

Minnesota Attorney General: Administrative Rules Proceedings

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Version 3
August 20, 2018

~~1044~~ 85.0009.0736

RULE REVIEW CHECKLIST

DATE RULE RECEIVED 8-6-86
DATE FOR REVIEW 8-15
DATE DUE 8-20

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

Approved 8.20.86 mjc Disapproved _____ Returned to Agency 8/26/86

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

Date filed w/Secretary of State 8/25/86 Revisor approved 8-78C
disapproved _____

✓ Rule as Adopted

✓ Rule as Proposed See S. R.

✓ Order Adopting 8-4-86 Date

✓ Notice of Intent to Solicit Outside Opinion S. R. 12-16-85 - comments

✓ Order for rulemaking
NA date of Hearing

NA Certificate of Board's Authorizing Resolution

✓ Notice of rulemaking
✓ Sufficiency rule is summarized

✓ Affidavit of Mailing Notice or rulemaking
5-9-86 At least 30 days prior to ~~hearing~~/adoption

✓ Mailing list Certificate

✓ Publication in State Register
5-12-86 At least 30/20 days prior to ~~hearing~~/adoption

NA Hearing Examiner's Report

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

✓ Agency's Findings of Fact

NA LCRAR Report or agency Affidavit

_____ Certificate of Board's Resolution Adopting Rules

✓ Order Approving Incorporation by Reference

✓ Statement of Need and Reasonableness

NA Petition for Adoption of a Rule

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

✓ Certificate of Compliance w/Rulemaking Procedures

NA 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: HARRIET J. SIMS
Minnesota Department of Revenue

DATE: 8/25/86

FROM: MARTHA J. CASSERLY
Special Assistant Attorney General

PHONE: 296-4692

SUBJECT: Permanent Rule Relating to Banking Affiliated Returns

The above-referenced rule has been approved as to its legality by the Attorney General on August 20, 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

RR#1299

Department of Revenue

Adopted Permanent Rule Relating to Banking Affiliated Returns

Rule as Adopted

8019.0400 BANK AFFILIATED RETURNS.

Subpart 1. **In general.** Members of a unitary group required to be included on a combined report may elect to file a return on behalf of all corporations in the group.

Subp. 2. **Definitions.** For the purposes of this part, the following terms have the meanings given to them.

A. "Unitary group" means two or more corporations which are engaged in business operations as defined in Minnesota Statutes, section 290.17, subdivision 2, paragraph (4), and part 8019.0100, and are required or permitted to file a combined report under Minnesota Statutes, sections 290.20, 290.34, and part 8019.0300.

B. "Bank" means a bank or trust company incorporated and doing business under the laws of the United States, the District of Columbia or any state and the substantial part of its business consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the comptroller of the currency and which is subject by law to supervision and examination by a state or federal authority having supervision over banking institutions. Bank does not include domestic building and loan associations, credit unions, finance corporations, or acceptance companies.

C. "Bank affiliated return" is one return which includes all corporations included in the unitary group which are required to be included on a combined report during the taxable year for which the return is filed. The bank affiliated return is filed by one corporation elected by the group to be the key corporation.

D. "Key corporation" is the parent or other member of

the unitary group that has elected to file a bank affiliated return, chosen by the group to file the return. The key corporation must have nexus with Minnesota during the taxable year for which the return is filed.

Subp. 3. **Combined report.** Members of a unitary group are required to be included on a combined report for purposes of this part if they would be included on the combined report under Minnesota Statutes, section 290.34, subdivision 2.

Subp. 4. **Eligibility requirements.** A unitary group which meets all of the following conditions during the entire taxable year may elect to file a bank affiliated return:

A. the unitary group must contain at least one bank which has nexus with Minnesota;

B. each member of the unitary group must use the same accounting period (or, if a member is divested from the unitary group during the taxable year, its accounting period for the predivestiture portion of the year commenced on the same date as the accounting period of the other members of the group);

C. each member of the unitary group must use the same accounting method; and

D. the unitary group must make the election to file a bank affiliated return in the manner prescribed in subpart 5.

Subp. 5. **Election to file return.** A representative of each corporation in the unitary group shall sign a written election to be included in the bank affiliated return. The name and Minnesota and/or federal employer identification number of all corporations included on the bank affiliated return must be listed on the election. The election must be filed with the tax return and must appoint a key corporation from among the group. Each corporation in the unitary group shall grant power of attorney to the key corporation to represent it on all tax matters relating to the bank affiliated return. ~~The election is binding for all subsequent tax years and may be rescinded or modified only with the commissioner's permission. The key corporation may be changed only with the commissioner's permission.~~

Subp. 6. **Filing requirements.** The key corporation is responsible for filing the bank affiliated return. The return must be signed by a person designated by the key corporation who has knowledge of the contents of the return. All taxes, estimated taxes, payments, or charges must be paid in the name of the key corporation on behalf of the corporations on the bank affiliated return. The key corporation is responsible for all changes in tax liability and assessments. Claims for refund must be filed by the key corporation on behalf of the corporations on the bank affiliated return. Refund checks must be made payable to the key corporation.

If all corporations that would be included in the combined report cannot be included on a bank affiliated return, a bank affiliated return may not be filed and separate returns based on a combined report must be filed.

Subp. 7. **Payment of tax.** ~~The members of the unitary group shall compute their income (loss) for the taxable year. The separate income (loss) of each member of the unitary group is subject to apportionment under Minnesota Statutes, sections 290.17, 290.19, and parts 8017.3000, 8019.0200, and 8019.0300, or Minnesota Statutes, section 290.171 and part 8017.5000.~~ Each member of the unitary group shall compute its taxable net income (loss) on the basis of a combined report which must be filed with the return. Each member of the unitary group shall compute its separate tax pursuant to Minnesota Statutes, section 290.06, subdivision 1. The members of the unitary group shall compute their aggregate tax for the taxable year. The key corporation and each of the corporations on the bank affiliated return are severally liable for the tax for such year on or before the due date or extended due date.

Subp. 8. **Extensions.** ~~Extensions~~ An extension under Minnesota Statutes, section 290.42, paragraph (6), must be filed by the key corporation on behalf of the corporations included in the bank affiliated return. A list of corporations included in the return must be filed with the extension.

Subp. 9. **Estimated payments.** The key corporation shall

pay the total estimated group liability for the taxable year. Where corporations included in the bank affiliated return filed separate returns for the prior year, the prior year's tax for purposes of determining whether the taxpayer is covered by an exception to the penalty for underpayment of estimated tax is the combined amount of the prior year's tax liabilities of all corporations included in the bank affiliated return.

A bank affiliated group is considered a "large corporation" for purposes of Minnesota Statutes, section 290.934, subdivision 4, paragraph (b), if any member of the group's taxable net income was $1,000,000 or more during the three taxable years immediately preceding the taxable year involved.

Subp. 10. **Net operating losses.** A net operating loss from a year in which a combined report was filed may be carried to a year in which a bank affiliated return is filed. The net operating loss of each corporation on the combined report may be carried forward or back and deducted against the net income of that member of the bank affiliated group. The net operating loss deduction is allowed to the extent of the apportionment ratio of the loss year, or the year to which the loss is carried, whichever is smaller.

A net operating loss from a year in which a bank affiliated return was filed may be carried to a year in which combined reports were filed. The net operating loss of each member of the bank affiliated group may be carried forward or back and deducted against the net income of that member on the combined report. The net operating loss deduction is allowed to the extent of the apportionment ratio of the loss year or the year to which the loss is carried, whichever is smaller.

A net operating loss from a taxable year which began before July 1, 1981, may be carried to a taxable year which begins after June 30, 1981. The provisions of Minnesota Statutes, section 290.095, subdivision 3, paragraph (c), must be applied to each member of the bank affiliated group as if each corporation in the group is not included on a bank affiliated return or combined report for that year, when the corporation

would be included in a bank affiliated return or combined report for that year. This provision applies only if the corporation was a member of the unitary group prior to July 1, 1981.

Subp. 11. **Applicability.** This part applies to tax years beginning after December 31, 1984.

APPROVED AS TO FORM AND LEGALITY

August 20 1986

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

BY M J Cassedy
SPECIAL ASSISTANT ATTORNEY GENERAL

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
AUG 25 1986 3:36 P.M.

Joan Anderson Growe
Secretary of State

AG Copy
Solicited
Copy

Department of Revenue

Adopted Permanent Rule Relating to Banking Affiliated Returns

Rule as Adopted

8019.0400 BANK AFFILIATED RETURNS.

Subpart 1. **In general.** Members of a unitary group required to be included on a combined report may elect to file a return on behalf of all corporations in the group.

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VISOR OF STATUTES
OFFICE BY:

the unitary group that has elected to file a bank affiliated return, chosen by the group to file the return. The key corporation must have nexus with Minnesota during the taxable year for which the return is filed.

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APPROVED IN THE REVISOR OF STATUTES OFFICE BY:

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If all corporations that would be included in the combined report cannot be included on a bank affiliated return, a bank affiliated return may not be filed and separate returns based on a combined report must be filed.

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Subp. 8. **Extensions.** ~~Extensions~~ An extension under Minnesota Statutes, section 290.42, paragraph (6), must be filed by the key corporation on behalf of the corporations included in the bank affiliated return. A list of corporations included in the return must be filed with the extension.

Subp. 9. **Estimated payments.** The key corporation shall

pay the total estimated group liability for the taxable year. Where corporations included in the bank affiliated return filed separate returns for the prior year, the prior year's tax for purposes of determining whether the taxpayer is covered by an exception to the penalty for underpayment of estimated tax is the combined amount of the prior year's tax liabilities of all corporations included in the bank affiliated return.

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A net operating loss from a taxable year which began before July 1, 1981, may be carried to a taxable year which begins after June 30, 1981. The provisions of Minnesota Statutes, section 290.095, subdivision 3, paragraph (c), must be applied to each member of the bank affiliated group as if each corporation in the group is not included on a bank affiliated return or combined report for that year, when the corporation

would be included in a bank affiliated return or combined report for that year. This provision applies only if the corporation was a member of the unitary group prior to July 1, 1981.

Subp. 11. **Applicability.** This part applies to tax years beginning after December 31, 1984.

Rcd 8-6

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

August 6, 1986

Office of the Attorney General
204 Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155

IN RE: Adoption of a New Rule Relating to the Filing of One Return by Members of a Unitary Group Which Includes a Bank (Minnesota Rules Part 8019.0400)

Dear Sir:

In accordance with Minnesota Statutes, section 14.26, the following documents are enclosed for your review:

1. Rule as Adopted (original and three copies) with three amendments
2. Findings of Fact and Conclusions
3. Order Adopting (two copies)
4. Notice of Intent to Solicit Outside Opinion as it appeared in the State Register
5. Order for Notice of Intent to Adopt a Rule Without a Public Hearing
6. Notice of Intent to Adopt a Rule Without a Public Hearing
7. Affidavits of Mailing (Notice of Intent to Adopt a Rule Without a Public Hearing)
8. Certificate of Completeness and Accuracy (Mailing List Certificate)
9. Copy of May 12, 1986, State Register in which the rule was published

10. Statement of Need and Reasonableness

11. Written comments on the rule received by the agency

12. Certificate of Compliance with Rule Making Procedure

The Department received two written comments in response to the Notice of Intent to Solicit Outside Opinion (letters dated December 30, 1985, and January 16, 1986). The Department received two written comments regarding the adoption of this rule during the thirty day comment period and no requests for a hearing (letters dated May 14 and May 30, 1986). Please contact the undersigned if there are any questions.

Sincerely,

Harriet J. Sims

Harriet J. Sims, Attorney
Legal and Legislative Affairs
P. O. Box 64452
St. Paul, Minnesota 55164

HJS/ml
Enclosures

cc: Dorothy McClung

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX DIVISION

IN THE MATTER OF the Proposed Adoption of a New Rule Relating to the Filing of One Return by Members of a Unitary Group Which Includes a Bank (Minnesota Rules Part 8019.0400).

ORDER ADOPTING RULE

A Notice of Intent to Solicit Outside Opinion concerning the above referenced rule was published in the State Register. Two persons submitted written comments.

Notice of the Commissioner's intent to adopt a corporate income tax rule of the Department of Revenue relating to the filing of one return by members of a unitary group which includes a bank (Minnesota Rules Part 8019.0400) was published in the State Register on May 12, 1986 and was sent by the United States mail or interoffice mail where appropriate to all persons on the list maintained by the agency pursuant to Minnesota Statutes section 14.14, subdivision 1. After affording and encouraging interested and affected persons on opportunity to submit comments for thirty (30) days after notice and receiving two comments, neither of which requested a public hearing, I have determined the need for and reasonableness of the above-captioned proposed rule. Three amendments to the rule as it appeared in the State Register are proposed.

NOW, THEREFORE, IT IS ORDERED that the proposed rule relating to the filing of one tax return by members of a unitary group which includes a bank (Minnesota Rules Part 8019.0400) is adopted the 14th day of Aug. 1986 pursuant to

SP:V155

the authority vested in me by Minnesota Statutes, section 290.52 with the following amendments:

Rules as Adopted

8019.0400 Bank Affiliated Returns

Subp. 4. Eligibility requirements. A unitary group which meets all of the following conditions during the entire taxable year may elect to file a bank affiliated return:

A. the unitary group must contain at least one bank which has nexus with Minnesota;

B. each member of the unitary group must use the same accounting period (or, if a member is divested from the unitary group during the taxable year, its accounting period for the predivestiture portion of the year commenced on the same date as the accounting period of the other members of the group);

C. each member of the unitary group must use the same accounting method; and

D. the unitary group must make the election to file a bank affiliated return in the manner prescribed in subpart 5.

Subp. 7. Payment of tax. ~~The members of the unitary group shall compute their income (loss) for the taxable year. The separate income (loss) of each member of the unitary group is subject to apportionment under Minnesota Statutes, sections 290.17, 290.19, and parts 8017.3000, 8019.0200, and 8019.0300, or Minnesota Statutes, section 290.171 and part 8017.5000.~~ Each member of the unitary group shall compute its taxable net income (loss) on the basis of a combined report which must be filed with the return. Each member of the unitary group shall compute its separate tax pursuant to Minnesota Statutes, section 290.06, subdivision 1. The members of the unitary group shall compute their aggregate tax for the taxable year. The key

corporation and each of the corporations on the bank affiliated return are severally liable for the tax for such year on or before the due date or extended due date.

Subp. 8. Extensions. ~~Extensions~~ An extension under Minnesota Statutes, section 290.42, paragraph (6), must be filed by the key corporation on behalf of the corporations included in the bank affiliated return. A list of corporations included in the return must be filed with the extension.

STATE OF MINNESOTA

T. J. Triplett

Commissioner of Revenue

By: Raymon E. Dore

Raymon E. Dore
Deputy Commissioner

SP:V155

Diagnostic Categories	DRG Numbers within the Diagnostic Category	MA Relative Value	MA Geometric Mean LOS	MA Outlier Cutoff	GAMC Relative Value	GAMC Geometric Mean LOS	GAMC Outlier Cutoff
FF. Depressive neurosis	(426)	1.33912	8.13	43	1.01700	6.91	30
GG. Psychosis	(430)	1.66412	10.59	45	1.43276	9.74	37
HH. Childhood mental disorders	(431)	3.39766	19.31	80	2.03875	14.03	42
II. Unrelated Operating room procedure	(468)	1.30984	4.16	37	1.52995	5.19	29
JJ. Cases which could not be assigned to other diagnostic categories	(469-470)	.00000	.00	0	.00000	.00	0

Leonard W. Levine, Commissioner
Department of Human Services

Racing Commission

Outside Opinion Sought Regarding Proposed Rules Governing Pari-Mutuel Horse Racing in Minnesota

Notice is hereby given that the Minnesota Racing Commission (MRC) is seeking information or opinions from sources outside the agency in preparing to promulgate rules and amend existing rules governing all aspects of pari-mutuel horse racing in Minnesota including the development of and revision to the issuance of Class "A", "B", and "C" licenses, the conduct of thoroughbred, quarter horse and standardbred racing, horse medication, prohibited acts, stewards, breeders' fund, and penalties. The MRC is authorized to promulgate rules under Minnesota Statutes, Chapter 240.

The MRC requests information and comments concerning the subject matter of these rules, and information or comments to any other rule governing the conduct of pari-mutuel horse racing. Interested or affected persons may submit statements of information or comment to: David J. Freeman, Executive Director, Minnesota Racing Commission, 11000 West 78th Street, Suite 201, Eden Prairie, Minnesota 55344.

All statements of information and comments will be accepted with respect to each set of rules until such set has progressed to the point at which public comment is terminated pursuant to the Minnesota Administrative Procedure Act. Any written material received by the MRC shall become part of the record in the event that the rules are promulgated.

State Retirement System

Board of Directors Regular Meeting

A meeting of the Board of Directors, Minnesota State Retirement System will be held on Friday, December 20, 1985, at 8:30 a.m. in the office of the System, 529 Jackson Street, St. Paul, Minnesota.

Department of Revenue

Outside Opinion Sought Regarding Proposed Rule Governing Bank Affiliated Returns

Notice is hereby given that the Minnesota Department of Revenue is seeking information, opinions, or comments from sources outside the agency concerning a proposed rule. The proposed rule would permit an affiliated group of corporations which includes a bank and are required to file combined reports to file one return on behalf of the group. The promulgation of this rule is authorized by Minnesota Statutes, section 290.37, subdivision 1(a). A preliminary draft of the proposed rule is available from the Department of Revenue. Interested persons may obtain a copy of the proposed draft by contacting:

Harriet J. Sims, Attorney
Corporate Income Tax Division
P.O. Box 64452, Location 280
St. Paul, MN 55164

(612) 297-4058

Written statements should be sent to the above address.

All statements of information and comments will be accepted through 4:30 p.m., January 3, 1986.

All written material received by the Minnesota Department of Revenue shall become part of the record in the event the rule is promulgated.

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. 70749

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, 70580, 70652, 70698, and 70747 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:

COUNTY ROADS

Lake —C.S.A.H. 2 from Jct. T.H. 61 to Jct. County Road 200N (effective 5-15).
—County Road 200N from Jct. C.S.A.H. 2 to Jct. County Road 200E (effective 5-15).
—County Road 200E from Jct. County Road 200N to Jct. County Road 200S (effective 5-15).
—County Road 200S from Jct. C.S.A.H. 2 to County Road 200W (effective 5-15).

December 9, 1985

Richard P. Braun
Commissioner

State contracts, catch

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CORPORATE INCOME TAX DIVISION

IN THE MATTER of the Proposed Rule Relating to the Filing of One Tax Return by Members of a Unitary Group which Includes a Bank (Minnesota Rules Part 8019.0400).

Order for Notice of Intent to Adopt A Rule Without Public Hearing

It is ordered this 25th day of April, 1986 that Notice of Intent to Adopt a Rule Without Public Hearing in the above entitled manner be given to all persons who have registered their names with the Department of Revenue for that purpose and be published in the State Register.

STATE OF MINNESOTA

T. J. TRIPLETT
Commissioner of Revenue

SP:V126

STATE OF MINNESOTA
DEPARTMENT OF REVENUE
CORPORATE INCOME TAX DIVISION

IN THE MATTER of the Proposed Rule Relating to the Filing of One Tax Return by Members of a Unitary Group that Includes a Bank (Minnesota Rules Part 8019.0400)

Notice of Intent to Adopt a Rule Without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt Minnesota Rules Part 8019.0400, Bank Affiliated Returns, without a public hearing. The Commissioner of Revenue has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21 to 14.28.

Minnesota Statutes, Section 290.37, Subd. 1(a) permits the Commissioner of Revenue to adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a bank. The Commissioner of Revenue has determined that allowing such groups of affiliated corporations to elect to file one return on behalf of the group is desirable. The proposed rule will allow eligible corporations to file a single estimated tax statement thus reducing potential penalties and interest charges and will reduce the paperwork involved in filing several tax returns. Therefore the Commissioner proposes to adopt Minnesota Rules Part 8019.0400.

1. A 30-day comment period commencing from the date of publication of this notice is established. The Department of Revenue encourages all interested persons to submit comments in support of or opposition to the proposed rule. Comments should be mailed to the address that follows.

2. Each comment should identify the portion of the rule addressed, the reason for the comment and any proposed change(s).

3. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held.

4. Any interested person may request a public hearing by writing to the address that follows. The request must contain the name and address of the person requesting the hearing. Any person requesting a hearing may also identify the portion of the proposed rule addressed, the reason for the hearing request and any proposed change(s) in the rule.

5. This proposed rule may be modified if the modifications are supported by the data and views submitted.

6. Copies of the proposed rule and a Statement of Need and Reasonableness which describes the need for and reasonableness of the Rule and identifies the data and information relied upon to support the proposed rule, are available. Persons who wish to submit written comments, request that a public hearing be held, request a copy of the Statement of Need and Reasonableness or request a free copy of the rule should contact:

SP:V125

Harriet J. Sims, Attorney
Minnesota Department of Revenue
Corporation Income Tax Division
P. O. Box 64452
St. Paul, MN 55145
(612) 297-4058

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

The proposed rule is summarized as follows:

1. Part 8019.0400, Subpart 1, In General, introduces the rule and sets forth the general terms of the election to file one return.

2. Part 8019.0400, Subp. 2, Definitions, provides definitions of terms used in the rule. The terms "unitary group", "bank", "bank affiliated return" and "key corporation" are defined in items A-D of this subpart.

3. Part 8019.0400, Subp. 3, Combined Report, explains that members of a unitary group are required to be included on a combined report for purposes of this rule if they would be otherwise required to be included on a combined report.

4. Part 8019.0400, Subp. 4, Eligibility Requirements, sets forth the conditions which unitary groups must meet in order to be eligible to elect to file one return on behalf of the group.

5. Part 8019.0400, Subp. 5, Election to File Return, describes how the election to file a bank affiliated return must be made.

6. Part 8019.0400, Subp. 6, Filing Requirements, states that the key corporation is responsible for filing the bank affiliated return and explains how bank affiliated returns and claims for refund must be filed.

7. Part 8019.0400, Subp. 7, Payment of Tax, requires the members of the bank affiliated group to compute their separate tax liability, and then compute the group's aggregate tax liability. The key corporation and each corporation in the group are severally liable for the tax liability.

8. Part 8019.0400, Subp. 8, Extensions, provides that extensions must be filed by the key corporation.

9. Part 8019.0400, Subp. 9, Estimated Payments, provides that the key corporation is responsible for paying the estimated tax liability of the group.

10. Part 8019.0400, Subp. 10, Net Operating Losses, provides that net operating losses may be carried forward or back in the same manner as they would be if combined reports were filed and that net operating losses may be carried from a year which began prior to July 1, 1981 into years beginning after that date.

11. Part 8019.0400, Subp. 11, Applicability, provides that the rule is effective for tax years beginning after December 31, 1984.

The agency's authority to adopt the proposed rule is contained in Minnesota Statutes, Sections 290.52 and 290.37, Subd. (a). The agency estimates that there will be no cost to local public bodies in the state to implement the rule for the next two years within the meaning of Minnesota Statutes Section 14.11, Subp. 1. The entire text of the proposed rule is attached to this notice.

T. J. Triplett
Commissioner of Revenue

SP:V125

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED ADOPTION OF RULE RELATING TO THE FILING OF ONE TAX RETURN BY MEMBERS OF A UNITARY GROUP THAT INCLUDES A BANK (MINNESOTA RULE PART 8019.0400)

CERTIFICATE OF COMPLETENESS AND ACCURACY

I hereby certify that the attached pages number 1 through 30 consisting of 334 typewritten names and addresses constitute the complete list of persons, associations and other interested groups who, as of 8 o'clock a.m., this 1st day of May, 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
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STATE OF MINNESOTA

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF THE RULE RELATING
TO THE FILING OF ONE TAX RETURN
BY MEMBERS OF A UNITARY GROUP
THAT INCLUDES A BANK (MINNESOTA
RULE PART 8019.0400)

AFFIDAVIT

Laurie Ann Schramm, being first duly sworn, deposes and says:

That on the 9th day of May, 1986 at the City of St. Paul, County of Ramsey, State of Minnesota, she served the Notice of Intent to Adopt a Rule Without a Public Hearing of the Department of Revenue by depositing in the United States mail, or in the State of Minnesota interoffice mail service where appropriate, at the City of St. Paul, a true and correct copy of the Notice, properly enveloped, with postage prepaid, to all persons and associations at the address listed on the attached list.

Laurie Ann Schramm

Subscribed and sworn before me
this 9th day of May, 1986.

Beverly Wilbur

BEVERLY WILBUR
NOTARY PUBLIC-MINNESOTA
RAMSEY COUNTY
MY COMMISSION EXPIRES DECEMBER 7, 1988

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX DIVISION

IN THE MATTER OF THE PROPOSED
ADOPTION OF THE RULE RELATING
TO THE FILING OF ONE TAX RETURN
BY MEMBERS OF A UNITARY GROUP
THAT INCLUDES A BANK (MINNESOTA
RULE PART 8019.0400)

AFFIDAVIT

Harriet J. Sims, being first duly sworn, deposes and says:

That on the 7th day of May, 1986 at the City of St. Paul, County of Ramsey, State of Minnesota, she personally received the list of persons, associations and other interested groups who had registered with the Department of Revenue for the purpose of receiving notice of public hearing on proposed rules. A copy of this list is attached.

Harriet J. Sims

Harriet J. Sims

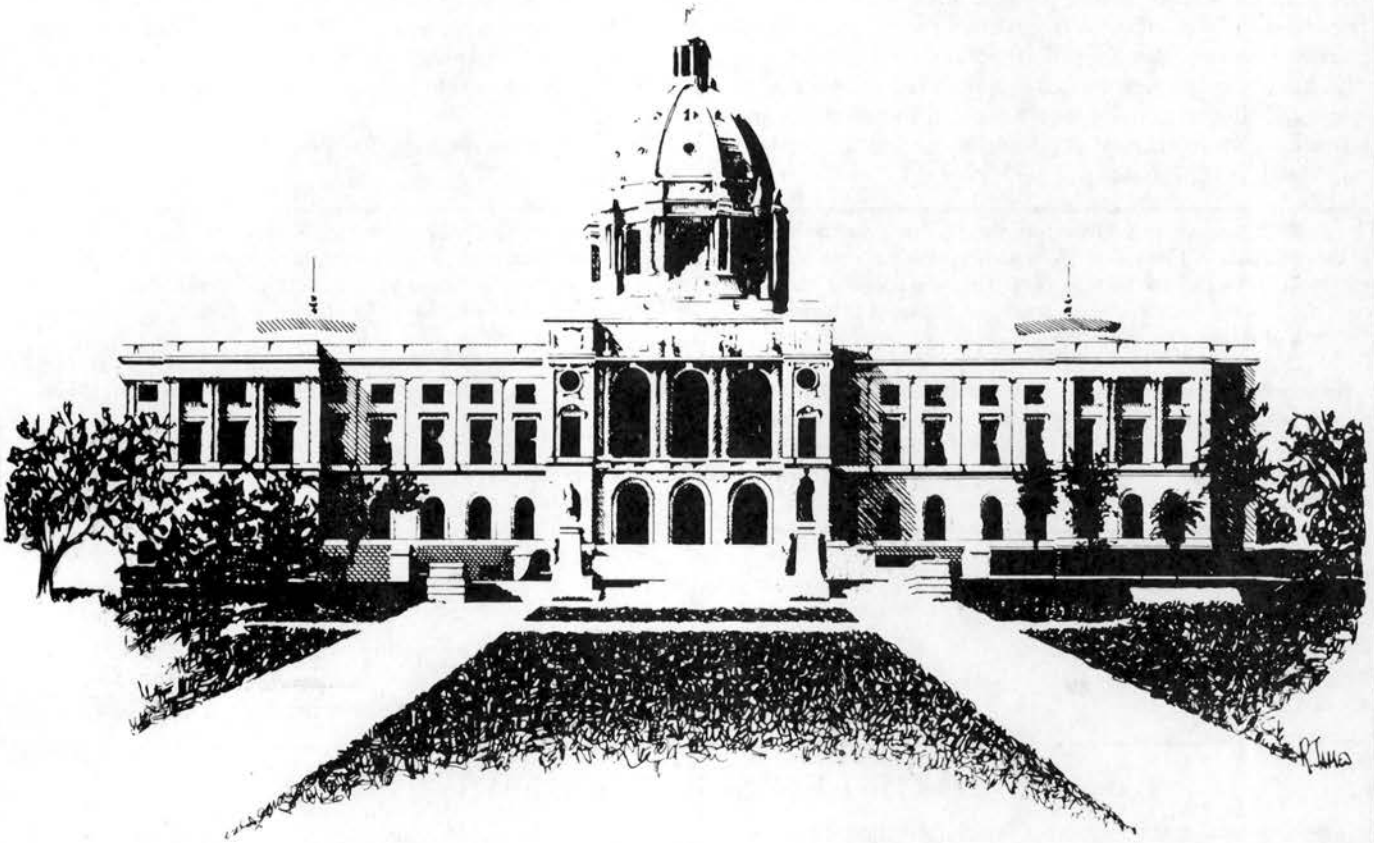
Subscribed and sworn to before
me this 8th day of May, 1986.

Cheryl J. Reary

CHERYL J. REARY
NOTARY PUBLIC—MINNESOTA
RAMSEY COUNTY
My Commission Exp. Sept. 11, 1987

STATE REGISTER

STATE OF MINNESOTA



VOLUME 10, NUMBER 46

Monday 12 May 1986

Pages 2277-2304

STATE REGISTER

Volume 10

Printing Schedule

Submission Deadlines

Vol. 10 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
46	Monday 28 April	Monday 5 May	Monday 12 May
47	Monday 5 May	Monday 12 May	Monday 19 May
48	Monday 12 May	Monday 19 May	Monday 26 May
49	Monday 19 May	Friday 23 May	Monday 2 June

*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) 296-4273.

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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
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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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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.

Minnesota Housing Finance Agency

Housing Loans and Grants

Proposed Rules Relating to Income Limits for the Home Improvement Loan Program and Accessibility Programs

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.

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.

9 May 1986

James J. Solem
Executive Director

Rule as Proposed

4900.0010 DEFINITIONS.

Subpart 1. to 22. [Unchanged.]

Subp. 23. **Persons and families of low and moderate income.** "Persons and families of low and moderate income" means:

A. to D. [Unchanged.]

E. With respect to home improvement loans and accessibility improvement assistance pursuant to parts 4900.0510 and ~~4900.0520~~ 4900.0710, those persons and families whose adjusted income does not exceed ~~$24,000~~ $27,000 or such lower amount as the agency may establish to assure that the interest on obligations of the agency will be exempt from federal income taxation.

Department of Labor and Industry Workers' Compensation Division

Proposed Repeal of Reimbursement of Benefits Rules

Notice of Intent to Repeal Rules without a Public Hearing.

Notice is hereby given that the Department of Labor and Industry, Workers' Compensation Division, proposes to repeal the above-captioned rules to Minn. Rules, parts 5222.0100-5222.1000 without a public hearing. The Department has determined that the proposed repeal of these rules will be noncontroversial in nature and has elected to follow the procedures set forth in Minn. Stat. §§ 14.21-14.28 (1984).

Persons or groups interested in these rules shall have 30 days to submit comments on the proposed repeal. Comments in support of or in opposition to the proposed repeal are encouraged. Each comment should identify the portion of the rules addressed, the reason for the comment, and any change proposed. The proposed repeal 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.

A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed repeal within the 30-day comment period. If a public hearing is required, the Department will proceed according to the provisions of Minn. Stat. §§ 14.131-14.20 (1984). Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the rules addressed, the reason for the request, and any change proposed.

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.

Comments or written requests for a public hearing should be submitted to:

Steve Keefe
Commissioner, Department of Labor and Industry
5th Floor, Space Center Bldg.
444 Lafayette Road
St. Paul, Minnesota 55101
(612) 296-2342

Authority for the repeal of these rules is contained in Minn. Stat. §§ 176.132, Subd. 4; 175.12(2); and 176.83, Subd. 7 (1984). A Statement of Need and Reasonableness that describes the grounds for the repeal of these rules is available from the Commissioner upon request at the above address.

The rules to be repealed govern procedures for reimbursement by the special compensation fund of supplementary benefits, and are commonly referred to as the ''McClish'' rules.

The repeal of these rules will have no qualitative or quantitative impact on small business.

Upon repeal of the rules without a public hearing, all jurisdictional documents, the Statement of Need and Reasonableness, all written comments and requests for hearing received, and the order of repeal will be delivered to the Attorney General. The documents will then be reviewed by the Attorney General as to legality and form as it relates to legality, including the issues of substantial change, the agency's authority to repeal the rules and the existence of a rational basis for the repeal. Persons who wish to be notified of the submission of this material to the Attorney General, including modifications to the rules as originally proposed, or who wish to receive a free copy of the final order, should submit a written request to the Commissioner at the above address.

28 April 1986.

Steve Keefe
Commissioner, Department of
Labor and Industry

Rules as Proposed (all new material)

REPEALER. Minnesota Rules, parts 5222.0100; 5222.0200; 5222.0300; 5222.0400; 5222.0500; 5222.0600; 5222.0700; 5222.0800; 5222.0900; and 5222.1000 are repealed.

Public Employees Retirement Association

Proposed Rules Relating to Membership of Elected Officials

Notice of Proposed Adoption of a Rule without a Public Hearing

Notice is hereby given that the Public Employees Retirement Association (PERA) proposes to adopt the above-entitled rule without a public hearing following the procedures set forth in Minnesota Statutes, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is Minnesota Statutes, section 353.03.

Persons interested in this rule shall have 30 days in which to submit comment in support of or in opposition to the proposed rule or any part or subpart of the rule and comment is encouraged. Each comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request. 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, if a public hearing is required, PERA will proceed pursuant to Minnesota Statutes, sections 14.131 to 14.20.

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

Allen Eldridge
Public Employees Retirement Association
Suite 200-Skyway Level
514 St. Peter Street
St. Paul, Minnesota 55102
(612) 297-3570

The proposed rule may be modified if the modifications are supported by data and the weight of the arguments do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule and identified the data and information relied upon to support the proposed rule has been prepared and is available from Allen Eldridge upon request.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit the written request to Allen Eldridge.

James M. Hacking, Executive Director
Public Employees Retirement Association

Rules as Proposed (all new material)

7950.0100 DEFINITIONS.

Subpart 1. **Scope.** As used in parts 7950.0100 to 7950.0400, the following terms have the meanings given.

Subp. 2. **PERA.** "PERA" means the Public Employees Retirement Association.

Subp. 3. **Public official.** "Public official" means a person who: (1) is a public employee within the meaning of Minnesota Statutes, section 353.01, subdivision 2; and (2) is elected to an elective office, or appointed to fill a vacancy in an elective office.

Subp. 4. **First day of employment as a public official.** "First day of employment as a public official" means the earlier of: (1) the date specified as the beginning of the term of office; (2) the date the oath of office is taken; or (3) the date employment actually commences.

Subp. 5. **Appointed official.** "Appointed official" means a person who: (1) is a public employee and a member of PERA within the meaning of Minnesota Statutes, section 353.01; and (2) is appointed to a nonelective office.

Subp. 6. **Prior service.** "Prior service" means service as a public official in an elective office other than the elective office with respect to which an option to become a member of PERA is exercised in accordance with part 7950.0300.

7950.0200 MEMBERSHIP STATUS UPON ASSUMING EMPLOYMENT.

A public official shall not be considered to be a member of PERA unless an option to become a member is exercised in accordance with part 7950.0300.

7950.0300 OPTION TO BECOME A MEMBER.

Subpart 1. **Option.** If, following the effective date of this part, a public official is elected to, or appointed to fill a vacancy in, an elective office, the public official shall have the right to exercise an option to become a member of PERA. The option shall be exercised by filing an application for membership on forms prescribed by the executive director of PERA within 90 days after the first day of employment as a public official.

Subp. 2. **Failure to exercise.** If an option to become a member of PERA is not exercised within 90 days after the first day of employment as a public official, the option shall expire and the public official shall cease to have an option to become a member of PERA during incumbency in the elective office with respect to which the option was available.

Subp. 3. **Effective date.** If an option referred to in subpart 1 is exercised within the requisite 90-day period, membership in PERA shall relate back to, and shall commence from, the first day of employment as a public official in the elective office with respect to which the option is exercised. Membership cannot be withdrawn or terminated during incumbency in the elective office with respect to which the option is exercised.

Subp. 4. **Rights not included.** The exercise of an option to become a member of PERA shall not cover, or otherwise apply to, any prior service as a public official in any elective office other than the elective office with respect to which the option is exercised. The

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.

exercise of an option to become a member of PERA does not allow a public official the right to buy back service credit for any service in an elective office other than the elective office with respect to which the option is exercised.

Subp. 5. **Current officials.** Any current public official who has not exercised the option to become a member of PERA shall retain the option of becoming a member only for a period of 90 days after the effective date of this part. The option must be exercised by filing an application for membership on forms prescribed by the executive director of PERA within the 90-day period. If the option is not exercised within 90 days after the effective date of this part, the option shall expire and the public official shall cease to have an option to become a member of PERA during incumbency in the elective office with respect to which the option was available.

Subp. 6. **Rules governing.** Any current public official who does exercise the option to become a member of PERA in accordance with subpart 5 is subject to subparts 3 and 4 except to the extent that the provisions of subpart 4 are superseded by part 7950.0400.

7950.0400 BUY BACK OF PRIOR SERVICE.

Subpart 1. **Current public officials.** A current public official who presently is a member of PERA or a current public official who exercises the option to become a member of PERA in accordance with part 7950.0300, subpart 5 who had prior service as a public official of any governmental subdivision shall have the option to buy back credit for prior service by making payment of the appropriate amount of: (1) the employee contribution at the rate in effect at the time the service was rendered plus six percent interest compounded annually; (2) the employer contribution at the rate in effect at the time the service was rendered; and (3) the employer additional contribution at the rate in effect at the time the service was rendered. This option to buy back prior service must be exercised within one year after the effective date of this part. If the option is not exercised within one year, the option shall expire.

Subp. 2. **Appointed officials.** An appointed official who is a public employee within the meaning of Minnesota Statutes, section 353.01, subdivision 2, and who presently is a member of PERA, shall have the option to buy back credit for prior service as a public official by making payment of the appropriate amount of: (1) the employee contribution at the rate in effect at the time the service was rendered plus six percent interest compounded annually; (2) the employer contribution at the rate in effect at the time the service was rendered; and (3) the employer additional contribution at the rate in effect at the time the service was rendered. This option to buy back prior service must be exercised within the period of one year after the effective date of this part. If the option is not exercised within one year, the option shall expire.

EFFECTIVE DATE. Parts 7950.0100 to 7950.0400 are effective 90 days after the notice of adoption is published in the *State Register*.

Department of Revenue

Proposed Rule Relating to Banking Affiliated Returns

Notice of Intent to Adopt a Rule without a Public Hearing

Notice is hereby given that the Department of Revenue proposes to adopt Minnesota Rules Part 8019.0400, Bank Affiliated Returns, without a public hearing. The Commissioner of Revenue has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in Minnesota Statutes, Section 14.21 to 14.28.

Minnesota Statutes, Section 290.37, Subd. 1(a) permits the Commissioner of Revenue to adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a bank. The Commissioner of Revenue has determined that allowing such groups of affiliated corporations to elect to file one return on behalf of the group is desirable. The proposed rule will allow eligible corporations to file a single estimated tax statement thus reducing potential penalties and interest charges and will reduce the paperwork involved in filing several tax returns. Therefore the Commissioner proposes to adopt Minnesota Rules Part 8019.0400.

1. A 30-day comment period commencing from the date of publication of this notice is established. The Department of Revenue encourages all interested persons to submit comments in support of or opposition to the proposed rule. Comments should be mailed to the address that follows.

2. Each comment should identify the portion of the rule addressed, the reason for the comment and any proposed change(s).

3. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held.

4. Any interested person may request a public hearing by writing to the address that follows. The request must contain the name and address of the person requesting the hearing. Any person requesting a hearing may also identify the portion of the proposed rule addressed, the reason for the hearing request and any proposed change(s) in the rule.

5. This proposed rule may be modified if the modifications are supported by the data and views submitted.

6. Copies of the proposed rule and a Statement of Need and Reasonableness which describes the need for and reasonableness of the Rule and identifies the data and information relied upon to support the proposed rule, are available. Persons who wish to submit written comments, request that a public hearing be held, request a copy of the Statement of Need and Reasonableness or request a free copy of the rule should contact:

Harriet J. Sims, Attorney
Minnesota Department of Revenue
Corporation Income Tax Division
P. O. Box 64452
St. Paul, MN 55145
(612) 297-4058

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

The proposed rule is summarized as follows:

1. Part 8019.0400, Subpart 1, In General, introduces the rule and sets forth the general terms of the election to file one return.

2. Part 8019.0400, Subp. 2, Definitions, provides definitions of terms used in the rule. The terms "unitary group", "bank", "bank affiliated return" and "key corporation" are defined in items A-D of this subpart.

3. Part 8019.0400, Subp. 3, Combined Report, explains that members of a unitary group are required to be included on a combined report for purposes of this rule if they would be otherwise required to be included on a combined report.

4. Part 8019.0400, Subp. 4, Eligibility Requirements, sets forth the conditions which unitary groups must meet in order to be eligible to elect to file one return on behalf of the group.

5. Part 8019.0400, Subp. 5, Election to File Return, describes how the election to file a bank affiliated return must be made.

6. Part 8019.0400, Subp. 6, Filing Requirements, states that the key corporation is responsible for filing the bank affiliated return and explains how bank affiliated returns and claims for refund must be filed.

7. Part 8019.0400, Subp. 7, Payment of Tax, requires the members of the bank affiliated group to compute their separate tax liability, and then compute the group's aggregate tax liability. The key corporation and each corporation in the group are severally liable for the tax liability.

8. Part 8019.0400, Subp. 8, Extensions, provides that extensions must be filed by the key corporation.

9. Part 8019.0400, Subp. 9, Estimated Payments, provides that the key corporation is responsible for paying the estimated tax liability of the group.

10. Part 8019.0400, Subp. 10, Net Operating Losses, provides that net operating losses may be carried forward or back in the same manner as they would be if combined reports were filed and that net operating losses may be carried from a year which began prior to July 1, 1981 into years beginning after that date.

11. Part 8019.0400, Subp. 11, Applicability, provides that the rule is effective for tax years beginning after December 31, 1984.

The agency's authority to adopt the proposed rule is contained in Minnesota Statutes, Sections 290.52 and 290.37, Subd. (a). The agency estimates that there will be no cost to local public bodies in the state to implement the rule for the next two years within the meaning of Minnesota Statutes Section 14.11, Subp. 1. The entire text of the proposed rule is attached to this notice.

T. J. Triplett
Commissioner of Revenue

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.

Order for Notice of Intent to Adopt a Rule without Public Hearing

It is ordered this 25th day of April, 1986 that Notice of Intent to Adopt a Rule Without Public Hearing in the above entitled manner be given to all persons who have registered their names with the Department of Revenue for that purpose and be published in the *State Register*.

T. J. Triplett
Commissioner of Revenue

Rule as Proposed (all new material)

8019.0400 BANK AFFILIATED RETURNS.

Subpart 1. **In general.** Members of a unitary group required to be included on a combined report may elect to file a return on behalf of all corporations in the group.

Subp. 2. **Definitions.** For the purposes of this part, the following terms have the meanings given to them.

A. "Unitary group" means two or more corporations which are engaged in business operations as defined in Minnesota Statutes, section 290.17, subdivision 2, paragraph (4), and part 8019.0100, and are required or permitted to file a combined report under Minnesota Statutes, sections 290.20, 290.34, and part 8019.0300.

B. "Bank" means a bank or trust company incorporated and doing business under the laws of the United States, the District of Columbia or any state and the substantial part of its business consists of receiving deposits and making loans and discounts, or of exercising fiduciary powers similar to those permitted to national banks under authority of the comptroller of the currency and which is subject by law to supervision and examination by a state or federal authority having supervision over banking institutions. Bank does not include domestic building and loan associations, credit unions, finance corporations, or acceptance companies.

C. "Bank affiliated return" is one return which includes all corporations included in the unitary group which are required to be included on a combined report during the taxable year for which the return is filed. The bank affiliated return is filed by one corporation elected by the group to be the key corporation.

D. "Key corporation" is the parent or other member of the unitary group that has elected to file a bank affiliated return, chosen by the group to file the return. The key corporation must have nexus with Minnesota during the taxable year for which the return is filed.

Subp. 3. **Combined report.** Members of a unitary group are required to be included on a combined report for purposes of this part if they would be included on the combined report under Minnesota Statutes, section 290.34, subdivision 2.

Subp. 4. **Eligibility requirements.** A unitary group which meets all of the following conditions during the entire taxable year may elect to file a bank affiliated return:

A. the unitary group must contain at least one bank which has nexus with Minnesota;

B. each member of the unitary group must use the same accounting period;

C. each member of the unitary group must use the same accounting method; and

D. the unitary group must make the election to file a bank affiliated return in the manner prescribed in subpart 5.

Subp. 5. **Election to file return.** A representative of each corporation in the unitary group shall sign a written election to be included in the bank affiliated return. The name and Minnesota and/or federal employer identification number of all corporations included on the bank affiliated return must be listed on the election. The election must be filed with the tax return and must appoint a key corporation from among the group. Each corporation in the unitary group shall grant power of attorney to the key corporation to represent it on all tax matters relating to the bank affiliated return. The election is binding for all subsequent tax years and may be rescinded or modified only with the commissioner's permission. The key corporation may be changed only with the commissioner's permission.

Subp. 6. **Filing requirements.** The key corporation is responsible for filing the bank affiliated return. The return must be signed by a person designated by the key corporation who has knowledge of the contents of the return. All taxes, estimated taxes, payments, or charges must be paid in the name of the key corporation on behalf of the corporations on the bank affiliated return. The key corporation is responsible for all changes in tax liability and assessments. Claims for refund must be filed by the key corporation on behalf of the corporations on the bank affiliated return. Refund checks must be made payable to the key corporation.

If all corporations that would be included in the combined report cannot be included on a bank affiliated return, a bank affiliated return may not be filed and separate returns based on a combined report must be filed.

Subp. 7. **Payment of tax.** The members of the unitary group shall compute their income (loss) for the taxable year. The separate income (loss) of each member of the unitary group is subject to apportionment under Minnesota Statutes, sections 290.17, 290.19,

and parts 8017.3000, 8019.0200, and 8019.0300, or Minnesota Statutes, section 290.171 and part 8017.5000. The members of the unitary group shall compute their aggregate tax for the taxable year. The key corporation and each of the corporations on the bank affiliated return are severally liable for the tax for such year on or before the due date or extended due date.

Subp. 8. **Extensions.** Extensions under Minnesota Statutes, section 290.42, paragraph (6), must be filed by the key corporation on behalf of the corporations included in the bank affiliated return. A list of corporations included in the return must be filed with the extension.

Subp. 9. **Estimated payments.** The key corporation shall pay the total estimated group liability for the taxable year. Where corporations included in the bank affiliated return filed separate returns for the prior year, the prior year's tax for purposes of determining whether the taxpayer is covered by an exception to the penalty for underpayment of estimated tax is the combined amount of the prior year's tax liabilities of all corporations included in the bank affiliated return.

A bank affiliated group is considered a "large corporation" for purposes of Minnesota Statutes, section 290.934, subdivision 4, paragraph (b), if any member of the group's taxable net income was $1,000,000 or more during the three taxable years immediately preceding the taxable year involved.

Subp. 10. **Net operating losses.** A net operating loss from a year in which a combined report was filed may be carried to a year in which a bank affiliated return is filed. The net operating loss of each corporation on the combined report may be carried forward or back and deducted against the net income of that member of the bank affiliated group. The net operating loss deduction is allowed to the extent of the apportionment ratio of the loss year, or the year to which the loss is carried, whichever is smaller.

A net operating loss from a year in which a bank affiliated return was filed may be carried to a year in which combined reports were filed. The net operating loss of each member of the bank affiliated group may be carried forward or back and deducted against the net income of that member on the combined report. The net operating loss deduction is allowed to the extent of the apportionment ratio of the loss year or the year to which the loss is carried, whichever is smaller.

A net operating loss from a taxable year which began before July 1, 1981, may be carried to a taxable year which begins after June 30, 1981. The provisions of Minnesota Statutes, section 290.095, subdivision 3, paragraph (c), must be applied to each member of the bank affiliated group as if each corporation in the group is not included on a bank affiliated return or combined report for that year, when the corporation would be included in a bank affiliated return or combined report for that year. This provision applies only if the corporation was a member of the unitary group prior to July 1, 1981.

Subp. 11. **Applicability.** This part applies to tax years beginning after December 31, 1984.

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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 Commerce

Adopted Rules Relating to Brokerage Services by Financial Institutions

The rule proposed and published at *State Register*, Volume 10, Number 29, pages 1525-1528, January 13, 1986 (10 S.R. 1525) is adopted with the following modifications:

Rule as Adopted

2875.1590 BANKS, SAVINGS INSTITUTIONS, AND SAVINGS AND LOAN ASSOCIATIONS.

Subp. 3. **Exemptions.** The commissioner, upon written request, or upon a motion, ~~may~~ shall exempt a bank, savings institution, or savings and loan association, either conditionally or on specific terms and conditions, where the commissioner determines that the activities of the bank, savings institution, or savings and loan association are not within the intended meaning and purpose of this part.

Department of Health

Adopted Rules Relating to Phenylketonuria Testing Program, the Treatment for Positive Diagnosis, and a Registry of Cases

The rules proposed and published at *State Register*, Volume 10, Number 32, pages 1609-1611, February 3, 1986 (10 S.R. 1609) are adopted with the following modifications:

Rules as Adopted

4615.0760 RESPONSIBILITIES OF DEPARTMENT OF HEALTH.

Subp. 5. **Classification of data.** The department shall ~~classify~~ treat all data in the registry as private pursuant to Minnesota Statutes, section 13.38, the Minnesota Government Data Practices Act.

Minnesota Environmental Quality Board

Adopted Rules Relating to Exploratory Drilling for the Disposal of High Level Radioactive Waste

The rules proposed and published at *State Register*, Volume 10, Number 25, pages 1335-1343, December 16, 1985 (10 S.R. 1335) are adopted with the following modifications:

Rules as Adopted

4410.7900 DEFINITIONS.

Subp. 11. **Shelterbelt.** "Shelterbelt" means the barrier zone of grasses, shrubs, and trees, or any combination of them, planted to protect crops, soil, and other sensitive areas against erosion.

Subp. 13. **Surface water.** "Surface water" means water systems on the surface of the earth, including permanent lakes, streams and wetlands, intermittent streams, periodic wetlands and their respective watercourse beds, and wetland basins.

Subp. 14. **Temporary abandonment.** "Temporary abandonment" means the act of sealing, capping, or protecting a drill hole for the purpose of temporarily discontinuing use of the drill hole for a period of not more than five years.

4410.7906 PROCEDURE FOR THE ISSUANCE OF A DRILLING PERMIT.

Subp. 2. **Content of an application for drilling permit.** An application for a drilling permit shall be filed by the applicant with the board and shall include:

G. a time schedule for acquisition and construction of each right-of-way starting with the ~~beginning of any investigative activities~~ initial visual inspection of the right-of-way. The time schedule shall include the proposed commencement and finishing dates of each stage of investigative activities, and shall also include the proposed date of right-of-way clearance, temporary and permanent abandonment, right-of-way restoration activities, and the method and schedule of drill hole monitoring;

J. existing or potential point and nonpoint sources of pollution on or near the right-of-way that could contaminate ~~surficial~~ surface water ~~bodies~~ or water-bearing formations underground because of the investigative activities.

Subp. 3. **Acceptance of drilling permit application.** Within 30 days of receipt of a permit application, the chair shall review it for completeness pursuant to subpart 2 and accept or reject the application. If the chair rejects the application, he shall upon rejection inform the applicant which deficiencies, if corrected, will allow the application to be accepted. Upon resubmission, the chair shall have 30 days to review the amended application and accept or reject it. After acceptance of an application, the applicant shall provide any additional relevant information that the chair or the board determines necessary for board approval of the application. The applicant shall supply extra copies of the application to the members of the board, to the technical representatives to the board designated by an agency member of the board, and five copies to the board's staff.

Subp. 4. **Copy of application to historical society and county auditor.** When an applicant files a permit application with the board, the applicant shall simultaneously send a copy of the application to the Minnesota historical society, and to the office of the county auditor in each county or any portion of a county within the potentially impacted area. The county auditor shall retain and file the application in a manner making it accessible to the public.

4410.7908 INFORMATION MEETINGS.

Subpart 1. **Information meetings required.** The applicant or permittee, as appropriate, shall hold public information meetings as required by Minnesota Statutes, section 116C.724, subdivision 3, paragraph (b).

(1) The applicant shall hold one public meeting in the potentially impacted area after the permit application has been filed with the board and before the hearing required by part ~~4410.7950~~ 4410.7910. At the meeting the applicant shall explain the scope of the planned investigative activities and the potential short- and long-term environmental, health, and safety impacts, if any, of the investigative activities.

4410.7914 RIGHT-OF-WAY CLEARANCE AND MAINTENANCE.

C. Where the right-of-way as planned contacts surface water ~~bodies~~ and roads, clearing by the permittee shall be done so that a screen of the maximum possible width of any existing natural vegetation is left along the right-of-way adjacent to the surface water ~~body~~ or road. If the natural vegetation that existed prior to clearing cannot be left as a screen and suitable natural regeneration is not likely to occur within one full growing season following right-of-way restoration, native types of shrubs and trees shall be planted by the permittee to provide an adequate screen. Where the right-of-way as planned contacts surface water ~~bodies~~ of any size and type, the permittee shall act in accordance with federal law, including Executive Order 11990, that protects wetlands of all sizes and types, in accordance with Minnesota Statutes, chapters 104 and 105, which cover shoreland management, floodplain management, wild and scenic rivers, and permits required for protected waters, and in accordance with any other federal, state, and local laws, regulations, and ordinances. The amount and species of vegetation that will be planted to replace the vegetation removed from any Minnesota highway right-of-way shall be specified by the Minnesota Department of Transportation or appropriate county or local authority.

E. Stream banks disturbed during right-of-way clearance or investigative activities shall be stabilized, reclaimed, and ~~seeded~~ revegetated by the permittee using native plant species indigenous to the area.

F. Areas where natural vegetation has been removed and suitable natural regeneration is not likely to occur within one full growing season, shall be ~~reseeded~~ revegetated by the permittee using native plant species indigenous to the area within one full growing season after temporary abandonment.

K. The permittee ~~will~~ shall repair or replace all drainage tiles broken or damaged during right-of-way preparation or investigative activities unless otherwise negotiated with the landowner or tenant, as appropriate, on whose property the tiles are located.

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Q. The permittee shall, unless negotiated with the landowner or tenant, as appropriate, restore other areas to substantially their original condition.

4410.7920 DRILL HOLE CONSTRUCTION STANDARDS.

A permittee shall comply with the following standards with respect to construction of a drill hole.

B. Drill holes not permanently abandoned within 30 days of completion must be constructed to ~~the standards of the Minnesota Water Well Construction Code, chapter 4725~~ meet the requirements of part 4727.1100 regarding temporary abandonment of exploratory borings, and the requirements of any federal statutes and regulations applicable to deep wells.

4410.7928 SUBMISSION OF SPLITS AND DATA.

Subp. 2. **Required data.** Pursuant to Minnesota Statutes, section 116C.724, subdivision 3, the permittee or any person conducting geologic, hydrologic, or geophysical testing or any other studies relating to disposal is required to provide unrestricted access to ~~both~~ all raw and interpreted data to the chair and director of the Minnesota geological survey or their designated representatives within 30 days. The raw and interpreted data includes:

4410.7932 PERMIT REVOCATION.

Subpart 1. **Initiation of revocation.** The board may initiate action to revoke a drilling permit upon a prima facie showing by affidavit and documentation that a violation may have occurred or is likely to occur of the terms and conditions of the permit or parts 4410.7900 to 4410.7934 and Minnesota Statutes, section 116C.724, subdivision 2.

4410.7934 APPLICATION AND MONITORING ~~FEES~~ ASSESSMENTS.

Subpart 1. ~~**Application fees**~~ **Initial assessment.** Every applicant for a drilling permit shall pay to the board ~~a base fee~~ an initial assessment of $20,000 to be paid as follows:

A. 50 percent accompanying the application; and

B. 50 percent to be paid five days before the hearing held pursuant to part 4410.7910.

Subp. 2. **Purpose of assessments and additional costs.** ~~If the actual cost of processing an application, or amendments, holding hearings, whether required or initiated by the board, or costs incurred through permit revocation, exceeds the above fee, the board shall assess the permittee any additional fees necessary to cover the actual costs. All money received pursuant to this subpart shall be deposited in the general fund.~~

~~The board shall assess to the permittee all costs incurred in monitoring the investigative activities. The permittee shall be assessed~~ The purpose of the assessments is to cover the actual costs of processing an application or amendments, holding hearings, whether required by law or initiated by the board, or the costs incurred through permit revocation and monitoring the investigative activities, including staff and consultant expenses including housing, travel, office space within the potentially impacted area, equipment, administrative, logistical, and all other costs relating to the monitoring of the investigative activities. If the actual costs exceed the initial assessment the board shall assess the permittee any additional assessments necessary to cover the actual costs.

Subp. 3. **Method of assessment.** The costs assessed under subpart 2 shall be assessed quarterly, at least 30 days before the start of each calendar quarter, by the board against the permittee. The money paid pursuant to the assessment shall be paid to the board within 30 days after receipt of the assessment, which assessment shall constitute notice of the assessment and demand for payment thereof. The total amount which may be assessed to the permittee under authority of this part shall not exceed the sum of the costs incurred through the monitoring, processing, and related activities. Money received by the board pursuant to any assessment shall be paid to the ~~general~~ special revenue fund.

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)

DEPARTMENT OF PUBLIC WELFARE
(Now HUMAN SERVICES)
9500.1450-.1474 2293

Department of Human Services

Extension of Emergency Rule Governing Medical Assistance Prepaid Demonstration Project

The emergency rules governing the Medical Assistance Prepaid Demonstration Project, Minnesota Rules, parts 9500.1450 to 9500.1474 (Emergency) published as adopted in the *State Register* on March 18, 1985 (CITE 9 S.R. 2063) are hereby extended until December 31, 1986. The authority for the extension of this emergency rule is contained in Minnesota Statutes, section 256.991. This notice is also being mailed to all persons registered with the Department of Human Services to receive notice of required rulemaking proceedings in connection with this project.

OFFICIAL NOTICES

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

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

Department of Commerce

Notice of Adjustment in Dollar Amounts of Minnesota Regulated Loan Act

Commissioner of Commerce Michael A. Hatch announced today that an additional ten percent (10%) change will occur in dollar amounts under the Regulated Loan Act (The Act). The Act provides for periodic adjustment in dollar amounts that would be effective on July 1 in even-numbered years based on a percentage change in the Implicit Price Deflator for the Gross National Product.

Information obtained from the U.S. Department of Commerce, Economic Development Administration, in their monthly publication "Survey of Current Business" for February 1986, indicates the percentage change from the revised reference base to be 27% rounded to the nearest whole percentage point as required. The revised reference base index, from 1972 = 100 to 1982 = 100 for December 1980, was 89 and for December 1985, 113, an increase of 24 basis points or a percentage change of 26.96%. The statute requires that the change in the reference base index be 10% or more in order to adjust the dollar amounts. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded. Dollar amounts change only in multiples of ten percent of amounts appearing in law effective August 1, 1981.

According to Commissioner Hatch, this means the dollar limits enacted in 1981 will increase an additional 10% effective July 1, 1986. The original $35,000 loan maximum now at $38,500 since 1984 is raised to $42,000 with no more than $420 at 33% interest per annum and permits no real estate be taken as security unless the loan exceeds $3,240. Maximum fees remain limited to 1% of the principal balance or at least $300 for closing costs on real estate secured loans with a $180 charge for assumption of such loans. The default charge minimum was raised by 1985 statutory amendment effective June 25, 1985 from $2.20 to $4.00. This remains at $4.00 based on the revised reference base index, December 1984 which was 109.6 and for December 1985, 113, an increase of 3.4 basis points or a percentage change of 3.1% under the 10% required for an adjustment. The original $7,500 minimum principal amount for real estate secured loans on which discount points may be charged now at $8,250 since 1984 is raised to $9,000. The next published adjustment is scheduled on or before April 30, 1988 to be effective July 1, 1988, based on the December 1987 index.

Department of Commerce

Notice of Adjustment of Dollar Amounts of the Minnesota Personal Property Exemption

Commissioner of Commerce Michael A. Hatch announced today that a twenty percent (20%) increase will occur in the personal property exemption from creditor collection action under Minnesota Statutes, Chapter 550. Personal property exempted includes all wearing apparel, one watch, utensils and foodstuffs of the debtor and his family; and household furniture, household appliances, phonographs, and radio and telephone receivers. The exemption may not be waived except for purchase money security interest. A periodic adjustment of the $4,500 amount of personal property exempted would be effective on July 1 in even-numbered years based on a percentage change in the Implicit Price Deflator for the Gross National Product.

Information obtained from the U.S. Department of Commerce, Economic Development Administration, in their monthly publication "Survey of Current Business" for February 1986, indicates the percentage change from the reference base to be 20% rounded to the nearest whole percentage point as required. The revised reference base index, from 1972 = 100 to 1982 = 100 for December 1980, was 89 and for December 1985, 113, an increase of 24 basis points or a percentage change of 26.96%. The statute requires that the change in the reference base index be 10% or more in order to adjust the dollar amounts. The portion of the percentage change in the index in excess of a multiple of ten percent shall be disregarded. Dollar amounts change only in multiples of ten percent of amounts appearing in subdivision 4, currently $4,500.

According to Commissioner Hatch, this means the $4,500 limit as amended for personal property exemption in 1983 will increase 20% to $5,400. The next published adjustment is scheduled on or before April 30, 1988, for July 1, 1988, based on the December 1987 index.

Department of Energy and Economic Development, Business Financial Management Division

Notice of Tax Exempt Financing Issuance Authority

Notice of Availability

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 22

The Department gives notice that the amounts of tax exempt financing issuance authority available to qualified issuers as of May 5, 1986, is as follows:

COMPETITIVE POOL (EXISTING LAW)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 13

Total Pool Available (Priority to Manufacturing Projects)	$306,022,800.
For:	
Pollution Control/Waste Management Projects	$ 70,064,560.
Commercial Redevelopment Projects	$ 95,312,980.

COMPETITIVE POOL (FEDERAL VOLUME LIMITATION ACT)

Pursuant to Minn. Laws 1986, Ch. 465, Article 1, Section 19

Total Pool Available (Priority to a—General Obligation Projects, b—Manufacturing Projects)	$295,081,237.
For:	
Pollution Control/Waste Management Projects	$ 59,856,247.
Commercial Redevelopment/Multifamily Housing Projects	$104,748,432.

QUALIFIED 501(c)(3) BOND POOL (FEDERAL VOLUME LIMITATION ACT)

Pursuant to Minn. Laws 186, Ch. 465, Article 1, Section 20

Total Pool Available	$ 77,500,000.

Pursuant to Minnesota Laws 1986, Ch. 465, Article 1, Section 13, Subd. 2, Section 19, Subd. 2, Section 20, Subd. 3, and Section 21, Subd. 2, issuers requesting allocations of issuance authority must submit applications, any applicable deposit and any other supporting documents required. Application forms are available from the Department upon request.

Department of Energy and Economic Development, Energy Division

Outside Opinion Sought for Proposed Amendments to Residential Thermal Insulation Standards

Notice is hereby given that the Department of Energy and Economic Development, Energy Division (DEED) is seeking information or opinions from sources outside the agency in preparing amendments to Minn. Rules Chapter 4155, Residential Thermal Insulation Standards (as proposed at 9 S.R. 2424 and as adopted at 10 S.R. 1208). The adoption of these rules is authorized by Minnesota Statutes, sections 325F.20, subdivision 1 and 325F.21, subdivisions 1 and 2.

DEED requests information and comments on any part of the rules, but in particular on 4155.0120, subp. 14, Definitions; 4155.0130, subp. 1, Scope; 4155.0130 subp. 2, General testing and reporting requirements; 4155.0130 subp. 3, Cellulose fiber in loose-fill form; 4155.0130 subp. 4, Cellulose fiber spray applied; 4155.0130 subp. 10, Polystyrene in board form; 4155.0130 subp. 11, Polyurethene and polyisocyanurate in board form; 4155.0130 subp. 12, Reflective foil; 4155.0130 subp. 13, Urea formaldehyde foam field applied; 4155.0130 subp. 13, Urea formaldehyde foam insulation safety notice; and 4155.0150, subp. 2, Report of intended application and installation.

Interested persons may submit statements of information or comment orally or in writing. Written statements should be addressed to: Bruce Nelson, Insulation Standards Program, DEED, 900 American Center Building, 150 E. Kellogg Blvd., St. Paul,

MN 55101. Oral statements will be received during regular business hours by telephone at (612) 297-2313 and in person at the above address.

All statements and comments pertaining to this matter shall be accepted until September 13, 1986, or until the end of the comment period for any proposed rules. Any written material received by DEED shall become part of the rulemaking record in the event that amendments to these rules are proposed.

Mark B. Dayton,
Commissioner

Department of Human Rights

Outside Opinion Sought on Proposed Rules Governing Processing of Discrimination Charges

Notice is hereby given that the Department of Human Rights is seeking information or opinions from persons or groups in preparing to promulgate new and amended rules governing case processing procedures.

The promulgation of these rules is authorized by Minnesota Statutes 363.05 subdivision 1 (8) (1984) which authorizes the commissioner to adopt suitable rules and regulations of effectuating the purposes of Chapter 363.

The Department of Human Rights requests information and comments concerning the subject matter of these rules, including comment on the issue of whether or not these rules and amendments are likely to have a qualitative or quantitative impact upon small businesses as defined by Minn. Statutes § 14.115. Interested or affected persons or groups may submit statements of information or comment orally or in writing. Written statements should be addressed to:

David Nelson, Management Services
Minnesota Department of Human Rights
500 Bremer Tower — 7th and Minnesota Streets
St. Paul, Minnesota 55101

Oral statements will be received during regular business hours over the telephone at (612) 296-5678.

All statements of information and comment shall be accepted until May 26, 1986. Any written material received by the Department of Human Rights pursuant to this notice shall become part of the rulemaking record in the event that the rules are promulgated.

Department of Jobs and Training

Notice of Solicitation of Outside Opinion Regarding Rules to Operate Employment and Training Services and the Child Care Sliding Fee Program

Pursuant to Minnesota Statutes, sections 14.10, notice is hereby given that the State Department of Jobs and Training is seeking information or opinions from sources outside the agency in preparing to propose the adoption of permanent rules governing the operation of the programs assigned the department by Minnesota Laws 1985, 1st Special Session Chapter 14, Article 9.

The adoption of these rules is authorized by Minnesota Statutes, Section 268.021, which permits the agency to adopt rules with respect to programs it administers. More specific rulemaking authority is given in sections 17, 30, 31, 40, 53, 66, 67, 71 and 72 of Minnesota Laws 1985, 1st Special Session, chapter 14, article 9, which amended Minnesota Statutes, chapters 256, 256D, and 268.

The State Department of Jobs and Training requests information and comments concerning the subject matter of the rules. Interested or affected persons or groups submitting data or views may wish to refer to the Proposed Emergency Rules Relating to Employment, parts 3301.0010-3301.0650, in the December 2, 1985 (Volume 10, Number 23) issue of the *State Register*, pp. 1240-1265 and the Adopted Rules in the March 17, 1986 (Volume 10, Number 38) issue, pp. 1911-1927. Data or views on the subject matter of concern may be submitted orally or in writing. Written statements should be addressed to:

Colleen Gunderson
Minnesota Department of Jobs and Training
390 North Robert Street, Room 302
St. Paul, MN 55101

Oral statements will be received during regular business hours over the telephone at 296-3669 and in person at the above address.

All statements of information and comments shall be accepted until August 1, 1986. Any written material received by the Department of Jobs and Training shall become part of the rulemaking record in the event that the rule is adopted.

5 May 1986

Joseph Samargia
Commissioner

Office of the Revisor of Statutes

Notice of Publication of *Minnesota Rules* 1986 Supplement Number 1

Minnesota Rules 1986 Supplement Number 1 is now available. This publication contains updates to Minnesota Rules 1985 and is composed of complied rules of state agencies adopted between April 9, 1985 and December 2, 1985. The cost is $15 for the set. It may be purchased from the Minnesota Documents Division, Department of Administration, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000. Orders must be prepaid. *Minnesota Rules 1985* will be updated with a second supplement scheduled for December.

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

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers.

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Disc Type Brush Chipper	May 13, 1986	Transportation	Owatonna	79-382-01083
Kitchen Equipment	May 13, 1986	Human Services Regional Treatment Center	Fergus Falls	55-101-06572
Flow Meter	May 13, 1986	Transportation	St. Paul	79-000-52266
Microhematocrit Centrifuge	May 13, 1986	Anoka Ramsey Community College	Cambridge	02-310-14687
Near Infraed Analyzer	May 13, 1986	Agriculture	Minneapolis	04-131-34628
X-Ray Processor	May 13, 1986	MN Correctional Facility	Stillwater	78-620-00002
Geli Split Top Shield	May 13, 1986	Department of Health	Minneapolis	12-400-91635
Centrifuge	May 13, 1986	Natural Resources	Forest Lake	29-000-43631

Commodity for Bid	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Repair Switchgear in State Bldgs.	May 14, 1986	Administration—Building Construction	St. Paul	02-310-13864
Displays	May 14, 1986	Agriculture	St. Paul	04-661-34761
Repair Aircraft Mechanical Body	May 14, 1986	Public Safety	St. Paul	07-500-36659
Tires & Tubes: Automotive, Truck, Tractor, Grader	May 14, 1986	Various	Various	Sch. 50
Electronic Planimeter	May 14, 1986	Pollution Control	Roseville	32-300-14278
1,1,1-Trichloroethane in 55 Gal. Drums	May 14, 1986	Transportation	St. Paul	Price-Contract
Indirect Steam Generator	May 14, 1986	Mankato State University	Mankato	26-071-16602
Macintosh Computers	May 15, 1986	Department of Revenue	St. Paul	67-190-11405
Satellite Equip.	May 15, 1986	Rochester Community College	Rochester	27-000-48777
Mail Room Equip.	May 15, 1986	Mankato State University	Mankato	26-071-16521
Fish Hatchery Equip.	May 15, 1986	Natural Resources	Various	29-000-43766
Delivery Carts	May 15, 1986	Human Services Regional Treatment Center	Fergus Falls	55-101-06559
Runner Matting	May 15, 1986	Mankato State University	Mankato	26-071-16588
Remodeling Coffman Room	May 15, 1986	Rochester Community College	Rochester	27-148-48156
Addendum #1—Bearings & Supplies—Rebid	May 15, 1986	Various	Various	Price-Contract
Install Replacement Glass	May 15, 1986	MN Security Hospital	St. Peter	Price-Contract
Maintenance for Typewriters & Calculators	May 15, 1986	Various	Various	Price-Contract
Stacking Chairs	May 15, 1986	North Hennepin Community College	Minneapolis	27-153-48315
SELF Application Materials	May 16, 1986	Higher Education Coordinating Board	St. Paul	60-000-04671-7479
Classroom Furniture	May 16, 1986	Minneapolis Community College	Minneapolis	27-151-47315
IBM Typewriters	May 19, 1986	Vermillion Community College	Ely	27-158-48819
Computer Furniture & Accessories	May 19, 1986	Various	Various	Price-Contract
Van Modification	May 19, 1986	Jobs & Training	St. Paul	21-606-63866
Vacuum Breakers	May 19, 1986	Human Services Regional Treatment Center	Brainerd	55-304-06973-Rebid

Department of Administration Information Management Bureau

Notice of Availability of Contract for Back-up Systems Analysis

The Information Management Bureau (IMB), Department of Administration, for the state of Minnesota, is requesting a proposal from qualified firms to provide back-up systems analysis services to be used by the Bureau on an as-needed basis. This will involve basic systems analysis activities such as requirements definition, feasibility studies, system design, etc. This may involve back-up assistance to a staff analyst of the Bureau on a specific phase of a project, or taking responsibility for specific phases of a project—this work to be assigned at the discretion of the Bureau. This work may be on projects IMB does for any of the State agencies. The total amount expended for this activity will not exceed $300,000.00 for fiscal year 1987, (i.e., July 1, 1986 through June 30, 1987).

The full text of the Request for Proposal is available on request. Inquiries and responses must be directed to:

Susan C. Rose, Director
Information Systems Development Division
Information Management Bureau
658 Cedar Street, Centennial Office Bldg.
St. Paul, MN 55155
(612) 296-6391

Responses must be received no later than 4 p.m. on May 23, 1986.

Department of Human Services, Moose Lake Regional Treatment Center

Notice of 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 consultants who are trained and experienced in the specialty of Gerontology and in consultations in this field. The estimated amount of contract is $31,000.00.

Responses to these services must be received by June 9, 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

Department of Human Services, Brainerd Regional Human Services Center

Notice of Request for Proposal for Services for Consultant Dietitian

Notice is hereby given that the Brainerd Regional Human Services Center, Mental Health Bureau, Department of Human Services, is seeking the following services for the period July 1, 1986 through June 30, 1987. These services are to be performed as requested by the Administration of the Brainerd Regional Human Services Center.

This request for proposal does not obligate the State to complete the projects and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

1. Services for a Consultant Dietitian to visit Brainerd Regional Human Services Center a minimum of three (3) visits per month. Review of menus, perform dietary assessments, provide in-service training to dietary employees, review sanitation and dietary procedures, other duties as assigned, and submit activity reports.

The estimated amount of this contract will not exceed $4,995.00.

Responses must be received by 11 a.m. May 26, 1986. Direct inquiries to:

Elmer O. Davis, Assistant Administrator, (218) 828-2399
Brainerd Regional Human Services Center
1777 Highway 18 E.
Brainerd, Minnesota 56401

Minnesota Public Utilities Commission

Request for Proposals for Communications Plan

The Minnesota Public Utilities Commission (Commission) has a unique responsibility as the state's utility regulatory agency to inform the public, the legislature, the utility community and the media of its policies, its actions and accomplishments as well as its general role. With this objective in mind the Commission is seeking an individual or organization to design and develop a communications program which will increase awareness of the Commission's role and services. Such a program should also establish an on-going communications program for the Commission which eventually would be entirely directed and implemented by the Commission.

Any program proposed for consideration should include at a minimum a plan for an annual report, consumer information and media relations training. It should represent a coordinated program which will enhance the recognition level of the Commission and its responsibilities. This solicitation does not include a request for bids to cover the costs of production or distribution of materials developed. Those will be solicited separately as materials are approved by the Commission.

Proposals should include a statement of objectives to illustrate respondents' understanding of the Commission's objectives and others which should be considered. Respondents should include work examples, references, an estimate of cost and a timetable. The Commission has allocated a maximum of $35,000 for this project. It reserves the right to reject any and all bids and to select a bid other than the lowest bid.

Questions regarding this Request for Proposals should be addressed to:

Mary Ellen Hennen, Executive Secretary
Minnesota Public Utilities Commission
780 American Center Building
St. Paul, MN 55101
612/296-7526

Written proposals are due at the above address by 4:00 Friday, May 23, 1986.

SUPREME COURT DECISIONS

Decisions Filed Friday 2 May 1986

Compiled by Wayne O. Tschimperle, Clerk

C7-85-2220 Sharon J. Sherman v. Whirlpool Corporation and Aetna Casualty and Surety Company, Relators, Steve Keefe, Commissioner, Minnesota Department of Labor and Industry, intervenor. Workers' Compensation Court of Appeals.

Rehabilitation services are not monetary benefits under Minn. Stat. § 176.102, subd. 11(a) (1984) and, therefore, may be retroactively awarded.

The retroactive application of Minn. Stat. § 176.102 (1984) is constitutional.

Affirmed. Yetka, J.

C9-85-1344 State of Minnesota v. Lawrence Bruce Middleton. Brown County District Court.

When an actor coerces a complainant so as to cause the complainant fear while accomplishing sexual contact, the requirement of coercion in Minn. Stat. § 609.345(c) (1984) is satisfied.

Certified questions answered in the affirmative. Wahl, J.

C1-85-219 State of Minnesota, petitioner, Appellant v. Deborah Kay Andow. Court of Appeals.

The offense of "child snatching" under Minn. Stat. § 609.26 (1984) is a felony from the day the child is wrongfully taken or retained, with the charge to be dismissed if the child is voluntarily returned within 14 days.

Reversed. Simonett, J.

C5-85-224 Vera Ann Morris v. American Family Mutual Insurance Company, petitioner, Appellant. Court of Appeals.

A private party does not have a cause of action for a violation of the Unfair Claims Practices Act.

Reversed. Simonett, J.

Took no part, Coyne, J.

C6-85-801 Metropolitan Rehabilitation Services, Inc., Relator v. Gladys Westberg, Director of Rehabilitation Services, Department of Labor and Industry. Workers' Compensation Court of Appeals.

Workers' compensation statute and rules which prohibit a qualified rehabilitation consultant from being a rehabilitation service vendor do not infringe upon constitutional rights of freedom of association or equal protection.

Affirmed. Kelley, J.

Orders

C9-85-1506 In re Sixth Judicial District District Court Vacancy. Supreme Court.

Supreme Court order which adopts a plan for gradual termination of judicial officer positions and continues in the judicial position in the Sixth Judicial District, to be chambered in Carlton County as a district court judgeship. Amdahl, C.J.

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Airport Directory, 1986 Minnesota Department of Transportation (MnDOT). Compact and comprehensive. List of airports throughout the state. Includes approaches, detailed markings, elevation, latitude, longitude, repair potential and Public Seaplane Bases. Paperbound. 178 pp. Code #1-8. $4.50.

Banking Laws Supplement 1985. Department of Commerce. Statutes governing banks, savings banks, trust companies and other financial institutions. Looseleaf. Code #2-76s1. $5.00.

RELATED PUBLICATIONS:

Aeronautical Chart, 1983. Map of Minnesota (folded 7½″ × 10¾″; open 31″ × 25″) showing all airports in the state. Airport data includes radio facilities. Code #1-10. $2.00.

Pilot's Handbook of Aeronautical Knowledge, 1980, U.S. Department of Aeronautics. Essential pilot training. How to use (a) flight information publications; (b) the Aircraft Flight Manual and Pilot's Operation Handbook. Paperback. 257 pp. Code #16-28. $10.00.

Banking Laws and Related Statutes, 1984. Department of Commerce. Complete basic text of state law. Looseleaf. Code #2-76. $26.00.

Banking Rules 1985. Department of Commerce. Chapter 2675 from the Minnesota Rules containing the complete rules relating to loans, investments and banking procedures. Saddlestitched. Code #3-81. $5.00.

Minnesota Guidebook to State Agency Services 1984-85. Department of Administration. A 623-page guide describing all agencies in the three branches of state government, listing services, maps, guides, reports available from each. Includes explanation of administrative rulemaking, legislative lawmaking, and judicial processes in state. Paperback. Code #1-4. $12.50 plus 75¢ tax.

Minnesota Laws 1985. All laws passed in the Regular and Special Sessions. Code #18-3. $37.00, plus $2.22 tax.

Minnesota Rules 1985. 10-volume set. Code #18-200. Single volumes: $13.00 plus 78¢ tax; Full set: $125.00 plus $7.50 tax.

Minnesota Rules 1986 Supplement Number 1. Code #18-200A. $15.00 + 90¢ tax.

Minnesota Statutes 1985 Supplement. Pocket part supplement to Minnesota Statutes 1984. Code #18-7. $25.00 plus $1.50 tax.

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STATE OF MINNESOTA
DEPARTMENT OF REVENUE

IN THE MATTER OF the Proposed Adoption of a New Rule Relating to the Filing of One Return by Members of a Unitary Group Which Includes a Bank (Minnesota Rules Part 8014.0400)

SUPPLEMENTAL FINDINGS AND CONCLUSIONS

1. On August 6, 1986 proposed rule 8019.0400 and supporting documents were submitted to the Attorney General for approval.

2. The Attorney General has determined that the following language which occurs at Subpart 5, lines 32-36, of the rule does not provide the public with sufficient standards with regard to the commissioner's permission:

> The election is binding for all subsequent tax years and may be rescinded or modified only with the commissioner's permission. The key corporation may be changed only with the commissioner's permission.

3. Based on the foregoing, I have determined the language set forth above should be deleted and that the deletion does not result in substantial change.

STATE OF MINNESOTA

T. J. Triplett
Commissioner of Revenue

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

IN THE MATTER OF the Proposed Adoption of a New Rule Relating to the Filing of One Return by Members of a Unitary Group Which Includes a Bank (Minnesota Rules Part 8019.0400)

FINDINGS OF FACT AND CONCLUSIONS

After affording and encouraging interested and affected persons an opportunity to submit comments, having read all the comments submitted, having considered all of the evidence, I find the following:

1. Proposed Rule 8019.0400, Subpart 4, Item B. was modified to allow members of a bank affiliated group which are sold or otherwise disposed of during the year to be included in the affiliated group without destroying the affiliated group's eligibility to file a bank affiliated return.

   The reason for limiting eligibility to corporations having the same accounting period is to insure that returns are filed with a minimum of paperwork. Corporations which have different accounting periods must reconcile their income, expenses and deductions. In contrast, corporations which are divested during the tax year file a short-period return for a tax year which begins on the same date as the other corporations in the affiliated group. This involves none of the paperwork that this subpart seeks to avoid. Therefore, divested corporations should not destroy the affiliated group's eligibility to file a bank affiliated return.

   Based on the foregoing I find that the amendment discussed above does not result in substantial change.

2. Proposed Rule 8019.0400, Subpart 7 was amended in response to comments received during the 30-day comment period. The intent of Subpart 7 as originally drafted was to require taxpayers to compute their taxable income or loss in the same manner as if a combined report were being prepared and add up the separate tax liabilities. Minnesota Statutes Sections 290.17, 290.19, 290.171 and Minnesota Rules Parts 8017.3000, 8017.5000, 8019.0200 and 8019.0300 referred to in the deleted language govern the filing of combined reports and the computation of income or loss on a combined report basis. The amendment streamlines the language without changing the substantive meaning of Subpart 7.

   Based on the foregoing, I find that the amendment discussed above does not result in substantial change.

3. Proposed Rule 8019.0400, Subpart 8 was amended by changing the word "[e]xtensions" to "An Extension". This was done to make it clear that a single extension request for the group is to be filed by the key corporation. The original intent of this subpart was to require the key corporation to file one extension on behalf of the group.

Based on the foregoing I find that the amendment discussed above does not result in substantial change.

STATE OF MINNESOTA

T. J. Triplett
Commissioner of Revenue

By: Ray E. Dore
Raymon E. Dore
Deputy Commissioner

SP:V156

STATE OF MINNESOTA
DEPARTMENT OF REVENUE

In the Matter of the Proposed Adoption of a New Rule Relating to the Filing of One Tax Return by Members of a Unitary Group which Includes a Bank (Minnesota Rules Part 8019.0400)

STATEMENT OF NEED AND REASONABLENESS

This document has been prepared as a verbatim affirmative presentation of the facts necessary to establish the statutory authority, need for, and reasonableness of the proposed new rule. It is submitted pursuant to Minnesota Statutes Section 14.23 and Minnesota Rules Part 1400.0500 requiring a Statement of Need and Reasonableness.

A Notice of Intent to Solicit Outside Opinion regarding income tax rules including corporate income taxes was published in the State Register on January 29, 1979 and again on July 6, 1981. The notices directed persons wishing to be placed on a mailing list of persons wishing to be notified of rulemaking activities to contact the Department of Revenue. On December 16, 1985 a Notice of Intent to Solicit Outside Opinion was published in the State Register. The notice specifically mentioned this rule and invited interested persons to request a preliminary draft of this rule and submit comments or suggestions in writing to the Department by January 3, 1986. Two persons submitted written comments. Such comments have been duly considered.

Impact on Small Business

The impact of this rule on small business has been considered. The proposed rule is not mandatory and therefore is not expected to place any financial or administrative burden on small businesses. Small businesses which do not elect to file a tax return under this rule will not be subject to this rule.

Authority to Adopt Rules

Minnesota Statutes Section 290.52 grants the Commissioner of Revenue statutory authority to promulgate rules concerning the income tax laws. Additionally, Minnesota Statutes Section 290.37, Subd. 1(a) provides that "(t)he Commissioner may adopt rules for the filing of one return on behalf of the members of an affiliated group of corporations that are required to file a combined report if the affiliated group includes a corporation subject to tax under Section 290.361."

Part 8019.0400 Subpart 1.

This subpart introduces the rule and sets forth the general terms of the election to file one return.

Subpart 2. Definitions

This subpart sets out definitions of terms used in the rule. Definitions are necessary to adequately inform taxpayers of whether they are eligible to make the election to file one return.

Item A

This item defines the term "unitary group" to mean two or more corporations which are engaged in business operations which would be considered unitary under existing Minnesota law and rules. This definition is reasonable because it provides a consistent rule for taxpayers to follow. If taxpayers are otherwise part of a unitary group, they will be considered to be so for the purposes of this rule.

Item B

This paragraph defines the term "bank." Minnesota Statutes Section 290.37, Subd. 1(a) provides that the Commissioner of Revenue may adopt rules for the filing of one return on behalf of affiliated corporations required to file a combined report if the affiliated group includes a corporation subject to tax under Section 290.361. Section 290.361, Subd. 1 imposes an excise tax measured by net income on all national and state banks.

The first sentence of the definition is primarily based on the definition of "bank" found in Section 581 of the Internal Revenue Code. However, for Minnesota purposes a "bank" does not include a building and loan association because under Minnesota law, those institutions are taxed under Section 290.02 rather than under Section 290.361. As Minnesota Statutes Section 290.37, Subd. 1(a) provides that the affiliated group must include a corporation subject to tax under Section 290.361, building and loan associations cannot be included in the definition.

The second sentence of paragraph B makes it clear that domestic building and loan associations as well as credit unions, finance corporations or acceptance companies are not included in the definition. This definition is reasonable because it provides taxpayers with a definition which is similar to the federal definition. With the exception of building and loan associations, any corporation which is a "bank" for federal purposes will be considered a bank for Minnesota purposes also.

Paragraph C

This definition provides that corporations are required to be included in a combined report for purposes of this rule if they would otherwise be required to be included in a combined report. Again, this definition is reasonable because it allows taxpayers a

consistent definition. If they are otherwise included in a combined report they will be so included for purposes of this rule.

Item D

The term "bank affiliated return" is a new term and needs to be defined. It is defined as the one return filed on behalf of a unitary group which would be required to file a combined report and which includes at least one bank. (The terms "unitary group," "combined report" and "bank" are defined in items A through C.) The term "bank affiliated return" is used instead of "consolidated return". Minnesota law does not permit the filing of consolidated returns. The term "consolidated return" is used in federal practice and has a specific meaning in that context. Corporations which cannot be included on a federal consolidated return, such as affiliated companies, Puerto Rican subsidiaries and subsidiaries which are over 50% but are less than 80% owned, may be included in a bank affiliated return. Conversly, some insurance companies may be included on a federal consolidated return but are not permitted on a bank affiliated return. Therefore, to avoid confusing taxpayers, an entirely new term is used. This term includes the word "bank" which modifies "affiliated" to denote that this type of return involves at least one bank. The term "affiliated" is used in Section 290.37, Subd. 1(a) and has been retained here. The corporations included in the bank affiliated return must be included in the combined report during the taxable year for which the return is filed. This requirement is necessary to fix the time period during which the corporations to be included in the return are determined. The return must be filed by the corporation elected to be the key corporation. "Key corporation", a new term, is defined in Item E.

Item E

This new term must be defined. According to the definition, the key corporation need not be the parent corporation, but it must be that corporation chosen by the affiliated group to file the return. The rule allows groups to choose any member of the group with nexus to Minnesota as the key corporation. Nexus with Minnesota must exist during the taxable year for which the return is filed. Nexus with Minnesota is required because the key corporation is responsible for changes in tax liability and assessments. A corporation without nexus to Minnesota, which is not doing business in Minnesota, would be difficult if not impossible to proceed against. Because a parent corporation may or may not have nexus with Minnesota, the key corporation cannot be required to be the parent. The wording "parent or other member of the unitary group" is used because where a parent does have nexus with Minnesota, it would be the logical choice for the key corporation. This is because the parent would be more likely to have much of the group's tax information at hand. In cases where the parent does little business in Minnesota, it may be more convenient for a corporation which does more of its business in Minnesota to act as the key corporation.

Subpart 3. Combined Report

Members of a unitary group are required to be included on a combined report for purposes of this rule if they would be otherwise required to be included on a combined report. This provision is reasonable because the criteria for being included in a combined report are the same for taxpayers filing bank affiliated returns as for taxpayers filing separate returns based on combined reports. This allows taxpayers a consistent way of determining their filing status. This subpart is also consistent with one of the purposes of this rule which is to allow taxpayers a convenient alternative to filing several returns without changing the substantive requirements.

Subpart 4. Eligibility Requirements

This subpart sets out the requirements which must be met during the entire taxable year in order for a unitary group to elect to file a bank affiliated return.

Item A

The unitary group must contain at least one bank. This requirement comes directly from Minnesota Statutes 290.37, Subd. 1 which permits the Commissioner to adopt rules for the filing of one return on behalf of members of an affiliated group if the group includes a corporation subject to tax under Section 290.361. (Emphasis added.) Section 290.361 imposes an excise tax on national and state banks. A bank subject to tax under Section 290.361 has nexus with Minnesota because a non-nexus corporation is not subject to Minnesota tax law.

Item B

In order to insure that returns are filed with a minimum of paperwork, only corporations which have the same accounting periods are eligible to file bank affiliated returns. Corporations which do not meet this requirement must file combined reports. If a member of the group is divested from the unitary group during the taxable year, it is considered to have the same accounting period as the group if its accounting period for the predivestiture portion of the year commenced on the same date as the accounting period of the other members of the group. This allows bank affiliated groups which have divestitures during the year to still file one return. This should be allowed because it involves none of the additional paperwork which would be necessary to reconcile one or more different accounting periods.

Item C

Each member of the unitary group must use the same accounting method. This is to insure that there will be a minimum of paperwork. Corporations using different accounting methods would need to reconcile them at some point. As most corporations included in a bank affiliated return are expected to be banks, bank holding companies or financial institutions, it is expected that they would use the same accounting methods.

Item D

This paragraph merely sets out the requirement that the group must comply with the requirements in Subpart 4 which explains how the election to file a bank affiliated return must be made.

Subpart 5. Election to File Return

The first sentence requires that each member of the unitary group must sign a written election to be included on the bank affiliated return. This sets up the requirement that all corporations must consent to the filing of one return. All corporations must be listed by name and Minnesota and/or federal employer identification number. This is necessary to enable the Department to keep track of which corporations are in the unitary group. It will also facilitate proper crediting of payments and tracking of returns.

The election, which also appoints a key corporation, must be filed with the tax return. This is the most logical time to file the election because it can be processed at the same time the return is processed. It is also convenient for the taxpayer to attach the election form to the return rather than make an additional filing.

Due to confidentiality requirements each member of the group must grant power of attorney to the key corporation to represent it in tax matters relating to the bank affiliated return. Specific reference is made to tax matters relating to the bank affiliated return because a corporation may have previously been granted power of attorney for tax matters but may have no knowledge of or authority concerning bank affiliated returns. The subpart requires that the key corporation must be authoritized to represent the group in tax matters relating to the bank affiliated return.

The election is binding for subsequent tax years. This is necessary so that filings are treated consistently from year to year as much as possible. Because circumstances may change or unforeseen situations may arise the election may be rescinded or modified or the key corporation changed with the Commissioner's permission. The decision to allow the election to be rescinded or modified will be made on a case by case basis.

Subpart 6. Filing Requirements

This section makes it clear that the key corporation is responsible for filing the return. The key corporation is responsible for all taxes, estimated taxes, charges, claims for refund, changes in tax liability and assessments. For recordkeeping and processing purposes it is important that one corporation is responsible for all tax matters.

The last sentence of this subpart states that if all corporations which would be included on a combined cannot be included on the affiliated return a bank affiliated return shall not be filed. This merely clarifies the fact that all requirements must be met before a bank affiliated return may be filed. The alternative is to file separate returns based on combined reports.

Subpart 7. Payment of Tax

This subpart requires the members of the group to compute their separate income (loss) for the taxable year. Each member of the group determines its separate income (loss) and apportions it to Minnesota. The members of the group then compute the aggregate tax liability of the group.

This subpart was revised in light of comments received from outside the Department. Former language required that the aggregate income (loss) of the group was subject to apportionment. The new language allows each corporation to use the weighted apportionment ceiling set out in Section 290.19. Each corporation's tax liability is computed and the amounts added together and paid by the key corporation. This method is used in California and taxpayers who also file California returns will be able to use the same system.

A drawback to this approach is that one potential advantage of filing bank affiliated returns will be lost. Taxpayers will still have to perform all the calculations necessary to determine each corporation's income even though only one return is filed. The main advantage is that each corporation may take advantage of the weighted apportionment ceiling.

The Department received two written comments during the informal comment period. Both comments indicated that the taxpayers involved would prefer to allow each corporation to calculate its income apportioned to Minnesota separately even though the other method entails less paperwork.

The last sentence of this subpart provides that each of the corporations on the bank affiliated return is severally liable for the tax. This language is similar to federal language concerning consolidated returns. It allows the Department to collect the

tax even if it is unable to collect it from the key corporation. The filing of one tax return on behalf of the group is allowed purely as a matter of convenience for the taxpayer and to eliminate paperwork and does not affect each corporation's tax liability.

Subpart 8. Extensions

This subpart provides that an extension on behalf of the group must be filed by the key corporation. A list of corporations included in the return is required to insure proper crediting of the tentative tax.

Subpart 9. Estimated Payments

The key corporation is responsible for payment of the estimated tax liability of the group. This is consistent with other sections of the rule making the key corporation responsible for all taxes, estimated payments, assessments, and other requirements. The second sentence provides a transition provision for determining whether the taxpayer is subject to an exception where the prior years' estimated tax was filed on the basis of a combined report. In such cases the prior years tax is the combined amount of the prior year's tax liabilities of all corporations on the bank affiliated return. This method is reasonable because it allows both years to be placed on a basis where the respective liabilities may be compared. It is also consistent with Subpart 6 which requires each corporation subject to tax to calculate its separate tax liability. The taxpayer's status with respect to an exception to the underpayment of estimated tax penalty will be the same as if it filed separately. The only effect this rule will have is to allow the group to file estimated tax payments on behalf of the group rather than individually. Penalties would be paid by the key corporation.

The second paragraph provides that the group is considered a "large corporation" if any member of the group's taxable net income was $1,000,000 or more during the three taxable years immediately preceding the taxable year involved. This provision is consistent with the first paragraph which establishes that the key corporation is responsible for the aggregate liability of the group. Where some corporations in the group had over $1,000,000 in taxable net income and some had less, a rule is needed to direct taxpayers on how to determine if the group is a large corporation.

One of the purposes of Section 290.37, Subd. 1(a) (1985) was to cut down on the paper work involved in filing several estimated tax forms and to allow under and overpayments to be netted against each other. In order to be consistent with this objective the taxable net income of the affiliated group must be treated in the aggregate. Once the triggering amount for the large corporation provision is met, it must apply to the entire group. To do otherwise would be inconsistent because the members of the group would be treated individually.

Additionally, allowing bank affiliated groups to avoid the large corporation provision unless all members meet the $1,000,000 amount would have the effect of granting a benefit not intended by the statute.

Subpart 10. Net Operating Losses

This subpart provides that net operating losses may be carried forward or back in the same manner as they would be if combined reports were filed. This allows taxpayers to determine their net operating losses in the usual way and eliminates the need for additional calculations. The first sentence states that a net operating loss from a year in which a combined report was filed may be carried back to a year in which a bank affiliated return is filed. The second sentence of Subpart 9 requires that each corporation's net operating loss which is carried forward or back must be deducted

against its own net income for the year to which the loss is carried to. This is reasonable because it is consistent with Subpart 6 which subjects the separate income or loss of each member of the group to apportionment. The third sentence merely restates the requirement of Minnesota Statutes Section 290.095, Subd. 3(c).

The second paragraph provides that the above procedure applies to situations where a net operating loss is carried from a year in which a bank affiliated return was filed to a year in which combined reports were filed.

The last paragraph restates the provisions of Minnesota Rules Part 8019.0300, Subp. 10 dealing with net operating losses carried from a year which began prior to July 1, 1981 to years beginning after that date. Part 8019.0300, Subp. 10 was originally promulgated in order to avoid penalizing corporations as a result of the transition period from reporting their income on other than a combined report to reporting their income under the combined income approach. In order to achieve the same result in the case of corporations which carry net operating losses from years beginning prior to June 30, 1981 the same language has been adopted. This provision is reasonable because it insures that corporations which file bank affiliated returns will not be penalized due to the transition period. Bank affiliated filers will follow the same procedures and be subject to the same rule as are taxpayers who file combined reports.

Subpart 11

This subpart establishes the effective date as tax years beginning after December 31, 1984.

STATE OF MINNESOTA

DEPARTMENT OF REVENUE

CORPORATE INCOME TAX DIVISION

IN THE MATTER of the Proposed Adoption of New Rules Relating to the filing of One Return by Members of a Unitary Group which Includes a Bank (Minnesota Rules Part 8019.0400).

STATEMENT OF COMPLIANCE WITH RULE MAKING PROCEDURES

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

Harriet J Sims

Dated: August 4, 1986

STATE OF MINNESOTA

DEPARTMENT OF REVENUE
CORPORATE INCOME TAX DIVISION