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State of Minnesota

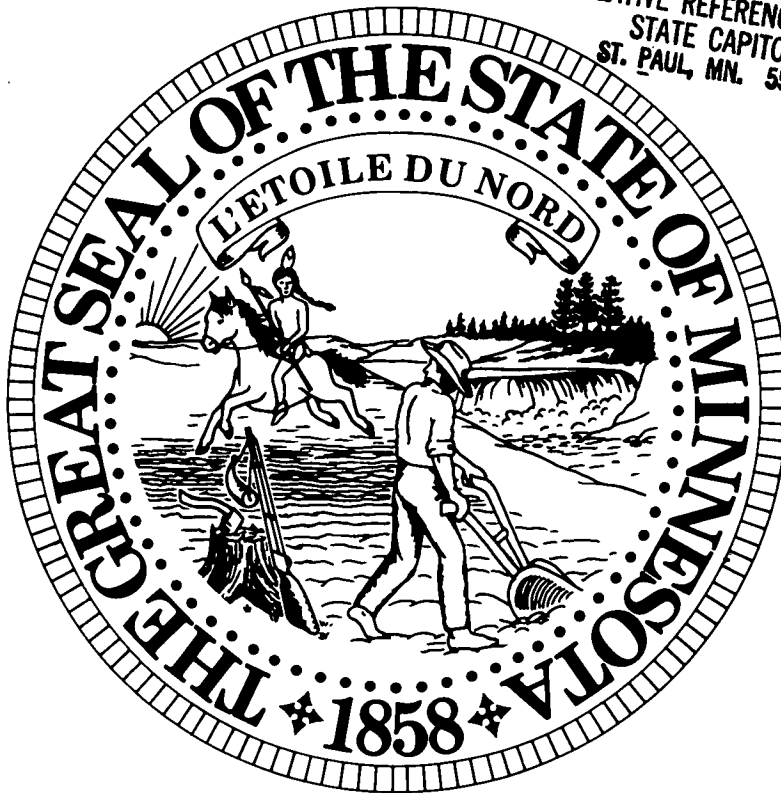
# STATE REGISTER

Department of Administration—Print Communications Division

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# STATE REGISTER

## Judicial Notice Shall Be Taken of Material Published in the State Register

The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, official notices to the public, state and non-state public contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

A *Contracts Supplement* is published every Thursday and contains additional state contracts and advertised bids, and the most complete source of state contract awards available in one source.

### Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
2	Monday 26 June	Monday 3 July	Monday 10 July
3	Monday 3 July	Monday 10 July	Monday 17 July
4	Monday 10 July	Monday 17 July	Monday 24 July
5	Monday 17 July	Monday 24 July	Monday 31 July

\*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 *State Register* editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

The *STATE REGISTER* is published every Monday (Tuesday when Monday is a holiday) by the State of Minnesota, Department of Administration, Print Communications Division, 117 University Avenue, St. Paul, Minnesota 55155, pursuant to *Minnesota Statutes* § 14.46. A *STATE REGISTER Contracts Supplement* is published every Thursday. The Monday edition is the vehicle for conveying all information about state agency rulemaking, including official notices; hearing notices; proposed, adopted and emergency rules. It also contains executive orders of the governor; commissioners' orders; state contracts and advertised bids; professional, technical and consulting contracts; non-state public contracts; state grants; decisions of the supreme and tax courts; a monthly calendar of scheduled cases before the supreme court; and other announcements. The Thursday edition contains additional state contracts and advertised bids, and the most complete listing of contract awards available in one source.

In accordance with expressed legislative intent that the *STATE REGISTER* be self-supporting, the following subscription rates have been established: the Monday edition costs \$130.00 per year and includes an index issue published in August (single issues are available at the address listed above for \$3.50 per copy); the combined Monday and Thursday editions cost \$195.00 (subscriptions are not available for just the *Contracts Supplement*); trial subscriptions are available for \$60.00, include both the Monday and Thursday edition, last for 13 weeks, and may be converted to a full subscription anytime by making up the price difference. No refunds will be made in the event of subscription cancellation.

Both editions are delivered postpaid to points in the United States, second class postage paid for the Monday edition at St. Paul, MN, first class for the Thursday edition. Publication Number 326630 (ISSN 0146-7751).

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

**Rudy Perpich, Governor**

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## FOR LEGISLATIVE NEWS

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

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**Perspectives**—Publication about the Senate.

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Contact: Senate Public Information Office  
Room 231 State Capitol, St. Paul, MN 55155  
(612) 296-0504

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**Session Weekly**—House committees, committee assignments of individual representatives; news on committee meetings and action. House action and bill introductions

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**Session Summary**—Summarizes all bills that both the Minnesota House of Representatives and Minnesota Senate passed during their regular and special sessions.

Contact: House Information Office  
Room 175 State Office Building, St. Paul, MN 55155  
(612) 296-2146

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# Minnesota Rules: Amendments and Additions

## NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 75 state agencies have the authority to issue rules. Each agency is assigned specific *Minnesota Rule* chapter numbers. Every odd-numbered year the *Minnesota Rules* are published. This is a ten-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Proposed and adopted emergency rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

If an agency seeks outside opinion before issuing new rules or rule amendments, it must publish a NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION in the *Official Notices* section of the *State Register*. When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as **Proposed Rules**. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues 1-13 inclusive; issues 14-25 inclusive; issue 26, cumulative for issues 1-26; issues 27-38 inclusive; issue 39, cumulative for 1-39; issues 40-51 inclusive; and issue 52, cumulative for 1-52. An annual subject matter index for rules appears in August. For copies of the *State Register*, a subscription, the annual index, the *Minnesota Rules* or the *Minnesota Guidebook to State Agency Services*, contact the Print Communications Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747.

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# Proposed Rules

Pursuant to Minn. Stat. §§ 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.

## Department of Commerce

### Proposed Permanent Rules Relating to Modified Guaranteed Annuities

#### Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 61A.20.

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

Any person may make a written request for a public hearing within the 30 days 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 in writing. Any person requesting a 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, the Department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Patricia L. Peterson  
Staff Attorney  
Department of Commerce  
500 Metro Square Building  
St. Paul, MN 55101  
(612) 296-2284

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

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small businesses has been considered in the promulgation of the rules. Anyone wishing to present evidence or argument as to the rules' effect on small business may do so. The Department's position regarding the impact of the rules on small business is set forth in the Statement of Need and Reasonableness.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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

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## Proposed Rules

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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 Patricia Peterson.

Michael A. Hatch  
Commissioner of Commerce

### Rules as Proposed (all new material)

#### 2751.0100 PURPOSE.

This chapter regulates modified guaranteed annuities, a new form of variable annuity, the assets of which are placed in a separate account.

#### 2751.0200 AUTHORITY.

This chapter is adopted pursuant to the authority granted to the commissioner of the Department of Commerce in *Minnesota Statutes*, section 61A.20.

#### 2751.0300 APPLICABILITY AND SCOPE.

This chapter applies to:

- A. the qualifications of agents to be authorized to sell modified guaranteed annuity contracts in this state;
- B. the qualification of insurers to be authorized to issue these contracts;
- C. the required contract form and provisions for issuance of this coverage in this state; and
- D. the manner in which separate account assets, supporting these contracts, are to be maintained and reported.

#### 2751.0400 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Commissioner.** "Commissioner" means the commissioner of the Department of Commerce of the state of Minnesota.

Subp. 3. **Interest credits.** "Interest credits" means all interest that is credited to the contract.

Subp. 4. **Modified guaranteed annuity.** "Modified guaranteed annuity" is a deferred annuity contract, the underlying assets of which are held in a separate account, and the values of which are guaranteed if held for specified periods. The annuity contains nonforfeiture values based upon a market-value adjustment formula if held for shorter periods. This formula may, or may not, reflect the value of assets held in a separate account during the period, or periods, when the contract holder can surrender the contract.

Subp. 5. **NAIC.** "NAIC" means the National Association of Insurance Commissioners.

Subp. 6. **Separate account.** "Separate account" means a separate account established pursuant to *Minnesota Statutes*, sections 61A.13 to 61A.21 or pursuant to the corresponding section of the insurance laws of the state of domicile of a foreign or alien insurer.

#### 2751.0500 AUTHORITY OF INSURERS.

Subpart 1. **Application.** The following requirements in this part apply to all insurers seeking authority to issue modified guaranteed annuities in this state.

Subp. 2. **Licensing and approval to do business.** No company shall deliver or issue for delivery modified guaranteed annuities within this state unless it is licensed or organized to do a life insurance or annuity business in their state pursuant to *Minnesota Statutes*, section 60A.07, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of these contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things the history and financial condition of the company; the character, responsibility, and fitness of the officers and directors of the company; and the law and regulation under which the company is authorized in the state of domicile to issue these annuities.

If the company is a subsidiary of an admitted life insurance company, or affiliated with the company by common management or ownership, it may be considered by the commissioner to have satisfied the requirements of this subpart, if either it or the admitted life company satisfies the requirements of this subpart. Companies licensed and having a satisfactory record of doing business in this state for a period of at least three years may be considered by the commissioner to have satisfied the requirements of this subpart.

Before any company delivers or issues for delivery modified guaranteed annuities within this state, it shall submit to the commissioner a general description of the kinds of these annuities it intends to issue; if requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue these annuities; and if requested by the commissioner, biographical data with respect to officers and directors of the company on the NAIC uniform biographical data form.

Subp. 3. **Use of sales materials.** An insurer authorized to transact modified guaranteed annuity business in this state shall not

use any sales material, advertising material, or descriptive literature or other materials of any kind in connection with its modified guaranteed annuity business in this state that is false, misleading, deceptive, or inaccurate.

Illustrations of benefits payable under any modified guaranteed annuity shall not include projections of past investment experience into the future or attempted predictions of future investment experience. Hypothetical assumed interest credits may be used to illustrate possible levels of benefits.

Before any insurer delivers or issues for delivery any modified guaranteed annuity contract in this state, the commissioner may require the filing of a copy of any prospectus or other sales material to be used in connection with the marketing of that insurer's modified guaranty annuity contract. The sales material must clearly illustrate that there can be both upward and downward adjustments due to the application of the market value adjustment formula in determining nonforfeiture benefits.

**Subp. 4. Reports.** An insurer authorized to transact the business of modified guaranteed annuities in this state shall submit to the commissioner:

A. a separate account annual statement that includes the business of its modified guaranteed annuities; and

B. additional information concerning its modified guaranteed annuity operations or separate accounts the commissioner considers necessary.

**Subp. 5. Authority of commissioner to disapprove.** Any material required to be filed with and approved by the commissioner shall be disapproved by the commissioner if the commissioner finds that it does not comply with the standards established by this chapter.

#### **2751.0600 FILING OF CONTRACTS.**

The filing requirements applicable to modified guaranteed annuities are those filing requirements otherwise applicable under existing statutes and rules of this state with respect to individual and group life insurance and annuity contract form filings, to the extent appropriate. Filings shall include a demonstration in a form satisfactory to the commissioner that the nonforfeiture provisions of the contract comply with part 2751.0700, subpart 1.

#### **2751.0700 CONTRACT REQUIREMENTS.**

**Subpart 1. Mandatory contract benefit and design requirements.** The following benefit and design requirements apply to a modified guaranteed annuity contract delivered or issued for delivery in this state:

A. The contract must contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of nonforfeiture benefits.

B. If the contract calls for the payment of periodic stipulated payments, it must contain in substance the following provisions:

(1) a provision that there shall be a period of grace of 30 days or of one month, within which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract shall continue in force. The contract may include a statement of the basis for determining the date as of which any payment received during the period of grace shall be applied to produce the values under the contract arising therefrom; and

(2) a provision that, at any time within one year from the date of default, in making periodic stipulated payments to the insurer during the life of the annuitant and unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as required by contract, and of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date as of which the amount to cover these overdue payments and indebtedness shall be applied to produce the values under the contract arising therefrom.

C. The market-value adjustment formula, used in determining nonforfeiture benefits, must be stated in the contract, and must be applicable for both upward and downward adjustments. When a contract is filed, it must be accompanied by an actuarial statement indicating the basis for the market-value adjustment formula and that the formula provides reasonable equity to both the contract holder and the insurance company.

D. If and to the extent so provided under the applicable contracts, that portion of the assets of any separate account equal to the reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct.

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## Proposed Rules

E. The application for a modified guaranteed annuity shall prominently set forth immediately preceding the signature line, language denoting that amounts payable under the contract are subject to a market value adjustment prior to a date or dates specified in the contract.

Subp. 2. **Nonforfeiture benefits.** The following nonforfeiture benefit requirements apply to a modified guaranteed annuity contract delivered or issued for delivery in this state:

A. This subpart does not apply to any:

- (1) reinsurance;
- (2) group annuity contract purchased in connection with one or more retirement plans or plans of deferred compensation established or maintained by or for one or more employers, including partnerships or sole proprietorships, employee organizations, or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code of 1986, as amended through December 31, 1988;
- (3) premium deposit fund;
- (4) deferred annuity contract after annuity payments have commenced;
- (5) reversionary annuity; or
- (6) contract which is to be delivered outside this state through an agent or other representative of the company issuing this contract.

B. The contract must contain in substance the provisions of subitems (1) and (2).

(1) Upon cessation of payment of considerations under a contract, the insurer will grant a paid-up annuity benefit on a plan described in the contract that complies with item E. The description will include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

(2) If a contract provides for a lump sum settlement at maturity, or at any other time, upon surrender of the contract at or prior to the commencement of any annuity payments, the insurer will pay in lieu of any paid-up annuity benefit a cash surrender benefit as described in the contract that complies with item F. The contract may provide that the insurer may defer payment of the cash surrender benefit for a period of six months after demand.

C. The minimum values as specified in this part of any paid-up annuity, cash surrender, or death benefits available under a modified guaranteed annuity contract must be based upon nonforfeiture amounts meeting the requirements of this item.

The unadjusted minimum nonforfeiture amount on any data prior to the annuity commencement date must be an amount equal to the percentages of net considerations, as specified in item D, increased by the interest credits allocated to the percentage of net considerations, which shall be reduced to reflect the effect of the following:

- (1) any partial withdrawals from or partial surrender of the contract;
- (2) the amount of any indebtedness on the contract, including interest due and accrued;
- (3) an annual contract charge not less than zero and equal to (a) the lesser of \$30 and two percent of the end of year contract value less (b) the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract year; and
- (4) a transaction charge of \$10 for each transfer to another investment division within the same contract.

The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract.

The annual contract charge of \$30 and the transaction charge of \$10 referenced will be adjusted to reflect changes in the consumer price index for all urban consumers (CPI-U) in accordance with item D. The CPI-U is published by the Bureau of Labor Statistics, United States Department of Labor, and is incorporated by reference. It is subject to frequent change and is available from the Minitex interlibrary loan system.

Guaranteed interest credits in each year of any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

D. The percentages of net considerations used to define the minimum nonforfeiture amount in item C must meet the requirements of this item.

(1) With respect to contracts providing for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year and less any charges for premium taxes. The percentages



of net considerations shall be 65 percent for the first contract year and 87.5 percent for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65 percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65 percent.

(2) With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75 and less any charge for premium taxes. The percentage of the net consideration shall be 90 percent.

The annual contract charge of \$30, the collection charge of \$1.25 per collection, and the single consideration contract charge of \$75 referred to in this subitem, will be adjusted to reflect changes in the CPI-U in accordance with item 3.

(3) The above contract charges shall be multiplied by the ratio of (a) the CPI-U for June of the calendar year preceding the date of filing, to (b) the CPI-U for June 1979.

E. Any paid-up annuity benefit available under a modified guaranteed annuity contract shall be that its present value on the annuity commencement date is at least equal to the minimum nonforfeiture amount on that date. The present value shall be computed using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

F. For modified guaranteed annuity contracts that provide cash surrender benefits, the cash surrender benefit at any time prior to the annuity commencement date shall not be less than the minimum nonforfeiture amount next computed after the request for surrender is received by the insurer. The death benefit under the contracts shall be at least equal to the cash surrender benefit.

G. Any modified guaranteed annuity contract that does not provide cash surrender benefits, or does not provide death benefits at least equal to the minimum nonforfeiture amount, prior to the annuity commencement date shall include a statement in a prominent place in the contract that these benefits are not provided.

H. Notwithstanding the requirements of this part, a modified guaranteed annuity contract may provide under the situations specified below that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount, and by this payment be released of any further obligation under the contract:

(1) if at the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month; or

(2) if before the time the annuity becomes payable under a periodic payment contract no considerations have been received under the contract for a period of two full years and both (a) the total considerations paid before the period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, and (b) the larger of the unadjusted minimum nonforfeiture amount and the minimum nonforfeiture amount is less than \$2,000.

I. For any modified guaranteed annuity contract that provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of item B, additional benefits payable:

(a) in the event of total and permanent disability;

(b) as reversionary annuity or deferred reversionary annuity benefits; or

(c) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits that may be required by this part. The inclusion of additional benefits is not required in any paid-up benefits, unless additional benefits separately would require minimum nonforfeiture amounts, paid-up annuity, cash surrender, and death benefits.

#### **2751.0800 RESERVE LIABILITIES.**

Reserve liabilities for modified guaranteed annuities shall be established in accordance with actuarial procedures that recognize:

A. that assets of the separate account are based on market values;

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## Proposed Rules

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- B. the variable nature of benefits provided; and
- C. any mortality guarantees.

As a minimum, the separate account liability will equal the surrender value based upon the market-value adjustment formula contained in the contract. If that liability is greater than the market value of the assets, a transfer of assets will be made into the separate account so that the market value of the assets at least equals that of the liabilities. Also, any additional reserve that is needed to cover future guaranteed benefits will also be set up by the valuation actuary.

The market-value adjustment formula, the interest guarantee, and the degree to which projected cash flow of assets and liabilities are matched must also be considered. Each year, the valuation actuary must provide an opinion on whether the assets in the separate account are adequate to provide all future benefits that are guaranteed.

### **2751.0900 SEPARATE ACCOUNTS.**

Subpart 1. **Establishment and administration.** Any domestic insurer issuing modified guaranteed annuities shall establish one or more separate accounts pursuant to *Minnesota Statutes*, section 61A.14.

Subp. 2. **Amounts.** The insurer shall maintain in each separate account assets with a market or other value meeting the standards set out in *Minnesota Statutes*, section 61A.14, at least equal to the valuation reserves and other contract liabilities respecting such account.

Subp. 3. **Valuation of assets.** Investments of the separate account shall be valued at their market value on the date of valuation, or at amortized cost if it approximates market value, or pursuant to standards contained in *Minnesota Statutes*, section 61A.14.

Subp. 4. **Applicability of other laws.** Unless otherwise approved by the commissioner, separate accounts relating to modified guaranteed annuities will be subject to investment laws applicable to the insurer's general asset account.

### **2751.1000 REPORTS TO POLICYHOLDERS.**

Companies shall annually provide their contract holders with a report showing both the account value and the cash surrender value. The report must clearly indicate that the account value is prior to the application of any surrender charges or market value adjustment formula. It must also specify the surrender charge and market value adjustment used to determine the cash surrender value.

### **2751.1100 FOREIGN COMPANIES.**

If the law or regulation in the place of domicile of a foreign company provides a degree of protection to the policyholders and the public which is substantially similar to that provided by this chapter, the commissioner to the extent the commissioner considers appropriate may consider compliance with that law or regulation as compliance with this chapter.

### **2751.1200 AUTHORIZATION OF AGENTS.**

No person, corporation, partnership, or other legal entity may sell or offer for sale in this state any modified guaranteed annuity contract unless licensed to sell variable annuities under the insurance laws of this state.

## Bureau of Mediation Services

### Proposed Permanent Rules Relating to Arbitration Roster

#### Notice of Intent to Adopt a Rule Without a Public Hearing

NOTICE IS HEREBY GIVEN that the State Bureau of Mediation Services intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopted rules without a public hearing, *Minnesota Statutes*, sections 14.22 to 14.29. The statutory authority to adopt the rule is *Minnesota Statutes*, section 179.02, subdivision 4.

All persons 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. 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 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 in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reasons for the request and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Paul W. Goldberg, Commissioner  
Bureau of Mediation Services  
1380 Energy Lane, Suite Two  
St. Paul, MN 55108  
(612) 649-5421

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed 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 identifies that data and information relied upon to support the proposed rule has been prepared and is available from Paul W. Goldberg, Commissioner, Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota 55108.

You are hereby advised pursuant to *Minnesota Statutes*, section 14.115 (1988) that the proposed rules have a minor impact on small business. The requirements of these proposed rules are similar to the requirements of other state and federal agencies which empanel labor arbitrators and, therefore, do not impose additional requirements of a substantive or burdensome nature than would normally be faced by persons engaged in this profession. The agency has considered all of the provisions of *Minnesota Statutes*, section 14.115, subd. 2, in reducing the impact of these rules upon small businesses, has solicited opinions from directly affected small businesses, and is providing a copy of this notice and the proposed rules to all small businesses known to be affected by the rules.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 Paul W. Goldberg, Commissioner, Bureau of Mediation Services, 1380 Energy Lane, Suite Two, St. Paul, Minnesota, 55108.

Dated: 10 July 1989

Paul W. Goldberg  
Commissioner

### **Rules as Proposed (all new material)**

#### **5530.0100 APPLICATION.**

This chapter applies to the empanelment, referral, conduct, and removal of persons on the arbitrator roster maintained by the commissioner. This chapter applies to all persons on the arbitrator roster, to all applicants for placement on the roster, to all users of the roster, and to all arbitration proceedings conducted as the result of a referral from the roster. Nothing in this chapter is intended to limit the right of the parties to jointly select any arbitrator or arbitration procedure which is acceptable to them.

#### **5530.0200 POLICY.**

It is the policy of the state of Minnesota to promote orderly and constructive relationships between labor and management and to avoid unresolved disputes that can be injurious to the public as well as the parties. The use of collective bargaining procedures and binding arbitration to resolve grievances and certain interest disputes between labor and management are specifically encouraged. This chapter shall be liberally construed to effectuate these policies and the provisions of *Minnesota Statutes*, chapters 179 and 179A.

#### **5530.0300 DEFINITIONS.**

Subpart 1. **Advisory committee.** "Advisory committee" means a committee consisting of three union representatives, three employer representatives, and two roster members that are appointed by the commissioner under *Minnesota Statutes*, section 15.014, to advise the commissioner regarding the appointment and removal of persons to the arbitrator roster. The committee shall not expire as provided by *Minnesota Statutes*, section 15.059.

Subp. 2. **Applicant.** "Applicant" means an individual who is seeking appointment to the roster.

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Subp. 3. **Arbitrator roster or roster.** "Arbitrator roster" or "roster" means a listing of persons determined by the commissioner to be qualified and available for referral as an arbitrator of labor disputes under this chapter.

Subp. 4. **Bureau.** "Bureau" means the Bureau of Mediation Services.

Subp. 5. **Close of the record.** "Close of the record" means the last date of hearing or the final date for post-hearing submission of written material, if any, whichever is later.

Subp. 6. **Commissioner.** "Commissioner" means the commissioner of the Bureau of Mediation Services.

Subp. 7. **Expedited panel.** "Expedited panel" means a list established by the commissioner of roster members who are willing and able to handle expedited cases under part 5530.1100.

Subp. 8. **Initial appointment.** "Initial appointment" means a new appointment to the roster of a person who is not listed on the roster at the time application for appointment is made.

Subp. 9. **Issuance of award.** "Issuance of award" means the date an award is signed and issued by the arbitrator. If an award is undated, the date of receipt by the commissioner is considered the date of issuance for purposes of this chapter.

Subp. 10. **Panel.** "Panel" means a listing of roster members compiled by the commissioner for referral to the parties, from which they may subsequently select an arbitrator.

Subp. 11. **Party or parties.** "Party" or "parties" means an employer or exclusive representative directly involved and affected by a dispute for which a roster member has been requested or referred, or a designated representative.

Subp. 12. **Probationary appointment.** "Probationary appointment" means a temporary appointment not exceeding 24 months in duration for purposes of further evaluating the performance, acceptability, or conduct of a roster member.

Subp. 13. **Renewal appointment.** "Renewal appointment" means the appointment of an existing roster member to an additional term as a roster member.

### 5530.0400 ROLE OF BUREAU.

The role of the bureau under this chapter is limited to matters relating to the appointment of persons to and removal or referral of names from the arbitrator roster. The bureau has no role, responsibility, or authority under this chapter to:

- A. compel parties to agree to arbitrate;
- B. enforce an agreement to arbitrate;
- C. compel parties to appear before an arbitrator;
- D. influence, alter, enforce, or set aside the decisions or awards of arbitrators; or
- E. compel, deny, or modify the payment of fees and expenses to an arbitrator, except as provided in part 5530.1000, subpart 6.

### 5530.0500 STATUS OF ARBITRATORS.

Persons listed on the roster, whether or not selected or appointed to hear matters under this chapter, do not become employees or agents of the state of Minnesota or the bureau by virtue of their placement on the roster or their subsequent selection or appointment as an arbitrator. Except for the reporting and performance requirements of this chapter, the arbitrator's relationship is solely with the parties to a dispute.

### 5530.0600 ARBITRATOR QUALIFICATIONS.

Subpart 1. **General labor relations background.** Persons seeking appointment to the arbitrator roster must have substantial knowledge of collective bargaining and labor relations matters in the public or private sectors, be well versed in applicable state and federal law, and be experienced and knowledgeable in the field of labor arbitration.

Subp. 2. **General abilities.** Potential applicants for placement on the roster must be willing and able to travel throughout Minnesota, conduct hearings in a fair and impartial manner, analyze and evaluate testimony and exhibits, write clear and concise awards in a timely manner, and be available for hearings within a reasonable time after the request of the parties.

Subp. 3. **Advocacy disqualification.** No applicant or roster member may currently, or within the preceding 12 months, have functioned as an advocate for any public or private sector employer, employee, or employee organization in any phase of labor management relations. This prohibition applies to employee discharge or disciplinary appeal proceedings, whether or not the employee is represented by an exclusive representative. The commissioner shall disqualify individuals who are closely associated with firms or organizations that function as advocates from appointment to particular panels, when the appointment would present the appearance of a conflict of interest.

Subp. 4. **Demonstrating qualifications.** The burden for establishing qualifications for appointment on the roster is on the person

seeking appointment. The commissioner will examine the evidence to determine the complexity of issues the applicant claims experience in, and the technical, theoretical understanding the applicant has demonstrated in handling such matters, and shall make appointments to the roster pursuant to part 5530.0700, subpart 6. Evidence of an applicant's qualification may be advanced in one or a combination of the following ways:

A. submission of six or more arbitration awards or contested case decisions that were authored and signed by the applicant in the 24-month period preceding application;

B. a minimum of six years' experience as a full-time labor relations advocate and submission of six arbitration awards in which the applicant acted as the principal representative for either labor or management;

C. a minimum of six years' experience as a full-time labor mediator, including substantial grievance mediation experience;

D. a minimum of six years' experience as a practitioner or full-time instructor of labor law or industrial relations, including substantial content in the area of collective bargaining, labor agreements, and contract administration;

E. membership in the National Academy of Arbitrators; and

F. satisfactory completion of a formalized course of instruction and internship in a program that has been approved by the commissioner in advance of participation or enrollment by the applicant. The program must include the writing of not less than two mock awards under the supervision and guidance of an arbitrator already admitted to the roster or otherwise approved in advance by the commissioner.

Subp. 5. **Domicile.** To be eligible for appointment or continuation on the roster, individuals must maintain a principal place of residence in Minnesota or one of its contiguous states. The maintenance of a mail box or mail delivery point is not sufficient to satisfy the requirement of this subpart.

#### **5530.0700 APPOINTMENT TO ROSTER.**

Subpart 1. **Size of roster.** The size of the arbitrator roster shall be not fewer than 25 nor more than 50 members. Annually, the commissioner shall determine whether or not to add members to the roster based on the number of referrals over the preceding 12 months and projected referrals from the roster over the next 12 months.

Subp. 2. **Procedure; initial appointments.** When, pursuant to subpart 1, the commissioner determines that it is appropriate to make additional appointments to the roster, the commissioner shall:

A. publish notice in the *State Register* for not less than 30 days, indicating that applications for appointment are being accepted and establishing a deadline for the applications;

B. in conjunction with the advisory committee, conduct interviews of applicants selected for further consideration, to further assess the applicant's qualifications and suitability for appointment to the roster;

C. advise all applicants in writing regarding the commissioner's final determination with respect to their application;

D. actively solicit qualified applicants who will help provide balance in the racial and gender composition of the roster; and

E. conduct an initial review of applications received and, based on the information provided in the application, reference checks, and the arbitrator qualification requirements of this chapter, select or reject applications for further consideration. The commissioner may conduct additional investigations regarding the application if necessary to obtain a full understanding of the applicant's qualifications.

Subp. 3. **Procedure; renewal appointments.** The commissioner shall notify all roster members not less than 120 days before the expiration of their appointment of the procedures necessary for reappointment to the roster. The appointment of one-third of the members on the roster at the time this chapter is adopted shall expire on July 30, 1991; an additional one-third shall expire on July 30, 1992; and the final one-third shall expire on July 30, 1993. The names of roster members falling into each one-third shall be determined by lot. Persons desiring to renew their appointment on the roster shall submit a written application and fee to the commissioner not less than 60 days before the expiration of their appointment. Following receipt of a renewal application, the commissioner shall review available referral, performance, and activity records of the applicant and proceed according to subpart 6.

Subp. 4. **Application forms.** Individuals who wish to be considered for initial or renewal appointment to the roster must complete an application on forms available from the bureau. Writing samples must accompany the application.

Subp. 5. **Application fee.** A nonrefundable application fee of \$50 for initial appointments and \$25 for renewals must accompany

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each application for appointment or renewal. The fee must be in the form of a check or money order made payable to "State of Minnesota, Bureau of Mediation Services."

Subp. 6. **Standards for appointment.** In determining whether or not to appoint a member to the roster, the commissioner shall evaluate each application for evidence of the applicant's competence, proficiency, and qualifications in the following areas:

- A. knowledge and understanding of labor relations systems and collective bargaining processes and dynamics;
  - B. knowledge and understanding of applicable contract, employment, and labor relations law and rules;
  - C. ability to hear and decide complex labor relations issues in a fair and objective manner;
  - D. ability to communicate, both orally and in writing, in a clear and concise manner;
  - E. ability to conduct orderly and effective arbitration hearings in a variety of settings and locations throughout Minnesota;
- and
- F. high moral character and integrity.

In addition to meeting these standards for appointment, roster members seeking reappointment must satisfy the requirements of part 5530.1200.

Subp. 7. **Disposition of applications.** If an applicant has satisfied the requirements of subpart 6, the commissioner shall appoint or reappoint the applicant to the roster. If the applicant has failed to satisfy the requirements of subpart 6, the commissioner shall reject the application in writing, including the reasons for the rejection. In the event that there are more qualified applicants than vacancies on the roster, the commissioner shall appoint applicants in rank order of their qualifications or by lottery where qualifications are relatively equal.

Subp. 8. **Term of appointment.** Initial appointments to the roster shall be for a term of five years. Renewal appointments to the roster shall be for a term of three years. The commissioner shall establish a common July 30 expiration date for all appointments for purposes of administrative convenience.

### 5530.0800 ARBITRATOR CONDUCT AND STANDARDS.

Subpart 1. **Scope.** The criteria and standards in subparts 2 to 10 apply to all persons on the roster. Failure to comply with these provisions constitutes grounds for disciplinary action or removal from the roster under part 5530.1300.

Subp. 2. **Professional and ethical responsibilities.** Except as otherwise provided in this chapter, the Code of Professional Responsibility for Arbitrators of Labor-Management Disputes approved and published by the National Academy of Arbitrators is incorporated by reference and is applicable to and shall govern the professional behavior of persons appointed to the roster. The code was adopted in 1975 and amended in 1985 and is not subject to frequent change. Single copies of the code are available without charge from the commissioner, and are available through the Minitex interlibrary loan system.

Subp. 3. **Conflicts of interest.** The arbitrator must disclose any personal or professional relationships, including direct or indirect past employment, consultative relationships, or affiliation with one of the parties, which may give an appearance of partiality. The burden of disclosure is on the arbitrator.

Subp. 4. **Communication with parties.** Arbitrators shall not solicit parties for selection to cases. All matters involving a case or contact with the parties must be handled in a manner that fosters the impartiality of the arbitrator. The arbitrator shall not communicate, directly or indirectly, in connection with any issue of fact or law with any person or party, except upon notice and opportunity for all parties to participate. When this chapter authorizes communications contrary to this part, the communications shall be limited to only those matters permitted by this chapter. The arbitrator may communicate regarding dates or procedures for the hearing without violating this part.

Subp. 5. **Use of assistants or associates.** An arbitrator may, without prior consent of the parties, delegate research, clerical, and preliminary drafting responsibilities to an assistant. However, the assistant may not be delegated decision-making functions or authority, and the arbitrator retains responsibility and accountability for all aspects of the award and its handling.

Subp. 6. **Timeliness.** It is the responsibility of the arbitrator to schedule time commitments in a manner consistent with the needs of the parties and the expeditious handling of disputes. The arbitrator must adhere to the time limits of the parties' arbitration procedure. When initially accepting and scheduling a case, or at the first reasonable opportunity to become aware of the time limits, the arbitrator must indicate whether or not the time limits specified in the arbitration procedure will present a problem in the timely handling of the case. Although the time limits specified in an arbitration procedure may be waived or extended by the parties, it is improper for an arbitrator to routinely request or suggest extensions. If, after accepting and hearing a case, the arbitrator discovers that he or she will be unable to render an award within the time limits specified in the arbitration procedure, the arbitrator shall notify each party in writing of the reason for the delay and shall seek approval for establishing an alternate date for completion of the award.

Subp. 7. **Administrative or cancellation fees.** Arbitrators may charge an administrative fee for establishing a case file and cancellation fees for hearings that are canceled or rescheduled by one or both parties with less than 21 calendar days' notice, provided the fees and policies are clearly noted on the biographic sketch for that arbitrator that is on file with the bureau.

Subp. 8. **Arbitration fees.** All fees charged by an arbitrator selected under this chapter shall be based on the per diem fee schedule in the biographic sketch on file with the commissioner. The arbitrator shall maintain reasonable time and expense records related to each case and, in the event of a dispute over the reasonableness of fees and expenses in a case, shall make the records available to the parties or the commissioner, upon written demand. Disputes over the reasonableness of fees may be resolved under part 5530.1000, subpart 6.

Subp. 9. **Filing copies of awards.** Unless one or both private sector parties have specifically requested that an award not be provided to the commissioner, arbitrators shall submit copies of all awards involving Minnesota work sites to the commissioner, regardless of the source of appointment or selection. Roster members shall also provide the commissioner with a copy of all Minnesota public sector awards and all hearing officer reports filed as a result of selection under *Minnesota Statutes*, section 125.12. Awards filed with the commissioner are public documents.

Subp. 10. **Arbitrator fee and summary report.** For each award filed with the commissioner, whether originating from a bureau referral or other source, the arbitrator shall provide a summary report that discloses the following:

A. case identification information, including:

- (1) arbitrator's name;
- (2) case file number or bureau case number, if any;
- (3) name and location of employer and name of employer's representative; and
- (4) name of exclusive representative and agent of the exclusive representative;

B. case processing date information, including:

- (1) date the grievance was filed or first made known to the employer;
- (2) date arbitrator was notified of selection by parties;
- (3) date of hearing;
- (4) final date for submission of briefs or other written material, if any; and
- (5) date award was issued; and

C. arbitrator fee and expense information for all awards resulting from a referral by the commissioner, including:

- (1) number of days of hearing billed;
- (2) number of days of study and preparation of award billed;
- (3) number of days billed for travel;
- (4) per diem rate for billing;
- (5) travel expenses billed;
- (6) other expenses billed;
- (7) total fees and expenses charged; and
- (8) amount of the total costs to be paid by each party.

Forms for reporting this information must be furnished by the bureau.

#### **5530.0900 PANEL SELECTIONS AND REFERRALS.**

Subpart 1. **Request for panels.** Individuals or organizations desiring a panel of arbitrators drawn from the roster shall submit individual or joint written requests that include the following:

- A. the name and location of the employer and the name, address, and telephone number of the employer's representative;
- B. the name of the employee organization and the name, address, and telephone number of the employee organization's

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representative;

- C. a brief statement of the nature of the dispute being submitted to arbitration, for example, discharge or overtime pay;
- D. the nature or type of business of the employer;
- E. a description of the type of bargaining unit involved, for example, clerical, maintenance, dietary, or teacher; and
- F. the date the grievance or dispute was first made known to the employer.

Subp. 2. **Size and selection of panels.** Unless a single arbitrator is to be appointed under subpart 3, all panels submitted by the commissioner shall contain seven names. When the parties' arbitration agreement provides for panels of fewer than seven names, the parties may use the striking procedures in subpart 5 to reduce the size of a seven-member panel. In assembling panels, the commissioner shall use a random selection system that results in a reasonably equal number of opportunities for referral among roster members who have been on the roster for three or more years. When possible, no more than three arbitrators who have been on the roster for less than three years shall be included on a single panel, but the commissioner shall provide greater referral opportunities for those individuals. In assembling panels, the commissioner shall seek to avoid potential conflicts of interest and shall include or exclude roster members pursuant to mutual requests of the parties. Geographic location or unique and special circumstances and technical expertise must be considered by the commissioner when the parties request that those factors be considered. At least five members of the panel must be residents of Minnesota.

Subp. 3. **Direct appointment by commissioner.** The commissioner shall appoint one person from the roster to serve as the arbitrator whenever the agreement to arbitrate or other joint agreement of the parties provides for direct appointments.

Subp. 4. **Replacement panels or names.** Upon the joint request of the parties, the commissioner shall issue a new panel of seven names to replace a prior panel. No more than one replacement panel will be provided in any one case. Single-party requests for replacement panels will not be honored unless the commissioner determines that a bona fide conflict of interest exists regarding the matter in dispute between one or more parties and two or more members of the panel. If a conflict is found by the commissioner, a single replacement panel will be issued.

Subp. 5. **Selection from panels.** The parties shall select an arbitrator or arbitrators from the panel under the terms of their agreement or grievance procedure. In the absence of an agreement, the selection shall be made by alternately deleting names from the panel until the required number of names remain. Determining which party shall delete the first name shall be accomplished by a toss of a coin.

Subp. 6. **Scheduling.** Notifying the arbitrators of their selection and the scheduling of the arbitration hearing is the responsibility of the parties. Once the initial arbitration hearing has been established, the party who requested the panel shall notify the commissioner of the arbitrators selected, the date the selection was made, and the date of the initial arbitration hearing.

Subp. 7. **Biographic data.** The bureau shall review and prepare a biographic sketch of each member on the roster annually, based on information provided by that member and other information available to the commissioner. The sketches must include information about the arbitrator's background, education, and experience, as well as data regarding the arbitrator's fee schedule and acceptance of hearing officer duties under Minnesota Statutes, section 125.12. The mean number of calendar days required by each arbitrator to issue an award during the preceding year, as well as the upper and lower limits and number of cases used to determine that mean, based on records on file with the bureau, shall be included on the biographic sketch for that arbitrator beginning July 30, 1991. Arbitrators are responsible for ensuring the accuracy of all other biographic and fee data on the sketch. Single copies of the sketches will be made available to parties with the referral of panels.

Subp. 8. **Jurisdiction of bureau.** Submission of a panel or appointment of an arbitrator under this chapter signifies nothing more than compliance with a request and is not a determination as to the legitimacy of the dispute or the competency of the arbitrators to resolve it. The bureau does not have jurisdiction or responsibility for enforcement, resolution, or compliance with any aspect of the arbitration process other than providing the services specifically established by this chapter.

### 5530.1000 ARBITRATION PROCEEDINGS.

Subpart 1. **Responsibility of arbitrators.** Arbitrators selected as a result of referral on a bureau panel must ensure that a fair, adequate, and timely hearing is conducted in a manner that reasonably minimizes cost and expense to the parties.

Subp. 2. **Transcripts or recordings.** Official verbatim recordings or transcripts of an arbitration proceeding shall not be encouraged by the arbitrator. If a single party requests a transcript be made, and the matter is not addressed in the contract or grievance procedure, the arbitrator shall permit the record to be made if the party requesting the transcript makes the necessary arrangements, pays for all costs associated with the transcript, and provides copies to the other party and the arbitrator.

Subp. 3. **Tape recordings.** An arbitrator may use a tape recording of a hearing as a supplement to his or her notes. The tape of the hearing shall be regarded as the personal property of the arbitrator, but must be maintained by the arbitrator for not less than 90 days following issuance of the award.



Subp. 4. **Briefs.** Arbitrators should not encourage the submission of post-hearing briefs unless the arbitrator determines that the case is of a sufficiently complex nature and warrants the need for a written summation of evidence and argument. If one or both parties desire to submit briefs, the arbitrator shall establish a prompt schedule.

Subp. 5. **Payment of fees and costs.** Parties requesting panels under this chapter must pay the reasonable fees and costs of the arbitrator promptly. Each party to the dispute is responsible for their pro rata share of the arbitrator's fees and costs, except as otherwise provided by the express terms of the agreement to arbitrate. In the event of a dispute between one or both parties and the arbitrator over the arbitrator's fees or costs, the party contesting the fee may request arbitration of the fee dispute under subpart 6.

Subp. 6. **Dispute over fees.** If a party believes that the fees or expenses charged by an arbitrator are inappropriate or incorrect and is unable to resolve the matter through discussion with the arbitrator, that party may submit a written statement of protest to the commissioner within 30 calendar days of receipt of the arbitrator's invoice. The protest shall provide the specific basis for the objection and a copy shall be provided to the arbitrator and the other party. The commissioner shall investigate and respond to the complaint promptly and if the commissioner believes further examination is necessary, the matter will be referred to a panel of the advisory committee consisting of one union representative, one employer representative, and one roster member, all of whom shall be selected by the commissioner. The panel shall investigate the matter, provide all parties at interest an opportunity to be fairly heard, and issue a written decision that is final and binding upon the parties and the arbitrator.

### **5530.1100 EXPEDITED ARBITRATION.**

Subpart 1. **Request for expedited arbitration.** Parties may use expedited procedures for arbitrating a dispute by filing a joint written request with the commissioner. The request must be signed by authorized representatives from both parties and contain the following information:

- A. name, address, and telephone number of the employer and the employer's representative;
- B. name, address, and telephone number of the exclusive representative and the agent of the exclusive representative; and
- C. a brief statement of the nature of the dispute, for example, discharge, discipline, or holiday pay.

Subp. 2. **Appointment of arbitrator.** The commissioner shall appoint a single arbitrator from the expedited panel of roster members maintained for this purpose. The arbitrator appointed by the commissioner shall hear and decide the case according to this part.

Subp. 3. **Disclosures.** If, after appointment to a case, the arbitrator discovers any circumstance likely to prevent a prompt hearing or which presents a potential conflict of interest or other circumstance detrimental to the intent of this part, the arbitrator shall promptly notify the parties and the commissioner. Under such circumstances, the commissioner shall immediately appoint a new arbitrator from the expedited panel, unless the parties otherwise mutually agree.

Subp. 4. **Scheduling of hearing.** The commissioner shall fix the time and date for a hearing on the matter in dispute. The hearing will be held in the offices of the bureau, or at a location mutually agreed upon by the parties and the arbitrator, within 15 working days of receipt of the joint request. The commissioner shall provide at least 48 hours' advance notice, written or oral, before any hearing under this part.

Subp. 5. **Conduct of hearing.** All hearings under this part shall be closed to the public, pursuant to *Minnesota Statutes*, section 179A.14, subdivision 3, and no verbatim transcripts or audio-magnetic recordings shall be permitted. Each party may be represented by counsel or other representative, but each party shall be limited to a total of 90 minutes for presentation of its case and arguments. The arbitrator shall determine all procedural questions not addressed by this part, including order of presentation, framing of the issue, and sequestering of witnesses, if any. Under unusual circumstances and for demonstrated good cause, as determined by the arbitrator, the arbitrator may schedule an additional hearing on the matter, provided the hearing is conducted within five working days. The arbitrator may proceed in the absence of a party who, after due notice, fails to appear, but the arbitrator must rely on the evidence actually presented when reaching an award.

Subp. 6. **Evidence.** Parties shall limit the number and extent of exhibits to those that are essential and relevant to the contentions of that party. The arbitrator shall be the sole judge of the relevance, materiality, and weight of the evidence offered. The arbitrator may receive and consider evidence in the form of affidavit, but shall give appropriate weight to any objections raised by the other party. All written material to be considered by the arbitrator must be presented during the hearing. There shall be no pre-hearing or post-hearing submissions.

**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.

## Proposed Rules

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Subp. 7. **Written briefs.** There shall be no post-hearing briefs.

Subp. 8. **Issuance of award.** The arbitrator shall issue a brief written award within five working days from the close of the hearing. The award shall be simultaneously mailed to both parties and the commissioner. The arbitrator may orally notify the parties of the decision at the time that the award is mailed, provided both parties are notified in a timely fashion.

Subp. 9. **Precedential value.** Awards issued under this expedited procedure shall have no precedential value.

Subp. 10. **Fees and expenses.** The arbitrator shall receive a total fee of \$450 per award issued under this part, plus reasonable and actual expenses. Unless otherwise specifically provided by the parties' contract or agreement to arbitrate, each party is responsible for one-half of the total fee and expenses.

Subp. 11. **Cancellation fee.** If the parties withdraw a request for expedited arbitration under this part within seven calendar days of a scheduled hearing, the parties are responsible for a cancellation fee of \$100 each, payable to the arbitrator.

### 5530.1200 PERFORMANCE MEASURES.

Subpart 1. **Renewal criteria.** When reviewing an application for renewal appointment to the roster, the commissioner shall use the criteria in subparts 2 to 7 in determining whether or not to reappoint.

Subp. 2. **Selection rate.** The commissioner shall develop and maintain reliable data concerning the frequency with which individuals are selected by parties from panels referred by the bureau. A selection frequency that falls in the upper three quartiles of the frequencies of all arbitrators on the roster is evidence that an arbitrator has established acceptability among the parties who use the roster. Appointments under part 5530.1100 shall not be considered in determining selection frequency. A selection rate in the lowest quartile shall not be the sole basis for failure to reappoint unless the arbitrator has been in the lowest quartile for two consecutive years and was selected for fewer than three cases in the most recent 12-month period.

Subp. 3. **Scheduling.** A lack of substantiated written complaints from parties that an arbitrator has failed to offer a reasonable number of dates on which the arbitrator is available to hear a case within 60 days of the arbitrator's notification of selection is evidence that an arbitrator is meeting the availability standards of this chapter.

Subp. 4. **Timeliness.** The commissioner shall consider the mean number of calendar days between the close of the record in a case and the issuance of an award during the preceding 12 months to determine whether or not roster members are meeting timeliness requirements. In evaluating the data, the commissioner shall rely on information provided by the arbitrator under part 5530.0800, subpart 9, and data available from awards on file with the commissioner, but shall not consider awards issued under part 5530.1100. A mean that exceeds 60 days is evidence that an arbitrator is not timely in the handling of cases, but shall not be the sole basis for a determination not to reappoint.

Subp. 5. **Evaluation by parties.** The commissioner shall encourage evaluations of the performance of roster members by the parties. Both individual and summary evaluation information shall be considered by the commissioner.

Subp. 6. **Availability.** Arbitrators who have been available to accept cases for at least 18 of the preceding 36 months, including at least six of the preceding 12 months, meet the availability requirements for reappointment.

Subp. 7. **General professional criteria.** All roster members are required to maintain proficiency and competency in the areas in part 5530.0700, subpart 2. Failure of an arbitrator to comply with this chapter, including the submission of information or reports, shall be grounds for removing or not reappointing a roster member.

### 5530.1300 DISCIPLINARY OR REMOVAL PROCEDURES.

Subpart 1. **General.** Membership on the roster is a privilege and no arbitrator has a right to placement on the roster. The commissioner has authority to investigate all complaints and allegations regarding the professional performance and compliance with this chapter by members of the roster. The commissioner shall advise, counsel, suspend, or remove roster members when the results of an investigation demonstrate violation by the arbitrator of the performance, professional, or ethical standards established by this chapter.

Subp. 2. **Preliminary investigation.** When the commissioner receives a complaint regarding violation of this chapter by a member of the roster, the commissioner shall conduct an informal investigation of the matter to determine if there is probable cause to believe that a roster member has violated any requirements of this chapter. In the absence of a violation, the commissioner shall take no further action. If further action on the matter is warranted, the commissioner shall suspend the roster member from further referrals pending the conclusion of proceedings under this chapter.

Subp. 3. **Notice.** When the commissioner finds probable cause to believe that a violation of this chapter has occurred and that removal or disciplinary suspension of a roster member should be considered, the commissioner shall provide written notice to the roster member and the advisory committee. The written notice must contain the nature of the action being considered and the reasons for it. The notice shall provide an opportunity for the roster member to respond in writing and shall fix a date for a hearing on the matter before the commissioner or a designated representative, if the roster member wishes to contest the proposed action.

Subp. 4. **Hearing.** If a hearing on a disciplinary matter is requested by the affected roster member, the commissioner or the commissioner's representative shall convene and conduct a hearing pursuant to part 5510.1910, subparts 6, 8, 9, 10, 12, 13, and 14. Advisory committee members may attend the hearing or review the audio-magnetic recording from the proceedings.

Subp. 5. **Determination.** The commissioner shall determine the action to be taken with respect to the member's status on the roster, based on the record of the hearing, the recommendations of the advisory committee, and this chapter. The determination is a final decision.

## **Board of Medical Examiners**

### **Proposed Permanent Rules Relating to Fee Splitting**

#### **Notice of Intent to Adopt a Rule Without a Public Hearing**

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Examiners intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 147.01, subdivision 3.

All persons 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. 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 in writing. 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, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

H. Leonard Boche, Executive Director  
Minnesota Board of Medical Examiners  
2700 University Avenue West, #106  
St. Paul, MN 55114-1080  
612-642-0538

The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from H. Leonard Boche.

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

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 H. Leonard Boche.

Dated: 24 April 1989

H. Leonard Boche  
Executive Director

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## Proposed Rules

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### Rules as Proposed (all new material)

#### 5620.0100 PURPOSE.

The purpose of *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), and parts 5620.0110 to 5620.0160 is to protect consumers against medical-economic arrangements, practices, and relationships by physicians that unnecessarily increase the cost of health care to consumers, restrict consumer access to goods and services, and otherwise present harm to consumer interests. The board shall comply with *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), and parts 5620.0110 to 5620.0160 in evaluating complaints received by the board relating to medical-economic arrangements, practices, or relationships among health care providers.

#### 5620.0110 DEFINITIONS.

Subpart 1. **Scope.** As used in *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), the following terms have the meanings given them.

Subp. 2. **Device.** "Device" means an instrument, apparatus, implement, machine, contrivance, implant, in vitro reagent, or other similar or related article including a component, part, or accessory, that as a completely assembled article exceeds \$99 in cost and is:

A. recognized in the official United States Pharmacopoeia and National Formulary and its supplements;

B. intended for use in diagnosing disease or other conditions, or in curing, mitigating, treating, or preventing disease in a person;

C. intended to affect the structure or function of the body of a person, and that does not achieve any of its principal intended purposes through chemical action within or on the body of a person and is not dependent upon being metabolized for the achievement of any of its principal intended purposes; or

D. restricted under federal law to sale by or on the order of a licensed practitioner.

Nondurable medical equipment, meaning a supply or piece of equipment that is used to treat a health condition and cannot be reused, is excluded from this definition of device.

Subp. 3. **Drugs.** "Drugs" has the meaning in part 5600.0100, subpart 8.

Subp. 4. **Financial interest.** "Financial interest" means an asset that is directly owned or controlled by an individual or business and that has the potential to produce a monetary return.

Financial interest does not include the ownership of a building by a physician where space is leased to an individual or organization at the prevailing rate in a straight lease agreement or any interest held by a physician in a publicly traded stock.

Subp. 5. **Profit interest.** "Profit interest" means a financial amount received by the physician that exceeds the acquisition cost of a drug or device plus the cost of having the drug or device available.

Subp. 6. **Significant financial interest.** "Significant financial interest" means any financial interest as defined in subpart 4 that is equal to or greater than five percent of the whole or \$5,000, whichever is the lesser amount.

#### 5620.0120 INCORPORATION BY REFERENCE OF CRITERIA TO DEFINE DEVICE.

The most recent edition of the United States Pharmacopoeia and National Formulary and its supplements are incorporated by reference. The publication is issued by the United States Pharmacopoeial Convention, Inc., 12601 Twinbrook Parkway, Rockville, Maryland, 20852. It is available for inspection and copying through the Minitex interlibrary loan system. The publication is subject to change.

#### 5620.0130 DISCLOSURE REQUIREMENTS AND FORMATS.

Subpart 1. **Written disclosure required.** The disclosure requirements in *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), are met if the written disclosure is made before a referral. The written disclosure must reasonably apprise the patient or patient's guardian of the physician's financial and profit interest in the individual or entity to which the physician is making the referral, and contain a statement that the patient is free to choose providers other than the one recommended by the physician. The written disclosure must consist of one of the formats in items A to D.

A. The posting of a conspicuous sign in an area that is likely to be seen by the patients and patients' guardians who use the physician's facility.

B. The incorporation of a conspicuous written notice in existing office documents used by the physician. Office documents may include, but are not limited to, prescription sheets, office information or policy booklets, referral forms, and any similar regularly distributed information handout.

C. The use of a written disclosure document that is given to a patient or patient's guardian for review. A copy of the document must be provided to the patient or patient's guardian.

D. A combination of the written disclosure formats described in items A to C.

Subp. 2. **Unwritten disclosure; when allowed.** A nonwritten disclosure format may be used to satisfy the disclosure requirements of *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), when necessary to accommodate the physical condition of a patient or the patient's guardian that makes use of written disclosure alone unworkable.

Subp. 3. **Information must be updated.** The disclosure information shall be updated to show any change in the circumstances regarding the physician's financial or profit interest.

#### **5620.0140 EVIDENCE OF DISCLOSURE.**

When the board investigates a violation of *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), the burden of proof is on the physician investigated to show evidence the physician complied with disclosure requirements in part 5620.0130.

#### **5620.0150 DISCLOSURE OF PROPRIETARY INFORMATION.**

Specific contract terms or similar proprietary information relating to a physician's financial and profit interest is not required to be part of the information provided in a disclosure under part 5620.0130.

#### **5620.0160 DIVISION OF FEES.**

In reviewing a division of fees as described in *Minnesota Statutes*, section 147.091, subdivision 1, paragraph (p), clause (2), the board may consider, but is not limited to, the following factors regarding the reasonableness of a proportional division of fees:

- A. the value of professional services;
- B. overhead costs;
- C. time and distance traveled; and
- D. the availability of the service or product elsewhere in the local trade area.

## **Board of Medical Examiners**

### **Proposed Permanent Rules Relating to Physical Therapy**

#### **Notice of Intent to Adopt a Rule Without a Public Hearing**

NOTICE IS HEREBY GIVEN that the Minnesota Board of Medical Examiners intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes*, section 148.74.

All persons 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. 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 in writing. 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, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

H. Leonard Boche, Executive Director  
Minnesota Board of Medical Examiners  
2700 University Avenue West, #106  
St. Paul, Minnesota 55114-1080  
612-642-0538.

**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.

## Proposed Rules

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The proposed rule may be modified if the modifications are supported by data and views submitted to the agency and do not result in a substantial change in the proposed rule as noticed.

A copy of the proposed rule is attached to this notice. A free copy of the rule is available upon request from H. Leonard Boche.

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

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted 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 H. Leonard Boche.

Dated: 19 June 1989

H. Leonard Boche  
Executive Director

### Rules as Proposed

#### 5600.2500 ANNUAL FEES.

The fees charged by the board are fixed at the following rates:

- A. physician examination fee, full exam, \$425;
- B. physician examination fee, Part I only, \$250;
- C. physician examination fee, Part II only, \$300;
- D. physician application fee, \$200;
- E. physician annual registration, \$115;
- F. physician certification to other states, \$10;
- G. physician verification to institutions, \$5;
- H. physician endorsement to other states, \$40;
- I. physician emeritus license, \$50;
- J. physician temporary licenses, \$60;
- K. physician late fee, \$60;
- L. physical therapist application fee, \$40;
- M. physical therapist examination fee, ~~\$90~~ \$110;
- N. physical therapist annual registration, \$20;
- O. physical therapist late fee, \$10;
- P. physical therapist certification to other states, \$10; and
- Q. physical therapist verification to institutions, \$5; and
- R. physical therapist temporary permit, \$10.

#### 5601.0100 DEFINITIONS.

Subpart 1. to 4. [Unchanged.]

**Subp. 5. Licensed health care professional or licensed health care provider.** “Licensed health care professional” or “licensed health care provider” means a person licensed in good standing in Minnesota to practice medicine, osteopathy, chiropractic, podiatry, or dentistry.

**Subp. 6. Initiation of treatment.** “Initiation of treatment” means the initiation by a physical therapist of physical measures, therapeutic exercises, and rehabilitation procedures, as defined by Minnesota Statutes, section 148.65, without the express direction or supervision of a health care professional.

**Subp. 7. Previously diagnosed condition.** “Previously diagnosed condition” means a condition diagnosed by a health care professional within the 24-month period preceding the date the physical therapist initiates treatment for the condition.

**Subp. 8. Clinical experience.** “Clinical experience” means practice under a physician’s direction or supervision as verified by the board’s records.

**Subp. 9. Contact hour.** “Contact hour” means an instructional session of 60 minutes, excluding coffee breaks, registration, meals with a speaker or without a speaker, and other social activities.

#### **5601.0300 CONTENTS OF APPLICATION**

The application must be submitted on forms prepared by the board together with the fees described under part 5600.2600. To be complete, the application must include the following information:

A. [Unchanged.]

B. a recommendation of the applicant’s ethical and moral character by one physician duly licensed to practice medicine in the United States or Canada and one physical therapist ~~two physical therapists~~ duly registered to practice physical therapy in the United States or Canada;

C. a recent full-faced ~~notarized~~ photograph of the applicant attached to the application with the affidavit on the form completed and notarized; and

D. an accounting of time beginning with high school education preliminary education listing the names, locations, dates of attendance, and diplomas or degrees awarded by high schools and colleges attended by the applicant;

E. an accounting of professional education listing the names, locations, dates of attendance, and certificates or degrees awarded by board-approved physical therapy schools attended by the applicant;

F. an accounting of the applicant’s postgraduate work and military service;

G. a listing of the states or countries in which the applicant is currently licensed or registered including the applicant’s license or registration certificate number, the date the license or registration was obtained, and the method by which the license or registration was received;

H. an accounting of the applicant’s current and previous physical therapy practice experience listing two references from each place of service;

I. an accounting of any disciplinary complaints, refusal of licensure or registration, or denial of examination eligibility by another state board or physical therapy society against the applicant;

J. an accounting of the applicant’s use of drugs that are subject to abuse and treatment for alcohol or drug abuse;

K. an accounting by the applicant of any current disabling condition, illness, or disease that impairs the applicant’s ability to practice physical therapy;

L. an accounting of any violation of federal, state, or local statutes by the applicant;

M. a listing of any memberships in a physical therapy society;

N. demographic and personal identification information considered necessary by the board;

O. the applicant’s social security number or the applicant’s alien registration card number, whichever is applicable, or notification to the board if no social security number or alien registration card number is assigned to the applicant;

P. completed copies of credentials verification forms considered necessary by the board; and

Q. any other information judged necessary by the board to evaluate the applicant.

#### **5601.0400 APPLICATION DEADLINE.**

All applications for examination must be fully completed in accordance with part 5601.0300 and forwarded to the secretary of the board. An application must be postmarked not later than ~~30~~ 45 days before the date of the examination.

#### **5601.0700 REGISTRATION WITHOUT EXAMINATION.**

The board may register a person as a physical therapist in this state without examination if that person completes or presents evidence satisfactory to the board of having passed an examination in accordance with Minnesota Statutes, section 148.70 administered by a state licensing agency. An applicant for registration without examination shall submit an application on forms provided by the board together with the fees described in part 5600.2500. The form must include the following information:

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## Proposed Rules

A. and B. [Unchanged.]

C. a list of the applicant's physical therapy employment during the past five years the information required by part 5600.0300, items B to Q.

### **5601.0800 REQUIREMENTS FOR FOREIGN-TRAINED APPLICANTS.**

Subpart 1. and 2. [Unchanged.]

Subp. 3. **English test.** The applicant must achieve a score of at least 550 on the test of English as a foreign language TOEFL (Test of English as a Foreign Language) examination administered by the Educational Testing Service, Inc., Princeton, New Jersey, or a passing score of at least 85 percent on the Minnesota battery test on a comparable nationally recognized examination.

Subp. 4. and 5. [Unchanged.]

### **5601.1200 REPORTS.**

The physical therapist shall submit ~~written~~ reports to the ~~prescribing physician~~ referring licensed health care provider at intervals determined by the ~~prescribing physician~~ health care provider concerning the condition and progress of the patient in therapy. Reports should include, but are not limited to, an initial evaluation, progress notes, and a discharge note. Reports by the physical therapist must be made more frequently than designated by the ~~prescribing physician~~ health care provider if the patient's condition warrants.

### **5601.1700 RENEWAL OF REGISTRATION.**

When they renew their registrations each year in compliance with Minnesota Statutes, section 148.73, physical therapists must submit lists of locations or institutions where they have practiced during the past five years. Applicants for reregistration who have not practiced the equivalent of eight full weeks during the past five years are required to achieve a passing score on retaking the registration examination or complete no less than eight weeks of council-approved clinical experience with a broad base of treatment modalities and patient diagnoses. In addition, the applicant must meet the continuing education requirements of parts 5601.2100 to 5601.2500. An application submitted after the reregistration deadline date must be accompanied by the late fee described in part 5600.2500.

### **5601.1800 INITIATION OF TREATMENT FOR A CONDITION NOT PREVIOUSLY DIAGNOSED.**

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a condition not previously diagnosed for up to 30 days once within a four-month period. Subsequent treatments for a condition not previously diagnosed of up to 30 days within a four-month period beginning with the start of the initial treatment may only be made if the patient's complaint and symptoms are unrelated to the complaint and symptoms of the original treatment.

B. A physical therapist with less than one year of clinical experience may not initiate treatment of a previously diagnosed condition.

C. Items A and B do not apply to patients who have been referred for physical therapy treatment by order or referral of a licensed health care professional.

### **5601.1900 INITIATION OF TREATMENT FOR A PREVIOUSLY DIAGNOSED CONDITION.**

A. A physical therapist who has had more than one year of clinical experience may initiate treatment of a patient for a previously diagnosed condition for up to 60 days.

B. A physical therapist with less than one year of clinical experience may not initiate treatment of a previously diagnosed condition.

C. Documentation of the diagnosis under item A or B must be obtained from the licensed health care professional by the physical therapist within 30 days of the initial admission.

### **5601.2000 LIMITATIONS ON PRACTICE.**

If a patient's medical condition is determined by the physical therapist to be beyond the scope of practice of that physical therapist, the physical therapist must refer the patient to a licensed health care professional. A physical therapist shall modify or terminate treatment of a patient that is not beneficial to the patient or that is not tolerated by the patient and shall notify the patient's health care provider of the modification or termination of treatment.

### **5601.2100 CONTINUING EDUCATION REQUIREMENT.**

As a condition of registration renewal, each physical therapist registered by the board shall obtain ten contact hours of continuing education credit as required by parts 5601.2200 to 5601.2600.

### **5601.2200 CONTINUING EDUCATION CYCLE.**

For physical therapists initially registered on or after January 31, 1990, the first annual continuing education cycle begins on



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## Proposed Rules

the January 1 following the date of initial licensure. Future cycles will run consecutively from that point. Continuing education courses taken between the date of initial registration and January 1 of the following year may be credited toward the first cycle.

For physical therapists renewing their registrations on or after January 31, 1990, but who were initially registered before that date, the first annual continuing education cycle begins on January 1 following the renewal date. Future cycles will run consecutively from that point. Continuing education courses taken between the date of renewal of registration and January 1 of the following year may be credited toward the first cycle.

### **5601.2300 CATEGORIES OF CREDITED ACTIVITIES.**

Continuing education credit may be obtained from the following activities:

A. Category 1: No less than five hours of credit must be obtained in a cycle by attendance at educational activities recognized by the board under part 5601.2400.

B. Category 2: No more than five hours of credit may be obtained in a cycle through in-service educational activities sponsored by organizations or individuals not designated in Category 1.

C. Category 3: No more than two hours of credit may be obtained in a cycle through teaching, lecturing, or similar presentation programs.

### **5601.2400 CATEGORY 1 CREDIT.**

The board shall grant Category 1 continuing education credit for the following educational activities:

A. any course planned, sponsored, or cosponsored by an accredited university or college, medical school, state or national medical or osteopathic association, or a national medical specialty society;

B. any course planned, sponsored, or cosponsored by the American Physical Therapy Association or other national or state physical therapy association;

C. any course planned, sponsored, or cosponsored by the Arthritis Foundation, American Heart Association, or other national or state health organization recognized by the physical therapy advisory council as providing such courses or programs; and

D. any educational activity submitted in advance of the activity and receiving approval by the physical therapy advisory council.

### **5601.2500 CREDIT STANDARDS.**

The board shall grant continuing education credit for any educational activity that meets the standards in items A to E.

A. The educational activities must have significant intellectual or practical content dealing primarily with matters directly related to the practice of physical therapy or to the professional responsibility or ethical obligations of the participants.

B. Each person making a presentation shall be qualified by practical or academic experience to teach the subject the person covers.

C. Participants shall attend educational activities in a classroom or other setting suitable for the activity. Video, motion picture, or sound presentations may be used.

D. One hour of credit shall be given for each 60 minutes actually spent on educational activities.

E. Credit shall not be given for entertainment or recreational activities or programs, employment orientation sessions, holding an office or serving as an organizational delegate, individual self-directed study programs, management seminars not directly concerning physical therapy operations, meetings for the purpose of making policy, or noneducational association meetings.

### **5601.2600 VERIFICATION OF COMPLIANCE.**

Registrants shall, at the time of reregistration, provide a signed statement to the board on a form provided by the physical therapy council indicating compliance with parts 5601.2100 to 5601.2500. The board may, in its discretion, require additional evidence necessary to verify compliance with parts 5601.2100 to 5601.2500. The board may, with the advice of the physical therapy council, also accept certification of other state or national health or medical organizations whose continuing education requirements are equal to or greater than those in parts 5601.2100 to 5601.2500.

Periodically, the board shall select a sample of the registered physical therapists and request evidence of the continuing education

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## **Proposed Rules**

to which they attested. Documentation may come directly from the registrant or from state or national organizations that maintain those types of records.

A registrant failing to submit a statement or who submits a statement that, on its face, indicates noncompliance with parts 5601.2100 to 5601.2500 may be subject to the disciplinary provisions in part 5601.2700.

### **5601.2700 PENALTIES FOR NONCOMPLIANCE.**

The board shall refuse to renew or grant, or shall suspend, condition, limit, or qualify the registration of any person who the board determines, with the advice of the physical therapy advisory council, has failed to comply with parts 5601.2100 to 5601.2600.

### **5601.2800 HEARING UPON REFUSAL TO RENEW.**

A registrant whose registration renewal materials fail to comply with the requirements of part 5601.1700 as determined by the board shall be notified of this determination and the grounds for it and may be granted a hearing under part 5615.0300 by filing a statement of issues with the board within 20 days after receipt of notice from the board. After the hearing, the board shall notify the applicant in writing of its decision.

### **5601.2900 TEMPORARY PERMIT.**

Subpart 1. Who may apply. Applicants who have complied completely with the informational requirements in part 5601.0300, items A to Q, or 5601.0700, items A to C, may apply for a temporary permit to practice physical therapy under supervision. Foreign-trained applicants must comply completely with part 5601.0800 in addition to the information requirements of part 5601.0300, items A to Q, or 5601.0700, items A to C.

Subp. 2. Application. The application for a temporary permit to practice physical therapy under supervision must be submitted on forms prepared by the board together with the fee described in part 5600.2500.

Subp. 3. Contents of application. To be complete, an application for a temporary permit to practice physical therapy under supervision must include the following information:

A. an original or certified copy of a diploma, degree, or certificate; or evidence satisfactory to the board indicating that the applicant has satisfactorily completed an approved curriculum in physical therapy as provided in Minnesota Statutes, section 148.70, and has been graduated from a school of physical therapy approved by the board;

B. if the applicant is providing evidence of compliance of the informational requirements of part 5601.0700, a notarized or certified copy of a current license or certificate to practice physical therapy issued by the duly accredited examining agency of the state or foreign country in which the applicant has been licensed or certified; and

C. the information required by part 5601.0300, items B to Q.

REPEALER. Minnesota Rules, parts 5601.1000 and 5601.1100, are repealed.

## **Rural Finance Authority**

### **Proposed Rules Relating to the Beginning Farmer Program**

#### **Notice of Intent to Adopt Rules Without a Public Hearing**

NOTICE IS HEREBY GIVEN that the Rural Finance Authority intends to adopt the above-entitled rules without a public hearing pursuant to *Minnesota Statutes*, Section 41B.07.

The Authority is exempt from compliance with the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, Chapter 14, but will adopt these rules in accordance with Section 14.38. In addition, the Authority desires to allow the public an opportunity to comment on the proposed rules prior to their adoption. All persons have 30 days to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged.

The proposed rules relate to the establishment of a beginning farmer loan participation program intended to preserve and develop the state's agricultural resources by assisting persons who have never owned farms purchase farms. This is accomplished by extending credit on farm real estate through the purchase of participation interests in first security mortgage real estate loans made available to beginning farmers by eligible lenders.

A Notice of Intent to Adopt Rules Without a Public Hearing and proposed rules for the beginning farmer program were originally published in Volume 12, Number 35 of the *STATE REGISTER* on February 29, 1988. Subsequent statutory changes necessitated modification of those proposed rules, and they will be withdrawn.

Persons making written comments should state their name and address, and identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. Comments must be submitted to:

Mr. David A. Johnson  
Program Director  
Rural Finance Authority  
Room 400 Centennial Office Bldg.  
658 Cedar Street  
St. Paul, MN 55155

The proposed rules may be modified if the suggested modifications are supported by data and views submitted to the department and do not result in a substantial change in the proposed rules as noticed.

Upon receipt of all comments, the proposed rules shall be adopted or modified by the Authority, pursuant to *Minnesota Statutes*, Section 41B.07. Upon adoption of the rules by the Authority, the rules will be filed in the office of the Secretary of State and published in the *State Register*. The rules become effective five working days after publication in the *State Register*.

Thomas Triplett, Chairman  
Rural Finance Authority

### **Rules as Proposed (all new material)**

#### **1650.0010 APPLICABILITY AND PURPOSE.**

Subpart 1. **Applicability.** Parts 1650.0010 to 1650.0070 establish the criteria and procedures to be used by the Rural Finance Authority in the administration of the beginning farmer loan participation program authorized by *Minnesota Statutes*, sections 41B.01 to 41B.23.

Subp. 2. **Purpose.** The purpose of the Rural Finance Authority beginning farmer loan participation program and the bonds issued to finance or provide security for the program is to preserve and develop the state's agricultural resources by extending credit on real estate security through the purchase of participation interests in first mortgage loans made to persons entering farming who have not owned a farm before entering the program.

#### **1650.0020 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to parts 1650.0010 to 1650.0070.

Subp. 2. **Agricultural purposes.** "Agricultural purposes" means the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. Agricultural purposes also includes the use of the following types of real property: wetlands, pasture, forest land, wildlife, and homestead and other real property adjacent to or associated with the agricultural use of land.

Subp. 3. **Applicant.** "Applicant" means a person who submits an application to the RFA through an eligible lender.

Subp. 4. **Application.** "Application" means an application for the beginning farmer loan participation prescribed by the RFA.

Subp. 5. **Assets.** "Assets" means property, real or personal, tangible or intangible, and all contract rights of value that constitute assets, including cash crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, cash value of life insurance, machinery and equipment, cars and trucks, farm and other real estate including life estates and personal residence, and the value of a beneficial interest in trusts.

Subp. 6. **Beginning farmer loan.** "Beginning farmer loan" means a first mortgage loan made by an eligible lender to an eligible borrower, offered to the RFA for participation, and in which the RFA has purchased a participation.

Subp. 7. **Borrower.** "Borrower" means the person or persons liable on a beginning farmer loan. A borrower may not be a corporation.

Subp. 8. **Debt to asset ratio.** "Debt to asset ratio" means the total outstanding liabilities of an applicant divided by the total outstanding assets of the applicant expressed as a percentage.

Subp. 9. **Liabilities.** "Liabilities" means the debts or other obligations for which an applicant is responsible including: accounts payable, notes or other indebtedness owed to any source, taxes, rent, amount owed on real estate contracts or mortgages, judgments, and accrued interest payable.

**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.

## Proposed Rules

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Subp. 10. **Net worth.** "Net worth" means the total value of an applicant's assets and the assets of the applicant's spouse and dependents, less the liabilities of the same parties.

Subp. 11. **Participation certificate.** "Participation certificate" means a document in a form prescribed by the RFA, that is signed by an authorized representative of a participating lender and evidences the RFA's participation in a beginning farmer loan.

Subp. 12. **RFA.** "RFA" means the Rural Finance Authority established by *Minnesota Statutes*, sections 41B.01 to 41B.23.

Subp. 13. **RFA beginning farmer program.** "RFA beginning farmer program" means the RFA program for the purchase of participation interests in first mortgage real estate loans made to eligible borrowers so that the borrowers may use the real estate for agricultural purposes.

Subp. 14. **RFA participation.** "RFA participation" means the Rural Finance Authority's undivided interest in the principal of a beginning farmer loan, all rights and interests in the loan documents, and all proceeds arising from that undivided interest in the principal of the beginning farmer loan. The RFA's participation may not exceed 35 percent of the total principal of the loan or \$50,000, whichever is less.

### 1650.0030 BORROWER ELIGIBILITY.

Subpart 1. **Criteria.** To be eligible for RFA loan participation, an applicant must meet the criteria in *Minnesota Statutes*, sections 41B.03, subdivisions 1 and 3, and 41B.039, and those in this part.

Subp. 2. **Previous farm ownership.** An applicant is considered to have not owned a farm if:

A. the applicant has never owned any farm real estate;

B. the applicant has held a minority interest of less than 35 percent in a family farm corporation as defined in *Minnesota Statutes*, section 500.24, and has not as an individual owned any other farm real estate except as provided in item C; or

C. the applicant has never owned farm real estate of more than 80 acres.

Subp. 3. **Net worth.** An applicant's net worth must be calculated at the time of the application and must not include the value of the farm to be purchased or the liability of the prospective loan.

Subp. 4. **Eligibility.** An applicant must certify to the RFA in the application that the applicant understands the eligibility criteria stated in the application and is eligible for the program.

### 1650.0040 LENDER ELIGIBILITY.

Subpart 1. **Statutory eligibility.** A lending institution covered by *Minnesota Statutes*, section 41B.02, subdivision 4, may apply to the RFA for certification as an eligible lender.

Subp. 2. **Approval.** Upon the lender's demonstration of its ability to adequately originate and service beginning farmer loans, the RFA shall designate the lender as an approved lender for purposes of the beginning farmer program.

Subp. 3. **Participation agreement.** Before submission of applications to the RFA, an approved lender shall enter into a participation agreement with the RFA specifying the terms and conditions of the loans to be made to a beginning farmer and then offered to the RFA for participation, and the contractual relationship between the lender and the RFA.

### 1650.0050 APPLICATION PROCEDURES; NOTICES.

Subpart 1. **Application.** An applicant and an approved lender who wish to request RFA participation in a first mortgage real estate loan must jointly complete and sign an application and prepare all supporting documents identified in the application.

The lender shall present these documents to the RFA. Presentation of the documents constitutes an offer to participate in the loan.

Subp. 2. **Authority review.** Within a reasonable time after receipt of an application and supporting documents, the RFA shall review the information provided and accept or reject the lender's offer to participate. If the information provided is not sufficient to make a determination, the authority shall request additional information from the lender and applicant.

Subp. 3. **RFA notice.** The RFA shall promptly notify the lender in writing whether the application has been approved or not. If the application is not approved, the notice must state the reasons for disapproval.

Subp. 4. **Administrative reconsideration.** If a proposed application is not approved by the RFA, the borrower or the lender may petition the RFA program director for an administrative reconsideration. The petition must be in writing and must be sent within 15 business days of the date of the disapproval. The petition must state the petitioner's reasons for disagreeing with the disapproval and may include additional information relevant to the request for reconsideration. Within 15 business days of receiving the petition, the RFA program director shall send a written response to the petitioner upholding or reversing the original decision and giving the reasons for the decision.

Subp. 5. **Appeal.** A petitioner may appeal the program director's reconsideration directly to the RFA board, by written notice to the director within 15 business days of receiving the director's reconsideration decision. The decision of the board is final.

Subp. 6. **Closing; payment.** If an application is approved for RFA participation, the lender shall close the loan and notify the RFA. Within five business days of being notified that the loan is closed, the RFA shall pay the lender by state warrant for the RFA's participation interest in the beginning farmer loan. Upon the lender's receipt of finally collected funds under the warrant, the lender shall issue and deliver a participation certificate to the RFA witnessing that the RFA is the absolute owner of a pro rata interest in the beginning farmer loan and in the collateral securing the loan in the amount of its participation interest.

**1650.0060 LOAN ADMINISTRATION.**

A. The lender shall perform all tasks and functions customarily performed in the administering of first mortgage loans with the degree of care and diligence usually maintained by agricultural real estate lenders. The lender shall also have custody and control of all loan documents.

B. The lender shall monitor the borrower's loan payment performance and financial condition.

C. The lender shall manage, administer, and enforce the loan documents in its own name but on behalf of itself and the RFA, including, without limitation, the right to accelerate a beginning farmer loan on default and to foreclose or otherwise enforce remedies against the borrower.

D. The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of a beginning farmer loan.

E. The lender shall obtain the prior written consent of the borrower and the RFA or a person or entity designated by the RFA before:

(1) making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

(2) waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

(3) modifying or waiving a term of the notes or related instruments evidencing or securing the beginning farmer loan.

**1650.0070 REVIEW OF LOAN AND COLLATERAL.**

Subpart 1. **Inspection.** At any time during the term of a beginning farmer loan, the RFA or the state legislative auditor may inspect the books, records, documents, and accounting procedures and practices of the lender and the borrower relative to a beginning farmer loan to enable the authority to determine if the lender and the borrower are complying with the terms and conditions of the loan agreement, *Minnesota Statutes*, sections 41B.01 to 41B.211, the participation agreement between the lender and the RFA, and parts 1650.0010 to 1650.0070. The lender shall allow the RFA to review and copy documents relating to the beginning farmer loan at no cost to the RFA. The RFA shall conduct inspections and review documents during the lender's normal business hours.

Subp. 2. **Collateral.** The lender and the RFA may physically inspect the collateral securing the beginning farmer loan upon notice to the borrower. An inspection under this subpart must be conducted at a reasonable time.

## Rural Finance Authority

### Proposed Rules Relating to Seller-Sponsored Loan Participation Program

#### Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Rural Finance Authority intends to adopt the above-entitled rules without a public hearing pursuant to *Minnesota Statutes*, Section 41B.07.

The Authority is exempt from compliance with the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, Chapter 14, but will adopt these rules in accordance with Section 14.38. In addition, the Authority desires to allow the public an opportunity to comment on the proposed rules prior to their adoption. All persons have 30 days to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged.

The proposed rules relate to the establishment of a seller sponsored loan participation program intended to preserve and develop the state's agricultural resources by assisting beginning and re-entry farmers purchase farms. This is accomplished by extending

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## Proposed Rules

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credit on farm real estate through the purchase of participation interests in first security mortgage real estate loans made available to beginning and re-entry farmers by eligible lenders. As a key element of the program, the seller of a farm must partially finance the sale by making a loan to the buyer of the farm

Persons making written comments should state their name and address, and identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. Comments must be submitted to:

Mr. David A. Johnson  
Program Director  
Rural Finance Authority  
Room 400 Centennial Office Bldg.  
658 Cedar Street  
St. Paul, MN 55155

The proposed rules may be modified if the suggested modifications are supported by data and views submitted to the department and do not result in a substantial change in the proposed rules as noticed.

Upon receipt of all comments, the proposed rules shall be adopted or modified by the Rural Finance Authority Board, pursuant to *Minnesota Statutes*, Section 41B.07. Upon adoption of the rules by the Board, the rules will be submitted to the Revisor of Statutes for approval as to form, and filed in the office of the Secretary of State and published in the *State Register*. The rules become effective five working days after publication in the *State Register*.

Thomas Triplett, Chairman  
Rural Finance Authority

### Rules as Proposed (all new material)

#### 1651.0010 APPLICABILITY AND PURPOSE.

Subpart 1. **Applicability.** Parts 1651.0010 to 1651.0100 establish the criteria and procedures to be used by the Rural Finance Authority in the administration of the seller-sponsored loan participation program authorized by *Minnesota Statutes*, sections 41B.01 to 41B.23.

Subp. 2. **Purpose.** The purpose of the Rural Finance Authority seller-sponsored loan participation program and for the issuance of bonds to finance or provide security for the program is to preserve and develop the state's agricultural resources. This is accomplished by extending credit on real estate security through the purchase of participation interests in first priority mortgage farm real estate loans. Loans to persons entering or reentering farming and meeting the eligibility criteria set forth in this chapter are eligible for participation. Under this program, the eligible owner of a farm must partially finance the sale of the farm through a loan to an eligible borrower. An eligible lender and the state, acting through the Rural Finance Authority, will jointly provide the remainder of the financing needed by the borrower.

#### 1651.0020 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to parts 1651.0010 to 1651.0100.

Subp. 2. **Agricultural purposes.** "Agricultural purposes" means the production of livestock, dairy animals, dairy products, poultry or poultry products, fur-bearing animals, horticultural or nursery stock, fruit, vegetables, forage, grains, timber, trees, or bees and apiary products. Agricultural purposes also includes the use of the following types of real property: wetlands, pasture, forest land, wildlife, and homestead and other real property adjacent to or associated with the agricultural use of land.

Subp. 3. **Applicant.** "Applicant" means a potential borrower who submits an application to the RFA through an eligible lender.

Subp. 4. **Application.** "Application" means the application for the seller-sponsored loan participation is the form prescribed and provided by the RFA.

Subp. 5. **Assets.** "Assets" mean property, real or personal, tangible or intangible, and all contract rights of value that constitute assets, including cash crops or feed on hand, livestock held for sale, breeding stock, marketable bonds and securities, securities not readily marketable, accounts receivable, notes receivable, cash invested in growing crops, cash value of life insurance, machinery and equipment, cars and trucks, farm and other real estate including life estates and personal residence, and the value of a beneficial interest in trusts.

Subp. 6. **Borrower.** "Borrower" means the person or persons liable on a first mortgage loan made under this program. A borrower may also be a domestic family farm corporation as defined in *Minnesota Statutes*, section 500.24.

Subp. 7. **Collateral.** "Collateral" means all assets pledged as security for a borrower's obligation under a first mortgage loan made under this program. It includes all instruments, personal and real property, guaranties, money, letters of credit, and assignments and pledges of money or property for or on which the lender has a security interest or lien.

Subp. 8. **First mortgage loan.** "First mortgage loan" means a loan secured by a first priority real estate mortgage on a farm, made by an eligible lender to an eligible borrower for the purchase of the farm, that is offered to the RFA for participation under the seller-sponsored program, and in which the RFA purchases a participation.

Subp. 9. **Liabilities.** "Liabilities" means the debts or other obligations for which an applicant is responsible including: accounts payable, notes or other indebtedness owed, taxes, rent, amounts owed on real estate contracts or mortgages, judgments, and accrued interest payable.

Subp. 10. **Net worth.** "Net worth" means the total value of an applicant's assets and the assets of the applicant's spouse and dependents, less the liabilities of the same parties.

Subp. 11. **Note and loan agreement.** "Note and loan agreement" means the form prescribed by the RFA that is signed by a borrower evidencing the terms of the first mortgage loan and the borrower's obligation to repay the loan.

Subp. 12. **Participation agreement.** "Participation agreement" means the document entered into between the RFA and an approved lender that establishes the relationship between the parties and the terms and conditions of first mortgage loans to be offered to the RFA for participation under the seller-sponsored loan participation program.

Subp. 13. **RFA.** "RFA" means the Rural Finance Authority established by *Minnesota Statutes*, sections 41B.01 to 41B.23.

Subp. 14. **RFA participation.** "RFA participation" means the RFA's undivided interest in the principal of a first mortgage loan, all payments arising under the loan, the first security real estate mortgage securing the loan, any other collateral pledged to secure the loan, and the first mortgage loan documents.

Subp. 15. **RFA seller-sponsored loan participation program.** "RFA seller-sponsored loan participation program" or "seller-sponsored program" means the RFA program for the purchase of participation interests in first security mortgage real estate loans made under these rules.

Subp. 16. **Seller.** "Seller" means the person or persons selling a farm under the seller-sponsored program.

Subp. 17. **Seller-sponsor's loan commitment form.** "Seller-sponsor's loan commitment form" means the form prescribed by the RFA that is signed by a seller evidencing the seller's understanding of the seller-sponsored program, its rules, and the seller's commitment to make a loan to an applicant and to subordinate the seller's loan to the first mortgage loan made by an eligible lender.

#### **1651.0030 SELLER ELIGIBILITY.**

To qualify as an eligible seller under the program, a seller must meet the following criteria:

A. A seller must be a natural person, a partnership, or a family farm corporation as defined in *Minnesota Statutes*, section 500.24, selling a farm located within the state of Minnesota;

B. The seller must not be a current or former participant in the family farm security program under *Minnesota Statutes*, chapter 41;

C. The seller must complete a seller-sponsor's loan commitment form certifying that the seller will partially finance the purchase of the farm property by making a loan to the borrower;

D. The seller's loan to the borrower must be for a minimum of 20 percent of the total financing after the down payment, if any;

E. The seller's real estate mortgage or other instrument securing the seller's loan to the borrower must be subordinated to the first mortgage loan of the lender in which the RFA is a participant; and

F. The seller must disclose all of the terms and conditions of the seller-sponsored sale in a written purchase agreement to be given to the lender at the time of application.

#### **1651.0040 BORROWER ELIGIBILITY.**

Subpart 1. **Criteria.** To be eligible for assistance under the seller-sponsored program, all applicants must meet the criteria stated in subpart 2. Applicants must also meet the requirements of either subpart 3 or 4.

Subp. 2. **General eligibility criteria.** Each applicant must:

A. be a resident of Minnesota as evidenced by the applicant's income tax returns;

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## Proposed Rules

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B. certify that the applicant or one of the applicants will be the principal operator of the farm, will make farming their principal occupation, and that the farm being purchased will be used for agricultural purposes only;

C. not be a current or previous participant in an RFA program;

D. not be a current or previous participant in the family farm security program under *Minnesota Statutes*, chapter 41; and

E. certify that the applicant is eligible for the program.

Subp. 3. **Beginning farmer criteria.** In addition to the requirements of subpart 2, beginning farmer applicants must:

A. have sufficient education, training, or experience to succeed in the type of farming to be undertaken;

B. have a financial need for the loan and the ability to repay the first mortgage loan;

C. agree to enroll and continue in a farm business management program approved by the Minnesota commissioner of agriculture for the first five years of the loan, if an approved program is available within 45 miles from the borrower's residence;

D. agree to file an approved soil and water conservation plan with the soil conservation service office in the county where the land is located;

E. have a total net worth of less than \$100,000 as defined in part 1651.0020, subpart 10; and

F. not own or have owned more than 80 acres of farmland.

Subp. 4. **Reentry farmer criteria.** In addition to the requirements of subpart 2, reentry farmer applicants must:

A. fulfill the criteria stated in subpart 3, items A to D;

B. have a total net worth of less than \$100,000 as defined in part 1651.0020, subpart 10, excluding the value of the applicant's residential structure;

C. have previously owned and operated a farm; and

D. not currently own any real estate that is used for an agricultural purpose other than a homestead as defined by *Minnesota Statutes*, chapter 510.

### 1651.0050 LENDER ELIGIBILITY.

Subpart 1. **Statutory eligibility.** Any bank, credit union, or savings and loan association chartered by the state or federal government, a subdivision of the Farm Credit System, the Federal Deposit Insurance Corporation, the Federal Savings and Loan Insurance Corporation, or any insurance company, fund, or other financial institution doing business as an agricultural lender within the state may apply to the RFA for certification as an approved lender.

Subp. 2. **Approval.** Upon a lender's demonstration of its ability to originate and service agricultural real estate loans, the RFA shall designate them as an approved lender for purposes of RFA programs.

Subp. 3. **Participation agreement.** Before offering first mortgage loans to the RFA for participation, each approved lender must enter into an RFA participation agreement. The agreement shall specify the contractual relationship between the parties and the terms and conditions of first mortgage loans to be made by the lender under the seller-sponsored program and offered to the RFA for participation.

### 1651.0060 APPLICATION PROCESS AND OFFER OF PARTICIPATION.

Subpart 1. **Request for a first mortgage loan.** A sponsoring seller and an applicant must jointly present an initial proposal to an approved lender. The proposal must include a signed and dated purchase agreement and a completed seller-sponsor's loan commitment form evidencing the seller's intent to make a loan to the applicant as required under the program.

Subp. 2. **Lender determination.** The lender shall review the proposal and determine the creditworthiness of the applicant and the value of the collateral to be used to secure the loan. If the lender agrees to make a first mortgage loan to the applicant, the lender and the applicant shall jointly prepare an application and the required loan documents described in the application and master participation agreement.

Subp. 3. **Offer.** The lender, as the originator of the first mortgage loan, shall present the application and loan documents to the RFA. Presentation of the documents constitutes an offer to sell a participation interest in the loan.

### 1651.0070 RFA REVIEW, NOTICE, APPEAL.

Subpart 1. **RFA review.** Within ten working days after receipt of a lender's offer, the RFA shall accept or reject the lender's offer to participate in the loan. If the documentation is not sufficient to make a determination, the RFA may request additional information as needed.

Subp. 2. **RFA acceptance.** The RFA will accept all offers, unless the RFA determines any of the following:

A. The seller is not eligible.



B. The applicant is not eligible.

C. The applicant does not demonstrate an ability to repay the first mortgage loan and other obligations based on the financial information submitted under subpart 2.

D. The sale price of the property is substantially in excess of its fair market value.

E. The RFA does not have sufficient funds available to purchase a participation in the loan.

Subp. 3. **RFA notice.** The RFA shall promptly notify the lender in writing whether or not the offer is accepted. If the offer is not accepted, the notice must state the reasons.

Subp. 4. **Administrative appeal.** If an offer is rejected, either the lender or the applicant may petition for administration reconsideration. The petition must be in writing and must be sent within 30 working days of the date of the RFA notice. The petition must state the grounds for the appeal, and may include additional relevant information. Within 15 working days of receiving the petition, the RFA program director shall send a written response to the petitioner upholding or reversing the original decision and giving the reasons for the decision.

Subp. 5. **Formal appeal.** After administrative appeal, a petitioner may appeal the program director's decision directly to the RFA board, by written notice to the director within 15 days of receiving the director's reconsideration decision. The decision of the board shall be final.

#### **1651.0080 LOAN CLOSING, PURCHASE OF PARTICIPATION, AND LOAN MANAGEMENT.**

Subpart 1. **Closing.** Upon receiving notification of RFA acceptance, the lender shall close the first mortgage loan. At the time of closing, the sponsoring seller must present all legal documents relating to the sale, including the seller's proposed mortgage for their loan to the applicant. The lender must record and cross-reference all documents relating to the loan, including the RFA note and loan agreement. While the lender is not responsible for preparation of the seller's mortgage and note, they must record the seller's mortgage to ensure that it is recorded in a secondary security position. The lender must notify the RFA that the loan is closed and recorded by submitting copies of the recorded documents to the RFA.

Subp. 2. **Payment.** Within five business days of receipt of written notice under subpart 1, that the first mortgage loan is closed and recorded, the RFA shall pay the lender for the RFA's participation interest in the loan.

Subp. 3. **Participation certificate.** Within five working days after receipt of finally collected funds, the lender shall complete and return a participation certificate as prescribed by the RFA witnessing the RFA's undivided pro rata interest in the seller-sponsored first mortgage loan.

Subp. 4. **Loan management.** The lender shall manage the first mortgage loan, including the RFA participation interest, with the degree of care and diligence usually maintained by agricultural real estate lenders. The lender shall have custody and control of all loan documents except the original application which shall be retained by the RFA.

The lender shall manage, administer, and enforce the loan documents in its own name and also on behalf of itself and the RFA, including, without limitation, the right to accelerate a seller-sponsored first mortgage loan on default and to foreclose or otherwise enforce remedies against the borrower.

Subp. 5. **Lender notification.** The lender shall promptly notify the RFA of occurrences that substantially affect the security, collection, or enforcement of any first mortgage loan.

Subp. 6. **Prior written consent.** The lender shall obtain the prior written consent of the borrower and the RFA before:

A. making or consenting to a release, substitution, or exchange of collateral that reduces the aggregate value of the collateral;

B. waiving a claim against the borrower or a guarantor, surety, or obligor in connection with the indebtedness; or

C. modifying or waiving a term of the notes or related instruments evidencing or securing the first mortgage loan.

Subp. 7. **Limitations on responsibility.** Neither the lender nor the RFA is in any way responsible for the administration of the seller-sponsor's loan, or the protection of any of the seller's legal rights.

#### **1651.0090 PARTICIPATION REPURCHASE.**

An originating lender is under no obligation to repurchase any RFA participation interest in a seller-sponsored first mortgage loan except as provided in this section.

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A lender may, at its option and upon written approval by the RFA, repurchase a RFA participation interest at any time.

A lender must repurchase the RFA participation interest whenever the first mortgage loan is paid in full or refinanced.

A lender must repurchase the RFA participation interest if the lender has made misrepresentations or fails to perform its obligations under the participation agreement, has received written notice from the RFA, and has not corrected the representation or performance under the notice.

Any repurchase shall be for the principal balance of the RFA participation plus accrued interest and any penalties or costs incurred by the RFA to secure repurchase.

### 1651.0100 REVIEW OF LOAN AND COLLATERAL.

Subpart 1. **Inspection.** At any time during the term of a seller-sponsored first mortgage loan, the RFA or the state legislative auditor may inspect the books, records, documents, and accounting practices of the lender relative to the loan to determine compliance with the terms and conditions of the loan and the participation agreement. Any inspections shall be during the lender's normal business hours. The lender must allow the RFA to copy any documents relating to the first mortgage loan.

Subp. 2. **Collateral.** The lender and the RFA may physically inspect the collateral securing the first mortgage loan upon notice to the borrower. Any inspection must be conducted at a reasonable time.

## 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.

## Board of Psychology

### Adopted Permanent Rules Relating to Licensing and Fees

The rules proposed and published at *State Register*, Volume 13, Number 14, pages 876-887, October 3, 1988 (13 S.R. 876) and Volume 13, Number 34, pages 2041-2045, February 21, 1989 (13 S.R. 2041) are adopted with the following modifications:

#### Rules as Adopted

### 7200.1300 EDUCATIONAL REQUIREMENT FOR LICENSURE.

Subp. 4. **Degrees earned after June 30, 1991.** For both types of licensure based on degrees earned after June 30, 1991, the major must meet the following requirements:

B. The transcript of the applicant must indicate:

(4) A minimum of 2,000 hours for a doctoral degree or ~~1,500~~ 600 hours for a master's degree of supervised practical field or laboratory experience in psychology related to the program of the applicant. The experience must meet the following criteria:

## Commissioners' Orders

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### Department of Natural Resources

#### Commissioner's Order No. 2338: Regulations Relating to the Taking, Possession, Purchase, Transportation, Sale and Culturing of Freshwater Crayfish

Pursuant to authority vested in me by law, I, Joseph N. Alexander, Commissioner of Natural Resources, hereby prescribe the following regulations for the taking, possession, purchase, transportation, sale and culturing of freshwater crayfish.

**Section 1. HARVESTING FOR PERSONAL USE.**

Any person possessing a valid resident or nonresident angling license may take and possess for personal use only not more than 25 pounds of live, whole freshwater crayfish. Such crayfish may not be sold. Such crayfish may be harvested in any waters of the state where fish may be taken by angling, unless otherwise posted, and to which the harvester has legal access.

**Sec. 2. PERMITS FOR COMMERCIAL HARVEST AND CULTURE.**

(a) **Permit Required.** No person shall take or possess more than 25 pounds of live, whole freshwater crayfish without first obtaining a written permit from the Director of the Division of Fish and Wildlife. No crayfish culture shall be attempted without first obtaining a written permit from the Director of the Division of Fish and Wildlife.

(b) **Permit Issuance.** Permits shall be issued upon application pursuant to the following criteria:

- (1) Application shall be made on forms provided and shall be submitted to the local area fisheries office.
- (2) Permits will be issued only to Minnesota residents who possess a valid Minnesota fish angling license.
- (3) All crew members working for permittee must possess a valid Minnesota fish angling license.
- (4) Application forms must be signed by the applicant. All requested information must be provided. Failure to properly and fully complete an application form will result in its rejection.
- (5) Crayfish taken incidental to other aquatic commercial operations may be sold providing the operator is the holder of a valid crayfish harvesting permit.

(c) **Permit Duration.** No permit shall be valid for more than one season, as defined in Sec. 3 of this order. Permits may be issued for periods of time shorter than one season, at the discretion of the Director.

(d) **Permit Revocation.** In addition to the penalties set forth in Sec. 11 of this order, the Director may revoke any permit upon his determination that revocation is necessary for protection of natural resources.

**Sec. 3. SEASON AND HOURS.**

- (a) The open season for taking crayfish is April 1 to November 30, both days inclusive.
- (b) Crayfish traps may be lifted from sunrise to sunset only.
- (c) Any variance requires a written amendment to the permit which will be attached to and become part of the permit.

**Sec. 4. SPECIES.**

- (a) All crayfish species endemic to Minnesota may be harvested or cultured, but may not be sold for bait purposes in the state.
- (b) The importation of live crayfish or crayfish eggs into the state is prohibited except by written permit from the Director of the Division of Fish and Wildlife.

**Sec. 5. HARVEST SITES FOR PERMITTEES.**

- (a) Crayfish harvest or culture sites will be identified in the permit by legal description and, if available, the Division of Waters inventory number.
- (b) The taking of crayfish by a permittee or member of his or her crew from any place outside the identified harvest site is prohibited.

**Sec. 6. GEAR FOR PERMITTEES.**

- (a) Crayfish shall be taken only by the gear and methods identified in the permit.
- (b) No permittee or member of his or her crew shall, during crayfish harvesting activities, have in his or her possession or control any fish angling gear.
- (c) Crayfish traps may be of any design. The mesh size shall be not less than one-half inch bar, or opening if other than square.
- (d) Crayfish drop nets shall be of the following design: rectangular shaped mesh webbing sewn to a rigid frame, lifted by means of ropes and a hoisting pole.

**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.

## Commissioners' Orders

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(e) Each trap or harvesting device shall be identified in a permanent and legible manner with a plastic or metal tag not smaller than one inch by three inches, bearing the permittee's name and home address.

### Sec. 7. PERMITTEE OPERATIONS.

(a) All crayfish harvesting operations shall be conducted in accordance with the terms and requirements of state law, this order, and the permit.

(b) The permittee shall inform the local area fisheries office 24 hours in advance of the start of harvest operations on each permitted lake.

(c) The permittee shall be responsible for the activities of his or her crew and be accountable for all setting and lifting of traps, other gear operation and the transportation of crayfish. The crew shall not exceed five persons. All members of the crew shall be identified on the permit.

(d) Crayfish legally harvested or cultured under permit may be bought, sold and transported for food purposes only.

(e) Crayfish legally taken or cultured may be exported.

(f) Crayfish must be kept separated from all other live fish when being transported within the state.

(g) Crayfish shall be processed only at a licensed food or fish processing plant that has been established as a crayfish processing facility.

(h) Only those persons identified on the permit can assist the permittee in any phase of the crayfish harvesting operations.

(i) All crayfish traps must be lifted at least once in each 24 hour period and all other species of fish returned to the water.

### Sec. 8. CRAYFISH CULTURE.

(a) Any crayfish culture or rearing facility or pond shall be isolated from all state protected waters and shall be of a design that prevents the possibility of crayfish migration into protected waters of the state.

(b) The culture of imported crayfish is prohibited.

(c) Crayfish endemic to the state may be cultured for sale, but may not be sold for live bait purposes within the state.

(d) Scientific or academic institutions may culture imported crayfish under special permit issued by the Director of the Division of Fish and Wildlife.

### Sec. 9. PERMITTEES' REPORTS, RECORDS, INSPECTIONS.

(a) **Reports.** All permittees shall report, on forms provided, all information requested, and shall submit reports at intervals required, to the local area fisheries office which issued the permit.

(b) **Records.** All permittees shall keep records in the English language of all crayfish sales transactions. This record shall be verifiable with supporting sales slips and include: pounds of all species of crayfish sold; name and address of buyer; and date of each transaction. These records shall be kept current within 48 hours. Failure to keep complete and current records shall result in immediate revocation of the permit and shall render the permittee ineligible for future permits.

(c) **Inspections.** Permittees are subject to inspection at all reasonable times by agents of the Commissioner. Subjects of inspection shall include records as required by paragraph (b) of this section, business and operations premises, all boats, employees (for licenses and identification), vehicles and gear used in crayfish harvesting operations. Established crayfish processing facilities shall accommodate assigned government agency personnel when they conduct crayfish identification investigations.

### Sec. 10. RESTRICTIONS.

(a) Any sale of live crayfish within the state for fish angling bait is prohibited.

(b) Dead crayfish or the shells or meats thereof shall not be returned to the water or deposited on any shoreline or adjacent area.

(c) All crayfish under one inch in length from tip of rostrum to tip of tail shall be returned unharmed to the water as soon as possible.

(d) Regardless of size, any crayfish with eggs or young attached to its body shall be returned to the water immediately.

(e) The distribution of any crayfish from one body of water to another within the state is prohibited except by written permission from the Director of the Division of Fish and Wildlife.

(f) The placement in waters of the state of any crayfish imported from outside the state is prohibited.

**Sec. 11. PENALTIES.**

Violation of any provision of state law pertaining to the harvest of crayfish, or any provisions of this order, or any terms or conditions of the permit shall immediately render the permit null and void. In addition, the violator shall be subject to all other penalties imposed by state law.

Dated at Saint Paul, Minnesota, this 19th day of May, 1989.

Joseph N. Alexander, Commissioner  
Department of Natural Resources

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**Executive Orders****Executive Order 89-4: Providing for Continuation of the Governor's Minnesota Judicial Merit Advisory Commission; Rescinding Executive Order Number 87-5**

I, RUDY PERPICH, GOVERNOR OF THE STATE OF MINNESOTA, by virtue of the authority vested in me by the Constitution and the applicable statutes, do hereby issue this Executive Order:

WHEREAS, it is desirable that the concept of merit selection of judges through the use of a judicial nominating commission be employed to assist the Governor in filling vacancies which occur in district courts; and

WHEREAS, it is necessary that all areas of the state and all segments of the population be represented both on the nominating panel and in the judiciary;

NOW, THEREFORE, I order:

**1. Establishment of the Minnesota Judicial Merit Advisory Commission**

There is hereby created a Governor's Minnesota Judicial Merit Advisory Commission to seek out, evaluate, and recommend to the Governor outstanding persons who are learned in the law to fill vacancies which may occur on the trial courts of Minnesota.

This commission shall be composed of up to fifteen members, including the following:

- a. One member appointed by the Governor from each of ten judicial districts;
- b. A chair, appointed by the Governor; and
- c. Three to four members-at-large, appointed by the Governor.

The chair shall be responsible for calling such meetings of the commission as are necessary to carry out its functions.

**2. Appointment of Additional Members**

Whenever one or more judicial vacancies occur in a judicial district, the membership of the commission shall be expanded by one member. The Governor shall appoint one member from each district having one or more judicial vacancies. That member shall serve until nominees for that district's judicial vacancy or vacancies are filled.

**3. Duties**

Members shall attend commission meetings and consider each candidate for a judicial vacancy in an impartial and objective manner. They shall actively seek out and encourage qualified individuals to apply for judicial office with particular emphasis on women and minorities who are under-represented in the judicial system. No expenses or per diem payments shall be allowed for commission members.

**4. Officers**

The commission shall select from among its own members a secretary who shall prepare the minutes of all meetings of the commission, keep a record of its official actions, and maintain a list of names considered for each judicial vacancy.

The chair shall select from among the commission membership one or more candidate solicitors who shall be primarily responsible for actively seeking out candidates for judicial vacancies as they occur.

## **Executive Orders**

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### **5. Procedures When Judicial Vacancies Occur or Will Occur in the Future**

Within ten days after a judicial vacancy occurs in a district court, the Governor shall notify the chair of the Minnesota Judicial Merit Advisory Commission. The Governor shall advise the chair of the name of the person appointed to serve as a special member of the commission for the purpose of considering candidates to fill that judicial vacancy. The chair shall notify the members of the commission that a vacancy has occurred and shall call a meeting of the commission to consider the candidates for the vacancy to be held seven (7) to ten (10) days following the published application deadline.

When it is known that a future judicial vacancy will occur on a definite date, the Governor shall so notify the chair. The Governor shall advise the chair of the name of the person appointed to serve as a special member of the commission for the purpose of considering candidates to fill that judicial vacancy. The chair shall call a meeting of the commission to consider candidates for the judicial vacancy to be held not more than 4 months before the judicial vacancy is to occur nor less than 15 days after the chair takes the actions described in Section 'a' herein.

a. The chair shall immediately issue a news release stating that a judicial vacancy has occurred or will occur; that applications from qualified persons are being accepted by the commission and must be received by the published application deadline to be considered candidates for nomination; and that any names submitted will be kept in strict confidence by the commission until the names of the nominees are transmitted to the Governor.

b. The chair shall immediately distribute the news release to all media serving the judicial district in which the judicial vacancy has occurred or will occur and shall transmit copies of the news release to the presidents of the bar associations in the judicial district. The candidate solicitor shall encourage the local bar associations, where practical, to directly contact their members and advise them of the procedures to be followed if attorneys wish to apply for consideration by the commission.

### **6. Procedures**

The chair shall convene and preside over all meetings of the commission. The chair shall designate a member to preside if the chair is absent.

A quorum for commission meetings shall be six (6) members.

The commission shall recommend to the Governor no more than five (5) nor fewer than three (3) candidates for each judicial vacancy, unless there are fewer than three candidates available, in which case the commission shall transmit those names to the Governor in the manner described in Article 8 herein. The commission shall not rank the candidates submitted to the Governor. The recommendations to the Governor shall be advisory.

### **7. Standards for Evaluation of Candidates**

In evaluating the candidates, the commission shall give consideration to the following factors, as well as such other factors as the commission members deem important:

- a. integrity and moral courage;
- b. legal education and training;
- c. legal and trial experience;
- d. patience and courtesy;
- e. common sense and sound, mature judgment;
- f. ability to be objective and impartial;
- g. capacity for work;
- h. mental and physical health as they would affect the candidate's ability to perform judicial duties;
- i. good personal habits compatible with judicial dignity and deportment;
- j. knowledge and understanding of human nature; and,
- k. cooperativeness and ability to work with others.

### **8. Transmittal of Nominees to Governor**

Within six weeks after the Governor has notified the chair that a judicial vacancy has occurred or when the commission has completed its work before a future judicial vacancy is to occur, the secretary shall transmit to the Governor the names of the commission's recommended nominees. The names of the nominees shall be listed in alphabetical order. The secretary shall transmit to the Governor all of the applications submitted to the commission.

No other information shall be transmitted to the Governor, except that the members of the commission may consult with the Governor at his request and may provide him with any other information gathered by the commission during its deliberations.

If a vacancy occurs in the office of a judge in the same district for which the Governor filled a judicial vacancy within the past six months, and if the commission provided recommendations to the Governor for the prior judicial vacancy, then the Governor may elect to consider again the names submitted for the prior judicial vacancy as if those names had been submitted for the pending judicial vacancy. If the Governor so elects, he shall so inform the chair as soon thereafter as possible.

Pursuant to *Minnesota Statutes* 1988, Section 4.035, subd. 2, this Order shall be effective 15 days after its publication in the *State Register* and filing with the Secretary of State and shall remain in effect until rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 1988, Section 4.035, subd. 3.

IN TESTIMONY WHEREOF, I have set my hand this 30th day of June, 1989.



Rudy Perpich  
Governor

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## **Official Notices**

Pursuant to the provisions of Minnesota Statutes § 14.10, 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.

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### **Department of Agriculture**

#### **Request for Persons Interested in Serving on an Advisory Task Force on Farm Safety**

The *Laws of Minnesota 1989*, Chapter 350, Article 17, directs the commissioner of agriculture to appoint an advisory task force on farm safety. This notice is a request for persons interested in serving on the task force to communicate their interest to the commissioner.

The law says, "The principal purpose of the task force is to determine ways in which the very high risks of accident and injury to farm operators and their families and employees can be minimized. . . . On or before March 1, 1990, the task force shall report its findings and recommendations for legislation on farm accident prevention and other public policy changes that would be likely to improve health and safety on Minnesota farms."

Persons interested in serving on the task force are asked to write a letter of interest, including personal background relevant to this topic to Herb Halvorson, Assistant Commissioner of Agriculture, Minnesota Department of Agriculture, 90 West Plato Boulevard, St. Paul, MN 55107. Direct any questions to Tony Anderson, task force staff person, at (612) 296-1277. All letters of interest must be received by Monday, July 24th.

## Department of Health

### Bureau of Community Services

#### Public Hearing Regarding Fiscal Year 1990 Report of Intended Expenditures (RIE) and Statement of Assurances Concerning the Maternal and Child Health Services Block Grant

The Minnesota Department of Health will sponsor a public meeting to obtain comment on its "Report of Intended Expenditure (RIE) and Statement of Assurances" (application for continuation of Federal Maternal and Child Health Service (MCH) Block Grant funding) for the Fiscal Year starting October 1, 1989 and ending September 30, 1990. A copy of the RIE summary and documents incorporated by reference will be available for public inspection upon request.

The meeting will be held on Thursday, July 27 at the Minnesota Department of Health, 717 Delaware Street S.E., Minneapolis, Minnesota. The meeting will begin 9:30 a.m. in the Chesley Room and will conclude upon presentation of all testimony. Persons wishing to attend and/or present testimony are required to register in advance by July 25, 1989.

Any citizen or group may submit either written or oral testimony at the meeting. Testimony will be given on a first come, first served basis.

For further information contact:

Dr. Ronald Campbell, Section Chief  
MCH Technical Services  
Minnesota Department of Health  
717 Delaware Street S.E.  
Minneapolis, Minnesota 55440  
(612) 623-5539

## Metropolitan Council

### Notice of Review Schedule for the 1990 Work Program and Budget

The Metropolitan Council is developing a 1990 work program and budget for adoption in September. The Council's Management Committee will be reviewing the proposed budget and seeking public comment during July, August and September.

Following is the schedule for review of the 1990 work program and budget.

- **July 18** Management Committee review
- **July 25** Management Committee holds public meeting to receive comments
- **August 1** Management Committee recommends public hearing draft
- **August 10** Council adopts public hearing draft
- **September 14** Public hearing on 1990 work program and budget
- **September 19** Management Committee reviews public hearing comments and makes recommendations for adoption
- **September 28** Council adopts 1990 work program and budget

Please call to confirm meeting dates, times and agendas. A notice of public hearing will be published. If you have any questions regarding the schedule or proposed budget, call the Council's Finance Division and talk to Diane Archer (291-6612) or Tim Fleetham (291-6374).



# State Contracts and Advertised Bids

Pursuant to the provisions of Minn. Stat. § 14.10, an agency must make reasonable effort to publicize the availability of any services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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

Commodities contracts with an estimated value of \$15,000 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 whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Awards of contracts and advertised bids for commodities and printing, as well as awards of professional, technical and consulting contracts, appear in the midweek **STATE REGISTER Contracts Supplement**, published every Thursday. Call (612) 296-0931 for subscription information. Thank you.

## Department of Administration: Materials Management Division

### Contracts and Requisitions Open for Bid

Call 296-2600 for information on a specific bid, or to request a specific bid.

**Commodity:** Electric parts  
**Contact:** Pam Anderson 296-1053  
**Bid due date at 2pm:** July 11  
**Agency:** Transportation Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 79050 24325

**Commodity:** Armored cable  
**Contact:** Pam Anderson 296-1053  
**Bid due date at 2pm:** July 14  
**Agency:** Transportation Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 79000 95129

**Commodity:** Crack sealer  
**Contact:** Pam Anderson 296-1053  
**Bid due date at 2pm:** July 14  
**Agency:** Transportation Dept.  
**Deliver to:** Morris  
**Requisition #:** 79450 00602

**Commodity:** Rubbish disposal  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** July 14  
**Agency:** Itasca Community College  
**Deliver to:** Grand Rapids  
**Requisition #:** Price Contract

**Commodity:** Biodegradable poly bags  
**Contact:** Bernadette Vogel 296-2546  
**Bid due date at 2pm:** July 14  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract—Rebid

**Commodity:** Linen services  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** July 14  
**Agency:** North Hennepin Community College  
**Deliver to:** Brooklyn Park  
**Requisition #:** Price Contract

**Commodity:** Automated weather observation system  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 2pm:** July 17  
**Agency:** Transportation Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 79000 94754

**Commodity:** Medication carts  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 2pm:** July 17  
**Agency:** Regional Services Center  
**Deliver to:** Fairbault  
**Requisition #:** 55303 13334

**Commodity:** Emergency carts  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 2pm:** July 17  
**Agency:** Regional Treatment Center  
**Deliver to:** Anoka  
**Requisition #:** 55100 04233

**Commodity:** Carpeting and vinyl flooring  
**Contact:** Bernadette Vogel 296-2546  
**Bid due date at 2pm:** July 17  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Rubbish disposal  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** July 17  
**Agency:** Regional Treatment Center  
**Deliver to:** Faribault  
**Requisition #:** Price Contract

**Commodity:** 4 Door Sedan  
**Contact:** Brenda Thielen 612-296-9075  
**Bid due date at 2pm:** July 13  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 07300 60484

**Commodity:** Olds Cutlass  
**Contact:** Brenda Thielen 612-296-9075  
**Bid due date at 2pm:** July 13  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 07300 60485

**Commodity:** Rental of engineering copies—rebid  
**Contact:** Teresa Ryan 612-296-7556  
**Bid due date at 2pm:** July 12  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 79000 01006

**Commodity:** 21 passenger school bus  
**Contact:** Mary Jo Bruski 612-296-3772  
**Bid due date at 2pm:** July 17  
**Agency:** Arts Education  
**Deliver to:** Golden Valley  
**Requisition #:** 25000 02010

## State Contracts and Advertised Bids

**Commodity:** TCI seating  
**Contact:** John Bauer 612-296-2621  
**Bid due date at 2pm:** July 17  
**Agency:** Community College  
**Deliver to:** Inver Grove Heights  
**Requisition #:** 27157 48137

**Commodity:** Software: Emme 12  
**Contact:** Bernadette Vogel  
612-296-2546  
**Bid due date at 2pm:** July 17  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 79000 95155

**Commodity:** Miscellaneous hospital/  
clinic supplies— volume purchase  
plan  
**Contact:** Donnalee Kutchera  
612-296-3776  
**Bid due date at 2pm:** July 21  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

## Department of Administration: Print Communications Division

Printing vendors for the following printing contracts must review contract specifications in printing buyers office at 117 University Avenue, Room 134-B, St. Paul, MN.

**Commodity:** Enhance Minnesota reprints, 1M, 8½" x 11" pages + cover, saddle stitch 2-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 11  
**Agency:** Trade & Economic Development Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 8188

**Commodity:** Economic Development Program, 2M books 12 pages + cover, 8½" x 11", camera ready, 2-sided, plastic combination binding  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 13  
**Agency:** Trade & Economic Development Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 8184

**Commodity:** Continuing education booklets, 230M total (fall, winter, spring editions) 16 pages, 7½" x 10⅞", camera ready, 2-sided, glued binding  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 13  
**Agency:** Minneapolis Community College  
**Deliver to:** Minneapolis  
**Requisition #:** 8027

**Commodity:** Continuous form letterhead, 2-part, 9½" x 11" overall, camera ready, 60M, fold 1-up  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 13  
**Agency:** Human Rights Dept.  
**Deliver to:** St. Paul  
**Requisition #:** 7858

**Commodity:** Commencement books, 12,100 (4 sets of books varying in length from 16 to 24 pages) 5½" x 8½", saddle stitch, 2-color cover, type to set  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 13  
**Agency:** State University  
**Deliver to:** Mankato  
**Requisition #:** 7784

**Commodity:** Student recruitment newsletters, 3 different issues, 14.4M total, 11" x 17" folded to 8½" x 5½", 2-color, camera ready, 4 pages  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 14  
**Agency:** Southwest State University  
**Deliver to:** Marshall  
**Requisition #:** 8144

**Commodity:** Big game possession tag, 100M, size 4 tag, preprinted numbering, type to set, 2-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 14  
**Agency:** DNR-Wildlife  
**Deliver to:** St. Paul  
**Requisition #:** 7819

**Commodity:** Normandale class schedules, various quantities and page counts, 8¼" x 10¾" 30# news print, camera ready, 2-sided, saddle stitch, 2-color  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 18  
**Agency:** Normandale Community College  
**Deliver to:** Bloomington  
**Requisition #:** 8009

**Commodity:** Trails & Waterways brochure, 100M, 18" x 24" fold to 9" x 3¾", camera ready, 4-color  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 18  
**Agency:** DNR  
**Deliver to:** St. Paul  
**Requisition #:** 8169

**Commodity:** Quarterly Class Schedule, 32pp (fall, winter, spring) 16 pages (summer), 65M total, self cover, 8" x 10⅞", camera ready, 2-sided, glue binding  
**Contact:** Printing Buyer's Office  
**Bids are due:** July 13  
**Agency:** Minneapolis Community College  
**Deliver to:** Minneapolis  
**Requisition #:** 8026

# Professional, Technical & Consulting Contracts ---

## Minnesota Department of Corrections

### Health Care Unit

#### Notice of Request for Proposals for Medical Director

The Minnesota Department of Corrections is seeking proposals for a Medical Director. The Medical Director is a part-time contract consultant who will provide medical input into all facets of the delivery of Health Services. He/She exercises professional supervision and monitoring over all institution contract physicians and all medical services delivered to inmate population by other medical providers. He/She will advise the Department's Health Care Administrator as necessary regarding the delivery of services to this population.

#### DUTIES AND RESPONSIBILITIES

A. Development, implementation and monitoring of medical standards, policies and procedures to ensure the provision of quality health care on a daily basis.

B. Coordination and monitoring of secondary and tertiary service delivery by physicians at St. Paul-Ramsey Medical Center and Ramsey Clinic, community hospitals and clinics.

C. Supervision of the other physician contractors of the Department of Corrections.

D. Development and implementation of quality assurance program, to assure that health care services provided by the Department are continuously of high quality.

#### KNOWLEDGE, SKILLS & ABILITIES

A. Knowledge of the principles and practices of quality medical care.

B. Knowledge of effective methods and skills used in planning, organizing, implementing and evaluating complex health care programs.

C. Knowledge of and skill in effective supervisory techniques and peer review practices.

D. Skill in establishing and maintaining effective working relationships with individuals at all levels in a wide variety of organizations and with differing concerns and viewpoints.

E. Skill in oral and written communications at a level appropriate to the individual or group.

#### SPECIAL REQUIREMENTS

A. Maintains a current license to practice medicine in the State of Minnesota.

B. Maintains a current (DEA) Drug Enforcement Administration registration number.

C. Completion of residency in a specialty such as family practice or internal medicine which is geared toward board certification eligibility.

For further information contact:

Dana Baumgartner, Health Care Administrator  
Minnesota Department of Corrections  
300 Bigelow Building  
450 N. Syndicate Street  
St. Paul, Minnesota 55104  
# (612) 642-0248

Proposals must be received by 4:30 p.m. Friday, July 21, 1989.

## Higher Education Facilities Authority

### Notice of Public Hearing on Proposal to Issue Revenue Bonds on Behalf of the College of Saint Benedict

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds on behalf of the College of Saint Benedict, a Minnesota nonprofit corporation, and institution of higher education (the "College"), at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth

## **Professional, Technical & Consulting Contracts**

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Street, St. Paul, Minnesota on July 19, 1989 at 2 o'clock p.m. Under the proposal, the Authority would issue its revenue bonds in an aggregate principal amount of up to approximately \$1,840,000, to provide financing for a Project generally described as the renovation of the East Apartments, renovation of the Nursing Department and renovation of the admissions and academic affairs area, all to be located on the campus of the College of Saint Benedict, 37 South College Avenue, St. Joseph, Minnesota, and the refinancing of the Authority's Series N Bonds, which were originally issued to finance the costs of construction, furnishing and acquisition of a student apartment complex located on the campus of the College and operated by the College. At said time and place the Authority shall give all parties who appear an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 10 July 1989

BY ORDER OF THE MINNESOTA HIGHER  
EDUCATION FACILITIES AUTHORITY

Joseph E. LaBelle  
Executive Director

## **Higher Education Facilities Authority**

### **Notice of Public Hearing on Proposal to Issue Revenue Bonds on Behalf of Northwestern College of Chiropractic**

NOTICE IS HEREBY GIVEN that a public hearing will be held by the Minnesota Higher Education Facilities Authority (the "Authority") with respect to a proposal to issue revenue bonds on behalf of Northwestern College of Chiropractic, a Minnesota nonprofit corporation and institution of higher education (the "College"), at the Authority's offices at Suite 450 Galtier Plaza, 175 East Fifth Street, St. Paul, Minnesota on July 19, 1989 at 2 o'clock p.m. Under the proposal, the Authority would issue its revenue bonds in an aggregate principal amount of up to approximately \$4,700,000, to provide financing for a Project generally described as (i) the construction of a Clinical Research Facilities Center for Chiropractic Studies, the expansion of the Library and the remodeling of the auditorium, all to be located on the campus of the College and owned and operated by the College, whose street address is Northwestern College of Chiropractic, 2501 West 84th Street, Bloomington, Minnesota 55431; (ii) the remodeling and expansion of three outpatient clinics, located at 621 South Cleveland Avenue, St. Paul, Minnesota 55116, 2929 Bloomington Avenue South, Minneapolis, Minnesota 55407 and 3605 France Avenue North, Robbinsdale, Minnesota 55422, respectively, all of which are owned and operated by the College; and (iii) the refinancing of a Contract for Deed held by Independent School District No. 271, originated August 5, 1983, which financed the purchase of the building which houses the College. At said time and place the Authority shall give all parties who appear an opportunity to express their views with respect to the proposal to undertake and finance the Project.

Dated: 10 July 1989

BY ORDER OF THE MINNESOTA HIGHER  
EDUCATION FACILITIES AUTHORITY

Joseph E. LaBelle  
Executive Director

## **Minnesota Historical Society**

### **Notice of Availability of Contract for Indexer**

The Minnesota Historical Society seeks independent contractor, on a temporary basis, as indexer for scholarly journal. Requires demonstrable experience in indexing humanities material; knowledge of subheads, cross-references. Computer experience desirable. Letter of application & resume must be received by Mark Schwartz, 1500 Mississippi St., St. Paul, MN 55101, 612/296-2155, not later than July 17, 1989.

## **Department of Jobs and Training**

### **Notice of Proposed Contracts for Federal Fiscal Years 1990**

The Minnesota Department of Jobs and Training, Services for the Blind (SSB) is publishing notice that the contracts listed below are available and will be awarded for federal fiscal year 1990 (October 1, 1989 to September 30, 1990).

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## Professional, Technical & Consulting Contracts

### A. Notice of Proposed Contracts for Reader Services

SSB is seeking individuals/organizations to provide reader services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Reader, the individual will read incoming correspondence, case file information, regulations, grants/grant applications, etc. and record information on fiscal documents, rehabilitation plans, applications and client information system forms as dictated by the blind or visually handicapped employee. The following approximate number of contracts will be let:

1. 5 Readers for the Metro area; 1 of these must have a working knowledge or familiarity of computer-related technical terms and language.
2. 1 Reader for the Rochester area.

All individuals will be paid at a starting rate of \$4.50 per hour. Contracts will range from 10-20 hours per week based on the individual need of the employee. Total cost of all contracts is not expected to exceed \$12,500.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, Program Support Manager  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, Minnesota 55104  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday, 8/4/89.

### B. Notice of Proposed Contracts for Driver Services

SSB is seeking individuals/organizations to provide driver services as a reasonable accommodation to blind or visually handicapped employees of the agency. As a Driver, the individual will drive the blind or visually handicapped employee to meetings, client interviews or appointments and return to the office in their own or a state-owned vehicle. The following approximate number of contracts will be let:

1. 5 Drivers for the Metro area;
2. 1 Driver for the Rochester area serving Dodge, Fillmore, Freeborn, Houston and Mower Counties;

Candidates must possess a valid driver's license and good driving record and provide proof of insurance if their own vehicle is to be used.

All individuals will be paid at a starting rate of \$4.50 per hour. Contracts will range from 10-20 hours per week based on the individual need of the employee. An individual providing driver services who uses his/her own vehicle shall be reimbursed as part of the contract at a rate of \$.27 per mile. Total cost of all contracts is not expected to exceed \$12,500.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

Julie Talbott, Program Support Manager  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, Minnesota 55104  
(612) 642-0511

Individuals interested in being both a reader and a driver should indicate this in their brief statement. All proposals must be received by 4:30 p.m., Friday, 8/4/89.

### C. Notice of Proposed Contract for Tape Evaluation Services

SSB is seeking an individual to provide tape evaluation services. As a Tape Evaluator, the individual will:

1. evaluate the Oral Reading Audition of each prospective volunteer and job applicant in order to select the highest calibre of employee/volunteer;
2. maintain on-going quality control of the reading and technical skills of 139 volunteer broadcasters using a 17 point evaluation guide; and
3. maintain on-going quality control of the reading and technical skills of 140 volunteer tape textbook transcribers using an 18 point evaluation guide.

The individual will provide these services at the 1745 University Avenue location.

The individual will be paid at a rate of \$8.00 per hour and will provide services for approximately 24/hours per week. Total cost of the contract is not expected to exceed \$9,216.00.

Inquiries and/or proposals including a brief statement of qualifications and training/work experience should be directed to:

## **Professional, Technical & Consulting Contracts**

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Julie Talbott, Program Support Manager  
Services for the Blind and Visually Handicapped  
1745 University Avenue  
St. Paul, Minnesota 55104  
(612) 642-0511

All proposals must be received by 4:30 p.m., Friday, 8/4/89.

## **Department of Jobs and Training**

### **State Job Training Office**

#### **Notice of Request for Operations of Displaced Homemaker Programs**

The Minnesota Department of Jobs and Training, State Job Training Office, is requesting proposals from appropriate organizations and units of government to operate employment and support service programs to serve displaced homemakers in two areas: The Willmar area counties of Kandiyohi/Meeker/Renville and McLeod and in the southeast counties of Rice/Goodhue/Wabasha/Steele/Dodge/Olmstead/Winona/Freeborn/Mower/Fillmore/Houston.

A maximum of \$130,000 is available to fund the Willmar area program, and a maximum of \$170,000 is available to fund the southeast area program to operate between Jan. 1, 1990 and June 30, 1991. Proposals must be received no later than 4:30, Sept. 30, 1989.

RFP application materials are available upon request from:

Laura Turner, State Coordinator  
State Job Training Office  
150 E Kellogg Blvd.  
690 American Center Bldg.  
St. Paul, MN 55101  
612/296-5325

## **Department of Labor & Industry**

### **Request for Proposals for Computer Consultant and Training**

The Minnesota Department of Labor and Industry is requesting proposals from Consultants who are experienced in Unisys 1100 Computer Systems and in designing complex applications in MAPPER DBMS to provide consulting services in the form of applied advanced training in rapid application design and development; and design and programming consulting services as needed.

The time frame for the class will be 2 four hour sessions with additional time for discussion, and must be completed.

The training will focus on rapid complex application design and development in MAPPER DBMS using existing or planned applications within the Department. The class size will be from 6 to 8 people.

Candidates must respond in the form of a proposal to enter into a contract as required by the Department of Labor and Industry. The proposal must include a course outline, total cost, billing rates, references. Maximum reimbursement will be \$10,000 which includes travel and expenses.

The time period for delivery of the training services will be from August 15, 1989 through September 30, 1989. Consulting services will be from August 15, 1989 through June 30, 1990. The proposal must be submitted by July 21, 1989.

Related information may be obtained from:

Alan Miner, Director  
or  
Jeanne Bortz, Supervisor—612-297-4592  
Information Management Services  
Minnesota Department of Labor and Industry  
443 Lafayette Road  
St. Paul, Minnesota 55155

**Department of Public Safety****Children's Trust Fund (CTF)****Request for Proposals to Develop a "How To" Public Information/Communication Manual/Package and Public Service Announcements for Radio and Television**

The Children's Trust Fund is seeking proposals from experienced individuals or agencies to:

(1) develop a "how to" manual/package that sets forth guidelines and a framework for designing and implementing a basic public information/communication plan. This package will be utilized by county child abuse and neglect prevention councils (coalitions of professional and nonprofessional people interested in working together to mobilize their communities to assume more responsibility for the well being of all children, to support parents, strengthen families, and thereby prevent child maltreatment) throughout the state; and

(2) develop public service announcements (psa's) for radio and television in accord with the thematic direction set forth by the CTF, and to produce a sufficient number of copies for utilization by the county child abuse and neglect prevention councils cited above in conjunction with their communication plans.

**Submission of Proposals**

Proposals must be submitted no later than 4:30 p.m., July 31, 1989, to: Maureen Cannon, Executive Director, Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN 55101, (Telephone: 612/296-KIDS).

In addition to the proposal for developing the package and psa's, applicants are to include the resumé of the person(s) who will be responsible, and samples of previously produced materials that relate to the products being solicited. (Samples will be returned to the applicant upon request.)

Please provide (1) original and (5) photocopies of the proposal.

**Review of Proposals**

All proposals received by the above deadline will be reviewed and evaluated by a committee selected for this purpose by the CTF. An interview may be part of this process.

This Request for Proposals does not obligate the State of Minnesota, Department of Public Safety, Children's Trust Fund, to accept any of the proposals submitted.

**Tentative Proposal/Contract Timelines**

**Publication in *State Register*:** Monday, July 10, 1989.

**Response Period:** Tuesday, July 11, 1989-4:30 p.m., Monday, July 31, 1989.

**Tentative Respondent Interviews:** August 14-15, 1989.

**Anticipated Date of Contract Award:** August 25, 1989.

**Term of Contract:** September 15, 1989-March 15, 1990.

**Cost of the Contract:** The contract amount should not exceed \$21,000.00.

**Department of Public Safety****Children's Trust Fund (CTF)****Request for Proposals to Produce a Quarterly Newsletter**

The Children's Trust Fund is seeking proposals from experienced individuals or agencies to produce a quarterly newsletter that addresses the various aspects of the prevention of child maltreatment. The individual/agency will be expected to research the literature and write articles that are in accord with the thematic direction set forth by the CTF; solicit and edit articles from CTF grantees and provide the camera-ready copy to the executive director of the CTF for approval. (Printing and mailing responsibilities will be handled by CTF and are not a part of this proposal.) It is anticipated that each edition will consist of 6-8 pages, 8½"x11".

**Submission of Proposals**

Proposals must be submitted no later than 4:30 p.m., July 31, 1989, to: Maureen Cannon, Executive Director, Children's Trust Fund, 333 Sibley Street, Suite 567, St. Paul, MN 55101, (Telephone: 612/296-KIDS).

## Professional, Technical & Consulting Contracts

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Proposals should consist of the resumé of the person(s) responsible for the production and samples of published materials. Please provide (1) original and (5) photocopies of the proposal. Samples of published materials will be returned to the applicant upon request.

### Review of Proposals

All proposals received by the above deadline will be reviewed and evaluated by a committee selected for this purpose by the CTF. An interview may be part of this process.

This Request for Proposals does not obligate the State of Minnesota, Department of Public Safety, Children's Trust Fund, to accept any of the proposals submitted.

### Tentative Proposal/Contract Timelines

**Publication in *State Register*:** Monday, July 10, 1989.

**Response Period:** Tuesday, July 11, 1989-4:30 p.m., Monday, July 31, 1989.

**Tentative Respondent Interviews:** August 14-15, 1989.

**Anticipated Date of Contract Award:** September 1, 1989.

**Term of Contract:** October 1, 1989-September 30, 1991 with a mutually agreeable renewal option to September 30, 1993.

**Cost of the Contract:** The contract amount for a two year period should not exceed \$15,000.00.

## Department of Trade and Economic Development

### Community Development Division

### Request for Proposal to Prepare a Feasibility Study

The Community Development Division is requesting proposals to prepare a study on the feasibility of the establishment in St. Paul of a transportation museum.

#### Notice of the Project

The Community Development Division has been directed to report to the Minnesota Legislature regarding the feasibility of establishing a transportation museum in the City of St. Paul.

The Division is interested in a study that: (1) is comprehensive, incorporating all modes of transportation; and (2) gives full consideration to the historic role transportation has played in the growth and development of the City of St. Paul and the State of Minnesota.

A sum of \$50,000 has been provided for this project.

Proposals will be accepted from governmental units, nonprofit corporations, as well as research organizations and consulting firms.

#### Proposal Content

1. A description of the survey methodology.
2. A description of the consultants background and experience in similar activities.
3. A project budget and anticipated timeframe for completion of the project.

#### Submission of Proposals

All proposals should be submitted by 4:30 p.m., August 15, 1989 to Bob Benner, Community Development Division, Department of Trade and Economic Development, 900 American Center Building, 150 East Kellogg, St. Paul, Minnesota 55101-1421. Any questions regarding this project should be directed to Mr. Benner at 612/297-2515.

#### Completion Date

This project should be completed by January 1, 1990. This request for proposal does not obligate the State to complete the project and the State reserves the right to cancel this solicitation if necessary.

#### Evaluation

Proposals will be reviewed for:

1. Presence of sufficient budget detail to review and understand proposed expenditure.



2. Qualifications of personnel and company.
3. Study methodology.

All proposals received will be reviewed by staff.

David J. Speer, Commissioner

## **Minnesota Office of Tourism**

### **Request for Proposal for an Audio Visual Presentation for Great Lakes States USA**

The Travel Trade Services unit of the Minnesota Office of Tourism is seeking proposals for the production of an audio visual presentation about travel opportunities in the Great Lakes States. The presentation will focus on the states of Minnesota, Wisconsin, Michigan, Illinois, Indiana and Ohio.

The presentation will be a two-projector slide/tape show, produced in both English and German languages. The presentation must be compatible for playback on equipment that is adaptable to both European and U.S. power systems.

In addition to the slide-tape presentations in English and German, the contract will require one ¾-inch master video tape and 10 VHS- and 10 PAL-format video tapes in each language. Deadline for completion of the project will be September 7, 1989.

Original location photography and scripts in German and English will be provided by the Tourism Office. The producer will be responsible for graphic and title slides (approximately 15), voice talent, library music, synchronizing the visuals with German and English sequences, art direction and production.

If you have any questions regarding this project, please feel free to call Cheryl Offerman at 612/296-5016 between the hours of 8 a.m. and 4 p.m.

Provide written bids no later than 4:30 p.m. on July 24, 1989 to: Cheryl Offerman, Minnesota Office of Tourism, Travel Trade Services, 375 Jackson Street, 250 Skyway Level, St. Paul, MN 55101. Late proposals will not be accepted.

David J. Speer, Commissioner  
Minnesota Department of Trade  
and Economic Development  
Office of Tourism

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## **Non-State Public Contracts**

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector.

It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of project and tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact the editor for further details.

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## **Metropolitan Council**

### **Notice of Request for Proposals for Training**

NOTICE IS HEREBY GIVEN that the Metropolitan Council is requesting proposals for consulting services to offer staff training on Team Building, Meeting Management and Interpersonal Communication Skills.

The services should commence in September, 1989, and should be completed by August, 1990. To ensure full and timely consideration, a proposal must be received at the Council by July 31, 1989. Proposals should be sent to: Executive Director's Office, The Metropolitan Council, 230 E. Fifth St., St. Paul, MN 55101, Attention: Marion Angelica.

Copies of the RFP may be obtained from the Council offices. Inquiries should be directed to Marion Angelica at (612) 291-6483.

## Non-State Public Contracts

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### Metropolitan Waste Control Commission

#### Public Notice for Prequalifications for Engineering Services

NOTICE IS HEREBY GIVEN that the Metropolitan Waste Control Commission is soliciting prequalifications for engineering services for the System-wide Inflow-Infiltration Evaluation, MWCC Project Number 87-53-608.

The prequalification should include the firm's interest to provide services, background data, qualifications and disciplines of employees and the demonstrable experience of the firm.

The prequalification should include information on the firm's programs for compliance with equal employment opportunities, affirmative action and utilization of minority firms. The prequalifications will be used by the Commission as a mechanism for selecting firms to provide engineering services.

Firms not currently on the Commission's prequalification list should submit a letter stating their interest in the projects or services and one copy of its prequalifications. Firms presently on the Commission's prequalification list need only to submit a letter stating their interest in the projects or services and the necessary information, if any, to update their prior prequalifications, to the Metropolitan Waste Control Commission, Mears Park Centre, 230 East 5th Street, St. Paul, Minnesota 55101. Inquiries regarding the solicitations should be directed to Mr. Ray Payne, Assistant Director of Engineering, (612) 229-2186.

By Order of the  
Metropolitan Waste Control Commission  
Mr. Gordon O. Voss  
Chief Administrator

### Metropolitan Waste Control Commission

#### Announcement of Intent to Contract for Assistance in Administering an Interim Sludge Management Program

##### Commission Resolution Number 89-155

The Metropolitan Waste Control Commission (MWCC) is responsible for the collection and treatment of wastewater in the seven county, Minneapolis-St. Paul, Metropolitan Area. The Commission has recently completed a residual solids management planning study for the southwest metropolitan area. The study involved two major treatment facilities, the Blue Lake Wastewater Treatment Plant and Seneca Wastewater Treatment Plant. Currently all sludge produced at these facilities is de-watered and incinerated. The Commission is seeking proposals from appropriate entities to assist in permitting, developing, marketing, distributing and applying stabilized sludge products for agricultural and horticultural use thereby utilizing the sludge from the two treatment facilities.

The interim sludge management program is scheduled to begin with a planning and implementation phase during the remainder of 1989 and extend through 1995. The two treatment facilities currently produce a combined total of approximately 40 dry tons of sludge per day. Those interested in being requested to submit proposals must respond in writing to this advertisement with a statement of their interest and qualifications by no later than July 21, 1989. Letters should be addressed as follows: Metropolitan Waste Control Commission, Attention Mr. Grounds/RSM, 230 East Fifth Street, St. Paul, Minnesota, 55101.

Lurline Baker-Kent, Chair  
Metropolitan Waste Control Commission

### City of Richfield

#### Notice of Bids for Computer Hardware and Software

NOTICE IS HEREBY GIVEN that sealed bids will be received by the City of Richfield until 10:00 a.m. Central Daylight Time on Monday, July 31, 1989, and then will be publicly opened and read aloud. Proposals are being requested on the following items:

##### COMPUTER HARDWARE AND SOFTWARE

in accordance with specifications on file in the Office of the Data Processing Manager at 6700 Portland Avenue South, Richfield, Minnesota, 55423. The City is requesting proposals for the expansion of its existing computer system. The City operates a Unisys NGEN/B20 series computer system. All bids shall be on forms provided by the City, and will be furnished free to each bidder upon their request. Requests for specifications and proposal forms should be directed to the Data Processing Division, City of Richfield, 6700 Portland Avenue South, Richfield, Minnesota, 55423, telephone: (612) 869-7521.

All bids must be sealed and marked on the outside of the envelope "Proposal Form: Computer Hardware and Software" and

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## Supreme Court Decisions

addressed to the City Clerk, City of Richfield. Each bid shall be accompanied by a certified check, cashier's check or bid bond in the amount of five percent (5%) of the total bid price and made payable to the City of Richfield.

The right is reserved to reject any or all bids or parts of bids and to waive informalities therein. Bids may be rejected for any alterations or erasures.

Thomas P. Ferber, City Clerk

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## State Grants

In addition to requests by state agencies for technical/professional services (published in the State Contracts section), the *State Register* also publishes notices about grant funds available through any agency or branch of state government. Although some grant programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself.

Agencies are encouraged to publish grant notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

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## Department of Agriculture

### Planning Division

### Notice of Availability of Grant Funds for Agriculture Information Centers

The Minnesota Department of Agriculture announces availability of \$200,000 in grant funds for agriculture information centers. The purpose of this grant is to assist private, non-profit organizations that provide a variety of services to farmers such as financial planning, social service and legal service referrals, assistance with mediation and peer counseling.

The grant must be matched dollar for dollar with nonstate money. However, up to half of the match may be in-kind contributions.

To receive a grant application contact:

Carol Milligan  
Minnesota Department of Agriculture  
Planning Division  
90 West Plato Blvd.  
St. Paul, MN 55107  
(612) 296-6906

All grant applications must be received by Ms. Milligan at the address above by 4:30 p.m., August 7, 1989.

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## Supreme Court Decisions

### Decisions Filed 7 July 1989

#### **C6-88-876 Deborah Durkin v. Kathryn Hinich, Appellant, and In Re the Matter of S.A.H. Court of Appeals.**

1. Family court may consolidate dependency and neglect petition under *Minnesota Statutes* c. 260 (1986) and custody petition under *Minnesota Statutes* c. 518 (1986) in one evidentiary hearing.
2. Family court did not abuse its discretion in dismissing a dependency and neglect petition while awarding a change of custody based on a custody petition where appellant had initially sought to have the dependency and neglect petition dismissed and the court fully considered both petitions throughout the evidentiary hearing.
3. Grave and weighty reasons existed to award a change of custody from a natural parent to a third party where the third party was not a total stranger to the family and all expert testimony found in favor of awarding custody to the third party.

Affirmed. Popovich, C.J.

#### **C8-89-131 Steven A. Ross, Relator v. Northern States Power Company, Self-Insured. Workers' Compensation Court of Appeals.**

*Minnesota Statutes* § 176.135, subd. 1(a) (1988) requires an employer to pay for nursing care provided by a member of an employee's family if the employer knows of the need for the services, they are beyond the scope of normal household duties, performed under the direction and control of a physician, and capable of valuation.

Reversed. Yetka, J.

## Supreme Court Decisions

### **C7-88-823 Magnetic Data, Inc. v. St. Paul Fire and Marine Insurance Company, petitioner, Appellant. Court of Appeals.**

The insured's comprehensive general liability policy does not cover loss-of-use claim arising from mistaken erasure of computer information because (a) the policy definition of "property damage" does not extend coverage to damages resulting from loss of use of intangible property and (b) even if computer information is tangible property, coverage is excluded because damaged property was on insured's premises "for the purpose of being worked on" by the insured.

Reversed. Yetka, J.

### **C4-88-1914 In re Petition for Disciplinary Action against Douglas A. Ruhland, an Attorney at Law of the State of Minnesota. Supreme Court.**

Respondent's failure to honor agreement with opposing counsel and trial court, disclose exercise of attorney's lien and obey trial court's order to pay funds to an opposing party was professional misconduct which violated Rules 8.4(c) and (d) of the Minnesota Rules of Professional Conduct.

Publicly reprimanded. Per Curiam.

## Announcements

**Public Comment on Transportation System:** The Transportation Study Board seeks public comment on the question, "What do you envision Minnesota's transportation system to be in the 21st century?" Two public meetings are set: **July 11** at 7 p.m. in the Chalet at Marshall and **July 12** at 1 p.m. in the Holiday Inn-Downtown, Mankato.

**DNR News:** Special experimental Canada goose seasons in three zones of the state will be held during the first 10 days of September. This will be the third year of the experiment in the Twin Cities Metro Zone, and the first year in the Fergus Falls/Alexandria and southwest border (Martin and Jackson counties) zones. The experiment will allow the DNR to evaluate hunting as an effective way to reduce rapidly increasing resident Canada goose flocks. To participate in these special seasons, all hunters must have the special goose-hunt permit in their possession. Call (218) 755-2973 for more information. • Minnesota's Clean Rivers Project was among 103 (out of 530 nominees) winners of the third annual Take Pride In America national awards. The project offers "how to" kits and degradable trash bags to groups planning cleanup efforts and can help with certain costs associated with cleanups. For kits or more information, call Minnesota Clean Rivers Project at (612) 297-4822, or toll-free in Minnesota 800-652-9747 (ask for the DNR).

**Meetings for Transit Board Candidates:** Four public meetings will be held in July to hear statements from and on behalf of candidates for the newly reconstituted Regional Transit Board (RTB). • **July 19** for candidates wishing to represent Districts G and H. District G covers Scott and Carver Counties, and District H includes Dakota and southern Washington Counties, in the Burnsville Council Chambers at 100 Civic Center Pkwy., Burnsville. • **July 20** for candidates wishing to represent Districts E and F (District E includes northeastern Hennepin and southern Anoka Counties, District F includes western Hennepin and northern Anoka Counties) in the Champlin Council Chambers, Main City Hall Building, 11955 Champlin Dr., Champlin. • **July 25** for District C and D candidates (District C covers central and south Minneapolis; District D includes north Minneapolis, Golden Valley, Robbinsdale, St. Louis Park and Edina) in the A-Level Auditorium of the Hennepin County Government Center at 300 So. 6th St. in Minneapolis. • The fourth meeting, on July 27, is for candidates in Districts A and B, which include the city of St. Paul and northern Ramsey and Washington Counties, at the Metropolitan Council Chambers, Mears Park Centre, 230 E. Fifth St., St. Paul. All meetings begin at 7 p.m. on each date. The Metropolitan Council will make eight appointments to the RTB, one from each of the eight RTB districts in the Twin Cities metro area. At least six of these appointments must be local government officials, including two county commissioners and four city or township officials. Applications are preferred by July 14. For further information or an application, call Sandi Lindstrom of the Council staff at 291-6390 or the Secretary of State's office at 296-2805.

**Final Scoping Decision for Runway Extension:** The Final Scoping Decision Document (FSDD) on environmental issues for the proposed extension of runway 4-22 at the Minneapolis/St. Paul International Airport is now available for public review. This document was prepared after evaluation of all public and agency comments from the federal and state scoping processes. The FSDD presents the decisions that have been made about the content and scope of the Draft Environmental Impact Statement (DEIS) which is being prepared jointly by the Federal Aviation Administration and the Minnesota Department of Transportation (Mn/DOT). Included in the FSDD are: project description and purpose; project alternatives that will be evaluated in the DEIS and those that will be dismissed; major, moderate and minor socio-economic and environmental impacts and issues that will be evaluated in the DEIS and those that will be dismissed; a project time schedule; and a summary of public and agency comments received. Copies of the FSDD can be reviewed or obtained by contacting Richard Theisen, Project Manager, Mn/DOT, 417 Transportation Building, St. Paul, Minnesota, 55155, (612) 296-2552. The combined federal and state DEIS that is now being prepared is scheduled to be completed during the summer of 1989. A notice of availability will be published when this document is ready for public review.

**Twin Cities metro-area unemployment:** The May unemployment rate for the Minneapolis-St. Paul metropolitan area remained at 3.8 percent, unchanged from April, but above the 3.2 percent rate of May 1988. Wage and salary employment during the month grew by about 16,000 jobs in May, mostly in construction, wholesale and retail trade, services and local government. The comparable national unemployment rate for May was 5.0 percent. The statewide unemployment rate in May was 4.3 percent. Compared with May a year ago, the size of the Twin Cities metropolitan area civilian labor force increased by 0.6 percent; the number of employed people decreased by 0.1 percent; and the number of unemployed workers increased by 20.7 percent. The metropolitan area labor force in May was 1,380,200, up 9,100 from April and up 8,000 from May of last year. The number of people employed in May was 1,327,100, up 8,600 from April and down 1,100 from May a year ago. The number of unemployed workers in the Twin Cities area in May was 53,100, up 500 from April and up 9,100 from May a year ago.

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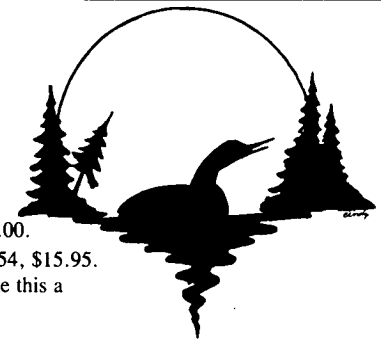
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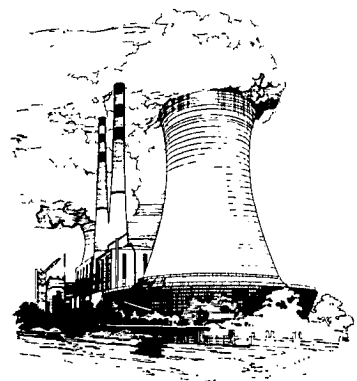
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