and~~ addressed to the party at the last known address of that party, unless some other manner of service is required by law or permitted by ~~these regulations~~ Chapter Six.

9 MCAR § 1.0602 Complaints of violations.

A. Who may complain. Any person who believes a violation of Minn. Stat. ch. 10A or of rules of the board has occurred may submit an oral or written complaint to the board.

B. Form. There is no prescribed form for a written complaint, but all written complaints shall be typewritten or handwritten legibly. The name and address of the person making the complaint shall be typewritten or hand printed on the complaint and it shall be signed by the complainant. A complaint shall name the alleged violator and describe the complainant's knowledge of the alleged violation. Any evidentiary material should be submitted with the complaint. Complaints will not be available for public inspection or copying until after the board makes a finding. No investigation shall be required if a complaint is frivolous on its face, illegible, too indefinite, does not identify the violator or is unsigned by the complainant.

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C. Oral complaints. The board need not investigate an oral complaint. No investigation shall be undertaken if an oral complaint is frivolous on its face, too indefinite, does not identify the violation, or does not identify the complainant. There is no prescribed format for an oral complaint, but all oral complaints must describe in sufficient detail the alleged violator and the violation.

D. Oath. Before a witness gives testimony in a meeting conducted by the board under 9 MCAR § 1.0603 or this rule, the following oath shall be administered to the witness: "Do you solemnly swear or affirm that you will fully and truly answer all questions put to you and that all statements made or submitted to this board are true to the best of your knowledge?"

E. Confidentiality. Any portion of a meeting during which the board is hearing testimony or taking action concerning any complaint, investigation, preparation of a conciliation agreement, or a conciliation meeting shall be closed to the public. At the board's discretion, minutes and tape recordings of the meeting shall be kept confidential.

F. Hearings. At any time during an investigation of a complaint the board in its discretion may hold a contested case hearing before making a finding on the complaint.

G. Publicly communicating about a complaint. Publicly communicating about a complaint alleging a violation of Minn. Stat. ch. 10A prior to its filing with the board shall constitute a violation of the confidentiality provisions of Minn. Stat. ch. 10A, if the complaint is subsequently filed with the board for investigation and determination.

H. Violation of confidentiality provisions. Where the confidentiality provisions of the law have been violated by publicly communicating about a complaint prior to its filing or otherwise prior to a determination of the complaint, the board may refrain from proceeding further on the complaint.

9 MCAR § 1.0603 Investigations and audits.

A. No complaint. The board may undertake investigations or audits with respect to statements and reports which are filed or should have been filed under the provisions of Minn. Stat. ch. 10A although no complaint has been filed. Any decision as to whether an investigation should be undertaken shall be made at a closed meeting of the board.

B. Conduct. All investigations and audits shall be conducted in an expeditious manner, but with regard for fundamental fairness. Within a reasonable time after the board decides to undertake an investigation or audit, the executive director of the board shall inform the person under investigation or audit of the investigation or audit. The board shall make no final decision on any investigation or audit unless the person under investigation or audit has been informed of the charges against him and has had the opportunity to make a statement to the board or its employees or agents.

C. Contested case hearing. At any time during an investigation or audit, the board, in its discretion, may hold a contested case hearing before making a finding on any investigation or audit.

D. Dispositions. At the conclusion of an investigation or audit or after a hearing thereon, if such hearing has been ordered, the board shall take the following action:

1. The board may make a finding that there is or is not probable cause to conclude that a violation of Minn. Stat. ch. 10A has occurred. The board shall report any finding of probable cause to the appropriate law enforcement authorities. The board may refer information about possible violations of other laws to the appropriate law enforcement authorities; or

2. The board may authorize the commencement of a civil action for injunctive or other appropriate relief; or

3. The board may take action as provided in both 1. and 2.

E. Board meetings. Board meetings related to an investigation or audit shall be conducted in accordance with 9 MCAR § 1.0602 D. and E.

Repealer. Rules 9 MCAR § 1.0013; and EC 603 are repealed.

Ethical Practices Board

Proposed Rules Governing Campaign Financing (9 MCAR §§ 1.0001-1.0043); Economic Interest Disclosure (9 MCAR §§ 1.0100-1.0111); Lobbyists (9 MCAR §§ 1.0200-1.0209); Conflict of Interest (EC 300-307); Representation Disclosure (EC 500-507); and Hearings (EC 601-612)

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Ethical Practices Board proposes to adopt amendments to the above entitled rules without a public hearing under Minn. Stat. § 15.0412, subd. 4h. Authority for the adoption of these rules is contained in Minn. Stat. § 10A.02, subd. 13.

The proposed amendments reflect changes in the statutes in 1979, 1980, and 1981; remove obsolete provisions and language; and enable the board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the board concerning campaign financing, economic interest disclosure, lobbying, conflicts of interest, representation disclosure, and hearings before the board.

A statement of need and reasonableness describing the board's reasons for each provision of the proposed rules and identifying the data and information relied upon to support the proposed rules is available from Mary Ann McCoy, Executive Director, Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155; telephone (612) 296-5148.

Interested persons have until January 6, 1982, to submit written comments on the proposed rules. The proposed rules may be modified if the data and views submitted to the board warrant modification and the modification does not result in a substantial change in the proposed language.

No public hearing will be held unless seven or more persons submit written requests for hearing within the 30 day comment period. A person who desires a public hearing must submit a written request which identifies the particular provisions to which the person objects, the suggested modifications to the proposed language, and the reasons and data relied upon to support the suggested modifications.

Persons who wish to submit comments or a written request for a public hearing should send their comments or requests to Ms. McCoy at the address above.

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 sent to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as adopted, should submit a written request to Ms. McCoy.

Please be advised that Minn. Stat. ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he commences lobbying. Lobbying includes attempting to influence rulemaking by communicating or urging others to communicate with public officials. A lobbyist is generally any individual who spends more than $250 per year for lobbying or any individual who is engaged for pay or authorized to spend money by another individual or association and who spends more than $250 per year or five hours per month at lobbying. The statute provides certain exemptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155, telephone: (612) 296-5615.

Rules as Proposed

Chapter One: Campaign Financing Rules
~~**(Effective October 1, 1979)**~~

9 MCAR § 1.0001 Applicability ~~of rules~~. ~~These rules apply~~ Chapter One applies to principal campaign committees, political committees, political funds, individuals and associations that raise or expend ~~in excess of~~ more than $100 in a calendar year to influence the nomination or election of a candidate or to promote or defeat a ballot question.

9 MCAR § 1.0008 Association newsletters on behalf of a candidate. Unless ~~the~~ an association as defined in Minn. Stat. § 10A.01, subd. 3 is making an independent expenditure, the proportionate cost of preparation and distribution of a newsletter which

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advocates the nomination or election of a candidate is a donation in kind and must be approved by the candidate if the cost exceeds $20 per candidate.

9 MCAR § 1.0012 Change of office sought by candidate.

C. Tax credit ~~subsidy~~ and public financing agreements. A candidate may sign a tax credit ~~subsidy~~ agreement for the calendar year for each office sought until December 31. A candidate may sign a public financing agreement for each office sought until September 1 of the general election year. Signing a public financing agreement by September 1 automatically rescinds a previously filed agreement for another office.

9 MCAR § 1.0016 Contributions from non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds. Non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds which contribute ~~in excess of~~ more than $100 in a calendar year to a political committee or political fund may, in lieu of registration with the board, provide the recipient political committee or political fund with a report of receipts and expenditures containing all information required by Minn. Stat. § 10A.20 for the reporting period in which the contribution was made.

9 MCAR § 1.0017 Contribution limits; political party definition. For purposes of determining an aggregate political party contribution limit, the organization of a political party does not include a political party ward organization~~,~~; a social club of a political party in a congressional district, legislative district, municipality or precinct~~,~~; an auxiliary committee of a political party unit defined by Minn. Stat. § 10A.27, subd. ~~4,~~; or ~~any~~ an association as defined in Minn. Stat. § 10A.01, subd. 3 which uses a political party name and is not listed in Minn. Stat. § 10A.27, subd. 4.

9 MCAR § 1.0025 Joint limits for Governor and ~~Lt.~~ Lieutenant Governor.

A. Public financing or tax credit agreements. A candidate seeking the endorsement for ~~Lt.~~ Lieutenant Governor who signs a tax credit ~~subsidy~~ agreement does not bind either the candidate for Governor or ~~his/her~~ his own candidacy to campaign expenditure limits following their joining of candidacies. Following their joint endorsement or filing for office, the candidates must jointly sign either the public financing agreement ~~and/~~or the tax ~~subsidy~~ credit agreement or both agreements if they wish to participate in public financing.

9 MCAR § 1.0029 Noncampaign disbursements; constitutent services.

A. Expenses to be reported. Expenses paid by the principal campaign committee of a candidate in a nonelection year and ~~before~~ until 60 days after adjournment sine die of the Legislature in an election year for the office held, for constituent services including newsletters, public opinion questionnaires, aides to legislators for constituent services during a legislative session, stationery not printed at government expense, postage, and rent for district offices shall be reported as a constituent service noncampaign disbursement. Only that portion of the expense actually used or consumed for services to constituents shall be reported as a noncampaign disbursement.

B. Constituent services from personal funds until 60 days following adjournment. Cost of providing constituent services which are paid from personal funds of an officeholder and incurred ~~before~~ until 60 days following adjournment sine die of the Legislature in the election year for the office held are not required to be reported by the principal campaign committee of the officeholder.

C. Constituent services after 60 days following adjournment. Costs of providing constituent services by an officeholder who is a candidate which are incurred after 60 days following adjournment sine die of the Legislature in the election year for the office held and sought are reportable by the principal campaign committee of the officeholder as campaign expenditures.

D. Constituent services from personal funds after 60 days following adjournment. Costs of providing constituent services ~~provided~~ which are paid from personal funds of an officeholder and incurred after 60 days following adjournment sine die of the Legislature in the ~~year of an~~ election year for ~~an officeholder who is a candidate which are paid for from the personal funds of the officeholder shall be considered~~ the office held and sought are a donation in kind and must be reported as such by the principal campaign committee of the ~~candidate~~ officeholder.

E. Constituent services after the general election. ~~Expenses incurred for~~ Costs of providing constituent services which are incurred in an election year after the general election are noncampaign disbursements.

F. Print media report. A print media column or legislative report to constituents which is authored by ~~an officeholder~~ a candidate shall be considered an effort by the ~~officeholder~~ candidate to influence his nomination or election if it is prepared and inserted in a newspaper or recurring periodical after 60 days after adjournment of the Legislature sine die in an election year when the ~~officeholder's~~ candidate's name will appear on the ballot. A letter, authored by ~~an officeholder or~~ a candidate, appearing in a section of a newspaper or recurring periodical, designated for letters to the editor shall not be considered a campaign expenditure.

9 MCAR § 1.0031 Organization of political committees and political funds.

A. Registration required. Any group of two or more persons which receives contributions or which makes expenditures, transfers of funds, or independent expenditures in aggregate ~~in excess of~~ more than $100 to influence the nomination or election of one or more candidates for statewide or legislative office or to promote or defeat a ballot question must register as a political committee or political fund. If the group's major purpose is to influence the nomination or election of one or more candidates, or to promote or defeat a ballot question, it shall register as a political committee. If the group is an association whose major purpose is one other than to influence nominations or elections, or to promote or defeat a ballot question, it shall ~~establish~~ register as a political fund. When a person or group merely solicits contributions with the approval of a candidate or the treasurer, deputy treasurer or agent of a political committee or political fund and when those contributions are made directly to the reporting committee or fund, that person or group need not establish a separate political committee or political fund.

E. Certificate in other financial institution. If a political committee or fund purchases a certificate of deposit or money market certificate from a financial institution other than that which has been previously disclosed as a depository, the treasurer must amend the Statement of Organization by adding the name of the new depository.

9 MCAR § 1.0040 ~~Signing~~ Tax credit ~~subsidy~~ agreement. A candidate may sign a tax credit ~~subsidy~~ agreement at any time after registration of his principal campaign committee for the office sought or held through December 31. An agreement signed on or after January 1~~,~~ shall not be applicable to a preceding calendar year.

9 MCAR § 1.0041 Tax credit ~~subsidy~~ agreement and public financing agreement. A candidate must sign a separate agreement in order to participate in each public financing program.

Chapter Two: Economic Interest Disclosure Rules

9 MCAR § 1.0100 ~~Acting~~ Public official. An individual who is employed or appointed as an acting public official or who is employed part-time as a public official is required to file a Statement of Economic Interest.

9 MCAR § 1.0101 ~~Business with which the individual is associated. A public official who holds a joint interest in a security, or in a partnership, shall disclose ownership in the security or the partnership if his or her proportionate share of the holding is valued at $2,500 or more.~~ Definitions. For the purposes of 9 MCAR §§ 1.0100-1.0112, the terms defined in this rule have the meanings given them.

~~9 MCAR § 1.0102~~ A. Compensation. "Compensation" includes every kind of compensation for labor or personal services from private or public employment. It does not include alimony or child support payments.

~~9 MCAR § 1.0103~~ B. Compensation in any month.

~~A.~~ 1. For the purpose of an original Statement of Economic Interest, "compensation in any month" includes only compensation received in the calendar month immediately preceding the date of appointment as a public official or filing as a candidate.

~~B.~~ 2. For the purpose of supplementary Statements of Economic Interest to be filed, "compensation in any month" includes compensation and honorariums received in any month between the end of the period covered in the preceding Statement of Economic Interest and the end of the current period.

~~C.~~ 3. For the purpose of calculating the amount of compensation received from any single source in a single month, ~~such~~ the amount shall include the total amount received from ~~such~~ the source during the month, whether or not the amount covers compensation for more than one month.

~~9 MCAR § 1.0104~~ C. Date of appointment. "Date of appointment" means the effective date of ~~the~~ appointment to a position.

D. Source of compensation. "Source of compensation" means the name of the corporation, partnership or other entity from which the individual receives compensation. A self-employed individual is required to list only a description of the occupation in which the individual is self-employed, for example, farming or practice of law, and is not required to list the names of corporations, partnerships, or other entities which pay compensation to the public official or candidate as a self-employed individual.

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.

9 MCAR § 1.0109 Securities.

A. Securities, defined. "Securities" includes any stock, share, bond, warrant, option, pledge, note, mortgage, debenture, lease, or commercial paper in any corporation, partnership, trust, or other association. "Securities" does not include deposits in a savings account, certificates of deposit, money market certificates, treasury notes, dividends from securities or shares in a pension fund.

F. Exception. Exception to B. is made for trustees of associations organized exclusively for social, religious, educational, medical, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, industrial development, trade, or professional association purposes and not for pecuniary gain, no part of the net earnings of which inures to the benefit of any private stockholder or individual.

9 MCAR § 1.0112 Joint interests. A public official who holds a joint interest in a security, or in a partnership, shall disclose ownership in the security or the partnership if the official's proportionate share of the holding is valued at $2,500 or more.

Chapter Three: ~~Rules for Lobbyists~~ Lobbyist Registration and Reporting Rules
~~Effective July 10, 1979~~

9 MCAR ~~§ 1.020~~ 1.0200 Purpose ~~of the rules~~. The purpose of 9 MCAR §§ ~~1.020-1.209~~ 1.0200-1.0210 is to implement the lobbyist registration and reporting provisions of Minn. Stat. ~~§ 10A.01-10A.34~~ ch. 10A.

9 MCAR § 1.0202 Obligation to register. An individual shall register as a lobbyist as required by Minn. Stat. ~~§ 10A.03, Minn. Stat. §§~~ 10A.01, subd. 11, and ~~as follows~~ 10A.03, subject to the following:

B. Paid expert witness registration. An individual who is hired or paid by a lobbyist as an expert witness and whose testimony is requested by a legislative committee, or an agency defined by Minn. Stat. § ~~15.0412~~ 15.0411, subd. 2, or a state hearing examiner, shall not be required to register as a lobbyist if the committee, agency, or hearing examiner, by order, resolution, recorded vote or other formal means requests such expert testimony. This exclusion is applicable only to the extent of preparing or delivering the requested testimony.

9 MCAR § 1.0203 Obligation to ~~file disbursement report or termination~~ report.

B. Alternative report. Notwithstanding A., a lobbyist whose reportable disbursements in a reporting period total less than $100 and whose disclosure under 9 MCAR § 1.0204 B. would be less than $20 may file a statement to that effect in lieu of a lobbyist disbursement report. All previously unreported disbursements shall be disclosed annually on the October 15 report, even though the total for the year is less than $100.

B. [Reletter as C.]

9 MCAR § 1.0204 Lobbyist disbursement reports and reporting.

A. Disbursement reports.

3. A lobbyist disbursement report shall include the total disbursements for the reporting period by the lobbyist, and any employer or employee of the lobbyist, for lobbyist activities in each of the following categories:

c. Telegraph and telephone. The cost includes a reasonable estimate of a pro rata share of business office telephone expense incurred for lobbying purposes.

9 MCAR § 1.0210 Contested case hearing.

A. Representative of a party must register. A representative of a party to a contested case rate proceeding before a state hearing examiner is required to register as a lobbyist provided other qualifying requirements of Minn. Stat. § 10A.02, subd. 11, are met.

B. Attempt to influence appeals. An individual who attempts to influence appeals proceedings which may follow determination of a rate under Minn. Stat. ch. 116H is not required to register as a lobbyist.

Chapter Four: ~~EC-300-EC-307~~
~~CONFLICT~~ Conflicts Of Interest Rules ~~AND REGULATIONS~~

~~EC-300~~ **9 MCAR § 1.0300 Pupose ~~of the Rules~~.** The purpose of ~~the Rules EC-300-Ec-307~~ 9 MCAR §§ 1.0300-1.0307 is to implement the ~~conflict~~ conflicts of interest provisions of ~~Minnesota Laws 1974 (Minnesota Statutes, 1974, Sec. 10A.01-10A.34), hereinafter "the Act"~~ Minn. Stat. ch. 10A.

EC 301 [Renumber as 9 MCAR § 1.0301.]

~~EC-302~~ **9 MCAR § 1.0302 Applicability of the ~~Conflict~~ conflicts of interest provisions.** Any public official who, in the discharge of

his official duties, would be required to take action or make a decision which would substantially affect his financial interests, or those of a business with which he is associated, must file a Potential Conflict of Interest Notice ~~(EC Form 6)~~, unless the effect on him is no greater than on other members of his business classification, profession or occupation.

~~EC 303~~ 9 MCAR § 1.0303 **Notice of conflict of interest.**

~~(a)~~ A. Normal procedure. Whenever a public official is required to file a conflict of interest statement he shall prepare a Potential Conflict of Interest Notice ~~(EC Form 6)~~ describing the matter requiring action or decision and the nature of his potential conflict of interest. The public official shall deliver copies of the Potential Conflict of Interest Notice ~~(EC Form 6)~~ to the ~~Minnesota State Ethics Commission~~ board and to his immediate superior ~~or that person deemed to be his superior for purposes of notification if any. A legislator shall deliver a copy of the Conflict of Interest Notice (EC Form 6) to the commission and to the presiding officer of the house in which he serves.~~

~~(b)~~ B. Insufficient time available. If a potential conflict of interest presents itself and there is insufficient time to comply with the provisions of ~~EC 303~~ A., the public official shall orally inform his immediate superior, ~~or that person deemed to be his superior for purposes of notification, if any,~~ of the potential conflict. He shall file a Potential Conflict of Interest Notice ~~(EC Form 6)~~ with the ~~Minnesota State Ethics Commission~~ board within one week after the potential conflict presents itself. This notice shall indicate the reason for ~~non-compliance~~ noncompliance with the provisions of ~~EC 303~~ A.

~~EC 304~~ 9 MCAR § 1.0304 **Removal from conflict of interest.**

~~(a)~~ A. Non-Legislator. If the public official is not a legislator:

~~(1)~~ 1. Subsequent to the filing of a Potential Conflict of Interest Notice ~~(EC Form 6)~~, or subsequent to oral notice of a potential conflict of interest by a public official, his immediate superior shall assign the matter, if possible, to another employee who does not have a potential conflict of interest.

~~(2)~~ 2. If the public official who has a potential conflict of interest does not have an immediate superior except for notification purposes, the public official shall do one of the following:

~~(aa)~~ (a) Where the public official having the potential conflict of interest is not required by law to determine the matter, he shall either

~~(i)~~ assign the matter to a subordinate for disposition or~~,~~

~~(ii)~~ request the appointing authority to designate another to determine the matter.

~~(bb)~~ (b) Where the public official having the potential conflict of interest is required by law to determine the matter, he shall so notify by certified mail all affected parties known to him by providing these parties with copies of the Potential Conflict of Interest Notice ~~(EC Form 6)~~.

~~(cc)~~ (c) A public official having the potential conflict of interest shall not chair a meeting, participate in any vote, or offer any motion on the matter giving rise to his potential conflict of interest.

~~(a)~~ B. Legislator. If the public official is a legislator~~:~~, the house of which he is a member may, at his request, excuse him from taking part in the action or decision in question.

~~EC 305~~ 9 MCAR § 1.0305 ~~Place for~~ **Obtaining and filing forms.** All Potential Conflict of Interest Notices ~~(EC Form 6)~~ shall be on the forms made available by the ~~Minnesota State Ethics Commission~~ board and must be filed with ~~that Commission~~ the board.

~~EC 306~~ 9 MCAR § 1.0306 **Changes and corrections.** Any material changes in information contained in a Potential Conflict of Interest Notice ~~(EC Form 6)~~ previously submitted, and any corrections, shall be reported in writing to the ~~Commission~~ board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and paragraph containing the information to be changed or corrected and shall be signed and certified to be true by the person filing it.

~~EC 307~~ 9 MCAR § 1.0307 **Filing of false statements.** Any statement or notice requried by ~~these rules~~ 9 MCAR §§ 1.0300-1.0307 shall be signed and certified to be true by the person required to file the statement or notice. Any person who signs and certifies to be true a ~~report or~~ statement or notice which he knows contains false information or who knowingly omits required information is guilty of a ~~felony~~ gross misdemeanor.

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.

~~REPRESENTATION DISCLOSURE RULES AND REGULATIONS~~

Chapter Five: ~~EC 500-EC 507~~
Representation Disclosure Rules

~~EC 500~~ 9 MCAR § 1.0500 **Purpose ~~of the Rules~~.** The purpose of ~~Rules EC~~ ~~500 EC~~ ~~507~~ this chapter is to implement the representation disclosure provisions of ~~Minnesota Laws 1974, Chapter~~ 470 ~~(Minnesota Statutes, 1974, Sec. 10A.01-10A.34), hereinafter "the Act"~~ Minn. Stat. ch. 10A.

~~EC 502~~ 9 MCAR § 1.0502 **Applicability of representation disclosure provisions.** The representation disclosure provisions of ~~the Act~~ Minn. Stat. ch. 10A apply to any public official who represents a client for a fee before any individual, board ~~or~~, commission, or agency with rule making authority in a hearing conducted under ~~Minnesota Statutes, Chapter~~ Minn. Stat. ch. 15 or authority to set rates, site power plants and powerlines, and grant certificates of need under Minn. Stat. ch. 116H. This provision applies only to a public official and does not apply to the official's spouse or family, or to business or professional associates of the official.

~~EC 503~~ 9 MCAR § 1.0503 **Obligation and time to report.** Any public official who represents a client for a fee before any individual, board ~~or~~, comission ~~which has~~ or agency with rule making authority in a hearing conducted under ~~Minnesota Statutes, Chapter~~ Minn. Stat. ch. 15, or authority to set rates, site power plants and powerlines, and grant certificates of need under Minn. Stat. ch. 116H shall disclose his participation in the action within 14 days after his initial appearance by filing a Representation Disclosure Statement ~~(EC Form 7)~~ with the ~~Minnesota State Ethics Commission~~ board. ~~For purposes of this section the authority of a board or commission to hear contested cases under Minnesota Statutes, Chapter 15, is the same as having rule making authority.~~

~~EC 504~~ 9 MCAR § 1.0504 **Required reporting information.** Each public official required to report shall provide the following information:

~~(1)~~ A. Name, address and office held;

~~(2)~~ B. Name and address of each client;

~~(3)~~ C. The name of the individual, board ~~or~~, commission ~~with rule making authority~~ or agency conducting the hearing and the date and location of the initial appearance at the hearing; and

~~(4)~~ D. A general description of the subject or subjects on which the public official represented the client in the hearing.

~~EC 505~~ 9 MCAR § 1.0505 ~~Place to obtain~~ **Obtaining and file filing forms.** All Representation Disclosure Statements ~~(EC Form 7) filed with the Minnesota State Ethics commission~~ shall be on the forms ~~issued~~ made available by the ~~Minnesota State Ethics Commission~~ board and must be filed with the board.

~~EC 506~~ 9 MCAR § 1.0506 **Changes and corrections.** Any material changes in information ~~previously submitted and any corrections to~~ contained in a Representation Disclosure Statement ~~(EC Form 7)~~ previously submitted, and any corrections, shall be filed in writing with the ~~Minnesota State Ethics Commission~~ board within ten days following the date of the event prompting the change or the date upon which the person filing became aware of the inaccuracy. The change or correction shall identify the form and paragraph containing the information to be changed or corrected, and shall be signed and certified to be true by the person filing it.

~~EC 507~~ 9 MCAR § 1.0507 **Penalty for Filing of false statements.** Any ~~report or~~ statement required by ~~these rules~~ 9 MCAR §§ 1.0500-1.0508 shall be signed and certified to be true by the person required to file the ~~report~~ statement. Any person who signs and certifies to be true a ~~report or~~ statement which he knows contains false information, or who knowingly omits required information, is guilty of a ~~felony~~ gross misdemeanor.

~~MINNESOTA STATE ETHICS COMMISSION~~
~~Hearing Rules and Regulations~~
Chapter Six: ~~EC 601-EC 623~~ Hearing Rules

~~EC 605~~ 9 MCAR § 1.0604 **Initiating a contested case.**

~~(a)~~ A. Initiation by application. Any person requesting an exemption under Minn. Stat. § 10A.20, ~~subd. 8-10 (1974)~~ subds. 8 and 10, or any other person whose rights, privileges, and duties the ~~Commission~~ board is authorized by law to determine after a hearing, may initiate a contested case by making application. Except in anonymous proceedings, an application shall contain:

~~(1)~~ 1. The name and address of the applicant;

~~(2)~~ 2. A statement of the nature of the determination requested including the statutory sections on which the applicant wishes a determination made and the reasons for the request;

~~(3)~~ 3. The names and ~~address~~ addresses of all persons known to the applicant who will be directly affected by such determination; and

~~(4)~~ 4. The signature of the applicant.

~~(b)~~ B. Initiation by ~~Commission~~ board order.

Where authorized by law, the ~~Commission~~ board may order a contested case commenced to determine the rights, duties and privileges of specific parties.

~~EC 606~~ **9 MCAR § 1.0605 Initiating anonymous proceedings.**

~~(a)~~ A. Authority. Any person making application for an exemption from campaign reporting requirements under Minn. Stat. § 10A.20 ~~subd. 8-10 (1974)~~ subds. 8 and 10, may proceed anonymously if the ~~Commission~~ board determines that identification of the person for the purpose of the hearing would result in exposure to economic reprisals, loss of employment, or threat of physical coercion.

~~(b)~~ B. Application. Any person wishing to proceed anonymously under this rule shall make an application under ~~EC 605(a)~~ 9 MCAR § 1.0604 A., which shall contain:

~~(1)~~ 1. A name by which the person wishes to be known for the purposes of the proceeding;

~~(2)~~ 2. The name and address of a person upon whom service can be made~~.~~;

~~(3)~~ 3. A statement of the facts which lead the applicant to believe that identification of the applicant for purposes of the hearing would result in exposure to economic reprisals, loss of employment or threat of physical coercion;

~~(4)~~ 4. The name and address of a person who will appear for the applicant during the proceedings if the applicant wishes to remain anonymous. ~~Such~~ The person may be the same person on whom service is to be made~~.~~;

~~(5)~~ 5. A statement of the facts which lead the applicant to believe that exposure to economic reprisal, loss of employment or threat of physical coercion would result from the applicant's compliance with the reporting and disclosure requirements ~~(~~of Minn. Stat. § 10A.20 ~~et seq. (1974)~~; and

~~(6)~~ 6. The signature of the applicant in the name by which the person wishes to be known during the proceedings or the signature of the person designated to appear for the applicant.

~~(c)~~ C. Determination. Upon receipt of an application for initiation of anonymous proceedings, the ~~Commission~~ board may require the applicant or the person designated to appear for the applicant to appear before a closed meeting of the ~~Commission~~ board with appropriate precautions taken to preserve the anonymity of the applicant from persons other than the ~~Commission~~ board and its employees. The purpose of ~~such~~ the appearance ~~shall be~~ is to enable the ~~Commission~~ board to decide whether an anonymous proceeding is required.

Repealer. Rules 9 MCAR §§ 1.0039; and 1.0110; EC 601; EC 604; EC 607; EC 608; EC 609; EC 610; EC 611; EC 612; EC 613; EC 614; EC 615; EC 616; EC 617; EC 618; EC 619; EC 620; EC 621; EC 622; and EC 623 are repealed.

Waste Management Board

Proposed Rules Governing Classification of Data Held by the Waste Management Board and Defining Certain Terms

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Waste Management Board proposes to adopt the above-entitled rules without a public hearing. The Waste Management Board has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, § 15.0412, subd. 4(h) (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.

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.

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

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

Waste Management Board
Attention: Sharon Decker
123 Thorson Building
7323-58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816

Authority for the adoption of these rules is contained in Minnesota Statutes, § 115A.06, subd. 2. Additionally, a statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from the Waste Management Board Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428, upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the statement of need and reasonableness, all written comments received, and the final rules as adopted will be delivered to the Attorney General for review as to form and legality, including the issue of substantial change. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the final rules as proposed for adoption, should submit a written statement of such request to the Waste Management Board, Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428.

The rules proposed for adoption relate to the following matters: (1) Definition of the term Service; Serve; (2) Public records and information classified by law as non-public or private; and (3) Computation of time.

Copies of this notice and the proposed rules are available and may be obtained by contacting the Waste Management Baord, Attention: Sharon Decker, 123 Thorson Building, 7323-58th Avenue North, Crystal, Minnesota 55428.

November 5, 1981

Robert G. Dunn, Chairman
Waste Management Board

Rule as Proposed

6 MCAR § 8.002 Definitions.

A.-G. [Unchanged.]

H. Service; serve. "Service" or "serve" means personal service, or, unless otherwise provided by law, service by first class United States mail, postage prepaid, addressed to a person or party at his last known address. An affidavit verifying service shall be signed by the person making service. Service by mail is complete upon placing the item served in the mail. Agencies of the State of Minnesota may also serve other agencies of the State of Minnesota by depositing the item to be served with the Central Mailing Section, Publications and General Services Division, Department of Administration.

Rules as Proposed (all new material)

6 MCAR § 8.015 Public records and information classified by law as nonpublic or private.

A. Inspection of public records. All records and data of the board or copies thereof, which are public pursuant to Minn. Stat. §§ 15.1611-15.1698 shall be available for inspection and copying by any person, Monday through Friday, excluding legal holidays, between the hours of 9:00 a.m. and 4:00 p.m. at the board offices. No public records shall be removed from the board's offices. Any inspection or copying of records shall be made in the presence of an officer, employee, or agent of the board. The board may charge and collect a reasonable fee, computed in accordance with 2 MCAR § 1.203 A.1.d.(1)-(5), for the reproduction of any public records.

B. Classification of private and nonpublic data.

1. Any data held by the board which consists of trade secret information as defined by Minn. Stat. § 15.1673, subd. 1, clause (b), sales information, or any other information which, if public, would tend to adversely affect the competitive position of the subject of the data, shall be classified as private or nonpublic data as defined in Minn. Stat. § 15.162, subds. 5a and 5c if it meets the following requirements:

a. A subject of the data must certify that the data qualifies as nonpublic or private data under Minn. Stat. § 115A.06,

subd. 13, by submitting a written statement to the chairperson of the board setting forth those statutory grounds which require the board to keep such data classified as nonpublic or private; and

b. The chairperson must approve the classification in writing.

2. Data meeting the requirements of 1.a. shall not be released unless the chairperson fails to classify the data as private or nonpublic.

3. Whenever the chairperson denies classification of data as private or nonpublic, he shall notify the subject of the data of the denial at least three days before making the records or information available to the public. The subject of the data may withdraw the records or information if that option is available. An adverse determination by the chairperson may be appealed to the Commissioner of Administration. The appeal shall follow the procedures established for contested cases in Minn. Stat. ch. 15, and the rules of the Office of Administrative Hearings relating to contested case proceedings.

4. The subject of data classified as private shall be notified by the board that the classification has been made. The notification shall include a list identifying the purposes, uses, and recipients of the particular data.

C. Use of private and nonpublic data. All data classified as private or nonpublic shall be appropriately identified and segregated at the offices of the board. Certified data approved for classification as private or nonpublic by the chairperson may be used by the board to compile and publish analyses or summaries and to carry out its statutory responsibilities in a manner which does not identify the subject of the data.

D. Disclosure of private and nonpublic information.

1. Data may be released when the board is specifically authorized to do so by statute.

2. Data certified as private or nonpublic by the subject of the data may be released if the chairperson does not approve the requested classification.

3. Regardless of whether data is classified as private or nonpublic, the board may disclose any data which it is obligated to disclose in order to comply with federal law and regulation, to the extent and for the purposes of the federally required disclosure. Whenever the board is required to release classified data pursuant to federal law, it shall notify the subject of the data of the requirement at least three days before making the records or information available to the public. The subject of the data may withdraw the information if that option is available.

4. The subject of data classified as private or nonpublic pursuant to Minn. Stat. § 115A.06, subd. 13, may authorize the disclosure of some or all of that data by the board.

6 MCAR § 8.016 Computation of time. In computing any period of time prescribed by 6 MCAR §§ 8.001-8.015, the day of the last act, event, or default from which the designated period of time begins to run shall not be included. The last day of the period computed shall be included, unless it is a Saturday, Sunday, or a legal holiday.

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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 Grant

Tax Court
Regular Division

Arlo W. Huseth,

Appellant,

v.

The Commissioner of Revenue,

Appellee.

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

Docket No. 3150

Order dated November 19, 1981.

This is an appeal from an Order of the Commissioner of Revenue dated May 26, 1980, relating to income taxes for the calendar year 1978, which was later amended by the commissioner on January 12, 1981.

The matter came on for hearing before the Honorable John Knapp, Chief Judge of the Minnesota Tax Court, at the Grant County Courthouse, Elbow Lake, Minnesota, on May 18, 1981.

R. E. T. Smith, Attorney at Law, Wahpeton, North Dakota, appeared for Appellant.

Thomas K. Overton, Special Assistant Attorney General, appeared for the Appellee.

The loss carry-forward issue initially raised by the appeal was resolved by the Commissioner's Order dated January 12, 1981, as indicated at the trial.

The factual issue raised at trial regarding the allocation of the federal tax deduction has now been resolved. The Order dated January 12, 1981, correctly allocates the deduction.

The only remaining issue is the computation of the $32.00 minimum tax under Minn. Stat. § 290.091. The taxpayer claims that Minnesota's minimum tax preference items illegally taxes preference items associated with depreciable assets located outside Minnesota.

Findings of Fact

1. In 1978 Appellant had net long term capital gain arising from the sale of depreciable real estate located outside Minnesota.

2. Under Minn. Stat. § 290.01 (1978), subd. 20, that gain is taxed by Minnesota.

3. In this case the amount of gain for Minnesota tax purposes was less than the gain recognized for federal tax purposes because the Minnesota basis of the asset was higher than the federal basis. (The Minnesota basis was the cost less the 1978 depreciation. The federal basis was the cost less depreciation for 1978 and prior years.)

4. Because the Minnesota gain was less than the federal gain, a portion of the net long term capital gains deduction provided by I.R.C. Sec. 1202 (a tax preference item) was, in effect, not allowed for Minnesota tax purposes. Minn. Stat. § 290.01, subd. 20(b) (2).

5. The Commissioner determined that Appellant owed Minnesota minimum tax. Appellant disagreed and this appeal followed.

Conclusions of Law

Appellant owes Minnesota minimum tax equal to 40 percent of his federal minimum tax multiplied by the ratio of his Minnesota tax preference items to his federal tax preference items.

Order for Judgment

The Commissioner's Order is Affirmed, and judgment is entered accordingly. A 15 DAY STAY IS HEREBY ORDERED.

By the Court,

John Knapp, Chief Judge
Minnesota Tax Court

Memorandum

During 1978 the taxpayer sold certain assets, one of which was a depreciable asset located outside Minnesota. For federal income tax purposes the net gain reportable in 1978 was $21,196 long-term capital gain. One-half this amount, $10,598, is a federal tax preference item and was included in the computation of the federal minimum tax.

This Court has already held that the Minnesota minimum tax imposed by Minn. Stat. § 290.091 must be construed to include a tax benefit rule. *Fussard (Estate of Florence C. Seeger) v. Commissioner*, Minn. Tax Ct. No. 3183, July 30, 1981. We decline the commissioner's invitation to reconsider that decision because in this case the commissioner's method of determining the minimum tax effectively incorporates the tax benefit rule.

The tax benefit rule is stated in I.R.C. Sec. 58(h). The details of the rule are to be set forth in regulations promulgated by the U.S. Treasury Department.[1] The rule clearly states the intent not to impose minimum tax on tax preference items which do not in fact reduce or defer taxes.

In this case the commissioner's application of an allocation formula has implemented the tax benefit rule. In calculating the Minnesota minimum tax, the commissioner first calculated the taxpayer's federal minimum tax liability using the taxpayer's federal tax preference items under the Internal Revenue Code as amended through December 31, 1976.[2] This step is clearly mandated by statute.[3] The commissioner multiplied this amount by 40%, again as directed by statute. Finally, the commissioner multiplied this amount by the following ratio:

$$\frac{\text{Items producing Minnesota tax benefit}}{\text{Federal tax preference items}}$$

This ratio is based upon the statutory direction to multiply 40% of the federal liability "by a fraction the numerator of which is the amount of the taxpayer's preference item income allocable to this state pursuant to the provisions of Sections 290.17, subd. 1, to 290.20, and the denominator of which is the taxpayer's total preference item income for federal purposes." In this case the numerator of the fraction was one-half the Minnesota net capital gain. The denominator of the fraction was one-half the federal capital gain. Applying this ratio results in a fair allocation of tax preference items between Minnesota and other taxing jurisdictions and a fair allocation of tax benefits. Minnesota's minimum tax is imposed only in proportion to the items producing a tax benefit for Minnesota taxes.

The taxpayer objects to the use of the taxpayer's federal tax benefit items to determine the amount of the federal minimum tax. The taxpayer would have the commissioner determine the federal minimum tax only on Minnesota tax preference items. However, the commissioner's procedure is in accord with the statute which refers to the federal minimum tax as determined under federal law. Only after this is determined does the statute provide for allocation of a portion of the tax to Minnesota. The commissioner has followed the statutory scheme and the result is fair. The tax benefit rule requires no more than fairness.

It is interesting to note that if we adopted the taxpayer's position, then the taxpayer could have $499,950 in tax preference items ($9,999 in each of the 50 states),[4] and not be subject to state minimum tax under statutes like Minnesota's because he would not have more than $10,000 in any one state. This result would be inconsistent with the intent of the statute as enacted and is not required by application of the tax benefit rule.

J.K.

SUPREME COURT

Decisions Filed Wednesday, November 25, 1981

Compiled by John McCarthy, Clerk

50806/Sp. Norman A. Kopperud, *et al.*, v. Joe S. Agers, *et al.*, defendants and third-party plaintiffs, Appellants, Clyde Dinnell, Sr., *et al.*, defendants and third-party plaintiffs, v. Gerald Flaby, third-party defendant. Fillmore County.

The trial court correctly concluded that plaintiffs made a prima facie showing of facts justifying exercise of personal jurisdiction under the long-arm statute and the due-process clause.

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[1] I.R.C. § 58(h): "Regulations to include tax benefit rule. The secretary shall prescribe regulations under which items of tax preference shall be properly adjusted where the tax treatment giving rise to such items will not result in the reduction of the taxpayer's tax under this subtitle for any taxable years."

[2] Minn. Stat. 1979 § 290.01, subd. 1, refers to the Internal Revenue Code as amended through that date.

[3] Minn. Stat. § 290.091 provides that the Minnesota minimum tax "shall be equal to 40% of the amount of the taxpayer's minimum tax liability for tax preference items pursuant to the provisions of . . . the Internal Revenue Code."

[4] Federal minimum tax applied only if tax preference items exceeded $10,000.

Equity does not toll the statute of limitations for suits based on securities law violations when the defendant fraudulently conceals the cause of action.

Affirmed and remanded. Sheran, C. J. Took no part, Amdahl, J.

50343/232 (1980) Roger Claybaugh, petitioner, Appellant, v. Mryna Claybaugh. Ramsey County.

The district court's order modifying a prior dissolution decree governing maintenance is not supported by detailed findings and accordingly is remanded with directions.

Remanded. Otis, J.

81-251/Sp. Marian Stevens v. Computer Metal Products, Inc., *et al.*, Relators. Workers' Compensation Court of Appeals.

The finding that employee has been permanently totally disabled since December 5, 1976, has sufficient evidentiary support and is not invalidated by recommendations that she participate in a pain rehabilitation program and be furnished job placement assistance. The finding that a work-related neck injury sustained by employee in 1969 is a substantial contributing factor in her disability is reversed in the absence of medical opinion addressed directly to that issue, and the matter is remanded so that the parties may furnish such evidence.

Affirmed in part, reversed in part and remanded. Wahl, 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.

Minnesota Energy Agency
League of Minnesota Cities

Notice of Request for Proposals for District Heating Development

The League of Minnesota Cities has $200,000 for making district heating development grants to local communities. The Minnesota Energy Agency (MEA) will serve as technical advisor to the League in evaluating and processing the grant applications.

The purpose of the grant program is to encourage communities to develop new hot water district heating systems and expand existing steam systems.

Applications for individual grants of up to $20,000 will be accepted in two-month cycles. The deadline for the first cycle is December 28, 1981.

Communities not selected in one funding cycle may resubmit applications for consideration in another funding cycle.

A set of public rules to administer the program has been prepared by the MEA. The rules set out the contents of grant requests, the ranking criteria, the evaluation process and the terms of the agreement successful applicants must enter into with the League.

A draft copy of *District Heating Planning in Minnesota: A Community Guidebook* will be available from the MEA on November 30. This guidebook explains the various phases of the district heating development process and will assist communities in preparing their grant applications.

Further information and an application package including the guidebook, rules and a Formal Request for Proposals may be obtained after November 30 from Mary Lesch, Minnesota Energy Agency, 980 American Center Building, 150 East Kellogg Boulevard, St. Paul, Minnesota 55101; phone (612) 297-2324 or 296-9096.

Department of Energy, Planning and Development

Request for Proposals for Business Consulting and Assistance Services to Businesses Owned or Operated By Minorities or Socially or Economically Disadvantaged Persons

The Minnesota Department of Energy, Planning and Development has received a grant from the Economic Development Administration, U.S. Department of Commerce, to provide business organization assistance and business management assistance to new, existing, and expanding businesses owned or operated by minorities or economically or socially disadvantaged persons. The department is soliciting proposals from individuals or organizations having the necessary qualifications and capabilities for delivery of general business planning services and management assistance services to such businesses. The duration of this project will be one year from date of award. Total cost of the project will not exceed $57,000. A copy of the Request for Proposals is available from Mr. Charles A. Schaffer, Minnesota Department of Energy, Planning and Development, 101 Hanover Building, 480 Cedar Street, St. Paul, MN, 55101, telephone 612/296-0617. Responses to the Request for Proposals are due at 5:00 p.m., January 11, 1981.

Pollution Control Agency Solid and Hazardous Waste Division

Notice of Request for Proposals for Emergency Clean-up Action at a Hazardous Waste Burial Site in Isanti County, Minnesota

The Minnesota Pollution Control Agency (MPCA) is issuing a request for proposal (RFP) for excavation, repackaging and removal to a U.S. Environmental Protection Agency (EPA) approved hazardous waste landfill for the equivalent of approximately 1,000 drums of hazardous waste and contaminated soils.

In addition to the excavation, repackaging and removal of waste materials, the MPCA is seeking a separate proposal for the installation of three residential wells four inches in diameter to a depth of approximately 300 feet. The residential wells are all located in the community of West Point in Isanti County, Minnesota.

It is intended that two separate contacts will be awarded for the above tasks. Contractors may bid on one or both contracts. If a contractor wishes to bid on both, two separate bids should be submitted. Funding has been appropriated by the EPA to the MPCA for the excavation, repackaging and removal operation which is to begin immediately upon the awarding of the contract. The installation of the residential wells, however, will be based upon possible future appropriations from the EPA and a separate contract will be awarded at that time.

The complete text of the RFP may be obtained between December 7, 1981 and December 11, 1980 from:

Michael B. Ayers
Solid and Hazardous Waste Division
Minnesota Pollution Control Agency
1935 West County Road B-2
Roseville, Minnesota 55113

The deadline for receipt of proposals is December 18, 1981, 4:30 p.m. It is anticipated that the approximate cost of the excavation, repackaging and removal operation will be approximately $270,000. The anticipated cost for the installation of the residential wells will be approximately $20,000.

Department of Public Safety State Patrol Division

Notice of Availability of Contract for Law Enforcement Training Services

The State Patrol Division is seeking a qualified individual or organization to conduct training courses in management and supervision for Minnesota law enforcement personnel. The training courses, which will be performed under contract, are outlined in detail in the Request for Proposal (R.F.P.) course outline. The R.F.P. may be requested and inquiries should be directed to:

Captain Roger Lenz
State Patrol Training Center
1900 West County Road I
New Brighton, Minnesota 55112

It is anticipated that activities to accomplish these training courses will not exceed a total cost of $30,000. The deadline for submission of bids will be the close of the working day December 21, 1981.

OFFICIAL NOTICES

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

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

Department of Commerce
Banking Division

Bulletin No. 2488: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of December, 1981

Notice is hereby given that pursuant to Minn. Stat. § 47.20, subd. 4a (1980), the maximum lawful rate of interest for conventional home mortgages for the month of December, 1981, is seventeen (17.00) percentage points. Further, pursuant to Senate File No. 273, chapter 373, 1980 Session Laws, as it amended Minn. Stat. § 47.20, the maximum lawful rate of interest for contracts for deed for the month of December, 1981, is seventeen (17.00) 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 November 24, 1981, auction results and an average yield for conventional mortgage commitments of 16.890%. Current rates regarding this monthly publication are available by telephoning the Banking Division 24-hour information number (612) 297-2751.

November 25, 1981

Michael J. Pint
Commissioner of Banks

State Board of Education
Department of Education
Department of Public Safety

Notice of Addendum to Notice of Intent to Adopt Rules without a Public Hearing

In the November 30, 1981 issue of the *State Register*, on page 1048 (6 S.R. 1048), a joint notice of intent to adopt rules without a public hearing is published by the Department of Public Safety and the State Board of Education. The rules published as part of this notice constitute a single publication of what are actually two sets of rules: 11 MCAR §§ 1.0080 through 1.0084 (Department of Public Safety) and 5 MCAR §§ 1.0220 through 1.0225 (State Board of Education). The two sets of rules are identical with one exception, which is noted here:

In the last line of 5 MCAR § 1.0222 C., an amendment is made changing "driving" to "driver," as shown in the published rule. This change is made in the State Board of Education version of this rule to conform it to existing language in the Public Safety version of the rule.

Minnesota Pollution Control Agency

Recommendation by the Director to Certify Proposed Solid Waste Disposal Sites in Carver County as Intrinsically Suitable

Notice of and Order for Hearing

It is hereby ordered and notice is hereby given that an information-gathering hearing concerning the intrinsic suitability of the proposed solid waste disposal sites in Carver County will be held by the Minnesota Pollution Control Agency (MPCA) pursuant to Minnesota Laws of 1981, chapter 352, § 41 on Wednesday, December 9, 1981, at the Chaska High School Auditorium, located in the Carver-Scott Cooperative Center Building, 401 E. 4th Street, Chaska, Minnesota 55318, commencing at 2:00 p.m. An evening session will be held at 7:00 p.m., also on December 9, 1981, at the same location in order to provide an opportunity to participate to those who cannot attend the day session.

The hearing will be held before David Kuduk, 1200 Soo Line Building, Minneapolis, Minnesota 55402, telephone (612) 339-9242, a hearing examiner appointed by the chief hearing examiner of the State of Minnesota.

The procedures to be followed at this hearing were published in the *State Register* on July 13, 1981 (6 S.R. 55). A copy of these procedures may also be obtained by contacting the MPCA at the address noted below.

Carver County has provided to the MPCA data relating to the intrinsic suitability of five sites proposed for its solid waste disposal site inventory. The director of the MPCA has made a preliminary recommendation that the following sites be certified as intrinsically suitable for sanitary landfill sites because they can reasonably be expected to qualify for MPCA permits assuming certain conditions are met:

Site A/B. This site consists of 240 acres in Sections 17 and 20, T115N, R23W, in the City of Chaska. The site is irregularly shaped and is bounded by 82nd Street and McKnight Road on the east. The northeast portion of the site is located in the southeast portion of the University of Minnesota Arboretum. West of the intersection of 82nd Street and McKnight Road, 82nd Street runs through the site and eventually forms the northern boundary of the western ¼ of the site. This site can reasonably be expected to qualify for MPCA permits assuming the following conditions are met: a liner and leachate collection system are constructed; adequate screening is provided; fill is not placed in the Type III wetland; and, adequate slope management and drainage control are provided.

Site C. This site consists of 248 acres in Section 19, T116N, R23W, and Section 24, T116N, R24W, partially in Laketown Township and partially in the City of Chaska. The site is bounded by 86th Street on the north, the extension of Kochia on the west and is bisected north-south by Bavaria Road. The southern boundary of the site is approximately 1,000 feet north of Lake Bavaria. This site can reasonably be expected to qualify for MPCA permits assuming the following conditions are met: a liner and leachate collection system are constructed; adequate screening is provided; surface water runon and runoff are controlled; and, perched water is drained.

Site D. This site consists of 255 acres in Section 23, T116N, R23W, in the City of Chanhassen and is bounded on the north by County State Aid Highway (CSAH) 18 (Lyman Blvd.). The eastern boundary of the site is approximately ⅓ mile west of Minnesota Highway 101 and the western boundary of the site is approximately ⅓ mile east of CSAH 117. This site can reasonably be expected to qualify for MPCA permits assuming the following conditions are met: a liner and leachate collection system are constructed; adequate screening is provided; muck and peat deposits are either excavated and drained or fill is not placed in areas with such deposits; and, surface water runoff is controlled.

Site U. This site consists of 175 acres in Section 7, T115N, R24W in Dahlgren Township approximately one mile northeast of the City of Cologne. The site is bounded on the west by Township Road T-19 and on the east by Township Road T-115. The southern boundary of the site is approximately ½ mile north of U.S. Highway 212. This site can reasonably be expected to qualify for MPCA permits assuming the following conditions are met: a liner and leachate collection system are constructed; adequate screening is provided; and surface water runoff is controlled.

The director of the MPCA has made a preliminary recommendation that the following site *not* be certified as intrinsically suitable because an eleven-acre wetland is located in the center of the proposed fill area and the site could not be developed without an adverse impact on the wetland. Therefore Site Q cannot reasonably be expected to qualify for an MPCA permit:

Site Q. This site consists of 202 acres in Sections 15 and 16, T116N, R24W in Laketown Township approximately ½ mile south of Minnesota Highway 5 between Turbid Lake and Carl Krey Lake. The site is bounded on the west by Laketown Township Road 137 (Laketown Road). Abandoned Chicago and Northwestern R.R. tracks form the northern boundary on the western portion of the site and bisect the northeastern portion of the site.

The director's recommendations are based on the data submitted by Carver County and applied against criteria contained in

SW 6 and additional criteria adopted by the MPCA on June 23, 1981. The MPCA Staff has not independently verified the data submitted by Carver County. The director's recommendations may be revised based on information submitted at the hearing.

A copy of the MPCA criteria for determining intrinsic suitability, the director's recommendation, the data submitted by Carver County and the procedures for this hearing are available for inspection at the following locations:

Minnesota Pollution Control Agency
1935 W. County Road B-2
Roseville, MN 55113
Phone: (612) 296-7373

Chaska Public Library
314 Walnut
Chaska, Minnesota

Waconia Public Library
233 S. Olive
Waconia, Minnesota

In addition, a report containing the basis for the director's recommendation will be available at the above locations by December 2, 1981. To the extent feasible, such documents may be copied.

Questions concerning the procedures to be followed at the hearing may be directed to Special Assistant Attorney General Barbara Lindsey Sims at the MPCA address above, telephone: (612) 296-7770. Questions concerning the director's recommendation may be directed to Dale Wikre at the MPCA address above, telephone: (612) 297-2735.

November 21, 1981

Louis J. Breimhurst, Executive Director
Minnesota Pollution Control Agency

Minnesota State Retirement System

Regular Meeting, Board of Directors

The regular bi-monthly meeting of the Board of Directors, Minnesota State Retirement System, will be held on Friday, December 18, 1981, at 9:00 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Office of the Secretary of State

Notice of Vacancies in Multi-member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612) 296-7876.

Application deadline is December 29, 1981.

ARTS BOARD has 1 vacancy open for a person arts interested/involved from the 1st Congressional District. The board supports and encourages the arts by providing grants, publications, consultant services, conferences and workshops. Members are appointed by the Governor and confirmed by the Senate. Members must file with the EPB. Ten meetings per year are held at the board office. Members receive $35 per diem plus expenses. For specific information contact the Arts Board, 2500 Park Avenue, Minneapolis 55404; (612) 341-7170.

BOARD FOR COMMUNITY COLLEGES has 1 vacancy for a public member from district 1, 5, 6 or 8. The board sets rules and policies for management of community college system. Members are appointed by the Governor and confirmed by the Senate. Members must file with EPB, and must include a full-time community student. Monthly meetings alternate between St. Paul and various community college campuses. For specific information contact the Board for Community Colleges, 301 Capitol Square Bldg., St. Paul 55101; (612) 296-3356.

CITIZENS ADVISORY TASK FORCE ON THE BOUNDARY WATERS CANOE AREA has 1 vacancy open for a member at large. The task force conducts meetings and research on the establishment and operation of the Boundary Waters Canoe Area, and makes recommendations to the U.S. Forest Service and other federal and state agencies. Members are appointed by the Governor and are compensated for expenses. For specific information contact the Citizens Advisory Task Force on the Boundary Waters Canoe Area, Grand Marais 55604; (218) 387-2020.

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. 66305

Whereas, the Commissioner of Transportation has made his Order No. 65851 which has been amended by Orders 65929, 65932, 65933, 66058, and 66221, 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

Seasonal Routes

T.H. 9 From Clay C.S.A.H. 52 in Barnsville to Jct. I-94 (800 ft.)
T.H. 87 From Becker C.S.A.H. 30 to Becker C.S.A.H. 10 in City of Frazee.

COUNTY ROADS

Seasonal Routes		
Ottertail	C.S.A.H. (Old T.H. 10)	From Jct. T.H. 10 to North Ottertail Co. Line near Frazee.
	C.S.A.H. 84	From S.E. Jct. T.H. 10 to the N.W. Jct. T.H. 10.
	C.S.A.H. 67	From Jct. C.S.A.H. 84 to So. City Limits of New York Mills.
Washington	C.S.A.H. 16	From the West Ramps of I-494 to Woodlane Dr. in Woodbury.

CITY STREETS

None This Designation

Dated this 1st of December, 1981.

Richard P. Braun
Commissioner of Transportation

Waste Management Board

Proposed Hazardous Waste Processing Facility Area in City of Rochester and Rochester Township

Notice of Hearing

The Waste Management Board will hold a public hearing to gather additional information on the proposed hazardous waste processing facility area in the city of Rochester and township of Rochester, on December 21 at the Friedell Building, 1200 South Broadway in the city of Rochester, beginning at 1:00 p.m.

An evening session will be held at the same location beginning at 7:00 p.m. December 21. If necessary, the hearing will continue on December 22, 1981 at 9:00 a.m. at the same location.

For further information about the area to be considered, the criteria used in selecting the proposed area or the procedures to be used at the hearing contact:

Sharon Decker
123 Thorson Building
7323 58th Avenue North
Crystal, Minnesota 55428
(612) 536-0816
(Outstate 1-800-652-9747)

STATE OF MINNESOTA

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

ORDER FORM

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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.

Ethical Practices Board
41 State Office Bldg
Interoffice

(8)3

STATE OF MINNESOTA

ETHICAL PRACTICES BOARD

In the matter of the Proposed Adoption Without a Public Hearing of Rules of the Ethical Practices Board governing Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1.0111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

FINDINGS OF FACT AND CONCLUSIONS

The above-entitled matter was published in the State Register on December 7, 1981, and proper notice required by Minnesota Statutes §15.0412 was served on all persons, associations, and other interested groups registered with the Ethical Practices Board for that purpose.

After affording interested and affected persons the opportunity to submit comments for 30 days after Notice, having received fewer than seven written requests for a public hearing on the rules, having considered all of the comments received, the Board finds the following:

FINDINGS

1. 9MCAR§1.0210 A. In the rule as written the reference to the definition of "lobbyist" in Minn. Stat. §10A.01, subd. 11, was cited inadvertently as Minn. Stat. §10A.02, subd. 11. The citation should be changed to Minn. Stat. §10A.01, subd. 11, which defines "lobbyist" for purposes of Minn. Stat. Ch. 10A.

2. 9MCAR§1.0210 B. The rule as written inadvertently and incorrectly suggested that rate-setting fell under Minn. Stat. Ch. 116H. The rule should be changed to reflect that appeals from "administrative actions" described in Minn. Stat. §10A.01, subd. 2 (1980) do not trigger lobbyist registration requirements.

   Between the words "rate" and "under", the following words should be added to proposed rule 9MCAR§1.0210 B: ", power plant and powerline siting or granting of a certificate of need".

CONCLUSIONS

The rules to be adopted are reasonable and necessary. The changes in 9MCAR§1.0210 are corrections of inadvertent errors or omissions and do not change the substance of the rule. Therefore, with these changes, the above-entitled rules should be adopted.

STATE OF MINNESOTA

February 3, 1982

Judith A. Schatzlein

Chairperson
Ethical Practices Board

CERTIFICATE OF BOARD'S
RESOLUTION ADOPTING RULES

I, Judith Schotzko, do hereby certify that I am a member and the chairperson of the Ethical Practices Board, a board duly authorized under the laws of the State of Minnesota, and the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Ethical Practices Board, duly and properly called and held on the 3rd day of February, 1982, that a quorum was present at said meeting, that a majority of those present voted for the resolution, and that said resolution is set forth in the minutes of said meeting and has not been rescinded or modified.

"RESOLVED, that the rules relating to

> Campaign Financing (9MCAR§§1.0001-1.0043); Economic Interest Disclosure (9MCAR§§1.0100-1.0111); Lobbyists (9MCAR§§1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623),

as published in the State Register on December 7, 1981, for adoption without a public hearing and as revised consistent with the Board's Findings of Fact and Conclusions dated February 3, 1982, be and they hereby are approved and adopted, pursuant to authority vested in the Board by Minnesota Statutes §10A.02, subd. 13, and that Judith Schotzko, Chairperson, and Mary Ann McCoy, Executive Director, of the Ethical Practices Board be and they are hereby authorized to sign an Order of the Board adopting these rules and further are authorized to perform the necessary acts to provide that these rules shall have the force and effect of law."

IN WITNESS WHEREOF, I have hereunto subscribed my name this 3rd day of February, 1982.

Judith G. Schotzko
Chairperson

Attest by one other Board member

STATE OF MINNESOTA
COUNTY OF RAMSEY

ETHICAL PRACTICES BOARD

In the matter of Proposed Rules governing Campaign Financing (9MCARSS1.0001-1.0043); Economic Interest Disclosure (9MCARSS1.0100-1.0111); Lobbyists (9MCARSS1.0200-1.0209); Conflict of Interest (EC300-307); Representation Disclosure (EC500-507); and Hearings (EC601-623)

STATEMENT OF NEED AND REASONABLENESS

The Ethics in Government Act, Minn. Stat. ch. 10A, enacted in 1974, authorized the Ethical Practices Board to promulgate rules to carry out the purposes of the Act. Rules have been adopted governing Campaign Financing (9MCARSS1.0001-1.0043 - adopted 1974; amended 1976, 1978, 1979); Economic Interest Disclosure (9MCARSS1.0100-1.0111 - adopted 1974; amended 1976, 1978, 1979); Lobbyists (9MCARSS1.0200-1.0209 - adopted 1974; amended 1979); Conflict of Interest (EC300-307 - adopted 1975); Representation Disclosure (EC500-507 - adopted 1975); and Hearings (EC601-623 - adopted 1975; amended 1977).

The need to amend these rules arises in order to implement registration and reporting requirements of Minn. Stat. ch. 10A enacted in Laws of 1977 Chapter 346, Laws of 1978 Chapter 463, and Laws of 1980 Chapters 607 and 614, and nomenclature changes in Minn. Stat. ch. 15 enacted in Laws of 1975, Chapter 271; to enable the Board to provide direction for the 1982 elections to individuals and associations required to register and file statements and reports with the Board; to guide the Board in providing forms and monitoring compliance; to provide the public with information regarding the data collected by Minn. Stat. SS10A.01-10A.34; to remove obsolete provisions and language from existing rules; and to incorporate applicable advisory opinions which lapse on the day of adjournment of the regular session of the Legislature in the second year following the date of the opinion.

The following material describes the need for and reasonableness of each rule proposed; texts of advisory opinions cited are attached and hereby incorporated in this statement. To assist members of the public who are not trained in the law or in political activities and who are involved in endeavors regulated and administered by Minn. Stat. ch. 10A, rules which paraphrase statutory language are crucial to the understanding of the rules.

CHAPTER ONE: CAMPAIGN FINANCING RULES

9MCARS1.0001 Applicability. This rule clarifies the applicability of campaign financing rules to associations and individuals that raise or spend more than $100 in a calendar year to promote or defeat a ballot question under Laws of 1980, Chapter 607.

9MCARS1.0008 Association newsletters on behalf of a candidate. This rule clarifies the application of Minn. Stat. § 10A.01, subd. 3, to this existing rule.

9MCARS1.0012 Change of office sought by candidate. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCARS1.0016 Contributions from non-Minnesota domiciled associations and domiciled, federally registered political committees or political funds. Language added to this rule clarifies the application of Minn. Stat.

§ 10A.01, subd. 3, by specifying that the options for registration and reporting authorized in this existing rule do not apply to a group located in Minnesota which does not have a federally-registered political committee or political fund; substance of the rule is unchanged.

9MCAR§1.0017 Contribution limits; political party definition. Language added to this rule clarifies the application of Minn. Stat. § 10A.27, subd. 4, by adding reference to Minn. Stat. § 10A.01, subd. 3.

9MCAR§1.0025 Joint limits for Governor and Lieutenant Governor. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCAR§1.0029 Noncampaign disbursements; constituent services. Language added to this rule incorporates provisions of Laws of 1980, Chapter 614, Section 40, which extended the period before constituent services must be reported as campaign expenditures.

9MCAR§1.0031 Organization of political committees and political funds. Clause A clarifies that registration requirements explained in this rule apply to any group of two or more persons which raises or spends more than $100 in a calendar year to promote or defeat a ballot question under Laws of 1980, Chapter 607. Clause E clarifies language in the present rule by adding reference to another form of interest-bearing deposit to give guidance to political committees and funds.

9MCAR§1.0040 Tax credit agreement. Language changes in this rule provide uniform reference to the tax credit agreement; substance of the rule is unchanged.

9MCAR§1.0041 Tax credit agreement and public financing agreement. Language change in this rule provides uniform reference to tax credit agreement; substance of the rule is unchanged.

CHAPTER TWO: ECONOMIC INTEREST DISCLOSURE RULES

9MCAR§1.0100 Public official. This rule incorporates the substance of Advisory Opinion #47 and clarifies the application of Minn. Stat. § 10A.18 to part-time employees.

9MCAR§1.0101 Definitions. Terms used in existing rules 9MCAR§§1.0102, 1.0103, 1.0104 and 1.0110 have been placed in this rule for clarity; substance of these rules is unchanged. Language in present rule 9MCAR§1.0101 has been moved to 9MCAR§1.0112 Joint interests; substance of the rule is unchanged.

9MCAR§1.0109 Securities. Clause A adds reference to other forms of interest-bearing savings deposits and incorporates the substance of Advisory Opinion #49 to clarify additional exemptions from the definition of "securities". Clause F incorporates the substance of Advisory Opinion #69 to give guidance to public officials who may be trustees of the referenced associations.

9MCAR§1.0112 Joint interests. The substance of this rule is in effect as 9MCAR§1.0101 Business with which the individual is associated. The Board proposes to strike the present headnote as repetitions of language in Minn. Stat. § 10A.01, subd. 4; move the rule, unchanged, to this enumeration; and provide a headnote descriptive of the content for ease of reference by individuals required to file Statements of Economic Interest.

CHAPTER THREE: LOBBYIST REGISTRATION AND REPORTING RULES

9MCAR§1.0200 Purpose. This rule removes obsolete language in reference to the rules; substance of the rule is unchanged.

9MCAR§1.0202 Obligation to register. This rule corrects the reference to Minn. Stat. § 15.0412, subd. 2, in the existing rule; substance of the rule is unchanged.

9MCAR§1.0203 Obligation to report. Clause B clarifies the application of Minn. Stat. § 10A.04, subd. 4a; substance of the present rule is unchanged and appears in Clause A.

9MCAR§1.0204 Lobbyist disbursement reports and reporting. Except for language inserted in A(3)(c) to clarify the reporting of costs incurred for lobbying purposes, the substance of the rule is unchanged.

9MCAR§1.0210 Contested case hearing. This rule incorporates the substance of Advisory Opinions #33 and #15 in Clauses A and B, respectively, to give guidance about who may or may not be required to register as a lobbyist.

CHAPTER FOUR: CONFLICTS OF INTEREST RULES

9MCAR§1.0300 Purpose. This rule removes obsolete language in reference to the rules. The rule is currently in effect as rule EC300.

9MCAR§1.0302 Applicability of the conflicts of interest provisions. This rule removes obsolete language and corrects reference to the Potential Conflict of Interest Notice form, which was renamed in 1979, following Board investigations of complaints. The substance of the present rule is unchanged; rule is currently in effect as EC302.

9MCAR§1.0303 Notice of conflict of interest. This rule removes obsolete language, including reference to "Ethics Commission" which was changed to Ethical Practices Board by Laws of 1975, Chapter 271, Section 6. The final sentence of A is stricken because it repeats statutory language (see Minn. Stat. § 10A.07, Subd. 1(c)). The substance of the present rule is unchanged; rule is currently in effect as rule EC303.

9MCAR§1.0304 Removal from conflict of interest. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC304.

9MCAR§1.0305 Obtaining and filing forms. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC305.

9MCAR§1.0306 Changes and corrections. This rule removes obsolete language but does not alter substance of present rule. The rule is currently in effect as rule EC306.

9MCAR§1.0307 Filing of false statements. This rule reflects enactment of Laws of 1978, Chapter 463, Section 38 which changed the penalty for filing false statements under Minn. Stat. § 10A.10 from felony to gross misdemeanor. This rule is currently in effect as rule EC307.

CHAPTER FIVE: REPRESENTATION DISCLOSURE RULES

9MCAR§1.0500 Purpose. This rule removes obsolete language in reference to the rules. The rule is currently in effect as rule EC500.

9MCAR§1.0502 Applicability of representation disclosure. This rule changes references to state agencies to conform to Laws of 1975, Chapter 271. Additionally, the rule provides references to conform to Laws of 1975, Chapter 307, Section 1 and Laws of 1978, Chapter 463, Section 1 which amended Minn. Stat. § 10A.01, subd. 2, clarifying authority of agencies under Minn. Stat. ch. 15. The rule is presently in effect as rule EC502.

9MCAR§1.0503 Obligation and time to report. This rule changes reference to state agencies under Laws of 1975, Chapter 271; reflects enactment of Laws of 1976, Chapter 307, Section 1 and Laws of 1978, Chapter 463, Section 1 which amended Minn. Stat. § 10A.01, subd. 2, clarifying authority of agencies under Minn. Stat. ch. 15. The rule is currently in effect as rule EC503.

9MCAR§1.0504 Required reporting information. This rule provides current reference to state agencies; substance of the rule is unchanged. The rule is currently in effect as rule EC504.

9MCAR§1.0505 Obtaining and filing forms. This rule removes obsolete language; substance of the rule is unchanged. The rule is currently in effect as rule EC505.

9MCAR§1.0506 Changes and corrections. This rule removes obsolete language; substance of the rule is unchanged. The rule is currently in effect as rule EC506.

9MCAR§1.0507 Filing of false statements. This rule reflects enactment of Laws of 1978, Chapter 463, Section 38 which changed the penalty for filing false statements under Minn. Stat. § 10A.08 from felony to gross misdemeanor. This rule is currently in effect as rule EC507.

CHAPTER SIX: HEARINGS RULES

9MCAR§1.0604 Initiating a contested case. This rule removes obsolete language from EC605, currently in effect; the substance of EC605 is unaltered.

9MCAR§1.0605 Initiating anonymous proceedings. This rule removes obsolete language from EC606, currently in effect; the substance of EC606 is unaltered.

REPEALER

9MCAR§1.0039 Severability. This rule is repealed because the need for individual severability rules was superseded by Laws of 1981, Chapter 253, Section 38, which states that statutes governing severability now apply to rules.

9MCAR§1.0110 Source of compensation. This rule is repealed as a separate rule and is proposed as Clause D in 9MCAR§1.0101 Definitions with other definitions of compensation for ease of reference by individuals who are required to file Statements of Economic Interest.

EC601 Introduction - This rule was repealed by publication in the State Register, May 7, 1977.

EC604 Hearing officers - This rule was repealed by publication in the State Register, May 7, 1977.

EC607 Commencement of a contested case - This rule was repealed by publication in the State Register, May 7, 1977.

EC608 Answer - This rule was repealed by publication in the State Register, May 7, 1977.

EC609 Right to Counsel - This rule was repealed by publication in the State Register, May 7, 1977.

EC610 Informal disposition - This rule was repealed by publication in the State Register, May 7, 1977.

EC611 Default - This rule was repealed by publication in the State Register, May 7, 1977.

EC612 Intervention - This rule was repealed by publication in the State Register, May 7, 1977.

EC613 Consolidation - This rule was repealed by publication in the State Register, May 7, 1977.

EC614 Discovery - This rule was repealed by publication in the State Register, May 7, 1977.

EC615 Service of motions - This rule was repealed by publication in the State Register, May 7, 1977.

EC616 Disqualification - This rule was repealed by publication in the State Register, May 7, 1977.

EC617 Prehearing conference - This rule was repealed by publication in the State Register, May 7, 1977.

EC618 Notice of hearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC619 The hearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC620 The Commission decision - This rule was repealed by publication in the State Register, May 7, 1977.

EC621 Rehearing - This rule was repealed by publication in the State Register, May 7, 1977.

EC622 Appeal by Commission - This rule was repealed by publication in the State Register, May 7, 1977.

EC623 Emergency procedures - This rule was repealed by publication in the State Register, May 7, 1977.

SF-00006-01

STATE OF MINNESOTA

Office Memorandum

DEPARTMENT ETHICAL PRACTICES BOARD
41 State Office Building
St. Paul, MN 55155

TO : The Public

DATE: November 16, 1981

FROM : Mary Ann McCoy MAMcC
Executive Director

PHONE: (612) 296-1720

SUBJECT: Texts of Advisory Opinions (attached)

The texts of advisory opinions issued by the Ethical Practices Board which are incorporated in proposed rules and cited in the Statement of Need and Reasonableness are attached:

Advisory Opinion #15 - Rate-setting (Lobbyist Rule 9MCAR§1.0210), 4-2-75;
Advisory Opinion #33 - Contested case hearing (Lobbyist Rule 9MCAR§1.0210), 1-5-77;
Advisory Opinion #47 - Part-time public official (Economic Interest Rule 9MCAR§1.0100), 4-13-78;
Advisory Opinion #49 - Dividends and securities (Economic Interest Rule 9MCAR§1.0109), 5-4-78;
Advisory Opinion #69 - Trustees (Economic Interest Rule 9MCAR§1.0109), 8-15-80.

The Ethical Practices Board is authorized to issue advisory opinions on the requirements of the Ethics in Government Act, Minn. Stat. ch. 10A (see Minn. Stat. §10A.02, subd. 12) and the Hennepin County Disclosure Law (see Laws of 1980, Chapter 362, Section 15). Individuals or associations may ask for advisory opinions about these laws to guide their own conduct.

A request for an advisory opinion is published in the State Register before action is taken by the Board to approve an opinion. Public comment is invited. A summary of each approved advisory opinion is published in the State Register; full texts of opinions are published by the Board in booklet form.

An advisory opinion lapses the day the regular legislative session adjourns in the second year following the date of the opinion (Minn. Stat. §10A.02, subd. 12).

MAMcC:cg
enc.

MINNESOTA STATE ETHICS COMMISSION

ADVISORY OPINION NO. 15

April 3, 1975

Issued to:

R. Walter Bachman, Jr., Esq.
Broeker, Bachman and Zerby
Minneapolis, Minnesota

Syllabus

15. **Rate-setting.**

If an individual communicates with public officials regarding any type of rate-setting determination made by a state agency, that individual must register and report as a lobbyist. If communication occurs with state employees not defined as public officials, the lobbyist provisions do not apply unless the person making the communication requests that its substance be reported to a public official. Communication with a public official in the course of contested case or appeal procedure does not constitute lobbying.

TEXT

As attorney for a number of nursing home facilities, you have requested an opinion based on the following:

FACTS

The Minnesota medical assistance program requires the Department of Public Welfare to reimburse nursing home facilities, among others, for care which they have provided to individuals qualifying for medical assistance. To facilitate this process, the Department has established procedures for setting the rate which a nursing home may charge medical assistance recipients. Every fiscal year each nursing home which provides care for recipients is required to submit to the Department a comprehensive report containing information on its costs, earnings and other financial data. The Department staff analyzes this data, and the Commissioner determines the maximum rate which may be charged to recipients. If the provider and the Department disagree about what the rate should be on the basis of the reported data, there is a procedure under department regulations for informal resolution. If disputes cannot be resolved informally, the Commissioner may appoint a seven member appeal committee to hear disputes and to recommend resolution. He must then make a final decision on the appeal. While the appeal is being considered, the rate which the Commissioner has determined remains in effect.

As attorney for a number of nursing homes whose rates for medical assistance recipients are set by the Department, you may have occasion to contact department employees, including the Commissioner, Deputy Commissioner and Deputy and Assistant Attorneys General for Welfare, in connection with the rates to be set for those facilities. Such contact may take place both before and after the Commissioner makes his initial rate determination.

You then ask the following:

QUESTIONS

1. Must you register and report as a lobbyist because of any communications with Department employees which occur before the Commissioner makes his initial rate determination?

2. Must you register and report as a lobbyist because of any communications with Department employees in connection with informal resolution of a rate dispute or formal appeal of a rate determination?

OPINION

1. Minn. Stat. § 10A.01, subd. 11 (1974) includes in the definition of lobbyist "any person who is engaged for pay . . . for the purpose of attempting to influence legislative or administrative action by communicating with public officials . . ." Administrative action is defined as action of a nonministerial nature, which includes "making rules, regulations or other general policy and does not include the application or administration of those rules, regulations or policies in specific instances, except in cases of rate-setting, power plant siting, and others which the commission may specify," Minn. Stat. § 10A.01, subd. 14 (1974). While application of rules and regulations in specific instances is not within the general definition of administrative action, cases of rate-setting is not defined in the statute, nursing home rate-setting proceedings fall within the literal language of the statute. Therefore, communication with public officials in an attempt to influence their decisions in such cases constitutes lobbying.

The Commissioner, Deputy Commissioner and Deputy and Assistant Attorneys General are all public officials. Most other Department staff members are not public officials, and communication with them is not lobbying unless the person making the communication requests that the substance of the communication be transmitted to the public official for the purpose of influencing his decision. However, the filing of the financial report required by Department regulations, or the furnishings of a response to any additional requests for information, are not attempts to influence the Department's decision and therefore are not lobbying activities. Subject to the above qualifications, we answer your first question in the affirmative.

2. We answer your second question in the negative. Once the Commissioner has issued his rate determination, the rate-setting proceeding has ended. The Commissioner's decision has already been made and continues in effect. There is a formal appeals procedure analogous to contested case procedures in other state agencies. Since the similar procedures of other agencies are not included in the definition of administrative action, it is consistent to exclude nursing home rate appeal proceedings. Informal attempts to resolve disputes made in connection with those formal proceedings would therefore also be excluded.

Approved by the Minnesota State Ethics Commission on April 2, 1975.

MINNESOTA ETHICAL PRACTICES BOARD

ADVISORY OPINION NO. 33

January 5, 1977

Issued to:

James R. Habicht, Attorney
Minnesota Power and Light Company
30 West Superior Street
Duluth, Minnesota 55802

Syllabus

33. **Contested Case Hearing Representative**

A representative of a party to a contested case rate proceeding before a state hearing examiner is required to register and report as a lobbyist providing other qualifying requirements have been met.

TEXT

You have requested an advisory opinion from the Minnesota Ethical Practices Board based upon the following:

FACTS

As an attorney representing a public utility in contested rate proceedings held before a state hearing examiner, ordered by the State Public Service Commission, wherein the Public Service Commission will make the final determination, you ask the following:

QUESTION

Is a representative of a party to such a contested rate proceeding a lobbyist within the meaning of Minn. Stat. 10A.01, Subd. 11, as amended in 1976, of the Ethics In Government Act?

OPINION

Yes, if the individual is engaged for pay or is authorized to spend money and spends more than five hours in any month or more than $250.00 in a calendar year, not including travel expenses or membership dues, to influence legislative or administrative action by communicating with or urging others to communicate with public officials.

The representative is not exempt under the section of that statute which provides that a party or his representative is not a lobbyist when appearing in a proceeding before a state board, commission or agency unless the board, commission or agency is taking administrative action. It is the opinion of the Board that the exemption is not applicable here, because a contested case rate proceeding constitutes administrative action.

Minn. Stat. 10A.01, Subd. 2 (1974) as amended by Minn. Laws 1976, c. 470, s. 1, defines administrative action as follows:

> "An action by any official, board, commission or agency of the executive branch to make rules. 'Administrative action' does not include the application or administration of those rules, except in cases of rate setting, power plant siting and others specified by the board."

Rate setting by the Public Service Commission clearly falls within the statutory definition of administrative action. Therefore, communication with public officials in an attempt to influence such rate setting decision constitutes lobbying. The Public Service Commissioners, who make the ultimate rate setting decision, are public officials within the meaning of the Act. Since they base their decision on the record of the contested case hearing, any attempt to influence rate setting through an appearance at the contested case hearing is an attempt to influence their decision and constitutes lobbying.[1]

Approved by Minnesota State Ethical Practices Board on January 4, 1977.

1. This opinion is consistent with that portion of Advisory Opinion No. 15, in which the Board determined that once the Commissioner of Public Welfare has issued his rate determination, the rate setting proceeding has ended. If the rate determination is appealed, any attempt to influence that appeals proceeding is not lobbying. The situation you present does not involve an appeals proceeding, but the proceeding held for purposes of initially setting the rate.

ADVISORY OPINION NO. 47
Part-Time Hearing Examiners

Issued to:

Duane R. Harves, Chief Hearing Examiner
Office of Hearing Examiner
St. Paul, Minnesota 55155

Approved:

April 13, 1978

SUMMARY

47. Part-time Hearing Examiners in the office of Hearing Examiner are public officials as defined by Minn. Session Laws 1978, Chapter 463, Section 15. Therefore, the examiner is required to file a statement of economic interest.

TEXT

You have requested an advisory opinion of the Board based on the following:

> The office of Hearing Examiner has statutory authority to contract with qualified persons to serve as Hearing Examiners on a part-time basis and under a Professional-Technical Consulting Contract. We have several such individuals. Some of these individuals are attorneys who have their own law practice and we have two who are professors teaching administrative law at two of the law schools in this state. My question is whether or not these part-time Hearing Examiners would be required to file economic interest disclosure statements with your office. If it is determined that they should file, kindly notify me and I will provide you with a list of their names and addresses.

OPINION

Minn. Session Laws, 1978, Chapter 463, Section 15, provides that a public official means ". . . hearing examiner in the state Office of Hearing Examiners or Department of Economic Security . . ." Since the statute is written broadly to include any hearing examiner in the state Office of Hearing Examiner, it is the Board's opinion that part-time hearing examiners are public officials who are required to file a statement of economic interest.

MINNESOTA STATE ETHICAL PRACTICES BOARD

ADVISORY OPINION NO. 49
Dividends and Securities

Issued to:

David Beauchamp
1211 – 25th Avenue South
Moorhead, Minnesota 56560

Approved:

May 4, 1978

SUMMARY

49. A public official is not required to disclose dividends from securities as a source of compensation.

You have requested an advisory opinion from the Ethical Practices Board upon the following:

FACTS

As a public official as defined by the Ethics In Government Act, Minn. Stat. 10A.01, subd. 18 (C 463, 1978), you are required to submit a Statement of Economic Interest annually on April 15 of each year you remain in office. You ask the following questions:

QUESTIONS

1. If you disclose securities valued in excess of $2,500, as a security held, must you report any compensation of more than $50 in a month from the security as a source of compensation?

2. If the value of the security is less than $2,500, but you receive compensation of more than $50 in a month from such security, must you report the security as a source of compensation?

OPINION

1. No. EPB Rule 100 (f) defines compensation as:

   (f) Compensation

   (1) Compensation includes every kind of compensation for labor or personal services of every kind from any kind from any private or public employment, office, position, or occupation.

   (2) "Source of compensation" includes the name of the corporation, partnership or other entity from which the individual receives payment in compensation. An individual who is self-employed is required to list only the name of the proprietorship or description of the occupation in which the individual is self-employed (e.g., farming, practice of law as sole proprietor), and is not required to list the names of corporations, partnerships, or other entities making payments in compensation to the individual in his capacity as a self-employed individual.

   Therefore, dividends cannot be construed as compensation for labor or personal services.

2. No. EPB 100 (f) does not require you to disclose a security holding of $2,500 or less, even if you acquire more than a $50 dividend from the security within a month.

This opinion is based on existing rules. The rules are under revision by the Board due to the enactment of Minn. Session Laws 1978, Chapter 463; therefore, this opinion may be applicable only to this particular filing period.

Issued to:

Approved:

Commissioner Richard E. Kremer
Board of Hennepin County Commissioners
2400 Government Center
Minneapolis, MN 55487

August 15, 1980

RE: Economic Interest Disclosure - Hennepin County Public Official

ADVISORY OPINION #69

SUMMARY

69. An individual who holds a lease, as a security interest with a value in excess of $2,500 must disclose the interest on a statement of economic interest. The lessor is not disclosable. For purposes of Laws 1980, Chapter 362, section 13, subd. 2(b), a holder of securities is any individual having an ownership interest in any security or who is the trustee or beneficiary of a trust. A trustee of an association organized exclusively for social, religious, educational, medical, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, industrial development, trade or professional association purposes and not for pecuniary gain, no part of the net earnings of which inures to the benefit of any private stockholder or individual, does not have to report his trusteeship unless he receives compensation as a director, officer, member or employee in excess of $50 in any month. This opinion applies only to chapter 362, the Hennepin County Disclosure law.

FACTS

As a member of the Board of Hennepin County Commissioners you must register a Statement of Economic Interest with the County Auditor of Hennepin County.

QUESTIONS

1. Does the green sheet titled Statement of Economic Interest (ET-00015-01) Instructions for Completion have the force of law?

2. Under the definition of "Securities" given in 9 MCAR § 1.0109A, reference is made to any "lease". If leases are to be considered securities for economic interest disclosure purposes, does the term apply to both the lessor's and the lessee's interests? For example, would an apartment owner list each of his tenants?

3. Where the registrant is a trustee, but not the beneficiary of a trust, must the trust's securities be reported? For example, trustees of a church or trustees of aging parents?

OPINION

1. Inasmuch as the Statement of Economic Interest - Instructions for Completion are drawn from *Minn. Stats.* 10A.01 through 10A.10, and Rules 9 MCAR § 1.0100 through § 1.0111, they have the force of law for public officials and candidates for elective public offices enumerated in *Minn. Stat.* 10A.01, subd. 18(a)-(o).

Chapter 362 of the Hennepin County Disclosure Law gives the Board the power to issue advisory opinions in interpretation of the law. In the absence of written requests for advisory opinions, the Board has provided Hennepin County with the same instructions for their economic interest disclosure program as are used in the Board's program. The instructions do not have the force of law for office-holders or candidates for offices not listed under *Minn. Stat.* 10A.01, subd. 18; including, Hennepin County Commissioner, Hennepin County Attorney, Hennepin County Sheriff, Aldermen in Minneapolis, Councilmen in Bloomington, and Mayor in Minneapolis and Bloomington. This opinion applies only to Chapter 362, the Hennepin County Disclosure Law.

2. Rule 9 MCAR § 1.0109A includes in the definition of "Securities", "any ... lease ... in any corporation, partnership, trust, or other association." Since only a lessee can hold a lease in an association, it follows that by definition only he, and not the lessor, need disclose the lease interest.

3. A "Holder of Securities" is any individual having an ownership interest in any security or who is the trustee or beneficiary of a trust. Non-beneficiary trustees, as well as the trust beneficiaries, must disclose the name and address of, and type of security held in, any corporation, cooperative, partnership, or other association in which the trust he administers holds securities worth $2500 or more.

The Board has determined, however, that an exception will be made for trustees of associations organized exclusively for social, religious, educational, medical, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, industrial development, trade, or professional association purposes and not for pecuniary gain, no part of the net earnings of which inures to the benefit of any private stockholder or individual. As such, church trustees would not have to disclose the nature of the securities they hold in trust; however trustees of aging parents would have to disclose the name and address of, and type of security held in, any association in which the private trust holds securities worth $2500 or more.

Nevertheless, in the opinion of the Board a trustee of a nonprofit organization is a "director, officer, member, or employee" of an association and as such must disclose the name of the organization and the nature of his association if compensated in excess of $50 except for actual and reasonable expenses in any month, in accordance with Laws 1980, Ch. 362 § 13, subd. 1(b) and § 2, subd. 4, dealing with the reporting and definition of "Businesses with which he is associated" by Hennepin County officials.

PERTINENT STATUTORY AUTHORITY

Laws 1980, Ch. 362 § 13, subd. 1(b), § 2, subd. 4; *Minn. Stats.* 10A.01, subd. 4, 10A.01, subd. 18, 10A.09; Rule 9 MCAR § 1.0109 A and B.

STATEMENT OF COMPLIANCE WITH

RULEMAKING PROCEDURES

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

Douglas C. Blomgren

Special Assistant
Attorney General

Dated: 2-8-82