

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

Our File No. 843

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-23-82
DATE FOR REVIEW 9-1-82
DATE DUE 9-7-82

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

Approved 9-7-82 Disapproved _____ Returned to Agency 9-8-82

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

Date filed w/Secretary of State 9-7-82 Revisor approved 8/24/82 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 8.23.82 Date

_____ Notice of Intent to Solicit Outside Opinion SR Jan '79 SR July 81 ✓ and comments not submitted but see transmittal memo + Statement of Need

✓ Order for rulemaking
N/A date of Hearing

N/A Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency

✓ Affidavit of Mailing Notice or rulemaking
5.20.82 At least 30 days prior to ~~hearing~~/adoption
Additional Affidavit 5.21.82 ✓

✓ Mailing list Certificate

✓ Publication in State Register
5.31.82 At least 30/~~20~~ 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 See Order Adopting re minor changes.

N/A LCRAR Report or agency Affidavit

Certificate of Board's Resolution Adopting Rules

_____ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

_____ Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A 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: CLYDE E. ALLEN, JR.
Commissioner of Revenue

DATE: 9/7/82

ATTN: PATRICIA A. LIEN, Legal Research Atty.

FROM: TED A. MARTINEZ
Special Assistant
Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of a Rule of the Department of Revenue Relating to Subtraction for Interest on United States Government Obligations (13 MCAR Section 1.6007)

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;

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

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CENTENNIAL OFFICE BUILDING
SAINT PAUL, MINNESOTA 55145
PHONE: (612) 296-1022

August 23, 1982

Office of the Attorney General
G-25 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

Re: Review of Rule on Subtraction for Interest on United State Government Obligations

Dear Sir or Madam:

In accordance with Minn. Stat. Section 15.0412, subd. 4h and 1 MCAR Section 1.203, I enclose the following documents for your review:

1. Rule as Adopted (original and 3 copies).
2. Order Adopting (two copies)
3. Written material received pursuant to the Notice of Intent to Solicit Outside Opinion, printed in State Register July, 1981, received prior to publication of the proposed rule.
4. Order for Notice of Intent to Adopt a Rule Without a Public Hearing.
5. Notice of Intent to Adopt a Rule Without a Public Hearing.
6. Affidavit of Mailing (Notice of Intent to Adopt a Rule Without a Public Hearing).
7. Certificate of Completeness and Accuracy (Mailing List Certificate).
8. Rule as Proposed.
9. Copy of the State Register, Volume 6, Number 48, May 31, 1982, in which the rule was published.
10. Statement of Need and Reasonableness.
11. Written comment on the proposed rule received by the Department of Revenue.
12. Statement of Compliance With Rulemaking Procedure.
13. Notice of Submission to the Attorney General.

Please contact me if there are any questions.

Very truly yours,

Patricia A. Lien
Department Attorney
Legal Research

PAL:jw
Enclosures

AN EQUAL OPPORTUNITY EMPLOYER

AG copy.

Department of Revenue

Income Tax Division

Adopted Rule Relating to Subtraction for Interest on United States Government Obligations (13 MCAR S 1.6007)

Rule as Adopted

13 MCAR S 1.6007 Subtraction for interest on United States government obligations. Minn. Stat. S 290.01, subd. 20, clause (b)(1) allows an individual taxpayer, an estate, or a trust to subtract the amount of interest earned on certain obligations of the United States government from federal adjusted gross income. To qualify for this subtraction, the obligation must meet the following conditions:

A. The interest income on the obligation must have been included in federal adjusted gross income for the taxable year that the subtraction is claimed. If only a portion of the interest income on an obligation has been included in federal adjusted gross income, only the included portion may be subtracted.

B. The obligation must be an obligation of the United States of America, whether through an agency, authority, commission, or instrumentality of the United States, and must be exempt from state taxation under federal law. This means that the full faith and credit of the United States must be pledged to the payment of the underlying obligation.

per comment + Order Adopting

but see comment - perhaps still a problem

C. The obligation must be in writing, bear interest, contain a binding promise by the United States to pay specified sums on specified dates, be specifically authorized by Congress, and be supported by a pledge of full faith and credit of the United States. Open accounts and other unsettled claims or demands are not obligations of the United States for purposes of this subtraction.

D. The obligation must be a direct and primary obligation of the United States. If the primary obligor is not the United States and the United States is merely an insurer or guarantor

and has only a secondary or contingent liability, the interest income is not exempt. If the primary obligor is not the United States but the United States pays all or part of the interest on the obligation, the interest income is not exempt. If the obligation was originally a private obligation and if the obligee later gives up all rights against the original obligor as part of an insurance endorsement or otherwise, and agrees to look only to the United States for payment of both principal and interest, then the obligation has become a primary obligation of the United States and the interest income from it is exempt from state taxation.

E. Exhibits.

1. Rule 13 MCAR S 1.6007 E., exhibit I contains a list of securities that have been determined to be exempt from Minnesota income tax and for which a subtraction is allowed.

2. Rule 13 MCAR S 1.6007 E., exhibit II contains a list of securities that have been determined to be taxable by the State of Minnesota and for which no subtraction is allowed.

3. Rule 13 MCAR S 1.6007 E., exhibits III and IV contain lists of various federal agencies or related organizations that either generally issue exempt obligations or generally issue taxable obligations. These lists are not intended to be conclusive on the taxable status of any particular obligation issued by or in conjunction with a listed agency or organization. Even though a listed agency generally only issues either exempt obligations or taxable obligations, it does not follow that each and every obligation carrying the name of that particular agency is either exempt or taxable. An agency may issue its own obligations that are exempt and also may handle private obligations that are not exempt. For example, the agency may administer, purchase and sell, insure, or guarantee an otherwise private obligation. Such action by the agency does not convert a private obligation into a direct and primary obligation of the United States of America and, therefore, does not make the private obligation tax exempt. The taxable status of each obligation must be determined separately in accordance

13 MCAR S 1.6007 E., EXHIBIT I

Exempt Obligations Listed by Name of Security

	Name of Security	Agency	Authority as amended through 1-1-82
1.	Banks for Cooperatives bonds	Banks for Cooperatives	12 USC S 2134
2.	Farmers Home Administration notes, as defined in Tobak v. Commissioner	Farmers Home Administration	31 USC S 742, Tobak v. Commissioner, docket number 2244 Minn. tax court (March 10, 1977)
3.	Consolidated collateral trust debentures	Federal Intermediate Credit Banks	12 USC S 2079
4.	Consolidated discount notes	Federal Home Loan Banks	12 USC S 1433
5.	Consolidated Federal Home Loan Bank notes	Federal Home Loan Banks	12 USC S 1433
6.	Consolidated Federal Farm Loan bond	Federal Land Banks	12 USC S 2055
7.	Federal Farm Credit Banks consolidated systemwide ~~bond~~ bonds and notes per Order Adopting	Federal Land Banks, Federal Intermediate Credit Banks	12 USC SS 2055, 2079, and 2134
8.	U.S. freedom shares	U.S. Treasury Department	31 USC SS 742, 753, and 757c
9.	U.S. savings bonds	U.S. Treasury Department	31 USC SS 742, 753, and 757c
10.	U.S. Treasury bills	U.S. Treasury Department	31 USC SS 742, 753, and 757c
11.	U.S. Treasury bonds	U.S. Treasury Department	31 USC SS 742, 753, and 757c

12. U.S. Treasury certificates of indebtedness	U.S. Treasury Department	31 USC SS 742, 753, and 757c
13. United States notes	U.S. Treasury Department	31 USC SS 742, 753, and 757c

13 MCAR S 1.6007 E., EXHIBIT II

Taxable Obligations Listed by Name of Security

	Name of Security	Agency	Authority as amended through 1-1-82
1.	Certificate of beneficial interest (CBI's)	Export-Import Bank of the U.S. (Eximbank)	12 USC SS 635 and 635d
2.	Eximbank debentures	Export-Import Bank of the U.S. (Eximbank)	12 USC S 635
3.	Participation certificates (PC's)	Export-Import Bank of the U.S. (Eximbank)	12 USC S 635
4.	Federal Assets Financing Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
5.	Federal Assets Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c), 1721, and 1723 c
6.	GNMA mortgage-backed bonds	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
7.	GNMA pass-through securities	Government National Mortgage Association	12 USC SS 1717(c) and 1721

	(GNMA)	
8. Government Mortgage Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
9. National Government Securities Trust	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
10. Mortgage participation certificates (PC's)	Federal Home Loan Mortgage Corporation	12 USC SS 1452(d) and 1455
11. Guaranteed mortgage certificates (GMC's)	Federal Home Loan Mortgage Corporation	12 USC SS 1452(d) and 1455
12. New communities debentures	Privately issued under HUD program	42 USC SS 3902 and 4514
13. Certificate of beneficial ownership (CBO's)	Farmers Home Administration	7 USC SS 1922-1928
14. SBIC debentures	Small Business Investment Companies	15 USC S 687(e)

13 MCAR S 1.6007 E., EXHIBIT III

Agencies Which Generally Issue Exempt Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agency must be separately analyzed according to A.-D.

Name of Instrumentality	Types of Securities	Authority as amended

			through 1-1-82
1.	Bank for Cooperatives	Notes, debentures, and other obligations issued by the instrumentality	12 USC S 2134
2.	Commodity Credit Corporation	Bonds, notes, debentures, and other similar obligations	15 USC S 713a-5
3.	Federal Deposit Insurance Corporation	All notes, debentures, bonds, or other obligations	12 USC S 1825
4.	Federal Farm Credit Administration	Obligations	12 USC SS 2055, 2079, 2134, and 2098
5.	Federal Home Loan Banks	Notes, debentures, bonds, and other obligations issued by the bank	12 USC S 1433
6.	Federal Intermediate Credit Banks	Notes, bonds, and debentures issued by the instrumentality	12 USC S 2079
7.	Federal Land Bank Associations	Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC S 2055
8.	Federal Land Banks	(a) Mortgages held by the instrumentality	12 USC S 2055
		(b) Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC S 2055
9.	Federal Savings & Loan Insurance Corporation	All notes, debentures, bonds, or other	12 USC S 1725(e)

	obligations	
10. General Insurance Fund of the Dept. of Housing and Urban Development, including	Debentures	
(i) Rental Housing Insurance		(i) 12 USC S 1713(i)
(ii) Rental Housing Project		(ii) 12 USC S 1747g(g)
(iii) War Housing Insurance		(iii) 12 USC S 1739(d)
(iv) Armed Services Housing		(iv) 12 USC S 1748b(f)
(v) National Defense Housing Insurance		(v) 12 USC S 1750c(d)
(vi) Neighborhood Conservation Housing Insurance		(vi) 12 USC S 1715k (h)(7)
11. Panama Canal bonds	Bonds	31 USC SS 744 and 745
12. Production Credit Associations	Notes, debentures, and other obligations issued by the instrumentality	12 USC S 2098
13. Puerto Rico	Bonds	48 USC S 745
14. Tennessee Valley Authority	Bonds	16 USC S 831n-4(d)
15. U.S. Postal Service	Obligations	39 USC S 2005(d)(4)
16. Virgin Islands	Bonds	48 USC S 1574

13 MCAR S 1.6007 E., EXHIBIT IV

Organizations Which Generally Issue Taxable Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agency must be separately analyzed according to A.-D.

	Name of Organization	Types of Securities	Authority as amended through 1-1-82
1.	Asian Development Bank	Obligations	22 USC SS 285-285t
2.	District of Columbia Armory Board	Obligations	31 USC S 742a(a)
3.	Environmental Financing Authority	Obligations	33 USC S 1281 note, P.L. 92-500 S 12(j)
4.	Export-Import Bank	Notes, debentures, bonds, or other obligations	12 USC SS 635-635n
5.	Farmers Home Administration	Obligations	7 USC SS 1922-1928
6.	Federal Home Loan Mortgage Corporation	Obligations	12 USC S 1455
7.	Federal National Mortgage Association (FNMA)	Obligations, mortgage-backed securities, sub-ordinated obligations, participation certificates (PC's)	12 USC S 1719(e)
8.	Government National Mortgage Association (GNMA)	Obligations, mortgage-backed securities,	12 USC SS 1717(c), 1721, and

	participation certificates (PC's)	1723c
9. Inter-American Development Bank	Obligations	22 USC SS 283-283z
10. International Bank for Reconstruction and Development (World Banks)	Obligations	22 USC SS 286-286r
11. International Monetary Fund	Obligations	22 USC SS 286-286r
12. Maritime Administration, Merchant Marine	Private obligations guaranteed by agency	46 USC S 1273
13. National Consumer Cooperative Bank	Obligations	12 USC S 3017(d)
14. New community development corporations	Bonds, debentures, notes, and other obligations issued on behalf of private new community developers and state land development agencies which are guaranteed by HUD	42 USC SS 3902 and 4514
15. Small Business Investment Companies	Debenture bonds, promissory notes, and other obligations	15 USC S 687(e)
16. Washington Metropolitan Area Transit Authority (WMATA)	Bonds	40 USC SS 651-671
17. Federal Financing Bank	Obligations issued by the bank	12 USC S 2283 and 31 USC S 742
18. Federal Reserve banks	Obligations	12 USC S 502 and 12 USC S

					531
19.	Student Loan Marketing Association		Bonds and notes	20 USC S 1087-2	per Order Adopting

APPROVED AS TO LEGALITY

Sept. 7 19 82

WARREN SPANNAUS, ATTORNEY GENERAL

BY Ted A. Markus

SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
SEP - 7 1982
Joan Anderson Growe
Secretary of State
3:24 PM

Rule as Proposed (all new material)

13 MCAR S 1.6007 Subtraction for interest on United States government obligations. Minn. Stat. S 290.01, subd. 20, clause (b)(1) allows an individual taxpayer, an estate, or a trust to subtract the amount of interest earned on certain obligations of the United States government from federal adjusted gross income. To qualify for this subtraction, the obligation must meet the following conditions:

A. The interest income on the obligation must have been included in federal adjusted gross income for the taxable year that the subtraction is claimed. If only a portion of the interest income on an obligation has been included in federal adjusted gross income, only the included portion may be subtracted.

B. The obligation must be an obligation of the United States of America, whether through an agency, authority, commission, or instrumentality of the United States. This means that the full faith and credit of the United States must be pledged to the payment of the underlying obligation.

C. The obligation must be in writing, bear interest, contain a binding promise by the United States to pay specified sums on specified dates, be specifically authorized by Congress, and be supported by a pledge of full faith and credit of the United States. Open accounts and other unsettled claims or demands are not obligations of the United States for purposes of this subtraction.

D. The obligation must be a direct and primary obligation of the United States. If the primary obligor is not the United States and the United States is merely an insurer or guarantor and has only a secondary or contingent liability, the interest income is not exempt. If the primary obligor is not the United States but the United States pays all or part of the interest on the obligation, the interest income is not exempt. If the obligation was originally a private obligation and if the obligee later gives up all rights against the original obligor as part of an insurance endorsement or otherwise, and agrees to

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REVISOR OF STATUTES
OFFICE BY:
mvh

look only to the United States for payment of both principal and interest, then the obligation has become a primary obligation of the United States and the interest income from it is exempt from state taxation.

E. Exhibits.

1. Rule 13 MCAR S 1.6007 E., exhibit I contains a list of securities that have been determined to be exempt from Minnesota income tax and for which a subtraction is allowed.

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3. Rule 13 MCAR S 1.6007 E., exhibits III and IV contain lists of various federal agencies or related organizations that either generally issue exempt obligations or generally issue taxable obligations. These lists are not intended to be conclusive on the taxable status of any particular obligation issued by or in conjunction with a listed agency or organization. Even though a listed agency generally only issues either exempt obligations or taxable obligations, it does not follow that each and every obligation carrying the name of that particular agency is either exempt or taxable. An agency may issue its own obligations that are exempt and also may handle private obligations that are not exempt. For example, the agency may administer, purchase and sell, insure, or guarantee an otherwise private obligation. Such action by the agency does not convert a private obligation into a direct and primary obligation of the United States of America and, therefore, does not make the private obligation tax exempt. The taxable status of each obligation must be determined separately in accordance with A.-D.

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13 MCAR S 1.6007 E., EXHIBIT I

Exempt Obligations Listed by Name of Security

	Name of Security	Agency	Authority as amended through 1-1-82
1.	Banks for Cooperatives bonds	Banks for Cooperatives	12 USC S 2134
2.	Farmers Home Administration notes, as defined in Tobak v. Commissioner	Farmers Home Administration	31 USC S 742, Tobak v. Commissioner, docket number 2244 Minn. tax court (March 10, 1977)
3.	Consolidated collateral trust debentures	Federal Intermediate Credit Banks	12 USC S 2079
4.	Consolidated discount notes	Federal Home Loan Banks	12 USC S 1433
5.	Consolidated Federal Home Loan Bank notes	Federal Home Loan Banks	12 USC S 1433
6.	Consolidated Federal Farm Loan bond	Federal Land Banks	12 USC S 2055
7.	Federal Farm Credit Banks consolidated systemwide bond	Federal Land Banks, Federal Intermediate Credit Banks	12 USC SS 2055, 2079, and 2134
8.	U.S. freedom shares	U.S. Treasury Department	31 USC SS 742, 753, and 757c
9.	U.S. savings bonds	U.S. Treasury Department	31 USC SS 742, 753, and 757c
10.	U.S. Treasury bills	U.S. Treasury Department	31 USC SS 742, 753, and 757c
11.	U.S. Treasury bonds	U.S. Treasury Department	31 USC SS 742, 753, and 757c

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12. U.S. Treasury certificates of indebtedness	U.S. Treasury Department	31 USC SS 742, 753, and 757c
13. United States notes	U.S. Treasury Department	31 USC SS 742, 753, and 757c

13 MCAR S 1.6007 E., EXHIBIT II

Taxable Obligations Listed by Name of Security

Name of Security	Agency	Authority as amended through 1-1-82
1. Certificate of beneficial interest (CBI's)	Export-Import Bank of the U.S. (Eximbank)	12 USC SS 635 and 635d
2. Eximbank debentures	Export-Import Bank of the U.S. (Eximbank)	12 USC S 635
3. Participation certificates (PC's)	Export-Import Bank of the U.S. (Eximbank)	12 USC S 635
4. Federal Assets Financing Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
5. Federal Assets Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c), 1721, and 1723 c
6. GNMA mortgage-backed bonds	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
7. GNMA pass-through securities	Government National Mortgage Association	12 USC SS 1717(c) and 1721

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

	(GNMA)	
8. Government Mortgage Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
9. National Government Securities Trust	Government National Mortgage Association (GNMA)	12 USC SS 1717(c) and 1721
10. Mortgage participation certificates (PC's)	Federal Home Loan Mortgage Corporation	12 USC SS 1452(d) and 1455
11. Guaranteed mortgage certificates (GMC's)	Federal Home Loan Mortgage Corporation	12 USC SS 1452(d) and 1455
12. New communities debentures	Privately issued under HUD program	42 USC SS 3902 and 4514
13. Certificate of beneficial ownership (CBO's)	Farmers Home Administration	7 USC SS 1922-1928
14. SBIC debentures	Small Business Investment Companies	15 USC S 687(e)

13 MCAR S 1.6007 E., EXHIBIT III

Agencies Which Generally Issue Exempt Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agency must be separately analyzed according to A.-D.

Name of Instrumentality	Types of Securities	Authority as amended

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

			through 1-1-82
1.	Bank for Cooperatives	Notes, debentures, and other obligations issued by the instrumentality	12 USC S 2134
2.	Commodity Credit Corporation	Bonds, notes, debentures, and other similar obligations	15 USC S 713a-5
3.	Federal Deposit Insurance Corporation	All notes, debentures, bonds, or other obligations	12 USC S 1825
4.	Federal Farm Credit Administration	Obligations	12 USC SS 2055, 2079, 2134, and 2098
5.	Federal Home Loan Banks	Notes, debentures, bonds, and other obligations issued by the bank	12 USC S 1433
6.	Federal Intermediate Credit Banks	Notes, bonds, and debentures issued by the instrumentality	12 USC S 2079
7.	Federal Land Bank Associations	Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC S 2055
8.	Federal Land Banks	(a) Mortgages held by the instrumentality	12 USC S 2055
		(b) Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC S 2055
9.	Federal Savings & Loan Insurance Corporation	All notes, debentures, bonds, or other	12 USC S 1725(e)

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	obligations	
10. General Insurance Fund of the Dept. of Housing and Urban Development, including	Debentures	
(i) Rental Housing Insurance		(i) 12 USC S 1713(i)
(ii) Rental Housing Project		(ii) 12 USC S 1747g(g)
(iii) War Housing Insurance		(iii) 12 USC S 1739(d)
(iv) Armed Services Housing		(iv) 12 USC S 1748b(f)
(v) National Defense Housing Insurance		(v) 12 USC S 1750c(d)
(vi) Neighborhood Conservation Housing Insurance		(vi) 12 USC S 1715k (h)(7)
11. Panama Canal bonds	Bonds	31 USC SS 744 and 745
12. Production Credit Associations	Notes, debentures, and other obligations issued by the instrumentality	12 USC S 2098
13. Puerto Rico	Bonds	48 USC S 745
14. Tennessee Valley Authority	Bonds	16 USC S 831n-4(d)
15. U.S. Postal Service	Obligations	39 USC S 2005(d)(4)
16. Virgin Islands	Bonds	48 USC S 1574

13 MCAR S 1.6007 E., EXHIBIT IV

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

Organizations Which Generally Issue Taxable Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agency must be separately analyzed according to A.-D.

	Name of Organization	Types of Securities	Authority as amended through 1-1-82
1.	Asian Development Bank	Obligations	22 USC SS 285-285t
2.	District of Columbia Armory Board	Obligations	31 USC S 742a(a)
3.	Environmental Financing Authority	Obligations	33 USC S 1281 note, P.L. 92-500 S 12(j)
4.	Export-Import Bank	Notes, debentures, bonds, or other obligations	12 USC SS 635-635n
5.	Farmers Home Administration	Obligations	7 USC SS 1922-1928
6.	Federal Home Loan Mortgage Corporation	Obligations	12 USC S 1455
7.	Federal National Mortgage Association (FNMA)	Obligations, mortgage-backed securities, sub-ordinated obligations, participation certificates (PC's)	12 USC S 1719(e)
8.	Government National Mortgage Association (GNMA)	Obligations, mortgage-backed securities,	12 USC SS 1717(c), 1721, and

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_____

	participation certificates (PC's)	1723c
9. Inter-American Development Bank	Obligations	22 USC SS 283-283z
10. International Bank for Reconstruction and Development (World Banks)	Obligations	22 USC SS 286-286r
11. International Monetary Fund	Obligations	22 USC SS 286-286r
12. Maritime Administration, Merchant Marine	Private obligations guaranteed by agency	46 USC S 1273
13. National Consumer Cooperative Bank	Obligations	12 USC S 3017(d)
14. New community development corporations	Bonds, debentures, notes, and other obligations issued on behalf of private new community developers and state land development agencies which are guaranteed by HUD	42 USC SS 3902 and 4514
15. Small Business Investment Companies	Debenture bonds, promissory notes, and other obligations	15 USC S 687(e)
16. Washington Metropolitan Area Transit Authority (WMATA)	Bonds	40 USC SS 651-671
17. Federal Financing Bank	Obligations issued by the bank	12 USC S 2283 and 31 USC S 742
18. Federal Reserve banks	Obligations	12 USC S 502 and 12 USC S

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OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES
PROPOSED RULES

4/20/82
RD174

Agency Department of Revenue

Division

Agency Contact Pat Lien Phone Number 296-1022

Title: Proposed Rule Governing the Subtraction from Federal Adjusted Gross Income for Interest on United States Government Obligations

Type of Rules: Permanent X Temporary ____

Incorporations by References: None

Rule Number Material Incorporated
Author
Title
Place
Publisher
Date
Cost
Places Available

See Additional references on back Yes ____ No X

Duplication of Statutory Language

Rule Number Statutory Section Duplicated

The attached rules are approved as to form.

Steven C. Cross
Revisor of Statutes

Name: Maryanne V. Hruby
Maryanne V. Hruby

Title: Assistant Revisor

Phone: 297-2957

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS. (13 MCAR SECTION 1.6007)

ORDER ADOPTING RULE

Notice of the Commissioner's intent to adopt the above-entitled rule without a public hearing was published in the State Register on May 31, 1982, and was sent by the United States mail to all persons on the list maintained by the agency pursuant to Minnesota Statutes Section 15.0412, Subdivision 4, on May 21, 1982. After affording interested and affected persons an opportunity to submit comments for thirty days after Notice, and receiving no written requests for a public hearing within the thirty-day comment period, I have reviewed and considered the comments, and have determined the need for and reasonableness of the above-captioned rule.

Three amendments are made to the rule as it was printed in the State Register.

1. The first sentence of paragraph B is amended to add the following language at the end of the sentence: "and must be exempt from state taxation under federal law." This addition is made on the basis of a written comment received from a person responding to the Notice of Intent to Adopt a Rule. The amendment serves to clarify the language of the proposed rule and does not result in a substantial change.

2. Paragraph E, Exhibit I, item 7, is amended to read: "Federal Farm Credit Banks consolidated systemwide bonds and

notes." After receipt of a written comment in response to the Notice of Intent to Adopt a Rule and review of the federal statutes, it is determined that the paragraph would be clarified by the addition of "notes." This additional language does not result in a substantial change in the rule as proposed.

3. An addition has been made to Paragraph E, Exhibit IV, which will become item 19:

Name of Organization	Types of Securities	Authority
Student Loan Marketing Association	Bonds and Notes	20 U.S.C. §1087-2

Item 19 is added as a result of a written comment received by the agency and cures a deficiency in the rule. This addition does not result in a substantial change in the rule as proposed.

NOW, THEREFORE, IT IS ORDERED that the rule identified as 13 MCAR Section 1.6007 is adopted this 23rd day of August, 1982, pursuant to authority vested in me by Minnesota Statute Section 290.52.

STATE OF MINNESOTA

Clyde E. Allen

CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS.
(13 MCAR SECTION 1.6007)

ORDER FOR NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

IT IS ORDERED THIS 14th day of May, 1982 that Notice of Intent to Adopt A Rule Without A Public Haaring in the above-entitled matter be given to all persons who have registered their names with the Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

Date: May 14, 1982

Arthur C. Roemer
by

CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS. (13 MCAR SECTION 1.6007)

NOTICE OF INTENT TO ADOPT A RULE WITHOUT A PUBLIC HEARING

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The Commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes § 15.0412, Subdivision 4h (1981).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the thirty-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 Statute, § 15.0412, subdivisions 4 - 4f.

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

Ms. Patricia A. Lien
Attorney, Legal Research
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of the proposed rule is in Minnesota Statutes, § 290.52. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Ms. Lien upon request. A copy of the proposed rule is also available from Ms. Lien.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final 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 rule should submit a written request to Ms. Lien.

The purpose of the proposed rule is to define which obligations are obligations of the United States and qualify for the subtraction from federal adjusted gross income provided for in Minnesota Statute, § 290.01, Subdivision 20(b)(1). Presently, no rule exists that governs the determination of which obligations qualify for the subtraction. The rule is proposed for the convenience of the taxpayer and the agency in deciding which obligations are exempt from Minnesota income tax.

Date: May 14, 1982

Arthur C. Roemer
by

CLYDE E. ALLEN, JR.
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF A RULE OF THE DEPARTMENT OF REVENUE
RELATING TO SUBTRACTION FOR INTEREST
ON UNITED STATES GOVERNMENT OBLIGATIONS.
(13 MCAR SECTION 1.6007)

AFFIDAVIT OF MAILING

Donna L. Walbridge, being first duly sworn, deposes and says:

That on the 21st day of May, 1982, at the city of St. Paul, county of Ramsey, state of Minnesota, she mailed the attached Notice Of Intent To Adopt A Rule by depositing in the United States Mail at said city of St. Paul, a true and correct copy thereof, properly enveloped, with first-class postage prepaid, to persons listed on the attached two sheets of typewritten names totalling 42 names.

Donna L Walbridge
DONNA L. WALBRIDGE

Subscribed and sworn to before me this
21st day of May, 1982
Patricia A. Lien

PATRICIA A. LIEN
NOTARY PUBLIC MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 19, 1987

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c/o Trust Department
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Mr. Gene Chaput
National City Bank of Mpls.
c/o Trust Department
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Mr. Carleton Fish
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Office of Revisor of Statutes
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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION
OF A RULE OF THE DEPARTMENT OF REVENUE
RELATING TO SUBTRACTION FOR INTEREST
ON UNITED STATES GOVERNMENT OGLIBATIONS.
(13 MCAR SECTION 1.6007)

AFFIDAVIT OF MAILING

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

That on the 20th day of May, 1982, at the city of St. Paul, county of Ramsey, state of Minnesota, she mailed the attached Notice Of Intent To Adopt A Rule by depositing in the United States Mail at said city of St. Paul, a true and correct copy thereof, properly enveloped, with first-class postage prepaid, to those persons, associations and other interested groups who as of this date have requested that their names be placed in our file for the purpose of receiving such notices of public hearings.

Mary Lacho

MARY LACHO

Subscribed and sworn to before me this
20th day of May, 1982

Patricia A. Lien

PATRICIA A. LIEN
NOTARY PUBLIC MINNESOTA
HENNEPIN COUNTY
My Commission Expires Nov 19, 1987

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS. (13 MCAR SECTION 1.6007)

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached thirty pages constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 20th day of May, 1982, have requested, pursuant to Minn. Stat. §15.0412, subd. 4, that their names be placed on file with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules on the subject captioned above.

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

By: Patricia A. Lien
PATRICIA A. LIEN, Attorney
Commissioner's Staff

MAILING LIST FOR OFFICIAL NOTICE OF AGENCY RULEMAKING #1

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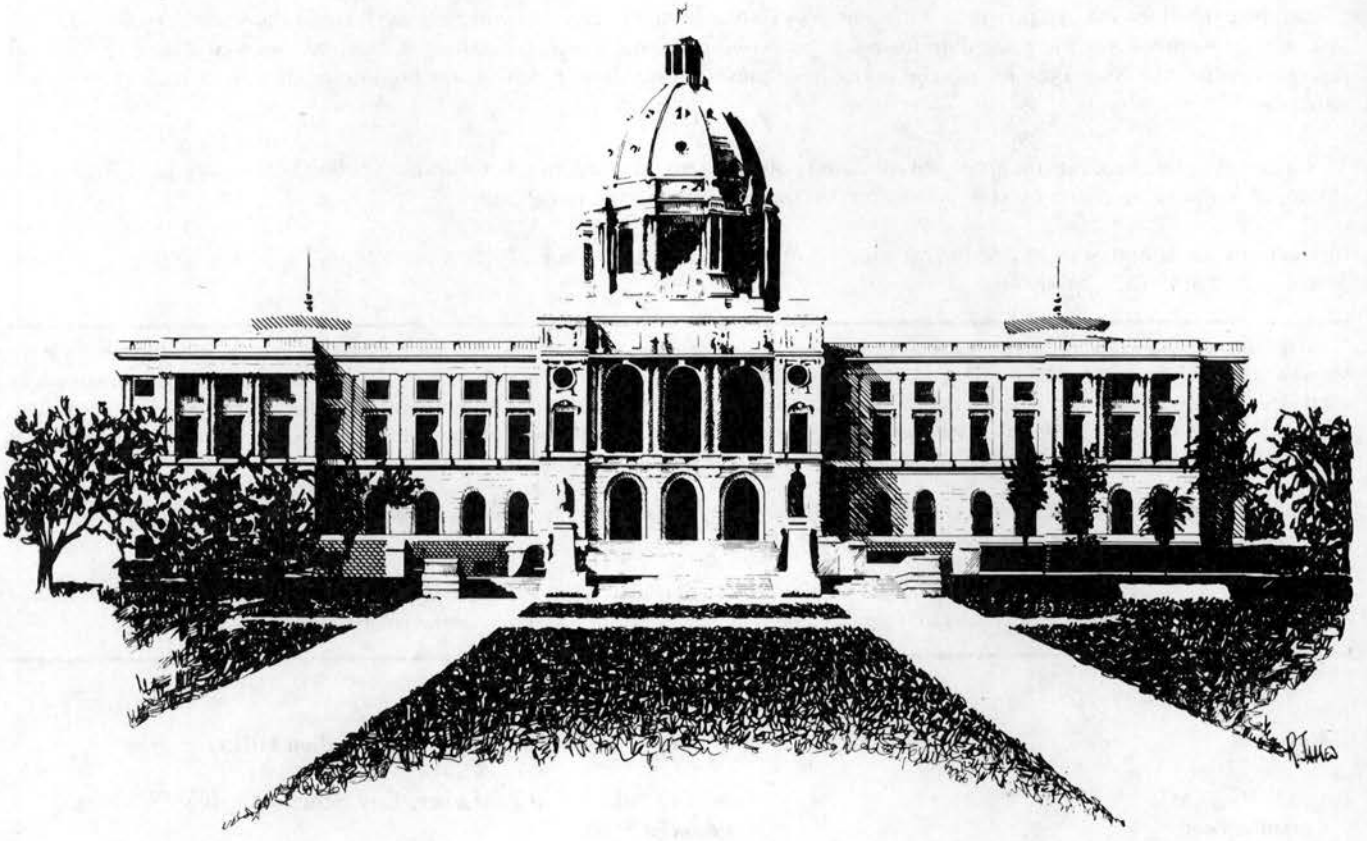
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STATE REGISTER

STATE OF MINNESOTA



VOLUME 6, NUMBER 48

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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		
49	Monday May 24	Friday May 28	Monday June 7
50	Monday May 31	Monday June 7	Monday June 14
51	Monday June 7	Monday June 14	Monday June 21
52	Monday June 14	Monday June 21	Monday June 28

*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.

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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*.

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CONTENTS

MCAR AMENDMENTS AND ADDITIONS

Inclusive listing for Issues 40-48 1996

PROPOSED RULES

Economic Security Department
Community Services and Training Division
Weatherization Assistance for Low-Income Persons Program [notice of intent to adopt rules without a public hearing] 1998

Energy, Planning and Development Department
Energy Division
Petroleum Products State Set-Aside Program 2005

Health Department
Health Systems Division
Criteria for Waivers of Certificate of Need Review Pursuant to Laws of Minnesota 1982, Chapter 614, § 6 2012

Revenue Department
Income Tax Division
Subtraction for Interest on United States Government Obligations [notice of intent to adopt a rule without a public hearing] 2014

Public Safety Department
State Fire Marshal Division
Notice of Withdrawal of Rules Governing Amendments to the Uniform Fire Code 2019

Public Welfare Department
Mental Health Bureau
Extension of Temporary Rule Concerning Grants for Services to Adult Mentally Ill Persons in Residential Facilities 2019

Public Welfare Department
Standards for the Licensing of Private Child-Care or Child-Placing Agencies [notice of hearing] 2019

ADOPTED RULES

Natural Resources Department
Commissioner's Order No. 2115 Relating to the Taking of Fish for Commercial Purposes and Permits for the Removal of Fish from Lake of the Woods, Superseding Commissioner's Order Nos. 1924 and 2070 2020

SUPREME COURT

Decisions Filed Friday, May 21, 1982
81-461 Jack Gartner, Appellant, v. Robert E. Eikill, et al. St. Louis County 2024
81-848 Luella Elizabeth Thompson, Appellant, v. The Estate of Raymond Paul Petroff and Marlene Campbell, authorized representative. Yellow Medicine County 2024
81-500 Nancy Carol Faus, petitioner, v. John Jay Faus Appellant. Hennepin County 2024
81-943/Sp. In Re the Marriage of: Debbie Peterson, etc., petitioner, v. Terry Peterson, Appellant. Itasca County 2024
51652 State of Minnesota v. Patrick E. Walker, Appellant. Todd County 2024
81-584 State of Minnesota v. William Pierce Burgess, Appellant. Ramsey County 2025
81-638/Sp. Louis N. Ritten & Company, Inc., Relator, v. The Commissioner of Revenue. Tax Court 2025
49881, 51995, 81-112 General Drivers, Local #346, for Itself and on Behalf of Dennis Murdock, Appellant, v. 49881 Aitkin County Board and Aitkin County Sheriff William Sobey, and Louis Chalich as Sheriff of Cass County, v. 51995 George Jacobs, Arbitrator, Cass County, Law Enforcement Labor Services, Inc., *et al.*, Appellants, and County of Pope, v. 81-112 Pope County Deputy Sheriff's Association, *et al.*, Gerald Moe, Sheriff of Pope County, Appellant. 49881—Aitkin County, 51995—Cass County, 81-112—Pope County 2025
81-323 Stillwater Leased Housing Associates, etc., *et al.* v. Kraus-Anderson Construction Company, (formerly Kraus-Anderson of Minneapolis, Inc.), Appellant. Hennepin County 2025
81-1262/Sp. Gerald George Smith, Appellant, v. State of Minnesota. Redwood County 2025
51026 Raymond O'Bert, Appellant, v. George Anderson, Individually and as Sheriff of Kanabec County, Minnesota, *et al.* Wright County 2025

STATE CONTRACTS

Administration Department
Contract Management Division
Extension of Time to File Proposals for Court Reporting and Transcription Services 2026

Commerce Department
Consumer Services Offices
Request for Proposals for Rate Design and Cost Studies for Northwestern Bell Telephone Company 2026

State University System
Request for Proposals for Survey of Alumni and Employers 2026

OFFICIAL NOTICES

Agriculture Department
Agronomy Services Division
Notice of Special Local Need Registration for "Atroban Insecticide Ear Tags" 2027

State Department of Education
Instruction Division
Notice of Public Meeting 2027

Ethical Practices Board
1982 Campaign Expenditure Limits 2027

Ethical Practices Board
Notice and Order Granting the 1982 Minnesota Socialist Workers Campaign Committees Limited Exemption from Campaign Finance Disclosure 2028

Finance Department
Notice of Maximum Interest Rate for Municipal Obligations 2029

Pollution Control Agency
Air Quality Division
Application of Northern States Power Company for a Permit to Conduct a Trial Burn of Waste Oil Contaminated with Polychlorinated Biphenyls at its High Bridge Plant in St. Paul, MN [order for and notice of hearing] 2029

Transportation Department
Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed under Minn. Stat. § 169.832 2031

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
Issues 40-51, inclusive
Issue 52, cumulative for 1-52

The listings are arranged in the same order as the table of contents of the MCAR.

MCAR AMENDMENTS AND ADDITIONS

TITLE 1 CONSTITUTIONAL OFFICES

Part 2 Secretary of State's Office

1 MCAR §§ 2.0101, 2.0301, 2.0402, 2.0505-2.0506, 2.0601-2.0602, 2.0604, 2.0801, 2.1005, 2.2102-2.2105, 2.2109, 2.2112-2.2113, 2.2115, 2.4101-2.4105, 2.4201, 2.5101-2.5103, 2.5106, 2.5115-2.5116 (proposed) 1734
1 MCAR § 2.5119 (proposed repeal) 1734

TITLE 2 ADMINISTRATION

Part 1 Administration Department

2 MCAR § 1.6109 (adopted) 1934
2 MCAR §§ 1.90101-1.90103, 1.90202, 1.90204-1.90207, 1.90209-1.90210, 1.90301-1.90303, 1.90308-1.90310, 1.90402-1.90403, 1.90450, 1.90460, 1.90701-1.90702, 1.90720, 1.90803, 1.90902, 1.90904-1.90906 (proposed) 1881
2 MCAR §§ 1.90200, 1.90203, 1.90211-1.90213, 1.90300, 1.90304, 1.90306, 1.90400, 1.90500, 1.90600, 1.90700, 1.90800, 1.90900 (proposed repeal) 1881

TITLE 3 AGRICULTURE

Part 2 Animal Health Board

3 MCAR § 2.005 (proposed) 1904
3 MCAR § 2.057 (adopted) 1716
LSB 57 (repealed) 1716

TITLE 4 COMMERCE

Part 1 Commerce Department

4 MCAR §§ 1.9120 [Temp]-1.9135 [Temp] (adopted) 1747
4 MCAR §§ 1.9120-1.9136 (proposed) 1926

Part 2 Economic Development (now part of Energy, Planning & Development)

4 MCAR §§ 2.110-2.112 (adopted) 1934

Part 10 Cosmetology Board

4 MCAR §§ 10.004 [Temp], 10.021 [Temp], 10.026 [Temp], 10.028 [Temp], 10.041 [Temp] (adopted) 1788
4 MCAR §§ 10.002 [Temp], 10.009 [Temp]-10.010 [Temp], 10.042 [Temp]-10.043 [Temp], 10.066 [Temp] (proposed) 1905

Part 11 Electricity Board

4 MCAR § 11.004 (adopted) 1747

TITLE 5 EDUCATION

Part 1 Education Department

5 MCAR § 1.0221 (errata) 1726
5 MCAR §§ 1.0220-1.0222, 1.0224-1.0225 (adopted) 1789
5 MCAR § 1.0430 (adopted) 1934
5 MCAR § 1.0531 (adopted) 1789

TITLE 6 ENVIRONMENT

Part 1 Natural Resources Department

6 MCAR § 1.0094 (proposed) 1843

Part 2 Energy, Planning and Development Department

6 MCAR §§ 2.0108-2.0116 (proposed) 2005
6 MCAR §§ 2.1501-2.1512 (proposed) 1669
6 MCAR §§ 2.2301 [Temp], 2.2314 [Temp] (adopted) 1934
6 MCAR §§ 2.3101-2.3114, 2.3120-2.3121 (adopted) 1934
6 MCAR §§ 2.4011-2.4017 (adopted) 1860
6 MCAR §§ 2.4021 [Temp]-2.4034 [Temp] (adopted) 1716

Part 4 Pollution Control Agency

6 MCAR §§ 4.6101-4.6108, 4.6111-4.6112, 4.6121-4.6122, 4.6131-4.6136 (adopted) 1861

Part 8 Waste Management Board

6 MCAR §§ 8.201-8.218 (proposed) 1850

TITLE 7 HEALTH

Part 1 Health Department

7 MCAR §§ 1.044, 1.076, 1.392, 1.413, 1.701 (adopted) 1954

7 MCAR §§ 1.145-1.149 (adopted) 1812
7 MCAR §§ 1.235-1.239, 1.2391-1.2398, 1.242, 1.2441-1.2443, 1.246, 1.249-1.250, 1.2541, 1.262, 1.314-1.315 (adopted) 1956
MHD 326 (adopted) 1860

Part 8 Pharmacy Board
7 MCAR §§ 8.004, 8.010, 8.013, 8.026-8.027, 8.032, 8.040, 8.041, 8.049-8.054, 8.061, 8.071, 8.074, 8.088, 8.118 (proposed) 1769

TITLE 8 LABOR

Part 1 Labor and Industry Department
8 MCAR § 1.7001 (adopted) 1814

Part 4 Economic Security Department
8 MCAR § 4.0012 (proposed) 1998

Part 5 Workers Compensation Court of Appeals
8 MCAR §§ 5.001-5.014 (adopted) 1907
WC1-WC35 (repealed) 1907

TITLE 11 PUBLIC SAFETY

Part 1 Public Safety Department
11 MCAR §§ 1.0046-1.0048 (proposed) 1810
SafAd 49-50 (proposed repeal) 1810
11 MCAR § 1.0081 (errata) 1726
11 MCAR §§ 1.0080-1.0084 (adopted) 1789
11 MCAR §§ 1.2090-1.2094, 1.2117-1.2118, 1.2140-1.2141 (adopted) 1961
11 MCAR §§ 1.2116, 1.2125-1.2127, 1.2129-1.2130 (repealed) 1961
11 MCAR §§ 1.3060-1.3067 (proposed) 1931
11 MCAR §§ 1.4031-1.4038 (adopted) 1789
11 MCAR §§ 1.5101-1.5150 (proposed) 1781
Fire Mar 30-51, 4401-4404 (proposed repeal) 1781
11 MCAR §§ 1.5101-1.5150, Fire Mar 30-51, 4401-4404 (withdrawn) 2018
11 MCAR §§ 1.5201-1.5210 (proposed) 1709
Fire Mar 1-5 (proposed repeal) 1709

TITLE 12 SOCIAL SERVICE

Part 2 Public Welfare Department
12 MCAR § 2.001 [Temp] (extended) 2018
12 MCAR § 2.004 (proposed) 2018
12 MCAR § 2.010 (proposed) 1846
12 MCAR § 2.221 (adopted) 1748
12 MCAR §§ 2.490-2.494, 2.496, 2.498, 2.500, 2.503-2.504, 2.5081, 2.517-2.518, 2.578-2.579, 2.590-2.591, 2.623, 2.720-2.724, 2.729, 2.840-2.841 (adopted) 1963

TITLE 13 TAXATION

Part 1 Revenue Department
13 MCAR §§ 1.0001-1.0006 (adopted) 1816
13 MCAR §§ 1.0007 (repealed) 1816
13 MCAR § 1.6007 (proposed) 2014

TITLE 14 TRANSPORTATION

Part 1 Transportation Department
14 MCAR §§ 1.4010-1.4016 (proposed) 1711

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.

Department of Economic Security
Community Services and Training Division

Proposed Rules Governing Weatherization Assistance for Low-Income Persons Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the State Department of Economic Security proposes to adopt the above entitled rules without a public hearing. The commissioner 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, subdivision 4h (1980).

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

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

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

Alan Chapman, Supervisor
Weatherization Assistance Program
Department of Economic Security
690 American Center Bldg.
150 E. Kellogg Blvd.
St. Paul, MN 55101

Authority for the adoption of these rules is contained in Minnesota Statutes § 268.37. 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 Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101, Telephone No. 612/296-5744, 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 Roger Williams, Weatherization Assistance Program, Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota.

The rules proposed for adoption relate to the following matters:

Documents used in the administration of grants as listed in the rule.

Definitions as they apply to the rule and to grants are provided. The rule describes the process for the allocation of funds to grantees, the grant application process, weatherization priority work process, allowable expenditures and record keeping and reporting procedures. The rules also include a variance format to be used in relation to the allowable materials list.

Copies of this notice and the proposed rules are available and may be obtained by contacting Roger Williams, Weatherization Assistance Program. Department of Economic Security, 690 American Center Bldg., 150 E. Kellogg Blvd., St. Paul, Minnesota, 55101.

Rolf Middleton
Commissioner of State Department of Economic Security

Rule as Proposed (all new material)

8 MCAR § 4.0012 Weatherization assistance for low-income people.

A. Purpose. The purpose of this rule is to develop and implement a state weatherization assistance program under the authority of 'Minnesota Statutes,' section 268.37 in the dwellings of low-income persons in order both to aid those persons least able to afford higher utility costs and to conserve needed energy.

B. Administration of grants. Grants awarded under this rule shall be administered in accordance with the following:

1. "Uniform Administrative Requirements for Grants-in-Aid to State and Local Governments," issued as Office of Management and Budget Circular A-102 Revised and found in the 'Federal Register,' volume 42, pages 45828-45891 (1977).

2. "Grants and Agreements With Institutions of Higher Education, Hospitals, and other Nonprofit Organizations," issued as Office of Management and Budget Circular A-110 and found in the 'Federal Register,' volume 41, pages 32016-32037 (1976).

3. "Audit of Federal Operations and Programs," issued as Office of Management and Budget Circular A-73 and found in the 'Federal Register,' volume 43, pages 12404-12406 (1978).

4. "Cost Principles for State and Local Governments," issued as Office of Management and Budget Circular A-87 and found in the 'Federal Register,' volume 46, pages 9548-9554 (1981).

5. "Evaluation, Review and Coordination of Federal and Federally Assisted Programs and Projects," issued as Office of Management and Budget Circular A-95 and found in the 'Federal Register,' volume 40, pages 2052-2065 (1976).

6. "Notification to States of Grant-in-Aid Information," issued as United States Treasury Circular 1082 and found in the 'Federal Register,' volume 41, page 2652 (1976).

7. "Withdrawal of Cash From the Treasury for Advances Under Federal Grant and Other Programs," issued as United States Treasury Circular 1075 and found in the 'Code of Federal Regulations,' title 31, section 205 (1980).

C. Definitions. As used in 8 MCAR § 4.0012 the following terms have the meanings given them.

1. "Agency" means an organization that receives funds under this rule to operate a weatherization program.

2. "Assistant commissioner" means the Assistant Commissioner of the Division of Training and Community Services of the Department of Economic Security.

3. "Community action agency" means a private corporation or public agency as defined in 'Minnesota Statutes,' section 268.53, subdivision 1.

4. "Commissioner" means the Commissioner of the Department of Economic Security.

5. "Conditioned space" means an area inside the building envelope where the air temperature can be altered by a heating or cooling device.

6. "Cosmetic items" means items that only enhance the esthetic appearance of the property. Some examples of "cosmetic items" are finishes, decorative fenestration, and elevation materials such as aluminum siding, board and batten, clapboard, brick, stone, shakes and asphalt siding.

7. "Cost of employment" means compensation for services as defined in Office of Management and Budget Circular A-87, Attachment B, A.10, A.13, and A.14, as cited in B.4.

8. "Department" means the Department of Economic Security.

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9. "Dwelling unit" means a house or household. It includes stationary mobile homes, homes, apartments, and groups of rooms or single rooms occupied as separate living quarters.

10. "Elderly person" means a person who is 60 years of age or older.

11. "Eligible dwelling unit" means a dwelling unit that is occupied by a low-income family unit.

12. "Family unit" means all persons living together in a dwelling unit.

13. "Grantee" means an organization that receives funds under this rule to operate a weatherization program.

14. "Grantor" means the Division of Training and Community Services, Department of Economic Security, State of Minnesota.

15. "Handicapped person" means a person who, in the opinion of a qualified medical person, is permanently physically or mentally disabled. "Qualified medical person" means a qualified physician or chiropractor authorized to practice his profession in the State of Minnesota.

16. "Heating degree days" means the difference in temperature, in degrees Fahrenheit between the mean temperature for the day and 65 degrees Fahrenheit on any day when the mean temperature is less than 65 degrees Fahrenheit. Data for this factor is from 'Monthly Normals of Temperature, Precipitation and Heating and Cooling Degree Days, 1941-1970,' issued by the National Oceanic and Atmospheric Administration (United States Department of Commerce, 1973).

17. "Heating or cooling source" means a device that can raise or lower temperatures in a dwelling unit as part of the permanent heating, ventilating, and air conditioning system installed in the dwelling unit. It includes furnaces, heat pumps, stoves, boilers, heaters, fireplaces, air conditioners, fans, and solar devices.

18. "Independent contractor" means an entity that furnishes materials or provides labor or both in the weatherization of buildings of low-income persons.

19. "Indian tribe" means any tribe, band, nation, or other organized group or community of Native Americans, including any Alaska native village, or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act, 'United States Code,' title 43, sections 1601-1628 (1977 and Supplement III 1980), which:

a. is recognized as eligible for special programs and services provided by the United States to Native Americans because of its status as Native American; or

b. is located on or near a federal or state reservation or rancheria.

20. "Low-income" means having a total household income in relation to family size which:

a. is at or below 125 percent of the poverty level determined in accordance with criteria established by the Director of the Federal Office of Management and Budget in 'Code of Federal Regulations,' title 45, section 1060 (1981); or

b. is the basis for which cash assistance payments have been paid during the preceding 12-month period under Titles IV and XVI of the Social Security Act, 'Statutes at Large,' volume 49, page 620, chapter 531 (1935), codified in scattered sections of 'United States Code,' volume 42.

21. "Mechanical equipment" means control devices or apparatus that is primarily designed to improve the heating or cooling efficiency of a dwelling unit and that will be permanently affixed to an existing heating or cooling source. It includes a flue damper, clock setback thermostat, filter, and replacement limit switches.

22. "Multifamily dwelling unit" means a dwelling unit that is located in a structure containing more than one dwelling unit.

23. "Number of low-income, owner-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

24. "Number of low-income, renter-occupied dwelling units in the county" means the number of those dwelling units in a county as determined by the department.

25. "Repair material" means an item necessary for the effective performance or preservation of weatherization materials. "Repair material" includes lumber used to frame or repair windows and doors that could not otherwise be caulked or weather-stripped, and protective materials, such as paint, used to seal materials installed under this program. "Repair material" also includes furnace efficiency modifications limited to:

a. replacement burners;

b. devices for modifying fuel openings, including one-time replacement of furnace filters; and

c. electrical or mechanical furnace ignition systems that replace standing gas pilot lights.

26. "Regional clearinghouse" means the local Regional Development Commission that has the authority under Title IV of the Intergovernmental Cooperation Act of 1968, 'United States Code,' volume 42, sections 4231-4233 (1977), to review and comment with respect to projects funded by the federal and state governments.

27. "Rental dwelling unit" means a dwelling unit occupied by a person who pays periodic sums of money to occupy the dwelling unit.

28. "Separate living quarters" means those in which the occupants do not regularly live and eat with any other persons in the structure and which have either direct access from the outside of the building or through a common hall, or complete kitchen facilities for the exclusive use of the occupants. The occupants may be a single family, one person living alone, two or more families living together, or any other group of related or unrelated persons who share living arrangements.

29. "Single family dwelling unit" means a structure containing no more than one dwelling unit.

30. "State" means the State of Minnesota.

31. "Weatherization crew" means a group of weatherization laborers with a weatherization supervisor.

32. "Weatherization laborer" means a person who performs weatherization and repair activities necessary to complete work on eligible dwelling units. The work may include auditing, inspecting, delivery, and physical warehousing of weatherization materials and equipment.

33. "Weatherization project" means a project conducted in a single geographical area which undertakes to weatherize dwelling units that are thermally inefficient.

34. "Weatherization supervisor" means a person who inspects weatherization and repair activities and who is responsible for crew laborers' conduct, performance, and evaluation.

35. "Weatherization materials" means materials used to weatherize homes as defined in 'Code of Federal Regulations,' title 10, sections 456.101-456.914 (1980) amended by 'Federal Register,' volume 45, pages 63449, 63453, 63793 (1980).

D. Allocation of funds. The department shall allocate funds by county to eligible grantees with a demonstrated ability to administer and deliver weatherization services. The department shall determine whether or not a grantee has a demonstrated ability to administer and deliver weatherization services by taking into account the criteria in 3. Equal weight shall be given to each of the criterion. The department shall also allocate funds to eligible grantees who have been engaged in contracting for the construction and repair of real property.

1. All contracts between the state and a grantee will run for six months beginning July 1.

2. A grant shall be terminated if the department determines, after a public hearing conducted by the Office of Administrative Hearings, that the grantee has been ineffective in meeting the purpose of 'Minnesota Statutes,' section 268.37.

3. In making a determination under 2., the department shall evaluate the performance of the grantee and shall consider:

a. how quickly the weatherization project achieves the goals of 'Minnesota Statutes,' section 268.37;

b. whether the grantee has adhered to the plan submitted;

c. the quality of work performed through the grantee; and

d. the number, qualifications, and experience of staff members of the grantee.

E. Grant applications.

1. Applications to the department must contain a plan for the use of state funds which is submitted not later than 30 days after receipt of written notice from the department of the availability of funds for each year. The department shall review each timely application and if the submission complies with the applicable provisions of this rule, approve a final budget and issue a notice of grant award.

2. Each application must include:

a. the name and address of the grantee responsible for administering the program;

b. a financial schedule which indicates the monthly funding requirements based on projected production;

c. staffing patterns for all weatherization personnel to allow local program grantees to attain production goals;

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d. a written review of the plan by the regional clearinghouse; and

e. a statement by grantee ensuring that:

(1) no dwelling unit may be weatherized without written documentation that the unit is eligible for weatherization as provided in 8 MCAR § 4.0012;

(2) there is an outreach process used to obtain applications together with a description of that process; and

(3) it will establish a priority system for client applications.

3. Each application must state the minimum number of dwelling units to be completed by each grantee which are to be established by the department.

4. The grantee shall insure that no eligible dwelling unit receives more than $750 in material and that each dwelling unit is weatherized according to the priority list established by the department as found in Exhibit 8 MCAR § 4.0012 E.4.-1 or Exhibit 8 MCAR § 4.0012 E.4.-2. The department shall waive the $750 restriction for individual eligible dwelling units on written application documenting that the material costs on the applicant's dwelling exceed $750 and that all activities are eligible according to the agency's priority list. A waiver will be granted if the eligible dwelling exceeds 1500 square feet, or is two story, or requires more than 16 storm windows. If a waiver is granted, the total material expenditures may not exceed $1,000. For purposes of Exhibit 8 MCAR § 4.0012 E.4.-1 and Exhibit 8 MCAR § 4.0012 E.4.-2, home types have the following meanings:

a. "Type I" means homes with accessible attics;

b. "Type II" means homes with inaccessible basements;

c. "Type III" means homes with solid walls;

d. "Type IV" means homes with knee wall construction;

e. "Type V" means mobile homes.

Exhibit 8 MCAR § 4.0012 E.4.-1
WEATHERIZATION PRIORITIES FOR HOME TYPES I-IV 8-28-81

Weatherization deliverers will follow the priority list given below. If the particular activity listed currently exists or cannot be done, then an explanation must be made on the Retro Tech Job Sheet. If the client will not permit certain activities, then a statement with an explanation of the refusal to permit work, signed by the client, must be in the file.

Priorities

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.

2. Sill plates.

3. Foundation cracks.

4. Corners of buildings.

5. Under door sills.

6. Around all electrical & plumbing entrances.

7. All other infiltration areas.

B. Install hot water heater jackets except where a vent damper is present.

C. Insulate hot water pipes in accessible unheated space.

D. Weatherstrip movable windows and doors between conditioned and unconditioned space, including basement doors, attic scuttles and knee wall entrances.

E. Install gaskets on electrical boxes located on the interior side of exterior walls.

F. Replace or reset broken or loose glass.

II. Insulate Attic area

A. To R-38

B. Vents in accordance with FHA/HUD Minimum Property Standards. (No vapor barrier 1 to 150 ratio; with vapor barrier 1 to 300 ratio.)

C. Insulate attic scuttle doors to R-30; dam access area allowing entry to attic.

III. Insulate exterior walls to minimum of R-11.

IV. Insulate rim joist area to a minimum of R-19 with vapor barrier on warm side.

V. Insulate above-grade foundation walls to R-11. When insulation is applied to interior side of the foundation wall, extend insulation 2 feet below grade.

On crawl space, either insulate perimeter foundation wall to R-11 or floor to minimum of R-19 where freezing of pipes is not a factor.

VI. Install storm windows on single-glazed windows where storm windows are missing or existing storm windows are deteriorated beyond repair.

VII. Install new primary doors and windows only where old ones are beyond repair and cannot be weatherstripped.

Optional Items—Only after all of the required items are completed and if maximum material limit has not been reached.

I. Clock set back thermostats.

II. Storm doors.

Exhibit 8 MCAR § 4.0012 E.4.-2
MOBILE HOME PRIORITIES 8-28-81

Priorities for Type V Home

I. General Heat Waste

A. Caulk all exterior envelope infiltration points including:

1. Window and door frames.
2. Corners of buildings.
3. Under door sills.
4. Around all electrical and plumbing entrances.
5. Along all siding seams.
6. Around all "through the wall" accessories.

B. Install hot water heater jackets on electrical water heaters, or

Insulate water heater closet on gas and oil fired water heaters.

C. Insulate hot water pipes where accessible.

D. Replace all worn weather stripping on all moveable windows.

E. Weatherstrip all exterior prime doors.

F. Replace or reset broken or loose glass.

II. Insulate ceiling to maximum extent possible not to exceed R-38 and install at least two 8-inch round vents or equivalent.

III. Insulate floor to maximum extent possible not to exceed R-38.

IV. Install storm windows on those single glazed windows where the original storm is either missing or damaged beyond repair.

V. Install new prime doors and windows where existing ones are beyond repair.

Optional Items (Only after all required items are completed.)

I. Replace damaged or missing storm door.

II. Repair and tighten skirting—certify that permanent vent equaling 36 sq. in. per 25 lineal feet of skirt is installed if skirting repair is done.

F. Allowable expenditures. Expenditures shall be limited to:

1. the cost of purchase, delivery, and storage of weatherization materials;

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2. transportation of weatherization materials, tools, equipment, and work crews to a storage site and to the dwelling work site;

3. maintenance, operation, and insurance of vehicles to transport items in 2.;

4. maintenance of tools and equipment;

5. purchases of tools, equipment, and vehicles;

6. payments to an independent contractor for furnishing materials or providing labor or both in the weatherization of dwellings of low-income persons;

7. the cost of employment of weatherization supervisors;

8. the cost of employment of weatherization laborers;

9. the cost, not to exceed $150 per dwelling unit, for repair materials and repairs to the heating source necessary to make the installation of weatherization materials effective;

10. building permits where applicable;

11. the cost of liability insurance for weatherization projects for personal injury and property damage;

12. administrative expenses not to exceed 7.5 percent of each grantee's allocation;

13. weatherization of a building containing eligible rental dwelling units if at least 66 percent of the rental units in the building are eligible dwelling units and if the landlord or landlord's agent agrees in writing that the grantee may do the weatherization work and that rents will not be raised because of the weatherization work.

All purchases in 5. with an acquisition value of $300 or more must have written approval from the department. Purchasing must follow procedures outlined in Office of Management and Budget Circulars A-87, A-102, and A-110, as cited in B.

G. Unallowable expenditures. Grant funds may not be used for any of the following purposes:

1. to weatherize a dwelling unit that has been weatherized previously with grant funds from the United States Department of Energy or state assistance under 'Minnesota Statutes,' section 268.37 or 8 MCAR § 4.0012, unless the dwelling unit has been damaged by fire, flood, or an act of God, and repair of the damage to weatherization materials is not paid for by insurance;

2. to weatherize a dwelling unit that is vacant or designated for acquisition or clearance by a federal, state, or local government program within 12 months from the date weatherization of the dwelling unit would be scheduled to be completed; or

3. to purchase cosmetic items, remodeling items, or a heating or cooling source.

H. Oversight responsibility. The department shall supervise the projects of the grantees in the following manner:

1. At least once every three months the department shall monitor and evaluate the operation of projects carried out by the grantees receiving financial assistance under 8 MCAR § 4.0012 through on-site inspections, reviews of reports submitted by grantees and inspection of their books and records.

2. The grantee shall give the department access, for the purpose of audit and examination, to any books, documents, papers, information, and records of any weatherization project receiving financial assistance under 8 MCAR § 4.0012.

3. The commissioner shall conduct an annual audit of the records of a grantee receiving financial assistance under this rule.

I. Record keeping. Record keeping shall be in accordance with Office of Management and Budget Circular A-87 as cited in B.4. Each grantee receiving state financial assistance under this rule shall keep records the department requires, including records which fully disclose the amount and disposition by each grantee of funds received under 8 MCAR § 4.0012, the total cost of the weatherization project for which the assistance was given or used, including all sources and amounts of funds for the project or program, and other records the department deems necessary for an effective audit and performance evaluation.

J. Monthly reports. Each grantee receiving financial assistance under this rule shall submit a monthly program performance report and a monthly financial report or invoice to the department.

K. Granting process. When the department approves an application for a grant, it shall notify the grantee, in writing, of the approval. The department and the grantee shall sign a grant contract. The grant contract must specify what report requirements and other grant requirements must be met prior to any obligation of funds. Payments on grant contracts shall be made on the basis of grantee activity in the program. Cash on hand in excess of 30-day program requirements shall not be delivered. Payments to grantees shall be reviewed in comparison to expenditures to determine cash needs. Grantees shall report expenditures monthly on forms to be supplied by the department. The department shall require the grantees to project the next

month's cash needs on the previous month's expenditure report. If the grantee determines that it cannot fulfill its obligations under the plan in whole or part, the grantee may request an amendment or revision of the existing approved plan and resubmit a new plan or amendments within 30 days after the written notice of request for consideration. The request from the grantee must be in writing detailing its specific views with supporting data and arguments.

L. Variances.

1. The department shall grant a variance to the use of materials required by 8 MCAR § 4.0012 C.35. if it appears that:

a. product or test standards have changed; and

b. granting the variance would not adversely affect the public health or safety; and

c. granting the variance would not conflict with applicable building codes.

2. A grantee may submit to the department a written request for a variance documenting the need to include or exclude additional or existing materials required by 8 MCAR § 4.0012 C.35. If the agency initiates the variance as a result of a United States Department of Energy directive it will notify all grantees in accordance with 3. If the agency denies a request for a variance it shall notify the applicant, in writing, of the reasons for the denial.

3. The department shall notify all grantees, in writing, that a variance has been granted. Notification will be issued within 30 days after the granting of the variance.

Department of Energy, Planning and Development Energy Division

Proposed Rules Governing the Petroleum Products State Set-Aside Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Department of Energy, Planning and Development, hereinafter "department," intends to adopt the above-entitled rules without a public hearing. The commissioner has determined that the adoption of the rules will not be controversial and has elected to follow the procedures set out in Minn. Stat. § 15.0412, subd. 4h.

In its 1981 session, the Minnesota Legislature enacted the State Set-Aside Program, Laws of 1981, Chapter 356, Section 136, for the purpose of granting the department authority to exercise specific power to deal with shortages of refined petroleum products. The state set-aside program provides emergency petroleum supplies to relieve the hardship caused by shortages, thus minimizing the adverse impacts on the state's citizens and economy.

Temporary rules for the set-aside program were promulgated last year. Those rules were published in the *State Register* on November 23, 1981 (6 S.R. 1021-22). The department is now proposing rules which are very similar to those published on November 23, 1981. Copies of the rules as now proposed may be obtained by writing or calling Mr. Chris Gilchrist at the address or telephone number given below.

Please be advised that you have an opportunity for the 30-day period following publication of this notice and the proposed rules to submit comments in writing on the proposed rules and to object to the lack of public hearing on the proposed rules. Your written comments or request for hearings should be submitted to the Department of Energy, Planning and Development, Energy Division, c/o Chris Gilchrist, 980 American Center Building, 150 East Kellogg Boulevard, Saint Paul, Minnesota 55101. Unless seven or more persons submit written requests for a public hearing on the proposed rules within the 30-day comment period, no public hearing will be held. If seven or more persons request hearings on the proposed rules, the department will order public hearings in accordance with Minn. Stat. § 15.0412, subds. 4-4f. The department may modify the proposed rules if modification is supported by the data and views submitted in written comments and if no substantial change results from the modification.

If no hearing is required, and the department decides to adopt the rules as proposed, or as modified if written comments justify modification, the department will submit to the Attorney General for review of form, legality and substantial change the following documents: this notice with the rules as proposed, the rules as adopted, the order adopting the rules, any written comments received by the department, the department's statement of need and reasonableness supporting adoption of the

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rules, and any written comments received by the department in response to the earlier notices seeking outside opinions. Any person may request notification of the date the department makes the submission to the Attorney General. If you desire to be so notified you must inform the department in writing during the 30-day comment period.

The department has prepared a statement of need and reasonableness in support of the proposed rules which is also available from the department by writing to the address indicated above or calling (612) 296-1732.

The department's authority to promulgate the proposed rules can be found in Minn. Stat. § 116H.095.

Please be advised that Minnesota Statutes ch. 10A requires each lobbyist to register with the Ethical Practices Board within five days after he/she becomes a lobbyist. Lobbying includes attempting to influence rulemaking by communicating or using 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 exceptions. Questions should be directed to the Ethical Practices Board, 41 State Office Building, St. Paul, Minnesota 55155, Telephone (612) 296-5615.

Rules as Proposed (all new material)

6 MCAR § 2.0108 Authority. Rules 6 MCAR §§ 2.0108-2.0116 are adopted pursuant to Minn. Stat. § 116H.095, subd. 7.

6 MCAR § 2.0109 Purpose. Rules 6 MCAR §§ 2.0108-2.0116 govern the administration of the state petroleum product set-aside program. The state set-aside program provides emergency petroleum supplies to relieve the hardship caused by shortages of refined petroleum products or other emergencies. The purpose of the program is to minimize the adverse impacts of shortages and dislocations on the state's citizens and economy.

6 MCAR § 2.0110 Definitions.

A. Applicability. For the purposes of 6 MCAR §§ 2.0108-2.0116 the terms defined in this rule have the meanings given them.

B. Agriculture. "Agriculture" means certain activities in food production, processing, and sales as set out in the Standard Industrial Classification Manual, 1972 edition.

1. Included activities are:

a. activities listed in Division A, Agriculture, Forestry and Fishing, except those excluded by B.2.;

b. activities listed in Division D, Manufacturing, including grain and seed drying under Major Group 20, Food and Kindred Products, except those excluded by B.2.;

c. activities listed in codes 1475, 2141, 2411, 2421, 2873, 2874, 2875, 2879, and 5462; and

d. activities of potash mining listed in code 1474, dicalcium phosphate production listed in code 2819, farm to market hauling and log trucking listed in code 4212, and farm irrigation systems listed in code 4971.

2. Excluded activities are:

a. classification codes 0742, 0752, 0781, 0782, 0849, and non-food producing activities in codes 0271 and 0279 within Division A, Agriculture, Forestry, and Fishing; and

b. classification codes 2047, 2067, and 2085 within Major Group 20, Food and Kindred Products in Division D, Manufacturing.

C. Assignment. "Assignment" means an order by the office or the board to a prime supplier to release state set-aside product to a specific person.

D. Average product use. "Average product use" means the volume of product purchased during the same month last year.

E. Board. "Board" means the state set-aside appeals board.

F. Cargo and freight hauling. "Cargo and freight hauling" means hauling by any truck with a gross vehicle weight of 20,000 pounds or more and the shipping of goods by rail or water.

G. Commissioner. "Commissioner" means the Commissioner of the Minnesota Department of Energy, Planning and Development.

H. Current month requirement. "Current month requirement" means the volume of product needed by an end user to meet its supply need for the present month.

I. Decision. "Decision" means the ruling of the board about any appeal.

J. Department. "Department" means the Minnesota Department of Energy, Planning and Development.

K. Emergency services. "Emergency services" means activities immediately necessary to preserve the health or safety of

the citizens. Emergency services include: ambulance operation; city, county, state, and federal law enforcement; firefighting; mobilized national guard; and Red Cross services.

L. End user. "End user" means a final consumer of motor gasoline or middle distillate.

M. Energy production. "Energy production" means the manufacturing, processing, storage, or transportation of primary energy sources including electricity, natural gas, or petroleum products. Energy production excludes electric utilities whose needs for electrical energy can be met by purchase from members of the Mid-Continent Area Power Pool.

N. Essential services. "Essential services" means activities that provide continuing public health and safety services. They include: energy production; government services; maintenance vehicles for telecommunication services; postal services; sanitation services; and cargo and freight hauling.

O. Fuel coordinator. "Fuel coordinator" means city council or county board appointed individuals who verify state set-aside applications.

P. Government services. "Government services" include: activities of the judicial branch of government; jail and prison activities; meetings of elected political officials; the Division of Emergency Services Operations Center activities; hearings of mobilized Local Energy Conservation Boards; hearing of the Office of Administrative Hearings; and minimum services to provide Aid For Dependent Children, food stamps, Social Security Income, and Social Security checks.

Q. Middle distillates. "Middle distillates" means distillates obtained between kerosene and lubricating oil fractions in the refining process, including kerosene, number one and number two heating oil, and number one and number two diesel fuel.

R. Motor gasoline. "Motor gasoline" means a liquid mixture of hydrocarbons produced by the distillation of petroleum and used chiefly as a fuel in internal combustion engines.

S. Office. "Office" means the unit within the department responsible for the state set-aside program.

T. Officer. "Officer" means the individual who manages the office and who has authority to sign orders and documents for the state set-aside program.

U. Order. "Order" means a written document signed by the officer or the commissioner directing a prime supplier to release a product for an assignment. The office may telephone an order to the prime supplier, but the office shall promptly send the written order to the prime supplier's representative. The order is effective the day it is signed by the officer or commissioner.

V. Passenger transportation. "Passenger transportation" means conventional public transit service which operates on a fixed route and is available to the public for a fare, intercity bus transportation, van pools, subscription buses, tour and charter bus transportation, bus transportation of pupils for educational purposes, taxicabs licensed to conduct business in a municipality, rail passenger transportation, aviation ground support for regularly scheduled airlines, and special transportation services for the elderly or handicapped.

W. Person. "Person" means an individual and any legally existing business, government unit, or institution.

X. Plant protection. "Plant protection" means sufficient heat and power to keep from freezing pipes and damaging equipment.

Y. Postal service. "Postal service" means the delivery of first, second, or third class United States mail.

Z. Prime supplier. "Prime supplier" means the producer or supplier now or hereafter making the first sale of middle distillates or motor gasoline subject to the state set-aside program for consumption within the state.

AA. Prime supplier's representative. "Prime supplier's representative" means an individual who is authorized to act as liaison for the prime supplier in regular activities of the state set-aside program.

BB. Retail outlet. "Retail outlet" means a person who sells refined petroleum products from fixed tanks in a fixed location to end users in retail volumes.

CC. Sanitation services. "Sanitation services" means the activities of a person who supplies water to the public through public utilities, or collects or disposes gaseous, liquid, or solid wastes for the public.

DD. Service. "Service" means personal service or service by certified United States mail, postage prepaid, addressed to a person at the person's last known address.

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EE. Shortfall. "Shortfall" means the amount by which demand exceeds supply of crude oil or refined petroleum products during any month.

FF. State. "State" means the state of Minnesota.

GG. State set-aside. "State set-aside" means the amount of middle distillates or motor gasoline required to be made available by a prime supplier for utilization by the commissioner to resolve or mitigate emergencies or hardships due to shortages of supply.

HH. Supplier. "Supplier" means a person, other than the United States Department of Defense, who furnishes a refined petroleum product or crude oil to end users, other suppliers, wholesale purchaser-consumers, or wholesale purchaser-resellers.

II. Wholesale purchaser-consumer. "Wholesale purchaser-consumer" means an end user who purchases truck transport volumes of middle distillate or motor gasoline or both from a prime supplier.

JJ. Wholesale purchaser-reseller. "Wholesale purchaser-reseller" means a person who obtains petroleum product from a supplier and, without additional refining, sells or transfers the product to other purchasers.

6 MCAR § 2.0111 Prime supplier's obligations.

A. Monthly reports. Each prime supplier and producer or supplier making the first sale of propane or residual fuel oil within the state shall submit to the office a monthly report. The report shall be submitted in time to be received by the office each month no later than the 25th day of the month. The report shall include actual volumes of product sold in the previous month and the forecasted volumes of product to be delivered in the month following the month in which the report is submitted.

1. The following petroleum products shall be included in each monthly report:
   a. propane (consumer grade);
   b. motor gasoline (total);
   c. unleaded motor gasoline;
   d. kerosene;
   e. number 1 distillate;
   f. number 2 heating oil;
   g. diesel fuel;
   h. aviation gasoline;
   i. kerosene base jet fuel;
   j. naphtha base jet fuel;
   k. number 4 distillate;
   l. residual fuel oil with sulfur content equal to or less than one percent; and
   m. residual fuel oil with sulfur content greater than one percent.
2. The monthly reports shall be submitted in a standardized form approved by the office.

B. Prime supplier's representative. Each prime supplier shall report to the office the name, mailing address, and telephone number of a representative to act for the company regarding state set-aside. The duties of this representative shall include confirming monthly state set-aside volumes and accepting and processing state set-aside orders.

C. Nonpublic data. Reports submitted pursuant to this rule are nonpublic data in accordance with Minn. Stat. § 15.1682.

6 MCAR § 2.0112 Applications.

A. Who may apply. The following persons may apply for state set-aside if they are supplied middle distillate or motor gasoline or both directly by a prime supplier:

1. a wholesale purchaser-consumer or an end user seeking an assignment because of hardship or emergency; or

2. wholesale purchaser-resellers seeking assignments to supply their traditional wholesale-purchaser and end user accounts because of hardship or emergency.

B. Form of application. An applicant shall submit an application to the office for each month of hardship or emergency.

1. Except as provided in 2., applications shall be submitted in writing on forms approved by the office and signed by the applicant. Each application shall be verified and signed by a fuel coordinator attesting to the applicant's need for state set-aside

products. The office may request reasonable additional information from an applicant as needed to support the claim of hardship or emergency.

2. An application may be made orally when extraordinary circumstances make it impossible for the applicant to submit a written application. When an oral application is made, the fuel coordinator shall orally certify to the office that the applicant has an emergency or hardship situation. It is the responsibility of the applicant to insure both that the fuel coordinator contacts the office and that the written application is submitted within five days following the oral application. If the written application is not submitted within five days following the oral application, the office may refuse to accept future oral requests from that applicant.

6 MCAR § 2.0113 Evaluation criteria.

A. Middle distillates. The amount of middle distillates available for state set-aside is a volume equal to four percent of all prime suppliers' monthly supply estimate as stated in the monthly report filed pursuant to 6 MCAR § 2.0111. Applicants shall specify the gallons requested for each end user category and the reason for any need of volumes in excess of contract volumes. All assignments shall be based on the following priorities:

1. First priority middle distillate users include:

a. agriculture,

b. emergency services;

c. essential services;

d. heating customers with no alternate source of fuel, including hospitals, multi-unit housing, nursing homes, and residences;

e. major industrial and commercial activities whose continued operation is essential to the economic well-being of an area, including auto manufacturing and mining;

f. minimum plant and building protection; and

g. passenger transportation.

2. Second priority middle distillate users are heating customers on interruptible natural gas or another primary source of fuel. They include hospitals, multi-unit housing, nursing homes, and residences.

3. Third priority middle distillate users include government buildings, for heating; industrial and commercial activities not included in 1.; and schools.

4. Notwithstanding the priorities stated in 1. to 3., when an energy supply fuel oil emergency has been declared pursuant to Minn. Stat. § 116H.09 and 6 MCAR §§ 2.3101-2.3120, the priorities stated in 6 MCAR § 2.3111 shall apply.

B. Motor gasoline. The volume of motor gasoline available for state set-aside is a volume equal to three percent of all prime suppliers' monthly supply estimate as stated in the monthly report filed pursuant to 6 MCAR § 2.0111. The office may assign state set-aside motor gasoline volumes, when the applicant submits accurate and complete documentation, based on the following criteria.

1. Agricultural motor gasoline shortfall.

a. If the traditional supplier of an agricultural operation is unable to supply average motor gasoline use, the office may release amounts of state set-aside equal to the shortfall. The office may require the applicant to list the name, telephone number, and average motor gasoline use of the ultimate consumer.

b. If unusual weather conditions, natural disasters, or other extreme occurrences require more than average motor gasoline use, the office may make a state set-aside assignment to satisfy the greater requirement. In these cases, the applicant shall provide the office with the current monthly requirement and a justification for the request.

2. Community or area hardship.

a. If a supplier pullout produces a shortfall of motor gasoline in a local area, a wholesale purchaser-reseller in the area may apply for a state set-aside assignment. The applicant shall submit the name, address, and approximate gallons per month sold by the supplier who has pulled out.

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b. State set-aside may be assigned to alleviate a shortfall caused by the closing of a motor gasoline retail outlet in a community. The applicant must certify that residents would have to drive 20 or more miles round trip to obtain motor gasoline between the hours of 7:00 a.m. and 8:00 p.m. and provide the office with the name, address, and approximate gallons per month sold of all retail outlets which have opened or closed in the last calendar year within a ten-mile radius of the retail outlet requesting the state set-aside assignment.

c. A wholesale purchaser-reseller may receive an assignment on the basis of unusual growth if the applicant can demonstrate the existence of a shortfall because of a population increase in the community of over ten percent since 1980, new business in the community employing 500 or more employees since 1980, or relocation of a highway since 1980.

d. The office may assign state set-aside motor gasoline to a retail outlet that has historically remained open 24 hours a day and provided emergency road service.

3. The office may assign state set-aside motor gasoline to alleviate a shortage of motor gasoline due to a natural disaster including: floods; blizzards; fire; high winds; and tornadoes. Applicants shall state the nature of the disaster, the number of gallons sold, and to whom.

4. The office may assign state set-aside motor gasoline to meet the requirements of certain priority vehicles because of a shortfall. Applicants may apply for state set-aside to make up the difference between 100 percent of contract volume and the amount of supply currently available for the following types of priority vehicles: emergency services, essential services, and passenger transportation services.

6 MCAR § 2.0114 Application processing procedures.

A. Investigations. The office may initiate an investigation of any statement in an application and utilize in its evaluation of the application any relevant facts obtained by the investigation. The office may solicit and accept information from third persons relevant to any application, provided that the applicant is afforded an opportunity to respond.

B. Additional information. If the office determines that the application does not have sufficient information to support a decision, it may request the necessary additional information from the applicant. If the applicant repeatedly or willfully fails to supply additional information, the office may deny the application.

C. Processing. The office shall process applications each month for that month as follows:

1. Applications made by wholesale purchaser-consumers or by wholesale purchaser-resellers on behalf of wholesale purchaser-consumers or end users shall be processed within five working days after receipt.

2. Except when the applicant applies for state set-aside under 6 MCAR § 2.0113 B.2. or 3., applications that are made by or on the behalf of retail outlets shall be processed within five working days after the 15th day of the month.

3. Applications needing additional information shall be processed within five working days after receipt of the requested information.

D. Implementation. State set-aside assignments shall be implemented as follows:

1. Upon approval or modification of a request for state set-aside product, the office shall issue an order authorizing the assignment and serve it on the prime supplier from whom the state set-aside product is to be drawn.

a. An order issued by the office is effective the date it is signed by the officer or the commissioner, unless stayed, modified, suspended, or rescinded.

b. The order represents a call upon the prime supplier's state set-aside volume for the month of issuance even if delivery cannot be made until the following month.

c. The applicant shall arrange for receipt of the product within ten days from the date of the order.

2. Upon denial of an application, the office shall notify the applicant in writing, stating the reason for denial.

6 MCAR § 2.0115 Appeals process.

A. Applicability. Within ten days after the effective date of an order or the mailing date of a denial, any person aggrieved may appeal in writing to the commissioner. The written appeal shall include:

1. the reason for the appeal, including why the action by the office is deemed unwise or unjust;

2. the names, addresses, and telephone numbers of any persons whom it is believed might be injured by the order being appealed; and

3. the objective of the appeal, including reversal of the office action, modification of the action, or other remedies.

B. Commissioner's action. Within five days of receipt of the appeal, the commissioner shall:

1. set a hearing date at least ten days after initiation of the appeal;

2. serve all interested parties with a copy of the appeal and notice of the time and place of the hearing; and

3. issue a stay of the order if:

a. it appears probable that a party may suffer serious injury;

b. the order appears in conflict with Minn. Stat. § 116H.095, or other law; or

c. it appears probable that the board will grant the appeal.

C. State set-aside appeals board. The state set-aside appeals board consists of:

1. the commissioner or the director's designee, as chairperson;

2. the Commissioner of the Minnesota Department of Agriculture or designee thereof;

3. the Director of the Office of Consumer Services of the Minnesota Department of Commerce or designee thereof;

4. the Director of the Office of Emergency Services of the Minnesota Department of Public Safety or designee thereof; and

5. the Chairperson of the Minnesota Public Utilities Commission or designee thereof.

D. Decisions on appeals. The commissioner plus any two or more additional members may hear and decide appeals.

E. Informal disposition. At any time during the proceedings, the affected parties may conclude a mutually acceptable settlement of the appeal.

6 MCAR § 2.0116 Hearings.

A. Rights of the parties to the hearing. Affected parties have a right to:

1. a hearing before the board;

2. representation by an attorney;

3. present public evidence;

4. present witnesses who will testify under oath;

5. cross-examine witnesses; and

6. present rebuttal testimony and argument.

B. Rules of evidence.

1. The board shall admit and consider any reasonable evidence.

2. The board may exclude evidence it determines to be immaterial, irrelevant, or repetitious.

3. The board shall consider only the evidence which is entered into the public record of the hearing.

4. If the board desires to use technical facts within its specialized knowledge or publicly accepted facts that were not part of the evidence presented, the board shall notify the parties and give them an opportunity to rebut those facts. After the rebutting evidence is received and reviewed, the board shall review all the evidence when making the decision.

C. Public record of the hearing. The board shall prepare an official record which shall include:

1. all pleadings, motions, and intermediate rulings;

2. evidence received or considered;

3. a statement of facts not introduced in evidence but considered by the board and questions of those facts by affected persons including rebuttals and objections;

4. proposed findings and exceptions;

5. any decision, opinion, or report by the board; and

6. all memoranda or data submitted to the board by the office except advice of the office's attorney.

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D. Verbatim record. The board shall make a verbatim record of the hearing on recording equipment. Any party may request that a court reporter make the record, but that person shall pay the court reporter's fee. The board shall transcribe the record only upon request and only if the requestor agrees to pay for the cost of transcribing.

E. Hearing procedure.

1. If the appellant fails to appear, the board may declare a default and deny the appeal.

2. After opening the hearing, the chairperson shall read the rights of the parties to the hearing and the rules regarding evidence from A. and B. The chairperson shall also call for the parties to present any written matter that they wish to introduce as an exhibit and offer as evidence.

3. A representative of the office shall introduce the jurisdictional exhibits including the written appeal received by the commissioner, the notice of hearing, and any agreements entered into by the parties to the appeal.

4. The appellant may make an opening statement. Other parties may make statements in the order determined by the board.

5. After opening statements, the appellant may present its case. Other parties may present their cases in the order determined by the board.

6. The board shall determine the order for cross-examining witnesses.

7. The parties may next give oral or written rebuttal evidence and final arguments in the order determined by the board.

8. After final arguments, the board may: close the hearing; announce the time and place of the next hearing; or continue the hearing to some future time. The board shall give a five day written notice to all parties prior to holding a continued hearing.

F. Decorum. The chairperson may take action to insure the orderly conduct of public business at the hearing, as authorized by Minn. Stat. § 624.72, subd. 3.

G. Decision.

1. Within five days after the hearing is closed, the board shall issue its decision on the appeal.

2. The decision shall state that the denial or order of the office was modified, reversed, or upheld. If modified or reversed, the decision must state exactly what action is required. The decision shall state the conclusions of fact and law used to reach the ruling.

3. The commissioner shall, by the close of the working day following the decision, serve a copy of the decision on the parties to the hearing.

Repealer. Rules EA 101-107 of the Energy Agency are repealed.

Department of Health
Health Systems Division

Proposed Criteria for Waivers of Certificate of Need Review Pursuant to Laws of Minnesota 1982, Chapter 614, § 6

Notice is hereby given that the Minnesota Commissioner of Health proposes to adopt the above-entitled criteria without a public hearing. The procedure for adopting the criteria is prescribed in Laws of Minnesota 1982, Chapter 614, § 6.

This notice invites written comments on the proposed criteria for the new grounds for waivers of Certificate of Need Review which were added as clauses (c) and (d) to Minn. Stat. § 145.835, subd. 4 (1980) by Laws of Minnesota 1982, Chapter 614, § 6. These clauses authorize the commissioner to grant waivers if the construction or modification is exclusively for ambulatory care services or for an experimental or demonstration project. The proposed criteria set forth below would be used to determine when such waivers shall be granted.

Written comments to the proposed criteria must be submitted by July 1, 1982. Interested persons may submit written comments to Kent E. Peterson, Chief, Planning and Resources Development Section, Minnesota Department of Health, 717 Delaware Street Southeast, Minneapolis, Minnesota 55440. Questions may be directed to Mr. Peterson at (612) 296-5365.

Criteria and Procedures for Decisions on Granting Waiver of Certificate of Need Review for Ambulatory Care Services, Experimental Projects and Demonstration Projects.

A. A request for a waiver under Laws of Minnesota 1982, Chapter 614, § 6, clauses (c) or (d) must be submitted in writing by the applicant to the HSA in the form and according to the procedure specified in 7 MCAR §1.662 D.3., with the exception of the

requirement specified in 7 MCAR § 1.662 D.3.e. The request must also be accompanied by information relating to the criteria specified in paragraph C. that the applicant wishes to submit in support of the request.

B. The HSA shall not proceed with a recommendation until complete information is received. If any additional information is requested of an applicant, it must be relevant to the criteria specified in paragraph C.

C. The HSA recommendation and subsequent decision by the commissioner must be based upon evidence that the project for which a waiver is requested substantially fulfills the following criteria:

1. The project must be described in sufficient detail so that a determination of the appropriate type of state licensure and federal certification can be made. If state licensure is required, there must be reasonable assurance that the project would meet relevant licensure requirements. If federal certification is to be sought, there must be reasonable assurance that the project would meet the requirements.

2. The applicant must demonstrate how comparative price information on the services provided as a result of the project will be disseminated. Such information must be in a manner consistent with Laws of Minnesota 1982, Chapter 614, § 2.

3. The applicant must demonstrate that, by the end of the second full year of operation of the project, the prices for the services provided as a result of the project will be set at a level which will generate revenue sufficient to cover all expenses. This information on projected revenues and expenses must also demonstrate that any negative disparity between the expenses of providing services under the project and revenue derived from provision of those services must be obtained from profit, surplus, retained earnings, venture capital or the like, and not through direct subsidy of the project from charges to patients receiving health services other than those to be provided as a result of the project.

4. For proposed experimental or demonstration projects, the applicant shall provide evidence that the service to be provided or the method of providing the service:

a. Is a service or service delivery method which is not currently available to the patients proposed to be served by the project;

b. Is based upon successful past experience or upon a well defined theory related to the service or service delivery method, for which the experience or theory indicates a likelihood that improved economic efficiency or effectiveness will occur as a result of the project;

c. Has identified sources of funding, both capital and operating; and

d. Is accompanied by an ongoing evaluation method scientifically designed to provide conclusions about improvements in the cost and quality of, and access to, the services to be provided as a result of the project; such evaluation method must also identify qualified personnel to be responsible for designing and conducting evaluation of the project.

D. Within 30 days of the receipt of a request accompanied by complete information, the HSA must submit to the commissioner its recommendation for granting or denying the waiver or the HSA shall indicate that no recommendation to the commissioner will be made. If the HSA fails to act within 30 days or if the applicant feels that the HSA has requested information not reasonably related to the criteria in paragraph C, the applicant may petition the commissioner for the granting of the waiver without receipt of an HSA recommendation. Any recommendation must be accompanied by supporting rationale based on the criteria in paragraph C.

E. Within 30 days of receipt of the recommendation of the HSA, the commissioner must notify the applicant and the HSA of the decision.

F. Waivers granted under Laws of Minnesota 1982, Chapter 614, § 6 (c) or (d) are subject to the requirements of 7 MCAR § 1.662 D.8., 9., and 10., 7 MCAR §§ 1.664 D. and E., and Laws of Minnesota 1982, Chapter 614, § 7, subd. 4.

May 17, 1982

George R. Pettersen, M.D.
Commissioner of Health

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Department of Revenue
Income Tax Division

Proposed Rule Relating to Subtraction for Interest on United States Government Obligations (13 MCAR § 1.6007)

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt the above-entitled rule without a public hearing. The commissioner has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statute § 15.0412, subd. 4h (1981).

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

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the thirty-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 Statute § 15.0412, subds. 4-4f.

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

Ms. Patricia A. Lien
Attorney, Legal Research
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
Telephone: (612) 296-1022

Authority for the adoption of the proposed rule is in Minnesota Statutes § 290.52. A statement of need and reasonableness that describes the need for and reasonableness of each provision of the proposed rule has been prepared and is available from Ms. Lien upon request. A copy of the proposed rule is also available from Ms. Lien.

Upon adoption of the final rule without a public hearing, the proposed rule, this notice, the statement of need and reasonableness, all written comments received, and the final 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 rule should submit a written request to Ms. Lien.

The purpose of the proposed rule is to define which obligations are obligations of the United States and qualify for the subtraction from federal adjusted gross income provided for in Minnesota Statute § 290.01, subd. 20(b)(1). Presently, no rule exists that governs the determination of which obligations quality for the subtraction. The rule is proposed for the convenience of the taxpayer and the agency in deciding which obligations are exempt from Minnesota income tax.

May 14, 1982

Clyde E. Allen, Jr.
Commissioner of Revenue

Rule as Proposed (all new material)

13 MCAR § 1.6007 Subtraction for interest on United States government obligations. Minn. Stat. § 290.01, subd. 20, clause (b)(1) allows an individual taxpayer, an estate, or a trust to subtract the amount of interest earned on certain obligations of the United States government from federal adjusted gross income. To qualify for this subtraction, the obligation must meet the following conditions:

A. The interest income on the obligation must have been included in federal adjusted gross income for the taxable year that the subtraction is claimed. If only a portion of the interest income on an obligation has been included in federal adjusted gross income, only the included portion may be subtracted.

B. The obligation must be an obligation of the United States of America, whether through an agency, authority, commission, or instrumentality of the United States. This means that the full faith and credit of the United States must be pledged to the payment of the underlying obligation.

C. The obligation must be in writing, bear interest, contain a binding promise by the United States to pay specified sums on

specified dates, be specifically authorized by Congress, and be supported by a pledge of full faith and credit of the United States. Open accounts and other unsettled claims or demands are not obligations of the United States for purposes of this subtraction.

D. The obligation must be a direct and primary obligation of the United States. If the primary obligor is not the United States and the United States is merely an insurer or guarantor and has only a secondary or contingent liability, the interest income is not exempt. If the primary obligor is not the United States but the United States pays all or part of the interest on the obligation, the interest income is not exempt. If the obligation was originally a private obligation and if the obligee later gives up all rights against the original obligor as part of an insurance endorsement or otherwise, and agrees to look only to the United States for payment of both principal and interest, then the obligation has become a primary obligation of the United States and the interest income from it is exempt from state taxation.

E. Exhibits.

1. Rule 13 MCAR § 1.6007 E., exhibit I contains a list of securities that have been determined to be exempt from Minnesota income tax and for which a subtraction is allowed.

2. Rule 13 MCAR § 1.6007 E., exhibit II contains a list of securities that have been determined to be taxable by the State of Minnesota and for which no subtraction is allowed.

3. Rule 13 MCAR § 1.6007 E., exhibits III and IV contain lists of various federal agencies or related organizations that either generally issue exempt obligations or generally issue taxable obligations. These lists are not intended to be conclusive on the taxable status of any particular obligation issued by or in conjunction with a listed agency or organization. Even though a listed agency generally only issues either exempt obligations or taxable obligations, it does not follow that each and every obligation carrying the name of that particular agency is either exempt or taxable. An agency may issue its own obligations that are exempt and also may handle private obligations that are not exempt. For example, the agency may administer, purchase and sell, insure, or guarantee an otherwise private obligation. Such action by the agency does not convert a private obligation into a direct and primary obligation of the United States of America and, therefore, does not make the private obligation tax exempt. The taxable status of each obligation must be determined separately in accordance with A.-D.

13 MCAR § 1.6007 E., EXHIBIT I
Exempt Obligations Listed Name of Security

Name of Security	Agency	Authority as amended through 1-1-82
1. Banks for Cooperative bonds	Banks for Cooperatives	12 USC § 2134
2. Farmers Home Administration notes, as defined in Tobak v. Commissioner	Farmers Home Administration	31 USC § 742, Tabak v. Commissioner, docket number 2244 Minn. tax court (March 10, 1977)
3. Consolidated collateral trust debentures	Federal Intermediate Credit Banks	12 USC § 2079
4. Consolidated discount notes	Federal Home Loan Banks	12 USC § 1433
5. Consolidated Federal Home Loan Bank notes	Federal Home Loan Banks	12 USC § 1433
6. Consolidated Federal Farm Loan bond	Federal Land Banks	12 USC § 2055
7. Federal Farm Credit Banks consolidated systemwide bond	Federal Land Banks, Federal Intermediate Credit Banks	12 USC §§ 2055, 2079, and 2134
8. U.S. freedom shares	U.S. Treasury Department	31 USC §§ 742, 753, and 757c
9. U.S. savings bonds	U.S. Treasury Department	31 USC §§ 742, 753, and 757c
10. U.S. Treasury bills	U.S. Treasury Department	31 USC §§ 742, 753, and 757c
11. U.S. Treasury bonds	U.S. Treasury Department	31 USC §§ 742, 753, and 757c
12. U.S. Treasury certificates of indebtedness	U.S. Treasury Department	31 USC §§ 742, 753, and 757c
13. United States notes	U.S. Treasury Department	31 USC §§ 742, 753, and 757c

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13 MCAR § 1.6007 E., EXHIBIT II
Taxable Obligations Listed by Name of Security

Name of Security	Agency	Authority as amended through 1-1-82
1. Certificate of beneficial interest (CBI's)	Export-Import Bank of the U.S. (Eximbank)	12 USC §§ 635 and 635d
2. Eximbank debentures	Export-Import Bank of the U.S. (Eximbank)	12 USC § 635
3. Participation certificates (PC's)	Export-Import Bank of the U.S. (Eximbank)	12 USC § 635
4. Federal Assets Financing Trust participation certificates	Government National Mortgage Association (GNMA)	1717(c) and 1721
5. Federal Assets Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC §§ 1717(c), 1721, and 1723 c
6. GNMA mortgage-backed bonds	Government National Mortgage Association (GNMA)	12 USC §§ 1717(c) and 1721
7. GNMA pass-through securities	Government National Mortgage Association (GNMA)	12 USC §§ 1717(c) and 1721
8. Government Mortgage Liquidation Trust participation certificates	Government National Mortgage Association (GNMA)	12 USC §§ 1717(c) and 1721
9. National Government Securities Trust	Government National Mortgage Association (GNMA)	12 USC §§ 1717(c) and 1721
10. Mortgage participation certificates (PC's)	Federal Home Loan Mortgage Corporation	12 USC §§ 1452(d) and 1455
11. Guaranteed mortgage certificates (GMC's)	Federal Home Loan Mortgage Corporation	12 USC §§ 1452(d) and 1455
12. New communities debentures	Privately issued under HUD program	42 USC §§ 3902 and 4514
13. Certificate of beneficial ownership (CBO's)	Farmers Home Administration	7 USC §§ 1922-1928
14. SBIC debentures	Small Business Investment Companies	15 USC § 687(e)

13 MCAR § 1.6007 E., EXHIBIT III
Agencies Which Generally Issue Exempt Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agengy must be separately analyzed according to A.-D.

Name of Instrumentality	Types of Securities	Authority as amended through 1-1-82
1. Bank for Cooperatives	Notes, debentures, and other obligations issued by the instrumentality	12 USC § 2134
2. Commodity Credit Corporation	Bonds, notes, debentures, and other similar obligations	15 USC § 713a-5
3. Federal Deposit Insurance Corporation	All notes, debentures, bonds, or other obligations	12 USC § 1825
4. Federal Farm Credit Administration	Obligations	12 USC §§ 2055, 2079, 2134, and 2098
5. Federal Home Loan Banks	Notes, debentures, bonds, and other obligations issued by the bank	12 USC § 1433
6. Federal Intermediate Credit Banks	Notes, bonds, and debentures issued by the instrumentality	12 USC § 2079
7. Federal Land Bank Associations	Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC § 2055
8. Federal Land Banks	(a)Mortgages held by the instrumentality	12 USC § 2055
	(b) Notes, bonds, debentures, and other obligations issued by the instrumentality	12 USC § 2055
9. Federal Savings & Loan Insurance Corporation	All notes, debentures, bonds, or other obligations	12 USC § 1725(e)

10. General Insurance Fund of the Dept. of Housing and Urban Development, including	Debentures	
(i) Rental Housing Insurance		(i) 12 USC § 1713(i)
(ii) Rental Housing Project		(ii) 12 USC § 1747g(g)
(iii) War Housing Insurance		(iii) 12 USC § 1739(d)
(iv) Armed Services Hosuing		(iv) 12 USC § 1748b(f)
(v) National Defense Housing Insurance		(v) 12 USC § 1750c(d)
(vi) Neighborhood Conservation Housing Insurance		(vi) 12 USC § 1715k(h)(7)
11. Panama Canal bonds	Bonds	31 USC §§ 744 and 745
12. Production Credit Associations	Notes, debentures, and other obligations issued by the instrumentality	12 USC § 2098
13. Puerto Rico	Bonds	48 USC § 745
14. Tennessee Valley Authority	Bonds	16 USC § 831n-4(d)
15. U.S. Postal Service	Obligations	39 USC § 2005(d)(4)
16. Virgin Islands	Bonds	48 USC § 1574

13 MCAR § 1.6007 E., EXHIBIT IV

Organizations Which Generally Issue Taxable Obligations

NOTICE: This listing is only a guide and is not conclusive on the issue of the taxable status of an obligation. Each obligation issued by a listed agency must be separately analyzed according to A.-D.

Name of Organization	Types of Securities	Authority as amended through 1-1-82
1. Asian Development Bank	Obligations	22 USC §§ 285-285t
2. District of Columbia Armory Board	Obligations	31 USC § 742a(a)
3. Environmental Financial Authority	Obligations	33 USC § 1281 note, P.L. 92-500 § 12(j)
4. Export-Import Bank	Notes, debentures, bonds, or other obligations	12 USC §§ 635-635n
5. Farmers Home Administration	Obligations	7 USC §§ 1922-1928
6. Federal Home Loan Mortgage Corporation	Obligations	12 USC § 1455
7. Federal National Mortgage Association (FNMA)	Obligations, mortgage-backed securities, subordinated obligations, participation certificates (PC's)	12 USC § 1719(e)
8. Government National Mortgage Association (GNMA)	Obligations, mortgage-backed securities, participation certificates (PC's)	12 USC §§ 1717(c), 1721, and 1723c
9. Inter-American Development Bank	Obligations	22 USC §§ 283-283z
10. International Bank for Reconstruction and Development (World Banks)	Obligations	22 USC §§ 286-286r
11. International Monetary Fund	Obligations	22 USC §§ 286-286r
12. Maritime Administration, Merchant Marine	Private obligations guaranteed by agency	46 USC § 1273
13. National Consumer Cooperative Bank	Obligations	12 USC § 3017(d)
14. New community development corporations	Bonds, debentures, notes, and other obligations issued on behalf of private new community developers and state land development agencies wich are guaranteed by HUD	42 USC §§ 3902 and 4514

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15. Small Business Investment Companies	Debenture bonds, promissory notes, and other obligations	15 USC § 687(e)
16. Washington Metropolitan Area Transit Authority (WMATA)	Bonds	40 USC §§ 651-671
17. Federal Financing Bank	Obligations issued by the bank	12 USC § 2283 and 31 USC § 742
18. Federal Reserve banks	Obligations	12 USC § 502 and 12 USC § 531

Department of Public Safety
State Fire Marshal Division

Notice of Withdrawal of Rules Governing Amendments to the *Uniform Fire Code*

The rules proposed and published at *State Register,* Volume 6, Number 43, pp. 1781, April 26, 1982 (6 S.R. 1781) are withdrawn in their entirety by the Department of Public Safety. The department intends to propose for adoption more recent editions of the *Uniform Fire Code* and the *National Fire Codes,* and will publish such notice within the next few months.

Department of Public Welfare
Mental Health Bureau

Extension of Temporary Rule Concerning Grants for Services to Adult Mentally Ill Persons in Residential Facilities

Notice is hereby given that Temporary Rule 1 (12 MCAR § 2.001 Temporary), Grants for Services to Adult Mentally Ill Persons in Residential Facilities, effective December 30, 1981 and published in the *State Register* as adopted at Volume 6, Number 31, pages 1370 and 1371 is being continued in effect for an additional 180 days. This continuation is in accordance with Chapter 562, 1982 Laws of Minnesota.

The new expiration date for Temporary Rule 1 will be December 25, 1982, or the date Temporary Rule 1 is replaced by permanent rules; whichever date is earlier.

Department of Public Welfare

Proposed Rule Governing Standards for the Licensing of Private Child-Care or Child-Placing Agencies, (12 MCAR § 2.004)

Notice of Hearing

A public hearing concerning the above-entitled matter will be held in Room D, Veterans Service Building, 20 West 12th Street and Columbus Avenue, St. Paul, Minnesota 55155, on June 30, 1982 commencing at 10:30 a.m. and continuing until all interested persons have an opportunity to be heard. The proposed amendment may be modified as a result of the hearing process. Therefore, if you are affected in any manner by the proposed amendment, you are urged to participate in the rule hearing process.

Following the agency's presentation at the hearing, all interested or affected persons will have an opportunity to ask questions and make comments. Statements may be made orally and written material may be submitted. In addition, whether or not an appearance is made at the hearing, written statements or material may be submitted to Thomas J. Triplett, Hearing Examiner, Office of Administrative Hearings, 618 East 22nd Street, Minneapolis, Minnesota 55404, (612) 870-4700 either before the hearing or within five working days after the public hearing ends. The hearing examiner may, at the hearing, order that the record be kept open for a longer period not to exceed 20 calendar days. The rule hearing procedure is governed by Minn. Stat. §§ 15.0411-15.0417 and 15.052 and by 9 MCAR §§ 2.101-2.112 (Minnesota Code of Agency Rules). If you have any questions about the procedure, call or write the hearing examiner.

Notice is hereby given that 25 days prior to the hearing, a statement of need and reasonableness will be available for review at the agency and at the Office of Administrative Hearings. This statement of need and reasonableness will include a summary of all the evidence and argument which the agency anticipates presenting at the hearing justifying both the need for and the

reasonableness of the proposed rule or rules. Copies of the statement of need and reasonableness may be obtained from the Office of Administrative Hearings at a minimal charge.

Rule 4 governs the operation of agencies engaged in, or seeking to engage in, child placement or other child-welfare services in Minnesota and sets forth the requirements necessary for such agencies to be licensed.

Rule 4 contains the procedures for licensure of such agencies; organizational and administrative standards for such agencies; social service, health service and educational standards for such agencies, and standards for how expense reimbursement from families who receive children for adoption is handled.

The proposed amendment to Rule 4 is in D.6.b. The amendment makes specific that the case work supervisor in such an agency shall hold a master's degree in social work from an accredited school of social work.

The agency's authority to adopt the proposed rule is contained in Minn. Stat. § 245.802.

The adoption of this rule will not require expenditure of public monies by local public bodies totaling or exceeding $100,000 in either of the two years immediately following adoption of the rule.

Copies of the proposed rule are now available and at least one free copy may be obtained by writing to John Buzzell, Director, Division of Licensing, Department of Public Welfare, First Floor Centennial Building, St. Paul, Minnesota 55155, telephone (612) 296-2539. Additional copies will be available at the hearing. If you have any questions on the content of the proposed amendment, contact John Buzzell.

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

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

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

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

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

May 14, 1982

Arthur E. Noot
Commissioner of Public Welfare

Rule as Proposed

12 MCAR § 2.004 Standards for the licensing of private child-caring or placing agencies.

A.-C. [Unchanged.]

D. Organization and administration.

1.-5. [Unchanged.]

6. Qualifications of personnel:.

a. The executive or director shall have had training and responsible experience in work with children and their families and demonstrated executive ability.

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b. The case-work supervisor shall ~~be a graduate of~~ hold a master's degree in social work from an accredited school of social work ~~or have successfully completed two years in such a school~~. In addition, the case-work supervisor must have had a minimum of two years experience in a family and children's agency, or in a children's agency, as a case worker or case-worker supervisor. In agencies not having a case-work supervisor, the executive or case worker shall meet these qualifications.

c. Case workers shall be at least college graduates.

d. Where an agency currently licensed does not meet these requirements, future changes in personnel shall conform to these requirements.

E.-I. [Unchanged.]

ADOPTED RULES

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

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

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

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

Department of Natural Resources

Commissioner's Order No. 2115 Relating to the Taking of Fish for Commercial Purposes and Permits for the Removal of Fish from Lake of the Woods, Superseding Commissioner's Order Nos. 1924 and 2070

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, do hereby prescribe the following regulations relating to commercial fishing and to the issuance of permits for the removal of fish from Lake of the Woods.

After having determined that it would be in the best interest of the natural resources of the State of Minnesota, I have in this order incorporated those suggestions to me from the negotiated agreement between sport fishing and commercial fishing interests that was consummated February 2, 1982 at 4 P.M. Those suggestions are as follows:

1. No commercial fishing within a two-mile corridor along the Minnesota, U.S.A.-Ontario, Canada, border from Pine Island, on the south to the southern boundary of the area known as Little Traverse Bay, on the north.

2. No commercial fishing in the area known as Little Traverse Bay during July and August. During the remainder of the commercial fishing season, the number of gill net fishermen shall be not more than two (2), who shall fish not more than 3,000 feet of gill net each. The aggregate maximum of gill net being fished shall at no time exceed 6,000 feet. Holders of current commercial fishing license numbers five (5) and fourteen (14) shall be the only gill net fishermen eligible to place gill nets in the waters of Little Traverse Bay.

3. The Commissioner will extend the commercial fishing season in Little Traverse Bay to November 15.

4. In the years 1982, 1983 and 1984 commercial gill net licenses will be transferable, but in no instance shall there be more than ten (10) nor more than 30,000 feet of gill net operating in Minnesota waters.

5. All other prior existing restrictions relating to closed areas, minimum depths, size limits, etc., will remain in force.

6. In 1985, the department will have a public meeting of interested parties and re-evaluate the status of fish population, catch, fish management and matters related thereto. After the meeting the Commissioner will determine what steps are necessary to further protect the natural resources of this state which might include the changing of commercial license practices. There is no intention as of now or in the future of establishing a priority in license rights among the ten gill net license holders themselves or their assignees, or an assurance that said licenses shall be reissued or renewed at the end of any license year.

7. Periodic public meetings with sport and commercial interest groups will be held in the interim to exchange information. Data collected by the department's lake studies and the intensive population structure study in Little Traverse Bay plus voluntary harvest figures provided by resorts and launch operators will be reported.

8. It is my intention that this order remain in effect for three (3) years unless I find it not to be in the best interest of the natural resources of the State of Minnesota.

NOW THEREFORE, the following regulations shall apply:

Section 1. SPECIES.

a. No fish shall be taken by commercial fishing or permit from Lake of the Woods except as provided in this order.

b. Except as provided under Section 7-L of this order, fish of the following species and length, fork length measure, may be taken by licensed commercial fishermen:

(1) walleyed pike, not less than 15 inches;

(2) great northern pike or pickerel, not less than 18 inches;

(3) sand pike or sauger and perch—any length;

(4) inland commercial fish (M.S. 102.285, Subd. 1)—any length.

c. All fish taken by commercial fishermen, or under permit, which are not within the provisions of this order shall be returned to the waters of the lake. Fish taken under this order, except inland commercial fish, shall be transported to the licensee's or permittee's regular fishing base with heads and skins intact.

Sec. 2. SEASON.

The commercial fishing season shall be restricted to June 1 through October 31, both dates inclusive. In Little Traverse Bay only, the season shall extend to November 15 inclusive.

Sec. 3. COMMERCIAL FISHING IS PROHIBITED:

a. Within 500 feet of the mouth of any stream;

b. Within two (2) miles of the outside end of the breakwater at the mouth of the Warroad River;

c. Within two (2) miles of the lakeside shoreline of Pine Island;

d. In Four Mile Bay and Zippel Bay;

e. Within an area bounded on the south by a line from Sugar Point in Section 17, Township 167 North, Range 33 West in Lake of the Woods County, easterly to Squaw Island Light in Canadian waters; on the east by the international boundary; on the north by a line from a point on the international boundary midway between Buckets Island and Magnuson Island, thence southeasterly to the easterly shore of Magnuson Island, thence southerly and westerly along said shore to the line between Section 23 and Section 24, Township 168 North, Range 34 West, thence south to the Shore of the mainland in Section 26, Township 168 North, Range 34 West; and on the west by the mainland back to Sugar Point;

f. Within a two-mile corridor west of the international boundary between Minnesota and Ontario extending from Pine Island on the south, to the southern boundary of the area known as Little Traverse Bay as defined in Sec. 4 on the north;

g. During the months of July and August in the area known as Little Traverse Bay.

Sec. 4. LITTLE TRAVERSE BAY

Is that area of Lake of the Woods bounded on the south by a line from Driftwood Point Light southeasterly to the western most tip of Garden Island; thence along the island shoreline to the eastern most tip of Garden Island; thence northeasterly to the northwest tip of North West Point of Big Island in Canadian waters, and bounded on the east by the international boundary, and bounded on the north by a line from Squaw Island Light in Canadian waters westerly to Sugar Point on the U.S. mainland, Township 167 North, Range 33 West in Lake of the Woods County, and bounded on the west by the mainland shoreline between Sugar Point and Driftwood Point Light.

Sec. 5. GEAR.

a. Mesh measurement for the purposes of these regulations shall mean the distance between the extreme opposite knots or

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corners of a single mesh, taken between the thumb and forefingers and applying enough pressure laterally to allow the opposite sides of the mesh to meet.

For the purposes of these regulations and of any other applicable laws or regulations, any entire net or lot of netting shall be deemed to be of the same mesh size as the majority of ten or more meshes in any part of the net or lot at least three meshes removed from the selvage or side lines selected at random and measured as herein prescribed by a conservation officer or other officer authorized to enforce the laws relating to wild animals.

b. Fyke and staked trap nets. No licensee shall operate more than ten (10) of either type and the aggregate total for both types shall not exceed eighty (80).

(1) Staked trap nets shall comply with the following requirements. The crib shall not exceed twenty-two (22) feet on any side with the top open and breaching the waters surface. The size of the mesh in the crib shall be not less than two and one-half (2½) inches or more than four (4) inches stretch measure. The lead shall not exceed 400 feet in length.

(2) Fyke nets shall comply with the following requirements. The size of the mesh in the crib shall be not less than two and one-half (2½) inches or more than four (4) inches, stretch measure. The wings shall not exceed 100 feet in length and the lead shall not exceed 300 feet in length. The hoops shall not exceed six (6) feet in height.

c. Submerged trap nets. No licensee shall operate more than eight (8) submerged trap nets and the aggregate total shall not exceed 160. Submerged trap nets shall comply with the following requirements: the heart and crib shall be of mesh size not less than two and one-half (2½) inches or more than three (3) inches, stretch measure. The height of any part of the heart, crib or lead shall not exceed twelve (12) feet. The length of the lead shall not exceed 300 feet.

d. Pound nets. No licensee shall operate more than six (6) pound nets and the aggregate total shall not exceed fifty (50). Pound nets shall comply with the following requirements. There shall be no limitation on the size of the crib. The mesh of the crib shall be of a size not less than two and one-half (2½) inches, stretch measure. The crib shall have an opening at the top breaching the waters surface. The lead shall not exceed fifty (50) rods in length.

e. Gill nets. No licensee shall operate more than 3,000 feet of gill net and the aggregate total shall not exceed 30,000 feet. Gill nets shall be not less than four (4) inch mesh, stretch measure and not more than 30 meshes in height when in operation.

Sec. 6. ADDITIONAL RESTRICTIONS FOR CERTAIN GEAR.

a. Pound, staked trap, and fyke nets shall have no depth limitation. They shall be restricted to an area defined by section, township and range displayed on the face of the license.

b. Submerged trap nets shall have no depth minimum in areas A and B at any time (see map attached), nor in areas C and D (see map attached) from October 15 to Ocober 31, both dates inclusive. In area D from June 20 to October 14, both dates inclusive, no portion of a net shall be in water less than 15 feet deep. Along the southern shoreline of area C from June 1 to October 14, both dates inclusive, no portion of a net shall be in water less than 15 feet deep. Portions of the lake closed to commercial fishing remain so.

c. In the area defined as Little Traverse Bay (Sec. 4) the number of gill net fishermen shall not exceed two (2)—license numbers 5 and 14. There shall be no depth restriction on gill nets set in this area. Each assigned fisherman shall fish not more than 3,000 feet of gill net and they are not restricted to Little Traverse Bay. Other gear may be fished in the area but not during the months of July and August.

d. Gill nets set in the area bounded on the north by the southern boundary of Little Traverse Bay, on the east by the international boundary corridor, on the south by the mutual boundary of Township 165 N., and Township 166 N., and on the west by shoreline (sandy beach) during the period June 1 to October 14, both dates inclusive, shall be set in water not less than twelve (12) feet deep. There shall be no depth restriction on gill nets set in this area during the period October 15 to October 31, both dates inclusive.

e. Gill nets set in Big Traverse Bay during the period June 1 to October 14, both dates inclusive, shall be set in waters not less than fifteen (15) feet. From October 15-31, both dates inclusive, there shall be no depth minimum.

f. The gill net season in Muskeg Bay west of a line from Buffalo Point Light, southeasterly to Willow Creek shall be June 20 to October 31, both dates inclusive. Gill nets set in this area shall be set in water not less than fifteen (15) feet from June 20-October 14, both dates inclusive. From October 15-31, both dates inclusive, there shall be no depth minimum.

g. No gill net or submerged trap net shall be placed in Northwest Angle Inlet west of a line from a point on the international boundary midway between Buckets Island and Magnuson Island; thence southeasterly to the easterly shore of Magnuson Island; thence southerly and westerly along said shore to the line between Section 23 and Section 24, Township 168 North, Range 34 West; thence south to the shore of the mainland in Section 26, Township 168 North, Range 34 West.

Sec. 7. OPERATIONS.

a. Trap nets, pound nets, submerged trap nets and fyke nets may not be set in strings of more than two (2) without authorization from the local conservation officer.

Gill nets may be set in connected strings of any number within the licensee's limit. Gill nets and submerged trap nets shall contain a buoy at each end of each net or string of nets, and each buoy shall be marked with a yellow or blaze orange flag displaying not less than one square foot of surface, rising not less than three feet above the water. Attached to the staff of each buoy shall be an identification tag. The tag shall be of metal or permanent material and the minimum size shall be two and one-half (2½) inches by five-eighths (⅝) inch. Each tag shall bear the operator's name and license number engraved upon it. Tags identifying gill net sets shall also have the length of the gill net, in feet, for each set. No gill net fisherman shall have more than six (6) sets.

b. Within ten days after the closing date of the commercial fishing season, each commercial fisherman shall remove from the lake all net stakes set by him.

c. No commercial fisherman shall use any type of net except as specified in his license, nor operate in any area except as designated in his license.

d. All nets shall be lifted and emptied of fish at least once in every 48-hour period, unless a longer period is granted by the commissioner or his authorized agent.

e. All fishermen required to make reports under the provisions of Sec. 98.51, Subd. 3, of the Minnesota Statutes shall report to the commissioner of natural resources on blanks to be furnished by him, accurate, detailed information regarding their activities, which shall include the number of pounds and varieties of fish taken, amounts returned to the water, and any other information pertaining to the commercial fishing activities required by the commissioner. Monthly reports must be submitted by the 10th day of the following month to: Area Fisheries Headquarters, Route 1, box 1193, Baudette, Minnesota 56623.

f. In issuing licenses for commercial fishing on Lake of the Woods for any year, priority shall be given to the holders of such licenses for the preceding year whose applications for new licenses are received at least 30 days before the opening of the fishing season herein prescribed. In case the holder of a license for commercial fishing hereunder shall surrender his license before the expiration of the season covered thereby, and shall endorse the application for a new license in lieu thereof made by a qualified applicant who has acquired the fishing equipment or facilities of such holder, the director of the division of fish and wildlife, in his discretion, with the approval of the commissioner, may issue such new license to such applicant. Except as otherwise hereinbefore provided, licenses shall be issued to qualified applicants in order of receipt of applications up to the maximum permissible under the provisions hereof. In case a licensee dies or surrenders or forfeits his license for any reason, no subsequent license shall be issued for the amount of gill nets previously authorized under such license, nor may any subsequent transfer to anyone take place, and such amount of gill nets shall be deducted from the maximum amount permitted for the lake.

g. In the event of a reduction in the aggregate amount of allowable feet of net or the elimination of any or all of the licenses available, nothing in this order shall give any priority among the current license holders or their assignees in any manner other than as is stated in provision f, nor is there any assurance that any license will be reissued or renewed.

h. No license to take fish commercially in Lake of the Woods, shall be issued to any person or member of his household or employee engaged in the business of conducting a summer resort. Also, no license to take fish with any type of net in Lake of the Woods, shall be issued to any person, firm or corporation holding a fish buyer's license or a fish peddler's license for any international boundary waters, nor shall such a fish buyer's or peddler's license be issued to any person, firm or corporation holding a license to take fish with any type of net in Lake of the Woods. For any one season a licensed fisherman shall be restricted to either a master or a helper Lake of the Woods commercial fishing license.

i. In case of the death of a licensed commercial fisherman during the fishing season, his legal representative or successor in interest shall succeed to the rights of the deceased license holder, and may continue operations under the license until the expiration thereof.

j. With the exception of submerged trap net licenses, which may be issued to holders of gill net licenses in lieu of licenses for gill nets, no person shall be licensed to fish with more than one type of gear.

k. Helper's licenses shall be transfered only upon written approval of an authorized conservation officer or other agent of

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.

the director of the division of fish and wildlife. No person shall be issued more than one helper's license and that license to be restricted to one specific commercial fishing license.

l. The director of the division of fish and wildlife or the regional administrator may issue permits for the removal of inland commercial fish at such time and under such conditions as he may deem necessary; and in addition, the director of fish and wildlife may issue experimental fishing permits under such conditions as he may deem desirable.

Sec. 8. Commissioner's Order Nos. 1924 and 2070 are hereby superseded.

Dated at Saint Paul, Minnesota, this 13th day of May, 1982.

Joseph N. Alexander
Commissioner of Natural Resources

SUPREME COURT

Decisions Filed Friday, May 21, 1982

Compiled by John McCarthy, Clerk

81-461 Jack Gartner, Appellant, v. Robert E. Eikill, *et al.* St. Louis County.

Ignorance on the part of all parties to a real estate transaction of a development restriction in a zoning ordinance may be considered a mutual mistake of fact justifying the rescission of the conveyance.

Reversed. Amdahl, C. J.

81-848 Luella Elizabeth Thompson, Appellant, v. The Estate of Raymond Paul Petroff and Marlene Campbell, authorized representative. Yellow Medicine County.

Minnesota's survival statute Minn. Stat. § 573.01 (1980), which provides that personal injury causes of action survive the death of the defendant only if based on negligence, strict liability, statutory liability, or breach of warranty, violates the equal protection clause of the Minnesota Constitution because no rational basis exists for the nonsurvivability of causes of action arising from intentional torts.

Because the purpose of punitive damages is only to deter and to punish persons who commit certain wrongful acts, punitive damages may not be recovered from the estate of a deceased tortfeasor.

Reversed and remanded. Amdahl, C. J.

81-500 Nancy Carol Faus, petitioner, v. John Jay Faus, Appellant. Hennepin County.

Dependents' claims for support or maintenance are not subject to the statutory exemption of firefighter's pensions from "garnishment, execution, or other legal process." Minn. Stat. § 69.51 (1980).

Trial court did not abuse its discretion by awarding homestead to respondent, nor did it exceed its statutory power, which permits the court to award, in a proper case, up to one-half of a party's non-marital property to the spouse in need.

Trial court did not abuse its discretion in awarding to respondent future increases or decreases in the value of appellant's vested pension units.

Trial court did not abuse its discretion in awarding maintenance.

Affirmed as modified. Amdahl, C. J.

81-943/Sp. In Re the Marriage of: Debbie Peterson, etc., petitioner, v. Terry Peterson, Appellant. Itasca County.

Amdahl, C. J.

51652 State of Minnesota v. Patrick E. Walker, Appellant. Todd County.

The defendant's arrest for theft held based on probable cause.

The prosecution of defendant for theft rather than for cattle rustling was proper.

A structure attached to a barn was a "building" as that term is used in the burglary statute.

The defendant was not prejudiced by the unintentional elicitation of evidence that he was given a *Miranda* warning.

The trial court did not err in admitting a police officer's opinion testimony that defendant's boots made footprints found at the scene of the crime.

Affirmed. Otis, J.

81-584 State of Minnesota v. William Pierce Burgess, Appellant. Ramsey County.

Evidence of appellant's participation in an aggravated robbery was sufficient to support a conviction.

The appellant was not prejudiced by admission of prior consistent statements of an accomplice which the accomplice made before trial but after a prior inconsistent statement.

The trial court properly imposed consecutive sentences on appellant who was convicted of multiple crimes against different persons.

Affirmed. Otis, J.

81-638/Sp. Louis N. Ritten & Company, Inc., Relator, v. The Commissioner of Revenue. Tax Court.

Commodities futures brokerage company that is incorporated under the laws of Minnesota, maintains an office in this state and derives most of its commissions from services provided to Minnesota customers is not engaged exclusively in interstate commerce and is therefore taxable pursuant to Minn. Stat. § 290.02 (1971).

Affirmed. Peterson, J.

49881, 51995, 81-112 General Drivers, Local #346, for Itself and on Behalf of Dennis Murdock, Appellant, v. 49881 Aitkin County Board and Aitkin County Sheriff William Sobey, and Louis Chalich as Sheriff of Cass County, v. 51995 George Jacobs, Arbitrator, Cass County, Law Enforcement Labor Services, Inc., *et al.*, Appellants, and County of Pope, v. 81-112 Pope County Deputy Sheriffs' Association, *et al.*, Gerald Moe, Sheriff of Pope County, Appellant. 49881—Aitkin County, 51995—Cass County, 81-112—Pope County.

Sheriffs are not employers under Minn. Stat. § 179.63, subd. 4 (1980) for the purpose of collective bargaining agreements negotiated pursuant to the Public Employment Labor Relations Act of 1971.

A sheriff's powers over the discharge from employment of deputies under Minn. Stat. § 387.14 (1980) are modified by Minn. Stat. § 179.63, subd. 4 (1980) and may be the subject of a collective bargaining agreement negotiated pursuant to the Public Employment Labor Relations Act of 1971.

Deputy Sheriffs appointed pursuant to Minn. Stat. § 387.14 (1980) who are also veterans are entitled to a veteran's preference hearing under Minn. Stat. § 197.46 (1980).

The temporary restraining order and permanent injunction issued in Case No. 51995 are vacated.

No unfair labor practices were committed by the parties in refusing to consent to arbitration pending a court determination of the validity of the collective bargaining agreements negotiated pursuant to the Public Employment Labor Relations Act of 1971.

Case No. 49881 is reversed, Case No. 51995 is reversed, and Case No. 81-112 is affirmed. Yetka, J.

81-323 Stillwater Leased Housing Associates, etc., *et al.* v. Kraus-Anderson Construction Company, (formerly Kraus-Anderson of Minneapolis, Inc.), Appellant. Hennepin County.

Application of the balancing test, as set forth in *Prestressed Concrete, Inc. v. Adolfson & Peterson, Inc.*, 308 Minn. 20, 240 N.W.2d 551 (1976), to the facts of this case results in the conclusion that arbitration should be compelled, particularly in view of this state's policies in favor of arbitration and where the dispute is clearly within the scope of arbitration.

Reversed and remanded for the issuance of an order to compel arbitration. Yetka, J. Took no part, Kelley, J.

81-1262/Sp. Gerald George Smith, Appellant, v. State of Minnesota. Redwood County.

District court properly denied petition seeking postconviction relief from 1970 conviction for third-degree murder.

Affirmed. Scott, J.

51026 Raymond O'Bert, Appellant, v. George Anderson, individually and as Sheriff of Kanabec County, Minnesota, *et al.* Wright County.

Per Curiam.

STATE CONTRACTS

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

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

Department of Administration Contract Management Division

Extension of Time to File Proposals for Court Reporting and Transcription Services

The due date for the receipt of final proposals for the above-captioned services is extended to 4:30 p.m. on June 4, 1982. The initial request for proposals was published on April 12, 1982 at 6 S.R. 1721-1722.

Department of Commerce Consumer Services Offices

Notice of Request for Proposals for Rate Design and Cost Studies for Northwestern Bell Telephone Company

Krista L. Sanda, Director of the Office of Consumer Services of the Minnesota Department of Commerce, is soliciting proposals from qualified consultants to perform an analysis of local exchange rate structures, service charges, cost of service evaluations, capital recovery, depreciation rates, migration strategy and related telephone rate design in connection with the petition of Northwestern Bell Telephone Company for authority to increase its rates by a total additional annual revenue of $89,974,000. Respondents may address one or more issues in this case. The petition is currently before the Minnesota Public Utilities Commission and a hearing will be held.

Final submission date: June 30, 1982.

Estimated cost: $2,000-$25,000 depending upon scope of proposal.

Contact by phone at (612) 296-6032 or in writing to:

Leonard A. Nelson, Manager
Residential Utility Consumer Unit
Office of Consumer Services
Minnesota Department of Commerce
162 Metro Square Building
7th and Robert Streets
St. Paul, MN 55101

State University System

Notice of Request for Proposals for Survey of Alumni and Employers

The State University System is requesting proposals for a survey of graduates and employers of graduates from Metropolitan State University. This request for proposal would include various types of information on Metro U graduates that would be beneficial in our major campaign. The study would also be used by various divisions within the university as reference for subsequent planning. The requested services are outlined in the Request for Proposal (RFP) Statement of Work. The formal RFP may be requested and inquiries should be directed to:

Dr. C. J. Carter
Metropolitan State University
121 Metro Square Building
St. Paul, MN 55101
Phone: (612) 296-4452

It is anticipated that the activities to accomplish this survey will not exceed a total cost to the State of $12,000. The deadline for submission of completed proposals will be the close at 4:30 p.m. on June 8, 1982.

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 Agriculture Agronomy Services Division

Notice of Special Local Need Registration for "Atroban Insecticide Ear Tags"

Pursuant to Minnesota Statutes § 18A.23, and 3 MCAR § 1.0338 B., the Minnesota Department of Agriculture on May 18, 1982, issued a Special Local Need (SLN) Registration for "Atroban Insecticide Ear Tags," manufactured by the Burroughs Wellcome Company, 3030 Cornwallis Road, Research Triangle Park, North Carolina 27709.

The Commissioner of Agriculture, based upon information in the application, has deemed it in the public interest to issue such a registration, and has deemed that the information in the application indicates that the pesticide does not have the potential for unreasonable adverse environmental effects.

This Special Local Need (SLN) Registration would permit the use of this product on dairy and beef cattle and calves to control horn flies, face flies, spinose ear ticks, and aid in the control of stable flies and house flies.

The application and other data required under Minnesota Statutes §§ 18A.22, subd. 2 (a-d), 18A.23, and 40 CFR 162.150-162.158, subpart B, relative to this registration (identified as SLN #82-0008), is on file for inspection at:

Minnesota Department of Agriculture
Agronomy Services Division
Pesticide Control Section
90 West Plato Boulevard
Saint Paul, Minnesota 55107
Telephone: (612) 296-8547

A federal or state agency, a local unit of government, or any person or group of persons filing with the Commissioner a petition that contains the signatures and addresses of 500 or more individuals of legal voting age has thirty (30) days to file written objections with the Commissioner of Agriculture regarding the issuance of this Special Local Need (SLN) Registration. Upon receipt of such objections and when it is deemed in the best interest of the environment or the health, welfare, and safety of the public, the Commissioner of Agriculture shall order a hearing pursuant to Minnesota Statutes, Chapter 15, for the purpose of revoking, amending, or upholding this registration.

May 18, 1982

Mark W. Seetin, Commissioner

State Department of Education Instruction Division

Notice of Public Meeting

The Minnesota Special Education Advisory Council will hold a two day meeting on June 7 and 8, 1982. The meeting is scheduled to begin at 9:00 a.m. on the 7th in the Walnut Room of the Capp Towers Best Western Hotel in Downtown St. Paul. Agenda items include: Proposed Staff/Student Ratio Rules; Development of TMR Criteria; Report on Discretionary Projects, and the SEAC End-Of-Year Report.

For additional information contact Barbara Burke, Special Education Section, at (612) 297-3620.

Ethical Practices Board

1982 Campaign Expenditure Limits

In accordance with Minn. Stat. §§ 10A.25, subds. 2 and 7, and 10A.255, the following campaign expenditure limits will be applicable in calendar year 1982.

OFFICE	ELECTION YEAR
Governor and Lt. Governor	$1,270,800
Attorney General	$ 211,800
Secretary of State, State Treasurer, State Auditor (each)	$ 105,900
State Senator	$ 31,770
State Representative	$ 15,885

Ethical Practices Board

Notice and Order Granting the 1982 Minnesota Socialist Workers Campaign Committees Limited Exemption from Campaign Finance Disclosure

Official Notice

Pursuant to Minn. Stat. § 10A.20, subds. 8 and 10, the Ethical Practices Board has granted a limited exemption from disclosure as set forth in its order adopted May 7, 1982. Minn. Stat. § 10A.20, subd. 10 provides that if the board receives a written objection from any party within 20 days after publication of its order in the *State Register*, the board shall hold a contested case hearing. Written objections shall be filed with the Ethical Practices Board, 41 State Office Building, St. Paul, MN 55155. Written objections must be submitted not later than 12 o'clock noon, on Monday, June 21, 1982.

Order

The application of the 1982 Minnesota Socialist Workers Campaign Committee, Registration Number 1-1348-0600, a principal campaign committee, and the 1982 Minnesota Socialist Workers Campaign Committee, Registration Number 2-0381-0509, a political party committee, for exemptions from the campaign financing disclosure provisions of Minn. Stat. § 10A.20, subd. 3(b) and (d) came duly before the Ethical Practices Board on May 7, 1982.

After having fully considered the material submitted by these committees, the Board makes the following:

FINDINGS

1. The pattern of ongoing harassment of members of the Socialist Workers Party noted in the Board's exemption granted in 1978 continues into the present.

a. On February 27 and March 2, 1982, a party member and his father were subjected to inquiries from a federal agency in St. Paul, Minn.

b. Repeated threats and violence toward, and vandalism and defacement of Socialist Workers Party offices in St. Paul and in Virginia, Minn. occurred from 1978 to March, 1982. In St. Paul on December 26, 1978, June 7, 1979, and April 18, 1981, vandalism occurred at Party offices. Bomb threats were made by telephone on December 2, 1980, and April 11, 1981. In Virginia on May 16 and 17, 1980, and March 13 and 27, 1982, vandalism occurred at Party offices, and in June, 1980, the home of a Socialist Workers Party candidate for U.S. Representative was defaced in Virginia.

c. Threats were made against the life of a Socialist Workers Party candidate for U.S. Representative in Virginia, May 15 to 31, 1980. In Virginia Socialist Workers Party members have been subjected to physical violence (August 16, 1980), harassment by hostile fellow workers (summer and fall, 1980; July 18, 19, and 21, 1980; October, 1981 to the present), and threat of loss of employment (March 31 and April 20, 1982).

d. Fear of public disclosure of identification with the Socialist Workers Party continues to affect members' freedom to associate with others and to receive contributions to campaigns for Socialist Workers Party candidates.

2. No Socialist Workers Party candidate has been elected to local, state, or federal office in Minnesota. In 1978, the only Socialist Workers Party candidates for statewide office sought the offices of governor and lieutenant governor. They polled 6,287 votes, .4% of the total vote cast for that office. The Socialist Workers 1978 Campaign Committees raised a total of $4,455.79, made campaign expenditures of $2,912.67, and reported total cash balances of $86.12 when the committees terminated, September 5, 1978 and December 13, 1978. In 1980, three Socialist Workers Party candidates sought election in Minnesota and received 1.2% of the total votes cast for the offices they sought.

CONCLUSION

The 1982 Minnesota Socialist Workers Campaign Committees, Registration Numbers 1-1348-0600 and 2-0381-0509, have satisfied the standard of proof imposed by Minn. Stat. § 10A.20, subds. 8 and 10.

ORDER

In accordance with Minn. Stat. § 10A.20, subds. 8 and 10, the 1982 Minnesota Socialist Workers Campaign Committees, Registration Numbers 1-1348-0600 and 2-0281-0509 are hereby granted a limited exemption from the reporting requirements of Minn. Stat. § 10A.20, subd. 3(b) and (d) regarding disclosure of the names, addresses, and employers of contributors.

In lieu of these disclosure requirements, each committee shall identify and report contributions by assigning a separate number of each contributor, in correlation with each contributor, instead of listing the name, address and employer of each contributor.

Except as specially provided in this exemption, said committees shall in all respects comply with the provisions of Minn. Stat. ch. 10A.

May 24, 1982 Mary Ann McCoy, Executive Director

Department of Finance

Notice of Maximum Interest Rate for Municipal Obligations

Pursuant to Laws of Minnesota 1982, Chapter 523 Commissioner of Finance, Allan L. Rudell, announced today that the maximum interest rate for municipal obligations in the month of June will be 13 percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by general obligations of the municipality may bear an interest rate of up to 14 percent per annum.

The maximum interest rate for obligations authorized by resolution prior to April 1, 1982 shall be 12 percent per annum.

Pollution Control Agency
Air Quality Division

Application of Northern States Power Company for a Permit to Conduct a Trial Burn of Waste Oil Contaminated with Polychlorinated Biphenyls at its High Bridge Plant in St. Paul, Minnesota

Order for Hearing and Notice Thereof

It is hereby ordered and notice is hereby given that a contested case hearing concerning the above-entitled matter will be held by the Minnesota Pollution Control Agency (agency) beginning on Monday, August 9, 1982, at Room 83 of the State Office Building, 435 Park Street, St. Paul, Minnesota, at 9:00 a.m. Additional days of hearing are scheduled at the same location as follows:

Date	*Time*
Tuesday, August 10, 1982	1:00 p.m. and 7:00 p.m.
Wednesday, August 11, 1982	9:00 a.m.
Thursday, August 12, 1982	1:00 p.m. and 7:00 p.m.
Friday, August 13, 1982	9:00 a.m.

The hearing will be held before Kent Roberts, Office of Administrative Hearings, 400 Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415, telephone (612) 341-7612, a hearing examiner appointed by the chief hearing examiner of the State of Minnesota.

The purpose of the hearing will be to receive and consider evidence bearing upon the application of Northern States Power Company (NSP) for authorization to conduct a trial burn of 20,000 to 25,000 gallons of NSP generated mineral oil dielectric fluid (MODEF) contaminated with low level (approximately 100 parts per million) polychlorinated biphenyls in Boiler No. 12 at the High Bridge Generating Plant in St. Paul, Minnesota. NSP estimates that the trial burn would take two days to complete, burning approximately 12 hours per day.

The director of the agency has recommended that NSP's application be granted subject to certain limitations and requirements. The director has recommended that the permit issued to NSP for the operation of the High Bridge plant include special conditions authorizing the trial burn and imposing upon NSP limitations and operating conditions relating to the conduct of the trial burn.

All parties have the right to be represented by legal counsel, themselves, or any other representative of their choice, if not

otherwise prohibited as the unauthorized practice of law. The hearing will be conducted pursuant to the contested case procedures set out in Minn. Stat. §§ 15.0411-15.052, the rules of the Office of Administrative Hearings, 9 MCAR §§ 2.201-2.299, and the Agency Rules of Procedure, Minn. Rules MPCA 1-13, to the extent that the latter rules do not conflict with the former rules. Questions concerning informal disposition or discovery may be directed to Special Assistant Attorney General Jocelyn F. Olson, (612) 296-7343, Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113.

The agency is authorized to hold the hearing and to issue permits for the emission of air contaminants pursuant to Minn. Stat. §§ 116.07, subd. 4a and 116.075 (1980) and Minn. Rule APC 3 (6 MCAR § 4.4003) and MPCA 9 (6 MCAR § 4.3009). Minn. Stat. § 116D.04, subd. 6 (1980) is also relevant to this proceeding.

The applicant, NSP, is a party to the hearing at the present time, pursuant to Minn. Rule MPCA 9. In addition, the agency staff filed a Petition to Intervene as a party and was granted party status by the hearing examiner on May 18, 1982.

Any other person who desires to become a party to this case must submit a timely Petition to Intervene pursuant to 9 MCAR § 2.210, showing how that person's legal rights, duties and privileges may be affected by a decision in this case. The Petition must also set forth the grounds and purposes for which intervention is sought and indicate petitioner's statutory right to intervene should one exist. A party to a case has the right to present evidence and argument with respect to the issues and to cross-examine witnesses. Interested persons may present oral or written statements at the hearing without becoming parties.

Any person desiring to intervene as a party must submit to the hearing examiner and serve upon all existing parties a Petition to Intervene by July 15, 1982. Copies of any Petition to Intervene must be served upon the following:

Ms. Jo Ann McGuire
Attorney for Northern States Power Company
414 Nicollet Mall
Minneapolis, MN 55401

Ms. Jocelyn F. Olson
Attorney for Pollution Control Agency Staff
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, MN 55113

A Notice of Appearance form, enclosed with this Order, must be filed with the hearing examiner on or before July 30, 1982, if a party intends to appear at the hearing. In addition, the agency requests that a copy of the Notice of Appearance be served upon the persons named above.

A prehearing conference will be held at 10:00 a.m. on July 19, 1982, at the Office of Administrative Hearings, 400 Summit Bank Building, 310 4th Avenue South, Minneapolis, Minnesota 55415. All parties and all persons filing a timely Petition to Intervene should attend this prehearing conference.

Persons who do not file a Petition to Intervene will nevertheless be allowed to offer testimony and introduce exhibits, note his/her appearance but no person shall become, or be deemed to have become, a party by reason of such participation. Persons offering testimony or exhibits may be questioned by parties to the hearing.

All persons are advised that no factual information or evidence which is not part of the hearing record shall be considered by the hearing examiner or the agency in determination of the above-entitled matter. Persons attending the hearing should bring all factual information or evidence bearing on the case which they wish to have included in the record.

It is hereby ordered that each party to this proceeding shall prefile written testimony of any witness which the party intends to call at the hearing. Written testimony shall be hand delivered to the hearing examiner and to each other party on or before Friday, July 30, 1982.

Interested persons are hereby advised that, beginning on Monday, August 2, 1982, a copy of each party's prefiled written testimony will be on file for public inspection at the agency's offices at 1935 West County Road B2, Roseville, Minnesota and at the following locations:

St. Paul Public Library
Central Library
90 West 4th Street
St. Paul, Minnesota

St. Paul Public Library
Riverview Branch
1 East George
St. Paul, Minnesota

The procedural rules are available for inspection at the Office of Administrative Hearings or may be purchased from the Documents Section of the Department of Administration, 117 University Avenue, St. Paul, Minnesota 55155, telephone (612) 296-2874. Copies of rules and other documents pertinent to the permit application are available for review by all interested persons during normal business hours at the Minnesota Pollution Control Agency, 1935 West County Road B2, Roseville, Minnesota 55113.

The applicant, Northern States Power Company, is hereby advised that, pursuant to 9 MCAR § 2.204 A.9., its failure to appear at the hearing may result in denial of its application for a permit.

If persons have good reason for requesting a delay of the hearing the request must be made in writing to the hearing examiner in accordance with 9 MCAR § 2.217 E. A copy of the request must be served upon Jocelyn F. Olson and Jo Ann McGuire at the address stated above and also upon any other parties to the hearing.

Louis J. Breimhurst
Executive Director

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. 66690

Whereas, the Commissioner of Transportation has made his Order No. 66400 as amended by Orders Nos. 66446, 66550 and 66628, 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. 66400 is amended effective June 1, 1982 by adding the following designated streets and highway routes, or segment of routes, as follows:

TRUNK HIGHWAYS

T.H. 4 — In St. James from Jct. C.S.A.H. 12 North and West to Weston Avenue. (Seasonal)

T.H. 43 — From Jct. T.H. 61 in Winona to Wisconsin Border. (Seasonal)

— From Jct. I-90 to Jct. T.H. 61 in Winona. (12 month)

T.H. 61 — From one (1) mile north of T.H. 60 at Wabasha to South Jct. T.H. 63 in Lake City. (Seasonal)

CITY STREETS

St. James — 11th Street from Jct. C.S.A.H. 14 and C.S.A.H. 56 to 8th Avenue North. (Seasonal)

COUNTY ROADS

Wabasha County

— C.S.A.H. 9 from T.H. 61 to South 10th Street (C.S.A.H. 62) in City of Lake City. (Seasonal)

— C.S.A.H. 62 to Lakewood Avenue (C.S.A.H. 9) West to T.H. 63 in City of Lake City. (Seasonal)

Watonwan County

— C.S.A.H. 12 from Jct. T.H. 60 to Jct. T.H. 4 and C.S.A.H. 14 in St. James (Seasonal)

— C.S.A.H. 14 (11th Street South in St. James) from Jct. T.H. 4 to Jct. C.S.A.H. 56 (1st Avenue South). (Seasonal)

— C.S.A.H. 56 (1st Avenue South in St. James) from Jct. C.S.A.H. 14 to Jct. T.H. 4 (Seasonal)

Dated this 24th of May, 1982.

Richard P. Braun
Commissioner of Transportation

STATE OF MINNESOTA

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A NEW RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS.
(13 MCAR SECTION 1.6007)

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim presentation of the facts necessary to establish the statutory authority, need for and reasonableness of the proposed new rule. It is submitted pursuant to 9 MCAR Section 2.104 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding the proposed rule was published in the State Register on January 29, 1979, and July 6, 1981. The proposed rule was submitted for comment to those people and organizations that requested it, to the members of the Commissioner's Advisory Committee, and to various legislative legislative staff persons. Suggestions and comments that were received have been duly considered.

Authority to Adopt the Rule

Minn. Stat. Section 290.52 grants the Commissioner statutory authority to establish rules concerning the income tax.

Statement of Need

Minn. Stat. Section 290.01, Subd. 20(b)(1), allows a subtraction from federal adjusted gross income of interest earned on obligations of the United States to the extent includable in gross income for

federal income tax purposes provided the interest is exempt from state income tax under federal law. The general federal law, 31 U.S.C. § 742, provides that all stocks, bonds, Treasury notes and other obligations of the United States, shall be exempt from taxation by state and local authorities, including interest earned thereon. Neither the federal or state statute defines which obligations are obligations of the United States, and neither statute provides guidelines for making this determination. Some federal statutes, such as 12 U.S.C. § 1433 Federal Home Loan Banks, specifically state that principal and interest of all notes, debentures, bonds and other obligations are exempt from taxation by state or local authority. Other enabling acts contain no specific exemption for interest earned, for example, 12 U.S.C. § 1723a(c)(1) exempts the assets of the National Mortgage Association from taxation, but a specific exemption from state taxation of income earned on the Association's obligations is not contained in the National Housing Act. Since the statutes are not always clear as to the taxable status of the obligations, a rule is necessary to define the circumstances under which interest income will be exempt from state income tax and qualify for the subtraction.

A survey of the treatment of United States obligations by the various states shows that the states are not uniform in application of exempt or taxable status. For example, Nebraska exempts obligations of the Federal Reserve Bank and the Metropolitan Area Transit Authority from state taxation while North Dakota and New Jersey do not. Pennsylvania and North Dakota exempt interest from obligations of the Export-Import Bank of the United States;

however, New Jersey does not allow an exemption for participation certificates issued by the Export-Import Bank. Many states have regulations or a listing of obligations that are considered exempt in that state. The different treatment is reflected in these listings. Listings by the states cited above are attached as appendixes at the end of this statement. In order to avoid confusion for the taxpayer, it is necessary for the state of Minnesota to provide an official guideline defining the taxable status of the obligations in this state.

The rule is proposed to aid the department and the taxpayer in determining which United States obligations qualify for the subtraction. The rule sets out specific criteria that the obligation must meet in order to qualify for the subtraction and provides exhibits the taxpayer may refer to in deciding if the obligation meets the criteria. Both the department and the taxpayer will benefit from a clear and concise rule regarding this subtraction.

Statement of Reasonableness

The proposed rule is based on the Minnesota and Federal statutes and court decisions regarding the exemption from state taxation of United States obligations. Sections A and B of the proposed rule follow the requirements of Minn. Stat. § 290.01, subd. 20 (b)(1) that the income must have been included in federal adjusted gross income and be earned from an obligation of the United States before it can be subtracted. Section B also helps to define which obligations are obligations of the United States under 31 U.S.C. § 742.

The United States Supreme Court in Smith v. Davis, 323 U.S. 111, 65 S.Ct. 157, 89 L. Ed. 107 (1944), stated that obligations

constitutionally exempt from state and local taxation must be characterized by:

> (1) written documents, (2) the bearing of interest, (3) a binding promise by the United States to pay specific sums at specified dates and (4) specific Congressional authorization, which also pledged the full faith and credit of the United States in support of the promise to pay. 323 U.S. 115.

The Court in Smith v. Davis, id., also found that an open account or unsettled claim or demand cannot meet the above criteria, and are not instruments of the United States for purposes of tax immunity.

Section C of the proposed rule incorporates the standards of Smith v. Davis and provides a check list that the department and taxpayer can compare with a particular obligation to determine if the standards are met.

Section D of the proposed rule reflects the decision of the Minnesota Tax Court of Appeals in Tobak v Commissioner, D. No. 2244 Minn. Tax Court (March 10, 1977). The Court concluded that interest payments on promissory notes that were originally private obligations were exempt from state taxation, because the payments were secured by the full faith and credit of the United States and the holder would receive payment only from the United States. In reaching this conclusion, the Court noted that the notes contained an insurance endorsement that (1) was secured by the full faith and credit of the United States, (2) provided for

interest payments directly from the United States Treasury, and (3) the holder agreed to forego all rights and remedies against the maker of the note.

The obligation in Tobak v. Commissioner was found to be a primary obligation of the United States not because of the insurance endorsement, but because the holder had relinquished all rights against the original maker. If the holder had not foregone these rights, the United States would have been obligated only if the maker failed to make the payments. The interest payments would not have been an obligation of the United States under 31 U.S.C. § 742, and would not be exempt from state taxation.

The proposed rule includes four exhibits, Section E, Exibits I through IV. These exhibits are tables that list securities that may or may not be exempt from Minnesota income tax. The tables include citations to authorities that indicate the taxable status of the security. The exhibits are included as a quick reference or a guideline for the convenience of the taxpayer and the department. The exhibits are not conclusive in themselves and the taxable status of an obligation must be determined by the requirements of sections A through D of the proposed rule.

The exhibits were prepared from an examination of the federal statutes, classification by other states and case authority. Most of the securities in Exhibit I and the agencies in Exhibit III are specifically exempted from state taxation by federal law, an example is Rental Housing Insurance issued by the Department of Housing and Urban Development, 12 U.S.C. § 1713(i) states that such debentures

shall be exempt, both as to principal and interest from all taxation by any state. The securities in Exhibit II and the organizations in Exhibit IV do not have specific exemptions by federal law, and do not qualify for the exemption under Sections A through D of the proposed rule. Where other states classifications conflicted with the exhibits, the department followed the criteria specified in Smith v. Davis and Tobak v. Commissioner in making its classification. In all instances, the department made an independent determination of taxable status according to the requirements of the proposed rule.

the category of income subject to tax defined as net gains or income from disposition of property shall not include within such category obligations issued by or on behalf of this State or any county, municipality, school or other district, agency, authority, etc., of this State or obligations which are statutorily free from State or local taxation under any other act of this State or under the laws of the United States.

The law further provides that losses can only be applied against other sources of gross income within the same category of gross income during the taxable year.

Therefore, losses which occur on obligations not included for gross income tax purposes can not be applied against the net gains or income realized on obligations which come within a category of income subject to tax. *State Tax News*, July/August, 1978.

.90 U. S. Treasury bills.—Under the provisions of the New Jersey Gross Income Tax Act, the income of a New Jersey resident as a beneficiary of an estate or trust retains the same character as in the hands of the estate or trust.

The New Jersey Gross Income Tax Act at N. J. S. A. 54A :6-14 exempts from the tax, interest on obligations of the State of New Jersey, its agencies, instrumentalities or political subdivisions thereof and also the interest on federal obligations which are statutorily free from State or local taxation under any other act of this State of under the laws of the United States.

Accordingly, interest on U. S. Treasury bills received by such beneficiary from an estate or trust would not be subject to the New Jersey gross income tax. *State Tax News*, July/August, 1981.

[¶ 15-566] Reg. 18:35-1.9 Taxable Status of Federal Securities.—(a) Gross income shall not include interest on obligations:

1. Issued by or on behalf of New Jersey or any county, municipality, school or other district, agency, authority, commission, instrumentality, public corporation (including one created or existing pursuant to agreement or compact with this or any other state), body corporate and politic or political subdivision of New Jersey; or

2. Those obligations which are statutorily free from State or local taxation under any act of New Jersey or under the laws of the United States.

(b) The term "net gains or income" shall not include gains or income derived from obligations whose interest is exempt from tax under paragraph 1. of this subsection. Losses from sales of such exempt securities shall not be taken into account in the computation of gains from disposition of property. A list of various securities follows, together with an indication of whether the interest and the gains there from are taxable or exempt:

1. Federal securities:

	Security	Interest
i.	Asian Development Bank	T
ii.	Bank for Cooperatives	E
iii.	Environmental Financing Authority	T
iv.	Export-Import Bank of the United States ("Eximbank"):	
	(1) Series 1978—B debentures	E
	(2) Participation certificates (reversal of Counsel opinion dated 8/29/67)	T
v.	Federal Deposit Insurance Corporation obligations	E
vi.	Federal Housing Authority (F.H.A.)	E
vii.	Farmers Home Administration	E
viii.	Federal Financing Bank	E

1. Federal securities:

	Security	Interest
ix.	Federal Home Loan Bank	E
x.	Federal Home Loan Mortgage Corp.	T
xi.	Federal Intermediate Credit Banks	E
xii.	Federal Land Banks	E
xiii.	Federal National Mortgage Association (Fannie Mae):	
	(1) Interest on bonds and debentures	T
	(2) Guaranteed Participation Certificates	T
xiv.	Federal Savings and Loan Insurance Corporation obligations	E
xv.	General Services Administration	E
xvi.	Government National Mortgage Assn. (Ginnie Mae)	T

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1. Federal securities:

	Security	Interest
xvii.	Guam	E
xviii.	H.U.D./New Communities	E
xix.	H.U.D. Public Housing Notes and Bonds (Taxfree in State of issuance. (In state of issuance)	E
	(1) If issued in the District of Columbia, Puerto Rico, the Virgin Islands, they are exempt from all State tax.) (If issued in other states)	T
xx.	Inter-American Development Bank Bonds	T
xxi.	International Monetary Fund ind Bank for Reconstruction and Development (World Bank)	T
xxii.	Jonathan Development Corp. (Obligations guaranteed under New Communities Act of 1968)	T
xxiii.	Merchant Marine	E
xxiv.	Panama Canal Zone Bonds specifically exempt from tax by 31 USC 744 and 745	E

1. Federal securities:

	Security	Interest
xxv.	Production Credit Associations	E
xxvi.	Puerto Rico Water Resources—4.2 per cent bonds due 1/1/89—Interest on Bonds	E
xxvii.	Puerto Rico	E
xxviii.	R.F.K. Stadium Bonds	T
xxix.	Small Business Administration	E
xxx.	Student Loan Marketing Association	E
xxxi.	Tennessee Valley Authority	E
xxxii.	U.S. Postal Service	E
xxxiii.	U.S. Treasury	E
xxxiv.	U.S. Treasury Bills	E
xxxv.	USAVE Certificates—Farmers Home Administration Insured Loan Notes	Partially
xxxvi.	Virgin Islands	E
xxxvii.	Washington Metropolitan Area Transit Authority Bonds	T

(*Adopted* August 15, 1978.)

[¶ 15-570] Other Retirement Income.—The law provides:

Law

**Sec. 54A:6-15. * * *

a. Gross income shall not include income of up to $10,000.00 for a married couple filing jointly, $5,000.00 for a married person filing separately or $7,500.00 for a single taxpayer, when received in any tax year by a person aged 62 years or older who received no income in excess of $3,000.00 from one or more of the sources enumerated in subsections a., b. and k. of N. J. S. 54A:5-1, provided, however, that the total exclusion under this subsection and that allowable under N. J. S. 54A:6-10 shall not exceed the amounts of the exclusions set forth in this subsection.

b. In addition to the exclusion provided under N. J. S. 54A:6-10 and subsection a. of this section, gross income shall not include income of up to $6,000.00 for a married couple filing jointly or $3,000.00 for a single person or a married person filing separately who is not covered under N. J. S. 54A:6-2 or N. J. S. 54A:6-3, but who would be eligible in any year to receive payments under either section if he or she were covered thereby. [R. S. 54A:6-15.]**

[Editorial Comment:] The exclusion offered under Sec. 54A:6-15(a) is granted to persons 62 years of age or older who receive no earned income in excess of $3,000 from remuneration, net profits from business or a distributive share of partnership income, see ¶ 15-405, 15-410 and 15-455.

If a person claims the exclusion offered under Sec. 54A:6-15(a) for persons 62 years of age or older who receive limited earned income and the pension and annuity income exclusion offered under Sec. 54:6-10, he may not claim more than the maximum exclusion offered under Sec. 54A:6-15(a).

Persons not covered by the Federal Social Security Act or the Railroad Retirement Act, but who would otherwise be covered may exclude up to

[¶ 201-422] James W. Kerr and Dennis J. Koper v. The City of Erie.

Court of Common Pleas, Erie County, September 29, 1981, No. 1458 A-1981.

Cities — Special Tax Powers — Jurisdictions Other than Philadelphia — Failure to Properly Advertise Tax Increase.—The failure of the City of Erie to properly advertise an ordinance increasing the rate of its earned income tax from 1% to 1½% rendered the ordinance invalid. The city advertised its intention to increase the tax only once. The Local Tax Enabling Act requires that, prior to the passage of an ordinance imposing a tax or license fee, notice of intention to pass such an ordinance must be published once a week for three weeks in a newspaper of general circulation. The attempt to increase the tax rate necessitated the reenactment of the ordinance enacting the tax, and the notice provisions relating to the passage of an ordinance imposing a tax should have been followed. Accordingly, the ordinance increasing the tax from 1% to 1½% was invalidated. Sec. 14, Act of December 31, 1965, P. L. 1257 (53 P. S. Sec. 6904).

See ¶ 100-150.

[¶ 201-423] Letter of Deputy Secretary for Taxation of Department of Revenue.

To Commerce Clearing House, Inc., February 19, 1982.

Personal Income—Exclusions and Exemptions.—Gains or Income from Exempt Obligations.—The following is a letter from the Deputy Secretary for Taxation of the Department of Revenue containing an updated listing of obligations of the United States for which the interest and gains from sale are exempt from Pennsylvania personal income tax.

See ¶ 15-510.

Below is a list of agencies, instrumentalities or territories of the federal government. The interest income as well as the gain from the disposition of obligations issued by these agencies is exempt from tax. Of course, interest or gain from direct United States obligations such as Series E, F, G, and H bonds, treasury bills or notes is also exempt from tax.

The interest or gain from obligations issued by the Commonwealth of Pennsylvania or its political subdivisions is exempt from tax under the Act of 1971, August 31, P. L. 395 No. 94 § 2, 72 P. S. § 4752-2. Interest or gain from obligations issued by other states or their political subdivisions is subject to tax.

Obligations of Federal Agencies, Instrumentalities or Territories Exempt from Taxation on Gain or Interest under the Pennsylvania Personal Income Tax Act:

Banks of Cooperatives
Central Bank for Cooperatives
Commodity Credit Corporation
Export—Import Bank of the United States
Farm Credit Bank
Farmers Home Corporation
Federal Deposit Insurance Corporation
Federal Farm Loan Corporation
Federal Financing Bank
Federal Home Loan Banks
Federal Housing Administration
Federal Intermediate Credit Banks
Federal Intermediate Credit Corporation
Federal Land Banks
Federal Land Bank Associations
Federal Savings and Loan Insurance Corporation

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General Insurance Fund—Interest derived from debentures issued under the War Housing Insurance Law or from Armed Services Housing Mortgages debentures or from debentures used to acquire housing projects.
General Service Administration
Government of Guam
Government of Puerto Rico
Government of the Virgin Islands
Home Owners Loan Corporation
Joint Stock Land Banks
Maritime Administration
Panama Canal Bonds—Specifically exempted from tax by 31 U. S. C. § 744 and § 745.
Production Credit Associations
Small Business Administration
Tennessee Valley Authority
United States Housing Authority
United Maritime Commission
United States Postal Service

[¶ 201-424] **Reg. Secs. 31.41—31.50.**
Amended January 31, 1981.

Sales and Use—Sales of Vehicles.—Following is the full text of the sales and use tax regulations related to motor vehicles.
See ¶ 64-157.

§31.41. Definitions.

The following words and terms, when used in these §§ 31.41 — 31.50 shall have the following meanings, unless the context clearly indicates otherwise:

Fair rental value — The amount which would be charged for the rental of a vehicle in the open market for a similar period of time and place. When the actual fair rental value is unknown, the Department will recognize 3.0% of the purchase price as a monthly fair rental value of a vehicle provided such purchase price is the fair market value of such vehicle.

Motor vehicle — A vehicle which is self-propelled except one which is propelled solely by human power or by electric power obtained from overhead trolley wires but not operated upon rails.

Prevailing market price — The price which the vehicle will bring if offered for sale in the open market at the time and place of the taxable transfer or use of the vehicle.

Purchase price — The total value of anything paid or delivered or promised to be paid or delivered, whether in money or otherwise, including any encumbrance or other obligation assumed by the transferee.

northeast corner of section 24. Then 14¾ miles to the southeast corner of township 31 north, range 4 west, section 36.

The Omaha Reservation is located primarily in the southern half of Thurston County with a few sections in adjacent Burt County and Cuming County all in northeastern Nebraska. It can be described approximately as follows:

From the point at which Wood Creek enters the Missouri River at township 24 north, range 10 east, section 36, go due west 30½ miles to township 24 north, range 5 east to a point in the northeast corner of section 34. Then north 5¼ miles to township 24 north, range 5 east, northwest corner of section 2. Then east ⅛ mile. Then due north 5 miles to township 25 north, range 5 east, northeast corner of section 10. Then due east 13¾ miles to township 25 north, range 7 east, northeast corner of section 12. Then 2 miles due north to township 26 north, range 7 east, northeast corner of section 36. Then due east to the Iowa border then south along the border to Wood Creek.

The Winnebago Reservation is located primarily in the northern half of Thurston County with a few sections in adjoining Dixon County and entirely in northeastern Nebraska. It is described approximately as follows:

From the point the Iowa border meets the southeast corner of lot 4, section 25, township 26 north, range 9 east, go due west 9¾ miles to township 26 north, range 7 east, northeast corner of section 25. Then due south 2 miles to township 25 north, range 7 east, northeast corner of section 12. Then west 13¾ miles to township 25 north, range 5 east, northeast corner of section 10 then north 8⅛ miles to township 27 north, range 5 east, northwest corner of section 35. Then due east to the Iowa-Nebraska border. Then south along the border to the beginning point.

The cities, towns, and villages of Pender, Thurston, Winnebago, Macy, Walthill, Rosalie, Santee, and Lindy are located within the boundaries of the three Nebraska Indian reservations. The City of Emerson, south of First Street, is also within the reservation.

[¶ 15-014] Department of Revenue Ruling No. 21-77-1, Approved July 22, 1977.

Withholding—Retention of Magnetic Tape Containing W-2 Information.—A TAXPAYER WHO HAS PROVIDED THE DEPARTMENT OF REVENUE WITH MAGNETIC TAPES CONTAINING FORM W-2 INFORMATION MUST RETAIN EITHER THE TAPES OR SUPPORTING DOCUMENTATION FOR THE STATUTORY PERIOD.

Advice has been requested concerning the period of time a taxpayer must retain the magnetic tape containing W-2 information provided the Department of Revenue in lieu of providing paper copies of the W-2 information.

There is no specific requirement for retention of the magnetic tapes containing W-2 information if supporting documentation is available for the statutory period. The statutory period is three years after the date the taxes to which the W-2's are related are due or the date the taxes are paid, whichever is later.

The Department of Revenue makes a copy of the magnetic tape and returns the original to the taxpayer. The magnetic tape must be retained by the taxpayer for the statutory period if supporting documents are not available.

[¶ 15-015] Department of Revenue Ruling No. 22-77-1, Approved December 30, 1977.

Individual Income Tax—Deduction of Income from United States Government Obligations.—ALLOWABLE DEDUCTIONS FROM FEDERAL TAXABLE INCOME FOR NEBRASKA INDIVIDUAL INCOME TAX PURPOSES ARE ONLY THOSE ITEMS EXEMPT FROM STATE TAXATION UNDER THE LAWS OF THE UNITED STATES.

Advice has been requested whether interest or dividend income from United States government obligations are deductible for Nebraska individual income tax purposes.

Nebraska law provides that interest or dividends on obligations of the United States and its territories and possessions or of any United States authority, commission, or instrumentality, if included in federal gross income but exempt from state income taxation under the laws of the U.S., shall be subtracted from federal taxable income. Section 77-2716(1), R.R.S. 1943.

Interest or dividend income from the following sources is deductible for Nebraska individual income tax purposes:

1. United States government bonds, such as Series E, F, G, and H;

2. United States Treasury bills;

3. United States government notes;

4. United States government certificates;

5. Federal Land Banks;

6. Commodity Credit Corporation;

7. Federal Home Loan Banks;

8. Federal Intermediate Credit Banks;

9. Federal Reserve Bank;

10. Federal Savings and Loan Insurance Corporation;

11. Tennessee Valley Authority bonds;

12. Railroad supplemental retirement annuities;

13. Metropolitan Area Transit Authority bonds;

14. Export-Import Bank bonds;

15. Interest on debentures issued to mortgag. ees of mortgages forclosed under provisions of the National Housing Act insured after February 3, 1938.

Interest but not dividend income is deductible for Nebraska individual income tax purposes from the following sources:

1. Federal Deposit Insurance Corporation;

2. Central Bank for Cooperatives and Banks for Cooperatives;

3. Production Credit Associations.

Interest or dividend income received from the following sources is taxable and cannot be deducted from federal taxable income for Nebraska individual income tax purposes:

1. Federal or State Savings and Loan Associations;

2. Building and Loan Associations;

3. Postal Savings Accounts (discontinued in 1966);

4. Federal or State Credit Unions;

5. Mortgage Participation Certificates issued by the Federal National Mortgage Association;

6. Interest on federal income tax refunds;

7. Interest on debentures issued to mortgagees of mortgages foreclosed under the provisions of the National Housing Act if insured prior to February 3, 1938;

8. Federal National Mortgage Associations (FNMA).

The following types of income are not includible in federal taxable income and thus cannot be deducted from federal taxable income for Nebraska individual income tax purposes:

1. Social Security income;

2. Interest income from municipal bonds;

3. Various exempt retirement plans;

4. Puerto Rico Bonds;

5. Virgin Island Bonds.

The items that are allowable deductions from federal taxable income for Nebraska individual income tax purposes are only those items includible in gross income for federal income tax purposes but exempt from state income tax under the laws of the United States.

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Any interest or dividend received from the following sources is exempt and should be deducted on state return.

SOURCE	
Banks for Cooperatives	12 USC 2134
Central Bank for Cooperatives	12 USC 2134
Commodity Credit Corporation	15 USC 713a-5
Export - Import Bank	12 USC 635
Farmers Home Administration Notes	7 USC 1938b
Federal Deposit Insurance Corporation	12 USC 1825
Federal Farm Loan Corporation	12 USC 1020 (discontinue
Federal Financing Bank	12 USC 2288
Federal Home Loan Banks	12 USC 1433
Federal Housing Administration	12 USC 1713
Federal Intermediate Credit Banks	12 USC 2079
Federal Land Banks	12 USC 2055
Federal Saving & Loan Insurance Corporations	12 USC 1725
Joint Stock Land Banks	12 USC 2055
National Farm Loan Association	12 USC 2055
Panama Canal Bonds	31 USC 744
Postal Saving System	39 USC 5205 (discontinue
Production Credit Associations	12 USC 2098
Production Credit Corporations	12 USC 2098
Puerto Rico Bonds	48 USC 745
Public Housing Agencies	42 USC 1437i
Tennessee Valley Authority	16 USC 831n-4d
United States Maritime Commission	46 USC 1275

Any interest or dividends received from the following sources is not exempt:

1. Federal or state savings and loan associations, 12 USC 1464;
2. Federal National Mortgage Association, 12 USC 1721b;
3. Government National Mortgage Association, 12 USC 1721b;
4. Building and loan associations

Interest received in the following instances is not exempt:

1. On refunds of federal income tax;
2. On interest bearing certificates issued in lieu of tax exempt securities, such income losing its identity when merged with other funds;
3. On debentures issued to mortgagees of mortgages foreclosed under the provisions of the National Housing Act;
4. On promissory notes of a federal instrumentality; and
5. Washington Metropolitan Area Transit Authority, 12 USC 24;
6. On refunds of state income tax.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS. (13 MCAR SECTION 1.6007)	STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, Patricia A. Lien, Legal Research Attorney, do hereby declare that I have examined the rules and all related documents and that, based on my examination and my personal familiarity with the applicable procedures, the Administrative Hearings, and the rules of the Attorney General have been followed. There are no exceptions.

Patricia A. Lien

PATRICIA A. LIEN

Dated: August 20, 1982

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF A RULE OF THE DEPARTMENT OF REVENUE RELATING TO SUBTRACTION FOR INTEREST ON UNITED STATES GOVERNMENT OBLIGATIONS. (13 MCAR SECTION 1.6007)

NOTICE OF SUBMISSION OF ADOPTED RULE TO THE ATTORNEY GENERAL

Notice is hereby given that the Department of Revenue on the 2nd day of August, 1982, submitted the above-entitled rule to the Office of the Attorney General for his approval as to legality and form.

Clyde E. Allen Jr.

CLYDE E. ALLEN, JR.
Commissioner of Revenue

Dated: 23 August, 1982