

The Minnesota
**State
Register**

RECEIVED

NOV 27 1995

LEGISLATIVE REFERENCE LIBRARY
STATE OFFICE BUILDING
ST. PAUL, MN 55155



Rules and Official Notices Edition

Published every Monday (Tuesday when Monday is a holiday)
by the

Minnesota Department of Administration - Print Communications Division

Monday 27 November 1995

Volume 20, Number 22

Pages 1221-1256

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 and commissioners' orders, proposed and adopted rules, official and revenue notices, professional-technical-consulting contracts, non-state bids and public contracts and grants.

A *Contracts Supplement* is published Tuesday, Wednesday and Friday and contains bids and proposals for commodities, including printing bids.

Printing Schedule and Submission Deadlines

Vol. 20 Issue Number	PUBLISH DATE	Deadline for both Adopted and Proposed RULES	Deadline for: Emergency Rules, Executive and Commissioner's Orders, Revenue and Official Notices, State Grants, Professional-Technical-Consulting Contracts, Non-State Bids and Public Contracts
# 22	Monday 27 November	Monday 13 November	Monday 20 November
# 23	Monday 4 December	Friday 17 November	Monday 27 November
# 24	Monday 11 December	Monday 27 November	Monday 4 December
# 25	Monday 18 December	Monday 4 December	Monday 11 December

Arne H. Carlson, Governor 612/296-3391	Hubert H. Humphrey III, Attorney General 612/297-4272	Joan Anderson Growe, Secretary of State 612/296-2079
Joanne E. Benson, Lt. Governor 612/296-3391	Judi Dutcher, State Auditor 612/297-3670	Michael A McGrath, State Treasurer 612/296-7091
Department of Administration:	Print Communications Division:	Jane E. Schmidley, Acting Editor 612/297-7963
Elaine S. Hansen, Commissioner 612/296-1424	Kathi Lynch, Director 612/297-2553	Paul Hoffman, Assistant Editor 612/296-0929
Robert A Schroeder, Asst. Commissioner 612/297-4261	Mary Mikes, Manager 612/297-3979	Debbie George, Circulation Manager 612/296-0931

An "Affidavit of Publication" can be obtained at a cost of \$5.00 for notices published in the *State Register*. This service includes a notarized "Affidavit of Publication" and a copy of the issue of the *State Register* in which the notice appeared.

To submit notices for publication in the *State Register*, contact the editor listed above. The charge is \$80.00 per page, billed in tenths of a page (columns are seven inches wide). About 2-1/2 pages typed double spaced on 8-1/2"x11" paper equal one typeset page in the *State Register*. Submit two copies of your notice, typed double spaced, with a letter on your letterhead stationery requesting publication date. Send to the *State Register* at the address listed below.

SUBSCRIPTION SERVICES:

The *State Register* is published by the State of Minnesota, Department of Administration, Print Communications Division, pursuant to *Minnesota Statutes* § 14.46. The *State Register* is available at the main branch of county libraries in Minnesota and all "State Depository Libraries": State University and Community College libraries; the University of Minnesota libraries; St. Paul, Minneapolis and Duluth Public Libraries; State Law Library; Minnesota Historical Society Library; and the Library Development Service at the State Department of Education. Single copies cost \$3.50 and are available at Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Order by phone: Metro area: 297-3000 Toll free 800-657-3757. Telecommunication Device for the Deaf Metro area: 282-5077 Toll free 800-657-3706. NO REFUNDS. Both editions are delivered postpaid to points in the United States, second class postage paid for the *State Register* at St. Paul, MN, first class for the *Contracts Supplement*. 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.

- *State Register* (published every Monday, or Tuesday if Monday is a holiday) One year subscription: \$150.00
- *Contracts Supplement* (published every Tuesday, Wednesday, Friday) One year subscription: \$125.00 via first class mail, \$140.00 via fax or through our On-Line Service via your computer modem. For a free sample demo of the On-Line Service call via your modem: 612/821-4096. Access item "S": *State Register* Modem parameters 8-N-1 1200/2400. By purchasing the On-Line access you are agreeing to not redistribute without authorization.
- 13-week trial subscription which includes both the *State Register* and *Contracts Supplement*. \$60.00
- Single issues are available for a limited time: *State Register* \$3.50, *Contracts Supplement* 50¢. Add shipping charge of \$3.00 per order.
- "Commodity Contract Awards Reports," - lists awards of contracts and bids published in the Tuesday-Wednesday-Friday "*Contracts Supplement*" - published every two weeks, \$5.00 per individual report, plus \$3.00 shipping if applicable. Order stock # 99-42. Six-month subscriptions cost \$75.00. Appears every two weeks. Order stock # 90-14. Available in hard copy format only.
- "Professional-Technical-Consulting Award Reports," - published each month listing the previous month's awards of contracts and RFPs that appeared in the Monday edition of the "*State Register*." Individual copies are \$15.00 per report, plus \$3.00 shipping if applicable. Order stock # 99-43. Six-month subscriptions cost \$75.00. Appears monthly. Order stock number 90-15. Available in hard copy format only.

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:

SENATE

HOUSE

Briefly-Preview—Senate news and committee calendar; published weekly during legislative sessions.

Perspectives—Publication about the Senate.

Session Review—Summarizes actions of the Minnesota Senate.

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

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

This Week—weekly interim bulletin of the House.

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

Minnesota Rules: Amendments & Additions
Vol. 20, issue #22 1224

Proposed Rules

Higher Education Services Office

- Nursing grant program for persons of color 1226
- Supplemental student loans..... 1229

Housing Finance Agency

- Home ownership assistance fund..... 1234

Labor and Industry Department

- Equitable apportionment arbitration 1236
- Occupational safety and health standards by reference 1242

Adopted Rules

Chiropractic Examiners Board

- Advertising, continuing education, and definition..... 1245

Pollution Control Agency

- Clean water partnership program..... 1245✓

Official Notices

Labor and Industry Department

- Prevailing wage certifications for commercial construction 1248

Teachers Retirement Association

- Regular meeting notice 1248

Professional, Technical and Consulting Contracts

Administration Department

- Proposals sought by IPO for products, services and training in support of information resource development methodology and/or process management 1249

Bemidji State University

- Proposals sought for American Indian Resource Center Feasibility Study..... 1250

Corrections Department

- Proposals sought for careers video development..... 1250

Human Services Department

- Proposals sought for new hire reporting system..... 1250
- Proposals sought for software training 1251

Non-State Public Bids, Contracts & Grants

Metropolitan Council

- Proposals sought by Transit Operations for computer systems maintenance services 1253
- Proposals sought for workers compensation legal services 1253
- Proposals sought for Metropolitan Transit Police legal services..... 1254
- Proposals sought for Telephone Consultant 1254

Awards of State Contracts & Advertised Bids

Commodities and requisitions are advertised in the *State Register Contracts Supplement*, published every Tuesday, Wednesday and Friday. "Commodity Contract Awards Reports" are published every two weeks, and "Professional-Technical-Consulting Contract Awards Reports" are published monthly. Both are available through Minnesota's Bookstore, (612) 297-3000 or 1-800-657-3757. For subscription information call 612/296-0931.

Individual awards can be obtained from the **Materials Management Helpline** 612/296-2600.

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 1-800-657-3757.

Vol. 20 issues 14-22 cumulative

Accountancy Board		Children, Families, and Learning Department	
1100.0100; .1300; .2500; .3550; .3600 (proposed).....	855	3501.0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160; .0170; .0180	961
Administrative Hearings Office		Health Department	
1400.0200; .0250; .0300; .0400; .0500; .0600; .0700; .0800; .0850; .0900; .0950; .1000; .1100; .1200; .1500; .0200; .0300; .0400; .0500; .0600; .0700; .0800; .0900; .1000; .1100; .1200; .1300; .1400; .9900; .9905; .9910; .9913; .9916; .9920; .9925; .9930; .9935; .9940; .9945; .9946; .9951; .9955; .9960 (proposed repealer)	1012	4605.7090 (adopted)	858
1400.2000; .2010; .2020; .2030; .2040; .2050; .2060; .2070; .2080; .2090; .2100; .2110; .2200; .2210; .2220; .2230; .2240; .2300; .2310; .2400; .2450; .2500; .2510; .2520; .2530; .2540; .2550; .2560 (proposed)	1012	4652.0100; .0110; .0120; .0140 (proposed).....	1030
Agriculture Department		4688.0005; .0010; .0020; .0030; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0110; .0120; .0130; .0140; .0150; .0160 (proposed)	1142
1505.0980; .1100 (adopted)	759	4690.4600; .5900; .7200 (proposed)	821
1558.0020; .0030; .0040; .0050; .0060; .0070; .0080 (adopted).....	1037	4690.4600; s.4e; .5900, s.4e; .7200, s.4e (proposed repealer)	821
Animal Health Board		Higher Education Services Office	
1719.0100; .0200; .0300; .0310; .0500; .0600; .0700; .0750; .0800; .1000; .1100; .1200; .1300; .1500; .1600; .1700; .1800; .1900; .2000; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2800; .2900; .3000; .3100; .3200; .4000; .4200; .4250 (proposed)	897	4830.9015; .9020; .9030 (proposed).....	1226
1719.0100, s.8,9; .3250; .4300; .4400; .4500; .4600 (proposed repealer)	897	4830.9015, s.9; .9025 (proposed repealer).....	1226
Chiropractic Examiners		4850.0011; .0012; .0014; .0015; .0016; .0017; .0018 (proposed).....	1229
2500.0100; .0600	1245	4850.0011, s.3,7,16a (proposed repealer)	1229
2500.2500,s.2-6,9 (repealed)	1245	Housing Finance Agency	
Commerce Department		4900.1315, s.7,10; .1345, s.1 (proposed repealer)	1234
2820.3710; .4510; .4610; .4710; .4720; .4915; .6605; .6705; .6805; .6905; .7005; .7110; .7205; .7305; .7405; .9060; .9070; (adopted)	916	4900.1331; .1345; .1375 (proposed)	1234
2820.4730; .4740; .4910; .6600; .6701; .6801; .6900; .7000; .7100; .7300; .7400 (repealed)	916	Labor and Industry Department	
Dentistry Board		5200.1010; .1020; .1030; .1035; .1040; .1050; .1060; .1080; .1100 (proposed)	1148
3100.2000 (adopted)	1163	5200.1020, s.3; .1030, s.3; .1050, 3b (proposed repealer)	1148
3100.3600 (adopted)	1196	5205.0010 (adopted)	1040
		5205.0010 (proposed)	1242
		5210.0005; .0020; .0040; .0050; .0060; .0070; .0080; .0090; .0100; .0210; .0300; .0310; .0320; .0330; .0340; .0410; .0420; .0450; .0460; .0470; .0480; .0490; .0500; .0510; .0520; .0530; .0533; .0536; .0539; .0542; .0548; .0551; .0554; .0557; .0561; .0564; .0567; .0570; .0573; .0576; .0579; .0589; .0595; .0596; .0597; .0650; .0800; .0810; .0820; .0830; .0835; .0850; .0860; .0870 (proposed).....	970
		5210.0010; .0030; .0100, s.4; .0200; .0220; .0230; .0240; .0250; .0260; .0270; .0280; .0290; .0310, s.3,4; .0340, s.1; .0400; .0430; .0440; .0470, s.3,4,6; .0540; .0550; .0560; .0820, s.2,3,5,6; .0830, s.2,4,5; .0840 (proposed repealer).....	970
		5215.0100; .0200; .0500; .0600; .0700; .0900; .1000; .1100; .1400; .1500; .1600; .2100; .5000; .5050; .5200; .5210; .5350; .5500; .5600; .5700; .5800; .5900; .6100 (proposed).....	986

Minnesota Rules: Amendments and Additions

5215.0200, s.3,4,7,14; .0700, s.5,6,7; .0711; .0721; .0730; .0800; .1200; .1700; .1800; .1900; .2000; .2011; .2200; .2300; .2400; .2500; .2560; .4900; .5000, s.5; .5200, s.3; .5250; .5300; .5400; .6000 (proposed repealer)	986
5221.4040 (adopted)	1163
5221.4050 (adopted)	858
5229.0100; .0200; .0300; .0350; .0400; .0410; .0420; .0500; .0600; .0700 (proposed)	1236
Medical Practices Board	
5600.0605; .0610; .0300; .2500 (proposed)	1160
Natural Resources Department	
6105.0330 (adopted)	1196
6110.1200 (adopted)	759
POST Board	
6700.0900; .1600; .1710 (adopted)	828
Pollution Control Agency	
7009.9000 (adopted)	1167
7076.0110; .0130; .0215; .0240	1245
Public Safety Department	
7410.2400 (proposed)	824
7410.2400, s.3 (proposed repealer)	824
Revenue Department	
8130.4900 (proposed repealer)	1035

Water and Soil Resources Board	
8400.0050; .0100; .0200; .0300; .0600; .0700; .0900; .1000; .1100; .1200; .1250; .1300; .1400; .1405; .1460; .1500; .1600; .1650; .1700; .1750; .1800 (proposed)	906
8400.0100, s.1a,2,5,6,7a,8a,11,12,13,14a,19,20,20c,21,22; .0400; .1950; .2000; .2100; .2200; .2300; .2400; .2500; .2600; .2700; .2705; .2800 (proposed repealer)	906
Transportation Department	
8810.9400; .9700 (proposed)	905
8820.1500; .9920 (adopted)	1041
Veterans Homes Board	
9050.0040; .0050; .0055; .0060; .0070; .0200; .0220; .0230; .0400; .0520; .0580; .0600; .0750; .0755; .0770; .0800; .0820; .1030; .1070 (proposed)	747
9050.0040, s.25,40a,88,99; .0060, s.4; .1030, s.2-19 (proposed repealer)	747
Veterinary Medicine Board	
9100.0100; .1000 (adopted)	860
Human Services Department	
9515.3000; .3010; .3020; .3030; .3040; .3050; .3060; .3070; .3080; .3090; .3100; .3110 (adopted)	935

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.

Higher Education Services Office

Proposed Permanent Rules Relating to Nursing Grant Program for Persons of Color

DUAL NOTICE: Notice of Intent to Adopt a Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Minnesota Higher Education Services Office intends to adopt permanent rules without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by December 28, 1995, a public hearing will be held on January 12, 1996. To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after December 29, 1995 and before January 12, 1996.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Mary Lou Dresbach
Minnesota Higher Education Services Office
400 Capitol Square Building
550 Cedar Street
St. Paul, MN 55101
(612) 296-3974
FAX: (612) 297-8880

Subject of Rule and Statutory Authority. The proposed rule entitled "Student Education Loan Fund Program" is about a student loan program that provides educational loans to Minnesota postsecondary students who are unable to obtain sufficient funds from other non loan financial aid programs to meet their financial need. The proposed rule entitled "Nursing Grants for Persons of Color" is about grants to provide financial assistance to students who are persons of color and enrolled in educational programs leading to licensure as registered nurses or advanced nursing education. The statutory authority to adopt these rules is *Laws of Minnesota* for 1995, Chapter 212, Article 3, Section 9. Copies of the proposed rules are published in the *State Register* and are attached to this notice as mailed.

Comments. You have until 4:30 P.M. on December 28, 1995 to submit written comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 P.M. on December 28, 1995. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rules as attached and printed in the *State Register* and

must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for January 12, 1996 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the agency contact person at (612) 296-3974 after December 29, 1995 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for a public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.14 to 14.20. The hearing will be held on January 12, 1996 at the Veterans Services Building, 20 West 12th Street, 5th Floor Conference Room, St. Paul, MN 55101 beginning at 9:00 A.M. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge assigned to conduct the hearing is Howard L. Kaibel, Jr. Judge Kaibel can be reached at the Office of Administrative Hearings, 100 Washington Square, Suite 1700, Minneapolis, MN 55401, (612) 341-7608.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rules. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the administrative law judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing within five business days after the submission period ends to any new information submitted. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 P.M. on the due date. No additional evidence may be submitted during the five-day period. This rule hearing procedure is governed by *Minnesota Rules*, part 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

Statement of Need and Reasonableness. Statements of need and reasonableness are now available from the agency contact person. These statements describe the need for and reasonableness of each provision of the proposed rules. They also include a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statements may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the Ethical Practices Office. Questions regarding this requirement may be directed to the Ethical Practices Office at the Centennial Office Building, 1st floor, 658 Cedar Street, St. Paul, Minnesota 55155, (612) 296-5148.

Adoption Procedure if No Hearing. If no hearing is required, after the end of the comment period the agency may adopt the rules. The rules and supporting documents will then be submitted to the attorney general for review as to the legality and form to the extent form relates to legality. You may request to be notified of the date the rules are submitted to the attorney general or be notified of the attorney general's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rules, submit your request to the agency contact person listed above.

Adoption Procedure after the Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rules. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rules for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rules are adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Dated: 7 November 1995

Joseph P. Graba
Interim Director

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

Rules as Proposed

4830.9015 APPLICATION AND DISTRIBUTION OF FUNDS FOR GRANTS.

Subpart 1. **Application by schools and programs.** A school, or educational program of registered nursing program or advanced nursing must submit each year to the ~~executive~~ director a completed participation application form provided by the ~~executive~~ director.

Subp. 2. **Responsibility.** Each participating school, or educational program of registered nursing program or advanced nursing must:

A. when requested by the ~~executive~~ director, provide enrollment data of students in educational enrolled in registered nursing or advanced nursing education programs leading to licensure as a registered nurse;

B. establish procedures for students to apply for and receive grants;

C. establish criteria to use in awarding grants to nursing students, which must include the likelihood of the student's success in completing the nursing educational program ~~and the likelihood that the student will serve in Minnesota for at least three years following licensure~~;

D. give priority to students with the greatest financial need; and

E. agree that the money awarded through the grant program must not be used to replace any other grant or scholarship money for which the student would be otherwise eligible; and

F. ~~assist the executive director in monitoring recipient service status.~~

Subp. 3. **Allocation formula.** Funds shall be allocated to each school or ~~registered~~ nursing program according to the following formula: enrollment of registered nursing and advanced nursing students of each school or nursing program, divided by the total enrollment of all participating schools or nursing programs; multiplied by the current fiscal year's appropriation for grants under this program.

The minimum allocation to a school or nursing program is ~~\$2,500~~ \$2,000.

Subp. 4. **Modification of allocations.** The ~~executive~~ director shall allocate funds equal to the school's or program's estimated need for funds if the estimated need is less than the amount determined by the allocation formula.

Subp. 5. **Reallocation.** If funds are available, the ~~executive~~ director shall reallocate funds to schools or nursing programs requesting additional program funds according to the formula in subpart 3.

Subp. 6. **Delay.** Failure of a participating school or nursing program to submit the annual application for participation to the ~~executive~~ director or provide requested enrollment data by the deadline dates will result in the delay of notification and disbursement by the ~~executive~~ director to the school or nursing program.

Subp. 7. **Accountability.** Each participating school and nursing program is accountable for any money disbursed to students for nursing grants. The money may be used only during the fiscal year of disbursement. If a student does not use a grant because the student does not enroll or withdraws from school, the school may use the funds for other eligible students or must return the funds to the ~~executive~~ director.

Subp. 8. **Unused funds.** When requested by the ~~executive~~ director, a school or nursing program shall report on its use of funds and shall return unused funds. The ~~executive~~ director shall reallocate unused funds to schools or nursing programs that desire additional funds.

Subp. 9. [See repealer.]

4830.9020 AWARDS.

Subpart 1. **Award amount.** ~~Grants must be \$2,500 per academic year. The minimum award amount is \$2,000 per academic year. The maximum award amount is \$4,000 per academic year.~~

[For text of subs 2 and 3, see M.R.]

4830.9030 REPORTS BY SCHOOLS OR NURSING PROGRAMS.

Subpart 1. **Data collection; reports.** The school or nursing program must collect demographic, educational, and financial data specified by the ~~executive~~ director from eligible students requesting grants, and provide this data to the ~~executive~~ director upon request.

The ~~executive~~ director shall require program activity and student data reports at the end of each year. The school or nursing program must complete and submit the reports and any applicable refunds to the ~~executive~~ director by the first working day after

August 9. If the reports are not completed correctly and submitted by the deadline, the ~~executive~~ director shall withhold the subsequent year's allocation until reporting requirements are fully met.

Subp. 2. **Additional information.** The ~~executive~~ director may require additional information not inconsistent with law that in the ~~executive~~ director's judgment is helpful to efficiently administer the program. The additional information may be required from grant applicants or recipients or eligible institutions or programs.

REPEALER. Minnesota Rules, parts 4830.9015, subpart 9; and 4830.9025, are repealed.

Higher Education Services Office

Proposed Permanent Rules Relating to Supplemental Student Loans

Rules as Proposed

4850.0011 DEFINITIONS.

[For text of subs 1 and 2, see M.R.]

Subp. 3. [See repealer.]

[For text of subs 4 and 5, see M.R.]

Subp. 6. **Certification.** "Certification" means ~~the statement of~~ an eligible school ~~that~~ verifies and documents the identity, eligible enrollment, satisfactory academic progress, and cost of attendance of the borrower; performs the "maximum effort" test; and calculates the maximum allowable SELF loan eligibility and recommends a specific loan amount. ~~The certification school~~ also shall ~~indicate~~ determine whether or not the student is in default of previous loans through:

- A. checking loan history at the school;
- B. checking an available financial aid transcript from a school previously attended by a borrower who is a transfer student; and
- C. using any other information reasonably available to the school about the student's prior student loan history, written, verbal, or electronic.

Subp. 7. [See repealer.]

[For text of subp 8, see M.R.]

Subp. 9. **Credit worthy cosigner.** "Credit worthy cosigner" means one who, in the judgment of the ~~executive~~ director has:

- A. no credit bureau balances discharged through bankruptcy;
- B. no garnishments, attachments, foreclosure, repossession, or suit;
- C. no delinquent or unsatisfied credit obligation such as tax or mechanics liens, or judgments; or
- D. no more than five percent of current credit bureau balances past due.

A cosigner will be considered creditworthy if the total amount in item C or D does not exceed \$50.

Subp. 10. **Cosigners.** All borrowers from the student educational loan fund shall have a credit worthy cosigner who is either a United States citizen or a permanent resident. The cosigner is jointly and separately responsible for making loan payments (principal, interest, and other charges). ~~The cosigner is relieved of this financial responsibility only in the event of death or permanent disability of the borrower.~~ A cosigner must:

- A. be a person at least 18 years old;
- B. be a ~~person or an eligible school;~~
- ~~C.~~ agree to the release of information to a consumer credit reporting agency, as described in part 4850.0012, subpart 4; and
- ~~D.~~ C. permanently reside in the United States.

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

If the cosigner has no credit history, credit worthiness shall be determined by the executive director, by a review of banking references and a review of net worth data with a minimum test requiring that net worth equal or exceed a sum ten times the size of each loan amount requested.

[For text of subp 11, see M.R.]

Subp. 12. **Delinquency.** "Delinquency" means the condition that exists when a borrower's scheduled payment of principal or interest or both is received by the executive director after the due date.

Subp. 12a. Director. "Director" means the director of the office, or office staff who perform duties as assigned by the director.

Subp. 13. **Due diligence.** "Due diligence" means the use of practices by the board office in making, servicing, and collecting of SELF loans that are at least as extensive and forceful as those generally practiced by financial institutions for consumer loans.

Subp. 14. **Eligible school.** "Eligible school" means a school that:

A. has been approved by the United States Department of Education to participate in federal title IV financial aid programs meets the requirements for an eligible institution as defined in Minnesota Statutes, section 136A.15, subdivision 6;

~~B. is located in the United States or its territories; and~~

~~C. B. signs an institutional loan participation agreement with the executive director that lists the duties and responsibilities of both the school and the executive director.~~

Subp. 15. **Eligible student.** "Eligible student" means a student who:

A. is enrolled in an eligible school in Minnesota, or is a Minnesota resident enrolled in an eligible school in another state, United States territory, or province as defined in *Minnesota Statutes*, section 136A.15, subdivision 5;

B. is enrolled at least half-time in a program (~~other than a correspondence or external degree program~~) leading to a certificate, associate, baccalaureate, masters, doctorate, or other professional degree;

C. is making satisfactory academic progress as defined by the school;

D. is not currently in default, as defined by each specific program, of any student educational loan program (Stafford Loan, GSL, FISL, NDSL, Perkins, HPL, HEAL, ALAS/SLS, or other similar federal, state, private, or institutional student loan program) at the current or any previous school;

E. is not currently delinquent in payment of interest or principal on an outstanding loan from the student educational loan fund;

F. has a credit worthy cosigner;

G. demonstrates financial eligibility by meeting the "maximum effort" test;

H. for those with loans made from the SELF I bonds, has at the time of application, an anticipated graduation date no later than November 1, 1992; and

I. has agreed to the release of information to a consumer credit reporting agency, as listed in part 4850.0012, subpart 4.

[For text of subp 16, see M.R.]

Subp. 16a. [See repealer.]

[For text of subs 17 to 22, see M.R.]

Subp. 23. **In-school period.** "In-school period" means the period that the eligible student is enrolled on at least a half-time basis in an eligible school.

Subp. 24. **Late charge.** "Late charge" means a charge, not to exceed \$20, that is assessed against borrowers each time a payment of principal and/or interest is received by the executive director more than 15 days after the due date.

Subp. 24a. Loan forgiveness. "Loan forgiveness" means the obligation of the borrower and the cosigner to repay the SELF loan is forgiven due to the death or total and permanent disability of the borrower. The total and permanent disability of the borrower must occur after all disbursements of the loan are made in order for the loan to be totally forgiven.

[For text of subp 25, see M.R.]

Subp. 26. **Maximum effort.** To have used "maximum effort" means that the student has applied for and exhausted all eligibility for other forms of financial aid (except work-study, ~~PLUS/ALAS, unsubsidized Stafford~~ federal student loans covered under Code of Federal Regulations, title 34, section 674, the federal Perkins Loan Program, Code of Federal Regulations, title 34, section 682, the federal Family Education Loan Program or FFEL, Code of Federal Regulations, title 34, section 685, the William D. Ford federal Direct Loan Program, or other similar federal student loan, and HEAL) before applying for a SELF loan. Financial aid administrators must include any financial aid that has been awarded or is expected to be awarded to the student for the loan period.

Subp. 26a. Office. "Office" means the Minnesota Higher Education Services Office.

Subp. 27. **Repayment period.** "Repayment period" means the time period which begins immediately following the transition period and runs to the earliest of:

- A. November 1, 2000, for those with loans made from the SELF I bonds; or
- B. ten years from the date the student ceases to be an eligible student; or
- C. 15 years from the date of the first loan check; or
- D. a shorter period negotiated with the borrower.

Subp. 28. **The SELF I bonds.** "The SELF I bonds" means the variable rate demand bonds series 1984 issued by the Minnesota Higher Education Coordinating Board due December 1, 2000, for purposes of funding the student educational loan fund.

Subp. 29. **Transition period.** "Transition period" means a 12-month period immediately following graduation or termination of enrollment ~~for borrowers who have loans made from the bonds.~~ Borrowers with loans made from sources other than the SELF I bonds may extend the transition period an additional period not to exceed 24 months ~~upon approval by the executive director.~~ During the transition period, borrowers are billed for interest only.

[For text of subp 30, see M.R.]

4850.0012 SCHOOL AGREEMENTS AND STUDENT APPLICATIONS.

Subpart 1. **Institutional loan participation agreement.** The eligible school and the ~~executive~~ director must sign a loan participation agreement that will:

- A. state the eligible school's responsibility for proper certification and delivery of loans to students; and
- B. name a representative of the eligible school who is to be responsible for the administration of the agreement.

Subp. 2. **Termination.** The ~~executive~~ director may terminate the agreement with an eligible school upon determining that the school is not complying with the rules in parts 4850.0010 to 4850.0018. All obligations of the school under the agreement shall continue in full force and effect with respect to all SELF loans then outstanding to students of the school.

Subp. 3. **Application, ~~guarantee,~~ and promissory note.** The student shall follow the appropriate SELF application process used at the eligible school. The student shall deliver or mail the application and promissory note to the cosigner who shall complete the cosigner's portion of the application and promissory note and deliver or mail them to the ~~executive~~ director. The ~~executive~~ director will check the application and promissory note for completeness, determine the eligibility of the applicant, and conduct a credit check of the borrower and the cosigner. If the ~~executive~~ director approves the loan application, the ~~document file shall be sent to the trustee (or agent) for approval. The trustee (or agent) shall approve the application and forward the document file is forwarded~~ to the servicer ~~or shall reject the application and return the document file to the executive director.~~ The servicer shall enter the application on the ~~servicing computer system,~~ prepare and mail a disclosure statement to the borrower and cosigner, advise the school of the loan approval, schedule disbursements, ~~deduct and mail the guarantee fee from the loan proceeds to the insurer,~~ and place the document file in permanent storage. If the ~~executive~~ director rejects the loan application, the applicant and the cosigner must be advised in writing of the decision and the reasons for the rejection.

[For text of subp 4, see M.R.]

4850.0014 AMOUNT AND TERMS.

[For text of subpart 1, see M.R.]

Subp. 2. **Two loans in one year.**

- A. A student may borrow more than once in the same academic year as long as:
 - (1) eligibility remains;
 - (2) the annual borrowing maximum is not exceeded; and
 - (3) the amount approved is at least ~~\$1,000~~ \$500.

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

- B. A student may borrow the annual maximum twice in the same grade level, as long as:
- (1) a total of 11 months elapses from the beginning of the first loan period to the beginning of the second loan period; and
 - (2) the cumulative loan debt maximum for that grade level is not exceeded.
- C. A student who advances a grade level in the middle of an academic year may borrow at that new grade level, as long as:
- (1) there is no more than one month overlap of loan period; and
 - (2) the cumulative loan debt maximum for that new grade level is not exceeded.

Subp. 3. **Interest rate.** For loans made from the SELF I bonds, the interest rate on the loan must be fixed by the ~~executive~~ director at a margin in excess of the "index rate" on the bonds. If the bonds bear interest at more than one rate at any one time, the "index rate" will be the weighted average of the interest rates. The "index rate" may change on Thursday of each week. If the "index rate" increases or decreases, the interest rate on the loan increases or decreases automatically on the same day without notice to the borrower. If the ~~executive~~ director determines that the margin does not reflect the costs of the SELF program, the ~~executive~~ director must increase or decrease the margin. The ~~executive~~ director shall advise borrowers of changes in the margin.

For loans made from sources other than the SELF I bonds, the interest rate on the loan will be determined by the ~~executive~~ director at a margin in excess of the "index rate." The "index rate" is the average rounded to the nearest quarter of one percent of the bond equivalent yield, for auctions of 13 week treasury bills, during the preceding calendar quarter. If the index rate increases or decreases, the interest rate on the loan automatically increases or decreases on the same day without notice to the borrower. The interest rate on the loan cannot increase or decrease more than two percentage points over any four consecutive calendar quarters. The ~~executive~~ director shall set the margin to reflect the costs of the SELF program. If the ~~executive~~ director determines that the margin does not reflect the costs of the SELF program, the ~~executive~~ director must increase or decrease the margin. The ~~executive~~ director shall advise borrowers of changes in the margin.

4850.0015 LOAN DISBURSEMENTS.

Subpart 1. **Disbursement scheduling.** Checks must be jointly payable to the borrower and the eligible school. If the loan period covers more than one academic or payment period, the loan must be disbursed in installments during each academic or payment period. (For example, if an eligible school's academic year is divided by quarters, the student's loan amount may be disbursed in three installments, once each quarter.) Disbursements must be made at the beginning of each academic term, unless the ~~executive~~ director requires or the school suggests other more appropriate dates.

Subp. 2. **Disbursement when ~~check arrives~~ loan proceeds arrive before loan period.** A ~~Loan check proceeds~~ must not be disbursed to the student before the start of the loan period. The school must ~~wait until the student starts the loan period and after having checked~~ verify the student's enrollment and that the student meets satisfactory academic progress requirements. If the loan proceeds are in the form of a check, the school must deliver the check to the student for the student's endorsement. The check must then be endorsed by the school. If the loan proceeds have been transferred to the school by electronic funds transfer, the school must have the student sign a document indicating that the loan proceeds have been received and accepted by the student. In the case of either a check or an electronic funds transfer, the school must next subtract from the loan proceeds the amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. The remaining proceeds may be returned to the student or retained on account at the election of the student. The school may not keep on account any more money than it charges for that payment period without the written permission of the student.

Subp. 3. **Disbursement when ~~check arrives~~ loan proceeds arrive during loan period.** When the ~~check arrives~~ loan proceeds arrive during the loan period, the school, ~~having checked~~ must verify the student's enrollment and that the student meets satisfactory academic progress requirements. If the loan proceeds are in the form of a check, the school shall endorse the check along with the student, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for the use of any remaining proceeds. If the loan proceeds arrive at the school by electronic funds transfer, the school must have the student sign a document indicating that the loan proceeds have been received and accepted by the student. The school must next subtract from the proceeds the amount owed to it for the payment period and make arrangements with the student for the use of any remaining proceeds. In either case, the student has the same options for receiving any remaining proceeds as described in subpart 2. If the student is on a school approved leave of absence when the ~~check arrives~~ loan proceeds arrive and is scheduled to return within 30 days from the date on the check or the date of the electronic funds transfer, the school may hold the ~~check~~ loan proceeds until the student returns. If the student fails to return or does not show up for disbursement, the ~~check~~ loan proceeds must be returned to the ~~executive~~ director within 30 days from the date on the check or the date of the electronic funds transfer, whichever is applicable.

Subp. 4. **Disbursement when ~~check arrives~~ loan proceeds arrive after loan period.** When the ~~check arrives~~ loan proceeds arrive after the loan period, the school, ~~having checked~~ must verify the student's enrollment and that the student meets satisfactory academic progress requirements. If the loan proceeds are in the form of a check, the school may endorse the check along with the student within 30 days from the end of the loan period, subtract from the proceeds that amount owed to it for the payment period, and make arrangements with the student for use of any remaining proceeds. If the loan proceeds arrive at the school by electronic

funds transfer, the school must have the student sign a document indicating that the loan proceeds have been received within 30 days of the end of the loan period and accepted by the student. The school must next subtract from the proceeds the amount owed to it for the payment period and make arrangements with the student for the use of any remaining proceeds. In either case, the student has the same options for receiving any remaining proceeds as described in subpart 3 2. If the check arrives loan proceeds arrive more than 30 days after the end of the loan period, the school must return the check loan proceeds to the executive director.

4850.0016 NONENROLLMENT, TRANSFER, AND WITHDRAWAL.

Subpart 1. **Nonenrollment.** A school shall return a check payment to the executive director for a student who fails to enroll within 30 days of the payment date on the check.

Subp. 2. **Withdrawal and transfer to another eligible school.** If the student fails to complete the loan period at the school where the loan application was certified and transfers to another eligible school, any remaining scheduled disbursements must be canceled. The school must immediately notify the executive director of any borrower who withdraws for any purpose. The student may apply for any remaining loan eligibility at the other eligible school, assuming the amount approved is at least \$1,000 \$500.

Subp. 3. **Withdrawal.** In the event that a borrower, for any reason, fails to complete a loan period and, withdraws, at a time when the institution pays a refund of charges to the student, some portion of and the school calculates a SELF refund for the borrower, that refund must be returned to the board office for the SELF loan program within 45 days of the date the school becomes aware of the withdrawal. Refunds to the board office are determined by items A and B.

A. Determine the percentage that the SELF loan represents of the student's total financial aid package for the applicable term.

B. Multiply that percentage by the amount determined to be refunded to the student under the school's refund policy. The result yields the amount to be refunded to the board office.

Subp. 4. **Reduction of enrollment to less than half-time status.** The school shall notify the executive director immediately when a student reduces enrollment below a half-time status, but remains enrolled. Such a student shall be permitted to remain in an in-school repayment period for no more than six months including normal school vacation periods before the transition period begins.

4850.0017 REPAYMENT PROCEDURES.

Borrowers or cosigners shall make payments of principal and interest according to the following schedule:

A. During the in-school period, the board office or its agent shall bill borrowers for accrued interest once during each calendar quarter.

B. During the transition period, the board office or its agent shall bill borrowers for accrued interest once during each calendar month.

C. During the repayment period, the board office or its agent shall bill borrowers for accrued interest and principal once during each calendar month. The interest rate may vary throughout the period. The sum of the monthly payments must equal the sum of accrued interest plus principal. The monthly payments of principal must be in amounts calculated at the beginning of the repayment period as if two conditions existed. The two conditions are: (1) interest on the loan accrues at a fixed rate equal to the interest rate in effect at the time of the calculation and (2) the loan is payable over its term in equal monthly installments. The borrower must pay a total of at least \$600 each year on all of the borrower's SELF loans. If the borrower's spouse also has SELF loans, their combined annual payments on all SELF loans must be at least \$600.

D. Late charges must be billed to the borrower on the 30-day delinquent letter mailed by the board office or its agent and are due and payable immediately.

E. Interest payments during the in-school period that are delinquent in excess of 120 days from the billing date must be capitalized. Capitalization of past due interest must be limited to two occasions before filing a claim.

F. A prepayment penalty must not be assessed against borrowers who elect to make unscheduled payments of loan principal.

G. The executive director shall grant forbearances in those instances when the borrower experiences hardship in making payments of principal and/or interest, and when the cosigner has either died, become temporarily or permanently disabled, or for some other reason, such as unemployment or limited fixed income, demonstrated an inability to make payment. Such a forbearance shall be granted upon receipt of written documentation from the borrower and the cosigner relating to the unemployment or similar finan-

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

cial hardship case and is limited to 120 days, renewable upon further documentation for another 120 days. However, the borrower or cosigner must make at least three full payments before the forbearance is renewed.

H. Upon request, the ~~executive~~ director shall provide borrowers and cosigners with an annual statement of outstanding principal and interest paid during the previous calendar year.

4850.0018 CLAIMS.

Subpart 1. **When filed.** If after exercising due diligence, and after 120 days from the billing date the ~~executive~~ director fails to collect a payment from a borrower or the cosigner, a claim must be filed to the bad debt reserve by the ~~executive~~ director with the ~~program insurer~~ for the outstanding principal of the loan plus accrued interest.

Subp. 2. **When paid.** Claims are paid in four categories:

A. A claim for death of the borrower must be filed by the ~~executive~~ director upon receipt of a death certificate. The cosigner's obligation to make any further payment of principal and interest or both on a SELF loan is canceled as of the date of death.

B. If the borrower becomes totally and permanently disabled, a claim must be filed by the ~~executive~~ director upon receipt of proper medical documentation. The cosigner's obligation to make any further payment of principal and interest on a SELF loan is canceled as of the date of medical documentation.

C. If a borrower or cosigner fails to perform any of the conditions of the promissory note, a claim must be filed by the ~~executive~~ director.

D. If a borrower is adjudicated bankrupt and has liability for the SELF loan discharged, the cosigner remains liable for unpaid principal and interest. If the cosigner fails to perform any of the conditions of the promissory note, the ~~executive~~ director shall file a claim.

REPEALER. Minnesota Rules, part 4850.0011, subparts 3, 7, and 16a, are repealed.

Housing Finance Agency

Proposed Permanent Rules Relating to Home Ownership Assistance Fund

Notice of Intent to Adopt a Rule Without a Public Hearing

The Minnesota Housing Finance Agency intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedures Act, *Minnesota Statutes*, sections 14.22 to 14.28. You have 30 days to submit written comments on the proposed rule and may also submit a written request that a hearing be held on the rule.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Judie VanDerBosch
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101-1998
(612) 296-9793

Subject of Rule and Statutory Authority. The proposed rule is about Proposed Permanent Rules Relating to Home Ownership Assistance Fund. The statutory authority to adopt this rule is *Minnesota Statutes* 462A.06, subd. 4 and 11. You have until 4:30 PM, December 27, 1995, to submit written comment in support of or in opposition to the proposed rule and any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comment should identify the portion of the proposed rule addressed, the reason for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 P.M. on December 27, 1995. Your written request for a public hearing must include your name and address. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their requests in writing. If a public hearing is required, the agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Modifications. The proposed rule may be modified as a result of public comment. The modifications must be supported by data and views submitted to the agency and may not result in a substantial change in the proposed rule. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement 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.

Adoption and Review of Rule. If no hearing is required, after the end of the comment period the agency may adopt the rule. The rule and supporting documents will then be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. You may request to be notified of the date the rule is submitted to the attorney general or be notified of the attorney general's decision on the rule. If you wish to be so notified, or wish to receive a copy of the adopted rule, submit your request to the agency contact person listed above.

Katherine G. Hadley
Commissioner

Rules as Proposed

4900.1331 HOME OWNERSHIP ASSISTANCE FUND.

[For text of subpart 1, see M.R.]

Subp. 2. **Use of fund; general.** Home ownership assistance fund money may only be used in conjunction with first mortgage loans made or purchased by the agency, except for special initiatives designed to encourage the development or redevelopment of neighborhoods or communities in cooperation with money from community sources. However, within this limitation, money may be combined with funds from outside sources, including funds from other federal, state, and local government agencies or instrumentalities, private foundations, mortgage insuring entities, the Federal Housing Finance Board, or other public or private sources.

Subp. 3. **Fund recapture.** Home ownership assistance must provide for a reasonable likelihood of recapturing the money for later use. Home ownership assistance fund money under part 4900.1375, subparts 2 to 9, must be secured by a lien on the property being purchased with an appropriate repayment schedule provision. ~~A repayment provision under part 4900.1375, subparts 2 to 8, must take into consideration potential income growth of recipients and the percentage of income that recipients may reasonably dedicate toward mortgage payments under mortgage industry accepted underwriting standards.~~

[For text of subp 4, see M.R.]

4900.1345 RECIPIENTS HOME OWNERSHIP ASSISTANCE FUND.

Subpart 1. [See repealer.]

Subp. 2. **Income limits.** ~~In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with mortgage revenue bond funds, The maximum adjusted household income for a recipient of recipients of home ownership assistance fund money must not exceed 60 115 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. In cases in which home ownership assistance fund money is to be used under part 4900.1375, subparts 2 to 8, in conjunction with funds other than mortgage revenue bond funds, the maximum adjusted income for a recipient must not exceed 75 percent of the greater of state or area median income as determined and adjusted from time to time by the United States Department of Housing and Urban Development. For purposes of this subpart, adjusted income is as defined in part 4900.0010, subpart 3.~~

4900.1375 USE OF HOME OWNERSHIP ASSISTANCE FUND.

[For text of subs 1 and 2, see M.R.]

Subp. 3. **Entry cost assistance.** The agency may provide interest-free loans to recipients who are determined, on the basis of normal credit procedures, to lack the financial resources necessary to pay entry costs on the property to be purchased. The amount of the entry cost assistance loan must equal (1) the maximum allowable under the applicable mortgage insurance program; or (2) ~~the lesser of 50 percent of the entry costs or \$3,500~~ if the maximum allowable under clause (1) exceeds this amount. Entry cost assistance may be used to pay a portion of the entry costs on the property to be purchased that are customary within the mortgage industry.

[For text of subs 4 to 10, see M.R.]

REPEALER. Minnesota Rules, parts 4900.1315, subparts 7 and 10; and 4900.1345, subpart 1, are repealed.

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

Department of Labor and Industry

Proposed Permanent Rules Governing Equitable Apportionment Arbitration

DUAL NOTICE: Notice of Intent to Adopt a Rule Without a Public Hearing Unless 25 or More Persons Request a Hearing and Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Department of Labor and Industry intends to adopt a permanent rule without a public hearing following the procedures set forth in the Administrative Procedure Act, *Minnesota Statutes*, section 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rule within 30 days or by December 27, 1995, a public hearing will be held on January 9, 1996 beginning at 9:00 a.m. in the workers' compensation conference room, second floor, 380 E. Lafayette Frontage Road, St. Paul, MN. To find out whether the rule will be adopted without a hearing or if the hearing will be held, you should contact the agency contact person after December 27, 1995 and before January 9, 1996.

Agency Contact Person. Comments or questions on the rule and written requests for a public hearing on the rule must be submitted to:

Mary Miller
Attorney, Legal Services Unit
Minnesota Department of Labor and Industry
443 Lafayette Road
St. Paul, MN 55155
(612) 296-8726

Subject of Rule and Statutory Authority. The proposed rule is about the arbitration process for determining equitable apportionment among parties paying workers' compensation benefits. The statutory authority to adopt the rule is *Minnesota Statutes*, sections 176.191, subd. 1a., 176.83, subd. 1, 175.17, and 175.171. A copy of the proposed rule is published in the *State Register* and attached to this notice as mailed.

Comments. You have until 4:30 p.m. on December 27, 1995 to submit written comment in support of or in opposition to the proposed rule or any part or subpart of the rule. Your comment must be in writing and received by the agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rule addressed, the reasons for the comment, and any change proposed.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rule. Your request for a public hearing must be in writing and must be received by the agency contact person by 4:30 p.m. on December 27, 1995. Your written request for a public hearing must include your name, address, and telephone number. You are encouraged to identify the portion of the proposed rule which caused your request, the reason for the request, and any changes you want made to the proposed rule. If 25 or more persons submit a written request for a hearing, a public hearing will be held unless a sufficient number withdraw their request in writing.

Modifications. The proposed rule may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must not result in a substantial change in the proposed rule as attached and printed in the *State Register* and must be supported by data and views submitted to the agency or presented at the hearing. If the proposed rule affects you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for January 9, 1996 will be canceled if the agency does not receive requests from 25 or more persons that a hearing be held on the rule. If you requested a public hearing, the agency will notify you before the scheduled hearing whether or not the hearing will be held. You may also call Mary Miller at (612) 296-8726 after December 27, 1995 to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit written requests for public hearing on the rule, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.14 to 14.20. The hearing will be held on January 9, 1996 at 380 E. Lafayette Frontage Road, St. Paul, MN in the workers' compensation conference room, second floor, starting at 9:00 a.m. and will continue until all interested persons have been heard. The hearing will continue, if necessary, at additional times and places as determined during the hearing by the administrative law judge. The administrative law judge that has been assigned to conduct the hearing is Judge Alen E. Giles. Judge Giles can be reached at the Office of Administrative Hearings at 100 Washington Square, Suite 1700, Minneapolis, MN 55401, (612) 349-2543.

Hearing Procedure. If a hearing is held, you and all interested or affected persons including representatives of associations or other interested groups will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time prior to the close of the hearing record. All evidence presented should relate to the proposed rule. You may also mail written material to the administrative law judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days if ordered by the adminis-

trative law judge at the hearing. Comments received during this period will be available for review at the Office of Administrative Hearings. You and the agency may respond in writing to any new information submitted within five business days after the submission period ends. All written materials and responses submitted to the administrative law judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. No additional evidence may be submitted during the five-day period. This rules hearing procedure is governed by *Minnesota Rules*, parts 1400.0200 to 1400.1200 and *Minnesota Statutes*, sections 14.14 to 14.20. Questions about procedure may be directed to the administrative law judge.

Statement of Need and Reasonableness. A statement of need and reasonableness is now available from the agency contact person. This statement describes the need for and reasonableness of each provision of the proposed rule. It also includes a summary of all the evidence and argument which the agency anticipates presenting at the hearing, if one is held. The statement may also be reviewed and copies obtained at the cost of reproduction from the Office of Administrative Hearings.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A requires each lobbyist to register with the Ethical Practices Office. Questions regarding this requirement may be directed to the Ethical Practices Office at 658 Cedar Street, St. Paul, MN 55155, phone: (612) 296-5148.

Adoption Procedure if No Hearing. If no hearing is required, after the end of the comment period the agency may adopt the rule; the rules and supporting documents will then be submitted to the attorney general for review as to the legality and form to the extent form relates to legality. You may request to be notified of the attorney general's decision on the rule. If you want to be so notified, or wish to receive a copy of the adopted rule, submit your request to Mary Miller listed above.

Adoption Procedure After the Hearing. If a hearing is held, after the close of the hearing record, the administrative law judge will issue a report on the proposed rule. You may request to be notified of the date on which the administrative law judge's report will be available, after which date the agency may not take any final action on the rule for a period of five working days. If you want to be notified about the report, you may so indicate at the hearing. After the hearing, you may request notification by sending a written request to the administrative law judge. You may also request notification of the date on which the rules is adopted and filed with the Secretary of State. The agency's notice of adoption must be mailed on the same day that the rule is filed. If you want to be notified of the adoption, you may so indicate at the hearing or send a request in writing to the agency contact person at any time prior to the filing of the rule with the Secretary of State.

Dated: 13 November 1995

Gary W. Bastian
Commissioner
Department of Labor and Industry

Order for Hearing

IT IS ORDERED this 13th day of November, 1995, that a public hearing on the proposed rules captioned above be held in the second floor conference room, at 380 E. Lafayette Frontage Road, St. Paul, Minnesota on January 9, 1996, commencing at 9:00 a.m. and continuing until all representatives of associations or other interested groups or persons have had an opportunity to be heard (unless the agency receives less than 25 written requests for a public hearing pursuant to the Notice of Intent to Adopt Without a Public Hearing published in the *State Register* and mailed to all parties registered with the Department).

IT IS FURTHER ORDERED, that a notice of said hearing be given to all persons who have registered their names with the State Department of Labor and Industry for that purpose and that a Notice of Hearing shall be published in the *State Register*.

Gary W. Bastian
Commissioner
Department of Labor and Industry

Rules as Proposed (all new material)

5229.0100 DEFINITIONS.

Subpart 1. **Scope.** For the purpose of parts 5229.0100 to 5229.0700, the following terms have the meanings given them.

Subp. 2. **Administrator.** "Administrator" means the administrator of the apportionment arbitration process.

Subp. 3. **Arbitrator.** "Arbitrator" means that person who makes the final determination in an arbitration under this chapter.

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

Subp. 4. **Arbitration advisor.** "Arbitration advisor" means that person selected by a party to an arbitration under this chapter to offer advice and counsel to the arbitrator during the course of an arbitration.

Subp. 5. **Employer/insurer.** "Employer/insurer" means an employer within the meaning of *Minnesota Statutes*, chapter 176, and that employer's insurer for workers' compensation liability and includes the special compensation fund when it is representing an uninsured employer. The term does not include a self-insured employer.

Subp. 6. **Neutral physician.** "Neutral physician" means the physician who in the parties' or arbitrator's opinion will render an independent assessment on apportionment.

Subp. 7. **Panel.** "Panel" means the arbitrator and the arbitration advisors, if any.

Subp. 8. **Roster.** "Roster" means the list of those nominated to act as apportionment arbitrators under this chapter who meet the requirements and are nominated.

Subp. 9. **Self-insured employer.** "Self-insured employer" means an employer within the meaning of *Minnesota Statutes*, chapter 176, that has been permitted to self-insure for workers' compensation liability pursuant to *Minnesota Statutes*, section 176.181, subdivision 2.

5229.0200 PURPOSE.

This chapter is intended to set forth the procedure for the arbitration of issues of equitable apportionment of liability for workers' compensation benefits, as defined by *Minnesota Statutes*, section 176.191, subdivisions 1a and 5; to provide a process for selecting arbitrators; and to provide a general rule of presumptive apportionment.

5229.0300 SCOPE.

Minnesota Statutes, section 176.191, subdivision 1a, provides that equitable apportionment of liability for an injury is no longer allowed except:

A. in a settlement agreement filed pursuant to *Minnesota Statutes*, section 176.521; and

B. when an employer or insurer requests arbitration of equitable apportionment under *Minnesota Statutes*, section 176.191, subdivision 5.

This chapter applies where equitable apportionment is sought but the parties have not been able to reach the agreement described in item A. This chapter applies solely to arbitration of claims by self-insured employers or employer/insurers under *Minnesota Statutes*, section 176.191, subdivisions 1a and 5, including when the sole issue is a claim for partial or total contribution towards, or reimbursement of workers' compensation benefits against, one or more self-insured employers or employer/insurers. As set forth in *Minnesota Statutes*, section 176.191, subdivision 1a, the arbitration proceeding is for the limited purpose of apportioning liability for workers' compensation benefits payable, when liability for workers' compensation has been admitted by or adjudicated against the claiming self-insured employer or employer/insurer. *Minnesota Statutes*, section 176.191, subdivision 1a, provides that it is not to be interpreted to repeal or in any way affect the law with respect to the special compensation fund statutory liability or benefits. When disputed, fund liability under *Minnesota Statutes*, sections 176.131 and 176.132, is to be determined by workers' compensation judges and fund issues will be decided in proceedings over which they preside. These arbitration proceedings cannot bind the fund to more liability than that which was found by a judge. A self-insured employer or employer/insurer cannot request reimbursement from the special compensation fund that would exceed what has been ordered by the compensation judge at the Office of Administrative Hearings.

5229.0350 PRESUMPTIVE RULE OF EQUITABLE APPORTIONMENT.

The presumptive rule of equitable apportionment under this chapter is that the arbitrator, in making the decision, must be guided by parts 5229.0100 to 5229.0700; *Minnesota Statutes*, section 176.191, subdivisions 1a and 5; and workers' compensation case law on the issue.

5229.0400 NOMINATION AND QUALIFICATIONS OF ARBITRATORS.

Subpart 1. **Nomination.** Workers' compensation insurers, self-insured employers who administer their own claims, and third-party administrators for self-insured employers may annually nominate individuals to the roster. Additional nominations will be closed on the 30th day following the effective date of parts 5229.0100 to 5229.0700 and will be reopened for the 30-day period following each anniversary of the effective date.

Subp. 2. **Qualifications.** Members of the roster must have a minimum of five years of technical claims handling in Minnesota workers' compensation or five years of legal experience in Minnesota workers' compensation. The administrator must verify that all persons nominated meet the qualifications.

Subp. 3. **Membership on roster.** Each qualified nominee who is willing to participate must be included in membership on the roster.

5229.0410 ADMINISTRATOR.

Subpart 1. **Selection.** The commissioner of the Department of Labor and Industry, in consultation with representatives of three

workers' compensation insurers and one self-insured employer, must select an entity to act as administrator of the apportionment arbitration process. As set forth in parts 5229.0100 to 5229.0700, the administrator must facilitate the selection of arbitrators and the expeditious resolution of the equitable apportionment issues.

Subp. 2. **Recordkeeping.** The administrator must keep a record of all arbitration proceedings, including copies of the documents submitted by the parties, the names of the arbitration panel, and a copy of the final arbitration order.

Subp. 3. **Term.** The term of the contract for the administrator must not exceed three years.

5229.0420 SELECTION AND COMPOSITION OF ARBITRATION PANEL.

Subpart 1. **Composition.** An arbitration under this chapter must be heard by a panel consisting of the arbitrator and, if the parties agree they are needed, one arbitration advisor for each party to the dispute.

Subp. 2. **Selection of arbitrator.** The arbitrator must be selected by the following process:

A. Within ten days of receiving a request for arbitration of apportionment, the administrator must, by lot and excluding anyone on the roster who is an employee of any party to the dispute, select the names of persons to hear the arbitration from the roster and submit those names to the parties to the dispute.

B. The number of names submitted to the parties must be equal to the number of parties to the arbitration, plus one.

C. Beginning with the party on the list for the earliest date of injury, each party must, within ten days, submit the name of a person whom that party wishes to strike from the list. The party with the next earliest date must then submit the name it wishes to strike, and so forth, until one name remains on the list.

D. The individual remaining on the list is the arbitrator until the dispute is resolved.

E. If the arbitrator is unable to complete the arbitration, the administrator must choose another arbitrator as provided in this subpart.

Subp. 3. **Selection of arbitration advisors.** If the parties have agreed that they are needed, each party to the arbitration may select an individual to act as an arbitration advisor for the period of the dispute.

Subp. 4. **Notification of parties.** When the arbitrator has been determined and, when the parties have agreed that they are needed, when each of the arbitration advisors has been named, the administrator must notify all parties to the arbitration of the names included on the panel.

5229.0500 PROCEDURE FOR INITIATION OF ARBITRATION.

Subpart 1. **Request for arbitration.** The arbitration process must be initiated by the filing of a request for arbitration of an apportionment issue with the administrator by an aggrieved self-insured employer or employer/insurer, but shall be permitted only when the requesting party has met the requirements of *Minnesota Statutes*, section 176.191, subdivision 5.

A. A request must be made on a form approved by the administrator, which must include the names of the self-insured employers or employer/insurers among which equitable apportionment is sought or from which contribution or reimbursement is sought, the name and social security number of the employee, and the dates of the relevant injury or injuries.

B. The request for arbitration must be accompanied by:

(1) a statement of the facts;

(2) documentation that the requirements of *Minnesota Statutes*, section 176.191, subdivision 5, have been met;

(3) medical evidence in support of the requested equitable apportionment;

(4) a brief or written argument in support of the requesting party's position, including legal support;

(5) the name of the party's desired arbitration advisor, if any;

(6) any request for oral argument or special handling of the case; and

(7) a nonrefundable arbitration administration fee payable to the administrator in an amount to be determined in the agreement referred to in part 5229.0410, subpart 3, that is with the administrator.

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

C. The requesting party must provide the administrator with copies of the request and supporting documents for the arbitrator, for each arbitration advisor, and for the administrator's records.

D. The requesting party must, at the same time as filing the request, serve copies of the request and all attached documents on each self-insured employer or employer/insurer from which equitable apportionment is sought, as well as the employee and the employee's attorney, if any.

Subp. 2. Determining arbitration panel. Upon receipt of the request for arbitration and after ascertaining that the requirements of *Minnesota Statutes*, section 176.191, subdivision 5, have been met, the administrator must start the process under part 5229.0420 for determining the panel to hear the arbitration. When the panel is determined, the administrator must notify the arbitrator and forward copies of the request and documents to the members of the panel.

Subp. 3. Responses to arbitration request. Within 90 days of receiving a copy of the arbitration request and supporting documents, each party among which equitable apportionment is sought or from which contribution or reimbursement is sought must submit to the administrator its response to the arbitration request.

A. Responses must include:

- (1) a written brief or explanation of the party's position;
- (2) any relevant medical evidence in support of its position;
- (3) any other evidence or documentation pertinent to the case;
- (4) that party's request for oral argument or special handling, if any; and
- (5) the name of the party's desired arbitration advisor, if any.

B. The responding party must provide the administrator with copies of the request and supporting documents for the arbitrator, for each arbitration advisor, and for the administrator's records.

C. When the 90-day period following the arbitration request has passed, or when the panel is determined, whichever is later, the administrator must forward the responsive documents to the members of the panel.

5229.0600 ARBITRATOR.

Subpart 1. Powers of arbitrator. The arbitrator for a particular case has sole authority to determine whether the matter will be heard upon oral argument, whether extensions of time are warranted, or whether further information is required on the files and from the parties. The arbitrator also has sole authority to determine the appropriate resolution of the matter, within the scope of parts 5229.0100 to 5229.0700, and to order payment according to the apportionment decision. The arbitrator has the power of subpoena of the commissioner of the Department of Labor and Industry and of an arbitrator under *Minnesota Statutes*, section 572.14, paragraph (a), to obtain information necessary to a determination of this equitable apportionment dispute.

Subp. 2. Arbitration advisor's role. The role of an arbitration advisor is solely to explain facts, clarify the positions of the parties, and advise the arbitrator as to the relevant facts and law. An arbitration advisor has no power to make the final determination.

Subp. 3. Binding effect. The determination of the arbitrator is final and binding on the parties in accordance with *Minnesota Statutes*, section 176.191, subdivision 5, and may be vacated only in accordance with *Minnesota Statutes*, chapter 572, the Uniform Arbitration Act.

5229.0700 ARBITRATION PROCEDURE.

Subpart 1. Nature of hearing. Upon consideration of the requests of the parties and the facts and evidence presented, the arbitrator shall determine if the matter will be heard orally or be considered by the panel solely on the written evidence.

A. The determination as to whether the matter will be heard orally or solely upon the written submissions must be made within 30 days of the date of submission of the response.

B. The arbitrator shall determine the time and place for oral argument or the meeting of the arbitration panel, upon consultation with the parties and panel members.

C. Unless extraordinary circumstances require otherwise, the first oral argument or first meeting of the panel must take place within 90 days of the date for final submission of the response.

Subp. 2. Submission of additional materials. If, upon review of the materials submitted by the parties, the arbitrator determines that further evidentiary materials are required, the arbitrator may order the parties to submit these materials and may set a date by which these materials must be submitted. In no case may the deadline for submission of additional evidence be greater than 120 days from the arbitrator's order to submit materials.

Subp. 3. **Determination on written evidence.** If the arbitrator concludes that the matter should be determined solely on the written evidence submitted, the arbitrator must notify the arbitration advisors, if any, of the date, time, and place of the first meeting, and the panel shall meet as needed.

Subp. 4. **Oral hearings.** If the arbitrator determines that an oral hearing is required, the arbitrator shall notify the parties, the panel, and the employee and the employee's attorney, if any, of the date, time, and place of the hearing.

A. Unless otherwise agreed to by the parties, the panel must consider all relevant evidence and is not bound by the formal rules of evidence.

B. The arbitrator must determine if more than one day of hearing is required.

C. If more than one day of hearing is required, the panel may meet one or more times following the completion of the hearing to discuss the evidence presented.

D. At the cost of the party requesting the recording, oral proceedings may be recorded by a court reporter. Nothing said by an employee may be used in any other proceeding under *Minnesota Statutes*, chapter 176.

Subp. 5. **Neutral physician.** Following the conclusion of oral argument, if any, or the final meeting of the panel, the arbitrator may render a decision in accordance with subpart 6, or may render a determination on the facts of the case and submit those facts to a neutral physician for an apportionment opinion.

A. The costs of obtaining the apportionment opinion of the neutral physician must be borne on a pro rata basis by the parties in accordance with the apportionment decision and subpart 6.

B. The neutral physician must be determined:

(1) if the parties agree, by agreement of the parties; or

(2) if the parties do not agree, by the arbitrator after the arbitrator has considered the objections for cause made by any of the parties.

C. Following the rendering of the opinion of the neutral physician, the arbitration panel must review the findings. If additional oral testimony is required, the arbitrator may order further oral argument.

Subp. 6. **Decision.** The arbitrator must issue a written decision on the equitable apportionment arbitration within 30 days of the final oral argument or final meeting of the panel, or if the opinion of a neutral physician was sought, within 30 days of review of that opinion by the panel. In any event, a final decision must be issued within 240 days of the request for arbitration. The arbitrator is not bound by the opinion of the neutral physician. In the event of a default by any party, the arbitrator shall make a decision based on the evidence submitted. Disputed issues of fact are determined by a preponderance of the evidence. The written decision must include:

A. a statement of the facts as determined by the arbitrator;

B. the apportionment decision;

C. the application of the apportionment decision;

D. a brief explanation of the basis for the decision;

E. an order requiring the parties to make pro rata payment of arbitration costs and fees in accordance with the apportionment decision, including reimbursement by the parties of their apportioned share of the arbitration administration fee or any other costs or fees, to any party that initially paid the costs or fees. As provided in *Minnesota Statutes*, section 176.191, subdivision 5, expenses of witnesses, including the employee, are a cost of the arbitration. Each party shall pay its own attorney fees for the arbitration, except any employee attorney fee under *Minnesota Statutes*, section 176.191, subdivision 8, which is a cost or fee of the arbitration; and

F. any other information as the case merits.

Subp. 7. **Enforcement.** Enforcement of the arbitrator's decision under this chapter must be as set forth for an arbitrator's decision under the Uniform Arbitration Act in *Minnesota Statutes*, chapter 572.

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

Department of Labor and Industry

Proposed Exempt Rules Governing Occupational Safety and Health

NOTICE IS HEREBY GIVEN that the Department of Labor and Industry, Occupational Safety and Health Division (Minnesota OSHA) proposes to adopt the following revisions to the Department of Labor and Industry, Occupational Safety and Health Rules, as authorized under *Minnesota Statutes* § 182.655 (1994). This notice proposes the adoption by reference of corrections and amendments to Occupational Safety and Health Standards that have already been proposed and adopted by the Federal Occupational Safety and Health Administration (Federal OSHA).

All interested or affected persons have 30 days from the date this notice is published in the *State Register* to submit, in writing, data and views on the proposed amendments to the rule. Comments in support of or in opposition to the proposed amendments are encouraged. Each comment should identify the portion of the proposed amendment addressed, the reason for the comment, and any proposed change.

Any person may file with the Commissioner written objections to the proposed amendments stating the grounds for those objections and may request a public hearing. A public hearing will be held if 25 or more persons submit written requests for a public hearing on the proposed amendments within the 30-day comment period. Requests for hearing must include the name and address of the person submitting the request, define the reasons for the request, and discuss any proposed changes. If a public hearing is required, the Department will proceed according to the provisions of *Minnesota Statutes* § 182.655 and *Minnesota Rules* 5210.0010 to 5210.0100.

Written comments or requests for a public hearing should be sent to: Occupational Safety and Health Division, Department of Labor and Industry, 443 Lafayette Road, St. Paul, Minnesota 55155-4307. A complete copy of the standards proposed for adoption is available by writing to this address or by calling (612) 297-3254.

Gary W. Bastian
Commissioner

Summary of Changes

The following is a brief summary of the proposed amendments. Persons interested in reviewing the complete *Federal Register* notices referenced below may obtain copies from the above address.

A) "Safety Standards for Fall Protection in the Construction Industry." On August 9, 1994, Federal OSHA published revised standards which regulate fall protection systems and procedures in the construction industry. Minnesota OSHA adopted the revised standards on January 3, 1995. The revised standards require that whenever construction employees are exposed to a fall of six feet or more, employers must take some action to protect workers from falling. The rule applies to all construction activities unless another construction standard specifically requires fall protection, such as steel erection of buildings. The standard went into effect on February 6, 1995. In January, 1995, Federal OSHA delayed the effective date for applying the Fall Protection standard to the non-building steel erection industry until August 6, 1995.

On August 2, 1995, Federal OSHA decided to exempt steel erection from the requirements of Subpart M because negotiated rule-making is currently underway to develop a proposed revision of the standards for steel erection in Subpart R of Part 1926. That proposal is expected to include fall protection requirements for employees performing steel erection work.

The fall protection requirements for steel erection that were in effect before the issuance of revised Subpart M will remain in effect until Subpart R is amended. Those requirements include the personal protective equipment requirements of Subpart E; specifically, § 1926.104, "Safety Belts, Lifelines and Lanyards;" § 1926.105, "Safety nets;" and § 1926.107(b), (c) and (f), definitions for the terms "lanyard," "lifeline," and "safety belt." In addition, § 1926.500(a) of Subpart M is amended to clearly indicate that the provisions of Subpart M do not apply to steel erection activities but that existing Subpart R and the specified provisions of Subpart E will apply to steel erection.

By this notice, Minnesota OSHA proposed to adopt the amendments which exempt steel erection from the requirements of Subpart M of Part 1926 and continue coverage of steel erection under Subpart R and specified sections of Subpart E of Part 1926 as published in the *Federal Register* on August 1, 1995.

B) "Logging Operations, Extension of Partial Stay; and Corrections and Technical Amendments to the Final Rule." On October 12, 1994, Federal OSHA published a revised final standard specifying safety requirements covering all logging operations, regardless of the end use of the forest products. These revisions replaced the existing standard, 1910.266, that had applied only to pulpwood logging. Minnesota OSHA adopted the standard on March 13, 1995.

On February 8, 1995, Federal OSHA published a notice which stayed certain provisions of that standard until August 9, 1995. That stay was subsequently extended to September 8, 1995, to give Federal OSHA additional time to clarify language in the regulatory text and preamble so it most accurately expressed the Agency's intent with respect to the provisions in question and to provide additional information with regard to some of the provisions. Provisions affected by the stay included those governing foot protection, face protection, first aid kits, machine operations, rollover protective structures, machine braking systems, and inspections and maintenance of employee-owned vehicles.

On September 8, 1995, Federal OSHA published a notice which amended some of the provisions that had been stayed and provided additional information with respect to other stayed provisions.

By this notice, Minnesota OSHA proposes to adopt the amendments to the Logging Operations Standard, 1910.266, as published in the *Federal Register* on September 8, 1995.

C) "Occupational Exposure to Asbestos, Amendments to Final Rule." Federal OSHA published the final rules governing Occupational Exposure to Asbestos for general industry (1910.1001), construction (1926.1101), and shipyard employment (1915.1001) on August 10, 1994. Minnesota OSHA adopted those rules on January 3, 1995. On June 29, 1995, Federal OSHA published corrections to these rules in response to the discovery of a number of technical and typographical errors and to make changes in response to the agreement entered into with the National Roofing Contractors Association.

On September 29, 1995, additional corrections and amendments to the final rules for construction and shipyard employment were published by Federal OSHA; the general industry standard was not amended. The corrections to the construction and shipyard employment standards clarify; that dropcloths are required beneath all indoor removal activity; that when gaskets are removed intact, wet methods are not required; that the bituminous or asphaltic pipeline coating is allowed to be handled using the same "alternative methods" set forth in the June 1995 notice for certain bituminous/resinous roofing materials. The September 29 notice also corrected an omission from the regulatory text which allows the use of powered air-purifying respirators adequately fitted to give a good face seal when exposure assessment and monitoring data indicate that asbestos exposure levels do not exceed 1.0 fibers per cubic centimeter as an 8-hour time weighted average. Another correction allows training for competent/qualified persons to be obtained in a course that meets the EPA criteria for supervisors, one which is state-approved, or one which is equivalent in stringency, content, and length, thus restoring the text in the original standard that was inadvertently omitted from the June 29 document.

By this notice, Minnesota OSHA proposed to adopt the amendment published in the *Federal Register* on September 29, 1995.

Rules as Proposed

5205.0010 ADOPTION OF FEDERAL OCCUPATIONAL SAFETY AND HEALTH STANDARDS BY REFERENCE.

[For text of subpart 1, see M.R.]

Subp. 2. **Part 1910.** Part 1910: Occupational Safety and Health Standards as published in Volume 43, No. 206 of the *Federal Register* on October 24, 1978, and corrected in Volume 43, No. 216 on November 7, 1978, which incorporates changes, additions, deletions, and corrections made up to November 7, 1978; and subsequent changes as follows:

[For text of items A to Q, see M.R.]

R. *Federal Register*, Volume 60:

[For text of subitems (1) to (6), see M.R.]

(7) *Federal Register*, Vol. 60, No. 153, dated August 9, 1995: "Logging Operations (1910.266), Final Rule: Extension of Partial Stay."

(8) *Federal Register*, Vol. 60, No. 174, dated September 8, 1995: "Logging Operations (1910.266), Final Rule: Corrections and Technical Amendments."

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

Subp. 3. **Part 1915.** Part 1915: Occupational Safety and Health Standards for Shipyard Employment as published in Volume 47, No. 76 of the *Federal Register* on April 20, 1982; all changes made prior to December 31, 1986, which consolidated Part 1915 and Part 1916; technical amendments and redesignations published in Volume 58, No. 125, of the *Federal Register* on July 1, 1993; and additional changes as follows:

[For text of items A to N, see M.R.]

O. *Federal Register*, Vol. 60, No. 189, dated September 29, 1995: "Occupational Exposure to Asbestos (1915.1001), Final Rule: Amendments."

[For text of subs 4 and 5, see M.R.]

Subp. 6. **Part 1926.** Part 1926: Construction Safety and Health Regulations as published in Part VII, Volume 44, No. 29 of the *Federal Register* on February 9, 1979, which incorporates changes, additions, deletions, and corrections made up to October 17, 1978, the incorporation and redesignation of the regulatory text of the General Industry Occupational Safety and Health Standards (29 CFR Part 1910) that have been identified as applicable to construction work as published in the *Federal Register*, Volume 58, No. 124, dated June 30, 1993, and corrected in Volume 58, No. 143, dated July 28, 1993; and additional changes as follows:

[For text of items A to J, see M.R.]

K. *Federal Register*, Volume 60:

[For text of subitems (1) to (6), see M.R.]

(7) *Federal Register*, Vol. 60, No. 148, dated August 1, 1995: "Safety Standards for Fall Protection in the Construction Industry (Part 1926, Subpart M), Final Rule: Correcting Amendment."

(8) *Federal Register*, Vol. 60, No. 189, dated September 29, 1995: "Occupational Exposure to Asbestos (1926.1101), Final Rule: Amendments."

[For text of subp 7, see M.R.]

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 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 Chiropractic Examiners

Adopted Permanent Rules Relating to Advertising, Continuing Education, and Definitions

The rules proposed and published at *State Register*, Volume 19, Number 41, pages 2065-2066, April 10, 1995 (19 SR 2065), are adopted with the following modifications:

Rules as Adopted

2500.0100 DEFINITIONS.

Subp. 9e. **Preceptor.** "Preceptor" means a supervising licensed chiropractic physician approved by the board.

Subp. 9d. **Preceptorship training program.** "Preceptorship training program" means a board-approved program by which an intern may practice chiropractic under the direct supervision of a licensed chiropractic physician for one 12-month period.

Subp. 9e. **9c. Private practice.** "Private practice" means a privately owned chiropractic business held individually or by incorporation operating without the interest of any hospital, teaching facility, or insurance company.

2500.0600 BOARD CERTIFICATION ADVERTISING.

A licensee who represents in any advertisement the possession of any credential, certification, or registration shall ~~include in the advertisement the name of~~ identify the board, agency, or other body which issued the additional credential, certification, or registration.

REPEALER. *Minnesota Rules*, part 2500.2500, is subparts 2, 3, 4, 5, 6, and 9, are repealed.

Minnesota Pollution Control Agency

Adopted Permanent Rules Relating to the Clean Water Partnership Program

The rules proposed and published at *State Register*, Volume 19, Number 51, pages 2414-2432, June 19, 1995 (19 SR 2414), are adopted with the following modifications:

Rules as Adopted

7076.0110 DEFINITIONS.

Subp. 5a. **Loan sponsor.** "Loan sponsor" means a local unit of government that enters into a loan contract ~~and operating agreement with the agency and secures the loan as a general obligation, pledging its full faith and credit to repayment of the loan.~~ There may be more than one loan sponsor for a project.

Subp. 20. **Project sponsor.** "Project sponsor" means the local unit of government that is responsible for development and implementation of the project and applies for financial assistance. For resource investigation, the project sponsor enters into the grant contract. For project implementation, the project sponsor ~~may enter into a grant contract and/or act as a loan sponsor and enter into~~

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.

Adopted Rules

a loan contract, or it may manage the project with the financial support of the loan sponsors shall be a party to all grant and loan contracts entered into by the agency to provide financial assistance.

7076.0130 ELIGIBILITY CRITERIA.

Subp. 2. **Eligible costs.** Project costs are eligible for financial assistance if they are reasonable, necessary, and allocable to the project. Costs associated with resource investigation are eligible for grant funds only. Both grants and loans may be awarded for the costs of project implementation. The dredging of harbors, lakes, ditches, constructed wetlands, and existing sedimentation basins; sewage treatment system upgrades when part of an approved project implementation; and the use of ferric chloride, aluminum sulfate, or other chemicals to precipitate phosphorus are eligible for loan funds but are not eligible for grant funds. In addition, costs related to any of the following activities are eligible for financial assistance:

Subp. 3. **Ineligible costs.** Ineligible costs include any costs that are not related to the activities in subpart 2. Costs identified under subpart 2 are ineligible if the related project activities are started before the grant or loan contract has been signed by the commissioner of finance. Costs identified under subpart 2 that are related to a resource investigation project are ineligible for loan funds. In addition, the following costs are ineligible for financial assistance whether or not they relate to the activities in subpart 2:

C. activities regulated by the State Disposal System permit program; the Petroleum Tank Release Cleanup Act, *Minnesota Statutes*, chapter 115C; the Environmental Compensation and Liability Act, *Minnesota Statutes*, chapter 115B; the Chemical Liability Act, *Minnesota Statutes*, chapter 18D; the Comprehensive Environmental Response, Compensation, and Liability Act, *United States Code*, title 42, sections 9601 to 9675; and the Resource Conservation and Recovery Act, *United States Code*, title 42, sections 6901 to 6991;

7076.0215 LOAN CONDITIONS.

Subp. 2. **Interest rate.** The interest rate of the project implementation loan must be at or below the project implementation loan set rate. The commissioner shall determine the project implementation loan interest rate for each application cycle based on current market conditions, the project implementation loan set rate, and the need to maintain the fiscal integrity of the state revolving fund.

Subp. 3. **Second-tier loans.** A loan sponsor awarded a loan by the agency may use the funds it receives to provide loans to second-tier borrowers. The loan sponsor must provide the information and assurances required in the loan contract as described in subpart 6 5.

Subp. 5. **Operating agreement.** Except in the case where the project sponsor is the only loan sponsor and the project sponsor is receiving both a project implementation grant and loan, the project sponsor and any loan sponsors must enter into an operating agreement with the agency to administer the project. The operating agreement must:

A. establish the roles and responsibilities of the project sponsor and any loan sponsors in regard to the coordination and management of the project;

B. provide that any subcontracts entered into by the project sponsor or loan sponsors to complete the work specified in the loan contracts must include the terms and conditions specified by the agency;

C. require that the project sponsor submit periodic progress reports and a final report to the commissioner in a format and schedule prescribed by the commissioner;

D. establish the guidelines for and management of a second-tier loan program, if any;

E. incorporate by reference loan contracts entered into by the project sponsor or loan sponsors in accordance with subpart 6;

F. provide that the agency may withhold disbursement of project implementation loan funds if the conditions of the operating agreement are not met; and

G. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 6 5. **Loan contract.** To receive loan funds, the project sponsor and one or more loan sponsors must enter into a loan contract with the agency. A loan contract may be amended upon agreement of the agency, the project sponsor, and the loan sponsor and executed by all parties that signed the original contract, or their successors in office. Loan increase amendments are subject to the availability of funds. All loan contracts must:

B. require the loan sponsor to undertake an irrevocable obligation and secure the project implementation loan with its full faith and credit, and include an opinion from a bond ~~council~~ counsel attorney stating that the project loan sponsor has the authority to pledge its full faith and credit;

D. provide that the project sponsor is responsible for technical and administrative oversight of the project, and specify the roles of the loan sponsors;

E. address, in the case where the project involves providing second-tier loans, the following elements:

(1) the administrative procedures for the second-tier loan program and the types, terms, and conditions of the second-tier loans;

(2) an obligation stating that all principal, interest, and fees received by the loan sponsor from the second-tier borrower and any interest earned on this money must be used by the loan sponsor in the following manner:

- (a) for the repayment of any interest charged by the agency on the project implementation loan;
- (b) for the repayment of the project implementation loan principal to the agency; and
- (c) for eligible costs of the implementation project;

(3) a statement identifying the mechanisms by which the loan sponsor will collect repayment for a second-tier loan in the event that the second-tier borrower does not make repayment on the loan; and

(4) a provision that states that defaults by second-tier borrowers do not affect the responsibility of the loan sponsor to repay in full the project implementation loan; establish the roles and responsibilities of the project sponsor and any loan sponsors in regards to the coordination and management of the project;

E. provide that any subcontracts entered into by the project sponsor or loan sponsors to complete the work specified in the loan contract must include the terms and conditions specified by the agency;

E. require that the project sponsor submit periodic progress reports and a final report to the commissioner in a format and schedule prescribed by the commissioner;

G. establish the guidelines for and management of a second-tier loan program, if any;

F.H. provide that the agency is not responsible for cost overruns; and

G.I. incorporate terms and conditions required by federal or state statutes, rules, and regulations.

Subp. 7 6. **Records.** The project sponsor and any loan sponsors must maintain all records relating to the receipt and expenditure of loan funds for at least three years from the date of termination of the loan contract ~~and operating agreement~~, according to the responsibilities identified in the ~~operating agreement~~ loan contract. Records relating to the installation, operation, and maintenance of best management practices must be maintained for three years beyond the loan contract, or the design or useful life, whichever is longer.

Subp. 8 7. **Audit.** The project sponsor and any loan sponsors must obtain audits in accordance with the Single Audit Act of 1984, *United States Code*, title 31, section 7501-7, and federal Environmental Protection Agency regulations, including Code of Federal Regulations, title 40, section 31.26, as applicable. All books, records, documents, and accounting procedures and practices of the project sponsor and any loan sponsors relevant to this program may be examined at any reasonable time and location by the commissioner or commissioner's designee, the legislative auditor, the state auditor, or the Environmental Protection Agency.

Subp. 9 8. **Eligible costs.** No loan funds shall be provided to the loan sponsor for loan-eligible project activities started before the project implementation period established in the loan contract, or continuing after the end of the project implementation period established in the loan contract.

7076.0240 DIAGNOSTIC STUDY.

Subp. 4. **Analysis and assessment.** The diagnostic study must contain an analysis and assessment of the data and information collected as a requirement of subparts 2 and 3 including the following:

B. a watershed or aquifer recharge area assessment that includes:

(4) the prioritization of the ~~subunit~~ subunits of the project area defined on a hydrologic basis into priority management areas on which to focus implementation of best management practices;

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.

Official Notices

Pursuant to the provisions of Minnesota Statutes §14.101, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Department of Labor and Industry

Labor Standards Division

Notice of Prevailing Wage Certifications for Commercial Construction Projects

Effective November 27, 1995 prevailing wage rates were determined and certified for commercial construction projects in the following counties:

Fillmore: DNR Forestville Campground Sanitary Building Remodel-Fillmore Co.

Freeborn: Ventilation For Welding Shop South Central Tech College-Albert Lea.

Hennepin: Rarig Center Sprinkler & Code Upgrade U of M-Minneapolis; Tuttle Elementary School Remodeling-Minneapolis.

Jackson: Accessibility Improvements Southwestern Technical College-Jackson.

Nicollet: Ventilation For Welding Shop South Central Tech College-North Mankato.

Ramsey: Refinishing Woodwork at the Minnesota Governors Residence-St Paul.

St Louis: Glass Replacement Services ISD 709-Duluth; Handicapped Improvements/State Thistledeew Camp/DOC-Togo; Irrrb ADA Projects 1995-Chisholm & Biwabik; MN DOT Virginia Hdqrs. (Ventilation)-Virginia.

Stearns: Steam Pipe Replacement St Cloud MCF-St Cloud.

Washington: Lake Elmo Elementary Remodeling & Fire Protection/Oak Park Elementary Remodeling & Fire Protection-Stillwater/Lake Elmo.

Yellow Medicine: Accessibility Improvements For Southwestern Technical College-Canby.

Copies of the certified wage rate for these projects may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road, St. Paul, Minnesota 55155-4306. The charge for the cost of copying and mailing are \$1.36 per project. Make check or money order payable to the State of Minnesota.

Gary W. Bastian, Commissioner

Teachers Retirement Association

Notice of Regular Meeting

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Thursday, December 14, 1995, at 9:30 a.m. in Suite 500, Gallery Building, 17 W. Exchange Street, St. Paul, MN to consider matters which may properly come before the Board.

Professional, Technical & Consulting Contracts

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.

In accordance with *Minnesota Rules Part 1230.1910*, certified Targeted Group Businesses and individuals submitting proposals as prime contractors shall receive the equivalent of a 6% preference in the evaluation of their proposal. For information regarding certification, call the Materials Management Helpline (612)296-2600 or [TDD (612)297-5353 and ask for 296-2600].

Department of Administration

Information Policy Office and Materials Management Division

Request for Proposal: Products, Services and Training in Support of Information Resource Development Methodology and / or Process Management

NOTICE IS HEREBY GIVEN that the State of Minnesota, acting through the Department of Administration, Information Policy Office (IPO) and Materials Management Division (MMD), seeks products, services and training in support of information resource development methodology and / or process management.

The primary objective of this RFP is to acquire information resource development methodology and / or process management products, services and training. A responder may propose products, services, and training singularly or in combination to assist in these and other areas: Development life cycle planning and management; outcome / benefit metrics and measurement; quality control and quality assurance; architecture control; development methodology control; schedule / resource control; design control; configuration management; and software maintenance.

For further information, or to obtain a copy of the Request for Proposal, contact:

Donald Olson
Department of Administration
Materials Management
112 State Administration Building
50 Sherburne Avenue
St. Paul, Minnesota 55155
(612) 296-3771
Fax: (612) 297-3996
TTY/TTD (612) 282-5799

This is the only person designated to answer questions regarding this request for proposal.

Deadline for proposal submission is 3:00 p.m. on December 29, 1995.

Dated: 20 November 1995

Greg Peterson
Information Policy Office
Department of Administration

Professional, Technical & Consulting Contracts

Bemidji State University

Proposals Sought for American Indian Resource Center Feasibility Study

Bemidji State University is seeking a firm to conduct a study of the feasibility of raising capital funds from foundations, corporations, agencies and individuals to match a state appropriation for the purpose of constructing an American Indian Resource Center on the campus of Bemidji State University, and to establish and support programs in that facility.

Prospective responders who want a copy of the Request for Proposal or who have any questions regarding this request for proposal may call or write:

Dr. David M. Tiffany
Vice President for University Advancement
Bemidji State University
1500 Birchmont Drive NE #57
Bemidji, MN 56601-2699
Telephone: (218) 755-2779

Department of Corrections

Management Services Division

Request for Proposal to develop a 13-18 minute narrated video to be incorporated in the recruitment program of the Department of Corrections.

This video, aimed at high school students and adult audiences, will be used to attract a more diverse representation of the community as prospective employees in the Department of Corrections.

Recruiters and members of our Speakers Bureau will incorporate this video in their presentations to high school students, clients of community agencies, and other adult audiences throughout the state. The purpose of the video will be to give the audience a pictorial view of the adult and juvenile correctional facilities in the state, as well as numerous occupations in the field of corrections.

For a copy of the request for proposal and information packet contact:

Greta Hartman
Minnesota Department of Corrections
1450 Energy Park Drive
Suite 200
St. Paul, MN 55108
612/642-0372

The deadline for submission of proposals is 4:30 p.m. on Friday, December 22, 1995.

Department of Human Services

Child Support Enforcement Division

Request for Proposals to Create and Operate New Hire Reporting System

The State of Minnesota Department of Human Services-Child Support Enforcement Division (State) is soliciting proposals from qualified contractors to develop and maintain a new hire register, produce and deliver an electronic file to the State and provide technical assistance to employers to report information on newly-hired employees ("the project"). The State will use the information to compare with the State's data base of child support obligor's to more efficiently administer the child support program. In addition, the State will use the information to compile reports for program evaluation and statistical purposes. In order to meet the enabling legislation's deadline of July 1, 1996 for an operational system (see *Minnesota Statutes* 256.9981), the State will adhere to a tight schedule for the project.

In conjunction with the public notice of this contract, notice of this project will be provided to the Human Resources offices of all *Minnesota Statute* 15.091 agencies and the Higher Education Board. Due consideration will be given to any responding employee

Professional, Technical & Consulting Contracts

when the responses to the Request for Proposal are evaluated. This Notice or the Request for Proposal does not obligate the State to complete the project, and the State reserves the right to cancel the solicitation if it is considered to be in its best interest.

A copy of the Request for Proposal can be obtained by contacting the Department of Human Services-Child Support Enforcement Division tele: 612/296-3693; fax: 612/297-4450. All proposals must be received (no faxed or other electronically transmitted proposals will be accepted) no later than 4:00 pm on Thursday, December 28, 1995:

Wayland Campbell, Business Unit Manager
Minnesota Department of Human Services
Child Support Enforcement Division
444 Lafayette Road
St. Paul, Minnesota 55155-3846

Department of Human Services

Proposals Sought from Qualified Parties to Provide Software Training

This request for proposals does not obligate the state to complete the project, and the state reserves the right to cancel the solicitation if it is considered to be in its best interest.

I Scope of Project

The purpose of this project is to provide computer software training to employees of the Department of Human Services so that they can carry out their assigned tasks.

II Goal and Objectives

Provide a training resource that can offer computer software training so that Department employees can carry out their computer related job tasks.

- High quality training must be offered on a continuous basis.
- The cost of the training must be as low as possible without sacrificing quality or availability.
- Sufficient classes must be offered on a wide variety of software so that employees can receive training when they need it relative to their job duties.

III Projected Tasks

See # II and VIII

IV Human Rights Compliance

It is hereby agreed between the parties that *Minnesota Statutes*, section 363.037 and *Minnesota Rules*, 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification to it. A copy of *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3600 is available upon request from the contracting agency, the Department of Human Services.

V Submission of Proposals

All proposals must be sent to and received by:

James Beatty
Employee Development Specialist
Minnesota Department of Human Services
444 Lafayette Rd
St. Paul, MN 55155-3821

not later than 3:00 pm, December 15, 1995.

Late proposals will not be accepted. Submit 3 copies of proposals. Proposals must be submitted in a sealed envelope or package with responders name and address clearly written on the outside, and with evidence of the responders compliance with the Human Rights Act attached to the envelope or package. Each copy of the proposal must be signed, in ink, by an authorized member of the organization. Prices and terms of the proposal must be valid for the length of the proposal.

VI Project Costs

The Department has estimated the cost will not exceed \$180,000.

Professional, Technical & Consulting Contracts

VII Project Completion Date

The project will be completed by 6-30-97; or within 18 months from the date the contract is approved.

VIII Proposal Contents

The following will be considered minimum requirements for the project

- Training in a wide range of state of the art computer software must be offered on a continuous basis throughout the year. Evaluation weight - 40%
- The provider of training must have their own training facility equipped with adequate classrooms and up to date personal computers in good working condition. Class size cannot exceed 8 students. Requiring students to use lap tops or equipment in marginal working condition is not acceptable. Evaluation weight - required.
- The training site cannot be more than 2 miles from the main DHS central office building located at 444 Lafayette Rd, St. Paul, MN 55155-3821. Evaluation weight - required.
- The provider of the training must be willing to accept registrations from the Department on a registration form jointly developed by the Department and the contractor. Evaluation weight - required.
- Prior to signing the contract a student cancellation policy must be negotiated and agreed upon between the Department and the contractor. This cancellation policy will be added to the contract before it is signed. Evaluation weight - required.
- The contractor must make follow-up consultation available to all students for 90 days after the completion of the course. Evaluation weight - required.
- Each training module must be at least 3 hours but not more than 7 1/2 hours in length. Evaluation weight - 10%.
- The cost of the individual training modules cannot exceed \$100.00 per module for regular course offerings. The fee for lecture classes cannot exceed \$60.00. Certified networking classes are not covered by this contract. Evaluation weight - 40%.
- Invoices for the training provided must be sent to the Department on at least a monthly basis. Evaluation weight - 10%.
- A training schedule must be provided to the Department covering at least 3 months of class offerings at least 7 weeks in advance of the training period. This schedule must be provided on a computer disk and in a word processing software program specified by the Department. Authorization must be given to the Department to alter the format of the schedule and to print and distribute it within the Department. Required.

IX State Employee Contracting Opportunity

In compliance with *Minnesota Statutes* 16B.167, the availability of this contracting opportunity is being offered to state employees. We will evaluate the responses of any state employee along with other responses to this Request for Proposal.

X Evaluation

All proposals received by the deadline specified in section V will be evaluated by representatives of the Department of Human Services. A personal interview and on site visit may be part of the evaluation process. Proposals will be evaluated on the criteria listed in section VIII.

Evaluation and selection will be completed by 1-02-96. Results will be sent immediately to all responders.

XI Department Contacts

Prospective respondents who have any questions regarding this request for proposal may call or write;

James Beatty
Employee Development Specialist
MN Department of Human Services
444 Lafayette Rd.
St. Paul, MN 55155-3821
612/296-2321

Please note: other Department personnel are not allowed to discuss the project with responders before the submittal of proposal deadline.

Non-State Public Bids, Contracts & Grants

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.

Metropolitan Council

Transit Operations

Proposals Sought for Computer Systems Maintenance Services

NOTICE IS HEREBY GIVEN that the Metropolitan Council Transit Operations will receive proposals at the office of the Metropolitan Council Transit Operations, 560 Sixth Avenue North, Minneapolis, Minnesota 55411-4398, until 11:30 a.m., November 30, 1995, for the performance of maintenance services for its computer systems.

All plans, specifications, and proposals are available from the Metropolitan Council Transit Operations at the above noted address or phone (612) 349-7662.

The Metropolitan Council Transit Operations reserves the right to reject all proposals. Contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

All proposers will be required to certify that they are not on the Comptroller General's List of Ineligible Contractors.

It is the MCTO's policy to award a reasonable portion of all procurements to Targeted Group Businesses (TGB's). "Targeted Group Business" means a small business designated by the Minnesota Department of Administration under *Minnesota Statute* 16B.19, that is majority owned and operated by women, disabled persons, or minorities. The MCTO encourages all certified TGB's as well as DBE's, Disadvantaged Business Enterprises, to submit proposals for this contract.

The Metropolitan Council Transit Operations hereby notifies all proposers that in regard to any contract entered into pursuant to this Request for Proposals, Targeted Group Businesses and Disadvantaged Business Enterprises will be afforded full opportunity to submit proposals in response, and will not be subject to discrimination on the basis of race, color, sex or national origin in consideration for an award.

Dated: 16 November 1995

Public Notice of Request for Proposal for Workers Compensation Legal Services

The Metropolitan Council is requesting proposals for the performance of workers compensation legal services. The legal services will involve representing the Metropolitan Council in workers compensation matters on an organization-wide basis and providing legal advice on workers compensation issues. In addition to performing its historical regional planning and coordinating activities, the Metropolitan Council now operates and maintains regional bus and transit systems and the metropolitan sewer disposal system. The Metropolitan Council anticipates the legal services contract will cover the time period from February 1, 1996 through January 31, 1998. A copy of the Request for Proposal may be obtained from:

Jay M. Heffern, General Counsel
Metropolitan Council
Mears Park Centre
230 East Fifth Street
Saint Paul, Minnesota 55101-1634
(612) 229-2723 Voice
(612) 291-6640 Facsimile

In accordance with *Minnesota Statutes* section 473.144 (1994) the Metropolitan Council may not accept any bid or proposal for a contract or execute a contract for services in excess of \$50,000 with any firm or business having more than 20 full-time employees on a single working day during the previous 12 months unless the firm or business has an affirmative action plan for the employment of minority persons, women and disabled persons that has been approved by the Commissioner of Human Rights. A proposal will not be accepted by the Metropolitan Council unless the proposal includes one of the following: (1) a copy of the proposer's current and valid certificate of compliance from the Commissioner of Human Rights; or (2) a valid affidavit stating the proposer did not have more than 20 full-time employees on a single working day during the previous 12 months.

Non-State Public Bids, Contracts & Grants

This request does not obligate the Metropolitan Council to complete the work contemplated in this notice and Request for Proposal. The Metropolitan Council reserves the right to cancel this solicitation, reissue the Request for Proposal and to proceed to do the proposed work otherwise. All expenses incurred in responding to this notice and the Request for Proposal are the responsibility of and will be borne by the responding parties. All written proposals responding to this Request for Proposal must be received at the Metropolitan Council's Mears Park Centre offices in Saint Paul, Minnesota by **4:00 p.m.** on Monday, **December 11, 1995**.

Public Notice of Request for Proposal for Metropolitan Transit Police Legal Services

The Metropolitan Council is requesting proposals for the performance of legal services related to the operation of the Metropolitan Council's law enforcement agency known as the Metropolitan Transit Police. The legal services will include providing legal advice on law enforcement agency issues regarding the Metropolitan Transit Police. In addition to performing its historical regional planning and coordinating activities, the Metropolitan Council now operates and maintains regional bus and transit systems and is authorized to establish a law enforcement agency to police the Metropolitan Council's transit property and routes and to make arrests under *Minnesota Statutes* sections 629.30 and 629.34 (1994). The Metropolitan Council anticipates the legal services contract will cover the eighteen-month time period from February 1, 1996 through July 31, 1997. A copy of the Request for Proposal may be obtained from:

Jay M. Heffern, General Counsel
Metropolitan Council
Mears Park Centre
230 East Fifth Street
Saint Paul, Minnesota 55101-1634
(612) 229-2723 *Voice*
(612) 291-6640 *Facsimile*

In accordance with *Minnesota Statutes* section 473.144 (1994) the Metropolitan Council may not accept any bid or proposal for a contract or execute a contract for services in excess of \$50,000 with any firm or business having more than 20 full-time employees on a single working day during the previous 12 months unless the firm or business has an affirmative action plan for the employment of minority persons, women and disabled persons that has been approved by the Commissioner of Human Rights. A proposal will not be accepted by the Metropolitan Council unless the proposal includes one of the following: (1) a copy of the proposer's current and valid certificate of compliance from the Commissioner of Human Rights; or (2) a valid affidavit stating the proposer did not have more than 20 full-time employees on a single working day during the previous 12 months.

This request does not obligate the Metropolitan Council to complete the work contemplated in this notice and Request for Proposal. The Metropolitan Council reserves the right to cancel this solicitation, reissue the Request for Proposal and to proceed to do the proposed work otherwise. All expenses incurred in responding to this notice and the Request for Proposal are the responsibility of and will be borne by the responding parties. All written proposals responding to this Request for Proposal must be received at the Metropolitan Council's Mears Park Centre offices in Saint Paul, Minnesota by **4:00 p.m.** on Monday, **December 11, 1995**.

Request for Proposal for Telephone Consultant

NOTICE IS HEREBY GIVEN that the Metropolitan Council will receive proposals at the office of the Metropolitan Council 230 East 5th Street, St. Paul, Minnesota, 55101, until **2:00 p.m.**, Friday, **December 8, 1995**, for the performance of consulting and implementation services of a telephone consultant.

All plans, specifications, and proposals are available from the Metropolitan Council at the above noted address or phone (612) 291-6348.

The Metropolitan Council reserves the right to reject all proposals. Contractor will be required to comply with all applicable Equal Employment Opportunity laws and regulations.

All proposers will be required to certify that they are not on the Comptrollet General's List of Ineligible Contractors.

It is the Metropolitan Council's policy to award a reasonable portion of all procurements to Targeted Group Businesses (TGB's). "Targeted Group Business" means a small business designated by the Minnesota Department of Administration under Minnesota Statute 16B.19, that is majority owned and operated by women, disabled persons, or minorities. The Metropolitan Council encourages all certified TGB's as well as DBE's, Disadvantaged Business Enterprises, to submit proposals for this contract.

The Metropolitan Council hereby notifies all proposers that in regard to any contract entered into pursuant to this Request for Proposals, Targeted Group Businesses and Disadvantaged Business Enterprises will be afforded full opportunity to submit proposals in response, and will not be subject to discrimination on the basis of race, color, sex or national origin in consideration for an award.

Wild About Birds

The DNR Bird Feeding Guide

ISBN 0-9647451-0-0

Carrol L. Henderson, Supervisor of the Non-Game Wildlife Program at Minnesota's Department of Natural Resources, shares his knowledge and appreciation for the natural habitats and traits of the wild birds who, with a little help from us, can thrive in spite of a rapidly changing landscape. Written in the same instructive manner as his popular books "Woodworking for Wildlife" and "Landscaping for Wildlife," "Wild About Birds: The DNR Bird Feeding Guide" provides techniques used by the author to double the number of species using his feeders. Includes woodshop basics for construction of 26 different feeders and tips on 44 types of food, plus detailed descriptions and photos of almost all the feeder-using species east of the Rocky Mountains - 69 in all. There's even a section on some of the unusual and unexpected wild visitors that may show up for a free meal. Over 425 color photographs, illustrations and diagrams make "Wild About Birds" a great reference manual, display book or gift. Ideal for the ornithologist, woodworker, or backyard birdwatcher. Spiral bound, 288 pages. **Stock Number 9-24 \$19.95**

Also by Henderson...

Landscaping for Wildlife

Revised, spiral-bound edition of our best-selling guide to landscaping your property to attract wildlife is now available! This book offers easy-to-follow, affordable landscape plans specifically geared for the Midwest climate. Attract everything from butterflies to hummingbirds, cardinals to wood ducks and deer. Features 185 color photos and numerous diagrams and charts. 138pp. plus index. (MN Dept. of Natural Resources, 1994) **Stock No. 9-15 \$10.95**



Woodworking for Wildlife

Revised and expanded in 1992. *Woodworking for Wildlife* is now full-color and spiral bound. Features numerous diagrams for building shelters for birds and mammals. Includes plans for the Peterson bluebird house, bat houses, platforms for the great horned owl, wood duck nest boxes, and more. Offers information on 50 species of birds and mammals. 111pp. (MN Dept. of Natural Resources, 1994) **Stock No. 9-14 \$9.95**

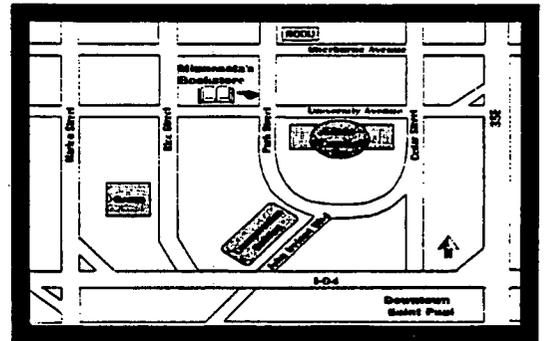
Minnesota's Bookstore

117 University Ave

St. Paul, MN 55155

(612) 297-3000 (8 - 5 Mon-Fri)

1-800-657-3757



Wholesale/Distributor discounts available. Call for more information.

Stock No.	Publication	Unit price	Quantity	Total
9-24	Wild About Birds	19.95		
9-15	Landscaping for Wildlife	10.95		
9-14	Woodworking for Wildlife	9.95		
9-25	Three-volume SET	36.95		
1 Tax:		2 Shipping Charges:		Subtotal
6 1/2% (7% for St. Paul residents). If tax exempt, please provide ES #		<i>Your order</i>	<i>add</i>	Tax¹
		Up to \$25.00	\$3.00	Shipping²
		\$25.01-\$50.00	\$5.00	Total
		Over \$50.00	\$7.00	

Send my order to:

Company _____		
Name _____		
Street Address (Not deliverable to P.O. boxes) _____		
City _____	State _____	Zip _____
Daytime phone _____ ()		

Please make checks payable to "State of Minnesota."

Credit card orders please check below;
 Visa American Express
 MasterCard Discover
 Card number _____
 Expiration date _____
 Signature _____

Minnesota's BOOKSTORE

Phone: (8-5 CST Mon-Fri)
 Fax: (612)296-2265

(612)297-3000/(800)657-3757
 Store Hours 8-5 Mon-Fri

TDD: (612)282-5048/(800)657-3706
 117 University Avenue, St. Paul, MN 55155

Check here for a
FREE
 Publications Catalog!

