

Minnesota Attorney General: Administrative Rules Proceedings

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RULE REVIEW CHECKLIST

resubmitted 7-29-86

DATE RULE RECEIVED 5-16-86 Adopted w/a hearing _____
DATE FOR REVIEW 5-26-86 Adopted w/o hearing ✓
DATE DUE 5-30-86, 8-8-86 Temporary rule _____

Approved _____ Disapproved 5.30.86 mjc Returned to Agency 6-30-86

Resubmitted 7-29-86 Due 8-8-86
Approved 7.30.86 mjc Disapproved _____ Returned to Agency _____

Date filed w/Secretary of State 7-30-86 Revisor approved 5.19.86 disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed

✓ Order Adopting 5.8.86 Date

✓ Notice of Intent to Solicit Outside Opinion SR. 11.11.85

✓ 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
4.3.86 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

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

✓ SR Errata, Notice of Missing Material — 4.14.86 which is less than 30 days before Order Adopting

N/A Hearing Examiner's Report

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

N/A Agency's Findings of Fact

✓ LCRAR Report or agency Affidavit

✓ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

? Statement of Need and Reasonableness overly terse?

N/A Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

N/A Affidavit of Mailing Notice of Submission to Attorney General

✓ Notice of Submission to the Attorney General

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL

Office Memorandum

TO: TOM TRIPLETT
Commissioner of Revenue

ATTN: DOROTHY A. MC CLUNG
Director of Legal and Legislative Affairs

DATE: 7/30/86

FROM: MARTHA J. CASSERLY MJC
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: In the Matter of the Proposed Adoption of Permanent Rules Governing the Valuation and Assessment of Railroads

The above-referenced rule has been approved as to its legality by the Attorney General on July 30, 1986.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies of the approved rule with the Secretary of State, who will forward one copy to the Revisor of Statutes. The fourth copy is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accordance with Minn. Stat. § 14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. § 14.34.

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

MJC:pmf

Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

Duane Harves
Chief Administrative Law Judge
Office of Administrative Hearings

RR1276

Ag Copy

Department of Revenue

Property Equalization Division

Adopted Rules Relating to Railroad Valuation

Rules as Adopted

8106.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words, terms, and phrases have the meanings given to them by this part. Some of the words, terms, and phrases are defined by statute but are included here for completeness.

Subp. 2. **Allocation.** "Allocation" means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

Subp. 3. **Apportionment.** "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and nonoperating property to the various counties and taxing districts in which the railroad company operates.

Subp. 4. **Assessment/sales ratio.** "Assessment/sales ratio" means the ratio derived by dividing the estimated market value of a property by its adjusted selling price and used as a measure of the level of estimated market value to real or true market value.

Subp. 5. **Book depreciation.** "Book depreciation" means the depreciation shown by a railroad company on its corporate books and allowed the company by the Interstate Commerce Commission.

Subp. 6. **Capitalization rate.** "Capitalization rate" means an anticipated rate of return from an investment, a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

Subp. 7. **Equalization.** "Equalization" means the adjustment of the estimated market value of railroad operating property to the apparent assessment/sales ratio of commercial and industrial property.

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Subp. 8. **Exempt property.** "Exempt property" means property which is nontaxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted and personal property otherwise exempt from taxation under Minnesota Statutes, chapter 272.

Subp. 9. **ICC.** "ICC" means the Interstate Commerce Commission, a federal regulatory agency.

Subp. 10. **Mainline track.** "Mainline track" means all track reported to the ICC by the respondent railroad as main line.

Subp. 11. **Nonoperating property.** "Nonoperating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property includes real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land is presumed to be available for lease or rent if it has not been used as operating property for a period of at least one year preceding the valuation date. It also includes: (a) land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services; and (b) that portion of a general office building and its proportionate share of land which is not used for railway operations or purposes.

Subp. 12. **Obsolescence allowance.** "Obsolescence allowance" means the adjustment to be made to the gross cost indicator of value to reflect the loss of economic usefulness or value because of causes other than physical deterioration.

Subp. 13. **Operating property.** "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation, franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings, and structures.

Subp. 14. **Original cost.** "Original cost" means the amount

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

Subp. 15. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 16. **Railroad company.** "Railroad company" means a company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

Subp. 17. **Restated cost.** "Restated cost" means the cost of an asset recorded on a railroad's books after adjusting the amount from a retirement-replacement-betterment accounting basis to a depreciation accounting basis, in accordance with Code of Federal Regulations, title 49, part 1201 (effective January 1, 1983).

Subp. 18. **Structure.** "Structure" means all coal and ore wharves or docks, station houses, depots, shops, office buildings, and all other buildings with a restated cost of over $10,000.

Subp. 19. **System.** "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

Subp. 20. **Unit value.** "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

Subp. 21. **Weighting.** "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100 percent.

8106.0200 GENERAL PROCEDURES.

~~Laws of Minnesota 1979, chapter 303, article VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The article also charges the commissioner of revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.~~

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~~Subsequently,-laws-of-Minnesota-1984,-chapter-502,-article-9 gave-additional-instructions-to-the-commissioner-regarding-the method-of-valuing-railroad-property-and-the-equalization-of these-valuations.--This-article-also-gives-the-commissioner-the authority-to-promulgate-emergency-rules-in-order-to-implement these-valuation-and-equalization-procedures.~~

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors, apportionment standards, and equalization methods will be used as described in this chapter for 1986 and subsequent years.

8106.0300 REPORTS REQUIRED.

Subpart 1. **Reports to be filed.** The data used in the valuation, allocation, and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies. These reports are to be filed with the commissioner on or before April 30 of each year and shall include:

A. the Minnesota Department of Revenue annual railroad report;

B. the annual report to the Interstate Commerce Commission;

C. the annual report to the Minnesota Public Utilities Commission;

D. the annual stockholders report; and

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

Subp. 2. **Reports examination.** Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The commissioner shall, upon written application from the railroad, extend the filing date 30 days.

Subp. 3. **Failure to file.** In the event any railroad

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company fails to file the required reports, the commissioner shall make a valuation according to the commissioner's best judgment based on available information.

Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation, and apportionment required by parts 8106.0100 to 8106.0700. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

8106.0400 VALUATION.

Subpart 1. **In general.** ~~The Minnesota legislature has said that railroads may be valued using the unit basis of estimating value. Consequently, the commissioner has chosen to use this method.~~ The approaches to value that will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided in subparts 4 and 6. ~~It is the decision of the commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided in this part until time or conditions warrant a change in either methods or procedures.~~

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets

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enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment	Indicated Rate of Return
19XX	$2,700,000	$31,500,000	8.57%
19XX	$2,900,000	$32,000,000	9.06%
19XX	$3,100,000	$33,500,000	9.25%
19XX	$3,300,000	$34,000,000	9.70%
19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%
Five-year Average Rate of Return			9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical

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Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

Year	Railroad	Rate of Return
19XX	ABC	11.50%
19XX	FGH	11.27%
19XX	JKL	10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	54.44%
Five-year Average Blue Chip Rate of Return		10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	10.89%
Indicated Obsolescence	
1 - (9.33% ÷ 10.89%)	14.30%

Second, a five-year average freight traffic density indicator will be calculated. ~~This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases.~~ This indicator is calculated by dividing the subject railroad's ton miles of revenue freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Revenue Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000

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19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000

Five-Year Average Freight Traffic Density 2,238,000

A five-year study is then made of the major railroads operating within the United States in the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000
	Total	12,260,000

Five-year Average Blue Chip
Freight Traffic Density 2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit~~, and would therefore be an important consideration to an investor.~~ A high

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~~percentage-of-gross-profit-margin-indicates-a-more-efficient railroad-in-converting-gross-revenue-to-net-profit-and-thus-this railroad-is-less-economically-obsolete.--A-low-percentage-of gross-profit-margin-indicates-a-railroad-with-high-operating expenses-and-a-good-deal-of-economic-obsolescence.~~ This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%
19XX	5,295,000	19,000,000	27.9%
		Total	139.2%
	Five-Year Average Gross Profit Margin		27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%

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Five-Year Average Blue Chip
Gross Profit Margin 31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad's gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison	14.30%
Obsolescence Indicated by Freight Traffic Density Comparison	8.70%
Obsolescence Indicated by Gross Profit Margin Comparison	11.50%
Total	34.50%
Average Obsolescence Percentage	11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account	Amount
Road	$24,000,000
Equipment -- Owned and Leased	9,000,000
Construction Work in Progress	4,500,000

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General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. **Income approach to valuation.** The income indicator of value will be calculated by averaging the net railway operating income, as determined by the ICC, of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the band of investment method. This method will consider:

A. the capital structure of railroads, including capital surplus and retained earnings;

B. the cost of debt or interest rate paying particular attention to imbedded debt of railroads;

C. the yield on preferred stock of railroads; and

D. the yield on common stock of railroads.

For 1986 this capitalization rate will be 14.0 percent. This rate will be recalculated each year using the method described in this subpart.

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

XYZ Railroad

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Year	Net Railway Operating Income
19XX	$ 2,600,000
19XX	2,700,000
19XX	3,000,000
19XX	3,100,000
19XX	3,492,500
Total	$14,892,500
Average	$ 2,978,500

Five-year average Net Railway Operating Income Capitalized at 14.0 percent (2,978,500 ÷ 14.0 percent) equals $21,275,000.

The income indicator of value computed in accordance with this part shall be weighted 60 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in subpart 6.

Subp. 4. **Stock and debt approach to valuation.** The stock and debt approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: assets = liabilities + equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting qualifications in items A to C:

A. The stock of the railroad must be traded on either the New York or American Stock Exchange.

B. The bonds of the railroad must be traded or have a rating by either Standard and Poor's or Moody's rating services.

C. If the railroad is part of a diversified company, the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the following method:

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

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

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XYZ Railroad portion of stock value $ 50

If a railroad has no net earnings, and is part of a conglomerate, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month-ending stock prices for the 12 months immediately preceding the assessment date of January 2. The value of the bonds, equipment obligations, and conditional sales contracts, and other long-term debts shall also be an average of the cost of money quotes for the 12 months immediately preceding the assessment date of January 2. The source for these stock and bond prices shall be Standard and Poor's Stock Guide or other applicable financial service.

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

XYZ Railroad Company

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

After the gross stock and debt indicator of value has been computed, an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five-year average of net revenue from railway operations, as determined by the ICC, to a similar five-year average of income available for fixed charges as determined by the ICC. The five-year average will be the most recent five years preceding the assessment date. An example of this computation is as follows:

XYZ Railroad Company

Year	Net Revenue from Railway Operations	Income Available for Fixed Charges
19XX	$ 3,000,000	$ 3,500,000

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19XX	4,000,000	4,300,000
19XX	5,200,000	5,700,000
19XX	6,000,000	6,800,000
19XX	5,200,000	5,400,000
	$23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

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

The stock and debt indicator of value computed in accordance with this part will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings, or railroads with no income to be capitalized, as provided for in subpart 6. If no stock and debt indicator of value is computed, the weighting of 25 percent which would have been applied to this indicator of value will be placed on the cost indicator of value.

Subp. 5. **Unit value computation.** The estimated unit value of the railroad property will be the total of the three weighted indicators of value. The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value	Weighting	
Cost indicator of value	$27,483,000	15%	$ 4,122,500
Income indicator of value	21,275,000	60%	12,765,000
Stock and debt indicator of value	21,300,000	25%	5,325,000
		Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad~~,~~ as provided for in subparts 2 to 4~~, depending on the conditions and circumstances involved in each valuaton. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent.~~

Subp. 6. **Railroads operating at a loss, bankrupt railroads involved in federal bankruptcy proceedings, and railroads adjudged bankrupt by a federal court.** Railroads which are involved in federal bankruptcy proceedings, adjudged bankrupt,

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or railroads having no net railway operating income will be valued using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value, then these railroads will be valued using the cost approach to value only.

8106.0500 ALLOCATION.

Subpart 1. **In general.** After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in percentage figures. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in parts 8106.0600 and 8106.0800, be subject to ad valorem tax in Minnesota.

Subp. 2. **Allocation factors.** The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

A. miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states;

B. ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states;

C. gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states; and

D. cost of road property in Minnesota divided by the cost of road property in all states.

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

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XYZ Railroad

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

8106.0600 ADJUSTMENTS FOR NONFORMULA ASSESSED PROPERTY OR EXEMPT PROPERTY.

After the Minnesota portion of the unit value of the railroad company is determined, property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as nonoperating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

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

The railroad company shall have the responsibility to submit to the commissioner of revenue, in the form required by the commissioner, such schedules of nonoperating property as the commissioner may require.

In addition to nonoperating property which will be valued and assessed locally, a deduction from the Minnesota portion of the unit value will be made for personal property. ~~The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit;~~

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~~therefore, it is extremely difficult to make a separation of this value into real and personal property.~~

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

A. The following ICC accounts for property within Minnesota will be totaled:

(1) that portion of coal and ore wharves determined to be personal property;

(2) communication equipment;

(3) signals and interlockers;

(4) roadway machines;

(5) shop machinery;

(6) power plant machines; and

(7) equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles.

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

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

XYZ Railway

Personal Property Account		Amount in Minnesota
Coal and Ore Wharves		$ 189,200
Communication Equipment		100,000
Signals and Interlockers		200,000
Roadway Machines		200,000
Shop Machinery		100,000
Power Plant Machinery		100,000
* Equipment -- Owned and Leased		2,250,000
		3,139,200
* Total Equipment Account	$9,000,000	
Car and Locomotive Miles in Minnesota	1,000,000	

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Total Car and Locomotive Miles	4,000,000		
Ratio of Minnesota to Total		25%	
Minnesota Allocated Equipment Account	$2,250,000		
Restated Cost Account			Amount in Minnesota
Road			$2,990,000
Equipment -- Owned and Leased			2,250,000
Construction Work in Progress			800,000
General expenditures			500,000
			$6,540,000
Minnesota Personal Property Accounts	$3,139,200		
Minnesota Restated Cost	$6,540,000		
Ratio of Personal Property to Cost		48%	
Minnesota portion of unit value			5,108,875
Personal Property exclusion at 48%			2,452,260
Taxable Minnesota Portion of Unit Value			$2,656,615

8106.0700 APPORTIONMENT.

Subpart 1. **In general.** After the taxable Minnesota portion of the railroad's unit value has been determined, this value must be distributed to the various counties and taxing districts in which the railroad operates. This distribution will be accomplished by the commissioner of revenue through the use of certain apportionment components. Each of the components in the apportionment method is a reflection of the property owned or used by the railroad within a particular taxing district. The figures making up these components will be developed on information submitted by the railroad companies in annual reports filed with the commissioner, and information supplied to the commissioner by the various county auditors and assessors.

Subp. 2. **Apportionment components.** There are three components which will be used in the distribution of the value of railroad property to the various taxing districts. They are railroad operating land, miles of track, and railroad operating structures with a restated cost of $10,000 or more.

Subp. 3. **Railroad operating land.** The information for the computation of this apportionment component will be based on information submitted by both the railroads and the various county auditors and assessors. The railroad companies shall

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file with the commissioner of revenue each year, in conjunction with their annual reports required by part 8106.0300, subpart 1, the number of acres of railroad operating land owned or used by them in each taxing district in which they operate. The county auditor shall also be required to submit to the commissioner of revenue a report showing the number of acres of railroad operating land, detailed by owning railroad, in each taxing district within the county. If either the railroads or the auditors find that it is administratively impracticable to submit this information, the commissioner shall make an estimate of the number of acres of railroad operating land within each taxing district based on the best information available. Such information would usually consist of the miles of railroad track within the taxing district and the normal width of the right-of-way used by the railroad. In addition, information relative to the current estimated market value of all land within the respective taxing districts will be obtained from the county or city assessors by a review of the abstract of assessment of real and personal property which the various assessors are required to submit yearly to the commissioner of revenue in compliance with Minnesota Statutes, section 273.061, subdivision 9. A review will also be made of the abstract of assessment of exempt real property which is submitted to the commissioner of revenue by the various assessors in compliance with Minnesota Statutes, section 273.18.

The computation for the railroad operating land apportionment component will be accomplished annually in the following manner:

A. The average estimated market value per taxable acre within a specific taxing district will be calculated by dividing the estimated market value of all taxable land within the taxing district as indicated by the most recent abstract of assessment of real and personal property by the number of taxable acres within the taxing district. The number of acres within a taxing district will be obtained from the most recent statistics available from the Land Management Information

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Center, State Planning Agency. The total number of acres will be adjusted to allow for nontaxable or exempt acres by subtracting these nontaxable or exempt acres from the total acres. The number of nontaxable or exempt acres will be obtained from the most recent abstract of assessment of exempt real property. The following example illustrates this calculation.

Estimated Market Value of All Taxable Land Within Taxing District		$200,000
Total Area of Taxing District	210 Acres	
Nontaxable or Exempt Acres	10 Acres	
Taxable Acres Within Taxing District		200
Average Estimated Market Value per Acre		$ 1,000

B. This average estimated market value per taxable acre is then applied to the number of acres of railroad operating land within the taxing district to compute a gross railroad operating land component within the taxing district. The following example illustrates this computation:

Average Estimated Market Value Per Acre	$1,000
Acres of Railroad Operating Land	x 5
Gross Railroad Operating Land Component	$5,000

C. This railroad operating land component will then be adjusted. This adjustment is achieved by striking a ratio between the system unit value for all Minnesota railroads, as described in part 8106.0400, subpart 5, to the total of net investment in railway property used in transportation service as defined by the ICC for all railroads operating in Minnesota. This relationship will be computed annually and will then be applied to the gross railroad operating land component to arrive at the adjusted railroad operating land component. This adjusted land value will then be used as one element of the apportionment computation.

The following is an example of how the adjusted railroad operating land component is to be computed:

Railroad	System Unit Value	Net Investment in Railway Property Used in Transportation Services
ABC Railway	$20,000,000	$ 40,000,000
FGH Railway	5,256,000	8,000,000
JKL Railroad	2,000,000	4,780,830
MNO Railroad	50,000,000	90,000,000

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XYZ Railroad	22,212,500	25,000,000
	$99,468,500	$165,780,830

Total System Unit Value ($99,468,500) ÷ Total Net Investment in Railway Property Used in Transportation Services ($165,780,830) = 60%

Gross Railroad Operating Land Component Within the Taxing District	$5,000
Adjustment Factor	60%
Adjusted Railroad Operating Land Component	$3,000

Subp. 4. **Miles of track.** The information for the computation of this apportionment component will be based on information submitted by the railroads to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. Each railroad will be required to list the miles of track they own in each taxing district within Minnesota. The track must be separated into two classes, main line track and all other track.

In order to make the miles of track in each taxing district compatible with the other apportionment components, the miles must be converted to dollars. This conversion will be computed annually. The conversion will be accomplished by adding together the following ICC accounts for each railroad's net investment in Minnesota: account 3, grading; account 8, ties; account 9, rails; account 11, ballast. The total of these accounts will then be divided by the number of miles of track operated by the respective railroads within Minnesota to obtain a cost per mile figure. This will be used as the average cost per mile for track within Minnesota.

The following is an example of how the average cost per mile of track in Minnesota will be computed:

Railroad	Total of Accounts #3, 8, 9, 11	Mileage Operated in Minnesota
ABC Railway	$ 4,000,000	154
FGH Railway	800,000	42
JKL Railroad	500,000	20
MNO Railroad	7,450,000	290
XYZ Railroad	2,500,000	104
	$15,250,000	610

Total cost of track ($15,250,000) ÷ Total miles operated

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(610) = Average Cost per Mile of Track $25,000.

~~An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting.~~ Main line track shall be weighted at 1.5 times the cost of all other track; thus, if the average cost per mile of track is $25,000, main line track would be worth more than $25,000 per mile, while all other track would be worth less. The calculation for the average cost of both main line and all other track shall be made annually on an industry basis.

The calculation to determine the average cost per mile of main line track and the average cost per mile of all other track will be computed in the following manner:

A. Total mileage operated will be multiplied by the average cost per mile to arrive at a total track cost.

B. Total mileage operated will be separated into the two types of track, main line and all other track.

C. Main line track will be multiplied by 1.5 to arrive at adjusted main line miles.

D. Adjusted main line miles will be added to all other track miles to arrive at adjusted total track miles.

E. Total track cost will be divided by adjusted total track miles to arrive at the cost per mile of all other track.

F. The cost per mile of main line track will be computed by multiplying the cost per mile of all other track by 1.5.

An illustration of this computation is as follows:

Railroad	Mileage Operated	Main Line Miles	All other Track Miles
ABC Railway	154	96	58
FGH Railway	42	10	32
JKL Railroad	20	15	5
MNO Railroad	290	132	158
XYZ Railroad	104	52	52
	610	305	305
Total Mileage Operated			610
Average Cost Per Mile of Track			$ 25,000
Total Track Cost			$15,250,000
Main Line Miles		305	
Weighting Factor		1.5	
Adjusted Main Line Miles			457.5

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Other Track Miles	305.0
Adjusted Total Track Miles	762.5
Total Track Cost	$15,250,000
Adjusted Total Track Miles	762.5
Average Cost Per Mile of Other Track	$ 20,000
Average Cost Per Mile of Other Track	$ 20,000
Weighting Factor	1.5
Average Cost Per Mile of Main Line Track	$ 30,000

After the per mile cost figures for main line and all other track are obtained, these per mile cost figures would be multiplied by the length of each type of track in a particular taxing district to obtain the value of the trackage in that district. The same cost figures will be used for all railroads operating in Minnesota.

Subp. 5. **Structures.** The information for the computation of this apportionment component will be based on statements submitted by the railroads. These schedules shall be submitted annually to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. The schedules shall list a description of the structure and the railroad's current restated cost investment in the structure as it appears in the appropriate ICC account.

An example of this listing is as follows:

XYZ Railroad

Taxing District	Description	Restated Cost
St. Paul, S.D. #625	Office Building	$400,000
Minneapolis, S.D. #1	Depot	20,000
Fridley, S.D. #16	Yard Tower	200,000
Anoka, S.D. #11	Engine and Car Shop	250,000
	Total	$870,000

Subp. 6. **Apportionment computation.** ~~After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin. This~~ The apportionment of a railroad's taxable Minnesota value is accomplished by totaling the amount of the land, track, and structure components as developed in subparts 3 to 5 for

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each taxing district, then finding the sum of these totals for all the taxing districts in which the subject railroad operates. The taxable Minnesota portion of the railroad's unit value is divided by the total of the three apportionment components for all taxing districts in which the railroad operates in order to arrive at a percentage. This resulting percentage is then applied to the total amount of the three apportionment components for each specific taxing district. The figure produced by this multiplication process is the taxing district's share of the railroad's taxable Minnesota portion of the unit value. ~~It is important to note that~~ No more value can be distributed to the various taxing districts than that produced by the valuation process described in parts 8106.0100 to 8106.0600.

The example in part 8106.9900 illustrates the apportionment process.

8106.0800 EQUALIZATION.

Subpart 1. **In general.** After the apportionment of value referred to in part 8106.0700 has been made, the railroad property values must be equalized to coincide with the assessment levels of commercial and industrial property within each respective county receiving a share of the apportioned railroad value. This equalization will be accomplished through the use of an assessment/sales ratio.

Subp. 2. **Assessment/sales ratio computation.** ~~Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisdictions within Minnesota. The study is conducted in many parts.~~ A comprehensive assessment/sales ratio study compiled annually by the sales ratio section of the Property Assessment and Review Division of the Department of Revenue commonly known as the

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State Board of Equalization Sales/Ratio Study will be used in this computation. The portions of this study which will be used for purposes of this section are known as the "County Commercial and Industrial Sales Ratio."

This commercial and industrial (C & I) sales ratio is computed through an analysis of the certificates of real estate value filed by the buyers or sellers of commercial or industrial property within each county. The information contained on these certificates of real estate value is compiled pursuant to requests, standards, and methods set forth by the Minnesota Department of Revenue acting upon recommendations of the Minnesota legislature. The most recent C & I study available will be used for purposes of this section.

The median C & I sales ratio from the County Commercial and Industrial Sales Ratio study will be used as a basis to estimate the current year C & I median ratio for each county.

The process used to estimate this current year median ratio will be as follows.

The State Board of Equalization abstract of market value will be examined. ~~This statistical compilation, commonly called the mini-abstract, is filed each year by every county assessor, with the commissioner of revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property -- residential agricultural, commercial, industrial, recreational, etc. -- within each particular county.~~ The current estimated market value of commercial and industrial property within each county will be taken from this abstract. The amount of the value of new commercial and industrial construction, ("new" meaning since the last assessment period) as well as the value of commercial and industrial property which has changed classification (i.e. commercial to tax exempt property) will also be taken from the abstract. The value of new construction will then be deducted from the estimated market value, resulting in a net estimated current year market value for commercial and industrial property within the county. The value of commercial and industrial

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property which has changed classification will be deducted from the previous years estimated market value to arrive at a net estimated previous year market value for commercial and industrial property within the county. The net current year value will be compared to the net previous year's estimated market value for commercial and industrial property within the county and the difference between the two values noted. This difference will be divided by the previous year's net estimated market value for commercial and industrial property to find the percentage of increase, or decrease, in assessment level for each year. This percent of change will be applied to the most recent C & I median ratio to estimate the current year's C & I median ratio. An example of this calculation for a typical county is shown below.

1986 Estimated Market Value for Commercial and Industrial Property	$12,000,000	
Less: New Construction	1,500,000	
1986 Net Estimated Market Value for Commercial and Industrial Property		10,500,000
1985 Estimated Market Value for Commercial and Industrial Property	10,250,000	
Less: Classification Changes	250,000	
1985 Net Estimated Market Value for Commercial and Industrial Property		10,000,000
Difference 1985 vs. 1986 Estimated Market Value		500,000
Percent of Change (500,000 ÷ 10,000,000)		5%
1985 Median Commercial and Industrial Ratio		88%
1986 Estimated Median Commercial and Industrial Ratio (88% x 105%)		92.4%

This same calculation is performed for each Minnesota county which contains operating railroad property. ~~However,~~ If there are five or fewer valid sales of commercial and industrial property within a county during the study period, ~~it is the commissioner's decision that~~ these few sales are insufficient to form the basis for a meaningful C & I ratio. Therefore, the median assessment/sales ratio to be used for purposes of the above computation will not be the median C & I ratio but will be the weighted median ratio of all property classes within the county for which a sales ratio is available. This weighted median ratio is computed in the same manner using the same

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procedures and standards as the C & I ratio. In addition, the computation described above will not be performed using the commercial and industrial estimated market value but will use the estimated market value for all property within the county. All other aspects of the calculations are identical except for this substitution.

The weighted median ratio is developed by multiplying the median ratio for each class of property (agricultural, residential, recreational, commercial) by the percentage of value that class of property comprises of the total county value. An example of this calculation is as follows:

Class of Property	Amount of Value	Percent of Value	Median Ratio	Weighted Median Ratio
Residential	$ 20,000,000	20%	85%	17.00%
Agricultural	55,000,000	55%	95%	52.25%
Seasonal - Recreational	5,000,000	5%	90%	4.50%
Commercial - Industrial	20,000,000	20%	85%	17.00%
TOTAL	$100,000,000	100%		90.75%

Subp. 3. **Application of the estimated current year median assessment/sales ratio.** After the estimated current year median ratio has been calculated pursuant to subpart 2, it is used to adjust the apportioned estimated market value of operating railroad property to the apparent assessment level of commercial and industrial property in each county. This is done by factoring or multiplying the estimated market value of the railroad property by the estimated sales ratio to arrive at the equalized market value of operating railroad property. In no instance will any adjustment be made if, after comparing the estimated current year sales ratio to the assessment level of operating railroad property, the difference between the two is five percent or less. An example of this adjustment is as follows:

	Estimated Market Value of Railroad Operating Property*	Estimated Current Year Median Sales Ratio	Equalized Estimated Market Value of Railroad Operating Property
County A	$100,000	85%	$ 85,000
County B	250,000	88%	220,000
County C	300,000	90%	270,000
County D	150,000	92%	138,000

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County E	100,000	95%	100,000**

* For purposes of this example, assume that railroad property is assessed at 100 percent of market value.

** No adjustment made because estimated current year median sales ratio is within five percent of assessment level on operating railroad property.

All railroads operating within a particular county will be equalized at the same percentage.

These equalized estimated market values of operating railroad property will be certified to the county assessor denoting specific railroads and taxing districts pursuant to Minnesota Statutes, section 270.87.

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1 8106.9900 EXAMPLE OF APPORTIONMENT PROCESS.

	LAND COMPONENT				TRACK COMPONENT					STRUCTURES			
Taxing District	Aver. F.M.V. Per Acre	# of R.R. Opr. Acres	Gross R.R. Land Component	Adj. R.R. Land Component @ 60%	Miles Main Line	Value of Main Line @ $30,000 Mile	Miles of all other Track	Value of All Other Track @ $20,000	Total Track Component	Structures At Restated cost	Total of 3 Components	% of 3 Components to Unit Value*	Taxing Dist. Portion of Unit Value
St. Paul, S.D. #625	$19,000	50	$ 950,000	570,000	8	$ 240,000			$ 240,000	$400,000	$1,210,000	37.87%	$ 458,285
Minneapolis, S.D. #1	20,000	80	1,600,000	960,000	12	360,000			360,000	20,000	1,340,000	37.87%	507,522
Fridley, S.D. #16	15,000	95	1,425,000	855,000	6	180,000	20	$ 400,000	580,000	200,000	1,635,000	37.87%	619,253
Coon Rapids, S.D. #11	13,000	70	910,000	546,000	9	270,000			270,000	-----	816,000	37.87%	309,059
Anoka, S.D. #11	12,000	20	240,000	144,000	4	120,000			120,000	250,000	514,000	37.87%	194,677
Ramsey, S.D. #11	10,000	60	600,000	360,000	11	330,000			330,000	-----	690,000	37.87%	261,336
Elk River, S.D. #728	6,000	5	30,000	18,000	2	60,000			60,000	-----	78,000	37.87%	29,542
Elk River Twsp., S.D. #728	2,000	20	40,000	24,000			8	160,000	160,000	-----	184,000	37.87%	69,690
Big Lake, S.D. #727	3,000	4	12,000	7,200			4	80,000	80,000	-----	87,200	37.87%	33,027
Big Lake Twsp., S.D. #727	1,000	100	100,000	60,000			20	400,000	400,000	-----	460,000	37.87%	174,224
			$5,907,000	$3,544,200		$1,560,000		$1,040,000	$2,600,000	$870,000	$7,014,200		$2,656,615

*Taxable Minn. Portion of Unit Value / Total of 3 Components for All Taxing Districts = $2,656,615 / $7,014,200 = 37.87%

SP-N12

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REPEALER. Minnesota Rules, parts 8105.0100; 8105.0200; 8105.0300; 8105.0400; 8105.0500; 8105.0600; 8105.0700; and 8105.9900 are repealed.

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 22 1986
Secretary of State

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STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
JUL 30 1986
Joan Anderson Growe
Secretary of State
4:00 P.M.

APPROVED AS TO FORM AND LEGALITY
July 30 1986
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY MJ Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

AG copy.

Department of Revenue

Property Equalization Division

Adopted Rules Relating to Railroad Valuation

Rules as Adopted (all new material)

8106.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words, terms, and phrases have the meanings given to them by this part. Some of the words, terms, and phrases are defined by statute but are included here for completeness.

Subp. 2. **Allocation.** "Allocation" means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

Subp. 3. **Apportionment.** "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and nonoperating property to the various counties and taxing districts in which the railroad company operates.

Subp. 4. **Assessment/sales ratio.** "Assessment/sales ratio" means the ratio derived by dividing the estimated market value of a property by its adjusted selling price and used as a measure of the level of estimated market value to real or true market value.

Subp. 5. **Book depreciation.** "Book depreciation" means the depreciation shown by a railroad company on its corporate books and allowed the company by the Interstate Commerce Commission.

Subp. 6. **Capitalization rate.** "Capitalization rate" means an anticipated rate of return from an investment, a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

Subp. 7. **Equalization.** "Equalization" means the adjustment of the estimated market value of railroad operating property to the apparent assessment/sales ratio of commercial and industrial property.

Subp. 8. **Exempt property.** "Exempt property" means property which is nontaxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted and personal property otherwise exempt from taxation under Minnesota Statutes, chapter 272.

Subp. 9. **ICC.** "ICC" means the Interstate Commerce Commission, a federal regulatory agency.

Subp. 10. **Mainline track.** "Mainline track" means all track reported to the ICC by the respondent railroad as main line.

Subp. 11. **Nonoperating property.** "Nonoperating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property includes real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land is presumed to be available for lease or rent if it has not been used as operating property for a period of at least one year preceding the valuation date. It also includes: (a) land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services; and (b) that portion of a general office building and its proportionate share of land which is not used for railway operations or purposes.

Subp. 12. **Obsolescence allowance.** "Obsolescence allowance" means the adjustment to be made to the gross cost indicator of value to reflect the loss of economic usefulness or value because of causes other than physical deterioration.

Subp. 13. **Operating property.** "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation, franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings, and structures.

Subp. 14. **Original cost.** "Original cost" means the amount

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

Subp. 15. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 16. **Railroad company.** "Railroad company" means a company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

Subp. 17. **Restated cost.** "Restated cost" means the cost of an asset recorded on a railroad's books after adjusting the amount from a retirement-replacement-betterment accounting basis to a depreciation accounting basis, in accordance with Code of Federal Regulations, title 49, part 1201 (effective January 1, 1983).

Subp. 18. **Structure.** "Structure" means all coal and ore wharves or docks, station houses, depots, shops, office buildings, and all other buildings with a restated cost of over $10,000.

Subp. 19. **System.** "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

Subp. 20. **Unit value.** "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

Subp. 21. **Weighting.** "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100 percent.

8106.0200 GENERAL PROCEDURES.

Laws of Minnesota 1979, chapter 303, article VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The article also charges the commissioner of revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

Subsequently, Laws of Minnesota 1984, chapter 502, article 9 gave additional instructions to the commissioner regarding the method of valuing railroad property and the equalization of these valuations. This article also gives the commissioner the authority to promulgate emergency rules in order to implement these valuation and equalization procedures.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors, apportionment standards, and equalization methods will be used as described in this chapter for 1986 and subsequent years.

8106.0300 REPORTS REQUIRED.

Subpart 1. **Reports to be filed.** The data used in the valuation, allocation, and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies. These reports are to be filed with the commissioner on or before April 30 of each year and shall include:

A. the Minnesota Department of Revenue annual railroad report;

B. the annual report to the Interstate Commerce Commission;

C. the annual report to the Minnesota Public Utilities Commission;

D. the annual stockholders report; and

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

Subp. 2. **Reports examination.** Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The commissioner shall, upon written application from the railroad, extend the filing date 30 days.

Subp. 3. **Failure to file.** In the event any railroad

company fails to file the required reports, the commissioner shall make a valuation according to the commissioner's best judgment based on available information.

Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation, and apportionment required by parts 8106.0100 to 8106.0700. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

8106.0400 VALUATION.

Subpart 1. **In general.** The Minnesota legislature has said that railroads may be valued using the unit basis of estimating value. Consequently, the commissioner has chosen to use this method. The approaches to value that will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided in subparts 4 and 6. It is the decision of the commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided in this part until time or conditions warrant a change in either methods or procedures.

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets

enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment	Indicated Rate of Return
19XX	$2,700,000	$31,500,000	8.57%
19XX	$2,900,000	$32,000,000	9.06%
19XX	$3,100,000	$33,500,000	9.25%
19XX	$3,300,000	$34,000,000	9.70%
19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%
Five-year Average Rate of Return			9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical

Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

Year	Railroad	Rate of Return
19XX	ABC	11.50%
19XX	FGH	11.27%
19XX	JKL	10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	54.44%
Five-year Average Blue Chip Rate of Return		10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	10.89%
Indicated Obsolescence	
1 - (9.33% ÷ 10.89%)	14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of revenue freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Revenue Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000

19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000

Five-Year Average Freight Traffic Density 2,238,000

A five-year study is then made of the major railroads operating within the United States in the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000
	Total	12,260,000

Five-year Average Blue Chip Freight Traffic Density 2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high

percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%
19XX	5,295,000	19,000,000	27.9%
		Total	139.2%
	Five-Year Average Gross Profit Margin		27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%

Five-Year Average Blue Chip Gross Profit Margin	31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad's gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison	14.30%
Obsolescence Indicated by Freight Traffic Density Comparison	8.70%
Obsolescence Indicated by Gross Profit Margin Comparison	11.50%
Total	34.50%
Average Obsolescence Percentage	11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account	Amount
Road	$24,000,000
Equipment -- Owned and Leased	9,000,000
Construction Work in Progress	4,500,000

General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. **Income approach to valuation.** The income indicator of value will be calculated by averaging the net railway operating income, as determined by the ICC, of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the band of investment method. This method will consider:

A. the capital structure of railroads, including capital surplus and retained earnings;

B. the cost of debt or interest rate paying particular attention to imbedded debt of railroads;

C. the yield on preferred stock of railroads; and

D. the yield on common stock of railroads.

For 1986 this capitalization rate will be 14.0 percent. This rate will be recalculated each year using the method described in this subpart.

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

XYZ Railroad

Year	Net Railway Operating Income
19XX	$ 2,600,000
19XX	2,700,000
19XX	3,000,000
19XX	3,100,000
19XX	3,492,500
Total	$14,892,500
Average	$ 2,978,500

Five-year average Net Railway Operating Income Capitalized at 14.0 percent (2,978,500 ÷ 14.0 percent) equals $21,275,000.

The income indicator of value computed in accordance with this part shall be weighted 60 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in subpart 6.

Subp. 4. **Stock and debt approach to valuation.** The stock and debt approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: assets = liabilities + equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting qualifications in items A to C:

A. The stock of the railroad must be traded on either the New York or American Stock Exchange.

B. The bonds of the railroad must be traded or have a rating by either Standard and Poor's or Moody's rating services.

C. If the railroad is part of a diversified company, the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the following method:

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

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

XYZ Railroad portion of stock value $ 50

If a railroad has no net earnings, and is part of a conglomerate, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month-ending stock prices for the 12 months immediately preceding the assessment date of January 2. The value of the bonds, equipment obligations, and conditional sales contracts, and other long-term debts shall also be an average of the cost of money quotes for the 12 months immediately preceding the assessment date of January 2. The source for these stock and bond prices shall be Standard and Poor's Stock Guide or other applicable financial service.

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

XYZ Railroad Company

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

After the gross stock and debt indicator of value has been computed, an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five-year average of net revenue from railway operations, as determined by the ICC, to a similar five-year average of income available for fixed charges as determined by the ICC. The five-year average will be the most recent five years preceding the assessment date. An example of this computation is as follows:

XYZ Railroad Company

Year	Net Revenue from Railway Operations	Income Available for Fixed Charges
19XX	$ 3,000,000	$ 3,500,000

19XX	4,000,000	4,300,000
19XX	5,200,000	5,700,000
19XX	6,000,000	6,800,000
19XX	5,200,000	5,400,000
	$23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

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

The stock and debt indicator of value computed in accordance with this part will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings, or railroads with no income to be capitalized, as provided for in subpart 6. If no stock and debt indicator of value is computed, the weighting of 25 percent which would have been applied to this indicator of value will be placed on the cost indicator of value.

Subp. 5. **Unit value computation.** The estimated unit value of the railroad property will be the total of the three weighted indicators of value. The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value	Weighting	
Cost indicator of value	$27,483,000	15%	$ 4,122,500
Income indicator of value	21,275,000	60%	12,765,000
Stock and debt indicator of value	21,300,000	25%	5,325,000
		Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided in subparts 2 to 4, depending on the conditions and circumstances involved in each valuaton. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent.

Subp. 6. **Railroads operating at a loss, bankrupt railroads involved in federal bankruptcy proceedings, and railroads adjudged bankrupt by a federal court.** Railroads which are involved in federal bankruptcy proceedings, adjudged bankrupt,

or railroads having no net railway operating income will be valued using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value, then these railroads will be valued using the cost approach to value only.

8106.0500 ALLOCATION.

Subpart 1. **In general.** After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in percentage figures. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in parts 8106.0600 and 8106.0800, be subject to ad valorem tax in Minnesota.

Subp. 2. **Allocation factors.** The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

A. miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states;

B. ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states;

C. gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states; and

D. cost of road property in Minnesota divided by the cost of road property in all states.

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

XYZ Railroad

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

8106.0600 ADJUSTMENTS FOR NONFORMULA ASSESSED PROPERTY OR EXEMPT PROPERTY.

After the Minnesota portion of the unit value of the railroad company is determined, property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as nonoperating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

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

The railroad company shall have the responsibility to submit to the commissioner of revenue, in the form required by the commissioner, such schedules of nonoperating property as the commissioner may require.

In addition to nonoperating property which will be valued and assessed locally, a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit;

therefore, it is extremely difficult to make a separation of this value into real and personal property.

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

A. The following ICC accounts for property within Minnesota will be totaled:

(1) that portion of coal and ore wharves determined to be personal property;

(2) communication equipment;

(3) signals and interlockers;

(4) roadway machines;

(5) shop machinery;

(6) power plant machines; and

(7) equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles.

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

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

XYZ Railway

Personal Property Account		Amount in Minnesota
Coal and Ore Wharves		$ 189,200
Communication Equipment		100,000
Signals and Interlockers		200,000
Roadway Machines		200,000
Shop Machinery		100,000
Power Plant Machinery		100,000
* Equipment -- Owned and Leased		2,250,000
		3,139,200
* Total Equipment Account	$9,000,000	
Car and Locomotive Miles in Minnesota	1,000,000	

Total Car and Locomotive Miles	4,000,000		
Ratio of Minnesota to Total		25%	
Minnesota Allocated Equipment Account	$2,250,000		
Restated Cost Account			Amount in Minnesota
Road			$2,990,000
Equipment -- Owned and Leased			2,250,000
Construction Work in Progress			800,000
General expenditures			500,000
			$6,540,000
Minnesota Personal Property Accounts	$3,139,200		
Minnesota Restated Cost	$6,540,000		
Ratio of Personal Property to Cost		48%	
Minnesota portion of unit value			5,108,875
Personal Property exclusion at 48%			2,452,260
Taxable Minnesota Portion of Unit Value			$2,656,615

8106.0700 APPORTIONMENT.

Subpart 1. **In general.** After the taxable Minnesota portion of the railroad's unit value has been determined, this value must be distributed to the various counties and taxing districts in which the railroad operates. This distribution will be accomplished by the commissioner of revenue through the use of certain apportionment components. Each of the components in the apportionment method is a reflection of the property owned or used by the railroad within a particular taxing district. The figures making up these components will be developed on information submitted by the railroad companies in annual reports filed with the commissioner, and information supplied to the commissioner by the various county auditors and assessors.

Subp. 2. **Apportionment components.** There are three components which will be used in the distribution of the value of railroad property to the various taxing districts. They are railroad operating land, miles of track, and railroad operating structures with a restated cost of $10,000 or more.

Subp. 3. **Railroad operating land.** The information for the computation of this apportionment component will be based on information submitted by both the railroads and the various county auditors and assessors. The railroad companies shall

file with the commissioner of revenue each year, in conjunction with their annual reports required by part 8106.0300, subpart 1, the number of acres of railroad operating land owned or used by them in each taxing district in which they operate. The county auditor shall also be required to submit to the commissioner of revenue a report showing the number of acres of railroad operating land, detailed by owning railroad, in each taxing district within the county. If either the railroads or the auditors find that it is administratively impracticable to submit this information, the commissioner shall make an estimate of the number of acres of railroad operating land within each taxing district based on the best information available. Such information would usually consist of the miles of railroad track within the taxing district and the normal width of the right-of-way used by the railroad. In addition, information relative to the current estimated market value of all land within the respective taxing districts will be obtained from the county or city assessors by a review of the abstract of assessment of real and personal property which the various assessors are required to submit yearly to the commissioner of revenue in compliance with Minnesota Statutes, section 273.061, subdivision 9. A review will also be made of the abstract of assessment of exempt real property which is submitted to the commissioner of revenue by the various assessors in compliance with Minnesota Statutes, section 273.18.

The computation for the railroad operating land apportionment component will be accomplished annually in the following manner:

A. The average estimated market value per taxable acre within a specific taxing district will be calculated by dividing the estimated market value of all taxable land within the taxing district as indicated by the most recent abstract of assessment of real and personal property by the number of taxable acres within the taxing district. The number of acres within a taxing district will be obtained from the most recent statistics available from the Land Management Information

Center, State Planning Agency. The total number of acres will be adjusted to allow for nontaxable or exempt acres by subtracting these nontaxable or exempt acres from the total acres. The number of nontaxable or exempt acres will be obtained from the most recent abstract of assessment of exempt real property. The following example illustrates this calculation.

Estimated Market Value of All Taxable Land Within Taxing District		$200,000
Total Area of Taxing District	210 Acres	
Nontaxable or Exempt Acres	10 Acres	
Taxable Acres Within Taxing District		200
Average Estimated Market Value per Acre		$ 1,000

B. This average estimated market value per taxable acre is then applied to the number of acres of railroad operating land within the taxing district to compute a gross railroad operating land component within the taxing district. The following example illustrates this computation:

Average Estimated Market Value Per Acre	$1,000
Acres of Railroad Operating Land	x 5
Gross Railroad Operating Land Component	$5,000

C. This railroad operating land component will then be adjusted. This adjustment is achieved by striking a ratio between the system unit value for all Minnesota railroads, as described in part 8106.0400, subpart 5, to the total of net investment in railway property used in transportation service as defined by the ICC for all railroads operating in Minnesota. This relationship will be computed annually and will then be applied to the gross railroad operating land component to arrive at the adjusted railroad operating land component. This adjusted land value will then be used as one element of the apportionment computation.

The following is an example of how the adjusted railroad operating land component is to be computed:

Railroad	System Unit Value	Net Investment in Railway Property Used in Transportation Services
ABC Railway	$20,000,000	$ 40,000,000
FGH Railway	5,256,000	8,000,000
JKL Railroad	2,000,000	4,780,830
MNO Railroad	50,000,000	90,000,000

XYZ Railroad	22,212,500	25,000,000
	$99,468,500	$165,780,830

Total System Unit Value ($99,468,500) ÷ Total Net Investment in Railway Property Used in Transportation Services ($165,780,830) = 60%

Gross Railroad Operating Land Component Within the Taxing District	$5,000
Adjustment Factor	60%
Adjusted Railroad Operating Land Component	$3,000

Subp. 4. **Miles of track.** The information for the computation of this apportionment component will be based on information submitted by the railroads to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. Each railroad will be required to list the miles of track they own in each taxing district within Minnesota. The track must be separated into two classes, main line track and all other track.

In order to make the miles of track in each taxing district compatible with the other apportionment components, the miles must be converted to dollars. This conversion will be computed annually. The conversion will be accomplished by adding together the following ICC accounts for each railroad's net investment in Minnesota: account 3, grading; account 8, ties; account 9, rails; account 11, ballast. The total of these accounts will then be divided by the number of miles of track operated by the respective railroads within Minnesota to obtain a cost per mile figure. This will be used as the average cost per mile for track within Minnesota.

The following is an example of how the average cost per mile of track in Minnesota will be computed:

Railroad	Total of Accounts #3, 8, 9, 11	Mileage Operated in Minnesota
ABC Railway	$ 4,000,000	154
FGH Railway	800,000	42
JKL Railroad	500,000	20
MNO Railroad	7,450,000	290
XYZ Railroad	2,500,000	104
	$15,250,000	610

Total cost of track ($15,250,000) ÷ Total miles operated

(610) = Average Cost per Mile of Track $25,000.

An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting. Main line track shall be weighted at 1.5 times the cost of all other track; thus, if the average cost per mile of track is $25,000, main line track would be worth more than $25,000 per mile, while all other track would be worth less. The calculation for the average cost of both main line and all other track shall be made annually on an industry basis.

The calculation to determine the average cost per mile of main line track and the average cost per mile of all other track will be computed in the following manner:

A. Total mileage operated will be multiplied by the average cost per mile to arrive at a total track cost.

B. Total mileage operated will be separated into the two types of track, main line and all other track.

C. Main line track will be multiplied by 1.5 to arrive at adjusted main line miles.

D. Adjusted main line miles will be added to all other track miles to arrive at adjusted total track miles.

E. Total track cost will be divided by adjusted total track miles to arrive at the cost per mile of all other track.

F. The cost per mile of main line track will be computed by multiplying the cost per mile of all other track by 1.5.

An illustration of this computation is as follows:

Railroad	Mileage Operated	Main Line Miles	All other Track Miles
ABC Railway	154	96	58
FGH Railway	42	10	32
JKL Railroad	20	15	5
MNO Railroad	290	132	158
XYZ Railroad	104	52	52
	610	305	305
Total Mileage Operated			610
Average Cost Per Mile of Track			$ 25,000
Total Track Cost			$15,250,000
Main Line Miles		305	
Weighting Factor		1.5	
Adjusted Main Line Miles			457.5

Other Track Miles		305.0
Adjusted Total Track Miles		762.5
Total Track Cost		$15,250,000
Adjusted Total Track Miles		762.5
Average Cost Per Mile of Other Track	$	20,000
Average Cost Per Mile of Other Track	$	20,000
Weighting Factor		1.5
Average Cost Per Mile of Main Line Track	$	30,000

After the per mile cost figures for main line and all other track are obtained, these per mile cost figures would be multiplied by the length of each type of track in a particular taxing district to obtain the value of the trackage in that district. The same cost figures will be used for all railroads operating in Minnesota.

Subp. 5. **Structures.** The information for the computation of this apportionment component will be based on statements submitted by the railroads. These schedules shall be submitted annually to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. The schedules shall show the location, by taxing district, of all operating structures owned by the reporting railroad within Minnesota with a restated cost of $10,000 or more. The schedules shall list a description of the structure and the railroad's current restated cost investment in the structure as it appears in the appropriate ICC account.

An example of this listing is as follows:

XYZ Railroad

Taxing District	Description	Restated Cost
St. Paul, S.D. #625	Office Building	$400,000
Minneapolis, S.D. #1	Depot	20,000
Fridley, S.D. #16	Yard Tower	200,000
Anoka, S.D. #11	Engine and Car Shop	250,000
	Total	$870,000

Subp. 6. **Apportionment computation.** After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin. This apportionment is accomplished by totaling the amount of the land, track, and structure components as developed in subparts 3 to 5 for each taxing district, then finding the

sum of these totals for all the taxing districts in which the subject railroad operates. The taxable Minnesota portion of the railroad's unit value is divided by the total of the three apportionment components for all taxing districts in which the railroad operates in order to arrive at a percentage. This resulting percentage is then applied to the total amount of the three apportionment components for each specific taxing district. The figure produced by this multiplication process is the taxing district's share of the railroad's taxable Minnesota portion of the unit value. It is important to note that no more value can be distributed to the various taxing districts than that produced by the valuation process described in parts 8106.0100 to 8106.0600.

The example in part 8106.9900 illustrates the apportionment process.

8106.0800 EQUALIZATION.

Subpart 1. **In general.** After the apportionment of value referred to in part 8106.0700 has been made, the railroad property values must be equalized to coincide with the assessment levels of commercial and industrial property within each respective county receiving a share of the apportioned railroad value. This equalization will be accomplished through the use of an assessment/sales ratio.

Subp. 2. **Assessment/sales ratio computation.** Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisdictions within Minnesota. The study is conducted in many parts. The portions which will be used for purposes of this section are known as the "County Commercial and Industrial Sales Ratio."

This commercial and industrial (C & I) sales ratio is computed through an analysis of the certificates of real estate

value filed by the buyers or sellers of commercial or industrial property within each county. The information contained on these certificates of real estate value is compiled pursuant to requests, standards, and methods set forth by the Minnesota Department of Revenue acting upon recommendations of the Minnesota legislature. The most recent C & I study available will be used for purposes of this section.

The median C & I sales ratio from the County Commercial and Industrial Sales Ratio study will be used as a basis to estimate the current year C & I median ratio for each county.

The process used to estimate this current year median ratio will be as follows.

The State Board of Equalization abstract of market value will be examined. This statistical compilation, commonly called the mini-abstract, is filed each year by every county assessor, with the commissioner of revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property - residential agricultural, commercial, industrial, recreational, etc. - within each particular county. The current estimated market value of commercial and industrial property within each county will be taken from this abstract. The amount of the value of new commercial and industrial construction, ("new" meaning since the last assessment period) as well as the value of commercial and industrial property which has changed classification (i.e. commercial to tax exempt property) will also be taken from the abstract. The value of new construction will then be deducted from the estimated market value, resulting in a net estimated current year market value for commercial and industrial property within the county. The value of commercial and industrial property which has changed classification will be deducted from the previous years estimated market value to arrive at a net estimated previous year market value for commercial and industrial property within the county. The net current year value will be compared to the net previous year's estimated market value for commercial and industrial property within the

county and the difference between the two values noted. This difference will be divided by the previous year's net estimated market value for commercial and industrial property to find the percentage of increase, or decrease, in assessment level for each year. This percent of change will be applied to the most recent C & I median ratio to estimate the current year's C & I median ratio. An example of this calculation for a typical county is shown below.

1986 Estimated Market Value for Commercial and Industrial Property	$12,000,000	
Less: New Construction	1,500,000	
1986 Net Estimated Market Value for Commercial and Industrial Property		10,500,000
1985 Estimated Market Value for Commercial and Industrial Property	10,250,000	
Less: Classification Changes	250,000	
1985 Net Estimated Market Value for Commercial and Industrial Property		10,000,000
Difference 1985 vs. 1986 Estimated Market Value		500,000
Percent of Change (500,000 ÷ 10,000,000)		5%
1985 Median Commercial and Industrial Ratio		88%
1986 Estimated Median Commercial and Industrial Ratio (88% x 105%)		92.4%

This same calculation is performed for each Minnesota county which contains operating railroad property. However, if there are five or fewer valid sales of commercial and industrial property within a county during the study period, it is the commissioner's decision that these few sales are insufficient to form the basis for a meaningful C & I ratio. Therefore, the median assessment/sales ratio to be used for purposes of the above computation will not be the median C & I ratio but will be the weighted median ratio of all property classes within the county for which a sales ratio is available. This weighted median ratio is computed in the same manner using the same procedures and standards as the C & I ratio. In addition, the computation described above will not be performed using the commercial and industrial estimated market value but will use the estimated market value for all property within the county. All other aspects of the calculations are identical except for this substitution.

The weighted median ratio is developed by multiplying the median ratio for each class of property (agricultural, residential, recreational, commercial) by the percentage of value that class of property comprises of the total county value. An example of this calculation is as follows:

Class of Property	Amount of Value	Percent of Value	Median Ratio	Weighted Median Ratio
Residential	$ 20,000,000	20%	85%	17.00%
Agricultural	55,000,000	55%	95%	52.25%
Seasonal - Recreational	5,000,000	5%	90%	4.50%
Commercial - Industrial	20,000,000	20%	85%	17.00%
TOTAL	$100,000,000	100%		90.75%

Subp. 3. **Application of the estimated current year median assessment/sales ratio.** After the estimated current year median ratio has been calculated pursuant to subpart 2, it is used to adjust the apportioned estimated market value of operating railroad property to the apparent assessment level of commercial and industrial property in each county. This is done by factoring or multiplying the estimated market value of the railroad property by the estimated sales ratio to arrive at the equalized market value of operating railroad property. In no instance will any adjustment be made if, after comparing the estimated current year sales ratio to the assessment level of operating railroad property, the difference between the two is five percent or less. An example of this adjustment is as follows:

	Estimated Market Value of Railroad Operating Property*	Estimated Current Year Median Sales Ratio	Equalized Estimated Market Value of Railroad Operating Property
County A	$100,000	85%	$ 85,000
County B	250,000	88%	220,000
County C	300,000	90%	270,000
County D	150,000	92%	138,000
County E	100,000	95%	100,000**

* For purposes of this example, assume that railroad property is assessed at 100 percent of market value.

** No adjustment made because estimated current year median sales ratio is within five percent of assessment level on operating railroad property.

All railroads operating within a particular county will be equalized at the same percentage.

These equalized estimated market values of operating railroad property will be certified to the county assessor denoting specific railroads and taxing districts pursuant to Minnesota Statutes, section 270.87.

	LAND COMPONENT				TRACK COMPONENT					STRUCTURES			
Taxing District	Aver. F.M.V. Per Acre	# of R.R. Opr. Acres	Gross R.R. Land Component	Adj. R.R. Land Component @ 60%	Miles Main Line	Value of Main Line @ $30,000 Mile	Miles of all other Track	Value of All Other Track @ $20,000	Total Track Component	Structures At Restated cost	Total of 3 Components	% of 3 Components to Unit Value*	Taxing Dist. Portion of Unit Value
St. Paul, S.D. #625	$19,000	50	$ 950,000	570,000	8	$ 240,000			$ 240,000	$400,000	$1,210,000	37.87%	$ 458,285
Minneapolis, S.D. #1	20,000	80	1,600,000	960,000	12	360,000			360,000	20,000	1,340,000	37.87%	507,522
Fridley, S.D. #16	15,000	95	1,425,000	855,000	6	180,000	20	$ 400,000	580,000	200,000	1,635,000	37.87%	619,253
Coon Rapids, S.D. #11	13,000	70	910,000	546,000	9	270,000			270,000	-----	816,000	37.87%	309,059
Anoka, S.D. #11	12,000	20	240,000	144,000	4	120,000			120,000	250,000	514,000	37.87%	194,677
Ramsey, S.D. #11	10,000	60	600,000	360,000	11	330,000			330,000	-----	690,000	37.87%	261,336
Elk River, S.D. #728	6,000	5	30,000	18,000	2	60,000			60,000	-----	78,000	37.87%	29,542
Elk River Twsp., S.D. #728	2,000	20	40,000	24,000			8	160,000	160,000	-----	184,000	37.87%	69,690
Big Lake, S.D. #727	3,000	4	12,000	7,200			4	80,000	80,000	-----	87,200	37.87%	33,027
Big Lake Twsp., S.D. #727	1,000	100	100,000	60,000			20	400,000	400,000	-----	460,000	37.87%	174,224
			$5,907,000	$3,544,200		$1,560,000		$1,040,000	$2,600,000	$870,000	$7,014,200		$2,656,615

*Taxable Minn. Portion of Unit Value / Total of 3 Components for All Taxing Districts = $2,656,615 / $7,014,200 = 37.87%

REPEALER. Minnesota Rules, parts 8105.0100; 8105.0200; 8105.0300; 8105.0400; 8105.0500; 8105.0600; 8105.0700; and 8105.9900 are repealed.

Department of Revenue

Property Equalization Division

Proposed Rules Relating to Railroad Valuation

Rules as Proposed (all new material)

8106.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words, terms, and phrases have the meanings given to them by this part. Some of the words, terms, and phrases are defined by statute but are included here for completeness.

Subp. 2. **Allocation.** "Allocation" means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

Subp. 3. **Apportionment.** "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and nonoperating property to the various counties and taxing districts in which the railroad company operates.

Subp. 4. **Assessment/sales ratio.** "Assessment/sales ratio" means the ratio derived by dividing the estimated market value of a property by its adjusted selling price and used as a measure of the level of estimated market value to real or true market value.

Subp. 5. **Book depreciation.** "Book depreciation" means the depreciation shown by a railroad company on its corporate books and allowed the company by the Interstate Commerce Commission.

Subp. 6. **Capitalization rate.** "Capitalization rate" means an anticipated rate of return from an investment, a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

Subp. 7. **Equalization.** "Equalization" means the adjustment of the estimated market value of railroad operating property to the apparent assessment/sales ratio of commercial and industrial property.

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Subp. 8. **Exempt property.** "Exempt property" means property which is nontaxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted and personal property otherwise exempt from taxation under Minnesota Statutes, chapter 272.

Subp. 9. **ICC.** "ICC" means the Interstate Commerce Commission, a federal regulatory agency.

Subp. 10. **Mainline track.** "Mainline track" means all track reported to the ICC by the respondent railroad as main line.

Subp. 11. **Nonoperating property.** "Nonoperating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property includes real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land is presumed to be available for lease or rent if it has not been used as operating property for a period of at least one year preceding the valuation date. It also includes: (a) land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in the performance of these services; and (b) that portion of a general office building and its proportionate share of land which is not used for railway operations or purposes.

Subp. 12. **Obsolescence allowance.** "Obsolescence allowance" means the adjustment to be made to the gross cost indicator of value to reflect the loss of economic usefulness or value because of causes other than physical deterioration.

Subp. 13. **Operating property.** "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation, franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings, and structures.

Subp. 14. **Original cost.** "Original cost" means the amount

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

Subp. 15. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 16. **Railroad company.** "Railroad company" means a company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

Subp. 17. **Restated cost.** "Restated cost" means the cost of an asset recorded on a railroad's books after adjusting the amount from a retirement-replacement-betterment accounting basis to a depreciation accounting basis, in accordance with Code of Federal Regulations, title 49, part 1201 (effective January 1, 1983).

Subp. 18. **Structure.** "Structure" means all coal and ore wharves or docks, station houses, depots, shops, office buildings, and all other buildings with a restated cost of over $10,000.

Subp. 19. **System.** "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

Subp. 20. **Unit value.** "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

Subp. 21. **Weighting.** "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100 percent.

8106.0200 GENERAL PROCEDURES.

Laws of Minnesota 1979, chapter 303, article VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The article also charges the commissioner of revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads.

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Subsequently, Laws of Minnesota 1984, chapter 502, article 9 gave additional instructions to the commissioner regarding the method of valuing railroad property and the equalization of these valuations. This article also gives the commissioner the authority to promulgate emergency rules in order to implement these valuation and equalization procedures.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors, apportionment standards, and equalization methods will be used as described in this chapter for 1986 and subsequent years.

8106.0300 REPORTS REQUIRED.

Subpart 1. **Reports to be filed.** The data used in the valuation, allocation, and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies. These reports are to be filed with the commissioner on or before April 30 of each year and shall include:

A. the Minnesota Department of Revenue annual railroad report;

B. the annual report to the Interstate Commerce Commission;

C. the annual report to the Minnesota Public Utilities Commission;

D. the annual stockholders report; and

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

Subp. 2. **Reports examination.** Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The commissioner shall, upon written application from the railroad, extend the filing date 30 days.

Subp. 3. **Failure to file.** In the event any railroad

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company fails to file the required reports, the commissioner shall make a valuation according to the commissioner's best judgment based on available information.

Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation, and apportionment required by parts 8106.0100 to 8106.0700. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

8106.0400 VALUATION.

Subpart 1. **In general.** The Minnesota legislature has said that railroads may be valued using the unit basis of estimating value. Consequently, the commissioner has chosen to use this method. The approaches to value that will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided in subparts 4 and 6. It is the decision of the commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided in this part until time or conditions warrant a change in either methods or procedures.

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets

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enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment	Indicated Rate of Return
19XX	$2,700,000	$31,500,000	8.57%
19XX	$2,900,000	$32,000,000	9.06%
19XX	$3,100,000	$33,500,000	9.25%
19XX	$3,300,000	$34,000,000	9.70%
19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%
Five-year Average Rate of Return			9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical

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Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

Year	Railroad	Rate of Return
19XX	ABC	11.50%
19XX	FGH	11.27%
19XX	JKL	10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	54.44%
Five-year Average Blue Chip Rate of Return		10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	10.89%
Indicated Obsolescence	
1 - (9.33% ÷ 10.89%)	14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of revenue freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Revenue Freight	Average Miles of Road Operated	Indicated Freight Traffic Density
19XX	1,300,000,000	575	2,260,000

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19XX	1,402,500,000	550	2,550,000
19XX	1,200,000,000	550	2,180,000
19XX	1,100,000,000	500	2,200,000
19XX	1,000,000,000	500	2,000,000
		Total	11,190,000

Five-Year Average Freight Traffic Density 2,238,000

A five-year study is then made of the major railroads operating within the United States in the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad	Freight Traffic Density
19XX	JKL	2,280,000
19XX	FGH	2,600,000
19XX	FGH	2,200,000
19XX	MNO	2,900,000
19XX	ABC	2,280,000
	Total	12,260,000

Five-year Average Blue Chip
Freight Traffic Density 2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence 1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high

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percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue	Indicated Gross Profit Margin
19XX	4,050,000	15,000,000	27.0%
19XX	4,350,000	15,800,000	27.5%
19XX	4,650,000	16,500,000	28.2%
19XX	4,950,000	17,300,000	28.6%
19XX	5,295,000	19,000,000	27.9%
		Total	139.2%
	Five-Year Average Gross Profit Margin		27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%

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Five-Year Average Blue Chip Gross Profit Margin	31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad's gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison	14.30%
Obsolescence Indicated by Freight Traffic Density Comparison	8.70%
Obsolescence Indicated by Gross Profit Margin Comparison	11.50%
Total	34.50%
Average Obsolescence Percentage	11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account	Amount
Road	$24,000,000
Equipment -- Owned and Leased	9,000,000
Construction Work in Progress	4,500,000

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General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. **Income approach to valuation.** The income indicator of value will be calculated by averaging the net railway operating income, as determined by the ICC, of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the band of investment method. This method will consider:

A. the capital structure of railroads, including capital surplus and retained earnings;

B. the cost of debt or interest rate paying particular attention to imbedded debt of railroads;

C. the yield on preferred stock of railroads; and

D. the yield on common stock of railroads.

For 1986 this capitalization rate will be 14.0 percent. This rate will be recalculated each year using the method described in this subpart.

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

XYZ Railroad

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Year	Net Railway Operating Income
19XX	$ 2,600,000
19XX	2,700,000
19XX	3,000,000
19XX	3,100,000
19XX	3,492,500
Total	$14,892,500
Average	$ 2,978,500

Five-year average Net Railway Operating Income Capitalized at 14.0 percent (2,978,500 ÷ 14.0 percent) equals $21,275,000.

The income indicator of value computed in accordance with this part shall be weighted 60 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in subpart 6.

Subp. 4. **Stock and debt approach to valuation.** The stock and debt approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: assets = liabilities + equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting qualifications in items A to C:

A. The stock of the railroad must be traded on either the New York or American Stock Exchange.

B. The bonds of the railroad must be traded or have a rating by either Standard and Poor's or Moody's rating services.

C. If the railroad is part of a diversified company, the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the following method:

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

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

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XYZ Railroad portion of stock value $ 50

If a railroad has no net earnings, and is part of a conglomerate, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month-ending stock prices for the 12 months immediately preceding the assessment date of January 2. The value of the bonds, equipment obligations, and conditional sales contracts, and other long-term debts shall also be an average of the cost of money quotes for the 12 months immediately preceding the assessment date of January 2. The source for these stock and bond prices shall be Standard and Poor's Stock Guide or other applicable financial service.

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

XYZ Railroad Company

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

After the gross stock and debt indicator of value has been computed, an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five-year average of net revenue from railway operations, as determined by the ICC, to a similar five-year average of income available for fixed charges as determined by the ICC. The five-year average will be the most recent five years preceding the assessment date. An example of this computation is as follows:

XYZ Railroad Company

Year	Net Revenue from Railway Operations	Income Available for Fixed Charges
19XX	$ 3,000,000	$ 3,500,000

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19XX	4,000,000		4,300,000
19XX	5,200,000		5,700,000
19XX	6,000,000		6,800,000
19XX	5,200,000		5,400,000
	$23,400,000		$25,700,000
Average	$ 4,680,000		$ 5,140,000

Ratio $4,680,000 ÷ $5,140,000 = 91%

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

The stock and debt indicator of value computed in accordance with this part will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings, or railroads with no income to be capitalized, as provided for in subpart 6. If no stock and debt indicator of value is computed, the weighting of 25 percent which would have been applied to this indicator of value will be placed on the cost indicator of value.

Subp. 5. **Unit value computation.** The estimated unit value of the railroad property will be the total of the three weighted indicators of value. The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value	Weighting	
Cost indicator of value	$27,483,000	15%	$ 4,122,500
Income indicator of value	21,275,000	60%	12,765,000
Stock and debt indicator of value	21,300,000	25%	5,325,000
		Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided in subparts 2 to 4, depending on the conditions and circumstances involved in each valuaton. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent.

Subp. 6. **Railroads operating at a loss, bankrupt railroads involved in federal bankruptcy proceedings, and railroads adjudged bankrupt by a federal court.** Railroads which are involved in federal bankruptcy proceedings, adjudged bankrupt,

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or railroads having no net railway operating income will be valued using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value, then these railroads will be valued using the cost approach to value only.

8106.0500 ALLOCATION.

Subpart 1. **In general.** After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in percentage figures. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in parts 8106.0600 and 8106.0800, be subject to ad valorem tax in Minnesota.

Subp. 2. **Allocation factors.** The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

A. miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states;

B. ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states;

C. gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states; and

D. cost of road property in Minnesota divided by the cost of road property in all states.

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

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XYZ Railroad

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

8106.0600 ADJUSTMENTS FOR NONFORMULA ASSESSED PROPERTY OR EXEMPT PROPERTY.

After the Minnesota portion of the unit value of the railroad company is determined, property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as nonoperating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

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

The railroad company shall have the responsibility to submit to the commissioner of revenue, in the form required by the commissioner, such schedules of nonoperating property as the commissioner may require.

In addition to nonoperating property which will be valued and assessed locally, a deduction from the Minnesota portion of the unit value will be made for personal property. The unit value method presupposes that the value of any one portion of the unit is interdependent upon all other elements of the unit;

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therefore, it is extremely difficult to make a separation of this value into real and personal property.

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

A. The following ICC accounts for property within Minnesota will be totaled:

(1) that portion of coal and ore wharves determined to be personal property;

(2) communication equipment;

(3) signals and interlockers;

(4) roadway machines;

(5) shop machinery;

(6) power plant machines; and

(7) equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles.

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

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

XYZ Railway

Personal Property Account		Amount in Minnesota
Coal and Ore Wharves		$ 189,200
Communication Equipment		100,000
Signals and Interlockers		200,000
Roadway Machines		200,000
Shop Machinery		100,000
Power Plant Machinery		100,000
* Equipment -- Owned and Leased		2,250,000
		3,139,200
* Total Equipment Account	$9,000,000	
Car and Locomotive Miles in Minnesota	1,000,000	

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

Restated Cost Account	Amount in Minnesota
Road	$2,990,000
Equipment -- Owned and Leased	2,250,000
Construction Work in Progress	800,000
General expenditures	500,000
	$6,540,000

Minnesota Personal Property Accounts	$3,139,200	
Minnesota Restated Cost	$6,540,000	
Ratio of Personal Property to Cost	48%	
Minnesota portion of unit value		5,108,875
Personal Property exclusion at 48%		2,452,260
Taxable Minnesota Portion of Unit Value		$2,656,615

8106.0700 APPORTIONMENT.

Subpart 1. **In general.** After the taxable Minnesota portion of the railroad's unit value has been determined, this value must be distributed to the various counties and taxing districts in which the railroad operates. This distribution will be accomplished by the commissioner of revenue through the use of certain apportionment components. Each of the components in the apportionment method is a reflection of the property owned or used by the railroad within a particular taxing district. The figures making up these components will be developed on information submitted by the railroad companies in annual reports filed with the commissioner, and information supplied to the commissioner by the various county auditors and assessors.

Subp. 2. **Apportionment components.** There are three components which will be used in the distribution of the value of railroad property to the various taxing districts. They are railroad operating land, miles of track, and railroad operating structures with a restated cost of $10,000 or more.

Subp. 3. **Railroad operating land.** The information for the computation of this apportionment component will be based on information submitted by both the railroads and the various county auditors and assessors. The railroad companies shall

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file with the commissioner of revenue each year, in conjunction with their annual reports required by part 8106.0300, subpart 1, the number of acres of railroad operating land owned or used by them in each taxing district in which they operate. The county auditor shall also be required to submit to the commissioner of revenue a report showing the number of acres of railroad operating land, detailed by owning railroad, in each taxing district within the county. If either the railroads or the auditors find that it is administratively impracticable to submit this information, the commissioner shall make an estimate of the number of acres of railroad operating land within each taxing district based on the best information available. Such information would usually consist of the miles of railroad track within the taxing district and the normal width of the right-of-way used by the railroad. In addition, information relative to the current estimated market value of all land within the respective taxing districts will be obtained from the county or city assessors by a review of the abstract of assessment of real and personal property which the various assessors are required to submit yearly to the commissioner of revenue in compliance with Minnesota Statutes, section 273.061, subdivision 9. A review will also be made of the abstract of assessment of exempt real property which is submitted to the commissioner of revenue by the various assessors in compliance with Minnesota Statutes, section 273.18.

The computation for the railroad operating land apportionment component will be accomplished annually in the following manner:

A. The average estimated market value per taxable acre within a specific taxing district will be calculated by dividing the estimated market value of all taxable land within the taxing district as indicated by the most recent abstract of assessment of real and personal property by the number of taxable acres within the taxing district. The number of acres within a taxing district will be obtained from the most recent statistics available from the Land Management Information

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Center, State Planning Agency. The total number of acres will be adjusted to allow for nontaxable or exempt acres by subtracting these nontaxable or exempt acres from the total acres. The number of nontaxable or exempt acres will be obtained from the most recent abstract of assessment of exempt real property. The following example illustrates this calculation.

Estimated Market Value of All Taxable Land Within Taxing District		$200,000
Total Area of Taxing District	210 Acres	
Nontaxable or Exempt Acres	10 Acres	
Taxable Acres Within Taxing District		200
Average Estimated Market Value per Acre		$ 1,000

B. This average estimated market value per taxable acre is then applied to the number of acres of railroad operating land within the taxing district to compute a gross railroad operating land component within the taxing district. The following example illustrates this computation:

Average Estimated Market Value Per Acre	$1,000
Acres of Railroad Operating Land	x 5
Gross Railroad Operating Land Component	$5,000

C. This railroad operating land component will then be adjusted. This adjustment is achieved by striking a ratio between the system unit value for all Minnesota railroads, as described in part 8106.0400, subpart 5, to the total of net investment in railway property used in transportation service as defined by the ICC for all railroads operating in Minnesota. This relationship will be computed annually and will then be applied to the gross railroad operating land component to arrive at the adjusted railroad operating land component. This adjusted land value will then be used as one element of the apportionment computation.

The following is an example of how the adjusted railroad operating land component is to be computed:

Railroad	System Unit Value	Net Investment in Railway Property Used in Transportation Services
ABC Railway	$20,000,000	$ 40,000,000
FGH Railway	5,256,000	8,000,000
JKL Railroad	2,000,000	4,780,830
MNO Railroad	50,000,000	90,000,000

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XYZ Railroad	22,212,500	25,000,000
	$99,468,500	$165,780,830

Total System Unit Value ($99,468,500) ÷ Total Net Investment in Railway Property Used in Transportation Services ($165,780,830) = 60%

Gross Railroad Operating Land Component Within the Taxing District	$5,000
Adjustment Factor	60%
Adjusted Railroad Operating Land Component	$3,000

Subp. 4. **Miles of track.** The information for the computation of this apportionment component will be based on information submitted by the railroads to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. Each railroad will be required to list the miles of track they own in each taxing district within Minnesota. The track must be separated into two classes, main line track and all other track.

In order to make the miles of track in each taxing district compatible with the other apportionment components, the miles must be converted to dollars. This conversion will be computed annually. The conversion will be accomplished by adding together the following ICC accounts for each railroad's net investment in Minnesota: account 3, grading; account 8, ties; account 9, rails; account 11, ballast. The total of these accounts will then be divided by the number of miles of track operated by the respective railroads within Minnesota to obtain a cost per mile figure. This will be used as the average cost per mile for track within Minnesota.

The following is an example of how the average cost per mile of track in Minnesota will be computed:

Railroad	Total of Accounts #3, 8, 9, 11	Mileage Operated in Minnesota
ABC Railway	$ 4,000,000	154
FGH Railway	800,000	42
JKL Railroad	500,000	20
MNO Railroad	7,450,000	290
XYZ Railroad	2,500,000	104
	$15,250,000	610

Total cost of track ($15,250,000) ÷ Total miles operated

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(610) = Average Cost per Mile of Track $25,000.

An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting. Main line track shall be weighted at 1.5 times the cost of all other track; thus, if the average cost per mile of track is $25,000, main line track would be worth more than $25,000 per mile, while all other track would be worth less. The calculation for the average cost of both main line and all other track shall be made annually on an industry basis.

The calculation to determine the average cost per mile of main line track and the average cost per mile of all other track will be computed in the following manner:

A. Total mileage operated will be multiplied by the average cost per mile to arrive at a total track cost.

B. Total mileage operated will be separated into the two types of track, main line and all other track.

C. Main line track will be multiplied by 1.5 to arrive at adjusted main line miles.

D. Adjusted main line miles will be added to all other track miles to arrive at adjusted total track miles.

E. Total track cost will be divided by adjusted total track miles to arrive at the cost per mile of all other track.

F. The cost per mile of main line track will be computed by multiplying the cost per mile of all other track by 1.5.

An illustration of this computation is as follows:

Railroad	Mileage Operated	Main Line Miles	All other Track Miles
ABC Railway	154	96	58
FGH Railway	42	10	32
JKL Railroad	20	15	5
MNO Railroad	290	132	158
XYZ Railroad	104	52	52
	610	305	305
Total Mileage Operated			610
Average Cost Per Mile of Track			$ 25,000
Total Track Cost			$15,250,000
Main Line Miles		305	
Weighting Factor		1.5	
Adjusted Main Line Miles			457.5

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Other Track Miles	305.0
Adjusted Total Track Miles	762.5
Total Track Cost	$15,250,000
Adjusted Total Track Miles	762.5
Average Cost Per Mile of Other Track	$ 20,000
Average Cost Per Mile of Other Track	$ 20,000
Weighting Factor	1.5
Average Cost Per Mile of Main Line Track	$ 30,000

After the per mile cost figures for main line and all other track are obtained, these per mile cost figures would be multiplied by the length of each type of track in a particular taxing district to obtain the value of the trackage in that district. The same cost figures will be used for all railroads operating in Minnesota.

Subp. 5. **Structures.** The information for the computation of this apportionment component will be based on statements submitted by the railroads. These schedules shall be submitted annually to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. The schedules shall show the location, by taxing district, of all operating structures owned by the reporting railroad within Minnesota with a restated cost of $10,000 or more. The schedules shall list a description of the structure and the railroad's current restated cost investment in the structure as it appears in the appropriate ICC account.

An example of this listing is as follows:

XYZ Railroad

Taxing District	Description	Restated Cost
St. Paul, S.D. #625	Office Building	$400,000
Minneapolis, S.D. #1	Depot	20,000
Fridley, S.D. #16	Yard Tower	200,000
Anoka, S.D. #11	Engine and Car Shop	250,000
	Total	$870,000

Subp. 6. **Apportionment computation.** After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin. This apportionment is accomplished by totaling the amount of the land, track, and structure components as developed in subparts 3 to 5 for each taxing district, then finding the

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sum of these totals for all the taxing districts in which the subject railroad operates. The taxable Minnesota portion of the railroad's unit value is divided by the total of the three apportionment components for all taxing districts in which the railroad operates in order to arrive at a percentage. This resulting percentage is then applied to the total amount of the three apportionment components for each specific taxing district. The figure produced by this multiplication process is the taxing district's share of the railroad's taxable Minnesota portion of the unit value. It is important to note that no more value can be distributed to the various taxing districts than that produced by the valuation process described in parts 8106.0100 to 8106.0600.

The example in part 8106.9900 illustrates the apportionment process.

8106.0800 EQUALIZATION.

Subpart 1. **In general.** After the apportionment of value referred to in part 8106.0700 has been made, the railroad property values must be equalized to coincide with the assessment levels of commercial and industrial property within each respective county receiving a share of the apportioned railroad value. This equalization will be accomplished through the use of an assessment/sales ratio.

Subp. 2. **Assessment/sales ratio computation.** Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisdictions within Minnesota. The study is conducted in many parts. The portions which will be used for purposes of this section are known as the "County Commercial and Industrial Sales Ratio."

This commercial and industrial (C & I) sales ratio is computed through an analysis of the certificates of real estate

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value filed by the buyers or sellers of commercial or industrial property within each county. The information contained on these certificates of real estate value is compiled pursuant to requests, standards, and methods set forth by the Minnesota Department of Revenue acting upon recommendations of the Minnesota legislature. The most recent C & I study available will be used for purposes of this section.

The median C & I sales ratio from the County Commercial and Industrial Sales Ratio study will be used as a basis to estimate the current year C & I median ratio for each county.

The process used to estimate this current year median ratio will be as follows.

The State Board of Equalization abstract of market value will be examined. This statistical compilation, commonly called the mini-abstract, is filed each year by every county assessor, with the commissioner of revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property - residential agricultural, commercial, industrial, recreational, etc. - within each particular county. The current estimated market value of commercial and industrial property within each county will be taken from this abstract. The amount of the value of new commercial and industrial construction, ("new" meaning since the last assessment period) as well as the value of commercial and industrial property which has changed classification (i.e. commercial to tax exempt property) will also be taken from the abstract. The value of new construction will then be deducted from the estimated market value, resulting in a net estimated current year market value for commercial and industrial property within the county. The value of commercial and industrial property which has changed classification will be deducted from the previous years estimated market value to arrive at a net estimated previous year market value for commercial and industrial property within the county. The net current year value will be compared to the net previous year's estimated market value for commercial and industrial property within the

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county and the difference between the two values noted. This difference will be divided by the previous year's net estimated market value for commercial and industrial property to find the percentage of increase, or decrease, in assessment level for each year. This percent of change will be applied to the most recent C & I median ratio to estimate the current year's C & I median ratio. An example of this calculation for a typical county is shown below.

1986 Estimated Market Value for Commercial and Industrial Property	$12,000,000	
Less: New Construction	1,500,000	
1986 Net Estimated Market Value for Commercial and Industrial Property		10,500,000
1985 Estimated Market Value for Commercial and Industrial Property	10,250,000	
Less: Classification Changes	250,000	
1985 Net Estimated Market Value for Commercial and Industrial Property		10,000,000
Difference 1985 vs. 1986 Estimated Market Value		500,000
Percent of Change (500,000 ÷ 10,000,000)		5%
1985 Median Commercial and Industrial Ratio		88%
1986 Estimated Median Commercial and Industrial Ratio (88% x 105%)		92.4%

This same calculation is performed for each Minnesota county which contains operating railroad property. However, if there are five or fewer valid sales of commercial and industrial property within a county during the study period, it is the commissioner's decision that these few sales are insufficient to form the basis for a meaningful C & I ratio. Therefore, the median assessment/sales ratio to be used for purposes of the above computation will not be the median C & I ratio but will be the weighted median ratio of all property classes within the county for which a sales ratio is available. This weighted median ratio is computed in the same manner using the same procedures and standards as the C & I ratio. In addition, the computation described above will not be performed using the commercial and industrial estimated market value but will use the estimated market value for all property within the county. All other aspects of the calculations are identical except for this substitution.

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The weighted median ratio is developed by multiplying the median ratio for each class of property (agricultural, residential, recreational, commercial) by the percentage of value that class of property comprises of the total county value. An example of this calculation is as follows:

Class of Property	Amount of Value	Percent of Value	Median Ratio	Weighted Median Ratio
Residential	$ 20,000,000	20%	85%	17.00%
Agricultural	55,000,000	55%	95%	52.25%
Seasonal - Recreational	5,000,000	5%	90%	4.50%
Commercial - Industrial	20,000,000	20%	85%	17.00%
TOTAL	$100,000,000	100%		90.75%

Subp. 3. **Application of the estimated current year median assessment/sales ratio.** After the estimated current year median ratio has been calculated pursuant to subpart 2, it is used to adjust the apportioned estimated market value of operating railroad property to the apparent assessment level of commercial and industrial property in each county. This is done by factoring or multiplying the estimated market value of the railroad property by the estimated sales ratio to arrive at the equalized market value of operating railroad property. In no instance will any adjustment be made if, after comparing the estimated current year sales ratio to the assessment level of operating railroad property, the difference between the two is five percent or less. An example of this adjustment is as follows:

	Estimated Market Value of Railroad Operating Property*	Estimated Current Year Median Sales Ratio	Equalized Estimated Market Value of Railroad Operating Property
County A	$100,000	85%	$ 85,000
County B	250,000	88%	220,000
County C	300,000	90%	270,000
County D	150,000	92%	138,000
County E	100,000	95%	100,000**

* For purposes of this example, assume that railroad property is assessed at 100 percent of market value.

** No adjustment made because estimated current year median sales ratio is within five percent of assessment level on operating railroad property.

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All railroads operating within a particular county will be equalized at the same percentage.

These equalized estimated market values of operating railroad property will be certified to the county assessor denoting specific railroads and taxing districts pursuant to Minnesota Statutes, section 270.87.

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1 8106.9900 EXAMPLE OF APPORTIONMENT PROCESS.

Taxing District	LAND COMPONENT: Aver. E.M.V. Per Acre	# of R.R. Opr. Acres	Gross R.R. Land Component	Adj. R.R. Land Component @ 60%	TRACK COMPONENT: Miles of Main Line	Value of Main Line @ $30,000 Mile	Miles of all other Track	Value of All Other Track @ $20,000	Total Track Component	Structures At Restated cost	STRUCTURES: Total of 3 Components	% of 3 Components to Unit Value*	Taxing Dist. Portion of Unit Value
St. Paul, S.D. #625	$19,000	50	$ 950,000	570,000	8	$ 240,000			$ 240,000	$400,000	$1,210,000	37.87%	$ 458,285
Minneapolis, S.D. #1	20,000	80	1,600,000	960,000	12	360,000			360,000	20,000	1,340,000	37.87%	507,522
Fridley, S.D. #16	15,000	95	1,425,000	855,000	6	180,000	20	$ 400,000	580,000	200,000	1,635,000	37.87%	619,253
Coon Rapids, S.D. #11	13,000	70	910,000	546,000	9	270,000			270,000	-----	816,000	37.87%	309,059
Anoka, S.D. #11	12,000	20	240,000	144,000	4	120,000			120,000	250,000	514,000	37.87%	194,677
Ramsey, S.D. #11	10,000	60	600,000	360,000	11	330,000			330,000	-----	690,000	37.87%	261,336
Elk River, S.D. #728	6,000	5	30,000	18,000	2	60,000			60,000	-----	78,000	37.87%	29,542
Elk River Twsp., S.D. #728	2,000	20	40,000	24,000			8	160,000	160,000	-----	184,000	37.87%	69,690
Big Lake, S.D. #727	3,000	4	12,000	7,200			4	80,000	80,000	-----	87,200	37.87%	33,027
Big Lake Twsp., S.D. #727	1,000	100	100,000	60,000			20	400,000	400,000	-----	460,000	37.87%	174,224
			$5,907,000	$3,544,200		$1,560,000		$1,040,000	$2,600,000	$870,000	$7,014,200		$2,656,615

*Taxable Minn. Portion of Unit Value / Total of 3 Components for All Taxing Districts = $2,656,615 / $7,014,200 = 37.87%

SP:N12

REVISED IN THE REVISOR OF STATUTES

REPEALER. Minnesota Rules, parts 8105.0100; 8105.0200; 8105.0300; 8105.0400; 8105.0500; 8105.0600; 8105.0700; and 8105.9900 are repealed.

APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

OFFICE OF THE REVISOR OF STATUTES

Proposed Rule

RD919

Agency: Department of Revenue

Division: Property Equalization Division

Agency Contact: Wayne Gerwing

Minnesota Rules: Parts 8106.0100 to 8106.9900

Title: Proposed Rules Relating to Railroad Valuation

Type of Rules: Permanent

Incorporations by Reference: None

Steven C. Cross
Revisor of Statutes

JCR

Janet C. Rahm
Senior Assistant Revisor
Phone: 296-0952
Date: March 20, 1986

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Valuation and Assessment of Railroad Operating Property

Order Adopting Permanent Rules

The above-entitled matter was published in the State Register on April 7, 1986 as a proposed permanent rule pursuant to Minnesota Statutes, sections 14.22 to 14.28. After affording interested and affected persons an opportunity to submit written data and views within 30 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable, the rules were submitted to the Attorney General's office for review. The Attorney General rejected the rules because of certain deficiencies. These deficiencies have been corrected and do not result in substantive change,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minnesota Department of Revenue Permanent Rules Governing the Valuation and Assessment of Railroad Operating Property are adopted this 25th day of July, 1986 pursuant to authority vested in me by Minnesota Statutes, section 270.84, subdivision 1.

STATE OF MINNESOTA

COMMISSIONER OF REVENUE

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the State of Minnesota Governing the Valuation and Assessment of Railroad Operating Property

Order Adopting Permanent Rules

The above-entitled matter was published in the State Register on April 7, 1986 as a proposed permanent rule pursuant to Minnesota Statutes, sections 14.22 to 14.28. After affording interested and affected persons an opportunity to submit written data and views within 30 days of the publication date, reviewing and considering the data and views, and determining that the above-captioned rules are needed and reasonable,

NOW, THEREFORE, IT IS ORDERED that these rules identified as Minnesota Department of Revenue Permanent Rules Governing the Valuation and Assessment of Railroad Operating Property are adopted this 8th day of May, 1986 pursuant to authority vested in me by Minnesota Statutes, section 270.84, subdivision 1.

STATE OF MINNESOTA

Arthur C. Roemer
Asst to Commissioner of Revenue

ments will be accepted until January 17, 1986. Interested persons should reference Docket No. G-999/R-85-789 on all written materials. Written statements should be addressed to:

Mary Ellen Hennen
Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
150 East Kellogg
St. Paul, MN 55101

Oral statements will be received at the public hearing and otherwise during normal business hours over the telephone by Stuart Mitchell at (612) 296-8662 and in person at the above address.

Any written material received by the Commission shall become part of the record in the event that rules are proposed.

Department of Revenue
Property Equalization Division

Outside Opinion Sought Regarding Proposed Rules Governing the Valuation and Assessment of Railroads

Notice is hereby given that the State Department of Revenue is seeking information or opinions from sources outside the agency in preparing to promulgate permanent rules governing the valuation, allocation, apportionment and equalization of railroads for ad valorem tax purposes. The promulgation of these rules is specifically authorized by Minnesota Statute section 270.81 Subd. 5 and Minnesota Statute 270.84 Subd. 1, which require the agency to adopt rules governing the assessment of railroads.

Emergency rules have been in effect for the past year and now the Department of Revenue is requesting information and comments concerning the subject matter of these emergency rules as well as suggestions and revisions for inclusion in the permanent rules.

Interested or affected persons or groups may submit statements of information or comments orally or in writing. Written statements should be addressed to:

G. D. Garski
Manager of State Assessed Property
Property Equalization Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145

Oral statements will be received during regular business hours over the telephone at (612) 296-5134 and in person at the above address.

All statements of information and comments shall be accepted until December 9, 1985. Any written material received by the State Department of Revenue shall become part of the record in the event the rules are promulgated.

Lyle H. Ask, Director
Property Equalization Division

Department of Transportation

Amended Order and Notice of Street and Highway Routes Designated and Permitted to Carry the Gross Weights Allowed Under Minn. Stat. § 169.825, Order No. 70652

Whereas, the Commissioner of Transportation has made his Order No. 68884 as amended by Orders Nos. 69226, 69269, 69270, 69344, 69353, 69595, 69770, 69796, 70006, 70031, 70152, 70455, 70520, and 70580 designating and permitting certain street and highway routes, or segments of those routes, to carry the gross weights allowed under Minnesota Statutes § 169.825, 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 § 169.825.

IT IS HEREBY ORDERED that Commissioner of Transportation Order No. 68884 is amended this date by adding the following designated streets and highway routes, or segment of routes, as follows:

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Repeal of Suspended Rules and the Adoption of Permanent Rules of The State Department of Revenue Governing the Valuation and Assessment of Railroads

ORDER FOR REPEAL OF SUSPENDED RULES AND PUBLICATION OF PERMANENT RULES

IT IS ORDERED this 25th day of February, 1986 that the rules of the Department of Revenue Chapter 8105 of Minnesota Rules entitled "Ad Valorem: Valuation and Assessment of Railroads" which were suspended on June 13, 1984 be repealed.

IT IS FURTHER ORDERED that the proposed permanent rules in the above entitled matter be published in the State Register.

STATE OF MINNESOTA

Arthur C. Roemer
Acting COMMISSIONER OF REVENUE

SP:N4

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of Rules of the State of Minnesota, Department of Revenue Governing the Valuation, Allocation, Apportionment and Equalization of Railroad Operating Property.

ORDER FOR NOTICE OF INTENT TO ADOPT RULES WITHOUT PUBLIC HEARING

IT IS ORDERED this 25th day of February, 1986 that a Notice of Intent to Adopt Rules Without Public Hearing in the above-entitled matter be given to all persons who have registered their names with the State Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

Arthur C. Roemer

Asst to COMMISSIONER OF REVENUE

DEPARTMENT OF REVENUE
PROPERTY EQUALIZATION DIVISION

PROPOSED RULES RELATING TO RAILROADS

NOTICE OF INTENT TO REPEAL SUSPENDED RULES AND TO ADOPT PERMANENT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Revenue, Property Equalization Division, proposes to repeal Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." These rules were suspended until further notice by order of the Commissioner on June 13, 1984. This repeal is made pursuant to Findings of Fact, Conclusions of Law and Order for Judgment issued by the Minnesota Tax Court on November 13, 1983 in the matter of the Soo Line Railroad Company vs. the Commissioner of Revenue. This order reads in part . . . "Regulations of the Commissioner of Revenue that do not conform to the statutes do not have the force and effect of law and will be disregarded." Additionally, in his memorandum attached to this Order, Judge Carl A. Jensen states, "The evidence produced at the trial of this matter indicated the Rules 13 MCAR Section 1.0024 (now recodified into MR 8105) adopted by the Commissioner of Revenue to determine valuation of railroad property do not properly reflect the valuation and to the extent that they conflict with this decision, the rules are overruled."

Rather than speculate on which part of the rules do not conform to the statutes and which rules do not properly reflect the valuation of railroad property, the Commissioner of Revenue now proposes to repeal Minnesota Rules Chapter 8105.

Acting under authority given by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposes to adopt permanent rules governing the valuation and assessment of railroads which will replace the repealed rule. 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 14.21 to 14.28 (1984).

This notice of intent to adopt rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the rule. Additionally the notice of intent to adopt proposed rules together with the rule itself is being published in the State Register.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the thirty (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 sections 14.14 to 14.20.

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

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
P.O. Box 64446
St. Paul, Minnesota 55164
(612) 642-0488

Authority for the adoption of these rules is contained generally in Minnesota Statutes sections: 270.06 (14), 270.11, Subd. 1 and 6; and specifically in 270.81, Subd. 5; 270.84, Subd. 1 and 270.86, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, 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 Wayne Gerwing at the above mentioned address.

The proposed rules if adopted will provide methods and procedures for the valuation of railroad operating property utilizing the unit value method. This unit value method will employ the value indicators of restated cost less depreciation and obsolescence, capitalized income and stock and debt. The proposed rules will also contain provisions for a four factor allocation of the unit value as well as a method to deduct nontaxable property from the allocated value. A three component apportionment method utilizing land, miles of track and structures will also be described in the proposed rules as well as a method to be used to equalize the apportioned value to the assessment levels of other commercial and industrial property. All of the proposed methods and procedures closely parallel the procedures described in the Department of Revenue's Emergency Rules Relating to Railroads which were used to value railroad operating property for the assessment years 1984 and 1985. A copy of the proposed rule, together with a statement of need, is available and may be obtained by contacting Wayne Gerwing at the above mentioned address.

STATE OF MINNESOTA

Arthur C. Roemer

Asst to COMMISSIONER OF REVENUE

Date: February 25, 1986

In the Matter of the Proposed
Repeal of Emergency Rules and
the Adoption of Permanent Rules
of the State of Minnesota
Governing the Valuation and
Assessment of Railroads

AFFIDAVIT OF MAILING

STATE OF MINNESOTA)
) ss.
COUNTY OF RAMSEY)

Wayne J. Gerwing, being first duly sworn deposes and says:

That on the 3rd day of April, 1986, at the City of St. Paul, County of Ramsey, State of Minnesota, he served the attached Notice of Intent to Repeal Emergency Rules and to Adopt Permanent Rules by depositing in the State of Minnesota Central Mail system for United States mailing at said City of St. Paul, a copy thereof, properly enveloped, with postage prepaid, on all persons and associations who have requested that their names be placed on file with the State of Minnesota for the purpose of receiving notice of the proposed adoption of rules by this Department.

Wayne J Gerwing

Subscribed and sworn to before me

this 3rd day of April, 1986.

Patricia Zentzis

PATRICIA ZENTZIS
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES APRIL 19, 1989

DEPARTMENT OF REVENUE
PROPERTY EQUALIZATION DIVISION

PROPOSED RULES RELATING TO RAILROADS

NOTICE OF INTENT TO REPEAL SUSPENDED RULES AND TO ADOPT PERMANENT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the State Department of Revenue, Property Equalization Division, proposes to repeal Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." These rules were suspended until further notice by order of the Commissioner on June 13, 1984. This repeal is made pursuant to Findings of Fact, Conclusions of Law and Order for Judgment issued by the Minnesota Tax Court on November 13, 1983 in the matter of the Soo Line Railroad Company vs. the Commissioner of Revenue. This order reads in part . . . "Regulations of the Commissioner of Revenue that do not conform to the statutes do not have the force and effect of law and will be disregarded." Additionally, in his memorandum attached to this Order, Judge Carl A. Jensen states, "The evidence produced at the trial of this matter indicated the Rules 13 MCAR Section 1.0024 (now recodified into MR 8105) adopted by the Commissioner of Revenue to determine valuation of railroad property do not properly reflect the valuation and to the extent that they conflict with this decision, the rules are overruled."

Rather than speculate on which part of the rules do not conform to the statutes and which rules do not properly reflect the valuation of railroad property, the Commissioner of Revenue now proposes to repeal Minnesota Rules Chapter 8105.

Acting under authority given by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposes to adopt permanent rules governing the valuation and assessment of railroads which will replace the repealed rule. 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 14.21 to 14.28 (1984).

This notice of intent to adopt rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the rule. Additionally the notice of intent to adopt proposed rules together with the rule itself is being published in the State Register.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the thirty (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 sections 14.14 to 14.20.

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

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
P.O. Box 64446
St. Paul, Minnesota 55164
(612) 642-0488

Authority for the adoption of these rules is contained generally in Minnesota Statutes sections: 270.06 (14), 270.11, Subd. 1 and 6; and specifically in 270.81, Subd. 5; 270.84, Subd. 1 and 270.86, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, 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 Wayne Gerwing at the above mentioned address.

The proposed rules if adopted will provide methods and procedures for the valuation of railroad operating property utilizing the unit value method. This unit value method will employ the value indicators of restated cost less depreciation and obsolescence, capitalized income and stock and debt. The proposed rules will also contain provisions for a four factor allocation of the unit value as well as a method to deduct nontaxable property from the allocated value. A three component apportionment method utilizing land, miles of track and structures will also be described in the proposed rules as well as a method to be used to equalize the apportioned value to the assessment levels of other commercial and industrial property. All of the proposed methods and procedures closely parallel the procedures described in the Department of Revenue's Emergency Rules Relating to Railroads which were used to value railroad operating property for the assessment years 1984 and 1985. A copy of the proposed rule, together with a statement of need, is available and may be obtained by contacting Wayne Gerwing at the above mentioned address.

STATE OF MINNESOTA

Arthur C. Roemer

Asst to COMMISSIONER OF REVENUE

Date: February 25, 1986

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED REPEAL OF EMERGENCY RULES AND THE ADOPTION OF PERMANENT RULES OF THE STATE OF MINNESOTA GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages number 1 through 30 consisting of 333 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 26th day of February, 1986, have requested pursuant to Minn. Stat. Section 14.14, subd. 1, 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
T. J. TRIPLETT
COMMISSIONER OF REVENUE

BY: Donna Walbridge
Donna Walbridge
Commissioner's Staff

MAILING LIST FOR OFFICIAL NOTICE OF AGENCY RULEMAKING #1

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

Mr. Allard, C.P.A.
201 West Burnsville Parkway
Suite 130M
Burnsville, MN 55337

American Legion Club
Box 183
Hill City, MN 55748

Anderson & Peterson, LPAs
Dodge Professional Building
Moose Lake, MN 55767

David J. Anderson
Certified Public Accountant
2415 Annapolis Lane, Suite 110
Minneapolis, MN 55441

Dwight C. Anderson, C.P.A.
Box 2924
Fargo, ND 58108

Anderson, Johnson & Co., Ltd.
Certified Public Accountants
1068 South Lake St.
Forest Lake, MN 55025

Anderson, Keszler & Associates
Accountants and Auditors
1202 23rd Street So., Box 2924
Fargo, ND 58108

Arrowhead Accounting Service
Box 240
Coleraine, MN 55722

Arsenal Sand & Gravel Co., Inc.
P. O. Box 12707
New Brighton, MN 55112

Association of MN Counties
555 Park, Room 300
St. Paul, MN 55103
Attn: James C. Shipman
Executive Director

Ausmus Furniture & Carpet
Hinckley, MN 55037

Auto-Soler Co.
5101 Fulton Industrial Blvd. SW
Atlanta, GA 30336
Attn: H. Ensign, General Accountant

Wesley L. Bahl
P. O. Box 822
Faribault, MN 55021

Baljon Accounting
1850 - 8th Avenue
Newport, MN 55055
Attn: Jon Jannetto

Bankers Service Company
1918 W. County Rd. C.
Roseville, MN 55113
Attn: Glenn Thomasen

Edward Barski
1219 S. Second St.
Stillwater, MN 55082

Bauer Built, Inc.
P. O. Box 248
Durand, WI 54736
Attn: Calvin Jacks, Jr.
Operations Manager

Bemidji Area Chamber of Commerce
P. O. Box 806
Bemidji, MN 56601
Attn: Bookkeeper

T. A. Bengtson
Rural Route 2, Box 90
Waterville, MN 56096

L. T. Bensen & Associates
5315 France Avenue North
Minneapolis, MN 55429

Wayne Benson
Benson, Lund & Mattson
P.O. Box 418
Detroit Lakes, MN 56501

Benson Tax Service
3109 Bloomington Ave. S.
Minneapolis, MN 55407
Attn: Peter J. Benson

Benusa T.V. & Appliance, Inc.
109 7th Avenue South
St. Cloud, MN 56301

Best & Flanagan
4040 IDS Center
Minneapolis, MN 55402
Attn: James C. Diracles

Gary D. Blackford, Esq.
Popham, Haik, et al
4355 IDS Center
Minneapolis, MN 55402

Lyle L. Boehlke
Boehlke & Son, Inc.
Box 86
Buffalo Lake, MN 55314

Oscar J. Boldt Construction Co.
P. O. Box 419
Appleton, WI 54912
Attn: Kathy L. Baumann

Bondhus Corporation
Lois M. Payne
Box 667
Monticello, MN 55362

Borowicz, Holmgren, Loberg & Co.
Certified Public Accountants
151 West 126th Street
Burnsville, MN 55337

Bowlby, Anfinson, Crandall & Haedt L
Robert L. Haedt
109 North Main
P. O. Box 217
Austin, MN 55912

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

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive-Suite 800
Minneapolis, MN 55420
Attn: John M. Broeker

Broeker, Hartfeldt, Hedges & Grant
Attorneys at Law
2850 Metro Drive, Suite 800
Minneapolis, MN 55420
Attn: Angus M. Vaughan
Legal Assistant

Business and Financial Services
P. O. Box 365
Cannon Falls, MN 55009

Butler Manufacturing Company
BMA Tower, Penn Valley Park
Kansas City, MO 64141

Byerly's
7171 France Avenue So.
Edina, MN 55435
Attn: Don Hoekstra, Accts. Mgr.

C.A.P. Cooperative Oil Ass'n.
P. O. Box 38
Kettle River, MN 55757

CCSI
P. O. Box 1082
St. Cloud, MN 56302

Caldwell, Taylor & Brown, Ltd.
540 Shelard Plaza North
300 South County Road 18
Minneapolis, MN 55426

Carlisle Accounting Service
14645 Cameo Avenue
Rosemount, MN 55068

Keith Carlson
Senate Tax Committee
205 State Capitol
St. Paul, MN 55155

Carlson, Lundquist & Company
Suite 123, Triad Building
7101 Northland Circle
Minneapolis, MN 55428
Attn: Larry Coleman

Daniel R. Cartier
Post Office Box 41245
10601 Olson Memorial Highway
Plymouth, MN 55441

CCH Computax Inc.
P. O. Box 92938
Worldway Postal Center
Los Angeles, CA 90009
Attn: John Koffroth, Tax Specialist

Chicago, Milwaukee, St. Paul
and Pacific Railroad Comapny
516 W. Jackson Blvd.
Chicago, IL 60608
Attn: Manager-Tax Accounting

Mrs. Laudine Christ
Rural Route #1, Box 90
Wells, MN 56097

Douglas A. Cilz
Pearson & Christenen
24 North 4th Street
Grand Forks, ND 58206-1075

City of Apple Valley
George E. Ballenger, Finance Dir.
14200 Cedar Avenue South
Apple Valley, MN 55124

Concrete Sectional Culvert Company
P. O. Box 1429
Fargo, ND 58102

County Flower Shop
Audrey Van Klompenburg
Route 3, Box 218
Montevideo, MN 56265

Country Furniture
D. J. Meyer Inc.
Lake Park, MN 56554

Crest Electronics
Simon at Third
Dassel, MN 55325
Attn: Carol A. Chap, Office Manager

Custom Printing, Inc.
P. O. Box 1010
1913 2nd Street S.W.
Rochester, MN 55901

Dacotah Paper Co.
1401 - 5th Avenue North
P. O. Box 2727
Fargo, ND 58108

Dan Blank Accounting
213 N. 1st Street
P. O. Box 530
Montevideo, MN 56265

Dayton's
700 on the Mall
Minneapolis, MN 55402
Attn: J.E. Wahl, Property Accounting

Dayton's - Advertising
700 Nicollet Mall
Minneapolis, MN 55402
Attn: Mr. Edward Hannasch

DDD Motel Corporation
111 Range Street
North Mankato, MN 56001
Attn: Shirley Miller, Bookkeeper

Dean's Towing & Auto Parts
P. O. Box 157
Brainerd, MN 56401

H. LeRoy DeBoom
3945 Zarthan Avenue
St. Louis Park, MN 55416

Jim DeChaine
2419 Tunlaw Road N.W.
Washington, D.C. 20007

Deloitte, Haskins & Sells
625 Fourth Avenue So., Suite 1000
Minneapolis, MN 55415
Attn: S. C. Moosbrugger

Lorraine DeMill
1414 13th Avenue E.
Hibbing, MN 55746

The Denesen Company, Inc.
2836 Colfax Avenue South
Minneapolis, MN 55408
Attn: R. L. Earlywine

Denny's North Star
Box 35
Hill City, MN 55748

Bob Dietrick, Treasurer
City of Excelsior
339 Third Street
Excelsior, MN 55331

Department of Economic Assistance
Client Resources Unit
A-1200 Government Center
Minneapolis, MN 55487
Attn: Ed Fashingbauer

Mr. Dennis J. Dietzler
Attorney at Law
7426 Nicollet Avenue So.
Richfield, MN 55423

Director Staff Services
2215 W. Old Shakopee Road
Bloomington, MN 55431
Attn: Lyle R. Olson

Jan Dolan
5139 Florida Avenue N.
Crystal, MN 55428

Dome Pipeline Corporation
P. O. Box 2608, Station M
Calgary, Canada T2P 2M7
Attn: K. D. Olstad

Dome Pipeline Corporation
P. O. Box 200
Calgary, Alberta
Canada T2P 2H8

Drug Fair, Inc.-Star Drug-Witte Drug
Industrial Park Road
Iowa City, IA 52240

E.A.T. Inc.
K-Bob Cafe & Riverside Deli
109 South 5th Avenue
Princeton, MN 55371

E. I. du Pont de Nemours & Co.
State, Excise & Employment Taxes Sec.
Room 1346 Farmers Bank Bldg.
1007 Market Street
Wilmington, DE 19898

The Estenson Company
101 East Main
Luverne, MN 56156

Ernst & Whinney
1400 Pillsbury Center
Minneapolis, MN 55402
Attn: Anthony M. Schelonka

Esterbrooks, Lomen, Scott & Signorelli, Ltd.
307 Lonsdale Building
Duluth, MN 55802

Evahold, Hamm & Gordon, Ltd.
9977 Valley View Road, Suite 300
Minneapolis, MN 55344

Fabri-Centers of America, Inc.
23550 Commerce Park Road
Beachwood, OH 44122
Attn: David Essi, Jr.
Tax Department

Donald M. Fahrenkamp
P. O. Box 305
4769 Dakota Street
Prior Lake, MN 55372

Joseph B. Faillon
Route 1, Box 556
Pine River, MN 56474

Farmers Exchange Cooperative
Lake Park
IA 51347

First Northwestern Bank
110 E. 3rd Street
Box 579
Thief River Falls, MN 56701

Firstbank Financial Corporation
100 Federal Street
Boston, MA 02110
Attn: Renato R. Te, Accounting Officer

Firstmiss Inc.
P. O. Box 328
Ft. Madison, IA 52627
Attn. Financial/Tax Accountant

John Henry Foster Co., Inc.
3748 Minnehaha Ave.
Minneapolis, MN 55406
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Revoluntionary Heat Systems, Inc.
241 Second Avenue
Foley, MN 56329

Barbara J. Richter
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Clear Lake, MN 55319

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Hessian, McKasy & Soderberg
1500 Midwest Plaza West Building
Minneapolis, MN 55402

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P. O. Box 16248
Minneapolis, MN 55416
Attn: John E. Loberg, Vice Pres., Finance

Rogers, Knutson & Company, Ltd.
Certified Public Accountants
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P. O. Box 876
Mankato, MN 56001

S & FA Reporting Services, Inc.
1101 - 15th Street N.W.
Washington, D.C. 20005
Attn: Regulatory Department

St. Paul Bank for Cooperatives
Farm Credit Banks Building
375 Jackson Street
St. Paul, MN 55101
Attn: Joel A. Huser

St. Paul Co., Inc.
Corp. Law Department
385 Washington Street
St. Paul, MN 55102
Attn: Claudia Smith

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Minneapolis, MN 55402

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6800 France Avenue South
Edina, MN 55435

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Route 1
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White Bear Lake, MN 55110

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Sibley House Association
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Minneapolis, MN 55406
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Space Center, Inc.
L. A. Klepperich
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Spartan Mechanical, Inc.
9801 Valley View Road
Eden Prairie, MN 55344
Attn: John Pierson, Sec. - Treas.

Springsteel Resort and Marina, Inc.
Warroad, MN 56763
Attn. Dick Soderberg

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Attn: Maurice L. Londer

Stirtz, Bernards & Casey
Lawrence Mahoney
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St. Paul, MN 55101

Stiles Stores, Inc.
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Waukegan, IL 60085

Super Valu Stores, Inc.
Corporate Tax Department
P.O. Box 990
Minneapolis, MN 55440

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

Sylvester Brothers
Highway 65 at 221st Ave. NE
Cedar, MN 55011

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

Technical Services for Electronic, Inc.
P. O. Box 687
Arlington, MN 55307

Tenney Company
207 South First Street
Buffalo, MN 55313
Attn: Mr. Harold Tenney

Kathy Terpstra
Route 2, Box 147
Brooten, MN 56316

Tomas Terres
110 Fourth Street,Box 449
Albany, MN 56307

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P. O. Box 507
Grand Marais, MN 55604

Thunderbird Aviation
5100 Eden Avenue
Minneapolis, MN 55436
Attn: Steven L. Schadegg, Acct.

Neal Tilsner, Accountant
1119 St. Paul Avenue
St. Paul, MN 55116

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Denver, CO 80216
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900 Pillsbury Center
Minneapolis, MN 55402
Attn: Mark A. Sellner

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

Tri-Mac Building Supply, Inc.
571 East Fourth Street
Winona, MN 55987
Attn: Don McNally

TRW Cinch Connectors
Electronic Components Div.
1501 Morse Avenue
Elk Grove Village, IL 60007
Attn: General Accounting Mgr.

Tuscargra Lodge & Outfitters
Gunflint Trail
Grand Marais, MN 55604

Tushner's Market, Inc.
501 E. Third Street
Winona, MN 55987

University of Minnesota
271 19th Avenue S.
645 BA Tower
Minneapolis, MN 55455
Attn: Frederick R. Jacobs, Director
Graduate Studies in Taxation

Village Inn Pancake House, Inc.
400 West 48th Avenue
Denver, CO 80216
Attn. Tax Department

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106 South Ninth Street
Olivia, MN 56277
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Wells, MN 56097

R. B. Whitacre & Co., Inc.
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STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 41

April 7, 1986

Pages 2049-2096

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 10		
42	Monday 31 March	Monday 7 April	Monday 14 April
43	Monday 7 April	Monday 14 April	Monday 21 April
44	Monday 14 April	Monday 21 April	Monday 28 April
45	Monday 21 April	Monday 28 April	Monday 5 May

*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, 504 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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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** also.

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 Rules.
- Proposed emergency rules.
- Withdrawal of proposed rules (option; not required).

The ADOPTED RULES section contains:

- Notice of adoption of new rules and rule amendments adopted without change from the previously published proposed rules. (Unchanged adopted rules are not republished in full in the *State Register* unless an agency requests this.)
- Adopted amendments to new rules or rule amendments (adopted changes from the previously published proposed rules).
- Notice of adoption of emergency rules.
- Adopted amendments to emergency rules (changes made since the proposed version was published).
- Extensions of emergency rules beyond their original effective date.

The OFFICIAL NOTICES section includes (but is not limited to):

- Notice of intent to solicit outside opinion before promulgating rules.
- Additional hearings on proposed rules not listed in original proposed rules calendar.

ALL ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES published in the *State Register* and filed with the Secretary of State before April 8, 1985 are published in the *Minnesota Rules 1985*. ADOPTED RULES and ADOPTED AMENDMENTS TO EXISTING RULES filed after April 8, 1985 will be included in a supplement scheduled for publication in Spring, 1986. Proposed and adopted EMERGENCY (formerly called TEMPORARY) RULES appear in the *State Register* but are generally not published in the *Minnesota Rules* due to the short-term nature of their legal effectiveness. Those that are long-term may be published.

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

Issues 1-13, inclusive
Issues 14-25, inclusive
Issue 26, cumulative for 1-26
Issues 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 *Minnesota Rules 1985*.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

NOTE: This listing includes all proposed and adopted rules printed in this issue except emergency rules and errata for this issue. Please see those sections for the appropriate rule numbers.

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DEPARTMENT OF HEALTH

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6800.1500; .1600; .2250; .3100; .3110; .3120; .3650; .9900 (adopted) 2007
6800.1500, s.8 (repealer) 2007

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Solid and Hazardous Waste Division

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DEPARTMENT OF PUBLIC WELFARE (Now HUMAN SERVICES)

9549.0050-.0059 (proposed temporary) 2016
9550.6200-.6240 (adopted) 2005

PROPOSED RULES

Pursuant to Minn. Stat. of 1984, §§ 14.22, 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 25 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 the modifications are supported by the data and views submitted.**

If, during the 30-day comment period, 25 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 §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

Pursuant to Minn. Stat. §§ 14.29 and 14.30, agencies may propose emergency rules under certain circumstances. Proposed emergency rules are published in the *State Register* and, for at least 25 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Housing Finance Agency

Proposed Rules Relating to Homeownership Assistance Fund Tax Reform Transition Demonstration Program

Notice of Intent to Adopt Rules without a Public Hearing

Notice is hereby given that the Minnesota Housing Finance Agency (''agency'') proposes to adopt the above-entitled rules without a public hearing. The agency has determined that the proposed adoption of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. Sec. 14.21 to 14.28.

Persons interested in these rules shall have 30 days to submit comments in support of or in opposition to the proposed rules within the 30-day comment period. Such comments are encouraged, and should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed. The proposed rule may be modified as the result of comments received 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 twenty-five or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minn. Stat. Sec. 14.14 *et. seq*. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed.

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

Kathleen J. Johnson
Legal Division
Minnesota Housing Finance Agency
Suite 300
400 Sibley Street
St. Paul, Minnesota 55101
Telephone: 612/296-9793

Authority for the adoption of these rules is contained in Minn. Stat. Sec. 462A.06, Subd. 4 and 11. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rules, and that identifies the data and information relied upon to support the proposed rules has been prepared and is available from Kathleen J. Johnson upon request.

Upon adoption of the final rules without a public hearing, the proposed rules, this notice, the Statement of Need and Reasonableness, all written comments received, and the final rules as adopted will be delivered to a designee of the Attorney General for review as to form and legality, including the issue of substantial change, and to determine whether the agency has the authority to adopt the rules and whether the record demonstrates a rational basis for the need for and reasonableness of the proposed rules. Persons who wish to receive notice of the date of submission of these rules to the Attorney General for review, or who wish to receive a free copy of the final rules as adopted, should make such requests to Kathleen J. Johnson.

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.

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Kathleen J. Johnson.

Please be advised that Minn. Stat. Ch. 10A.03 requires each lobbyist to register with the State Ethical Practices Board within five (5) days after he or she commences lobbying. A lobbyist is defined in Minn. Stat. Sec. 10A.01, Subd. 11 as any individual:

(a) Engaged for pay or other consideration, or authorized by another individual or association to spend money, who spends more than five hours in any month or more than $250.00, not including his own travel expenses and membership dues, in any year, for the purpose of attempting to influence legislative or administrative action by communicating or urging others to communicate with public officials; or

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

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

April 4, 1986

James J. Solem
Executive Director

Rules as Proposed (all new material)

HOMEOWNERSHIP ASSISTANCE FUND TAX

REFORM TRANSITION DEMONSTRATION PROGRAM

4900.1360 HOMEOWNERSHIP ASSISTANCE FUND UNDER TAX REFORM TRANSITION DEMONSTRATION PROGRAM.

Subpart 1. **Monthly assistance.** The agency may provide eligible recipients with interest-free monthly assistance loans in the form of monthly payments of a portion of the principal and interest installment due on a tax reform transition demonstration program mortgage on qualifying property. Payments shall not exceed $100 per month and shall decrease by $10 per month or $120 per year each year. The maximum amount of monthly assistance to which a recipient is originally entitled shall be determined by the agency from time to time on the basis of the percentage of income that may reasonably be spent on mortgage payments, the interest rate charged for tax reform transition demonstration program mortgage loans, and general housing and construction costs in Minnesota. However, the initial maximum monthly assistance that the agency shall determine to be available shall not exceed the amounts provided in subparts 2, 3, and 4 for persons and families within the annual gross income ranges in subparts 2, 3, and 4 for various potential interest rates to be charged by the agency on its tax reform transition demonstration program mortgage loans.

Subp. 2. **Assistance in designated central counties.** The loans provided for in subpart 1 may be made in the following amounts to eligible recipients whose qualifying property is in Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright counties.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		$ 100	$ 80	$ 60	$ 40	$ 20
0-9.00%	Annual Hshld. Income	0-21,000	21,001-22,000	22,001-23,000	23,001-24,000	24,001-25,000
9.01-9.50%	Annual Hshld. Income	0-22,000	22,001-23,000	23,001-24,000	24,001-25,000	25,001-26,000
9.51-10.00%	Annual Hshld. Income	0-23,000	23,001-24,000	24,001-25,000	25,001-26,000	26,001-27,000
10.01-10.50%	Annual Hshld. Income	0-24,000	24,001-25,000	25,001-26,000	26,001-27,000	27,001-28,000
10.51-11.00%	Annual Hshld. Income	0-25,000	25,001-26,000	26,001-27,000	27,001-28,000	28,001-29,000
11.01-and Up	Annual Hshld. Income	0-26,000	26,001-27,000	27,001-28,000	28,001-29,000	29,001-30,000

Subp. 3. **Assistance in designated outstate counties.** The loans provided for in subpart 1 may be made in the following amounts to eligible recipients whose qualifying property is in Benton, Blue Earth, Clay, Nicollet, Olmsted, St. Louis, Sherburne, and Stearns counties.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		$ 100	$ 80	$ 60	$ 40	$ 20
0-9.00%	Annual Hshld. Income	0-15,000	15,001-16,000	16,001-17,000	17,001-18,000	18,001-19,000
9.01-9.50%	Annual Hshld. Income	0-16,000	16,001-17,000	17,001-18,000	18,001-19,000	19,001-20,000
9.51-10.00%	Annual Hshld. Income	0-17,000	17,001-18,000	18,001-19,000	19,001-20,000	20,001-21,000
10.01-10.50%	Annual Hshld. Income	0-18,000	18,001-19,000	19,001-20,000	20,001-21,000	21,001-22,000
10.51-11.01-	Annual Hshld. Income	0-19,000	19,001-20,000	20,001-21,000	21,001-22,000	22,001-23,000
11.01-and Up	Annual Hshld. Income	0-20,000	20,001-21,000	21,001-22,000	22,001-23,000	23,001-24,000

Subp. 4. **Assistance in all other counties.** The loans provided for in subpart 1 may be made in the following amounts to eligible recipients whose qualifying property is in any county not named in subparts 2 and 3.

Mortgage Interest Rate		Initial Maximum Monthly Assistance				
		$ 100	$ 80	$ 60	$ 40	$ 20
0-9.00%	Annual Hshld. Income	0-12,000	12,001-13,000	13,001-14,000	14,001-15,000	15,001-16,000
9.01-9.50%	Annual Hshld. Income	0-13,000	13,001-14,000	14,001-15,000	15,001-16,000	16,001-17,000
9.51-10.00%	Annual Hshld. Income	0-14,000	14,001-15,000	15,001-16,000	16,001-17,000	17,001-18,000
10.01-10.50%	Annual Hshld. Income	0-15,000	15,001-16,000	16,001-17,000	17,001-18,000	18,001-19,000
10.51-11.00%	Annual Hshld. Income	0-16,000	16,001-17,000	17,001-18,000	18,001-19,000	19,001-20,000
11.01-and Up	Annual Hshld. Income	0-17,000	17,001-18,000	18,001-19,000	19,001-20,000	20,001-21,000

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.

4900.1361 HOMEOWNERSHIP ASSISTANCE FUND; DOWN PAYMENT ASSISTANCE UNDER PROGRAM.

The agency may provide interest-free down payment assistance loans to recipients eligible for monthly homeownership assistance under the tax reform transition demonstration program who are determined, on the basis of normal credit procedures, to lack the cash or land equity necessary to pay the required down payment, plus closing costs, expenses, and origination fees on the dwelling to be purchased. The amount of the down payment assistance loan shall equal the amount by which the sum of the down payment, closing costs, expenses, and origination fees exceeds five percent of the purchase price of the dwelling, but it shall not exceed the lesser of 50 percent of the down payment or $1,500.

4900.1362 REPAYMENT.

Repayment shall be as provided in part 4900.1350.

Department of Jobs and Training

Proposed Rules Relating to Youth Employment Opportunity

Notice of Intent to Adopt Rules without Public Hearing

Notice is hereby given that the Department proposes to amend the above-entitled rules without a public hearing. The Commissioner has determined that the proposed amendment of the rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28.

The amendment of the rules is authorized by Minnesota Statutes, sections 268.021 and 268.33 which require the Department to make rules to implement the Youth Employment Opportunities Program.

The public is encouraged to comment on the proposed rules. The public shall have 30 days to submit comment in support of or in opposition to the proposed rules. Each comment should identify the portion of the proposed rules addressed, the reason for comment, and any change proposed. The proposed rules may be modified if the modifications are supported by the data and views submitted to the Department and do not result in a substantial change in the proposed language.

If 25 or more persons submit written requests for a public hearing within the 30-day comment period, a public hearing will be held. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. In the event a public hearing is required, the Department will proceed according to the provisions of Minnesota Statutes, sections 14.22 to 14.28.

If a public hearing is not required, notice of the date of submission of the proposed rules to the Administration Division of the Office of the Attorney General for review will be mailed to any person requesting to receive the notice.

Comments, written requests for a public hearing, written requests for a free copy of the proposed rules, and requests for notice of the date of submission to the Attorney General should be submitted to:

Lawrence Cheetham
Youth Services Supervisor
Department of Jobs and Training
690 American Center Building
150 East Kellogg Blvd.
St. Paul, MN 55101
(612) 296-6734

Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of each amendment to the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available upon request from Lawrence Cheetham at the above address.

A copy of the proposed rules follows this notice.

March 18, 1986

Joseph Samargia, Commissioner
Department of Jobs and Training

Rules as Proposed

3300.0100 DEFINITION OF TERMS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Department of ~~Economic Security~~ Jobs and Training.

Subp. 4. [Unchanged.]

Subp. 5. **Department.** "Department" means the Minnesota Department of ~~Economic Security~~ Jobs and Training.

Subp. 7. [Unchanged.]

Subp. 9. **Support services.** "Support services" means services which are necessary to enable an eligible individual to participate in employment funded under the act.

3300.0300 ALLOCATION OF FUNDS.

Subpart 1. **Allocations to counties.** The commissioner shall allocate funds available under the act as follows:

A. Fifty percent of the funds available under the act shall be allocated to counties on the basis of each county's share of the estimated youth population of the state which is ~~14 through 21 years of age~~ from the ages of 14 years up to but not including 22 years.

B. Fifty percent of the funds available under the act shall be allocated to counties according to each county's share of the estimated youth population of the state which is ~~14 through 21 years of age~~ from the ages of 14 years up to but not including 22 years, adjusted for:

(1) [Unchanged.]

(2) the county's ~~proportion of families below the poverty level~~ poverty ratio based upon the percent of children from five to 17 years of age living in families below the poverty line as evidenced by ~~1980~~ the most recent United States Census figures as adjusted by reference to more recent population surveys, provided that reference to more recent population surveys shall be made only if such data is available for all counties in the state.

~~C. The method of allocation to counties expressed mathematically shall be as follows:~~

$$A_{ei} = \frac{0.5F\,(YP_{ei})}{YP_s} + \frac{0.5\,F)YP_{ei})\,(U_{ei})\,(P_{ei})\,(C_{ei})}{\sum_{i=1}^{n}\,(YP_{ei})\,(U_{ei})\,(P_{ei})\,(C_{ei})}$$

~~where:~~

~~(1) A_{ei} = allocation to the ith county;~~

~~(2) F = funds available under the act;~~

~~(3) YP_{ei} = youth population 14 through 21 years of age in the ith county, determined by interpolation for the current year from projections of the state demographer;~~

~~(4) YP_s = the sum of YP_{ei} for all counties in the state;~~

~~(5) U_{ei} = most recent three-year average of official labor force unemployment rates for the months of June, July, and August for the ith county;~~

~~(6) P_{ei} = percent of all families with income below the poverty level in the ith county as evidenced by the 1980 United States Census or more recent population surveys as referenced in subpart 2, item B; and~~

~~(7) C_{ei} = 1 − $\frac{1.5\ (\text{no. of students } 20\text{-}21)\text{ for the } i^{th}\text{ county.}}{\text{youth population } 14\text{-}21}$~~

Subp. 2. [Unchanged.]

3300.0400 CONTRACTING.

The commissioner may enter into contracts for operation of the program with organizations ~~defined~~ enumerated in part 3300.0100, subpart 4. Selection of contractors with experience in administering summer youth employment programs ~~is~~ will be

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determined by the commissioner ~~in consultation with private industry councils and chief elected officials authorized to administer the Job Training Partnership Act under Public Law Number 97-300 in Minnesota. The department retains ultimate responsibility for administration and operation of the program~~ taking into consideration recommendations made by local service units. The commissioner may also consider recommendations by other organizations with experience in operating summer youth programs.

3300.0601 SUPPORT SERVICES.

Using funds allocated under the act, contractors shall provide or arrange for support services for eligible youth. The cost of the support services must not exceed ten percent of the contract. The services may include transportation, meals, career information training, work-related protective devices, and other normal expenses associated with employment funded under the act.

Department of Revenue
Property Equalization Division

Proposed Rules Relating to Railroad Valuation

Notice of Intent to Repeal Suspended Rules and to Adopt Permanent Rules without a Public Hearing

Notice is hereby given that the State Department of Revenue, Property Equalization Division, proposes to repeal Minnesota Rules 8105.0100 to 8105.9900 entitled "Ad Valorem Tax: Valuation and Assessment of Railroads." These rules were suspended until further notice by order of the Commissioner on June 13, 1984. This repeal is made pursuant to Findings of Fact, Conclusions of Law and Order for Judgment issued by the Minnesota Tax Court on November 13, 1983 in the matter of the Soo Line Railroad Company vs. the Commissioner of Revenue. This order reads in part . . . "Regulations of the Commissioner of Revenue that do not conform to the statutes do not have the force and effect of law and will be disregarded." Additionally, in his memorandum attached to this Order, Judge Carl A. Jensen states, "The evidence produced at the trial of this matter indicated the Rules 13 MCAR Section 1.0024 (now recodified into MR 8105) adopted by the Commissioner of Revenue to determine valuation of railroad property do not properly reflect the valuation and to the extent that they conflict with this decision, the rules are overruled."

Rather than speculate on which part of the rules do not conform to the statutes and which rules do not properly reflect the valuation of railroad property, the Commissioner of Revenue now proposes to repeal Minnesota Rules Chapter 8105.

Acting under authority given by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2, the Commissioner of Revenue proposes to adopt permanent rules governing the valuation and assessment of railroads which will replace the repealed rule. 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 14.21 to 14.28 (1984).

This notice of intent to adopt rules will be mailed to all interested parties registered with the Department of Revenue and a certified copy of the mailing list together with an affidavit of mailing will be submitted to the Attorney General for his review prior to adoption of the rule. Additionally the notice of intent to adopt proposed rules together with the rule itself is being published in the *State Register*.

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

Unless 25 or more persons submit written requests for a public hearing on the proposed rules within the thirty (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 sections 14.14 to 14.20.

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

Wayne J. Gerwing
Property Equalization Division
Minnesota Department of Revenue
P.O. Box 64446
St. Paul, Minnesota 55164
(612) 642-0488

Authority for the adoption of these rules is contained generally in Minnesota Statutes sections: 270.06 (14), 270.11, Subd. 1 and 6; and specifically in 270.81, Subd. 5; 270.84, Subd. 1 and 270.86, Subd. 1. Additionally, a Statement of Need and Reasonableness that describes the need for and reasonableness of the proposed rules and identifies the data and information relied upon to support the proposed rules has been prepared and is available from Wayne Gerwing at the above mentioned address, 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 Wayne Gerwing at the above mentioned address.

The proposed rules if adopted will provide methods and procedures for the valuation of railroad operating property utilizing the unit value method. This unit value method will employ the value indicators of restated cost less depreciation and obsolescence, capitalized income and stock and debt. The proposed rules will also contain provisions for a four factor allocation of the unit value as well as a method to deduct nontaxable property from the allocated value. A three component apportionment method utilizing land, miles of track and structures will also be described in the proposed rules as well as a method to be used to equalize the apportioned value to the assessment levels of other commercial and industrial property. All of the proposed methods and procedures closely parallel the procedures described in the Department of Revenue's Emergency Rules Relating to Railroads which were used to value railroad operating property for the assessment years 1984 and 1985. A copy of the proposed rule, together with a statement of need, is available and may be obtained by contacting Wayne Gerwing at the above mentioned address.

March 20, 1986

Arthur C. Roemer
Assistant to Commissioner of Revenue

Rules as Proposed (all new material)

8106.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in this chapter, the following words, terms, and phrases have the meanings given to them by this part. Some of the words, terms, and phrases are defined by statute but are included here for completeness.

Subp. 2. **Allocation.** "Allocation" means the process by which a fair and reasonable portion of each railroad's total unit value is assigned to Minnesota for purposes of taxation.

Subp. 3. **Apportionment.** "Apportionment" means the process of distributing that portion of the railroad's unit value which has been allocated to Minnesota after deducting exempt and nonoperating property to the various counties and taxing districts in which the railroad company operates.

Subp. 4. **Assessment/sales ratio.** "Assessment/sales ratio" means the ratio derived by dividing the estimated market value of a property by its adjusted selling price and used as a measure of the level of estimated market value to real or true market value.

Subp. 5. **Book depreciation.** "Book depreciation" means the depreciation shown by a railroad company on its corporate books and allowed the company by the Interstate Commerce Commission.

Subp. 6. **Capitalization rate.** "Capitalization rate" means an anticipated rate of return from an investment, a rate at which income is processed (capitalized) to indicate the probable capital value. This rate is usually expressed as a percentage.

Subp. 7. **Equalization.** "Equalization" means the adjustment of the estimated market value of railroad operating property to the apparent assessment/sales ratio of commercial and industrial property.

Subp. 8. **Exempt property.** "Exempt property" means property which is nontaxable for ad valorem tax purposes by statutes. Examples of such property are approved pollution control equipment for which an exemption has been granted and personal property otherwise exempt from taxation under Minnesota Statutes, chapter 272.

Subp. 9. **ICC.** "ICC" means the Interstate Commerce Commission, a federal regulatory agency.

Subp. 10. **Mainline track.** "Mainline track" means all track reported to the ICC by the respondent railroad as main line.

Subp. 11. **Nonoperating property.** "Nonoperating property" means all property owned by a railroad company which does not fall under the definition of operating property. Nonoperating property includes real property which is leased or rented or available for lease or rent to any person which is not a railroad company. Vacant land is presumed to be available for lease or rent if it has not been used as operating property for a period of at least one year preceding the valuation date. It also includes: (a) land which is not necessary and integral to the performance of railroad transportation services and which is not used on a regular and continual basis in

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the performance of these services; and (b) that portion of a general office building and its proportionate share of land which is not used for railway operations or purposes.

Subp. 12. **Obsolescence allowance.** "Obsolescence allowance" means the adjustment to be made to the gross cost indicator of value to reflect the loss of economic usefulness or value because of causes other than physical deterioration.

Subp. 13. **Operating property.** "Operating property" means all property owned or used on a regular and continual basis by a railroad company in the performance of railroad transportation services, including without limitation, franchises, rights-of-way, bridges, trestles, shops, docks, wharves, buildings, and structures.

Subp. 14. **Original cost.** "Original cost" means the amount paid for an asset as recorded on the railroad's books in accordance with ICC accounting rules and regulations.

Subp. 15. **PUC.** "PUC" means the Minnesota Public Utilities Commission.

Subp. 16. **Railroad company.** "Railroad company" means a company which as a common carrier operates a railroad or a line or lines of railway situated within or partly within Minnesota.

Subp. 17. **Restated cost.** "Restated cost" means the cost of an asset recorded on a railroad's books after adjusting the amount from a retirement-replacement-betterment accounting basis to a depreciation accounting basis, in accordance with Code of Federal Regulations, title 49, part 1201 (effective January 1, 1983).

Subp. 18. **Structure.** "Structure" means all coal and ore wharves or docks, station houses, depots, shops, office buildings, and all other buildings with a restated cost of over $10,000.

Subp. 19. **System.** "System" means the total tangible property, real and personal, of a company which is used in its railroad operations in all states in which it operates.

Subp. 20. **Unit value.** "Unit value" means the value of the system of a railroad company taken as a whole without any regard to the value of its component parts.

Subp. 21. **Weighting.** "Weighting" means the confidence or reliability given to a factor or indicator. It is usually expressed as a portion of 100 percent.

8106.0200 GENERAL PROCEDURES.

Laws of Minnesota 1979, chapter 303, article VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all railroad operating property. The article also charges the commissioner of revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads. Subsequently, Laws of Minnesota 1984, chapter 502, article 9 gave additional instructions to the commissioner regarding the method of valuing railroad property and the equalization of these valuations. This article also gives the commissioner the authority to promulgate emergency rules in order to implement these valuation and equalization procedures.

The methods, procedures, indicators of value, capitalization rates, weighting percents, allocation factors, apportionment standards, and equalization methods will be used as described in this chapter for 1986 and subsequent years.

8106.0300 REPORTS REQUIRED.

Subpart 1. **Reports to be filed.** The data used in the valuation, allocation, and apportionment processes will be drawn from reports submitted to the Department of Revenue by the railroad companies. These reports are to be filed with the commissioner on or before April 30 of each year and shall include:

A. the Minnesota Department of Revenue annual railroad report;

B. the annual report to the Interstate Commerce Commission;

C. the annual report to the Minnesota Public Utilities Commission;

D. the annual stockholders report; and

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

Subp. 2. **Reports examination.** Periodic examination of the supporting data for these reports will be made by the Department of Revenue. The commissioner shall, upon written application from the railroad, extend the filing date 30 days.

Subp. 3. **Failure to file.** In the event any railroad company fails to file the required reports, the commissioner shall make a valuation according to the commissioner's best judgment based on available information.

Other sources of pertinent information may be consulted only when necessary to make the valuation, allocation, and apportion-

ment required by parts 8106.0100 to 8106.0700. Said sources will, when applicable, be used uniformly and will be commonly accepted sources of data for which they are consulted. Questions unique to the valuation of a particular railroad may be resolved by consulting the books and records of the particular railroad involved.

8106.0400 VALUATION.

Subpart 1. **In general.** The Minnesota legislature has said that railroads may be valued using the unit basis of estimating value. Consequently, the commissioner has chosen to use this method. The approaches to value that will be used in determining the estimated unit value of railroad operating property are cost, capitalized income, and stock and debt except as provided in subparts 4 and 6. It is the decision of the commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value, where applicable, in the manner provided in this part until time or conditions warrant a change in either methods or procedures.

Subp. 2. **Cost approach to valuation.** The cost factor that will be considered in the railroad valuation method is the restated cost of the railroad system, plus the restated cost of construction work in progress on the assessment date. The railroad system shall be considered to be made up of the following ICC accounts: all road and equipment accounts, including leased equipment accounts; all general expenditures; and other elements of investment and railroad property owned and leased to others as well as railroad property leased from others. Book depreciation and obsolescence shall be allowed as a deduction from the restated cost of the railroad's assets enumerated above. The original cost if known, and the annual lease payments of any leased operating property used by the railroad must be reported to the commissioner in conjunction with the annual railroad report. The commissioner shall incorporate the value of the leased property into the railroad's unit value utilizing this information.

If any railroad is not required by the ICC to restate the cost of its assets in accordance with Code of Federal Regulations, title 49, part 1201, the commissioner will make an estimate based upon the best available information of the impact of this restatement on the railroad's assets.

Obsolescence will be calculated through the use of the "Blue Chip Method." This method compares the railroad being appraised with the best railroads in the country, the so-called blue chip railroads. Three indicators of obsolescence will be used. First, a five-year average rate of return will be calculated for the railroad under appraisal. This rate of return is computed by dividing the subject's annual net railroad operating income for each of the most recent five years preceding the assessment, by the railroad's total owned transportation property less recorded depreciation and amortization (net investment in railroad property) for each corresponding year. The resulting five rates of return are then averaged using a simple arithmetic average to arrive at a five-year average rate of return. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income	Net Investment	Indicated Rate of Return
19XX	$2,700,000	$31,500,000	8.57%
19XX	$2,900,000	$32,000,000	9.06%
19XX	$3,100,000	$33,500,000	9.25%
19XX	$3,300,000	$34,000,000	9.70%
19XX	$3,530,700	$35,000,000	10.08%
		Total	46.66%
Five-year Average Rate of Return			9.33%

A study will then be made of the major railroads operating within the United States for the same five-year period using such informational sources as Standard and Poor's Statistical Service, Moody's Transportation Manual, and Transportation Statistics in the United States. Each year the railroad with the highest rate of return will be selected as the blue chip railroad. The resulting five rates of return will then be averaged to find the five-year average blue chip rate of return. An example of this process is as follows:

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Year	Railroad	Rate of Return
19XX	ABC	11.50%
19XX	FGH	11.27%
19XX	JKL	10.57%
19XX	MNO	11.02%
19XX	XYZ	10.08%
	Total	54.44%
Five-year Average Blue Chip Rate of Return		10.89%

The five-year average rate of return for the railroad under appraisal will be compared to the five-year average blue chip rate of return. The deviation of the subject railroad's rate of return from the blue chip railroads' rate of return is the amount of indicated obsolescence. The following example illustrates the computation.

XYZ Railroad 5-year Average Rate of Return	9.33%
Blue Chip 5-year Average Rate of Return	10.89%
Indicated Obsolescence	
1 - (9.33% ÷ 10.89%)	14.30%

Second, a five-year average freight traffic density indicator will be calculated. This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density rises obsolescence decreases. This indicator is calculated by dividing the subject railroad's ton miles of revenue freight for the most recent five years preceding the assessment by the average miles of road operated for each corresponding year. The resulting five indicators of freight traffic density are then averaged using a simple arithmetic average to arrive at a five-year average of freight traffic density. An example of this computation is as follows:

XYZ Railroad

Year	Ton Miles of Revenue Freight	Average Miles of Road Operated		Indicated Freight Traffic Density
19XX	1,300,000,000	575		2,260,000
19XX	1,402,500,000	550		2,550,000
19XX	1,200,000,000	550		2,180,000
19XX	1,100,000,000	500		2,200,000
19XX	1,000,000,000	500		2,000,000
			Total	11,190,000
Five-Year Average Freight Traffic Density				2,238,000

A five-year study is then made of the major railroads operating within the United States in the same manner and using the same sources as the rate of return study with the exception that this study concentrates on the freight traffic density achieved by the various major railroads. Each year the railroad with the highest freight traffic density will be selected as the blue chip railroad. The resulting five freight traffic density amounts will then be averaged to find the five-year average blue chip freight traffic density amount. An example of this process is as follows:

Year	Railroad		Freight Traffic Density
19XX	JKL		2,280,000
19XX	FGH		2,600,000
19XX	FGH		2,200,000
19XX	MNO		2,900,000
19XX	ABC		2,280,000
		Total	12,260,000
Five-year Average Blue Chip Freight Traffic Density			2,452,000

The five-year average freight traffic density indicator of the railroad under appraisal will be compared to the five-year average blue chip freight traffic density indicator. The deviation of the subject railroad's freight traffic density from the blue chip railroad's freight traffic density is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Freight Traffic Density	2,238,000
Blue Chip Five-Year Average Freight Traffic Density	2,452,000
Indicated Obsolescence	
1 - (2,238,000 ÷ 2,452,000)	8.70%

Third, a five-year average gross profit margin indicator will be calculated. This indicator measures a railroad's ability to convert gross revenue to net profit, and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence. This indicator is calculated by dividing net railway operating income, before federal and deferred taxes, by gross revenues. This calculation is performed using the subject railroad income figures for the most recent five years preceding the assessment. The resulting five indicators of gross profit margin are then averaged using a simple arithmetic average to arrive at a five-year average of gross profit margin. An example of this computation is as follows:

XYZ Railroad

Year	Net Railroad Operating Income Before Taxes	Gross Revenue		Indicated Gross Profit Margin
19XX	4,050,000	15,000,000		27.0%
19XX	4,350,000	15,800,000		27.5%
19XX	4,650,000	16,500,000		28.2%
19XX	4,950,000	17,300,000		28.6%
19XX	5,295,000	19,000,000		27.9%
			Total	139.2%
Five-Year Average Gross Profit Margin				27.8%

A study will then be made of the major railroads operating within the United States for the same five-year period in the same manner and using the same sources in the two previous five-year studies mentioned above. This study will look at the gross profit margin achieved by the various major railroads. Each year the railroad with the highest gross profit margin will be selected as the blue chip railroad. The resulting five gross profit margin percents will then be averaged to find a five-year average blue chip gross profit margin percentage. An example of this process is as follows:

Year	Railroad	Gross Profit Margin
19XX	ABC	30.0%
19XX	ABC	31.2%
19XX	JKL	29.9%
19XX	FGH	32.6%
19XX	JKL	33.3%
	Total	157.0%
Five-Year Average Blue Chip Gross Profit Margin		31.4%

The five-year average gross profit margin percent for the railroad under appraisal will be compared to the five-year average blue chip gross profit margin percent. The deviation of the subject railroad's gross profit margin from the blue chip railroad's gross profit margin is the amount of indicated obsolescence. The following example illustrates this computation:

XYZ Railroad Five-Year Average Gross Profit Margin	27.8%
Blue Chip Five-Year Average Gross Profit Margin	31.4%
Indicated Obsolescence 1 - (27.8% ÷ 31.4%)	11.5%

The obsolescence percentage indicated by this comparison of gross profit margins will be added to the obsolescence indicated by a comparison of rates of return and freight traffic density. The total of these three amounts will be averaged and this result will be the overall obsolescence percentage for the subject railroad. The following is an example of this computation:

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XYZ Railroad

Obsolescence Indicated by Rate of Return Comparison		14.30%
Obsolescence Indicated by Freight Traffic Density Comparison		8.70%
Obsolescence Indicated by Gross Profit Margin Comparison		11.50%
	Total	34.50%
Average Obsolescence Percentage		11.50%

The obsolescence percentage will then be applied to the road accounts of the subject railroad, excluding land and personal property, after the allowance for depreciation has been deducted. In no instance shall the allowance for obsolescence exceed 50 percent. The following example illustrates how the cost indicator of value is computed and how the allowance for obsolescence is applied.

XYZ Railroad

Account		Amount
Road		$24,000,000
Equipment—Owned and Leased		9,000,000
Construction Work in Progress		4,500,000
General Expenditures		1,823,000
Gross Cost Indicator		39,323,000
Less Depreciation		10,000,000
Net Cost Indicator		$29,323,000
Road	$24,000,000	
Less Land and Personal Property	1,000,000	
Adjusted Road	23,000,000	
Adjusted Road		$23,000,000
Depreciation on Adjusted Road		7,000,000
Net Road		16,000,000
Obsolescence Percent		11.5%
Obsolescence Amount		1,840,000
Adjusted Cost Indicator of Value		$27,483,000

This cost indicator of value computed in accordance with this part will bear a weighting of 15 percent of the total unit value estimate of the railroad's property, except in the case of bankrupt railroads, or railroads with no income to be capitalized, as provided for in subpart 6, or railroads not meeting the criteria for use of the stock and debt approach to value as specified in subpart 4. These railroads will be valued using a 40 percent weighting for the cost indicator of value.

Subp. 3. **Income approach to valuation.** The income indicator of value will be calculated by averaging the net railway operating income, as determined by the ICC, of the railroad for the most recent five years preceding the assessment. This average income shall be capitalized by applying to it a capitalization rate which will be computed by using the band of investment method. This method will consider:

A. the capital structure of railroads, including capital surplus and retained earnings;

B. the cost of debt or interest rate paying particular attention to imbedded debt of railroads;

C. the yield on preferred stock of railroads; and

D. the yield on common stock of railroads.

For 1986 this capitalization rate will be 14.0 percent. This rate will be recalculated each year using the method described in this subpart.

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

XYZ Railroad

Year	Net Railway Operating Income
19XX	$ 2,600,000
19XX	2,700,000
19XX	3,000,000
19XX	3,100,000
19XX	3,492,500
Total	$14,892,500
Average	$ 2,978,500

Five-year average Net Railway Operating Income Capitalized at 14.0 percent (2,978,500 ÷ 14.0 percent) equals $21,275,000.

/

The income indicator of value computed in accordance with this part shall be weighted 60 percent of the total estimated unit value of the railroad's property except in the case of bankrupt railroads or railroads having no net operating income as provided for in subpart 6.

Subp. 4. **Stock and debt approach to valuation.** The stock and debt approach to value is the third method which will be used to estimate the unit value of the railroad operating property. This approach to value is based on the accounting principle: assets = liabilities + equity. Therefore, when the value of a company's liabilities (debt) is found and this added to the worth of its stock, a value can be established for its assets (property).

The use of this approach to value will be limited to only those railroads meeting qualifications in items A to C:

A. The stock of the railroad must be traded on either the New York or American Stock Exchange.

B. The bonds of the railroad must be traded or have a rating by either Standard and Poor's or Moody's rating services.

C. If the railroad is part of a diversified company, the value of the railroad portion of the total stock price must be able to be separated on an earnings basis using the following method:

XYZ Railroad

XYZ railroad is wholly owned by ABC Industries Inc.

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

If a railroad has no net earnings, and is part of a conglomerate, then the stock and debt indicator of value will not be used.

The value of the stock used in the stock and debt method shall be an average of the month-ending stock prices for the 12 months immediately preceding the assessment date of January 2. The value of the bonds, equipment obligations, and conditional sales contracts, and other long-term debts shall also be an average of the cost of money quotes for the 12 months immediately preceding the assessment date of January 2. The source for these stock and bond prices shall be Standard and Poor's Stock Guide or other applicable financial service.

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

XYZ Railroad Company

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

After the gross stock and debt indicator of value has been computed, an allowance will be made for the effect, if any, of revenue from other than railway operations included in this indicator of value. This allowance shall be based on the ratio of a five-year average of net revenue from railway operations, as determined by the ICC, to a similar five-year average of income available for fixed charges as determined by the ICC. The five-year average will be the most recent five years preceding the assessment date. An example of this computation is as follows:

XYZ Railroad Company

Year	Net Revenue from Railway Operations	Income Available for Fixed Charges
19XX	$ 3,000,000	$ 3,500,000
19XX	4,000,000	4,300,000
19XX	5,200,000	5,700,000
19XX	6,000,000	6,800,000
19XX	5,200,000	5,400,000
	$23,400,000	$25,700,000
Average	$ 4,680,000	$ 5,140,000
Ratio $4,680,000 ÷ $5,140,000 = 91%		
Gross Stock and Debt Indicator of Value		$23,400,000
Ratio of Operating to Non-carrier Earnings		91%
Net Stock and Debt Indicator of Value		$21,300,000

The stock and debt indicator of value computed in accordance with this part will bear a weighting of 25 percent of the total unit value of the railroad's property, except in the case of bankrupt railroads, railroads in bankruptcy proceedings, or railroads with no income to be capitalized, as provided for in subpart 6. If no stock and debt indicator of value is computed, the weighting of 25 percent which would have been applied to this indicator of value will be placed on the cost indicator of value.

Subp. 5. **Unit value computation.** The estimated unit value of the railroad property will be the total of the three weighted indicators of value. The following is an example of the computation of the unit value.

XYZ Railroad

Valuation Approach	Value	Weighting	
Cost indicator of value	$27,483,000	15%	$ 4,122,500
Income indicator of value	21,275,000	60%	12,765,000
Stock and debt indicator of value	21,300,000	25%	5,325,000
		Unit Value	$22,212,500

The weighting shown above may vary from railroad to railroad, as provided in subparts 2 to 4, depending on the conditions and circumstances involved in each valuaton. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent.

Subp. 6. **Railroads operating at a loss, bankrupt railroads involved in federal bankruptcy proceedings, and railroads adjudged bankrupt by a federal court.** Railroads which are involved in federal bankruptcy proceedings, adjudged bankrupt, or railroads having no net railway operating income will be valued using the cost and stock and debt approaches to value. If the stocks or bonds of such railroads are not traded, or do not meet the other requirements for use of the stock and debt indicator of value, then these railroads will be valued using the cost approach to value only.

8106.0500 ALLOCATION.

Subpart 1. **In general.** After the estimated unit value of the railroad property has been determined, the portion of value which is attributable to Minnesota must be established. This is accomplished through the use of certain allocation factors. Each of the factors in the allocation method shows a relationship between the railroad system operations in all states and its Minnesota operations. These relationships are expressed in percentage figures. These percentages are then added and an average is computed. The resulting average of the factors, multiplied by the unit value, yields the Minnesota portion of the railroad property which will, after the adjustments described in parts 8106.0600 and 8106.0800, be subject to ad valorem tax in Minnesota.

Subp. 2. **Allocation factors.** The factors to be considered in making allocations of unit values to Minnesota for railroad companies are:

A. miles of railroad track operated in Minnesota divided by miles of railroad track operated in all states;

B. ton miles of revenue freight transported in Minnesota divided by ton miles of revenue freight transported in all states;

C. gross revenues from transportation operations within Minnesota divided by gross revenues from transportation operations in all states; and

D. cost of road property in Minnesota divided by the cost of road property in all states.

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

XYZ Railroad

Minnesota miles of track	100	
		= 20%
Total miles of track	500	
Minnesota ton miles of revenue freight	2,200,000	
		= 24%
Total ton miles of revenue freight	9,000,000	
Minnesota gross transportation revenue	$10,000,000	
		= 25%
Total gross transportation revenue	$40,000,000	
Minnesota cost of road property	2,990,000	
		= 23%
Total cost of road property	13,000,000	
Total		92%
Minnesota Percent of Unit Value		23%
Total Unit Value ($22,212,500 × 23%) = Minnesota Portion of Unit Value		$5,108,875

8106.0600 ADJUSTMENTS FOR NONFORMULA ASSESSED PROPERTY OR EXEMPT PROPERTY.

After the Minnesota portion of the unit value of the railroad company is determined, property which is either exempt from taxation, such as pollution control equipment and personal property, or classified as nonoperating will be deducted from the Minnesota portion of the unit value to the extent that it has been included in the computation of this value.

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

The railroad company shall have the responsibility to submit to the commissioner of revenue, in the form required by the commissioner, such schedules of nonoperating property as the commissioner may require.

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

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

A. The following ICC accounts for property within Minnesota will be totaled:

(1) that portion of coal and ore wharves determined to be personal property;

(2) communication equipment;

(3) signals and interlockers;

(4) roadway machines;

(5) shop machinery;

(6) power plant machines; and

(7) equipment, allocated to Minnesota on the basis of car and locomotive miles in Minnesota compared to total system car and locomotive miles.

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

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

XYZ Railway

Personal Property Account		Amount in Minnesota
Coal and Ore Wharves		$ 189,200
Communication Equipment		100,000
Signals and Interlockers		200,000
Roadway Machines		200,000
Shop Machinery		100,000
Power Plant Machinery		100,000
* Equipment—Owned and Leased		2,250,000
		3,139,200
* Total Equipment Account	$9,000,000	
Car and Locomotive Miles in Minnesota	1,000,000	
Total Car and Locomotive Miles	4,000,000	
Ratio of Minnesota to Total	25%	
Minnesota Allocated Equipment Account	$2,250,000	

Restated Cost Account		Amount in Minnesota
Road		$2,990,000
Equipment—Owned and Leased		2,250,000
Construction Work in Progress		800,000
General expenditures		500,000
		$6,540,000
Minnesota Personal Property Accounts	$3,139,200	
Minnesota Restated Cost	$6,540,000	
Ratio of Personal Property to Cost	48%	
Minnesota portion of unit value		5,108,875
Personal Property exclusion at 48%		2,452,260
Taxable Minnesota Portion of Unit Value		$2,656,615

8106.0700 APPORTIONMENT.

Subpart 1. **In general.** After the taxable Minnesota portion of the railroad's unit value has been determined, this value must be distributed to the various counties and taxing districts in which the railroad operates. This distribution will be accomplished by the commissioner of revenue through the use of certain apportionment components. Each of the components in the apportionment method is a reflection of the property owned or used by the railroad within a particular taxing district. The figures making up these

components will be developed on information submitted by the railroad companies in annual reports filed with the commissioner, and information supplied to the commissioner by the various county auditors and assessors.

Subp. 2. **Apportionment components.** There are three components which will be used in the distribution of the value of railroad property to the various taxing districts. They are railroad operating land, miles of track, and railroad operating structures with a restated cost of $10,000 or more.

Subp. 3. **Railroad operating land.** The information for the computation of this apportionment component will be based on information submitted by both the railroads and the various county auditors and assessors. The railroad companies shall file with the commissioner of revenue each year, in conjunction with their annual reports required by part 8106.0300, subpart 1, the number of acres of railroad operating land owned or used by them in each taxing district in which they operate. The county auditor shall also be required to submit to the commissioner of revenue a report showing the number of acres of railroad operating land, detailed by owning railroad, in each taxing district within the county. If either the railroads or the auditors find that it is administratively impracticable to submit this information, the commissioner shall make an estimate of the number of acres of railroad operating land within each taxing district based on the best information available. Such information would usually consist of the miles of railroad track within the taxing district and the normal width of the right-of-way used by the railroad. In addition, information relative to the current estimated market value of all land within the respective taxing districts will be obtained from the county or city assessors by a review of the abstract of assessment of real and personal property which the various assessors are required to submit yearly to the commissioner of revenue in compliance with Minnesota Statutes, section 273.061, subdivision 9. A review will also be made of the abstract of assessment of exempt real property which is submitted to the commissioner of revenue by the various assessors in compliance with Minnesota Statutes, section 273.18.

The computation for the railroad operating land apportionment component will be accomplished annually in the following manner:

A. The average estimated market value per taxable acre within a specific taxing district will be calculated by dividing the estimated market value of all taxable land within the taxing district as indicated by the most recent abstract of assessment of real and personal property by the number of taxable acres within the taxing district. The number of acres within a taxing district will be obtained from the most recent statistics available from the Land Management Information Center, State Planning Agency. The total number of acres will be adjusted to allow for nontaxable or exempt acres by subtracting these nontaxable or exempt acres from the total acres. The number of nontaxable or exempt acres will be obtained from the most recent abstract of assessment of exempt real property. The following example illustrates this calculation.

Estimated Market Value of All Taxable Land Within Taxing District		$200,000
Total Area of Taxing District	210 Acres	
Nontaxable or Exempt Acres	10 Acres	
Taxable Acres Within Taxing District		200
Average Estimated Market Value per Acre		$ 1,000

B. This average estimated market value per taxable acre is then applied to the number of acres of railroad operating land within the taxing district to compute a gross railroad operating land component within the taxing district. The following example illustrates this computation:

Average Estimated Market Value Per Acre	$1,000
Acres of Railroad Operating Land	× 5
Gross Railroad Operating Land Component	$5,000

C. This railroad operating land component will then be adjusted. This adjustment is achieved by striking a ratio between the system unit value for all Minnesota railroads, as described in part 8106.0400, subpart 5, to the total of net investment in railway property used in transportation service as defined by the ICC for all railroads operating in Minnesota. This relationship will be computed annually and will then be applied to the gross railroad operating land component to arrive at the adjusted railroad operating land component. This adjusted land value will then be used as one element of the apportionment computation.

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The following is an example of how the adjusted railroad operating land component is to be computed:

Railroad	System Unit Value	Net Investment in Railway Property Used in Transportation Services
ABC Railway	$20,000,000	$ 40,000,000
FGH Railway	5,256,000	8,000,000
JKL Railroad	2,000,000	4,780,830
MNO Railroad	50,000,000	90,000,000
XYZ Railroad	22,212,500	25,000,000
	$99,468,500	$165,780,830

Total System Unit Value ($99,468,500) ÷ Total Net Investment in Railway Property Used in Transportation Services ($165,780,830) = 60%

Gross Railroad Operating Land Component Within the Taxing District	$5,000
Adjustment Factor	60%
Adjusted Railroad Operating Land Component	$3,000

Subp. 4. **Miles of track.** The information for the computation of this apportionment component will be based on information submitted by the railroads to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. Each railroad will be required to list the miles of track they own in each taxing district within Minnesota. The track must be separated into two classes, main line track and all other track.

In order to make the miles of track in each taxing district compatible with the other apportionment components, the miles must be converted to dollars. This conversion will be computed annually. The conversion will be accomplished by adding together the following ICC accounts for each railroad's net investment in Minnesota: account 3, grading; account 8, ties; account 9, rails; account 11, ballast. The total of these accounts will then be divided by the number of miles of track operated by the respective railroads within Minnesota to obtain a cost per mile figure. This will be used as the average cost per mile for track within Minnesota.

The following is an example of how the average cost per mile of track in Minnesota will be computed:

Railroad	Total of Accounts #3, 8, 9, 11	Mileage Operated in Minnesota
ABC Railway	$ 4,000,000	154
FGH Railway	800,000	42
JKL Railroad	500,000	20
MNO Railroad	7,450,000	290
XYZ Railroad	2,500,000	104
	$15,250,000	610

Total cost of track ($15,250,000) ÷ Total miles operated (610) = Average Cost per Mile of Track $25,000.

An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting. Main line track shall be weighted at 1.5 times the cost of all other track; thus, if the average cost per mile of track is $25,000, main line track would be worth more than $25,000 per mile, while all other track would be worth less. The calculation for the average cost of both main line and all other track shall be made annually on an industry basis.

The calculation to determine the average cost per mile of main line track and the average cost per mile of all other track will be computed in the following manner:

A. Total mileage operated will be multiplied by the average cost per mile to arrive at a total track cost.

B. Total mileage operated will be separated into the two types of track, main line and all other track.

C. Main line track will be multiplied by 1.5 to arrive at adjusted main line miles.

D. Adjusted main line miles will be added to all other track miles to arrive at adjusted total track miles.

E. Total track cost will be divided by adjusted total track miles to arrive at the cost per mile of all other track.

F. The cost per mile of main line track will be computed by multiplying the cost per mile of all other track by 1.5.

An illustration of this computation is as follows:

Railroad	Mileage Operated	Main Line Miles	All other Track Miles
ABC Railway	154	96	58
FGH Railway	42	10	32
JKL Railroad	20	15	5
MNO Railroad	290	132	158
XYZ Railroad	104	52	52
	610	305	305
Total Mileage Operated			610
Average Cost Per Mile of Track			$ 25,000
Total Track Cost			$15,250,000
Main Line Miles		305	
Weighting Factor		1.5	
Adjusted Main Line Miles			457.5
Other Track Miles			305.0
Adjusted Total Track Miles			762.5
Total Track Cost			$15,250,000
Adjusted Total Track Miles			762.5
Average Cost Per Mile of Other Track			$ 20,000
Average Cost Per Mile of Other Track			$ 20,000
Weighting Factor			1.5
Average Cost Per Mile of Main Line Track			$ 30,000

After the per mile cost figures for main line and all other track are obtained, these per mile cost figures would be multiplied by the length of each type of track in a particular taxing district to obtain the value of the trackage in that district. The same cost figures will be used for all railroads operating in Minnesota.

Subp. 5. **Structures.** The information for the computation of this apportionment component will be based on statements submitted by the railroads. These schedules shall be submitted annually to the commissioner of revenue in conjunction with the annual report required by part 8106.0300, subpart 1. The schedules shall show the location, by taxing district, of all operating structures owned by the reporting railroad within Minnesota with a restated cost of $10,000 or more. The schedules shall list a description of the structure and the railroad's current restated cost investment in the structure as it appears in the appropriate ICC account.

An example of this listing is as follows:

XYZ Railroad

Taxing District	Description	Restated Cost
St. Paul, S.D. #625	Office Building	$400,000
Minneapolis, S.D. #1	Depot	20,000
Fridley, S.D. #16	Yard Tower	200,000
Anoka, S.D. #11	Engine and Car Shop	250,000
	Total	$870,000

Subp. 6. **Apportionment computation.** After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin. This apportionment is accomplished by totaling the amount of the land, track, and structure components as developed in subparts 3 to 5 for each taxing district, then finding the sum of these totals for all the taxing districts in which the subject railroad operates. The taxable Minnesota portion of the railroad's unit value is divided by the total of the three apportionment components for all taxing districts in which the railroad operates in order to arrive at a percentage. This resulting percentage is then applied to the total amount of the three apportionment components for each specific taxing district. The figure produced by this multiplication process is the taxing district's

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share of the railroad's taxable Minnesota portion of the unit value. It is important to note that no more value can be distributed to the various taxing districts than that produced by the valuation process described in parts 8106.0100 to 8106.0600.

The example in part 8106.9900 illustrates the apportionment process.

8106.0800 EQUALIZATION.

Subpart 1. **In general.** After the apportionment of value referred to in part 8106.0700 has been made, the railroad property values must be equalized to coincide with the assessment levels of commercial and industrial property within each respective county receiving a share of the apportioned railroad value. This equalization will be accomplished through the use of an assessment/sales ratio.

Subp. 2. **Assessment/sales ratio computation.** Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisdictions within Minnesota. The study is conducted in many parts. The portions which will be used for purposes of this section are known as the "County Commercial and Industrial Sales Ratio."

This commercial and industrial (C & I) sales ratio is computed through an analysis of the certificates of real estate value filed by the buyers or sellers of commercial or industrial property within each county. The information contained on these certificates of real estate value is compiled pursuant to requests, standards, and methods set forth by the Minnesota Department of Revenue acting upon recommendations of the Minnesota legislature. The most recent C & I study available will be used for purposes of this section.

The median C & I sales ratio from the County Commercial and Industrial Sales Ratio study will be used as a basis to estimate the current year C & I median ratio for each county.

The process used to estimate this current year median ratio will be as follows.

The State Board of Equalization abstract of market value will be examined. This statistical compilation, commonly called the mini-abstract, is filed each year by every county assessor, with the commissioner of revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property - residential agricultural, commercial, industrial, recreational, etc. - within each particular county. The current estimated market value of commercial and industrial property within each county will be taken from this abstract. The amount of the value of new commercial and industrial construction, ("new" meaning since the last assessment period) as well as the value of commercial and industrial property which has changed classification (i.e. commercial to tax exempt property) will also be taken from the abstract. The value of new construction will then be deducted from the estimated market value, resulting in a net estimated current year market value for commercial and industrial property within the county. The value of commercial and industrial property which has changed classification will be deducted from the previous years estimated market value to arrive at a net estimated previous year market value for commercial and industrial property within the county. The net current year value will be compared to the net previous year's estimated market value for commercial and industrial property within the county and the difference between the two values noted. This difference will be divided by the previous year's net estimated market value for commercial and industrial property to find the percentage of increase, or decrease, in assessment level for each year. This percent of change will be applied to the most recent C & I median ratio to estimate the current year's C & I median ratio. An example of this calculation for a typical county is shown below.

1986 Estimated Market Value for Commercial and Industrial Property	$12,000,000	
Less: New Construction	1,500,000	
1986 Net Estimated Market Value for Commercial and Industrial Property		10,500,000
1985 Estimated Market Value for Commercial and Industrial Property	10,250,000	
Less: Classification Changes	250,000	
1985 Net Estimated Market Value for Commercial and Industrial Property		10,000,000
Difference 1985 vs. 1986 Estimated Market Value		500,000
Percent of Change (500,000 ÷ 10,000,000)		5%
1985 Median Commercial and Industrial Ratio		88%
1986 Estimated Median Commercial and Industrial Ratio (88% x 105%)		92.4%

This same calculation is performed for each Minnesota county which contains operating railroad property. However, if there are five or fewer valid sales of commercial and industrial property within a county during the study period, it is the commissioner's decision that these few sales are insufficient to form the basis for a meaningful C & I ratio. Therefore, the median assessment/sales ratio to be used for purposes of the above computation will not be the median C & I ratio but will be the weighted median ratio of all property classes within the county for which a sales ratio is available. This weighted median ratio is computed in the same manner using the same procedures and standards as the C & I ratio. In addition, the computation described above will not be performed using

the commercial and industrial estimated market value but will use the estimated market value for all property within the county. All other aspects of the calculations are identical except for this substitution.

The weighted median ratio is developed by multiplying the median ratio for each class of property (agricultural, residential, recreational, commercial) by the percentage of value that class of property comprises of the total county value. An example of this calculation is as follows:

Class of Property	Amount of Value	Percent of Value	Median Ratio	Weighted Median Ratio
Residential	$ 20,000,000	20%	85%	17.00%
Agricultural	55,000,000	55%	95%	52.25%
Seasonal-Recreational	5,000,000			

Subp. 3. **Application of the estimated current year median assessment/sales ratio.** After the estimated current year median ratio has been calculated pursuant to subpart 2, it is used to adjust the apportioned estimated market value of operating railroad property to the apparent assessment level of commercial and industrial property in each county. This is done by factoring or multiplying the estimated market value of the railroad property by the estimated sales ratio to arrive at the equalized market value of operating railroad property. In no instance will any adjustment be made if, after comparing the estimated current year sales ratio to the assessment level of operating railroad property, the difference between the two is five percent or less. An example of this adjustment is as follows:

	Estimated Market Value of Railroad Operating Property*	Estimated Current Year Median Sales Ratio	Equalized Estimated Market Value of Railroad Operating Property
County A	$100,000	85%	$ 85,000
County B	250,000	88%	220,000
County C	300,000	90%	270,000
County D	150,000	92%	138,000
County E	100,000	95%	100,000**

* For purposes of this example, assume that railroad property is assessed at 100 percent of market value.

** No adjustment made because estimated current year median sales ratio is within five percent of assessment level on operating railroad property.

All railroads operating within a particular county will be equalized at the same percentage.

These equalized estimated market values of operating railroad property will be certified to the county assessor denoting specific railroads and taxing districts pursuant to Minnesota Statutes, section 270.87.

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8106.9900 EXAMPLE OF APPORTIONMENT PROCESS.

	LAND COMPONENT				TRACK COMPONENT						STRUCTURES			
Taxing District	Aver. F.M.V. Per Acre	# of R.R. Opr. Acres	Gross R.R. Land Component	Adj. R.R. Land Component @ 60%	Miles Main Line	Value of Main Line @ $30,000 Mile	Miles of all other Track	Value of All Other Track @ $20,000	Total Track Component	Structures At Restated cost	Total of 3 Components	% of 3 Components to Unit Value*	Taxing Dist. Portion of Unit Value
St. Paul, S.D. #625	$19,000	50	$ 950,000	570,000	8	$ 240,000			$ 240,000	$400,000	$1,210,000	37.87%	$ 458,285
Minneapolis, S.D. #1	20,000	80	1,600,000	960,000	12	360,000			360,000	20,000	1,340,000	37.87%	507,522
Fridley, S.D. #16	15,000	95	1,425,000	855,000	6	180,000	20	$ 400,000	580,000	200,000	1,635,000	37.87%	619,253
Coon Rapids, S.D. #11	13,000	70	910,000	546,000	9	270,000			270,000	-----	816,000	37.87%	309,059
Anoka, S.D. #11	12,000	20	240,000	144,000	4	120,000			120,000	250,000	514,000	37.87%	194,677
Ramsey, S.D. #11	10,000	60	600,000	360,000	11	330,000			330,000	-----	690,000	37.87%	261,336
Elk River, S.D. #728	6,000	5	30,000	18,000	2	60,000			60,000	-----	78,000	37.87%	29,542
Elk River Twsp., S.D. #728	2,000	20	40,000	24,000			8	160,000	160,000	-----	184,000	37.87%	69,690
Big Lake, S.D. #727	3,000	4	12,000	7,200			4	80,000	80,000	-----	87,200	37.87%	33,027
Big Lake Twsp., S.D. #727	1,000	100	100,000	60,000			20	400,000	400,000	-----	460,000	37.87%	174,224
			$5,907,000	$3,544,200		$1,560,000		$1,040,000	$2,600,000	$870,000	$7,014,200		$2,656,615

*Taxable Minn. Portion of Unit Value / Total of 3 Components for All Taxing Districts = $2,656,615 / $7,014,200 = 37.87%

SP-N12

REPEALER. Minnesota Rules, parts 8105.0100; 8105.0200; 8105.0300; 8105.0400; 8105.0500; 8105.0600; 8105.0700; and 8105.9900 are repealed.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *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 strikeouts and new language will be underlined. The rule's previous *State Register* publication will be cited.

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Department of Education
Management Effectiveness

Adopted Rules Governing Public Library Construction Grants

The rules proposed and published at *State Register*, Volume 10, Number 10, pages 566-575, September 2, 1985 (10 S.R. 566) and Volume 10, Number 18, pages 992-993, October 28, 1985 (10 S.R. 992) are adopted with the following modifications:

Rules as Adopted

3530.2610 DEFINITIONS.

Subp. 4. **Project.** "Project" means a plan by an applicant for a grant under parts 3530.2610 to 3530.2644 for construction, as the term is defined in LSCA, which includes to erect a new public library building; or to acquire and alter a building for use as a public library building; or to remodel or expand an existing public library building; or to remove architectural barriers for the physically disabled; or to remodel to conserve energy or remodel to accommodate new technologies; and, if necessary, to acquire land for, and initially equip the resultant building; all to be financed in part by the grant. "Project" ~~excludes~~ shall not include the purchase of books and other library materials and library supplies.

3530.2614 APPLICATION CONTENTS.

Subp. 12. **Assurances.** The applicant must give written assurance of compliance with all applicable state and federal laws and rules, including ~~but not limited to~~ the law and rules in items A to J.

3530.2616 APPLICATION DATES.

For state fiscal year 1986 only, the grant application must be filed on or before ~~March~~ June 1, 1986. In subsequent years, applications for public library construction grants must be filed on a date established by the State Board of Education and published in the *State Register* and in the newsletter of LDS not less than 120 days before the application date.

3530.2634 PROJECT PRIORITIES.

All projects shall be funded in order by total points assigned in the application rating until all available funds have been granted.

In order to ensure the use of all available funds, the first priority project for which insufficient funds remain to award the amount of grant requested shall be offered a grant amount less than the dollar amount requested. The applicant shall then be requested to indicate whether or not the project as proposed could be implemented with a smaller grant amount, and shall be requested to show how the project could be modified, if necessary, to meet all criteria with a smaller project budget. That applicant shall have 60 days to modify its project to ~~the satisfaction of the director of LDS~~ comply with parts 3530.2610 to 3530.2644 and applicable law. If the applicant is unable to so modify the project ~~to the satisfaction of the director of LDS~~, the same request shall be made to applicants in descending order of priority until all funds are granted.

3530.2636 CONSTRUCTION GRANTS REVIEW COMMITTEE.

The library building program and the preliminary plans for the project shall be evaluated by a construction grants review committee of five persons appointed by the chairperson of the advisory council to LDS as required by LSCA. At least one member of the committee shall be an architect registered in the state of Minnesota and at least two members shall be public librarians. The committee shall evaluate each of the programs and plans in terms of the degree to which program requirements are met by the prelimi-

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.

nary plans, indicating any program requirements which are not included in the preliminary plans; and the degree to which the preliminary plans meet project criteria established in parts 3530.2624 and 3530.2630, indicating any project criteria which are not met and suggesting modifications to the plans so that criteria can be met.

Within ten working days after the appplication date, the committee shall present its evaluations to the director of LDS. Within five working days after receiving the committee evaluation, the director of LDS shall report all deficiencies to the applicant. The applicant may modify building plans to correct the deficiencies identified. The modification must be received at the LDS within ten working days after receiving the report of deficiencies. No project shall be submitted to the State Board of Education for funding unless the project is modified to ~~the satisfaction of the director of LDS~~ comply with parts 3530.2610 to 3530.2644 and applicable law. No grant shall be made to a project unless the building plans have been modified to meet the building program and the project criteria.

3530.2640 HEARINGS.

An applicant whose application for funds is denied may, within ten days of receipt of notification of denial from the State Board of Education, request a hearing on the denial in accordance with Code of Federal Regulations, title 34, section 770.50.

Department of Health

Adopted Group Variance from Compliance with Rules Relating to Health Care Cost Information for Freestanding Outpatient Surgery Centers

The group variance proposed and published at *State Register*, Volume 10, Number 34, pages 1706-1708, February 17, 1986 (10 S.R. 1706) are adopted as proposed.

EMERGENCY RULES

Proposed Emergency Rules
According to Minn. Stat. of 1984, §§ 14.29-14.30, state agencies may propose adoption of emergency rules if: 1) expressly required; 2) authorized by statute; or 3) if the manner permitted by a directive (given by statute, federal law or court order) does not allow for compliance with sections 14.14-14.28. The agency must, however, publish a notice of intent to adopt emergency rules, along with the rules themselves, in the *State Register*. The notice must advise the public:

1) that a free copy of the proposed emergency rule is available upon request from the agency;
2) that notice of the date that the rule is submitted to the attorney general will be mailed to persons requesting notification;
3) that the public has at least 25 days after publication of the proposed emergency rule to submit data and views in writing; and
4) that the emergency rule may be modified if the data and views submitted support such modification.

Adopted Emergency Rules
Emergency rules take effect five working days after approval by the attorney general, and after compliance with Minn. Stat. §§ 14.29-14.365. As soon as possible, emergency rules are published in the *State Register* in the manner provided for in section 14.18.

Emergency rules are effective for the period stated in the notice of intent to adopt emergency rules. This may not exceed 180 days.

Continued/Extended Emergency Rules
Adopted emergency rules may be continued in effect (extended) for an additional 180 days. To do this, the agency must give notice by: 1) publishing notice in the *State Register*; and 2) mailing the same notice to all persons who requested notification on rulemaking. No emergency rule may remain in effect 361 days after its original effective date. At that point, permanent rules adopted according to Minn. Stat. 14.14-14.28 supercede emergency rules.

MINNESOTA RULES AMENDMENTS AND ADDITIONS

(Emergency rules published in this issue)

HOUSING FINANCE AGENCY
4900.0381 [Emer] (proposed) 2076

Housing Finance Agency

Proposed Rule Relating to Income Limits For Tax Reform Transition Demonstration Program

Request for Public Comment

Notice is hereby given that the Minnesota Housing Finance Agency has proposed the following emergency rules for the purpose of establishing income limits for the Tax Reform Transition Demonstration Program, pursuant to Subdivision 10 of Chapter 462A.03, and Subdivision 11 of Chapter 462A.06 of Minnesota Statutes.

All interested persons are herein afforded the opportunity to submit their comments on the proposed rules for 25 days immediately following publication of this material in the *State Register* by writing to Kathleen J. Johnson, Legal Division, Minnesota Housing Finance Agency, Suite 300, 400 Sibley Street, St. Paul, Minnesota 55101. The emergency rules may be revised on the basis of comments received. Any written material received shall become part of the record in the final adoption of the emergency rule. A free copy of the proposed rule is available on request from the Agency, and notice of the date of submission of the proposed emergency rule to the Attorney General will be mailed to any person requesting to receive the notice. Requests should be made to Kathleen J. Johnson at the above address, telephone number 612/296-9793. As required by the Administrative Procedures Act, this emergency rule will be effective for not more than 180 days and may be continued in effect for up to an additional 180 days.

Dated: March 28, 1986

James J. Solem
Executive Director

INCOME LIMITS FOR TAX REFORM
TRANSITION DEMONSTRATION PROGRAM

4900.0381 [Emergency] INCOME LIMITS FOR TAX REFORM TRANSITION DEMONSTRATION PROGRAM.

For the purpose of tax reform transition demonstration program loans, "persons and families of low and moderate income" means those persons and families whose annual projected gross income does not exceed the amounts set forth in items A and B or a lower amount as required to assure that the interest on obligations of the Minnesota Housing Finance Agency will be exempt from federal income taxation. "Gross annual income" means the income from all sources, and before taxes or withholding, of all the residents, age 18 and over, of a housing unit.

A. The following limits constitute maximum gross income for loans for new construction:

(1) in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$34,000
9.01 - 9.50	$35,000
9.51 - 10.00	$36,000
10.01 - 10.50	$37,000
10.51 - 11.00	$37,900
11.01 and Over	$37,900

(2) in the counties of Benton, Blue Earth, Clay, Nicollet, Olmsted, St. Louis, Sherburne, and Stearns:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$27,000
9.01 - 9.50	$28,000
9.51 - 10.00	$29,000
10.01 - 10.50	$30,000
10.51 - 11.00	$31,000
11.01 and Over	$32,000

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(3) in all other counties:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$25,000
9.01 - 9.50	$26,000
9.51 - 10.00	$27,000
10.01 - 10.50	$28,000
10.51 - 11.00	$29,000
11.01 and Over	30,000

B. The following limits constitute maximum gross income for loans for existing construction:

(1) in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, Washington, and Wright:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$30,000
9.01 - 9.50	$31,000
9.51 - 10.00	$32,000
10.01 - 10.50	$33,000
10.51 - 11.00	$34,000
11.01 and Over	$35,000

(2) in the counties of Benton, Blue Earth, Clay, Nicollet, Olmsted, St. Louis, Sherburne, and Stearns:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$22,000
9.01 - 9.50	$23,000
9.51 - 10.00	$24,000
10.01 - 10.50	$25,000
10.51 - 11.00	$26,000
11.01 and Over	$27,000

(3) in all other counties:

Mortgage Interest Rate	Maximum Gross Income
0 - 9.00	$20,000
9.01 - 9.50	$21,000
9.51 - 10.00	$22,000
10.01 - 10.50	$23,000
10.51 - 11.00	$24,000
11.01 and Over	$25,000

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 Energy and Economic Development Energy and Economic Development Authority

Public Hearing on Proposed Project and the Issuance of Bonds on Behalf of Litchfield Precision Components, Inc.

NOTICE IS HEREBY GIVEN that the Minnesota Energy and Economic Development Authority (the "Authority") or its designated representative, shall meet on April 23, 1986, at 3:00 p.m. o'clock, at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota, for the purpose of conducting a public hearing on a proposed issue of bonds (the "Bonds") under *Minnesota Statutes*, Section 116M.01 to Section 116M.13, inclusive, as amended and supplemented (the "Act"), to undertake and finance a project on behalf of Litchfield Precision Components, Inc. (the "Company"), a Minnesota corporation. Such persons as desire to be heard with reference to said issue of Bonds will be heard at this meeting.

The project to be financed consists of the construction and/or equipping of a new building of approximately 57,000 square feet for use in connection with the Company's business operations in the chemical milling of precision components and laser welded circuitry for the computer and medical electronic industries, to be located in the City of Litchfield, Meeker County, Minnesota (street address: 110 Industrial Boulevard in the City of Litchfield, Meeker County, Minnesota) (the "Project"). The initial owner, operator and manager of the Project will be the Company. The estimated maximum amount of the proposed bond issue is an amount equal to $3,000,000. The Bonds shall be limited obligations of the Authority, and the Bonds and the interest thereon shall be payable solely from the revenue pledged to the payment thereof, except that such Bonds may be secured by a mortgage or security interest to be created by the Company if subsequently required by the Authority. In addition, the Bonds and the Project may subsequently be considered by the Authority for financial assistance to be provided by the Economic Development Fund, created and established pursuant to the Act or other applicable financial assistance of the Authority. Notwithstanding the foregoing, no holders of any such Bonds shall ever have the right to compel any exercise of the taxing powers of the State of Minnesota or any political subdivision thereof to pay the Bonds or the interest thereon nor to enforce payment against any property of said State or said political subdivision.

A copy of the application to the Authority for approval of the Project, together with all attachments and exhibits thereto and a copy of the Authority's resolution accepting the application and accepting the Project is available for public inspection at the offices of the Authority at 900 American Center Building, 150 East Kellogg Blvd., Saint Paul, Minnesota from the date of this notice to the date of the public hearing hereinabove identified, during normal business hours.

March 28, 1986.

Mark B. Dayton
Commissioner, Department of
Energy and Economic
Development, and Chairman,
Minnesota Energy and Economic
Development Authority

Ethical Practices Board

Advisory Opinion #94; RE Constituent Services

Issued to:

Hon. Fred C. Norton
House Minority Leader
267 State Office Building
St. Paul, MN 55155

SUMMARY

94. Costs of providing constituent services in 1986 paid by the principal campaign committee of a legislator or executive officeholder incurred on or before May 20, 1986, must be reported as noncampaign disbursements.

The full text of the opinion is available upon request from the office of the Ethical Practices Board, 625 North Robert Street, St. Paul, MN 55101-2520, (612) 296-5148.

Department of Finance
Cash and Debt Management

Maximum Interest Rate for Municipal Obligations in April

Pursuant to Minnesota Statutes, Section 475.55, Subdivision 4, Commissioner of Finance, Jay Kiedrowski, announced today that the maximum interest rate for municipal obligations in the month of April would be nine (9) 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 ten (10) percent per annum.

Peter Sausen, Assistant Commissioner

Department of Human Services
Department of Health

Outside Opinion Sought Concerning Merit System Rules

Notice is hereby given that the Minnesota Department of Human Services and the Minnesota Department of Health are considering proposed amendments to those rules affecting holidays and optional leave policies. The agency's authority to amend the proposed rules is contained in Minn. Stat. Sections 256.012 and 144.071.

The proposed rule changes are:

Minnesota Rules, part 9575.1070, part 9575.1080.
Minnesota Rules, part 4670.3070, part 4670.3080.

All interested or affected persons are requested to participate.

Statements of information and comment may be made orally or in writing. Written statements of information and comment may be addressed to:

Ralph W. Corey, Supervisor
Minnesota Merit System
Fourth Floor, Centennial Office Building,
658 Cedar Street
St. Paul, Minnesota 55155

Oral statements of information and comment will be received during regular business hours over the telephone at (612) 296-3996.

All statements of information and comment will be received until further notice. Any written material received by the department shall become part of the hearing record.

Bureau of Mediation Services

Informal Public Meeting Regarding Proposed Changes in Rules Governing Fair Share Fee Challenges

Notice is hereby given that the Bureau of Mediation Services will hold an informal public meeting in Room 5, State Office Building, on Monday, May 12, 1986, commencing at 9:00 a.m. The hearing will be conducted by Bureau Director Paul W. Goldberg and is intended to offer interested and affected persons with the opportunity to comment upon the amendment or promulgation of rules relating to fair share fee administration and fair share fee challenges under the Public Employment Labor Relations Act, Minnesota Statutes Chapter 179A, in light of the March 4, 1986, U.S. Supreme Court decision in **Chicago Teachers Union, Local No. 1, AFT, AFL-CIO, et al v. Annie Lee Hudson et al.**

Interested or affected persons wishing to present oral or written statements at this informal meeting are requested to telephone

Jean King during regular business hours at (612) 296-4958 prior to Thursday, May 8, 1986. Written material submitted at this meeting will become part of the record in the event rules are amended or promulgated.

March 20, 1986

Paul W. Goldberg, Director
Bureau of Mediation Services

Bureau of Mediation Services

Outside Opinions Sought Regarding Proposed Changes in Rules Governing Fair Share Fee Challenges

Notice is hereby given that the Bureau of Mediation Services is seeking opinions and information from sources outside the agency in preparing to amend existing rules and adopt new rules relating to the administration of fair share fees and the processing of fair share fee challenges in light of the March 4, 1986, U.S. Supreme Court decision in **Chicago Teachers Union, Local No. 1, AFT, AFL-CIO, et al, v. Annie Lee Hudson et al.** Promulgation of the rules is authorized by Minnesota Statutes section 179A.04, subdivision 3(f).

The Bureau seeks information and comments concerning changes in current rules required to ensure compliance of fair share fee administration and challenge processing procedures with the Constitutional standards established in **Hudson**. Interested or affected groups or persons may submit statements of information or comment orally or in writing. Written statements should be addressed to:

Paul W. Goldberg, Director
Minnesota Bureau of Mediation Services
205 Aurora Avenue
St. Paul, MN 55103

Oral statements will be received during regular business hours over the telephone at (612) 296-4958 and in person at the above address.

All statements of information and comment will be accepted until May 8, 1986. Any written material received by May 8, 1986, shall become a part of the record in the event that the rules are amended or promulgated.

March 20, 1986

Paul W. Goldberg, Director
Bureau of Mediation Services

Metropolitan Council

Public Hearing on Draft Amendments to the Right-of-Way Acquisition Loan Fund Guidelines

The Metropolitan Council will hold a public hearing on Tuesday, May 6, 1986, beginning at 11 a.m. at the Metropolitan Council Chambers, 300 Metro Square Bldg., 7th and Robert Streets, St. Paul, Minn., on draft amended guidelines for highway right-of-way acquisition loans. The guidelines are being amended to address the issue of excess property. People may register to speak in advance by contacting Guy Peterson at 291-6527. Questions about the proposed amendments should be directed to Ann Braden at 291-6525. Copies of the draft guidelines are available free of charge from the Council's Community Services Department at 291-6464. Copies are also available for public inspection beginning April 4 at the following locations:

Anoka County Library—Blaine Branch, 707 Hwy. 10, Blaine, MN 55434

Carver County Library—Chaska, 314 Walnut St., Chaska, MN 55318

Dakota County Library—Eagan Branch, 1340 Wescott Rd., Eagan, MN 55123

Hennepin County Library—Southdale Branch, 7001 York Av., Edina, MN 55435

Metropolitan Council Library, 300 Metro Square Bldg., St. Paul, MN 55101

Minneapolis Public Library, Government Documents Room, 300 Nicollet Mall, Minneapolis, MN 55401

Ramsey County Library—Roseville Branch, 2180 N. Hamline Av., Roseville, MN 55113

St. Paul Public Library, Science and Industry Room, 90 W. Fourth St., St. Paul, MN 55102

Scott County Library—Shakopee Branch, 235 S. Lewis St., Shakopee, MN 55379

Washington County Library—Park Grove Branch, 7510 - 80th St., Cottage Grove, MN 55106

Office of the Secretary of State

Vacancies in Multi-Member State Agencies

Notice is hereby given to the public that vacancies have occurred in multi-member state agencies, pursuant to Minn. Stat. § 15.0597, subd. 4. Application forms may be obtained at the Office of the Secretary of State, 180 State Office Building, St. Paul 55155-1299; (612)296-2805. Application deadline is April 29, 1986.

MINNESOTA ACADEMIC EXCELLENCE FOUNDATION has 3 vacancies open for the following members: a) 1 member representing education; b) 2 members representing business. The foundation promotes academic excellence in Minnesota public schools through a public-private partnership (a nonprofit organization). Members are appointed by the Governor. For specific information contact the Minnesota Academic Excellence Foundation, 707 Capitol Square Bldg., St. Paul 55101; (612)296-2358.

MEDICAL SERVICES REVIEW BOARD has 1 vacancy open for a hospital administrator. The board advises the Dept. of Labor and Industry on medical matters relating to workers compensation and hears appeals on decisions of the department. Members are appointed by the Commissioner of Labor and Industry and receive $35 per diem plus expenses. Members must file with the Ethical Practices Board. For specific information contact the Medical Services Review Board, Dept. of Labor and Industry, Office of Public Affairs, 444 Lafayette Rd., St. Paul 55101; (612)297-4373.

WASTE MANAGEMENT BOARD has 8 vacancies open for members; 1 from each congressional district. The board selects and may acquire sites for hazardous waste facilities; encourages private sector to develop hazardous waste facilities; develops hazardous waste management plan; reviews petitions for Solid Waste Management Districts; administers solid waste management project grants and loans. Members are appointed by the Governor and confirmed by the Senate. Bi-weekly meetings; members receive $50 per diem plus expenses. Members must file with the Ethical Practices Board. For specific information contact the Waste Management Board, 123 Thorson Blvd., 7323 58th Ave. N., Crystal 55428; (612)536-0816.

MINNESOTA STATE ARTS BOARD has 1 vacancy open for a member. The board supports and encourages the arts by providing grants, publications, consultant services, conferences and workshops. Members are appointed by the Governor and confirmed by the Senate. Members must file with the Ethical Practices Board. Ten meetings per year at the board office; members receive $35 per diem plus expenses. For specific information contact the Minnesota State Arts Board, 432 Summit Ave., St. Paul 55102; (612)297-2603.

MINNESOTA RURAL FINANCE ADMINISTRATION has 3 vacancies open for public members. No public member may reside within the metropolitan area. The administration shall develop the state's agricultural resources by extending credit on real estate security. Members are appointed by the Governor with the advice and consent of the Senate. Members receive $35 per diem. For specific information contact the Minnesota Rural Finance Administration, Dept. of Finance, 309 Administration Bldg., St. Paul 55155; (612)296-5900.

MINNESOTA JOINT UNDERWRITING ASSOCIATION-LIABILITY INSURANCE has 6 vacancies open for public members. The association shall provide liability insurance coverage for persons unable to obtain it through ordinary means where coverage is required by law or is necessary for the conduct of business and serves a public purpose. The appointing authority is the Commissioner of Commerce. For specific information contact the Minnesota Joint Underwriting Association-Liability Insurance, Dept. of Commerce, 500 Metro Square Bldg., St. Paul 55101; (612)297-1118.

METROPOLITAN PARKS AND OPEN SPACE COMMISSION has 1 vacancy open for a public member. The commission assists the Metropolitan Council in planning the regional recreation open space system, and in making grants for the acquisition and development of facilities in that regional system; reviews master plan for regional facilities prepared by metropolitan area park districts and counties to make sure they are consistent with the Metropolitan Council regional plan for parks. Members may not be members of the Metropolitan Council, or any other metropolitan agency, board or commission, or hold judicial office. Members are appointed by the Metropolitan Council. Members must file with the Ethical Practices Board. Members receive $50 per diem; meetings twice monthly at Metro Square Bldg. For specific information contact the Metropolitan Parks and Open Space Commission, 300 Metro Square Bldg., St. Paul 55101; (612)291-6401.

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 completed contract proposal. Certain quasi-state agencies are exempted from some of the provisions of this statute.

Commodities contracts with an estimated value of $5,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers by calling 296-6152. If the appropriate buyer is not available, contact Harvey Leach or Barbara Jolly at 296-3779.

Department of Administration Procurement Division

Commodities Contracts and Requisitions Currently Open for Bidding

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
26-073-18688	Skid Steer Loader	St. Cloud St. University	St. Cloud	Contact buyer
26-073-18410	Purchase of Printers	St. Cloud St. University	St. Cloud	Contact buyer
27-000-48532	Modify Hazardous Chemical Storeroom	Normandale C.C.	Bloomington	Contact buyer
02-310-14632	Industrial Open Space Panel Modular Office System	MN Correctional Facility	Shakopee	Contact buyer
Price-Contract	Linen Service Contract	Transportation	New Brighton	$7,000-7,200
02-410-48180	Telephone System—Rebid	Administration—Information Management Bureau	St. Paul	Contact buyer
26-071-16415	Cash Registers	Mankato State University	Mankato	Contact buyer
Price-Contract	Wheel Bolts	MN Correctional Facility	Stillwater	$15,000-20,000
04-121-34608	Aerial Spraying	Agriculture	St. Paul	Contact buyer
78-620-00004	Paint Water Towers	MN Correctional Facility	Stillwater	Contact buyer
79-050-52412	Signal Control Cabinets	Transportation—Electric	St. Paul	Contact buyer
02-310-14544	Fabrication of Draperies, Bedspreads & Cubicle Curtains	MN Correctional Facility	Shakopee	Contact buyer
Price-Contract	Genuine Vicon Mower Repair Parts	Various	Various	$10,000-15,000
Sch.-92-TW	Gasoline & Diesel Fuel Rebid	Various	Various	Contact buyer
Price-Contract	Reproduction Materials	Various	Various	$55,000-60,000
Price-Contract	Straighten Light Poles & Install New Bases	Transportation Electrical	St. Paul	$15,000-25,000
7159-62-2768-72-76-99-906-80	Family Farm Sec., Restructing, MN G.O. and reinvest in MN Bonds	Finance	New York, New York	Contact buyer
99-906-70-1-3-4-5-7-8-9-27666-7-9-7155-8 and 7163-9	Family Farm Sec. Preliminary & Final, Farm Loan Restructuring Preliminary & Final, MN G.O. Preliminary & Final, Reinvest in MN Preliminary & Final, Family Loan Restructuring Notice, MN G.O. Notice, Reinvest in MN Notice.	Finance	New York, New York	Contact buyer

Requisition #	Item	Ordering Division	Delivery Point	Estimated Dollar Amount
78-620-00005	Lumber	MN Correctional	Stillwater	Contact buyer
Price-Contract	A Complete Line of Ball & Roller Bearings	Various	Various	$35,000-40,000
02-310-14542 02-310-14543	Vertical & Horizontal Blinds—Rebid	MN Correctional Facility	Shakopee	Contact buyer
Price-Contract	Genuine repair parts for Ford mowers, tractors, loaders	Various	Various	$70,000-80,000
43-000-06844	Turnstiles/Gates for Amphitheatre Ironworld USA	Iron Range Resources and Rehabilitation Bd.	Chisholm	Contact buyer
Sch. 113F	Automobiles	Various	Various	Contact buyer
Price-Contract	Tubular Knit Fabric—Rebid	MN Correctional Facility	Oak Park Heights	$70,000-71,000
21-200-12269 Price Contract	Janitorial Service— Jobs & Training Shakopee Rebid	Jobs & Training	Shakopee	Contact buyer
29-000-43492	Van Body—Rebid	Natural Resources	Pick-up	Contact buyer
26-074-10823	Cards for PBX	Winona State University	Winona	Contact buyer
26-071-16348	Purchase of Photocopy Machine	Mankato State University	Mankato	Contact buyer
27-000-48232	Construction of Parking Lot	Rainy River Community College	Rainy River Community College	Contact buyer

Contact 296-6152 for referral to specific buyers.

Department of Administration
Division of State Building Construction

Contracts Available for Architects, Engineers and Landscape Architects

The Department of Administration (DOA) intends to retain the services of qualified professionally registered architects, engineers and landscape architects, to design, prepare construction drawings and monitor construction of a number of projects during the year commencing July 1, 1986. These projects will be varied in nature and scope and will involve new construction, remodeling projects and facility studies. The cost of construction or remodeling projects will be less than $400,000.00 and the fees associated with facility studies will be less than $35,000.00. Particular emphasis will be placed on the background and experience of the firm on similar projects as well as the firm's geographic proximity to the project.

Firms wishing to be considered for these projects are asked to submit a short brochure or resume consisting of no more than 10 pages giving qualifications and experience of the firm to the Division of State Building Construction, Room G-10, State Administration Building, St. Paul, Minnesota 55155, **Attention: George Iwan.** Qualified applicants will be contacted as the need arises and may be requested to appear in St. Paul for an interview. Firms which responded during the past year need only respond with a letter indicating continued interest as well as significant organization and experience changes since submission of their last brochure.

In submitting their brochures or resumes, firms shall indicate the area or areas of the list shown below in which they feel qualified.

1) Research and Programming
2) Educational
3) Health and Medical
4) Correctional
5) Restoration
6) Office and Administration
7) Recreational
8) Service and Industrial
9) Arts, including Performing Arts
10) Exhibition and Display
11) Landscape and Site Planning
12) Interiors
13) Water and Waste Facilities
14) Energy Supply and Distribution
15) Pollution Control
16) Acoustics

In some cases, DOA may enter into annual contracts for investigative studies, these annual contracts will be prepared on the basis of the needs of DOA.

The name of firms responding will be provided to other State Agencies having a need for the services described herein.

Names of qualified firms will be retained on file with DOA until June 30, 1987.

Designers for projects with estimated costs or fees in excess of those shown above will be selected by the State Designer Selection Board. Projects referred to the Board will be advertised in the *State Register*.

Department of Administration Division of State Building Construction

Contracts Available for Registered Professional Testing Services

The Department of Administration (DOA) intends to retain the services of qualified professionally registered individuals to conduct site surveys, materials testing and soil borings and tests during the year commencing July 1, 1986. These projects will be varied in nature and scope. The fees associated with these projects will generally be less than $2,000.00, although the fees for some projects may exceed this amount.

As projects arise, it is the intention of DOA to contact firms who have expressed an interest in providing such services to the State. The final selection will be made on the basis of the background and experience of the firm, the geographic proximity of the firm to the project site, and an estimate of the fees to be charged for the specific project. Such estimates will be requested when a specific project exists.

Firms wishing to be considered for these projects are asked to submit a short brochure or resume consisting of no more than 10 pages outlining their background, qualifications, and fields of expertise to the Division of State Building Construction, Room G-10, State Administration Building, St. Paul, Minnesota 55155, **Attention: George Iwan.** Qualified applicants will be contacted as the need arises and may be requested to appear in St. Paul for an interview.

Firms which have previously responded to this request need only provide a letter expressing continued interest as well as significant organization and experience changes since submission of their last brochure.

Names of qualified firms will be retained on file with DOA until June 30, 1987. Names of firms will be provided to other State Agencies having a need for the services described herein.

Department of Energy and Economic Development

Financial Deal Making Assistance Sought for Small Cities Businessess

The Development Resources Office of the Minnesota Department of Energy and Economic Development (MNDEED) is soliciting applications for Financial Deal Structuring and Funding Assistance on behalf of Small Cities. The purpose of this program is to provide, 1. Loan Review assistance and 2. Set aside funds on behalf of small cities for rural development. The review process for 5-10 loans will begin on or about May 12, 1986. An undetermined amount of staff and work shop training may also be included as work items for the financial assistant.

Applicants should provide their qualifications and a proposed fee schedule. All written applications must be received by 4:00 p.m. May 5, 1986, by MNDEED. Please use the address listed below:

Dick Fursman
900 American Center Bldg.
150 East Kellogg Blvd.
St. Paul, Minnesota 55101
297-1172

Historical Society

Request for Bids for Video Projection System for Split Rock Lighthouse Visitors Center

The Minnesota Historical Society is interested in purchasing and invites bids for the following video projection system to be installed in the Split Rock Lighthouse Visitors Center:

SONY Universal Video Projector, VPH-1020Q HR900 (adjusted for ceiling mount)

SONY Remote Controller, VPR-722

SONY Suspension Support for VPH-1020Q, PSS-722

SONY Suspension Support for VPH-1020Q, PSS-10

SONY 82 foot Remote Cable, CCQ-25AR

PANASONIC ¾ inch video cassette player, model NV-9100A, with remote controller, NV-A152

Female BNC adaptor for supplied VTR monitor cable, NV-C15

Audio cable, RCA to RCA connector, approx. 5 feet long

The bid should also include one site visit by a service technician to adjust the video projector within two weeks of installation, which is scheduled for sometime in June, 1986. (Approx. 4-hour drive each way from the Twin Cities.)

Delivery will be to the Fort Snelling History Center on or about May 31, 1986.

All bids should be submitted to Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-8378.

All bids must be received by the close of the working day April 23, 1986. Bids must be itemized, typewritten or in ink, and signed by an authorized member of the firm.

The Minnesota Historical Society reserves the right to accept or reject any or all bids and to waive any irregularities therein.

Historical Society

Request for Proposals for Producing Video Tape Presentations

The Minnesota Historical Society is seeking individuals and firms to produce three 3-minute videotape presentations, utilizing scripts provided by the Society, for an exhibit at the Split Rock Lighthouse Visitors Center. It is anticipated that the total cost of this project will not exceed $11,000.00.

These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested from and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-8378. The deadline for submitting completed proposals is the close of the working day April 23, 1986.

Department of Human Services
Moose Lake Regional Treatment Center

Request for Proposal for Medical Services

Notice is hereby given that the Moose Lake Regional Treatment Center, Mental Health Bureau, Department of Human Services, is seeking the services for the period July 1, 1986 thru June 30, 1987. These services are to be performed as requested by the Administration of the Moose Lake Regional Treatment Center.

Services of Family Practices Physicians to perform routine medical services including diagnostic and treatment of common ailments including ear and foot problems, minor surgical procedures and treatment of injuries such as fractures, lacerations, etc., admission histories and physical examinations. The estimated amount of the contract will be $58,368.00.

Services of a specialist in Physical & Internal Medicine to perform consultation services at the Moose Lake Regional Treatment Center. The estimated amount of the contract is $26,000.00.

The services of a Radiologist to interpret X-Ray films taken by the hospital's X-ray Technician. The estimated amount of the contract is $14,500.00.

Responses to these services must be received by June 30, 1986.

Direct inquiries to:
Frank R. Milczark
Chief Executive Officer
Moose Lake Regional Treatment Center
1000 Lakeshore Drive
Moose Lake, MN 55767
(218) 485-4411 Ext. 242

State Board of Investment

Request for Proposals for a Consultant to Assist the State Board in Carrying out Its Fiduciary Responsibilities

The State Board of Investment recently adopted a resolution calling for the preparation and distribution of a formal Request For Proposal (RFP) to evaluate and retain consultant(s) services. This request for proposal is designed to obtain a consultant to advise the SBI in the areas of investment guidelines and objectives, manager selection, performance measurement and evaluation, asset allocation, and master custodial, data processing and other operational needs.

This procurement is undertaken by the State Board pursuant to the provisions of Minnesota Statutes 16.098. The State Board shall select the consultant whose proposal and oral presentation, if requested, demonstrate clear capability to best fulfill the purpose of the RFP in a cost effective manner. The State Board reserves the right to accept or reject proposals in whole or in part and to negotiate separately as necessary to serve the best interests of the State.

Estimated cost of these consultant services is $150,000-$200,000.

All interested vendors should contact the person named below by letter or telephone to request a copy of the Request For Proposal.

Doug Gorence
Minnesota State Board of Investment
Room 105, MEA Building
55 Sherburne Avenue
St. Paul, MN 55155
Telephone: (612) 296-3328

All proposals must be submitted to the address listed below on or before 4:30 P.M. April 18, 1986. NO PROPOSALS RECEIVED AFTER THAT DATE WILL BE CONSIDERED.

Supreme Court

Request for Proposals for Family Farm Legal Assistance Program

The Supreme Court through its Legal Services Advisory Committee requests proposals from nonprofit legal assistance providers for the delivery of legal assistance relating to farm financial problems for Minnesota family farmers pursuant to Minn. Stat. 480.250. Statutory restrictions limit the organizations which can qualify as legal service providers.

APPLICATION DEADLINE: May 9, 1986.

FOR APPLICATION INFORMATION, CONTACT JUDITH L. REHAK,

ADMINISTRATION SERVICES DIRECTOR, (612) 296-6822.

April 1, 1986

Supreme Court

Modification in Request for Proposals for Legal Services Advisory Committee

The Legal Services Advisory Committee (LSAC) solicits funding proposals from alternative dispute resolution programs pursuant to Minn. Stat. 480.242. The 1986 Legislature amended that statute to specify the eligibility of nonprofit regional alternative dispute resolution corporations for discretionary grant funding by the LSAC through June 30, 1987. Proposals for mediation training by such corporations will be accepted for discretionary grant funding by the LSAC.

APPLICATION DEADLINE: April 15, 1986.

FOR APPLICATION MATERIALS, CONTACT JUDITH L. REHAK,

ADMINISTRATIVE SERVICES DIRECTOR, (612) 296-6822.

TAX COURT

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

State of Minnesota Tax Court
Regular Division

Pantry Restaurants, Inc., Appellant, vs. Commissioner of Revenue, Appellee.

Findings of Fact, Conclusions of Law and Order for Judgment

The above-entitled matter was tried by the Minnesota Tax Court on January 30, 1986, at the Hennepin County Government Center in Minneapolis, Minnesota, Judge M. Jean Stepan presiding.

Kenneth Johnson and Rebecca Woods, for the appellant, appeared pro se.

Michele M. Owen, Special Assistant Attorney General, appeared on behalf of appellee.

FINDINGS OF FACT

1. Rebecca Woods, the employee of appellant who filed the company's sales and use tax returns, discovered in late July, 1983, that she had been filing the forms incorrectly for some time and had consequently been remitting more tax to the state than was actually due.

2. Upon discovering her error, Ms. Woods discussed the matter with Mr. Kenneth Johnson, President of appellant corporation, and called the State Department of Revenue requesting forms for claiming a refund.

3. Ms. Woods filled in the form she received from the Department of Revenue on August 22, 1983. She put it alone in an envelope, put proper postage on the envelope, and addressed it to the Sales and Use Tax Division address indicated on the form. She then sometime within the next two days, placed it in the outgoing mail collection place on her desk. It was a customary routine for the mail carrier to pick up the company's outgoing mail from her desk. She recalls that this particular envelope was collected by the mail carrier.

4. Over the next two years Ms. Woods attempted to reach the Sales and Use Tax Division by phone to check on the status of the claim, but her calls never got through. When she did finally contact the Department of Revenue, they checked all claims and correspondence files and had no record of having received the claim form, and they so informed her.

5. Ms. Woods then refiled the claim form and it was received and acknowledged by the Department of Revenue on June 5, 1985. The claim form was processed immediately and an audit report was issued disallowing the refunds for the periods March, 1981 through April, 1982, because the time for submitting a claim with respect to those periods had passed.

6. Appellant filed this appeal from the Order of the Commissioner denying in part the claim for refund.

CONCLUSIONS OF LAW

1. Appellant's claim for refund with respect to sales and use taxes for the periods March, 1981 through April, 1982, was timely filed.

2. The Order of the Commissioner of Revenue dated August 9, 1985, from which this appeal was taken, is reversed with respect to the sales tax liability of appellant for the taxable period March, 1981 through April, 1982, and is affirmed with respect to the sales tax liability of appellant for the taxable periods May, 1982 through July, 1983.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

March 24, 1986.

By the Court,
M. Jean Stepan, Judge
Minnesota Tax Court

SUPREME COURT DECISIONS

Decisions Filed Friday, March 28, 1986

Compiled by Wayne O. Tschimperle, Clerk

C9-85-811 Little Earth of United Tribes, Inc., Relator v. County of Hennepin and State of Minnesota. Tax Court.

The Little Earth housing project, which is owned and operated by a private, nonprofit organization, is not ''public property used exclusively for a public purpose'' under Minn. Const. art. X, § 1, and Minn. Stat. § 272.02, subd. 1(7).

Minn. Stat. §§ 272.02, subd. 1(6), and 273.13, subd. 17, do not violate the supremacy clause of the United States Constitution.

The tax classification for nonprofit, government-subsidized housing projects does not violate the equal protection clause of the United States Constitution, or the uniformity clause of the Minnesota Constitution.

Affirmed. Scott, J.

C6-82-671 In the Matter of the Application for the Discipline of Kenneth R. Pearson, an Attorney of Law of the State of Minnesota. Supreme Court.

Disbarred. Per Curiam.

ERRATA

Department of Human Services

Correction to Notice of Proposed Temporary Rules Relating to Nursing Home Payment Rate Determination

The notice of proposed adoption of temporary rule amendments for Minnesota Rules, parts 9549.0050 to 9549.0059 published in the March 31, 1986 *State Register* on page 2016, (CITE 10 SR 2016), should have also contained the following sentence:

Copies of the proposed rule amendments are available for public review at each county welfare or social services department.

Additionally, the statutory reference on the last line of the third paragraph should have been Minnesota Statutes, section 256B.431 subdivision 2h (not subdivision 2).

State of Minnesota
Minnesota Documents Division
117 University Avenue
St. Paul, Minnesota 55155

(612) 297-3000
(toll-free # for MN:
1-800-652-9747)

ORDER FORM

State Register. Minnesota's official weekly publication for agency rules and notices, executive orders of the Governor, state contracts, Supreme Court and Tax Court decisions.

_____ Annual subscription $130.00
_____ Trial subscription (13 weeks) $40.00
_____ Single copies $3.25 each

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_____ Single copy: $12.50 + $.75 tax = $13.25* each

Minnesota Rules 1985. 10-volume set.
_____ Set: $125.00 + $7.50 = $132.50.*
_____ Each volume: $13.00 + $.78 = $13.78.
No handling charge.

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_____ Single copy $5.00

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Minnesota Statutes 1985 Supplement. Pocket part supplement to Minnesota Statutes 1984.
_____ $25.00 + $1.50 = $26.50.*
No handling charge.

*To avoid Minnesota sales tax, please include your Certificate of Exempt Status issued by the Department of Revenue. No Mastercard/VISA accepted on Rules and Laws.

Please enclose full amount for items ordered: prepaid orders only. Make check/money order payable to "State of Minnesota." (Phone orders are taken only with a Mastercard/VISA charge number.)

EACH ORDER MUST INCLUDE $1.50 POSTAGE AND HANDLING FEE.

Name _____

Attn of: _____

Street _____

City/State/Zip _____

Telephone # _____

CHANGE OF ADDRESS NOTICE

Please notify us as soon as your address changes so that we can continue to serve you.

OLD ADDRESS	NEW ADDRESS

Publication(s) you are receiving from us: _____

FOR LEGISLATIVE NEWS

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

SENATE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Contact: Senate Public Information Office
Room 111 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

Session Weekly—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

This Week—weekly interim bulletin of the House.

Contact: House Information Office
Room 175 State Office Building, St. Paul, MN 55155
(612) 296-2146

2. The Commissioner's Order denying appellant's request for abatement of the late filing penalty, dated December 7, 1984, is affirmed.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

April 1, 1986.

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

ERRATA

Department of Revenue
Property Equalization Division

Proposed Rules Relating to Railroad Valuation

Missing Material for Weighted Median Ratio

The calculation for weighted median ratio appearing in columns on the top of page 10 S.R. 2073 had three lines missing. The calculation is reprinted here in its entirety:

The weighted median ratio is developed by multiplying the median ratio for each class of property (agricultural, residential, recreational, commercial) by the percentage of value that class of property comprises of the total county value. An example of this calculation is as follows:

Class of Property	Amount of Value	Percent of Value	Median Ratio	Weighted Median Ratio
Residential	$ 20,000,000	20%	85%	17.00%
Agricultural	55,000,000	55%	95%	52.25%
Seasonal—				
Recreational	5,000,000	5%	90%	4.50%
Commercial—				
Industrial	20,000,000	20%	85%	17.00%
TOTAL	$100,000,000	100%		90.75%

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF The Proposed Adoption of Rules of the State of Minnesota Governing the Valuation and Assessment of Railroad Operating Property

Findings of Fact and Conclusions

The above-entitled matter was published in the State Register on April 7, 1986 as a proposed permanent rule pursuant to Minnesota Statutes, Section 14.22 to 14.28. After affording interested persons an opportunity to submit written data and views within 30 days of the publication date, reviewing and considering the data and views submitted, and determining that the above-captioned rules were needed and reasonable, the rule together with the entire body of documentation concerning this matter was sent to the Attorney General for his review.

NOW, acting upon the advice of the Attorney General's Office, I find the following:

1. The proposed rule has one instance of vague, ambiguous language contained in Part 8106.0400, subd. 1. The phrase, "until time or conditions warrant a change in either methods or procedures", has been determined by the Attorney General to give the agency unbridled discretion, not give the reader of the rule any notice as to when the agency will utilize another method and, appears to attempt to allow the agency to circumvent the Administrative Procedures Act by ad hoc rulemaking. Consequently this phrase is deleted.

2. Portions of the rules contain language which consists of statements of fact or commentary. Such language is inappropriate for rules and must be deleted. Consequently, the following words and phrases have been deleted from the modified rules.

   a) Part 8106.0200, "Laws of Minnesota 1979, chapter 303, article 303, VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all Minnesota railroad operating property.

      The article also charges the Commissioner of Revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads. Subsequently, Laws of Minnesota 1984, chapter 502, article 9 gave additional instructions to the commissioner regarding the method of valuing railroad property and the equalization of these valuations. This article also gives the commissioner the authority to promulgate emergency rules in order to implement these valuation and equalization procedures."

   b) Part 8106.0400, subp. 1. "The Minnesota legislature has said that railroads may be valued using the unit basis of estimating value. Consequently, the commissioner has chosen to use this method."

c) Part 810[redacted]400, subp. 1. "It is the decision of [redacted] commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value where applicable, in the manner provided in this part."

d) Part 8106.0400, subp. 2. "This indicator is based on the premise that increased traffic volume reduces unit costs and therefore enhances net income; thus, as traffic density raises, obsolescence decreases."

e) Part 8106.0400, subp. 2. "...and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescene."

f) Part 8106.0400, subp. 5. "...depending on the conditions and circumstances involved in each valuation. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent."

g) Part 8106.0600. "The unit value method presupposes that the value of any one portion of unit is interdependent upon all other elements of the unit; therefore, it is extremely difficult to make a separation of this value into real and personal property."

h) Part 8106.0700, subp. 4. "An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting."

i) Part 8106.0700, subp. 6. "After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin. This..."

j) Part 8106.700, subp. 6. "It is important to note that..."

k) Part 8106.0800, subp. 2. "Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisdictions within Minnesota. The study is conducted in many parts."

l) Part 8106.0800, subp. 2. "This statistical complication, commonly called the mini-abstract, is filed each year by every county assessor, with the Commissioner of Revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property - residential, agricultural, commercial, industrial, recreational, etc. -within each particular county."

m) Part 8106.0800, subp. 2. "However... it is the commissioner's decision that..."

3. In order to make the modified rule clear and concise certain words and phrases must be added to the body of the rule in order to retain the same intent after making the deletions listed in Finding 2. These additions are enumerated below together with their appropriate citation. These additions in no way alter the original intent of the rules, attempt to impose a new meaning to any part of the rule or add a new rule to the original body of the proposed rule.

   a) Part 8106.0400, subp. 5. "The weighting shown above may vary from railroad to railroad as provided for in subparts 2 to 4".

   b) Part 8106.0700, subp. 6. "The apportionment of a railroad's taxable Minnesota value is accomplished by totaling the amount of the land, track, and structure components as developed in subparts 3 to 5 for each taxing district..."

   c) Part 8106.0800, subp. 2. "A comprehensive assessment/sales ratio study compiled annually by the sales ratio section of the Property Assessment and Review Division of the Department of Revenue commonly known as the State Board of Equalization Sales/Ratio Study will be used in this computation. The portion of this study which will be used for purposes of this section is known as the "County Commercial and Industrial Sales Ratio."

CONCLUSIONS

1. The revisions to the proposed rule are necessary and reasonable in order to make the rule conform to the standards for rules set by the Attorney General's Office.

2. The body of the suggested modifications to the proposed rule is needed and reasonable in order to eliminate unnecessary and ambiguous language and preserve the meaning and intent of the rule.

3. The changes in the original proposed rules listed in Findings 1, 2 and 3 above are not substantive material changes, do not affect the intent and meaning of the rules nor are they an attempt to add a new rule to the already published proposed rules; therefore, these changes do not warrant notification of all interested parties.

4. The modified rules are to be resubmitted to the Attorney General for his review.

STATE OF MINNESOTA

COMMISSIONER OF REVENUE

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF THE PROPOSED RULES OF THE DEPARTMENT OF REVENUE GOVERNING THE VALUATION AND ASSESSMENT OF RAILROAD OPERATING PROPERTY	))))	**Statement of Need and Reasonableness**

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish 1) the statutory authority; 2) need for; and 3) reasonableness of the proposed new rules. It is submitted pursuant to Minnesota Rules 2000.0400 which requires a Statement of Need and Reasonableness.

General Information

The above captioned rules are being proposed in order to fulfill a charge given to the Department of Revenue by the Minnesota Legislature. Article VII of the Omnibus Tax Bill passed by the 1979 Legislature deals with ad valorem (property), taxation of railroads. Part of the Article, later codified as Minn. Stat. 270.81, Subd. 5, instructs the Commissioner of Revenue to promulgate both temporary and permanent rules necessary to implement the various provisions of the law.

This was accomplished; temporary rules were approved for use by the Attorney General's Office on March 6, 1980 and permanent valuation rules were approved, after hearing, on October 15, 1980. During 1981 the agency also added to the body of railroad valuation rules by promulgating rules dealing with the apportionment of the railroad property values to the various taxing jurisdictions. In 1983 the rules were revised slightly to provide for a small adjustment in the valuation process.

Subsequently, in 1983 the Minnesota Tax Court in its decision concerning the matter of the Soo Line Railroad Company vs. the Commissioner of Revenue (Docket Nos. 3388 and 3465, Order dated November 2, 1983) found... "The evidence produced at the trial of this matter indicated that Rules 13 MCAR Section 1.0024 (now recodified into MR 8105) adopted by the Commissioner of Revenue to determine valuation of railroad property do not properly reflect the valuation and to the extent that they conflict with this decision the rules are overturned."

Rather than attempt to speculate on which portion of the rules conflicted with the Court's decision and which did not, the agency chose to suspend, and later repeal, all of Minnesota Rules Chapter 8105. The agency then acted under the authority given it by the Minnesota Legislature in Laws of 1984, Chapter 502, Article 9, Section 2 and adopted emergency rules governing the valuation and assessment of railroads which replaced the suspended rules. These rules were adopted on September 10, 1984 and were subsequently extended for 180 days as provided for in Minn. Stat. Section 14.35. These extended emergency rules were later modified in April of 1985. These modified emergency rules were adopted for use in June 5, 1985; however, since the 180 day extension period has now run, the agency currently has no railroad valuation rules in place and therefore proposes these rules to rectify this situation.

A Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Governing the Valuation and Assessment of Railroads was published in the State Register on November 11, 1985, prior to the preparation of these proposed rules. Two open forum-type discussion meetings were held on October 30, 1985 and December 11, 1985 to discuss these rules. These meetings were attended by members of the Department of Revenue, representatives of the railroad industry, county assessors, city assessors, and members of Senate Tax Research. Various suggestions and comments made at these meetings were received and duly considered by the agency.

Authority to Adopt Rules

Minn. Stat. Section 270.04 (14) states that the ... "Commissioner of Revenue may promulgate rules and regulations for the administration and enforcement of the property tax. Such rules and regulations shall have the force and effect of law..." Clearly, the above rules are encompassed within this authority.

Further, Minn. Stat. Section 270.11, Subd. 1 and 6 give the Commissioner of Revenue the authority to review, modify, revise, raise or lower the assessed valuation of the real or personal property of any individual, copartnership, company, association or corporation. This authority certainly would include railroad property.

Specifically, Minn. Stat. Section 270.81, Subd. 1 states that, "The operating property of every railroad company doing business in Minnesota shall be valued by the commissioner..." In addition, Subd. 5 requires the commissioner to..."exercise temporary rule-making authority...solicit information and opinions from outside his department," and adopt permanent rules pursuant to Chapter 15 in order to implement the provisions of this act. Minn. Stat. Section 270.84 also states that... "The commissioner may promulgate emergency rules adopting valuation procedures under Sections 14.29 to 14.36." If the commissioner has the authority to promulgate emergency rules, it would follow that he has sufficient authority to also promulgate permanent rules.

Finally, Minn. Stat. Section 270.86, Subd. 1 charges the commissioner to ... "apportion such (railroad) value to the respective counties and to the taxing districts therein in conformity with fair and reasonable rules and standards to be established by the commissioner." This statute, therefore, not only gives the commissioner the authority to adopt rules but also the duty and responsibility to do so.

Need for the Proposed Rules

The preceding section recites reference to Minn. Stat. Sections 270.81 and 270.86, quoting specific language which requires the commissioner to adopt rules which deal with the valuation and assessment of operating railroad property. As previously noted, the commissioner has adopted permanent rules, first suspended then repealed them and subsequently promulgated emergency rules. These emergency rules have now expired, thus there currently are no rules governing the valuation and assessment of railroad operating property in place even though the legislature has deemed there is a need for such rules. Therefore, these rules are being proposed in order to fill that void. Clearly, rules are needed to regulate the valuation and assessment of railroad operating property and these rules satisfy that need.

Reasonableness of the Proposed Rule

These proposed permanent rules are rather unique in that they have been in use, as emergency rules, for two years and have been found to be workable and reasonable in both their nature and scope.

The proposed rules follow legislative guidelines in that they employ generally accepted appraisal principles and practices which may include the unit method of determining value (Minn. Stat. 270.84). This unit method is employed by the rules to value railroad operating property as are other generally accepted appraisal practices such as allowances for obsolescence and the capitalization of income.

Additionally, and more importantly this same statute - Minn. Stat. 270.84 - requires the commissioner to... "report to the legislature in February of 1985 and February of 1986 on the formula which he has used to determine the value of railroad operating property pursuant to Laws 1984; Chapter 502, Article 9. This report shall also contain the valuation for payable 1985 and 1986 by company and the taxes payable in 1985 and 1986 by company based upon the valuation of operating property. The legislature may review the formula, the valuation, and the resulting taxes and may make changes in the formula that it deems necessary." This report has been made for both 1985 and 1986 based on the valuation results achieved through the application of the emergency rules. This legislature has considered this report and has chosen to suggest no changes or revisions to the valuation method.

The agency can only interpret this to mean that the legislature believes the valuation method utilized by the emergency rules to be workable and reasonable. Since these proposed rules are based entirely on the emergency rules we also believe that the proposed rules are reasonable.

The rules as now proposed contain only one noticeable difference from the emergency rules which were used for the 1985 assessment year. That variance is in the area of the equalization of the apportioned railroad value. The emergency rules state that in the absence of six valid sales of commercial and industrial property within a county during the prescribed study period the median ratio of all property within the county would be used as a basis to estimate the current year median commercial and industrial sales ratio. The proposed rules state that the weighted median sales ratio of all property will be used. The language was adopted after consulting with various county assessors who believed that the use of the weighted median would provide for a more equitable equalization of the railroad's property values with the values of other commercial and industrial property.

In summary, these proposed rules are considered to be reasonable and workable not only by the agency which is proposing them, but by the legislature which has received two reports on the results produced by the rules and has found these results satisfactory; and finally by the railroads themselves who have been valued and assessed according to the provisions of the rules which have been essentially the same for the past two assessment periods and as of this writing are not pursuing any appeals of these valuations.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

PROPERTY EQUALIZATION DIVISION

STATE ASSESSED PROPERTIES

IN THE MATTER OF THE PROPOSED ADOPTION OF PERMANENT RULES GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS

STATEMENT OF COMPLIANCE WITH RULEMAKING PROCEDURES

I, DOROTHY A. MC CLUNG, Director of Legal and Legislative Affairs, 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.

Dorothy A McClung

DOROTHY A. MC CLUNG, Attorney

Dated: May 13, 1986

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

Office Memorandum

TO: MARTHA CASSERLY
Special Assistant Attorney General

DATE: July 25, 1986

FROM: DOROTHY A. MC CLUNG, Director
Legislative and Legal Affairs

PHONE: (612) 296-1022

SUBJECT: DEPARTMENT OF REVENUE RULES GOVERNING THE VALUATION AND ASSESSMENT OF RAILROADS - FILE #1276

Attached please find four copies of the modified rule mentioned above which is being resubmitted for your review. I have also included an Order Adopting the Rules and a Finding of Fact and Conclusions which supports the modifications to the rule and explains why the modifications do not constitute substantial change.

I hope this material is sufficient for your needs. If you have any question, please contact me.

DAM:GDG:vh

Attachments

RECEIVED
JUL 29 1986
ATTORNEY GENERAL
ADMINISTRATIVE AGENCIES

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Administration

Office Memorandum

TO: ARTHUR C. ROEMER, Assistant to the Commissioner of Revenue DATE: 6/30/86

ATTN: DOROTHY A. MCCLUNG, Esq., Director of Legal Affairs

FROM: MARTHA J. CASSERLY PHONE: 296-4692
Special Assistant
Attorney General

SUBJECT: Department of Revenue Rule Governing the Valuation and Assessment of Railroads

The above-captioned rule has not been approved by the Attorney General for the following reasons:

1. Portions of the rule do not have the force and effect of law because they are "non-rules." Attached to this memorandum, as Attachment A, is a reference to the citations and locations of the rejected "non-rules" as well as the recitation of the disapproved language. The disapproved language consists of statements of fact or commentary inserted in the rule. Such language is inappropriate for rules because it does not "implement or make specific" a law or "govern the agency's organization or procedure." Minn. Stat. § 14.02, subd. 4. To overcome this deficiency, the non-rules must be deleted.

2. Part 8106.0400, subp. 1, page, 5, line 23 provides that the value of the railroad property will be determined in the manner provided in a subpart until time or conditions warrant a change in either methods or procedures. (Emphasis added.) The underscored language is not approved by the Attorney General because it is impermissibily vague and also provides the agency unbridled discretion. The underscored language does not give the reader any notice as to when the agency will utilize another method. Further, the underscored language appears to attempt to allow the agency to circumvent the APA by ad hoc rulemaking.

To overcome this deficiency, the underscored language must be deleted, or a specific criteria delineated upon which the agency will utilize another method or procedure.

3. The submitted order adopting the rule was signed less than 30 days after the entire rule was published in the State Register. The proposed rule was published in the State Register on April 7, 1986 with three lines of the rule omitted. The omitted language was published April 14, 1986, which is less than 30 days prior to the date of order adopting, May 8, 1986. To overcome this deficiency, a new Order Adopting the Rule must be signed and submitted.

Finally, while the rule is not being rejected on this ground, you should be made aware that this office has a serious concern as to the sufficiency of the Statement of Need and Reasonableness in support of this rule. No part of the rule is individually explained or justified. For example, no justification is given to explain why a particular method or calculation is chosen. Furthermore, the fact that the emergency

rule has been workable does not alone justify the "reasonableness" of a rule. As you are aware, no statement of need and reasonableness is prepared for emergency rules. Your agency should be mindful of our concerns when drafting future statements of need and reasonableness.

After agency action, the rule may be resubmitted to the Attorney General for our review. If the rule is resubmitted, our office must determine whether the modified rule is "substantially different" from the proposed rule. If the modified rule is "substantially different," then the agency must re-publish and re-send the rule and the notice of intent to adopt the rule. Upon resubmission to the Attorney General, you must submit the following documents:

1. A new order adopting the rule.

2. Findings of Fact and Conclusions supporting the modifications to the rule and explaining why the changes do not constitute substantial changes.

3. Four copies of the modified rule approved as to form by the revisor of statutes.

Also, please include a memorandum specifying that the rule is being resubmitted and refer to our file number 1276 so that we may obtain our initial file in this matter. If you have any questions concerning the issues raised in this memorandum, do not hestitate to call me.

MJC:tt

Attachment

cc: Duane Harves
Maryanne Hruby
Paul Marinac

ATTACHMENT A

The following is a listing of the portions of the Department of Revenue's Rule governing the Valuation and Assessment of Railroad Operating Property disapproved by the Attorney General because they do not have the force and effect of law.

a) 8106.0200, page 3, line 28 through page 4, line 6. "Laws of Minnesota 1979, chapter 303, article VII (called the Omnibus Tax Bill) codified as Minnesota Statutes, sections 270.80 to 270.90, eliminated the gross earnings tax on Minnesota railroads and replaced it with an ad valorem tax on all Minnesota railroad operating property. The article also charges the commissioner of revenue with the responsibility of developing rules, both emergency and permanent, which will implement the provisions of the law dealing with the ad valorem method of taxing railroads. Subsequently, Laws of Minnesota 1984, chapter 502, article 9 gave additional instructions to the commissioner regarding the method of valuing railroad property and the equalization of these valuations. This article also gives the commissioner the authority to promulgate emergency rules in order to implement these valuation and equalization procedures."

b) 8106.0400, subp. 1, page 5, lines 19 through 23. "It is the decision of the commissioner of revenue that for 1986 and subsequent years the value of railroad property will be determined using these three approaches to value where applicable, in the manner provided in this part."

c) 8106.0400, subp. 2, page 8, line 46 through page 9, line 5. "... and would therefore be an important consideration to an investor. A high percentage of gross profit margin indicates a more efficient railroad in converting gross revenue to net profit and thus this railroad is less economically obsolete. A low percentage of gross profit margin indicates a railroad with high operating expenses and a good deal of economic obsolescence."

d) 8106.0400, subp. 5, page 14, lines 35 through 41. "The weighting shown above may vary from railroad to railroad, as provided in subparts 2 to 4, depending on the conditions and circumstances involved in each valuation. For example, a railroad with no outstanding stock would not have a computation for a stock and debt indicator of value and, therefore, the cost indicator of value would be weighted 40 percent."

e) 8106.0600, page 16, line 43 through page 17 line 2. "The unit value method presupposes that the value of any one portion of unit is interdependent upon all other elements of the unit; therefore it is extremely difficult to make a separation of this value into real and personal property."

f) 8106.0700, subp. 4, page 22, lines 2 through 3. "An additional calculation is necessary to adjust this average cost per mile of track to allow for weighting."

g) 8106.0700, subp. 6, page 23, lines 38 through 42. "After the three apportionment components have been calculated for each taxing district in which the railroad operates, the apportionment of the railroad's taxable Minnesota portion of the unit value can begin."

h) 8106.0700, subp. 6, page 24, line 10. "It is important to note that... ."

i) 8106.0800, subp. 2, page 24, lines 24 through 31. "Each year the sales ratio section of the Minnesota Department of Revenue, Property Equalization Division, prepares a comprehensive assessment/sales ratio study commonly known as the State Board of Equalization Sales/Ratio study. This study is used by the State Board of Equalization to equalize assessment levels of ad valorem property among various counties and taxing jurisidictions within Minnesota. The study is conducted in many parts."

j) 8106.0800, subp. 2, page 25, lines 14 through 20. "This statistical complilation, commonly called the mini-abstract, is filed each year by every county assessor, with the commissioner of revenue. The abstract is a listing of the current estimated market values, together with other information for the various classes of property - residential, agricultural, commercial, industrial, recreational, etc. - within each particular county."

k) 8106.0800, subp. 2, page 26, lines 33 through 35. "... it is the commissioner's decision that these few sales are insufficient to form the basis for a meaningful C & I ratio."

SF-00006-03

STATE OF MINNESOTA

DEPARTMENT ATTORNEY GENERAL - Administration

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ATTN: DOROTHY A. MCCLUNG, Esq., Director of Legal Affairs

FROM: MARTHA J. CASSERLY
Special Assistant
Attorney General

PHONE: 296-4692

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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

P.O. Box 64446
St. Paul, MN 55164

(612) 642-0355

May 15, 1986

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

RE: Adoption of Permanent Rules Relating to the Valuation and Assessment of Railroads

Dear Sir or Madam:

In accordance with Minn. Stat. Section 14.26, I enclose the following documents for your review:

1. Rule as Adopted (Original and 3 copies).
2. Order Adopting Permanent Rules (2 copies).
3. Notice of Intent to Solicit Outside Opinions. (Written Comments Attached).
4. Order for Repeal of Suspended Rules and Publication of Permanent Rules.
5. Order for Notice of Intent to Adopt Rules Without a Public Hearing.
6. Notice of Intent to Repeal Suspended Rules and to Adopt Permanent Rules Without a Public Hearing.
7. Statement of Need and Reasonableness.
8. Affidavit of Mailing. (Notice Attached).
9. Certificate of Completeness and Accuracy. (Mailing List Attached).
10. Rule as Proposed.
11. Copy of the State Register, Volume 10, Number 41, April 7, 1986, in which the Notice and Permanent Rule was published.
12. Written Comments Received on the Rule.
13. Statement of Compliance with Rulemaking Procedures.

Please note that there were no changes from the rules as proposed to the rules adopted and that no one requested to be notified when these rules were submitted to the Attorney General for review.

If you have any questions, please feel free to contact me.

Sincerely yours,

G. D. GARSKI, Manager
State Assessed Properties
Property Equalization Division
Minnesota Department of Revenue

GDG:vh

AN EQUAL OPPORTUNITY EMPLOYER