

State of Minnesota

STATE REGISTER

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Department of Administration—Documents Division

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State Register

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

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

Printing Schedule and Submission Deadlines

Vol. 12 Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
15	Monday 28 September	Monday 5 October	Monday 12 October
16	Monday 5 October	Monday 12 October	Monday 19 October
17	Monday 12 October	Monday 19 October	Monday 26 October
18	Monday 19 October	Monday 26 October	Monday 2 November

*Deadline extensions may be possible at the editor's discretion; however, none will be made beyond the second Wednesday (12 calendar days) preceding the issue date for rules, proposed rules and executive orders, or beyond the Wednesday (5 calendar days) preceding the issue date for official notices. Requests for deadline extensions should be made only in valid emergency situations.

**Notices of public hearings on proposed rules and notices of intent to adopt rules without a public hearing are published in the Proposed Rules section and must be submitted two weeks prior to the issue date.

Instructions for submission of documents may be obtained from the State Register editorial offices, 504 Rice Street, St. Paul, Minnesota 55103, (612) 296-4273.

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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.

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For Legislative News

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

SENATE

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
Room 231 State Capitol, St. Paul, MN 55155
(612) 296-0504

HOUSE

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

This Week—weekly interim bulletin of the House.

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

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

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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.

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*.

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*.

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 1-16; 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 Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155 (612) 297-3000 or toll-free in Minnesota 1-800-652-9747 and ask for "Documents."

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Proposed Rules

Pursuant to Minn. Stat. of 1982, §§ 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing, as long as the agency determines that the rules will be noncontroversial in nature. The agency must first publish a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. The notice must advise the public:

1. that they have 30 days in which to submit comment on the proposed rules;
2. that no public hearing will be held unless 25 or more persons make a written request for a hearing within the 30-day comment period;
3. of the manner in which persons shall request a hearing on the proposed rules; and
4. that the rule may be modified if the modifications are supported by the data and views submitted.

If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

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

Department of Commerce

Proposed Permanent Rules Relating to Uniform Conveyancing Blanks

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for adopted rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 507.09.

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

Any person may make a written request for a public hearing within the 30 day comment period. If 25 or more persons submit a written request for a public hearing within the 30 day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the department will proceed pursuant to *Minnesota Statutes*, sections 14.13 to 14.20.

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

Scott P. Borchert
Department of Commerce
500 Metro Square Building
St. Paul, MN 55101
(612) 296-9431

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

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

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

Michael A. Hatch
Commissioner of Commerce

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 (all new material)

2820.2900 FORM 35-M. INDIVIDUAL TO INDIVIDUAL; QUIT CLAIM DEED RESERVING LIEN IN MARRIAGE DISSOLUTION (DIVORCE) JUDGMENT AND DECREE.

Subpart 1. **Scope.** The recommended form for a quit claim deed reserving a lien in marriage dissolution (divorce) judgment and decree, individual to individual, is contained in subpart 2.

Subp. 2. **Form.**

QUIT CLAIM DEED RESERVING LIEN IN MARRIAGE DISSOLUTION (DIVORCE) JUDGMENT AND DECREE Form No. 35-M Minnesota Uniform Conveyancing Blanks Individual to Individual

No delinquent taxes and transfer entered; Certificate of Real Estate Value () filed () not required Certificate of Real Estate Value No. _____, 19_____
County Auditor
by _____ Deputy

(reserved for recording data)

DEED TAX DUE HEREBY: \$ _____
Date: _____, 19____

FOR VALUABLE CONSIDERATION, _____, Grantor(s),
(marital estate)
hereby convey(s) and quitclaim(s) to _____, Grantee(s),
real property in _____ County, Minnesota, described as follows:

(if more space is needed, continue on back)
together with all hereditaments and appurtenances belonging thereto, but reserving the lien(s), if any, in favor of Grantor, created in Marriage Dissolution (Divorce) Case No. _____ in _____ County, Minnesota.

Affix Deed Tax Stamp Here

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____,
by _____, Grantor(s).

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT
Tax Statements for the real property described in this instrument should be sent to (include name and address of Grantee):

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

2820.3000 FORM 36-M. RELEASE OF LAND FROM LIEN IN MARRIAGE DISSOLUTION (DIVORCE) JUDGMENT AND DECREE.

Subpart 1. **Scope.** The recommended form for the release of land in marriage dissolution (divorce) judgment and decree is contained in subpart 2.

Subp. 2. **Form.**

RELEASE OF LAND FROM LIEN IN MARRIAGE DISSOLUTION (DIVORCE) JUDGMENT AND DECREE Form No. 36-M Minnesota Uniform Conveyancing Blanks

Release of Land from Lien in Marriage Dissolution (Divorce) Judgment and Decree

(reserved for recording data)

Date: _____, 19____

FOR VALUABLE CONSIDERATION, the real property in _____ County, Minnesota, legally described as follows:

(if more space is needed, continue on back)

is hereby released from the lien(s) owned by the undersigned, created in Marriage Dissolution (Divorce) Case No. _____ in _____ County, Minnesota. (If registered land, Judgment and Decree is filed as Document Number(s) _____, files of the Registrar of Titles.)

STATE OF MINNESOTA }
COUNTY OF _____ } ss.

The foregoing instrument was acknowledged before me this _____ day of _____, 19____, by _____

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR BANK)

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

MISCELLANEOUS FORMS

2820.9000 FORM 88-M. RELEASE OF LAND FROM JUDGMENT LIEN.

Subpart 1. **Scope.** The recommended form for a release of land from a judgment lien is contained in subpart 2.

Subp. 2. **Form.**

RELEASE OF LAND FROM JUDGMENT LIEN Form No. 88-M Minnesota Uniform Conveyancing Blanks

Release of Land from Judgment Lien

(reserved for recording data)

Date: _____, 19__

FOR VALUABLE CONSIDERATION, the real property in _____ County, Minnesota, legally described as follows:

(If more space is needed, continue on back)

is hereby released from the lien of the Judgment owned by the undersigned and docketed _____, 19__, in _____ Court in _____ County, Minnesota,

Case No. _____, in favor of _____ and against _____

Number _____, files of the Registrar of Titles.) (If registered land, filed as Document

STATE OF MINNESOTA }
COUNTY OF _____ } m.

The foregoing instrument was acknowledged before me this _____ day of _____, 19__, by _____

THIS INSTRUMENT WAS DRAFTED BY (NAME AND ADDRESS):

SIGNATURE OF PERSON TAKING ACKNOWLEDGMENT

NOTARIAL STAMP OR SEAL (OR OTHER TITLE OR RANK)

Board of Optometry

Proposed Permanent Rules Relating to Terms and Renewal of License

Notice of Intent to Adopt Rules Without a Public Hearing

Notice is hereby given that the State Board of Optometry intends to adopt permanent rules relating to the term and renewal of

licenses, the recovery of the costs of disciplinary proceedings and fees. The Board intends to adopt these rules without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes*, sections 14.22 to 14.28. The statutory authority to adopt the rules is *Minnesota Statutes*, sections 148.53, 214.06, and 16A.128.

All persons have 30 days in which to submit comment in support of or in opposition to the proposed rules or any part or subpart of the rules. Comment is encouraged. Each comment should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rules within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their request in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rules addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Burton H. Skuza, OD
Executive Director
Suite 103
2700 University Avenue West
St. Paul, Minnesota 55114
Telephone: (612) 642-0594

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

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

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

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

Dated: 28 August 1987

Burton H. Skuza, OD
Executive Director
Board of Optometry

Rules as Proposed (all new material)

6500.2800 TERMS AND RENEWAL OF LICENSE.

Subpart 1. **Terms.** An initial license issued by the board is valid from the date issued until renewed or terminated according to this part. An annually renewed license issued by the board is valid from January 1 of the year for which it is issued until renewed or terminated according to this part.

Subp. 2. **Renewal of application including information regarding continuing education and fees.** An optometrist shall submit an application for renewal of license together with the necessary fee no later than December 31 of the year preceding that for which the license renewal is requested. Application for renewal will be considered timely if received by the board no later than December 31 or postmarked on December 31. If the postmark is illegible, the application will be considered timely if received in the board office by United States first class mail on the first workday after December 31. The application form must provide a place for the renewal applicant's signature and must solicit information to include but not be limited to the applicant's office address or addresses, the number of the applicant's license, and any other information that may be reasonably requested by the board.

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

For those licensees who have not submitted evidence of compliance with their three-year continuing education requirement or special course requirement in parts 6500.0900 and 6500.1700, the board will include in its written notice relating to annual renewal that the licensee shall submit verified evidence of having taken the required number of continuing education credit hours listed in part 6500.0900 or specified under part 6500.1700 in order to have the license renewed.

Subp. 3. **Failure to submit renewal application.** The following procedures will be followed by the board for all licensees who have failed to submit the annual application under subpart 2, including information about continuing education and applicable fees as provided in subpart 5.

A. Any time after January 1, the board will send to the last address on file with the board, a notice to all licensees who have not made application for renewal of their license. The notice will state that the licensee has failed to make application for renewal; the amount of renewal and late fees and the information required about continuing education as specified in subpart 2 which must be submitted in order for the license to be renewed; that the licensee may voluntarily terminate the license by notifying the board; and that failure to respond to notice by the date specified, which date must be at least 30 days after the notice is sent by the board, either by submitting the renewal application and applicable fees and information required about continuing education or by notifying the board that the licensee has voluntarily terminated the license, will result in expiration of the license and terminating the right to practice.

B. If the application for renewal, including required information about continuing education and the applicable annual and late fees or notice of voluntary termination is not received by the board by the dates specified in the notice, the license will expire and the licensee's right to practice will terminate as of the date specified in the notice. The expiration and termination will not be considered a disciplinary action against the licensee.

C. Notwithstanding items A and B, the expiration date shall be extended six months when a licensee fails to meet the continuing education requirements in parts 6500.0900 and 6500.1700. The license will expire at the end of the six-month extension if the licensee does not submit within that time evidence of having complied with the required continuing education. In those cases where a licensee was physically incapable at the end of the three-year reporting cycle of taking continuing education courses, the expiration date shall be extended for six months for the purpose of giving the person the opportunity to take the necessary number of continuing education course hours. The licensee must submit clear and convincing evidence of physical incapability. The license expires at the end of the six-month extension if the licensee does not submit within that time evidence of taking a number continuing education course hours necessary to comply with parts 6500.0900 and 6500.1700.

In either instance referenced above, a licensee may submit a request for extension of the six-month period. The board will grant the extension only in cases of extreme hardship or compelling reasons. Financial hardship caused by loss of license shall not meet the standards. The burden rests on the licensee to prove that the extension should be granted which in no case shall exceed an additional six months.

Subp. 4. **Reinstatement.** A license that has expired under this part may be reinstated under part 6500.2900.

Subp. 5. **Contested case proceeding.** The board, in lieu of the process in subpart 3, may initiate a contested case hearing to revoke or suspend a license for failure to submit fees and continuing education information requested on the renewal application, at the same time it initiates disciplinary proceedings against the licensee for other grounds specified in Minnesota Statutes, sections 148.52 to 148.62 and parts 6500.0400 to 6500.1700.

6500.2900 REINSTATEMENT OF LICENSE.

Subpart 1. **Requirements.** Upon complying with the requirements in this part, the applicant's license shall be reinstated. Any person desiring the reinstatement of a license shall:

A. submit to the board a completed application on a form provided by the board;

B. submit with the application the fee specified in part 6500.2000, subpart 1;

C. include with the application a letter stating the reasons for applying for reinstatement; and

D. comply with the application provisions of part 6500.2000, subpart 3. Upon reinstatement, the person shall be assigned to the continuing education cycle to which the licensee was assigned before termination of the license.

Subp. 2. **Expiration or voluntary termination of license.** Applicants whose license has expired under part 6500.2800, subpart 3, or who voluntarily terminate their license must:

A. Submit evidence of having successfully completed the continuing education requirements that would have applied to them had their license not expired. If the license had expired because of failure to meet the continuing education requirements or if the applicant's continuing education cycle concluded during the time that the license was in expired status and all the requirements had not been complied with, the applicant must successfully complete this cycle of continuing education.

B. On filing a reinstatement application, pay the annual renewal fees and applicable penalty fees for the years between expiration or termination of the license and the year in which the application is filed.

Subp. 3. **Revoked or suspended license.** No license that has been suspended or revoked by the board may be reinstated unless the applicant for reinstatement provides evidence of full rehabilitation from the offense for which the license was suspended or revoked and complies with all other reasonable conditions imposed by the board for the purpose of establishing the extent of rehabilitation. In addition, if the disciplinary action was based in part on failure to meet continuing education requirements, the license may not be reinstated until the applicant has successfully completed the requirements in subpart 2. The board may require the licensee to pay all costs of the proceedings resulting in the suspension or revocation of a license under part 6500.2800 or pursuant to its disciplinary authority and the reinstatement or issuance of a new license. A licensee who has been disciplined by the board in a manner other than by suspension or revocation may be required by the board to pay all costs of the proceedings resulting in the disciplinary action.

Subp. 4. **Licensure application not precluded.** Nothing in this part prohibits an optometrist from applying for licensure under Minnesota Statutes, section 148.57, subdivisions 1 and 2.

Subp. 5. **Exemptions.** A licensee who pays an annual license renewal fee and meets any of the following conditions is exempt from complying with the continuing education requirements if the licensee files an affidavit with the board specifying the condition applicable to the licensee:

- A. resides permanently outside the state and does not practice within the state;
- B. is retired from practice and does not perform any optometric services on a voluntary or free basis; or
- C. is permanently disabled and unable to practice optometry.

Subp. 6. **Expiration of exemption.** A licensee claiming exemption under subpart 5 who subsequently decides to resume practice shall submit to the board, before resuming practice, a written notice of the intended change and evidence of having completed the continuing education requirements equivalent to what requirements would have been without the exemption immediately preceding the date of receipt of the notice of the intent to resume practice. If the licensee has not complied with the continuing education requirements, the licensee must comply with part 6500.2900, subpart 2; if the licensee has been exempt from complying with the continuing education requirements, the licensee may not resume practice until notified by the board that the evidence submitted is acceptable. The licensee will be placed in the continuing education cycle that would have applied if the exemption had not been claimed.

Department of Health

Proposed Permanent Rule Requiring Payment of a Fee When Swimming Pool Plans and Specifications are Submitted to the Commissioner of Health for Approval

Notice of Intent to Adopt Rules Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Commissioner of Health proposes to adopt *Minnesota Rules* pt. 4717.0310 relating to fees for swimming pool plan review and inspection fees. The Commissioner proposes to adopt and amend the above rules without a public hearing, following the procedures set forth in *Minnesota Statutes*, sections 14.22 to 14.28. The specific statutory authority to adopt the rule is *Minnesota Laws 1987*, ch. 403, art. 1, § 8, subd. 2. In addition to the specific authority cited above, the Commissioner of Health also has general authority pursuant to *Minnesota Statutes* § 144.122 to prescribe fees for the issuance of original and renewal permits, licenses, registrations and certifications issued under her authority. Further, *Minnesota Statutes* § 16A.128 provides that fees must be set or adjusted so the total fees nearly equal the sum of the appropriation for the accounts plus agency's general support costs, statewide indirect costs, and Attorney General costs attributable to the fee function.

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

Any person may make a written request for a public hearing on the rule or amendments within the 30-day period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held. Any person

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Proposed Rules

requesting a public hearing should state the request in writing, should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required the agency will proceed pursuant to *Minnesota Statutes*, sections 14.131 to 14.20.

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

Milton R. Bellin
Division of Environmental Health
Minnesota Department of Health
717 Delaware Street Southeast
Minneapolis, Minnesota 55440
Telephone: (612) 623-5517

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

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

A Statement of Need and Reasonableness has been prepared and is available upon request from Milton Bellin at the above phone number and address. The statement describes the need for and reasonableness of each provision of the proposed rule and amendments, and identifies the data and information relied upon to support its proposed rule and amendments.

The approval of the Commissioner of Finance has been obtained and is attached to the Statement of Need and Reasonableness.

The proposed rule and amendments will affect small businesses as they are defined in *Minnesota Statutes* § 14.115, subd. 1. The agency's consideration of the impact is contained in the Statement of Need and Reasonableness.

Since the total cost of the increased swimming pool surveillance program, and the fees collected to recover the cost, would not exceed \$100,000 in either of the two years, there is no need to prepare a fiscal note as required in *Minnesota Statutes* § 14.11 and § 15.065.

If no hearing is required, upon adoption of the rule and amendments, the rule and the required supporting documents will be delivered to the Attorney General for review as to legality and form to the extent the form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to obtain a copy of the adopted rule and amendments, should submit a written request to Milton Bellin at the above address.

Dated 11 September 1987

Sister Mary Madonna Ashton
Commissioner of Health

Rule as Proposed (all new material)

4717.0310 FEES.

All plans for swimming pool construction, installation, or alteration submitted to the commissioner of health for review and approval under part 4717.0300 must be accompanied by the appropriate fee as prescribed below:

- A. Each pool, except as provided in items B and C, \$300.
- B. Each additional pool located at the same site, shown in the same plans, and constructed at the same time, \$200.
- C. Alterations to an existing pool without changing the size or configuration of the pool, \$100.

Adopted Rules

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 14.14-14.28 have been met and five working days after the rule is published in *State Register*, unless a later date is required by statutes or specified in the rule.

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

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

An emergency rule becomes effective five working days after the approval of the Attorney General as specified in Minn. Stat. § 14.33 and upon the approval of the Revisor of Statutes as specified in § 14.36. Notice of approval by the Attorney General will be published as soon as practicable, and the adopted emergency rule will be published in the manner provided for adopted rules under § 14.18.

Minnesota State Agricultural Society Minnesota State Fair

Adopted Rule Change Governing the Operation and Management of the Minnesota State Fair and Minnesota State Fairgrounds

The Minnesota State Agricultural Society board of managers adopted the following rule change Aug. 28, 1987, at a general business session. The following amendment is made to a rule published in the *State Register* on 10 March 1980, pages 1462-1468, Vol. 4 Number 36.

S.F. 1.7—Vehicle Restrictions

Maximum vehicle speed limits on the State Fairgrounds, as well as appropriate allowances and restrictions dealing with vehicle parking, delivery hours, restricted areas, tow away zones and impound arrangements, shall be established by the Secretary-General Manager. The Secretary-General Manager shall provide for the placement of such traffic control signals and signs on the State Fairgrounds as deemed necessary for the proper safety, protection and control of the Fairgrounds and the public thereon. When any police officer or security person finds a vehicle illegally parked on the Fairgrounds, he is authorized to provide for the removal and impoundment of such vehicle. Cost of removal and storage shall be borne by the vehicle's owner.

Department of Commerce

Adopted Permanent Rules Relating to the Medical Malpractice Joint Underwriting Association

The rule proposed and published at *State Register*, Volume 11, Number 48, pages 2194-2196, June 1, 1987 (11 S.R. 2194) is adopted with the following modifications:

Rule as Adopted

2791.0100 AUTHORIZATION TO ISSUE MEDICAL MALPRACTICE INSURANCE.

Pursuant to Minnesota Statutes, section 62F04, the joint underwriting association is hereby authorized to issue medical malpractice insurance on a primary basis to physicians, hospitals, and other health care providers who are unable to obtain medical malpractice insurance coverage in the voluntary market. Those classes of physicians, hospitals, and other health care providers who are unable to obtain medical malpractice insurance and whom the joint underwriting association is authorized to issue medical malpractice insurance are:

~~H.~~ intra-aortic balloon pump technicians;

~~I.~~ optometrists; and

~~J.~~ H. registered nurses.

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Adopted Rules

Department of Public Service

Adopted Emergency Amendments to Rules Relating to Energy Conservation Investment Loans

The rules proposed and published at *State Register*, Volume 12, Number 3, pages 98-101, July 20, 1987 (12 S.R. 98) are adopted as proposed.

Official Notices

Pursuant to the provisions of Minnesota Statutes § 14.10, an agency, in preparing proposed rules, may seek information or opinion from sources outside the agency. Notices of intent to solicit outside opinion must be published in the *State Register* and all interested persons afforded the opportunity to submit data or views on the subject, either orally or in writing.

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

Ethical Practices Board

Request for Advisory Opinion Re: Hennepin County Disclosure Law

The Ethical Practices Board solicits comments regarding the following request for an advisory opinion received from Dale G. Folstad, Director of Property Tax and Public Records, Hennepin County. Written comments should arrive at the Board office, 625 N. Robert St., St. Paul, MN 55101 prior to October 26, 1987, for consideration at the Board's meeting of November 5, 1987.

September 30, 1987—A question has been presented as to whether the following described fund must register with this office as a "political fund," as defined in *Minnesota Statutes* Secs. 383B.041 to 383B.056. This office, as the filing office, requests the opinion of the Ethical Practices Board pursuant to *Minnesota Statutes* Sec. 383B.055, subd. 1(b). The facts of the situation are as follows:

A Hennepin County elected official, who is subject to the reporting requirements of *Minnesota Statutes* Secs. 383B.041 to 383B.056 and whose term of office expires in 1991, will shortly assume an office in the Minnesota Aquatennial Association. This position is an unpaid, voluntary office, the duties of which will last for approximately one year. As you know, the Minneapolis Aquatennial Association is a nonprofit community organization which has been organized to promote the City of Minneapolis and constituent groups by presenting an annual parade and related community festivities.

In connection with assumption of this position, there will be some appreciable personal expenses and costs involved, none of which can be paid by the Aquatennial Association itself. The official is asking if he can raise funds to help defray the cost of these expenses arising out of his duties with the Aquatennial.

Under the above facts, is this fund a "political fund" within the meaning of the above-identified statutes so as to require its registration with this office?

Department of Finance

Maximum Interest Rate for Municipal Obligations in October

Pursuant to *Minnesota Statutes*, Section 475.55, Subdivision 4, Acting Commissioner of Finance, Nellie Johnson, announced today that the maximum interest rate for municipal obligations in the month of October would be ten (10) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by General Obligations of the municipality may bear an interest rate of up to eleven (11) percent per annum.

Dated: 29 September 1987

Peter Sausen, Assistant Commissioner
Cash and Debt Management

Department of Human Services

State Child Welfare Services Plan

The Division of Community Social Services has submitted a Title IV-B Child Welfare Services Plan for the period of October 1, 1987 through September 30, 1989 to the Department of Health and Human Services, Administration for Children, Youth and Families. The plan is intended to meet federal requirements for funds provided under Title IV-B of the Social Security Act.

The plan is available for public review and inspection. A copy of the plan can be obtained from the:

Department of Human Services
Division of Community Social Services
Title IV-B Plan
4th Floor
Centennial Office Building
658 Cedar Street
St. Paul, MN 55155

Department of Human Services

Health Care Programs Division

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Amendments to Rules Governing the Administration of the Medical Assistance Prepaid Demonstration Project, under *Minnesota Rules*, Parts 9500.1450 to 9500.1464

Notice is hereby given that the State Department of Human Services is seeking information or opinions from sources outside the agency in preparing to propose amendments to *Minnesota Rules*, parts 9500.1450 to 9500.1464, governing the eligibility of persons for the Medical Assistance Prepaid Demonstration Project (MAPDP), an experimental program that requires certain medical assistance recipients to receive health care through prepaid health plans. The proposed amendments will exclude from MAPDP those recipients who are eligible for medical assistance because of blindness or disability, or who are in foster care. Those recipients will continue to be eligible for medical assistance under the fee-for-services program. The adoption of the proposed amendments are authorized by *Minnesota Statutes*, section 256B.69, which permits the agency to establish and administer the medical assistance demonstration project, and develop criteria to determine when limitation of choice may be implemented in the experimental counties.

The State Department of Human Services requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Ann Berg
Medical Assistance Prepaid Demonstration Project
Health Care Programs Division
Department of Human Services
444 Lafayette Road, 6th Floor
St. Paul, MN 55155

Oral statements will be received during regular business hours over the telephone at (612) 296-0642 and in person at the above address.

All statements of information and opinions shall be accepted until further notice is published in the *State Register* or the Notice of Hearing or Notice of Intent to Adopt Rules Without a Hearing is published in the *State Register*. Any written material received by the Department of Human Services shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

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Metropolitan Council

DBE and WBE Goals

The Metropolitan Council announces the following goals for federal fiscal year 1988 for disadvantaged and women business enterprise (DBE and WBE) participation in Urban Mass Transportation (UMTA) assisted projects: 10% for firms owned and controlled by socially and economically disadvantaged individuals; and 2% for women-owned and -controlled firms.

The goals and a description of how they were set are available for inspection during normal business hours at the Council offices for 30 days following the date of this notice. Comments, which are for informational purposes only, may be sent to the Equal Opportunity Coordinator, Metropolitan Council, 300 Metro Square Bldg., St. Paul, MN 55101; or the U.S. Department of Transportation, 400 7th St. SW., Washington, DC 20590, within 45 days from the date of this notice.

Department of Minnesota Municipal Board

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Schedule of Filing Fees

Notice is hereby given that the State Minnesota Municipal Board is seeking information or opinions from sources outside the agency in preparing to propose the amendment of the rule governing the schedule of filing fees, *Minnesota Rules* Part 6000.3400. The adoption of the rule is authorized by *Minnesota Statutes* 414.01, Subd. 10, which permits the agency to promulgate rules.

The State Minnesota Municipal Board requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to Patricia Lundy, 165 Metro Square Building, St. Paul, Mn. 55101. Oral statements will be received during regular business hours over the telephone at 612-296-2428 and in person at the above address.

All statements of information and opinions shall be accepted until November 2, 1987. Any written material received by the State Minnesota Municipal Board shall become part of the rulemaking record to be submitted to the attorney general or administrative law judge in the event that the rule is adopted.

Dated: 5 October 1987

Patricia D. Lundy
Assistant Director

Rural Development Board

Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Challenge Grants

Notice is hereby given that the Rural Development Board is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing Challenge Grants. The adoption of the rule is authorized by *Minnesota Laws 1987*, chapter 386, article 1, section 10, subdivision 7, to be codified as *Minnesota Statutes* section 116N.08, subdivision 7, which requires the Board to adopt a rule to implement the Challenge Grant Program.

The Rural Development Board requests information and opinions concerning the subject matter of the rule. Interested persons or groups may submit data or views on the subject matter of concern in writing or orally. Written statements should be addressed to:

Jerry Schoenfeld, Director
Minnesota Trade and Economic Development
Community Development Division
900 American Center Building
150 East Kellogg Boulevard
St. Paul, Minnesota 55101-1421

Oral statements will be received during regular business hours over the telephone at 612/296-9956 and in person at the above address.

All statements of information and opinions shall be accepted until October 15, 1987. Any written material received by the Rural Development Board shall become part of the rulemaking record to be submitted to the Attorney General or administrative law judge in the event that the rule is adopted.

Dated: 10 September 1987

David J. Speer, Chairman
Rural Development Board

Department of Transportation

Petition of City of Elk River for a Variance from State Aid Standards for Diagonal Parking

Notice is hereby given that the City Council of the City of Elk River has made a written request to the Commissioner of Transportation pursuant to *Minnesota Rules* § 8820.3300 for a variance from minimum standards for a reconstruction project on MSAS 113 (Main Street) from County Road 42 to Lowell Street.

The request is for a variance from *Minnesota Rules* for State Aid Operations § 8820.9916 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit 45 degree diagonal parking with a traffic aisle width of 22.2' instead of the required traffic aisle width of 25.2'.

Any person may file a written objection to the variance request with the Commissioner of Transportation, Transportation Building, St. Paul, Minnesota 55155.

If a written objection is received within 20 days from the date of this notice in the *State Register*, the variance can be granted only after a contested case hearing has been held on the request.

Dated: 1 October 1987

Leonard W. Levine
Commissioner of Transportation

State Contracts and Advertised Bids

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

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

Commodities contracts with an estimated value of \$15,000 or more are listed under the Procurement Division, Department of Administration. All bids are open for 7-10 days before bidding deadline. For bid specifics, time lines, and other general information, contact the appropriate buyers whose initials appear in parentheses next to the commodity for bid, by calling (612) 296-6152.

Department of Administration: Procurement Division

Contracts and Requisitions Open for Bid

Call 296-6152 for Referral to Specific Buyers, whose initials are next to each commodity.

Commodity for Bid (and Buyer)	Bid Closing Date at 2 pm	Department or Division	Delivery Point	Requisition #
Snow making machine—addendum I (DM)	October 13	Giants Ridge Rec Area	Biwabik	43000 09096
Radiographic system (JG)	October 13	Regional Treatment Ctr	Willmar	55100 06740
Used computers (BV)	October 14	PERA	St. Paul	63000 81402
Coin changers (MJB)	October 14	Jobs & Training	St. Paul	21200 16705
Trucks (DM)	October 14	Various	Various	27148 50126 etc.
Used washer (DRT)	October 14	Correctional Facility	St. Cloud	78830 08950
Wood for signs (PA)	October 14	Natural Resources	Grand Rapids	29007 10061
Radio console—rebid (PA)	October 14	Public Safety	Various	07500 39696
Window shades—addendum I (DRT)	October 15	Regional Treatment Ctr	Willmar	55106 06728
Liquid nitrogen (50 litre) (DO)	October 15	State University	St. Cloud	Price Contract
Security guard uniforms (AW)	October 15	Various	Various	Price Contract
Micro computer (BV)	October 16	Community College	Coon Rapids	27152 46468
5 year lease of copiers (BT)	October 16	State Auditor	St. Paul	61000 48144
Laboratory media (DO)	October 16	Various	Various	Price Contract
Snow groomer (DM)	October 20	Giant Ridge Rec Area	Biwabik	43000 09313
Gas chromatographic (JG)	October 20	Pollution Control	St. Paul	32200 16477
Lap top computer (BV)	October 20	Jobs & Training	St. Paul	21200 16811

State Contracts and Advertised Bids

Computer system (BV)	October 20	Human Services	St. Paul	55000 89347
Computer equipment (PA)	October 20	State University	Marshall	26175 07190
Powermate rebid (PA)	October 20	State University	St. Cloud	26073 19880

Department of Administration: Printing & Mailing Services

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

Commodity for Bid (and Buyer)	Bid Due Date at 2 pm	Department or Division	Delivery Point	Requisition #
Clearing account deposit slips	October 14	Jobs & Training	St. Paul	2340
Request for wage & separation information form	October 14	Jobs & Training	St. Paul	1690
Unit assignment form	October 14	Transportation	St. Paul	1057
Daily unit diary	October 15	Natural Resources	St. Paul	1142
Southern travel directory	October 16	Trade & Economic Development	St. Paul	1494
MN election laws	October 16	Fiscal Operations	St. Paul	2042
1988 MN fishing regulations	October 16	Natural Resources	St. Paul	2049
Employers tax report	October 20	Jobs & Training	St. Paul	1507,8
Wage detail report	October 20	Jobs & Training	St. Paul	1482,3
OUTLOOK—University tabloid	October 20	State University	St. Cloud	2348

Department of Human Services

Notice of Request for Proposals for Medical Assistance Enrollment Broker

The Department of Human Services is seeking proposals from qualified organizations to assist the Department in educating and enrolling Medical Assistance recipients into one of the prepaid health plans participating in the Medical Assistance Prepaid Demonstration Project. The primary task of the enrollment broker will be to educate a randomly selected group of Medical Assistance recipients in Hennepin County regarding the health plan choices available to them and to enroll these individuals into one of the participating health plans. The main objective of the enrollment process is to encourage as many recipients as possible to select a health plan and to minimize the number of recipients who must be assigned to a health plan.

Interested organizations will be required to respond to all of the specifications contained in the Request for Proposals and will be required to submit a high and low bid reflecting differences in the scope of services which the Department may require the broker to provide. The contract will be awarded based on the following criteria: total cost, experience/expertise in consumer education/enrollment and technical approach to consumer education and enrollment.

The Request for Proposals containing detailed specifications may be requested from the Department of Human Services. The deadline for submitting proposals is 4:30 p.m. November 13, 1987. Please direct proposals and inquiries to:

Kathleen Heuer
Department of Human Services
Space Center Building
444 Lafayette Road
St. Paul, MN 55155
Phone: 612/297-4668

Department of Public Safety

Office of Public Information

Graphic Art Contract Available

The Department of Public Safety is seeking proposals for a graphic art service to increase Minnesota citizens' knowledge about

traffic safety and crime prevention programs. Details of the plan are contained in a Request for Proposals. Copies of the Request for Proposals may be obtained at the Department of Public Safety, Office of Public Information, 318 Transportation Building, St. Paul, MN 55155.

Estimated cost of the contract is \$10,000. Final date for submitting proposals for the contract is Friday, October 30, 1987 by 4:30 p.m.

State Grants

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

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

Department of Corrections

Program for Victims of Sexual Assault

Notice of Availability of Funds

The Minnesota Department of Corrections, Program for Victims of Sexual Assault, announces the availability of grant funds for sexual assault services in one or more of the following areas: Aitkin, Itasca, and Koochiching Counties. Both existing and new programs are eligible to apply for these funds.

A total of \$15,760.00 is available for direct services to victims of sexual assault, community education, professional training and coordination and consultation to enhance overall response to victims of sexual assault for a six-month period: 1/1/88-6/30/88. These funds are being made available through appropriation by the Minnesota Legislature and through the Federal Preventive Health and Health Services Block Grant. Successful applicant/s will be eligible for continued funding after the initial grant period.

Both private, non-profit and governmental units are eligible to apply. The deadline for grant proposal submission is November 16, 1987. To receive a request for proposals which describes how to apply for this funding, contact Dottie Bellinger, Minnesota Program for Victims of Sexual Assault, 300 Bigelow Building, St. Paul, MN 55104; telephone: 612-642-0256.

Supreme Court Decisions

Decisions Filed Friday 9 October 1987

C1-86-1185 Esther D. Eustice, as trustee for the next of kin of Donald D. Eustice, Decedent v. Evelyn Jewison, David Jewison, et al., petitioners, Appellants. Court of Appeals.

Owner's absence from homestead for more than 6 months due to involuntary commitment does not constitute abandonment.

Upon death of owner, title to homestead vests in wife and children free and clear of prior judgment, but subject to state medical claims.

Reversed and remanded. Yetka, J.

Supreme Court Decisions

C1-86-1476, C9-86-1483 Roger P. Marose, Relator, v. Maislin Transport, Gateway Transportation and Carriers Insurance Company/Minnesota Insurance Guaranty, and Minnesota Department of Public Welfare and Minnesota Department of Economic Security. Workers' Compensation Court of Appeals.

The Workers' Compensation Court of Appeals had the authority to remand this matter for additional testimony and to direct the compensation judge to enter findings on all issues.

An amendment to the Workers' Compensation Act which expands the limitation period for commencement of proceedings is applicable to all cases where the former statute took effect.

When an employee is disabled because of several compensable injuries, the portion of the disability attributable to each injury must be determined so that the amount of permanent partial disability compensation payable on account of each injury can be calculated properly.

Affirmed in part, reversed in part, and remanded. Coyne, J.

Dissenting, Scott & Yetka, JJ.

Opinion of August 14, 1987 withdrawn and this opinion substituted.

Orders

CX-84-127 In the Matter of the Application of John R. Krouss for reinstatement as a Member of the Bar of the State of Minnesota. Supreme Court.

Reinstated. Amdahl, C.J.

C8-86-177 In Re Petition for Disciplinary Action of Douglas E. Schmidt, an Attorney at Law of the State of Minnesota. Supreme Court.

Reinstated. Amdahl, C.J.

C8-87-819 In re Petition for Disciplinary Action against Ernest E. Cutting, an Attorney at Law of the State of Minnesota. Supreme Court.

Suspended. Amdahl, C.J.

Tax Court

Pursuant to Minn. Stat. § 271.06, subd. 1, an appeal to the tax court may be taken from any official order of the Commissioner of Revenue regarding any tax, fee or assessment, or any matter concerning the tax laws listed in § 271.01, subd. 5, by an interested or affected person, by any political subdivision of the state, by the Attorney General in behalf of the state, or by any resident taxpayer of the state in behalf of the state in case the Attorney General, upon request, shall refuse to appeal. Decisions of the tax court are printed in the *State Register*, except in the case of appeals dealing with property valuation, assessment, or taxation for property tax purposes.

Regular Division: Docket No. 4114 Dated: September 22, 1987

Joleen Bursey, Appellant, vs. Commissioner of Revenue, Appellee.

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Judge of the Minnesota Tax Court, on July 21, 1987, at the Courtroom of the Tax Court, 520 Lafayette Road, St. Paul, Minnesota.

No appearance was made by or on behalf of the appellant.

Neil F. Scott, Special Assistant Attorney General, appeared on behalf of appellee.

THEREFORE, based on the files, records and proceedings herein, the Court now makes the following:

FINDINGS OF FACT

1. In December, 1982, a general partnership entitled BRT Associates was formed to own the Ramada Inn located in Moorhead,

Minnesota (hereinafter "Ramada Inn"). The partnership consisted of Elliot Rubinstein, William R. Tracy and the appellant, Joleen Bursey.

2. From December, 1982 through May 26, 1983, the Ramada Inn was managed by Elliot Rubinstein and William R. Tracy through a corporation called Moorhead Hospitality Associates, Inc.

3. As a result of business disagreements, management of the Ramada Inn was transferred on May 27, 1983 to appellant and her husband, David Bursey.

4. As of May 26, 1983, Joleen and David Bursey became the authorized signators on the Ramada Inn checking accounts at American Bank and Trust Company of Moorhead, and an additional checking account for the Ramada Inn was opened at the Moorhead State Bank with Joleen and David Bursey as the authorized signators.

5. Joleen and David Bursey, in an agreement dated August 15, 1983 with William Tracy and Elliot Rubinstein, agreed that management and financial control of the Ramada Inn was transferred to the Burseys as of May 27, 1983.

6. Joleen and David Bursey operated the Ramada Inn from May 27, 1983 through Western World Real Estate Corporation, a Missouri Corporation, which was later registered with the Minnesota Secretary of State as a foreign corporation authorized to do business in Minnesota. Joleen Bursey was the president and sole shareholder of Western World Real Estate, Inc.

7. The Ramada Inn failed to file sales tax returns with the Commissioner of Revenue for the months May, 1983 through August, 1983, and withholding tax returns for the second and third quarters of 1983.

8. The Department of Revenue demanded that tax returns be filed and when returns were not filed, the Commissioner of Revenue prepared returns under *Minnesota Statutes* § 290.92, subd. 6(c)(3) (withholding tax) and *Minnesota Statutes* § 297A.32 (sales tax).

9. The returns prepared by the Commissioner were based on the sales and payroll records located at the Ramada Inn. The unpaid tax, with interest computed through July 5, 1987, is as follows:

Period/Tax Type	Tax	Penalty	Interest	TOTAL
5/83 Sales	\$10,834.62	\$ 2,708.65	\$ 6,923.41	\$ 20,466.68
6/83 Sales	10,925.17	2,731.30	6,824.13	20,480.60
7/83 Sales	13,672.68	3,418.16	8,337.12	25,427.96
8/83 Sales	12,923.69	3,230.91	7,688.28	23,842.88
6/83 Withholding	4,440.00	1,110.10	2,501.59	8,071.69
9/83 Withholding	<u>3,647.00</u>	<u>911.85</u>	<u>1,894.31</u>	<u>6,453.16</u>
TOTALS	\$57,265.84	\$14,148.94	\$34,844.89	\$106,279.67

10. The returns prepared by the Commissioner of Revenue assessed the tax against Western World Real Estate, Inc. and two notices of personal liability were sent to Joleen Bursey assessing the tax against her personally on March 20, 1984. Joleen Bursey appealed that assessment to the Tax Court on May 31, 1984.

CONCLUSIONS OF LAW

1. Joleen Bursey controlled the finances of the Ramada Inn, Moorhead from May 27, 1983 through Western World Real Estate, Inc., a corporation in which she was the president and sole shareholder.

2. Joleen Bursey is personally liable to the Commissioner of Revenue for the unpaid sales and withholding taxes generated from the operation of the Ramada Inn Moorhead for the period May, 1983 through August, 1983, in the amount of \$57,265.84 tax, \$14,148.94 penalty, \$34,844.89 interest, totaling \$106,279.67.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

Dated: 22 September 1987

BY THE COURT,
M. Jean Stepan, Judge
Minnesota Tax Court

Regular Division: Docket No. 4127 Dated: September 16, 1987

Norton and Loretta Hatlie, Appellants, vs. Commissioner of Revenue, Appellee.

The above-entitled matter came on for hearing before the Honorable Earl B. Gustafson, Chief Judge of the Minnesota Tax Court, between March 16 and 23, 1987 at the Courtroom of the Tax Court, 520 Lafayette Road, in St. Paul, Minnesota.

Kent G. Harbison, of Fredrikson & Byron, Attorneys at Law, appeared for appellants.

Michele M. Owen, Special Assistant Attorney General, appeared for appellee.

Post-trial briefs were filed and the case was submitted to the Court for decision on June 29, 1987.

The Court, having heard and considered the evidence adduced at the hearing and upon all of the files and records herein, now makes the following:

FINDINGS OF FACT

1. Appellants Norton M. Hatlie and Loretta R. Hatlie are cash-basis taxpayers who have resided in the state of Minnesota from 1978 through the present.
2. Appellant Norton M. Hatlie had been engaged in the practice of law as his primary business activity through August 31, 1982. Appellant Loretta M. Hatlie has been employed periodically from 1978 through the present on a part-time basis at a local church.
3. Appellants failed to timely file Minnesota income tax returns for the years 1978 through 1982. None of these returns were filed until 1984.
4. The 1978 and 1979 Minnesota income tax returns appellants eventually filed claimed refunds due them for those years.
5. On March 30, 1984 appellee, the Commissioner of Revenue, issued two orders denying the 1978 and 1979 refunds claimed by appellants on the basis that their returns had been filed more than three and one-half years after their respective due dates.
6. Appellants appealed to this Court from those orders denying the 1978 and 1979 Minnesota income tax refund claims. Shortly thereafter, appellants requested appellee, Commissioner of Revenue, to conduct an audit of their 1978-1983 Minnesota income tax returns.
7. The Commissioner audited appellants' 1978 through 1983 Minnesota income tax returns beginning in August, 1984. A gross receipts bank deposit audit method was used to determine whether appellants had reported all their income and whether they were entitled to certain deductions. The tax examiners also requested documentation supporting appellants' claimed losses and deductions for the years in question.
8. The audit was completed in two stages. A preliminary audit report was provided to appellants in the spring of 1986, and a final audit report was issued to appellants in late 1986. By an order dated December 24, 1986, appellee notified appellants of various adjustments to their reported income for the years in question and also disallowed certain losses and deductions previously claimed by appellants on their 1978 through 1983 Minnesota income tax returns.
9. During the period of June, 1980 through August, 1982, pursuant to its own investigation concerning Mr. Hatlie's practice of law, the Minnesota Lawyers' Professional Responsibility Board seized the financial records of appellant Norton M. Hatlie.
10. During this twenty-six month period the Minnesota Lawyers' Professional Responsibility Board refused to allow appellants free access to their financial records but did inform Mr. Hatlie that he would be permitted, by prior arrangement, to review the records at the Board's St. Paul office and make any necessary copies at his own expense. The Board refused to allow appellants to review their records without a representative of the Board being present and on occasion did not have a Board staff person available to accommodate Hatlie's request to review his records.
11. There was a period of one month during this time period when the Board allowed Mr. Jack Nordby, attorney for appellant Norton M. Hatlie, to have possession of appellants' financial records to aid him in preparing for the pending disciplinary proceeding.
12. After the disciplinary hearing was commenced, Mr. Hatlie agreed to an order of disbarment, which was issued by the Minnesota Supreme Court in August, 1982.
13. Appellant Norton M. Hatlie had numerous contacts with the Minnesota Department of Revenue from and after 1980. No representations were made by any of the employees of the Department including, specifically, Mr. Ray Engstrand, to the effect that the three and one-half year statute of limitations on filing claims for tax refunds was extended or waived.
14. Appellant Norton M. Hatlie, during the period 1974 through 1980, had a vision that coal from the state of Iowa could be developed as an energy resource for use in the state of Minnesota. This led him and various associates to establish a number of corporations and other business associations to carry out this enterprise.
15. The audit reports of appellee contain a number of adjustments involving unreported income and disallowed deductions that are disputed by appellants. The Court's rulings on these specific items are as follows:
 - ITEM NO. 1—"Quast" Deposit: \$1,000 properly included in 1978 income.
 - ITEM NO. 2—"Direct Systems" Deposit: \$2,500 loan should be excluded from 1978 income.
 - ITEM NO. 3—"Ossanna" Deposit: \$2,500 properly included in 1978 income.
 - ITEM NO. 4—"Transamerica" Deposits: \$4,488 should be excluded from 1979 income.
 - ITEM NO. 5—"Enertek" Loss: \$12,500 claimed loss properly disallowed.
 - ITEM NO. 6—Tax Treatment of Worthless ICO Stock: Loss on ICO stock is properly a capital loss, not a regular loss.

ITEM NO. 7—Tax Treatment of ICO Royalty: Loss on ICO royalty is a capital loss, not a regular loss.

ITEM NO. 8—Deposits into Enerco Bank Account: \$1,146 should be excluded from income.

ITEM NO. 9—“Morris Larson” Retainer: \$8,500 properly included in 1980 income.

ITEM NO. 10—1981 Bad Debt Expense: \$7,500 bad debt expense properly disallowed.

ITEM NO. 11—1982 Bad Debt Expense: \$6,000 bad debt expense properly disallowed.

ITEM NO. 12—1982 Legal Expenses: \$5,000 in legal expense paid to Fredrikson & Byron should be allowed. \$2,594 in legal expense paid to Jack Nordby properly disallowed.

ITEM NO. 13—“Novetske” Loss: Novetske Partnership properly treated as capital loss, not as regular loss.

15. Any claim appellants may have to an income tax refund for the years 1978 and 1979 is barred by *Minnesota Statutes* § 290.50, subd. 1.

16. The seizure of appellants' financial records for a period of twenty-six months by the Minnesota Lawyers' Professional Responsibility Board did not toll the three and one-half year statute of limitations in *Minnesota Statutes* § 290.50, subd. 1.

17. The attached Memorandum is hereby made a part of these Findings of Fact.

CONCLUSIONS OF LAW

1. The Orders of appellee dated March 30, 1984 and December 24, 1986 are affirmed in all respects except as to those items specifically reversed or modified herein or previously settled by mutual agreement of the parties.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

Dated: 16 September 1987

BY THE COURT,

Earl B. Gustafson, Chief Judge
Minnesota Tax Court

Regular Division: Docket No. 4738 Dated: September 18, 1987

Color-Ad Packaging, Inc., Appellant, vs. Commissioner of Revenue, Appellee.

The above-entitled matter was submitted to this Court on August 18, 1987, on a Stipulation of Facts and briefs. The matter was referred to the Honorable Arthur C. Roemer, Judge of the Tax Court.

At issue is whether two machines qualify for the 2% sales tax refund adopted by the legislature effective with purchases after June 30, 1984.

Christopher J. Chaput, Attorney at Law, represents the appellant.

David T. Schultz and Michele M. Owen, Special Assistant Attorneys General, represent the appellee.

The Court, having reviewed the files and records herein, now makes the following:

FINDINGS OF FACT

1. Appellant is a corporation organized and existing under the laws of the State of Minnesota with its principal place of business located at 3600 Alabama Avenue, St. Louis Park, Minnesota 55416.

2. Appellant is engaged in the printing business. Appellant ordered an Atlas Model TS-350 Slitter Rewinder from Atlas Converting Equipment, Ltd., of Bedford, United Kingdom, by telephone conversation on December 6, 1983, followed by a purchase order dated February 17, 1984.

3. The physical shipment of the Slitter Rewinder was completed during August, 1985, at which time it was assembled and placed into service at appellant's principal place of business. Under its method of accounting, appellant capitalized and began depreciating the Slitter Rewinder in November, 1985.

4. Appellant ordered a Gravure Coating Station from Paper Converting Machine Company of Green Bay, Wisconsin, by telephone conversation on or before April 10, 1984, followed by a confirming purchase order dated April 10, 1984.

5. The physical shipment of the Gravure Coating Station was completed during August, 1985, at which time it was assembled and placed into service at appellant's principal place of business. Under its method of accounting, appellant capitalized and began depreciating the Gravure Coating Station in August, 1985.

6. Appellant paid the full six percent use tax on both the Slitter Rewinder and the Gravure Coating Station when the delivery was completed.

Tax Court

7. The Slitter Rewinder was manufactured after June 30, 1984. The manufacturer of the Gravure Coating Station began engineering work on May 19, 1984, but the physical manufacturing of the Gravure Coating Station did not begin until after June 30, 1984.

8. The appellant filed timely application with Minnesota Department of Revenue for the 2% use tax refund with respect to both the Slitter Rewinder and the Gravure Coating Station, which the appellee denied in an order dated October 10, 1986.

9. Both the Slitter Rewinder and the Gravure Coating Station constitute "capital equipment" for purposes of *Minnesota Statutes* § 297A.01, subd. 16.

10. The amount of the refunds claimed by appellant, based upon 2% of the purchase price, for the Slitter Rewinder and the Gravure Coating Station are \$2,530.88 and \$8,831.70, respectively.

11. The attached Memorandum is hereby made a part of these Findings of Fact.

CONCLUSIONS OF LAW

1. The Slitter Rewinder and the Gravure Coating Station were purchased after July 1, 1984, for the purposes of the refunds provided in *Minnesota Statutes* § 297A.15, subd. 5.

2. Appellant is entitled to a refund of \$11,362.58, together with interest as provided by law.

LET JUDGMENT BE ENTERED ACCORDINGLY. A STAY OF 15 DAYS IS HEREBY ORDERED.

Dated: 18 September 1987

BY THE COURT,

Arthur C. Roemer, Judge
Minnesota Tax Court

Announcements

Environmental Quality Board (EQB): Environmental Assessment Worksheets (EAWs) due November 4 and their respective regional governing units are: Sleepy Eye Lake Improvement, Brown County; East Parkview Addition, City of Cottage Grove; Lake Superior Zoological Gardens, City of Duluth; Lake Susan Hills West P.U.D., City of Chanhassen; Carrollton 2nd Addition, City of Rosemount; Wells-Easton-Minnesota Lake Regional Wastewater Treatment Facility, MPCA (MN Pollution Control Agency); and Lake/Lagoon One Way Pair, City of Minneapolis. Environmental Impact Statements (EIS) preparation notices have been issued for the Winona County Resource Recovery Facility, MPCA; and the Koch Refining Company New Land Treatment Facility Supplemental Environmental Impact Statement, MPCA.

Natural Resources Management Compared in Three Great Lakes states: The three Great Lakes states of Minnesota, Wisconsin and Michigan are similar in many ways and they share the same types of natural resources. All three states have similar "extractive" natural resources, such as minerals and forests, as well as similar water and recreational areas. A report recently released by the Minnesota House of Representatives Research Department points out the similarities and differences among the three states' natural resources. It focuses on natural resource management by the states' respective Departments of Natural Resources (DNR).

Highlights of the report show that Michigan, with almost double the population of either Minnesota or Wisconsin, also has a larger land area. Of the three states, however, Minnesota's DNR owns the greatest number of land acres (5.8 million) and manages more total natural resource areas (2078). Minnesota stocks nearly twice the number of lakes (1,300) as Wisconsin, and over four times more than Michigan. Although all three states have a similar number of lakes, Minnesota has much more lake acreage. Minnesota also raises and hatches almost one-half of all the walleyes on the North American continent. Michigan also has a much larger overall resource budget than either Minnesota or Wisconsin, but Minnesota spends more per capita (\$29 per person) than either Michigan (\$21) or Wisconsin (\$20).

Minnesota also has fewer permanent employees (1,600) than either Wisconsin or Michigan. Minnesota's DNR owns 2,000 acres for every DNR employee (permanent and seasonal)—a much higher ratio than either Wisconsin or Michigan. Minnesota has the most DNR-owned acres of the three states (5.6 million), ranking fourth in the country. Minnesota has many more designated wildlife management areas (970) than Wisconsin or Michigan, and also has a category—designated canoe and boating routes—the other two states do not have. This involves land acquisition, management of campgrounds and public access availability. Although Minnesota has much DNR-owned land and many wildlife management areas, it sells significantly fewer hunting licenses (966,148) than either Wisconsin or Michigan.

Five State Waterfowl Refuges Established: Five new state waterfowl refuges have been established for the statewide waterfowl season that begins at Noon Oct. 3. These new refuges will be posted with signs that read "State Waterfowl Refuge." All state waterfowl refuges are closed to duck, merganser, and goose hunting during the open season for these birds. State waterfowl refuges, however, remain open for all other hunting and trapping during the prescribed seasons. Other refuges open for hunting and trapping during established seasons are listed or described in the 1987 Small Game Hunting and Trapping Regulations.

The new statutory waterfowl refuges are:

Bog Lake—A 70-acre addition of South Bog Lake to the Bog Lake Refuge in St. Louis County, six miles northeast of Orr.

Fiske Lake—A 65-acre refuge in Itasca County located eight miles southeast of Northome.

Blue Rock Lake—A 35-acre refuge located near the Fiske Lake Refuge.

Preston Lake—A 180-acre refuge on the west shore of Pimushe Lake in Beltrami County, approximately 12 miles south of Blackduck, and

Lichtsinn— a 640-acre refuge on private land located 10 miles southeast of Wheaton in Traverse County.

Hunters and trappers are reminded that the McGrath and Floodwood Game Refuges in Aitkin County were recently abolished and are now open to hunting and trapping. Many state-established game, waterfowl, duck and goose refuges contain private lands. Hunters and trappers wanting to obtain access to these private lands in refuges must abide by the Minnesota trespass law, which is printed in the state small game and trapping, deer and waterfowl regulations.

Sentencing Guidelines Commission: A meeting of the commission will be held at 6:30 p.m. Thursday 15 October in Sibley Rooms A & B of the Capitol Holiday Inn, 161 St. Anthony, St. Paul. On the agenda is reconsideration of drug sale ranking, criminal history score subcommittee report, and other business. The Criminal History Score Subcommittee will meet at 4 p.m. at the same location prior to the full meeting of the commission. Call (612) 296-0144 for more information.

Catching criminals is only one part of law enforcement. Here's the rest of it.

Police Report Writing Style Manual 1986—A common framework for report writing throughout the state. Discusses the general purpose of police reports, reviews field notetaking, offers instructions on completing common report forms, and introduces the Data Practices Law. Code No. 14-13. \$12.50.

Background Investigation Manual 1986—A guide to conducting effective thorough background investigations of peace officer candidates. Included are various criteria for use in the selection process: experience, education, and past behavior. Sample forms. Code No. 14-15. \$10.00.

Motor Vehicle Traffic Laws 1986—Includes laws governing motor carriers, motor vehicle registration and no-fault auto insurance. Code No. 2-85. \$12.50.

Criminal Code & Selected Statutes 1986—Governs the conduct of peace officers. Includes continuing education requirements, sentencing standards, and more. Code No. 2-68. \$12.00.

Blue Binder—3 ring, 2" capacity. Criminal Code and Motor Vehicle Traffic Laws require 1 binder each. Code No. 10-21. \$4.25.

TO ORDER: Send to Minnesota Documents Division, 117 University Avenue, St. Paul, MN 55155. (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747 and ask for "DOCUMENTS." Please include 6% sales tax and \$1.50 postage and handling. Prepayment required. Please include daytime phone. VISA/MasterCard orders accepted over phone.



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Murder: Minnesota style

Murder in Minnesota is a treasury of vintage crimes. Characters, some famous, some obscure, come to life in all their cleverness or murderous madness. Minnesota cases from 1858-1917. 253 pp. photos, index. Code 17-35, \$5.95.

Robber and Hero On September 7, 1876 six members of the James-Younger gang blasted their way out of Northfield, Minnesota. George Huntington's classic account of the Northfield Bank raid is as fascinating today as it was when first published 19 years after the attempted robbery. 125 pp., charts, maps, photos, with index. Code 17-40, \$5.95.

Secrets of the Congdon Mansion The prosecutor called it a crime of greed. A complex, intriguing murder case, set in one of Minnesota's most spectacular mansions, and now a top Minnesota tourist attraction on Duluth's famous Lake Superior North Shore Drive. By Joe Kimball, 64 pp., drawings. Code 19-56, \$4.95.

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Human Services Laws and Rules

Human Services Laws 1986

An extract from the statutes. Includes legislative amendments and additions from the most recent session. Code No. 2-56. \$20.00

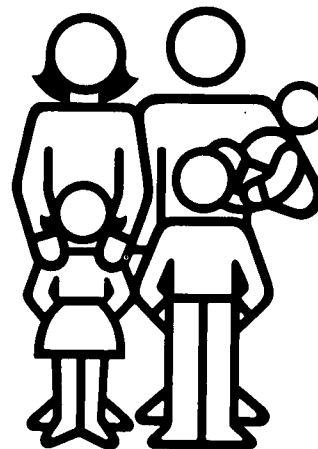
Human Services Rules as in effect July 7, 1986

Rules governing assistance programs, eligibility grant amounts, AFDC and residence requirements. MN Rules Chapter 9500-9580. Code No. 3-95. \$24.95.

Human Services Rules Supplement 1987. Includes recent changes to many rules in effect from July 1986 through January 1987. Code #3-95s1, \$14.00.

3 ring binder. 2" capacity. 1 required for each of above listed publications. Code No. 10-21. \$4.25.

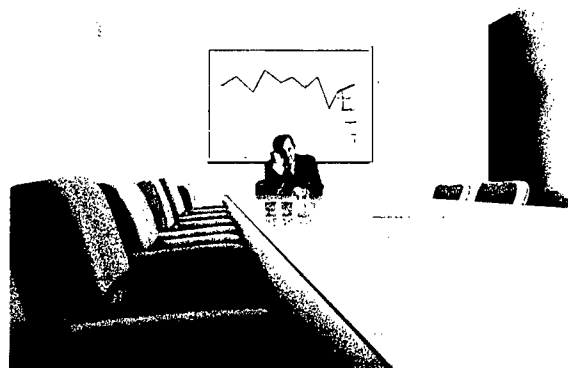
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Business and NonProfit Corporation Act

Laws governing establishment and conduct of for-profit and non-profit businesses and corporations. Covers incorporation, bylaws, mergers, dissolution, franchises, and definitions. Contains Minnesota Statutes Chapters 80B, 302A, and 317. Paperbound, 102 papers, Code # 2-87, \$10.00.



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Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams. 48 pp. Code #9-14, \$6.00.

Help Minnesota's Wildlife, feed the birds and give to the Nongame Wildlife Checkoff on your Minnesota Tax Forms. Poster. 22" x 17", full color. Code #9-2, \$4.00.

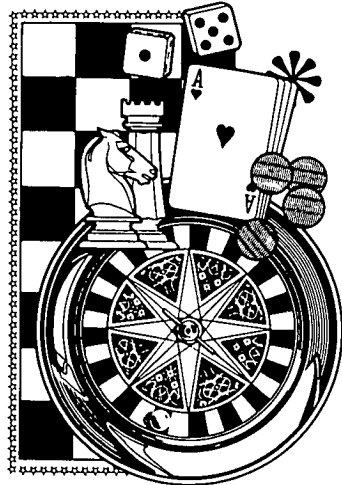
Fifty Birds of Town and City, describes the activities and habitats of these birds commonly seen today through full color paintings, Hardbound. 50 pp. Code #16-23, \$7.50.

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Bird Portraits in Color, a total of 295 species of birds are depicted through magnificent illustrations, reproduced in seven-color lithography, accompanied by authoritative information about birds' activities, habitats, songs, and other characteristics, U of M Press, 1980, index, 92 color plates, hardbound. Code #19-41, \$12.95.

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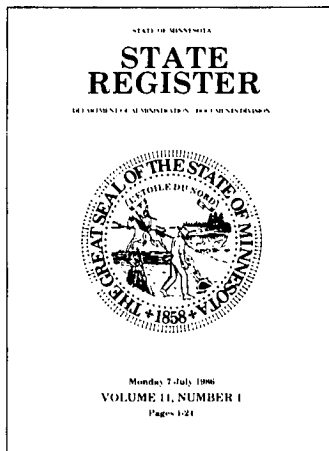
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A complete listing in alphabetical order of organizations licensed for charitable gambling in the state. Includes the name, address, zip code and name of contact person. 64 pages. Code #1-11, \$20.00.

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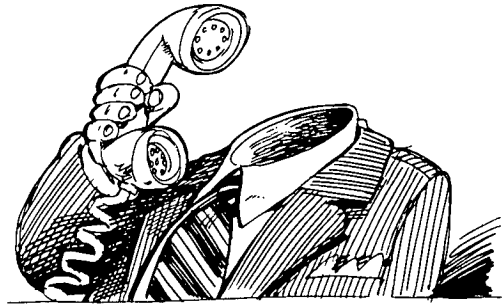
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Real Estate Laws 1986. Complete and up-to-date extract from the 1986 Minnesota Statutes. Code #2-92 \$5.00

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Securities Laws 1985. Governs the activities of broker/dealers, agents or investment advisors. Chapter 80A. Code #2-12 \$4.00

Securities Rules 1985. Subjects include standards of conduct, equity securities, investment companies and more. Chapter 2875. Code #3-5 \$11.00

Banking Rules 1987. New rules are expected in early fall '87. Call then for more information.

Uniform Commercial Code 1986. Chapter 336, U.S. laws governing trade, including contracts, title, payment, warranties, performance and liability. Code #2-2 \$10.00

Mailing Lists. All kinds available. A catalog will be available in late summer '87. Call to receive a copy, (612) 297-2552 or 296-0930.

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Pheasants in Minnesota, focusing exclusively on the ringneck pheasant, this DNR booklet tells of this popular game bird's origin, introduction and development in Minnesota. Through many full-color photos the book shows the pheasant in various settings, tells how to maintain wildlife habitat and explains the wise management of the hunt. A great gift for each member of your hunting party, or as a memento to a special Minnesota hunting vacation. Quantity discounts available. Code #9-13, \$5.95.

Woodworking for Wildlife, delightfully written and carefully illustrated with a variety of game bird and mammal box designs. Includes important information on the placement of nests in proper habitat areas and maintenance requirements. Diagrams, 48 pp. Code #9-14, \$6.00.



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Minnesota: national leader in education

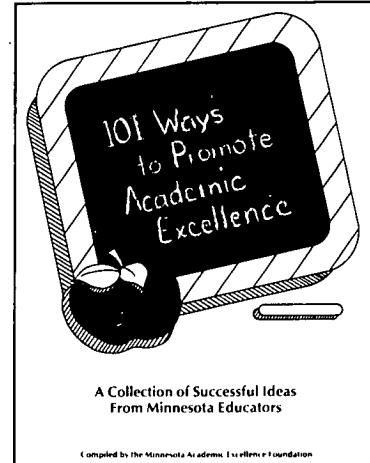
101 Ways to Promote Academic Excellence

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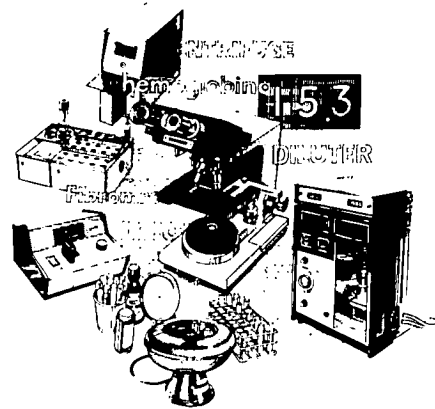
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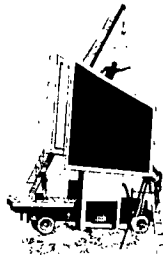
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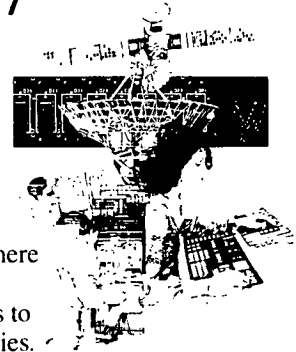
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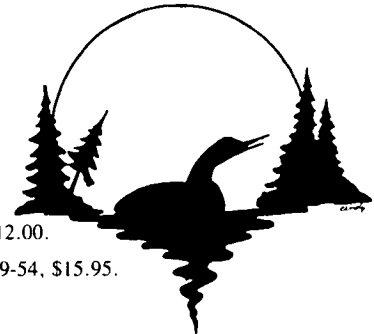
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