

State of Minnesota

# STATE REGISTER

Department of Administration—Print Communications Division

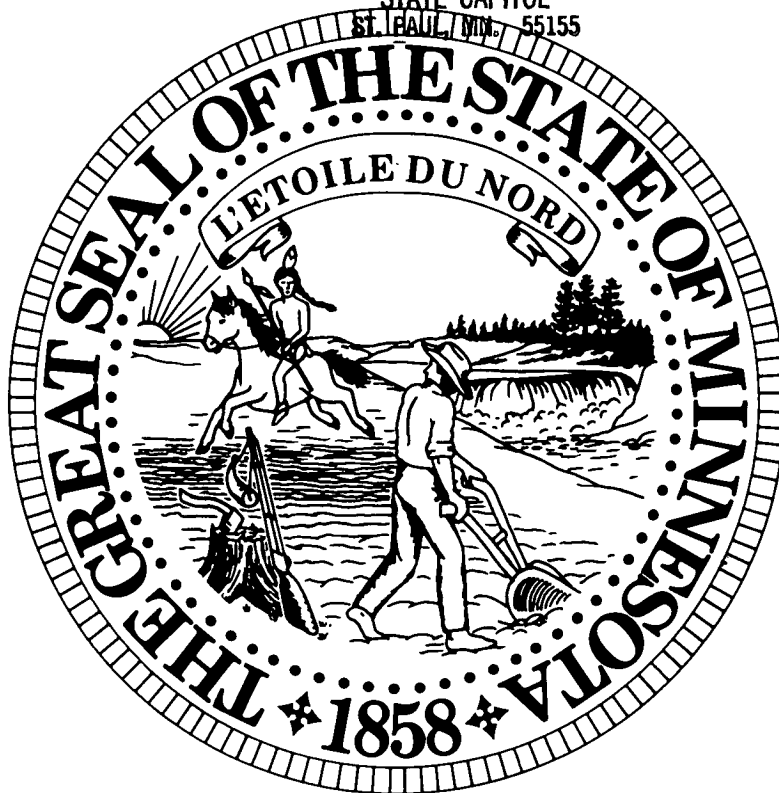
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Volume 14, Number 25

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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 and commissioners' orders, proposed and adopted rules, official notices, state and non-state contracts, contract awards, grants, supreme court and tax court decisions, and a monthly calendar of cases to be heard by the state supreme court.

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

## Printing Schedule and Submission Deadlines

Vol. 14 Issue Number	*Submission deadline for Adopted and Proposed Rules, Commissioners' Orders**	*Submission deadline for Executive Orders, Contracts, and Official Notices**	Issue Date
25	Monday 4 December	Monday 11 December	Monday 18 December
26	Monday 11 December	Monday 18 December	Tuesday 26 December
27	Monday 18 December	Friday 22 December	Tuesday 2 January
28	Friday 22 December	Friday 29 December	Monday 8 January

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

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

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

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

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

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

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

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**Sandra J. Hale, Commissioner**  
**Department of Administration**

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**Print Communications Division**  
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**Paul Hoffman, Assistant Editor**  
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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. 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 1-800-9747.

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## Proposed Rules

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

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

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

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

**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.

### Department of Commerce

#### Proposed Permanent Rules Relating to Appeal of Denial of Health Claims

##### 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*, Sections 45.023 and 72A.327(f).

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 changes 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:

Donna M. Watz  
Staff Attorney  
Department of Commerce  
500 Metro Square Building  
St. Paul, Minnesota 55101  
(612) 296-9423

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 Donna M. Watz.

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 Richard G. Gomsrud.

Michael A. Hatch  
Commissioner of Commerce

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

##### APPEAL OF DENIAL OF HEALTH CLAIMS

###### 2770.9010 ADMINISTRATION.

The administration of arbitration under *Minnesota Statutes*, section 72A.328 shall be by the American Arbitration Association or other agency as designated by the commissioner. The administration is subject to the continuing supervision of the commissioner.

###### 2770.9020 APPOINTMENT OF ARBITRATION PANEL.

Subpart 1. **List of arbitrators.** The commissioner shall establish three lists of qualified individuals who are eligible to serve on the three-member arbitration panel, under *Minnesota Statutes*, section 72A.328, paragraph (c). One list shall include names and address of individuals with medical expertise as identified by contributing members under *Minnesota Statutes*, section 65B.01, subdivision 2. The second list shall include names and addresses of persons with medical expertise as identified by professional societies. The third list shall include names and addresses of other members of the public designated by the commissioner as eligible to serve on the three-member arbitration panel. The commissioner may, from time to time, add or delete names of individuals from any of the three lists.

Subp. 2. **Three-member panel.** The commissioner shall deliver the three lists described in subpart 1 to the American Arbitration Association. Upon initiation of an arbitration, the American Arbitration Association shall administer the establishment of the three-member arbitration panel according to *Minnesota Statutes*, section 72A.327, paragraph (c), by making a recommendation as to the nine potential arbitrators. Unless the commissioner disapproves the recommendations within three business days, the recommendations shall be deemed approved. Under procedures established by the American Arbitration Association and immediately following nomination by the American Arbitration Association for consideration as a member of the arbitration panel, each potential arbitrator shall be required to disclose any circumstances likely to create a presumption or possibility of bias or conflict which may disqualify the person as a potential arbitrator. Each nominee shall supplement the disclosures as circumstances require. A party to an arbitration may advise the American Arbitration Association of any reason why the arbitrator should withdraw or be disqualified from serving before exercising strikes. An objection to a potential arbitrator shall be determined initially by the American Arbitration Association, subject to appeal to the commissioner. If an arbitrator should resign, be disqualified, or unable to perform the duties of the office, the American Arbitration Association shall arrange for the appointment of another arbitrator in accordance with parts 2770.9010 to 2770.9170.

Subp. 3. **Oaths.** Arbitrators, upon accepting appointment to the panel, shall take an oath or affirmation of office. The arbitrators may require witnesses to testify under oath or affirmation.

#### **2770.9030 INITIATION OF ARBITRATION.**

Subpart 1. **Notice of right to appeal.** At the time an insurer denies a claim to which the claimant has a right to appeal under *Minnesota Statutes*, section 72A.327, the insurer shall advise the claimant, in writing, of the claimant's right to appeal the denial to the commissioner. The insurer shall also advise the claimant that information on the appeal and arbitration procedures may be obtained from the American Arbitration Association.

Subd. 2. **Filing of appeal.** Upon request, the American Arbitration Association will provide a claimant with a petition form for initiating arbitration, together with a copy of parts 2770.9010 to 2770.9170. Arbitration is initiated by the claimant filing the signed, executed form together with the required filing fee, with the American Arbitration Association.

Subp. 3. **Denial of claim.** If an insurer fails to respond within 30 days after a claim is duly presented to the insurer, the claim is considered denied for the purpose of parts 2770.9010 to 2770.9170.

#### **2770.9040 FILING FEE.**

The filing fee to be paid under parts 2770.9030, subpart 2 and 2770.9050 is the fee set in Rule 8 of the *Rules of Procedure for No-Fault Arbitration* adopted by the Minnesota Supreme Court under *Minnesota Statutes*, section 65B.525.

#### **2770.9050 NOTICE.**

On the filing of the petition form by the claimant, the American Arbitration Association shall send a copy of the petition to the insurer together with a request for payment of the filing fee. In addition, the American Arbitration Association shall send a copy of the petition to the commissioner within ten business days of the claimant's filing with the American Arbitration Association.

#### **2770.9060 CONCILIATION AND PREHEARING PROCEDURES.**

Through prehearing conference or other joint communication to the parties, the arbitration panel may conciliate the claim. The arbitration panel shall encourage the parties to narrow the issues so far as possible in an effort to shorten the hearing. At least ten days before the hearing, the arbitration panel shall ask the parties to stipulate to facts not to dispute, and may ask each party to furnish the other parties with copies of each document or exhibit which that party intends to offer in evidence.

#### **2770.9070 COMMUNICATION WITH ARBITRATION PANEL.**

All communication, oral or written, from a party to the arbitration panel, must be through the American Arbitration Association for transmittal to the arbitrators. In any and all cases, oral communication with the arbitration panel must be done jointly and with the knowledge of the opposing party.

#### **2770.9080 TIME AND PLACE OF ARBITRATION.**

If conciliation is not successful, an informal arbitration hearing will be held in the office of the American Arbitration Association or some other appropriate place in the general locale of the claimant's residence, or other place agreed upon by the parties. The arbitration panel shall fix the time and place for the hearing. At least 14 days before the hearing, the American Arbitration Association shall mail notice to each party or to a party's designated representative. Notice of hearing may be waived by any party. A party requesting postponement shall make their request to the arbitration panel, through the American Arbitration Association, who shall

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## Proposed Rules

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rule on all such requests. A postponement fee shall be charged against the party causing the postponement as set forth in the rules adopted by the Minnesota Supreme Court, under *Minnesota Statutes*, section 653.525.

### **2770.9090 WITNESSES, SUBPOENAS, DEPOSITION.**

The arbitration panel may, upon its own initiative or at the request of any party, issue subpoenas for the attendance of witnesses and the production of books, records, documents, and other evidence. The subpoenas issued shall be served, and upon application to the district court by either party or the arbitrators, enforced in the manner provided by law for the service and enforcement of subpoenas for a civil action. Provisions of law compelling a person under subpoena to testify are applicable. Fees for attendance as a witness shall be the same as for a witness in the district courts.

### **2770.9100 DISCOVERY.**

All parties may exchange information on a voluntary basis. Formal discovery of any kind beyond exchange of medical reports and other exhibits to be offered at the hearing is discouraged. However, upon application and a showing of good cause that the information sought is material to a party's presentation at hearing, the arbitration panel may permit any discovery allowable under the Minnesota rules of civil procedure for the district courts. Any medical examination considered necessary by the insurer shall be completed within 30 days following commencement of the case unless extended by the arbitration panel.

### **2770.9110 EVIDENCE.**

The parties may offer evidence as they desire and shall produce additional evidence as the arbitration panel considers necessary to an understanding and determination of the issues. The arbitration panel shall be the judge of the relevancy and materiality of any evidence offered, and conformity to legal rules of evidence shall not be necessary. The parties are encouraged to offer, and the arbitration panel is encouraged to receive and consider, evidence by affidavit or other document, including medical reports, statements of witnesses, officers, accident reports, medical texts, and other similar written documents which would not ordinarily be admissible as evidence in the courts of this state. In receiving this evidence, the arbitration panel shall consider any objections to its admission in determining the weight to which it considers it is entitled.

### **2770.9120 ARBITRATOR'S FEES.**

An arbitrator shall be compensated for services and for any use of office facilities in the amount set in Rule 16 of the *Rules of Procedure for No-fault Arbitration* adopted by the Minnesota Supreme Court under *Minnesota Statutes*, section 65B.525.

### **2770.9130 CLOSE OF HEARING.**

The arbitration panel shall specifically inquire of all parties as to whether they have any further evidence. If they do not, the arbitration panel shall declare the hearing closed. If briefs or documents are to be filed, the hearing shall be declared closed as of the final date set by the arbitration panel for the receipt of briefs or documents. The time limit within which the arbitration panel is required to make its recommendation to the commissioner shall begin to run on the close of the hearing.

### **2770.9140 REOPENING HEARING.**

At any time before the recommendation is made, a hearing may be reopened by the arbitration panel upon own motion, or upon application of a party.

### **2770.9150 RECOMMENDATION AND REPORT TO COMMISSIONER.**

The arbitration panel shall promptly render a written report to the commissioner, in which it recommends a resolution to the claim at issue. The report shall include the panel's findings of fact and conclusions on all material issues, and shall be dated and signed by all members of the arbitration panel. Unless otherwise agreed to by the parties, the report shall be delivered to the commissioner no later than 30 days after the close of the hearing or the reopened hearings. In making its recommendation to the commissioner, the arbitration panel may assign actual costs and disbursements incurred, or any parts thereof, to one or both parties.

A copy of the arbitration panel's report shall be served upon each party or the party's representative by first class mail within five days of delivery of the report to the commissioner. Personal service of the report upon a party or in any other manner which may be prescribed by law shall also constitute legal delivery.

### **2770.9160 ACTION BY COMMISSIONER.**

Subpart 1. **Filing of exceptions.** Within ten days from the date the arbitration panel's report is delivered to the commissioner, a party to the arbitration proceedings may file with the commissioner written exceptions and written arguments to the report.

Subp. 2. **Decision or order.** The commissioner shall render a decision within 30 days after the submission of the arbitration panel's report and subsequent exceptions and arguments under part 2770.9150. A copy of the decision and any applicable order shall be served upon each party or the party's representative, and the American Arbitration Association, by first class mail.

### **2770.9170 APPEAL.**

A person aggrieved by an order under parts 2770.9010 to 2770.9170 shall have the right to appeal the order as provided in *Minnesota Statutes*, section 72A.327, paragraph (d).

## **Department of Commerce**

### **Proposed Permanent Rules Relating to Franchises**

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

**NOTICE IS HEREBY GIVEN** that the Department of Commerce intends to adopt the above-entitled rules without a public hearing following the procedures set forth in the Administrative Procedures Act for Adopted Rules without a public hearing in *Minnesota Statutes*, section 14.22-14.28. Authority for the adoption of these rules is contained in *Minnesota Statutes*, Section 45.023 and 80C.18.

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

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

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

Patricia L. Peterson  
Director of Registration  
Department of Commerce  
500 Metro Square Building  
St. Paul, Minnesota 55101  
(612) 296-2284

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

Pursuant to *Minnesota Statutes* Section 14.115, subdivision 2, the impact on small 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 Patricia Peterson.

Michael A. Hatch  
Commissioner of Commerce

#### **Rules as Proposed**

##### **2860.0200 EXEMPTIONS.**

Subpart 1. **Isolated sales.** The provisions of *Minnesota Statutes* 1973 Supplement, section 80C.03, clause (4) (a), shall be available to franchisees only. The provisions of this part shall not be interpreted as to require registration of the franchise prior to its transfer under these circumstances. However, no person, in connection with such a transfer, may require a substituted franchisee to sign a franchise contract or agreement that violates the "unfair and inequitable" provisions of parts 2860.4500 to 2860.8300, whichever is applicable.

Subp. 2. **Securities.** The provisions of *Minnesota Statutes* 1973 Supplement, section 80C.03, clause (4) (d), shall be available only when the franchise is in fact registered as a security in ~~the state of~~ Minnesota. All reference to *Minnesota Statutes*, chapter 80 shall include *Minnesota Statutes* 1973 Supplement, chapter 80A, and provisions amendatory thereto.

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## Proposed Rules

### 2860.2500 ANNUAL REPORT.

[For text of subps 1 and 2, see M.R. 1989]

Subp. 3. **Time.** No later than the ~~90th~~ 120th day following the end of the franchisor's fiscal year, the franchisor shall file financial statements in accordance with parts 2860.1200 to 2860.1600. The newly filed financial statements are to be included in all public offering statements used by the franchisor after such filing date.

[For text of subp 4, see M.R. 1989]

### 2860.3800 ALTERNATIVE APPLICATIONS.

The commissioner may accept as application for registration under *Minnesota Statutes* 1973 Supplement, chapter 80C, any currently effective public offering statement prepared for compliance with the registration provisions of the franchise laws of ~~such~~ other jurisdictions as the commissioner may, from time to time, designate. The commissioner reserves the right to require alterations in such statements as ~~he deems~~ necessary to fulfill the requirements of *Minnesota Statutes* 1973 Supplement, chapter 80C.

The commissioner may accept as application for registration the Uniform Franchise Registration Application adopted by the ~~Midwest Securities Commissioners Association~~ North American Securities Administrators Association; however, the commissioner reserves the right to require alterations in the Uniform Franchise Offering Circular as ~~he may deem~~ necessary.

### 2860.4200 FILING OF ADVERTISEMENTS.

One copy of each advertisement intended for use shall be filed with the commissioner at least ~~three~~ five business days prior to ~~the~~ its first publication ~~thereof~~.

If not disallowed by the commissioner by written notice or otherwise within three business days from the date filed, the advertisement may be published.

No formal approval of the advertisement shall be issued by the commissioner.

The person placing the advertisement shall be responsible for the accuracy and reliability of the advertisement and its conformity with the act and this part.

### 2860.4400 UNFAIR AND INEQUITABLE PRACTICES.

All franchise contracts or agreements and any other device or practice of a franchisor, shall conform to the following provisions. It shall be unfair and inequitable for any person to:

[For text of items A to D, see M.R. 1989]

E. terminate or cancel a franchise ~~without first having unless:~~

(1) that person has given written notice setting forth all the reasons for ~~such~~ termination or cancellation to the franchisee at least ~~60~~ 90 days in advance of ~~such~~ termination or cancellation; and

(2) the recipient of the notice fails to correct the reasons stated for termination or cancellation in the notice within 60 days of receipt of the notice, except that the notice shall be effective immediately upon receipt where the alleged grounds are:

(1) voluntary abandonment of the franchise relationship by the franchisee;

(2) the conviction of the franchisee in a court of competent jurisdiction of an offense directly related to the business conducted pursuant to the franchise; or

(3) failure to cure a default under the franchise agreement that materially impairs the good will associated with the franchisor's tradename, trademark, service mark, logotype, or other commercial symbol after the franchisee has received written notice to cure of at least 24 hours in advance thereof;

[For text of items F to I, see M.R. 1989]

J. require a franchisee to waive his rights to a jury trial or to waive his rights to any procedure, forum, or remedies provided for by the laws of the jurisdiction, or to consent to liquidated damages, termination penalties, or judgment notes; provided, that ~~this part shall not bar a voluntary arbitration of any matter if the proceeding is conducted by an independent tribunal under the rules of the American Arbitration Association the franchise agreement may contain an exclusive arbitration clause if the agreement allows the franchisee to opt out of the requirements of the clause;~~

[For text of items K and L, see M.R. 1989]

M. fail to renew a franchise unless the franchisee has been given written notice of the intention not to renew at least ~~90~~ 180 days in advance thereof and has been given a sufficient opportunity to recover his investment or unless for good cause as defined in item F, operate the franchise over a sufficient period of time to enable the franchisee to recover the fair market value of the franchise as a going concern as determined and measured from the date of the failure to renew. This item does not apply if the failure to renew a franchise is for good cause and the franchisee has failed to correct the reasons for termination.

**2860.4500 FALSE, FRAUDULENT, AND DECEPTIVE PRACTICES.**

In connection with an offer, grant, or sale of a franchise in this state, any person authorizing, aiding in, or causing such offer, grant, or sale of franchises shall be deemed to be engaging in a "false, fraudulent, or deceptive practice" within the meaning of *Minnesota Statutes* 1973 Supplement, sections 80C.12 and 80C.13, without limiting the authority of the commissioner under *Minnesota Statutes* 1973 Supplement, section 80C.12 ~~or 80C.15~~, if such person:

[For text of items A to D, see M.R. 1989]

**2860.5500 CANCELLATION OF FRANCHISE.**

Any provisions regarding cancellation of the franchise agreement shall be governed by items A to C.

[For text of items A and B, see M.R. 1989]

C. ~~Cancellation of the franchise agreement by the supplier shall be preceded by~~ No person may cancel a franchise unless:

(1) that person has given written notice to the dealer in person or by certified mail: ~~The notice shall be given setting forth all the reasons for cancellation at least 60 90 days prior to the date on which the supplier intends to terminate or cancel the franchise agreement in advance of the cancellation; and~~

(2) the recipient of the notice fails to correct the reasons for cancellation in the notice within 60 days of receipt, except that the notice shall be effective immediately upon receipt when the cause for termination or cancellation is:

- (1) criminal misconduct;
- (2) fraud;
- (3) abandonment;
- (4) bankruptcy or insolvency of the dealer;
- (5) adulteration of product; or

(6) the giving of a nonsufficient fund check that remains dishonored for a period of ten days after notice, which notice shall be effective on the fifth day after the date of mailing.

**2860.5600 RENEWAL OF FRANCHISE.**

Any provisions regarding the renewal of a franchise agreement shall be governed by items A and B.

A. Either party to a franchise agreement may refuse to renew the franchise agreement upon giving the other party written notice of his or her intent not to renew at least ~~90~~ 180 days prior to the expiration of the franchise agreement.

[For text of item B, see M.R. 1989]

**REPEALER.** Minnesota Rules, parts 2860.3400, subpart 2; 2860.6100; 2860.6200; 2860.6300; 2860.6400; and 2860.6500, are repealed.

## **Board of Electricity**

### **Proposed Permanent Rules Relating to Uniform Electrical Violation Citation**

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

**NOTICE IS HEREBY GIVEN** that the State Board of Electricity ("board") proposes to adopt the above-entitled rule without a public hearing. The Board has determined that the proposed adoption of this rule will be noncontroversial in nature and has elected to follow the procedures set forth in *Minnesota Statutes* § 14.22 to 14.28. Authority for the adopting of this rule is contained in *Minnesota Statutes* § 326.241, subd. 6. Additionally, a statement of need and reasonableness that describes the need for and identifies the data and information relied upon to support the proposed rule, has been prepared and is available from Mr. Quinn upon request.

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

**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

Any person may make a written request for a public hearing on the rule within the 30-day comment period. If 25 or more persons submit a written request for a public hearing within the 30-day comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule addressed, the reason for the request, and any change proposed. If a public hearing is required, the agency will proceed pursuant to *Minnesota Statutes*, section 14.13 to 14.20. If no hearing is requested, the agency will adopt the proposed rule effective five working days after final publication in the *State Register*.

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

Mr. John Quinn  
Executive Secretary  
State Board of Electricity  
S-173 University Avenue  
St. Paul, Minnesota 55104  
Telephone: 612/642-0800

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

A copy of the proposed rule is attached to this notice. Additional copies may be obtained by contacting Mr. Quinn.

You are hereby advised, pursuant to *Minnesota Statutes* § 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments will have no adverse effect on small businesses.

*Minnesota Statutes*, Chapter 10A, requires each lobbyist to register with the Ethical Practices Board within five days after he or she commences lobbying. A lobbyist is defined in *Minnesota Statutes*, section 10A.10, Subdivision 11, as an individual:

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

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

The statute provides certain exceptions. Questions should be directed to the Ethical Practices Board, 625 North Robert Street, St. Paul, Minnesota 55101, (612) 296-5148.

If no hearing is required, upon adoption of the rule, the rule and the required supporting documents will be submitted to the Attorney General's Office 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 of this material to the Attorney General, or who wish to receive a copy of the adopted rule, must submit a written request to the State Board of Electricity.

John Quinn, Executive Secretary  
State Board of Electricity

### Rules as Proposed (all new material)

#### 3800.2650 UNIFORM ELECTRICAL VIOLATION CITATION.

Subpart 1. **Procedure.** The detailed form of an electrical violation citation as required by *Minnesota Statutes*, section 326.2461, is described in subpart 2. The citation has the effect of a summons and complaint and may be issued by a representative of the board for a violation of *Minnesota Statutes*, sections 326.241 to 326.248, parts 3800.0200 to 3800.2600, and ordinances of political subdivisions. The citation comprises four copies, each of a different color. The original and one copy shall be forwarded to the court having jurisdiction, one copy shall be handed or mailed to the defendant, and one copy shall be retained by the person issuing the citation.

#### Subp. 2. Form of citation.

STATE OF MINNESOTA  
ELECTRICITY BOARD  
1821 University Avenue  
St. Paul, MN 55104  
Phone: 612 624-0800

Violations Summons  
STATE OF MINNESOTA  
\_\_\_\_ COUNTY  
DISTRICT COURT

NO. \_\_\_\_\_

The undersigned, states and informs the court that:



## Proposed Rules

On the \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_, at \_\_\_\_\_ o'clock \_\_\_\_\_  
A.M. \_\_\_\_\_ P.M. in \_\_\_\_\_

Name \_\_\_\_\_ Address Home \_\_\_\_\_

Birth Date \_\_\_\_\_ Age \_\_\_\_\_ Business \_\_\_\_\_

Location of Offense \_\_\_\_\_

Did commit the following offense \_\_\_\_\_

In violation of (Statute, Rule, or Ordinance) \_\_\_\_\_

Against the peace and dignity of the State of Minnesota. The undersigned further states that the Board's representative had probable cause to believe, and does believe, that the person named above committed the offense described in this citation.

Court Appearance \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_, at \_\_\_\_\_ A.M. \_\_\_\_\_

P.M. in Division \_\_\_\_\_

I promise to appear in said Court

at said time and at said place.

Address of Court \_\_\_\_\_

Signature of Complainant

Area Electrical

Representative

AN ARREST WARRANT WILL BE  
ISSUED IF YOU FAIL TO APPEAR

Date \_\_\_\_\_

## Minnesota Housing Finance Agency

### Proposed Permanent Rules Relating to Home Equity Conversion Counseling Program

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

**NOTICE IS HEREBY GIVEN** that the Minnesota Housing Finance Agency intends to adopt the above-entitled rule without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rules without a public hearing in *Minnesota Statutes* sections 14.22 to 14.28. The statutory authority to adopt the rule is *Minnesota Statutes* 462A.06, Subd. 4 and 11.

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

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

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

Susan K. Noren  
Legal Division  
Minnesota Housing Finance Agency  
Suite 300  
400 Sibley Street  
St. Paul, Minnesota 55101  
Telephone: (612) 296-9794

**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

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

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

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

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

Dated: 15 December 1989

James J. Solem  
Commissioner

### Rules as Proposed (all new material)

#### 4900.2020 SCOPE

Parts 4900.2020 to 4900.2070 govern the implementation of the home equity conversion counseling program.

#### 4900.2030 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 4900.2020 to 4900.2070, the following terms have the meanings given them.

Subp. 2. **Agency.** "Agency" means the Minnesota Housing Finance Agency.

Subp. 3. **Applicant.** "Applicant" means one or more entities that submit an application to the agency for a grant under the home equity conversion counseling program.

Subp. 4. **Application.** "Application" means a submittal requesting a grant to pay the cost of providing counseling services regarding home equity conversion for senior homeowners.

Subp. 5. **Client.** "Client" means senior homeowners who receive home equity conversion counseling services.

Subp. 6. **Home equity conversion.** "Home equity conversion" means plans where homeowners convert equity in their homes into spendable funds while still retaining title to the homes. The funds do not have an obligation of immediate repayment.

Subp. 7. **Program.** "Program" means the home equity conversion counseling program.

Subp. 8. **Senior homeowners.** "Senior homeowners" means homeowners of whom at least one is 62 years of age, or homeowners as may be defined in home equity conversion programs sponsored or supported by local, state, or federal government and primarily designed for use by senior or elderly homeowners.

#### 4900.2040 HOME EQUITY CONVERSION COUNSELING.

Home equity conversion loan counseling shall be provided under the program for senior homeowners as described in items A and B.

A. The applicant, selected to administer the program must, at a minimum, perform the following services:

(1) Conduct a review of home equity conversion programs with the client, and explain the advantage, disadvantage, and alternatives of the programs.

(2) Explain the effects of home equity conversion on the client's estate and public benefits available to the client.

(3) Explain the home equity conversion lending process with the client.

(4) Discuss the client's supplemental income needs and financial alternatives for meeting such needs.

(5) Maintain adequate records pertaining to each client counseled under the program.

(6) Provide the client with adequate documentation of counseling so that the client may meet counseling requirements imposed under various home equity conversion loan programs.

(7) Provide such services and outreach on a statewide basis.

B. The applicant selected to administer the program may charge a reasonable fee to provide counseling services for clients, but the applicant may not deny a client counseling services due to inability to pay the fee.

#### 4900.2050 APPLICANT ELIGIBILITY.

To be eligible for selection as a recipient of a grant under the program, an applicant must satisfy the following requirements:

A. The applicant must be a nonprofit entity as defined in part 4900.0010, subpart 21, and must have as its primary purpose assisting elderly persons in obtaining and maintaining affordable housing.

B. The applicant may not be a part of or affiliated with a lender or a vendor of home equity conversion loans or products.

C. The applicant must provide an application in a form described by the agency that will document the applicant's ability to establish or maintain a home equity conversion counseling program for the period of time specified by the agency. At a minimum, this application shall include:

(1) documentation that the applicant meets the eligibility requirements prescribed in items A and B;

(2) a description of the applicant's organization that demonstrates that the applicant:

(a) is knowledgeable about home equity conversion, including reverse mortgage programs;

(b) has experience in counseling older persons on housing, including knowledge of alternative living arrangements for older persons; and

(c) has knowledge of existing public benefit programs and other appropriate financial and legal resources for older persons;

(3) a detailed description of how the proposed program would be administered, including qualifications of staff and proposed means of record keeping;

(4) a detailed budget for the specified period showing all sources and uses of funds, including grant funds; and

(5) a description of the means that the applicant plans to use to provide outreach and counseling on a statewide basis.

#### **4900.2060 SELECTION CRITERIA.**

The agency shall take the following criteria into consideration when determining whether an applicant will receive a grant under the program:

A. The prior experience of the applicant in establishing, administering, and maintaining a home equity conversion counseling program.

B. The documented familiarity of the applicant regarding home equity conversion and alternative financial resources and other services that may be available to assist senior homeowners.

C. The reasonableness of the proposed budget in meeting the objective of the program.

D. The documented ability of the applicant to provide home equity conversion counseling on a statewide basis as well as the location of the applicant in an area of anticipated demand for counseling services.

#### **4900.2070 RECORD KEEPING AND REPORTING.**

The applicant selected for the program shall be required to keep adequate records as to each client counseled under the program in a format and fashion mutually agreed to between the applicant and the agency, and the agency may review the records upon adequate prior written notice to the applicant by the agency. The selected applicant must also provide a written report in a prescribed format regarding activity under the program to the agency at intervals prescribed by the agency, but in no instance more often than quarterly.

## **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.

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## Adopted Rules

### Department of Agriculture

#### Adopted Permanent Rules Relating to Farmer-Lender Mediation

The rules proposed and published at *State Register*, Volume 14, Number 10, pages 510-515, September 5, 1989 (14 S.R. 510) are adopted with the following modifications:

##### Rules as Adopted

##### 1502.0009 CANCELLATION OF MEDIATION PROCEEDING.

Subpart 1. **Cure of default.** If the ~~farmer~~ debtor cures the default of the debt specified in the mediation notice before the first mediation meeting, the county extension agent shall cancel the mediation proceeding upon receipt of a written statement from the debtor and creditor indicating that the default has been cured.

##### 1502.0012 FINANCIAL ANALYST AND FARM ADVOCATE.

Within three business days of receiving a mediation request, the county extension agent shall provide a financial analyst to meet with the debtor at the orientation session and as necessary to prepare the debtor's records before the initial mediation meeting. The county extension agent shall provide the debtor with information on obtaining, without charge, a Department of Agriculture farm advocate to assist the debtor and the financial analyst. This information must include a list of farm advocates and an explanation of the farm advocates services, as provided by the Minnesota Farm Advocate Program. The county extension agent shall provide the debtor with information on the availability of legal assistance to financially eligible debtors through the Minnesota Family Farm Law Project.

##### 1502.0017 MEDIATION PROCESS.

Subp. 4. **Attendance by financial analyst, farm advocate, or attorney.** A financial analyst, farm advocate, or attorney must be permitted to attend mediation meetings at the invitation of the debtor, a creditor, or the mediator. The mediator may establish procedures to facilitate an orderly exchange of information or views, but the mediator must allow a designated representative of a creditor or debtor to speak on behalf of that creditor or debtor. A financial analyst, farm advocate, or attorney may not attend in place of a debtor or a creditor unless the mediator determines a debtor or creditor is unable to attend and the attendance of a financial analyst, farm advocate, or attorney in place of the debtor or a creditor is beneficial to the mediation.

##### 1502.0018 REMOVAL OF MEDIATOR.

Subpart 1. **Procedure.** The mediator may be removed at any time during the mediation period upon ~~the written agreement request of the debtor and creditors attending mediation meetings or initiating creditor.~~ This agreement request must be sent to the county extension agent who, upon receipt of the agreement, shall assign an available replacement mediator not previously stricken from the mediator list by the debtor or initiating creditor to participate in the mediation or if an unstricken mediator from the list is not available, the county extension agent must assign an available mediator subject to the disapproval of either the debtor or creditor upon a showing of conflict of interest.

Subp. 2. **Limitation.** The debtor and ~~creditors~~ initiating creditor may each remove only one mediator during a mediation proceeding.

##### 1502.0019 MEDIATION AGREEMENT.

Subpart 1. **Final meeting.** The mediator ~~shall~~ may hold ~~one~~ a final meeting ~~by the end of the time allowed for mediation~~ for the purpose of signing the mediation agreement if the mediator determines that a final meeting is necessary to conclude the mediation within the mediation period.

##### 1502.0020 OBLIGATION OF GOOD FAITH REJECTION OF DEBT RESTRUCTURING ALTERNATIVES.

A written statement of why alternatives are unacceptable under *Minnesota Statutes*, section 583.27, subdivision 1, clause (4), must identify the particular items in each proposal that are unacceptable and state the specific reason for rejection of each item.

##### 1502.0024 ~~DEBTOR'S LACK OF GOOD FAITH~~ DOCUMENTS NECESSARY FOR MEDIATION.

Not participating in good faith may include:

- ~~A. failure of the debtor to list all creditors as defined in Minnesota Statutes, section 583.22, subdivision 4; and~~
- ~~B. failure of the debtor or creditor to provide the following records and documents if the mediator determines that they are necessary:~~
  - ~~(1) A. a current, signed financial statement of assets and liabilities;~~
  - ~~(2) B. a copy of the most recent depreciation schedule;~~
  - ~~(3) C. farm record books for the past three years or evidence of crop and livestock production;~~

- (4) D. projected farm budget for the current 12 months;
- (5) E. copies of any other legal documents that are necessary for the mediation and pertain to the farm business; ~~and~~
- (6) F. copies of ~~FINPAC~~ FINPACK printout analysis for the farm operation where applicable;
- G. appraisals, including in-house appraisals, of the debtor's property; and
- H. worksheets on foreclosure cost analysis, if any have been done by the lender.

## **Minnesota Racing Commission**

### **Adopted Permanent Rules Relating to Televised Racing Days**

The rules proposed and published at *State Register*, Volume 14, Number 9, pages 471-478, August 28, 1989 (14 S.R. 471) are adopted as proposed.

## **Department of Trade and Economic Development**

### **Adopted Permanent Rules Relating to Tourism Loan Program**

The rules proposed and published at *State Register*, Volume 14, Number 9, pages 462-466, August 28, 1989 (14 S.R. 462) are adopted as proposed.

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## **Executive Orders**

### **Executive Order 89-15 Providing for the Continuation of the Governor's Advisory Committee on Appointments to Multi-Member Agencies; Rescinding Executive Order 83-8**

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

**WHEREAS**, the Governor is authorized by statute to appoint individuals to state boards, commissions, committees, councils, authorities, public corporations, and task forces; and

**WHEREAS**, Minnesota state government is enhanced by involving as many of our citizens as possible in public policy- and decision-making; and

**WHEREAS**, the effective administration of government in Minnesota requires the participation of our most able citizens, and

**WHEREAS**, Minnesota state government is strengthened by appointing to state agencies the widest possible diversity of our citizens including women, youth, minorities, elderly, the disabled, and others who traditionally may not have served in state government;

**NOW, THEREFORE**, I hereby order that a Governor's Advisory Committee on Appointments to Multi-Member State Agencies be established:

1. The committee shall consist of 15 members, appointed by the Governor. There shall be one member from each congressional district and six at-large members. Members shall serve at the pleasure of the Governor for terms designated by him. The Lieutenant Governor shall serve as committee chair.

**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.

## Executive Orders

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2. The committee shall assist the Governor in evaluating applicants for positions on multi-member agencies as provided in *Minnesota Statutes* 1988, Section 15.0597. The committee may, at the request of the Governor or another appointing authority, evaluate applicants for positions on other multi-member state agencies.

3. The committee shall establish its own rules of procedure. For each vacancy the committee shall recommend to the Governor the names of three to five applicants it deems most qualified and best able to serve the interests of the people of Minnesota.

4. Committee members may be reimbursed for expenses as provided in *Minnesota Statutes* 1988, Section 15.0593.

Executive Order 83-8 is rescinded.

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

IN TESTIMONY WHEREOF, I have set my hand this 11th day of December, 1989.



Rudy Perpich  
Governor

## Official Notices

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

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

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## Department of Finance

### Maximum Interest Rate for Municipal Obligations in December

Pursuant to *Minnesota Statutes*, Section 475.55, Subdivision 4, Commissioner of Finance, Tom Triplett, announced today that the maximum interest rate for municipal obligations in the month of December, 1989 would be nine (9) percent per annum. Obligations which are payable wholly or in part from the proceeds of special assessments or which are not secured by General Obligations of the municipality may bear an interest rate of up to ten (10) percent per annum.

Peter Sausen  
Assistant Commissioner  
Cash & Debt Management  
(612) 296-8372

## **Department of Public Safety**

### **Office of Drug Policy**

#### **Notice of Solicitation of Outside Information or Opinions Regarding Proposed Rule Governing Law Enforcement and Community Grants**

**NOTICE IS HEREBY GIVEN** that the State Department of Public Safety is seeking information or opinions from sources outside the agency in preparing to propose the adoption of the rule governing the award of law enforcement and community grants. The adoption of the rule is authorized by *Minnesota Statutes*, section 299A.34, which requires the agency to adopt rules to prescribe eligibility criteria, award criteria, and reporting requirements for recipients.

The State Department of Public Safety 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 only. Written statements should be addressed to:

Susan Perkins  
Office of Drug Policy  
316 Transportation Building  
St. Paul, MN 55155

Any written material received by the State Department of Public Safety 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.

Paul J. Tschida, Commissioner  
Department of Public Safety

## **Department of Public Service**

### **Energy Division**

#### **Notice of Extension of Deadline**

The deadline of December 21, 1989 established by publication on October 9, 1989, by the Department of Public Service to seek opinions and information on proposed amendment to *Minnesota Rules* Chapter 7670 governing energy matters within the State Building Code, is hereby extended to April 4, 1990.

The deadline is being extended a second time because of a delay in the publication of the American Society of Heating, Refrigerating and Air-Conditioning Engineers—Standard 90.1, which is being considered for adoption by reference in the proposed rulemaking. The Standard is expected to be available in January, 1990.

## **Department of Transportation**

#### **Petition of the City of Afton for a Variance from Minimum State Aid Standards for Shoulder Width, Recovery Area and Inslope**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Afton has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a reconstruction project on C.S.A.H. 21 from C.S.A.H. 20 to ¼ mile south of 45th Street South in Washington County.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9910 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a shoulder width of 4 feet instead of the required minimum width of 8 feet and to keep the natural drainage in its present condition, thereby requiring no minimum inslope or recovery area, instead of the required minimum 4:1 inslope and 30 foot recovery area.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Hibbing for a Variance from State Aid Standards for Use of State Aid Funds**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Hibbing has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from the requirement that a plan must be approved by the State Aid Engineer prior to the award of the contract on a traffic signal project on M.S.A.S. 181 (12th Avenue East) at the intersection of Trunk Highway 73 (Howard Street).

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2800 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit the use of State Aid funds to finance S.A.P. 131-181-02.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Minneapolis for a Variance from Minimum State Aid Standards for Street Width**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Minneapolis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum design standards for the reconstruction of the intersections of 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 11th Streets South with the Nicollet Mall.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit street widths of 48 feet to 56 feet with 3 or 4 lanes of traffic and parking on one or both sides instead of the required minimum of 60 feet for 4 lanes of traffic and one parking lane.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Minneapolis for a Variance from Minimum State Aid Standards for Street Width and Design Speed**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Minneapolis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum design standards for the reconstruction of Johnson Street NE between Lowry Avenue NE and 37th Avenue NE.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit street widths of 40 feet to 44 feet with 2 lanes of traffic and parking on both sides instead of the required minimums of 48 feet for 2 lanes of traffic and two parking lanes or 72 feet for 4 lanes of traffic and 2 parking lanes and for a variance for a design speed of 20 miles per hour instead of the 30 miles per hour minimum for a crest vertical curve between 33rd and 35th Avenues NE.



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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Minneapolis for a Variance from Minimum State Aid Standards for Street Width**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Minneapolis has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance from minimum design standards for the reconstruction of M.S.A.S. 213 (11th Avenue South) between 2nd Street South and 200 feet south of 3rd Street South.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 62 feet, with parking on both sides until traffic volumes necessitate the use of four lanes, instead of the required minimum width of 82 feet with parking permitted on both sides.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of North Mankato for a Variance from Minimum State Aid Standards for Right of Way Width**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of North Mankato has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a proposed reconstruction project on M.S.A.S. 105 (Center Street) from Belgrade Avenue to South Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.2500 Subpart 3 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a right of way width of 43.5 feet instead of the required minimum width of 60 feet.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of Rochester for a Variance from Minimum State Aid Standards for Street Width**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of Rochester has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a reconstruction project on M.S.A.S. 115 (6th Street S.W.) from 6th Avenue S.W. to 10th Avenue S.W.

## Official Notices

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The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 32 feet with parking on one side during non-peak hours instead of the required minimum width of 36 feet with parking on one side.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## Department of Transportation

### Petition of the City of St. Paul for a Variance from Minimum State Aid Standards for Design Speed

**NOTICE IS HEREBY GIVEN** that the City Council of the City of St. Paul has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a reconstruction project on M.S.A.S. 210 (Victoria Street) from West Seventh Street to Jefferson Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a 20 miles per hour design speed on a horizontal curve between West Seventh Street and Tuscarora Avenue instead of the required minimum design speed of 30 miles per hour.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## Department of Transportation

### Petition of the City of St. Paul for a Variance from Minimum State Aid Standards for Street Width

**NOTICE IS HEREBY GIVEN** that the City Council of the City of St. Paul has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a reconstruction project on M.S.A.S. 210 (Victoria Street) from West Seventh Street to Jefferson Avenue.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 40 feet with parking on both sides between Juno Avenue and James Avenue instead of the required minimum width of 44 feet with parking on both sides.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Petition of the City of St. Paul for a Variance from Minimum State Aid Standards for Street Width**

**NOTICE IS HEREBY GIVEN** that the City Council of the City of St. Paul has made written request to the Commissioner of Transportation pursuant to *Minnesota Rules* 8820.3300 for a variance on a reconstruction project on M.S.A.S. 138 (Front Avenue) from Western Avenue to Rice Street.

The request is for a variance from *Minnesota Rules* for State Aid Operations 8820.9912 adopted pursuant to *Minnesota Statutes* Chapter 161 and 162, so as to permit a street width of 40 feet with parking on both sides instead of the required minimum width of 44 feet with parking on both sides.

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: 7 December 1989

Leonard W. Levine  
Commissioner

## **Department of Transportation**

### **Notice of Appointment of State Aid Variance Committee and a Meeting of that Committee**

**NOTICE IS HEREBY GIVEN** that the Commissioner of Transportation has appointed a State Aid Variance Committee who will conduct a meeting on Thursday, January 11, 1990, at 9:00 a.m. in room 5, State Office Building, 100 Constitution Avenue, St. Paul, Minnesota 55155.

This notice is given pursuant to *Minnesota Statute* 47k.705.

The purpose of this open meeting is to investigate and determine recommendations for variances from minimum State Aid roadway standards and administrative procedures as governed by *Minnesota Rules* for State Aid Operations 8820.3400 adopted pursuant to *Minnesota Statutes* 161 and 162.

The agenda will be limited to these questions:

**1. Petition of the City of St. Paul** for a variance from minimum standards for a proposed construction project on MSAS 138 (Front Avenue) between Western Avenue and Rice Street so as to permit a street width of 40' with parking on both sides instead of the required width of 44' with parking on both sides.

**2. Petition of the City of St. Paul** for a variance from minimum standards for a proposed construction project on MSAS 210 (Victoria Street) between West Seventh Street and Jefferson Avenue so as to permit a street width of 40' with parking on both sides instead of the required width of 44' with parking on both sides.

**3. Petition of the City of St. Paul** for a variance from minimum standards for a proposed construction project on MSAS 210 (Victoria Street) between West Seventh Street and Jefferson Avenue so as to permit a 20 miles per hour design speed on a horizontal curve instead of the required minimum design speed of 30 miles per hour.

**4. Petition of the City of North Mankato** for a variance from minimum standards for a proposed construction project on MSAS 105 (Center Street) from Belgrade Avenue to South Avenue so as to permit a right of way width of 43.5 feet instead of the required minimum width of 60 feet.

**5. Petition of the City of Rochester** for a variance from minimum standards for a proposed construction project on MSAS 115 (6th Street SW) between 6th Avenue SW and 10th Avenue SW so as to permit a street width of 32' with parking on one side during non-peak hours instead of the required width of 36' with parking on one side.

**6. Petition of the City of Minneapolis** for a variance from minimum standards for a proposed construction project on MSAS 213 (11th Avenue South) between 2nd Street South and 200' south of 3rd Street South so as to permit a street width of 62 feet, with parking permitted on both sides until traffic volumes necessitate the use of four lanes, instead of the required minimum width of 82 feet with parking permitted on both sides, or the required minimum width of 62 feet with no parking permitted on either side.

**7. Petition of the City of Minneapolis** for a variance from minimum standards for a proposed reconstruction project of the intersections of 3rd, 4th, 5th, 6th, 7th, 8th, 9th, 10th and 11th Streets South with the Nicollet Mall so as to permit street widths of 48 to 56 feet instead of the required minimum of 60 feet for 4 lanes of traffic and one parking lane.

## Official Notices

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**8. Petition of the City of Minneapolis** for a variance from minimum standards for a proposed construction project on MSAS 183 (Johnson Street NE) between Lowry Avenue NE and 37th Avenue NE so as to permit street widths of 40 and 44 feet instead of the required minimum of 48 feet for 2 lanes of traffic and 2 parking lanes or 72 feet for 4 lanes of traffic and 2 parking lanes and to permit a design speed of 20 miles per hour instead of the required 30 miles per hour for a crest vertical curve.

**9. Petition of the City of Hibbing** for a variance from administrative requirements that a construction plan must be approved by the State Aid Engineer prior to the award of contract for a traffic signal project on M.S.A.S. 181 (12th Avenue East) at the intersection of Trunk Highway 73 so as to permit the use of state aid funds to finance the project.

**10. Petition of the City of Afton** for a variance from minimum standards for a construction project on CSAH 21 in Washington County between C.S.A.H. 20 and 1/4 mile south of 45th Street South so as to permit a shoulder width of 4 feet instead of the required minimum width of 8 feet and to keep the natural drainage in its present condition, thereby requiring no minimum inslope or recovery area, instead of the required minimum 4:1 inslope and 30 foot recovery area.

The cities previously listed are requested to follow the following time schedule when appearing before the Variance Committee:

9:00 a.m. City of St. Paul

9:45 a.m. City of North Mankato

10:10 a.m. City of Rochester

10:30 a.m. City of Minneapolis

1:00 p.m. City of Hibbing

1:15 p.m. City of Afton

Dated: 14 December 1989

Leonard W. Levine  
Commissioner

## Board of Water and Soil Resources

### Notice of Change of Date of Regularly Scheduled Monthly Meeting

The Board of Water and Soil Resources has changed the date of their regularly scheduled monthly meeting date from Wednesday, December 27, 1989, to Wednesday, December 20, 1989. The Board of Water and Soil Resources will hold their meeting at the Holiday Inn East, St. Paul, Minnesota.

The Board will resume their regularly scheduled monthly meeting on January 24, 1990.

## State Contracts and Advertised Bids

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

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

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

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

## Department of Administration: Materials Management Division

### Contracts and Requisitions Open for Bid

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

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## State Contracts and Advertised Bids

**Commodity:** Intergraph upgrade  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** December 20  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 79000 03616

**Commodity:** Zenith 386-20 (No Sub.)  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** December 21  
**Agency:** Anoka-Ramsey Community College  
**Deliver to:** Coon Rapids  
**Requisition #:** 27152 46679

**Commodity:** Software  
**Contact:** Joan Breisler 296-9071  
**Bid due date at 2pm:** December 20  
**Agency:** Center for Arts Education  
**Deliver to:** Golden Valley  
**Requisition #:** 25000 02258

**Commodity:** Food: fresh, frozen, dry & canned—delivered  
**Contact:** Norma Cameron 296-2546  
**Bid due date at 2pm:** December 21  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Telephone system  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 2pm:** December 26  
**Agency:** State Lottery  
**Deliver to:** St. Paul  
**Requisition #:** 09400 00024

**Commodity:** Image integration system  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** December 26  
**Agency:** Secretary of State  
**Deliver to:** St. Paul  
**Requisition #:** 53000 02612

**Commodity:** Judicial tables & bookcases  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17532

**Commodity:** Judicial lamps/planters  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17533

(CITE 14 S.R. 1427)

**Commodity:** Judicial tab files  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17523

**Commodity:** Judicial chairs  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17531

**Commodity:** Judicial chairs (Taylor)  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17599

**Commodity:** Genuine Ingersoll Rand air compressor repair parts  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** December 27  
**Agency:** Transportation Department  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Tractors: lawn & garden & accessories  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** December 27  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Remanufactured diesel engines  
**Contact:** Dale Meyer 296-3773  
**Bid due date at 2pm:** December 28  
**Agency:** Transportation & Corrections Departments  
**Deliver to:** Various  
**Requisition #:** Price Contract

**Commodity:** Thermal analysis system  
**Contact:** Joseph Gibbs 296-3750  
**Bid due date at 2pm:** January 2  
**Agency:** State University  
**Deliver to:** Winona  
**Requisition #:** 26074 13220

**Commodity:** Upgrade IBM 3090-180E to 3090-200E—rebid  
**Contact:** Bernadette Vogel 296-3778  
**Bid due date at 2pm:** December 22  
**Agency:** Jobs & Training Department  
**Deliver to:** St. Paul  
**Requisition #:** 21200 22852 1

**Commodity:** Judicial furniture  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 26  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17504

**Commodity:** Vascar plus speed devices  
**Contact:** Mary Jo Bruski 296-3772  
**Bid due date at 2pm:** December 27  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 07500 61252

**Commodity:** Judicial chairs  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 27  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17511

**Commodity:** Judicial furniture  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 27  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17508

**Commodity:** Judicial seating  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 27  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17510

**Commodity:** Judicial chairs—Schaefer  
**Contact:** Jack Bauer 296-2621  
**Bid due date at 2pm:** December 27  
**Agency:** Judicial Center  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17501

**Commodity:** DNR employee uniforms  
**Contact:** Norma Cameron 296-2546  
**Bid due date at 2pm:** December 28  
**Agency:** Natural Resources Department  
**Deliver to:** Various  
**Requisition #:** Price Contract

## State Contracts and Advertised Bids

**Commodity:** Judicial flat file  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 28  
**Agency:** Admin Department—Building Construction  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17525

**Commodity:** Judicial seating  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 28  
**Agency:** Admin Department—Building Construction  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17529

**Commodity:** Judicial tables  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 28  
**Agency:** Admin Department—Building Construction  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17518

**Commodity:** Judicial tables  
**Contact:** John Bauer 296-2621  
**Bid due date at 2pm:** December 28  
**Agency:** Admin Department—Building Construction  
**Deliver to:** St. Paul  
**Requisition #:** 02310 17520

**Commodity:** Painting—rebid  
**Contact:** Joyce Dehn 297-3830  
**Bid due date at 2pm:** December 29  
**Agency:** Various  
**Deliver to:** Various  
**Requisition #:** Price Contract

## Department of Administration: Print Communications Division

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

**Printing vendors NOTE:** Other printing contracts can be found in the Materials Management Division listing above, and in the Professional, Technical & Consulting Contracts section immediately following this section.

**Commodity:** Two books: *B&B/Historic Inns 1990*, 50M books 32-pages self-cover, and *Canoe Outfitters 1990*, 25M 12-pages self-cover, both camera ready, 2-sided, 8½"x3¾", 4-color front cover  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Trade & Economic Development Department—Tourism  
**Deliver to:** St. Paul  
**Requisition #:** 3584 & 3585

**Commodity:** Three 3-part continuous forms: Notice & Demand for Payment before Seizure, 2M; Notice of Additional Tax Due, 5M; Respond to Correspondence, 5M—all type to set, 1-sided, 9½"x11" including ½" pinfeed strips fanfold 1-up  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Revenue Department  
**Deliver to:** St. Paul  
**Requisition #:** 3577-3578-3579

**Commodity:** *Grow Power*, 100M 2-page sets, 7"x8½" folded to 4"x8½", type to set, 2-sided, 4-color, old negs available need changes  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 3314

**Commodity:** Business reply envelope, 5M #9/gummed flap, union label required, type to set, 2-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Jobs & Training Department  
**Deliver to:** St. Paul  
**Requisition #:** 3640

**Commodity:** Rejection Tag, 5M, 2⅞"x5¾", type to set, 2-sided, 175 lb tag, single hole punch reinforced with 2 red rope patches and grommet.  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Public Service Department—Weights & Measures Division  
**Deliver to:** St. Paul  
**Requisition #:** 3622

**Commodity:** Notice of tax lien, 1M 8-part sets, 8½"x11¼" overall, type to set, 2-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Jobs & Training Department  
**Deliver to:** St. Paul  
**Requisition #:** 3641

**Commodity:** Generic identification card, 10M, 7"x3½" with pin feeds, fanfold 2-up, camera ready + negs, 1-sided, preprinted numbering  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Public Safety Department—Liquor Control Division  
**Deliver to:** St. Paul  
**Requisition #:** 3600

**Commodity:** Inspection report, 200 pads of 15 4-part forms, 11¼"x7½" camera ready, 1-sided, wire staple  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 3554

**Commodity:** Statement of Need, 400M sets 36-pages, 8½"x11" and 8½"x26-¾", self cover, 2-hole punch + saddle stitch, camera ready  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 26  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 3605

**Commodity:** Application for AFDC, GA, FS, MA, MSA—600M sheets, 8½"x11" + stub, 3-parts, 2-pages, 2-sided, camera ready  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 26  
**Agency:** Human Services Department  
**Deliver to:** St. Paul  
**Requisition #:** 3604

**Commodity:** 1989-90 MN Aeronautical Charts, 40M, 25"x31", 2-sided, 4-color, folded  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 27  
**Agency:** Transportation Department  
**Deliver to:** St. Paul  
**Requisition #:** 3299

**Commodity:** Prebill Envelopes w/ zip + 4, 1,500M, 8"x3¼", with poly window, camera ready 2-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 27  
**Agency:** Public Safety Department  
**Deliver to:** St. Paul  
**Requisition #:** 3617

**Commodity:** Undergraduate bulletin, 24M books 192-pages + cover, camera ready, 8½"x11", perfect bind  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 27  
**Agency:** State University  
**Deliver to:** Mankato  
**Requisition #:** 3678

**Commodity:** Continuous letterhead—3-ply, 50M, fanfold 1-up, 9½"x11" overall, type to set, 1-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Commerce Department—Enforcement  
**Deliver to:** St. Paul  
**Requisition #:** 3563

**Commodity:** Counselors' guide pages, 550 books of 278 pages, camera ready, 2-sided, 8½"x11"  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Higher Education Coordinating Board  
**Deliver to:** St. Paul  
**Requisition #:** 3599

**Commodity:** Minnesota corporation estimated tax envelope, 110M, 8½"x3½", type to set, 1-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Revenue Department  
**Deliver to:** St. Paul  
**Requisition #:** 3576

**Commodity:** Material safety data sheet, 5M on 4 mil vinyl with 1 pt. clear laminate flap, camera ready, 1-sided  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** Administration Department—Plant Management Division  
**Deliver to:** St. Paul  
**Requisition #:** 3598

**Commodity:** Annual report FY 1989, 1,500 12-page books, 17"x22" folded twice to 8½"x11", type to set, 2-sided, 6 half-tones, bleeds off 4 sides, scoring for folding  
**Contact:** Printing Buyer's Office  
**Bids are due:** December 20  
**Agency:** State Arts Board  
**Deliver to:** St. Paul  
**Requisition #:** 3646



## Woodworking for Wildlife

*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, \$3.95.

*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.

*Mammals of Minnesota*, discusses wild mammals that inhabit Minnesota today, or in the recent past. Tells how to identify them, their distribution in the state, and their natural history. U of M Press, 1977, illustrated, index, bibliography, paperbound, 290 pp. Code #19-35, \$16.95.

*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.

**TO ORDER:** Send to Minnesota's Bookstore, 117 University Avenue, St. Paul, MN 55155. Call (612) 297-3000, or toll-free in Minnesota: 1-800-652-9747. Minnesota residents please include 6% sales tax. On all orders, add \$1.50 per order for postage and handling. Prepayment is required. Please include daytime phone. VISA/MasterCard orders accepted over phone and through mail. Prices are subject to change.

Publication editors: As a public service, please reprint this ad in your publication as is, reduced, enlarged, or redesigned to suit your format. Thank you.

# Professional, Technical & Consulting Contracts

## State Designer Selection Board

### Request for Proposal for Four Projects

#### To Registered Professionals in Minnesota:

The State Designer Selection Board has been requested to select designers for four projects. Design firms who wish to be considered for this project should submit proposals on or before 4:00 p.m., January 9, 1990, to George Iwan, Executive Secretary, State Designer Selection Board, Room G-10, Administration Building, St. Paul, Minnesota 55155-1495.

#### The proposal must conform to the following:

- 1) Six copies of the proposal will be required.
- 2) All data must be on 8½" x 11" sheets, soft bound.
- 3) The cover sheet of the proposal must be clearly labeled with the project number, as listed in number 7 below, together with the designer's firm name, address, telephone number and the name of the contact person.
- 4) Mandatory Proposal contents in sequence:
  - a) Identity of firm and an indication of its legal status, i.e. corporation, partnership, etc. If the response is from a joint venture, this information must be provided for firms comprising the joint venture.
  - b) Names of the persons who would be directly responsible for the major elements of the work, including consultants, together with brief descriptions of their qualifications. If desired, identify roles that such persons played in projects which are relevant to the project at hand.
  - c) A commitment to enter the work promptly, if selected, by engaging the consultants, and assigning the persons named in 4B above along with adequate staff to meet the requirements of work.
  - d) A list of State and University of Minnesota current and past commissions under contract or awarded to the prime firm(s) submitting this proposal during the three (3) years immediately preceding the date of this request for proposal. The prime firm(s) shall **list and total** all fees associated with these projects whether or not the fees have been received or are anticipated. In addition, the prime firm(s) shall indicate the amount of fees listed which were paid directly to engineers or other specialty consultants employed on the projects listed pursuant to the above.
  - e) A section containing graphic material (photos, plans, drawings, etc.) as evidence of the firm's qualification for the work. The graphic material must be identified. It must be work in which the personnel listed in "c" have had significant participation and their roles must be clearly described. It must be noted if the personnel named were, at the time of the work, employed by other than their present firms.

The proposal shall consist of no more than twenty (20) faces. Proposals not conforming to the parameters set forth in this request will be disqualified and discarded without further examination.

#### 5) Statutory Proposal Requirements:

In accordance with the provisions of *Minnesota Statutes*, 1981 Supplement, Section 363.073; for all contracts estimated to be in excess of \$50,000.00, all responders having more than 20 full-time employees at any time during the previous 12 months must have an affirmative action plan approved by the Commissioner of Human Rights before a proposal may be accepted.

#### The proposal will not be accepted unless it includes one of the following:

- a) A copy of your firm's current certificate of compliance issued by the Commissioner of Human Rights; or
  - b) A statement certifying that the firm has a current certificate of compliance issued by the Commissioner of Human Rights; or
  - c) A statement certifying that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months; or
  - d) A statement certifying that the firm has an application pending for a certificate of compliance.
- 6) Design firms wishing to have their proposals returned after the State's review must follow one of the following procedures:
- a) Enclose a self-addressed stamped postal card with the proposals. Design firms will be notified when material is ready to be picked up. Design firms will have two (2) weeks to pick up their proposals, after which time the proposals will be discarded; or
  - b) Enclose a self-addressed stamped mailing envelope with the proposals. When the State has completed its review, proposals will be returned using this envelope.

In accordance with existing statute, the Board will retain one copy of each proposal submitted.



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## Professional, Technical & Consulting Contracts

Any questions concerning the Board's procedures or their schedule for the project herein described may be referred to George Iwan at (612) 296-4656.

### 7a) PROJECT—53-89

Campus Wide Sprinkler System  
Anoka Ramsey Community College

Provide complete engineering and architectural services required for Sprinkler System installation. Currently \$400,000 has been reserved for the project. It is anticipated the work may have to be installed in phases. The design work shall include total building and campus Sprinkler System Design with construction observation through Phase I. Complete Working Drawings and Specifications shall be provided for all Mechanical, Electrical, and Architectural work related to the Project. Work shall include the following:

- 1) Building and site survey.
- 2) Construction estimate for phases if required.
- 3) Site utility modifications including fire hydrant and water main revisions as needed.
- 4) Design of Sprinkler System including piping, head locations, pipe sizing and hydraulic calculations.
- 5) Associated Fire Alarm System modifications including revised wiring diagrams, devices, etc.
- 6) Architectural Design Revisions to ceilings, floors, walls and associated cutting and patching repairs.
- 7) Structural Design if required for cutting and penetration of structural elements.

The Consultant's estimate should include a 10% construction contingency to allow for unknown project conditions. A 7% engineering fee is proposed for this project.

Questions concerning this project may be referred to Patrick Ferrin at 297-3454.

### 7b) PROJECT—54-89

Department of Jobs & Training  
Remodel 1200 Plymouth Avenue North, Minneapolis, MN  
Estimated Construction Cost: \$525,000.00

The Department of Jobs and Training is in the process of purchasing the property at 1200 Plymouth Avenue North, Minneapolis, Minnesota. It is their intention that this building be remodeled for use as a department office.

The building is approximately 21,000 square feet and is presently being used as a bakery. This one story building has relatively new electrical, mechanical and roofing systems. The Department wishes to occupy the remodeled facility as soon as possible, preferably in late summer 1990.

Questions may be referred to Fred Wilkinson at 296-1878.

### 7c) PROJECT—55-89

Department of Jobs and Training  
New Facility  
Chicago and Lake Streets, Minneapolis, MN  
Estimated Construction Cost: \$1,400,000.00

The Department of Jobs and Training is currently in the process of acquiring the property at the corner of Chicago and Lake Streets for use as a site for a department office. It is anticipated that the office will consist of 20,000 square feet. The building will be a two story facility and will house department activities as well as other service providers from the community. It is anticipated that some demolition work will need to take place. The facility should be available for occupancy within approximately one year.

### 7d) PROJECT—56-89

Improved Handicapped Access  
Peik and Eddy Halls  
University of Minnesota  
Minneapolis, Minnesota

The University of Minnesota is planning to remodel Peik Hall and Eddy Hall to provide improved accessibility for people with disabilities. Both buildings are located on the Minneapolis campus in the historic "knoll area."

## Professional, Technical & Consulting Contracts

Eddy Hall houses University Counseling Services and consists mainly of offices. Built in 1881, it is the oldest building on campus. The historic integrity of its exterior facade must be maintained. Eddy Hall will require the installation of a five stop elevator internal to the building.

Peik Hall houses the Education Department offices and classrooms. It has an elevator whose controls and signage need modification.

Work common to both projects include: a ramp into the building, power assist entrance doors, modifications to toilet rooms, an accessible drinking fountain and public telephones, and other incidentals. The work must be as unobtrusive as possible and match the aesthetics of the existing buildings.

Construction will have to be scheduled to cause the minimum of disruption to building occupants. The construction budget is approximately \$465,000. The architect is to have experience in projects of this type and demonstrated design sensitivity in incorporating handicapped access modifications into an existing building.

Questions concerning this project may be referred to Clinton Hewitt at 625-7355.

Mark Anderson, Chairman  
State Designer Selection Board

## Minnesota Historical Society

### Notice of Availability of Contract Historical Research and Planning

The Minnesota Historical Society is seeking proposals from qualified research historians and/or historic site planners to review and synthesize existing research, perform additional research as needed, and make recommendations for interpretation of the Meighen Store in Forestville, Minnesota, to be completed by May 15, 1990.

These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested and inquiries directed to: Mark Schwartz, Contract Officer, 1500 Mississippi St., St. Paul, MN 55101, (612) 296-2155. The deadline for submitting completed proposals is the end of the business day (5:00 p.m.) December 29, 1989. Late proposals will not be accepted.

## Department of Human Services

### Long Term Care Management Division

### Request for Proposal for Case Management Services for Traumatic Brain Injured Survivors

**NOTICE IS HEREBY GIVEN** that the Minnesota Department of Human Services, Long Term Care Management Division, Minnesota Community Head Injury Program, is seeking applications for the following professional services:

- Lead Case Manager
- Case Managers
- Neuropsychologist

Services will be provided to traumatic brain injured survivors, family members and social service agencies in and around the following areas: Metro, St. Cloud, Rochester, Hibbing, Marshall, East Grand Forks. Duties will include but not be limited to: individual assessment, care plan development, identifying needed services, assuring cost effectiveness and appropriateness of medical assistance services, assisting individuals with problems related to provision of home care services.

Individuals with experience and/or training in one or more of the following areas will be considered: traumatic brain injury, case management, health care administration, health care related training (i.e. OT, PT, TR, Nursing, Social Work, etc.). Contracts will be for full-time (40 hours per week) services.

Interested persons must submit a written response containing the following:

1. Description of professional qualifications, including:

- Educational background.
- Professional experience.
- Previous health care case management, traumatic brain injury and/or other disability experience.

2. A statement indicating work hours available.
3. Preference of geographical area.

All written responses must be received by the Department no later than 4:30 p.m. Monday, January 8, 1989. Responses and inquiries must be directed to:

Allan Weinand  
Coordinator, Brain Injury Services  
Department of Human Services  
Long Term Care Management Division  
444 Lafayette Road  
St. Paul, MN 55155-3844  
(612) 297-3711

## **Department of Human Services**

### **Reimbursement Division**

#### **Request for Proposals to Examine the Department's Activity that Affects Accounts Receivable and Related Activities for Eight State Regional Treatment Centers and Two State Nursing Homes**

##### **I. Introduction**

The Minnesota Department of Human Services, Reimbursement Division, is soliciting proposals from qualified consultants and agencies to:

A. Perform a structured review of the methods, procedures, and computer systems under which cost of care accounts receivables are managed in our State Regional Treatment Centers and State Nursing Homes. This review shall provide recommendations and proposals to improve our reimbursement and collections efforts. This structured review shall include, but not limited to, all general accounts receivable management practices, accounts receivable billing practices impacting payments from third-party sources, and all related RTC activities or services that have implications for accounts receivable management, i.e., in-patient services, out-patient services, Shared Services, SOCS and Enterprise Funds. Additionally, the Department seeks an evaluation of its related RTC accounts receivable management practices within the Reimbursement Division in the central office.

The review shall include Medical Assistance and respondents shall examine the impact of our utilization review policies and quality assurance mechanisms on receivable management.

The final report of the structured review shall include the following, to be submitted to the Director of the Reimbursement Division:

1. Recommendations for the enhancement of the DHS Reimbursement Division's accounts receivable management practices and the specific steps that should be taken to improve collections and cash flow. The recommendations should take into account proven management practices in both public and private health care institutions and their applicability to the management of the accounts receivable activities under the direction of the Reimbursement Division.
2. An assessment of whether improvements in the management structure of the accounts receivable activity or additional resources could improve collections or cash flow.
3. An outline of the key indicators of accounts receivable management that enable ongoing monitoring of accounts receivable performance.
4. Identification of other accounts receivable or cash management practices that could result in improved collections or better cash flow.
5. An analysis of receivable management procedures and computer processing systems currently in use by the Reimbursement Division. Recommendations on continued operation of the current systems and procedures, and hardware/software options available to enhance monitoring and management of receivables for improved cost effectiveness. The response to the analysis of the computer processing system must be structured to the STRADIS methodology and be prepared and submitted in the following format:

Initial Study Report  
Detailed Study Report  
Draft Requirements Statement  
Outline Physical Design  
Total Requirements Statement

## Professional, Technical & Consulting Contracts

This request for proposals does not obligate the State to award any contract, or to pay the costs incurred in the preparation of a proposal or contract. The State reserves the right to cancel the solicitation and not to award a contract after the proposals are received if it is considered to be in its best interests.

### II. Qualification of Respondents

A. Respondents must be able to demonstrate experience and expertise in health care accounts receivable management and third-party reimbursement management. Specifically, the respondents should:

1. Detail and provide client references of their Minnesota and St. Paul-Minneapolis office qualifications and skills in hospital accounts receivable management. This should include experience working with all aspects of account receivables in the Minnesota environment.

2. Provide resumes of Minnesota-based specialists who will be on the project team and are specialists in the areas of accounts receivable and specifically health care accounts receivables and third-party reimbursement.

B. Respondent must have an Affirmative Action plan approved by the Commissioner of Human Rights when there are more than 20 full-time employees in the State of Minnesota.

"It is hereby agreed between the parties that *Minnesota Statute*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 are incorporated into any contract between these parties based upon this specification or any modification of it. A copy of *Minnesota Statutes*, section 363.073 and *Minnesota Rules*, parts 5000.3400 to 5000.3600 is available upon request from the Department of Human Services contracting agency."

### III. Scope of the Project

#### A. Duration

This project will be initiated upon selection of a proposal.

#### B. Background

The State of Minnesota, Department of Human Services, currently operates eight Regional Treatment Centers (RTCs) and two State Nursing Homes. The RTCs are located at Anoka, Brainerd, Cambridge, Faribault, Fergus Falls, Moose Lake, St. Peter and Willmar. The RTCs are multi-facilities, serving clients in three disability groups, and developing nursing home services at several of the facilities. The State nursing homes are located near Walker and in Minnetonka. The State is currently establishing State-Operated, Community-Based Programs (SOCS) for the Mentally Retarded that will be located in various communities within the state. The RTCs, the State nursing homes and the SOCS are by statute defined as "state facilities".

The three disability groupings at the state facilities are: Mental Illness (MI), Mental Retardation (MR), and Chemical Dependency (CD). The primary residents at the State nursing homes are elderly, and, although many belong in one of the three disability groupings, are in need of nursing care. There are programs at the RTCs that are culturally-specific and are designed specifically for adolescents, women and the hearing impaired.

The Reimbursement Division is responsible for the collection of the cost of care and treatment at the state facilities. The Reimbursement Division has staff located in each facility and has its main operations in the DHS Central Office in St. Paul. Current activity includes: maintenance of a computer billing system; generation of bills to individuals; preparation of claims to third-party payers; preparation of cost reports for final settlement of Federal Reimbursement for all state facilities; pursuance of past-due accounts; civil litigation; and probate of estate claims. The activity of the Reimbursement Division is governed by *Minnesota Statutes* 246.50-246.55 and *Minnesota Rules*, parts 9515.1000 to 9515.2600.

#### C. Fee

The overall fee for this engagement under this RFP should not exceed \$100,000. A comprehensive workplan, that includes methodology of the evaluation, must be submitted at the start of the review and monthly status reports indicating progress and justification must be submitted to the Reimbursement Division Director or his designee. The monthly reports must include a detailed itemization of the expenses incurred.

#### D. Mediation of Disputes

The final contract will contain a provision to allow for the mediation of disputed claims.

### IV. Proposal Contents

The following will be considered minimum contents of the respondent's proposal:

A. Qualification of the respondent as described in Section II of this notice.

B. A demonstration of the respondent's financial stability and indication that respondent has adequate financial resources for the period of expected performance of this contract.

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## Professional, Technical & Consulting Contracts

C. A description of similar contracts the respondent has completed, the measurable results, and persons who can be contacted for references.

D. A description of all approaches, activities and tasks the respondent will use to meet the request objective as described in Section I of this notice.

E. Description of the Fee structure used by the respondent.

F. Proof of Human Rights Compliance:

1. Provide a copy of a current certificate of compliance; or
2. Provide evidence of compliance, such as a copy of the current listing of certified contractors, issued by the Department of Human Rights, that includes the responder; or
3. Certify to the agency that the firm has not had more than 20 full-time employees in Minnesota at any time during the previous 12 months and is therefore exempt from this requirement. Responder may submit a notarized letter or affidavit as evidence of exemption.

### V. Evaluation

All proposals received by the deadline will be evaluated. An oral interview may be a part of the selection process. Evaluation factors include:

- A. Expressed understanding of the project objective
- B. Qualifications and relevant experience
- C. Proposed strategies to perform the project
- D. Fee charges.

Evaluation and selection will be completed by a DHS advisory committee. Results will be sent by mail to all respondents.

### VI. Proposal Submission

All proposals must be sent to and received by Jerry Spinner at the following address by Friday, January 26, 1990.

Minnesota Department of Human Services  
Reimbursement Division  
Second Floor North  
444 Lafayette Road  
St. Paul, MN 55155-3824

Late proposals will not be accepted. Three copies of the proposal must be submitted in a sealed mailing envelope or package with the respondent's address clearly written on the outside. The proposal must be signed by an authorized person of the firm or company. The stated fee and terms must be valid for the duration of the project. Prospective respondents who have questions may call Jerry Spinner at (612) 296-3508.

## Legislative Commission of Minnesota Resources

### Request for Proposals Offer of Detailed RFP and Instructions

The LCMR will be accepting proposals for funding from three areas:

• **Minnesota Future Resources Fund (MS 116P.13)—estimated amount available \$18 million**

For new, innovative, or accelerative projects in the area of: recreation, water, education, agriculture, forestry, fisheries, wildlife, land, minerals, air, waste

• **Minnesota Environment and Natural Resources Trust Fund (MS 116P.08)—estimated amount available \$5 million**

For education, research, collection and analysis of information projects with long-term effects that employ an interdisciplinary approach to promote wise stewardship and enhancement of our state's environment and natural resources.

• **Oil Overcharge Money (MS 4.071)—estimated amount available \$2 million**

For projects resulting in decreased dependence on fossil fuels and for technology transfer with the same purpose.

To receive a copy of the detailed Request for Proposal contact:

John R. Velin, Director  
Legislative Commission on Minnesota Resources  
Room 65 State Office Building

100 Constitution Avenue  
St. Paul, Minnesota 55155  
(612) 296-2406

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

**APPLICATIONS MUST BE RECEIVED AT THE ABOVE ADDRESS BY 4:30 P.M., FEBRUARY 16, 1990.**

The LCMR will review and evaluate proposals during June and July of 1990 and submit its funding recommendations to the Legislature in August of 1990 for funding of projects during the 1992-93 biennium.

**ELIGIBILITY: APPLICATION PROCESS IS OPEN TO ALL**

## **Legislative Coordinating Commission**

### **Applicants Sought for Director of Legislative Water Commission**

The position is open for Director of Legislative Water Commission. Job duties include: contracting for and coordinating research projects; planning meetings; original research and policy analysis. Need experience in water management, policy or research; experience with legislature/state and local government helpful. Resume and cover letter postmarked by Jan. 1, 1990 to Sen. Morse, c/o Janet Lund, Rm. 85 State Office Bldg., St. Paul, MN 55155. 612-297-3697.

## **Department of Natural Resources**

### **Division of Fish and Wildlife**

### **Notice of Request for Proposals for Professional Engineering Services to Prepare Emergency Action Plan for Grindstone River Dam and to Prepare Operating Plan and Emergency Action Plan for New London Dam**

**NOTICE IS HEREBY GIVEN** that the Department of Natural Resources is seeking proposals for professional engineering services to prepare an operating plan and emergency action plan for the new London Dam in Kandiyohi County, and to prepare an emergency action plan for the Grindstone River Dam in Hinckley.

**Estimated Cost:** Not to exceed \$30,000

**Submission Deadline:** 4:30 p.m., February 2, 1990

The Division of Fish and Wildlife is managing this project in cooperation with the Division of Waters, Dam Safety Unit. Both dams are state-owned and classified as high hazard dams.

This 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.

Completion of the project shall be within six months after the notice to proceed.

#### **I. SCOPE OF PROJECT**

Complete the necessary services to produce two emergency action plans and one operating plan.

#### **II. GOALS AND OBJECTIVES**

The project objective is to document plans and procedures for proper and safe operation of these dams in accordance with Minnesota Dam Safety Regulations.

#### **III. PROJECT TASKS**

##### **Task 1—Information Review**

Review existing information available at MDNR offices. This information includes inspection reports, survey data, high water data, operating plans, structure drawings, photos, hydrologic/hydraulic studies, and breach analyses. Discuss project with MDNR project leaders:

##### **Task 2—Site Visits**

Visit each of the dam sites. Gather all field data necessary for preparation of the plans. Collect survey data, operate gates, inspect areas subject to flooding, meet with the dam operator and local civil defense officials.

##### **Task 3—Formulate Plans**

Prepare two emergency action plans and one operating plan. Submit four draft copies of each to MDNR within four months for review and comment prior to finalizing the plans. Submit 10 final copies of each Emergency Action Plan and 6 final copies of the operating plan.

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## Professional, Technical & Consulting Contracts

Emergency Action Plans shall minimally include the following:

Title, signature sheet, table of contents, notification flow chart, purpose, responsibilities, recognition procedures, notification procedures (including call lists), evacuation procedures, preventive actions, breach analysis summary (with flood profile, flow depths, velocities, warning time), inundation map showing good detail, project description, miscellaneous (distribution, posting, training, testing, annual review).

Operating Plan shall minimally include the following:

Title, signature sheet, table of contents, location maps, photos, responsibilities, description of dam, operation procedures, inspection and maintenance procedures, and hydrologic/hydraulic information.

### IV. DEPARTMENT CONTACTS

Prospective responders who have any questions regarding this request for proposal may call or write.

Mr. Craig Regalia  
Minnesota Division of Natural Resources  
Division of Waters

500 Lafayette Road  
St. Paul, MN 55155  
Phone: 612/296-0525

### V. SUBMISSION OF PROPOSALS

All proposals must be sent to and received by:

Mr. James Groebner  
Minnesota Department of Natural Resources  
Division of Fish and Wildlife

500 Lafayette Road  
St. Paul, MN 55155  
Phone: 612/296-0789

Not later than 4:30 p.m., February 2, 1990.

Interested persons may submit proposals to the above stated contact person. The engineering consultant contractor must have experience in dam safety engineering. This experience, including preparation of operating plans and emergency action plans, should be documented in the consultant's proposal.

Late proposals will not be accepted. Four copies of the proposals are required. Proposals are to be sealed in mailing envelopes or packages with the responder's name and address clearly written on the outside. Each copy of the proposal must be signed by an authorized member of the firm. Prices and terms of the proposal as stated must be valid for the length of the project.

### VI. PROJECT COSTS

The Department has estimated that the cost of this project should not exceed \$30,000 for professional engineering services and expenses.

### VII. PROPOSAL CONTENTS

The following will be considered minimum contents of the proposal:

- A. A statement of the objectives to show or demonstrate the responder's view of the nature of the project.
- B. Identify and describe the deliverables to be provided by the responder.
- C. Outline the responder's relevant background and experience. Identify personnel to conduct the project and detail their training and work experience. No change in personnel assigned to the project will be permitted without the approval of the MDNR.
- D. Responder will prepare a detailed cost and work plan which is based on the listed project tasks and will be used as a scheduling and managing tool as well as the basis for invoicing.
- E. Identify the level of MDNR participation in the project as well as any other services to be provided by MDNR.

### IX. EVALUATION

All proposals received by the deadline will be evaluated by representatives of the MDNR. An interview may be part of the evaluation process. Factors upon which proposals will be evaluated include (but are not limited to) the following:

- A. Expressed understanding of project objectives.
- B. Project work plan.
- C. Project cost detail.
- D. Qualifications of the project personnel and also the company. Experience of project personnel will be given greater weight than that of the firm.

Evaluation and selection will be completed by February 16, 1990. Results will be sent immediately by mail to all responders.

## Non-State Public Contracts

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

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

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## Metropolitan Council

### Request for Service Insurance Agent for the Metropolitan Council

**NOTICE IS HEREBY GIVEN** by the Metropolitan Council of the Twin City Area that it will consider appointing an Insurance Agent of Record to perform the following services and others generally performed by insurance agents.

Review the Council's property, liability, automobile, and Workers Compensation exposures and insurance policies, including assistance in preparing specifications and obtaining quotations on behalf of the Council for the various policies.

Interested agents may submit an Agency Services, Experience and Qualifications Questionnaire which is available upon request by contacting John K. Rutford, at (612) 291-6313 or the Metropolitan Council Offices, Mears Park Centre, 230 East Fifth Street, St. Paul, MN 55101.

Submissions received by 4:00 p.m. local time January 15, 1990, at the Offices of the Council will be considered. The Council reserves the right to accept or reject any submissions, to investigate the qualifications and experience of any interested agent, to obtain new submissions, to negotiate the requested agency services with interested agents or to perform the services otherwise. Submissions not sufficiently detailed or in acceptable form may be returned for completion or may be rejected by the Council.

## State Grants

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

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

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## Department of Jobs & Training

### Independent Living Program

### Grants for Accessible Housing Information Lists

The Independent Living program has grant monies available for projects to develop, maintain and publicize a list of accessible housing units.

Any public or private non-profit organization that is incorporated under *Minnesota Statute 317 et seq.* governing non-profit organizations may apply. All applicants must comply with applicable State and Federal regulations governing accessibility, affirmative action, non-discrimination, and 501 C (3) non-profit status.

All grants will be considered during the month of February. All recipients will be notified on March 1, 1990 with projects starting April 1, 1990 for 12 month period.

The RFP may be obtained by calling 612/297-2705.

## Tax Court

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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.

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A subscription service to *all decisions* of the Minnesota Tax Court is available through Minnesota's Bookstore. An annual subscription for a full 12 months costs \$275, renewable on the subscription's anniversary. Individual decisions may be purchased for \$2.25 plus 6% sales tax and \$1.50 postage/handling per order. Decisions printed below do not include the written memorandums attached to each decision. The memorandums explain the court's reasons for its decisions and can be very lengthy. To subscribe, or order individual decisions, use the handy order form at the back of this magazine, or call (612) 296-0931 for more information.

## Tax Court—Regular Division

**Docket No. 5261—Dated: 30 November 1989**

**Peter and Diane Setness, Appellants, vs. Commissioner of Revenue, Appellee.**

The above-entitled matter came on for hearing before the Honorable M. Jean Stepan, Chief Judge of the Minnesota Tax Court, on June 13, 1989, at the Courtroom of the Tax Court, 520 Lafayette Road, St. Paul, Minnesota.

Joel M. Anderson, Attorney at Law, appeared on behalf of the appellants.

James W. Neher, Special Assistant Attorney General, appeared on behalf of the appellee.

Post-trial briefs were filed by both parties and the matter was submitted to the Court for decision on September 29, 1989.

The Court, having heard the evidence adduced and the arguments of counsel and upon all of the files and records herein, now makes the following:

### FINDINGS OF FACT

1. Appellants Peter Setness and Diane Setness are cash basis, calendar year taxpayers.
2. Appellants concede that they claimed residency in Minnesota prior to calendar year 1985. The issue in this case is whether appellants were residents and domiciliaries of the State of Minnesota during 1985 and 1986.
3. Peter Setness was employed as a physician from about 1972 to 1984 by the Doctors' Clinic in Forest Lake, Minnesota.
4. Prior to June, 1984, the appellants were homesteading a residence in Marine on St. Croix, Minnesota.
5. In June, 1984 Peter Setness obtained employment with the Arabian American Oil Company ("ARAMCO") in Saudi Arabia.
6. Prior to departing for Saudi Arabia, Peter Setness sold all of his motor vehicles, including 3 automobiles and an interest in two airplanes.
7. In 1984 Peter Setness attempted to sell his interest in the Professional Center Associates, which owned an office building for rental purposes, and he continued trying to sell it until 1988 when it was finally sold.
8. Peter Setness sold his partnership interests in the Hugo Doctors' Clinic in 1985.
9. Peter Setness is a partner in the Olson-Setness Partnership. That partnership had liquidated its assets in 1983 and subsequently the partners received income from the sale of those assets. Dr. Setness still receives income from the sale of these partnership assets.
10. In June, 1984, appellants and their two children left the United States for Ras Tanura, Saudi Arabia, where Peter Setness was to begin his employment with ARAMCO. The community of Ras Tanura is governed by ARAMCO.
11. A visa is required every time a person enters or leaves Saudi Arabia.
12. When entering Saudi Arabia a person is required to turn over his/her passport to the Saudi Government and it is returned at the time the person leaves Saudi Arabia.
13. Upon moving to Saudi Arabia, the appellants shipped household goods, including ping pong tables, barbecue grills, patio sets, bicycles and the vast majority of their heirlooms, household furnishings and clothing to Saudi Arabia.
14. The shipping costs of appellants' household items were paid by ARAMCO.
15. Appellants' household items which were not shipped to Ras Tanura were placed in storage by the appellants in Minneapolis. The storage cost was paid for by ARAMCO.
16. The items not shipped to Saudi Arabia were hunting guns and religious artifacts not allowed in the possession of residents of Saudi Arabia, and some heirlooms and winter clothing not useful to anyone in Saudi Arabia.
17. Foreigners such as the appellants are only allowed to remain in Saudi Arabia as long as the head of the household has employment there.

18. Upon retirement ARAMCO employees are required to leave Saudi Arabia.
19. Peter Setness' sponsor which enabled him to obtain a work permit was ARAMCO.
20. Peter Setness' work permit with ARAMCO, which was issued by the Saudi Government, classified Peter Setness as a regular (as opposed to temporary) employee of ARAMCO. The permit was valid for approximately two years.
21. While employed by ARAMCO, Peter Setness had a choice between accruing retirement and other fringe benefits or taking a 10 percent salary increase. He chose the latter.
22. Ras Tanura has a population of 3-4,000 residents, most of whom are ARAMCO employees.
23. Peter Setness has immediate relatives, including his sister, who have resided in Saudi Arabia for over 8 years.
24. While in Saudi Arabia Peter Setness was employed by the Ras Tanura Medical Clinic owned by ARAMCO. Nearly all of his patients were ARAMCO employees and their families.
25. Diane Setness taught Sunday School in Ras Tanura and was employed by ARAMCO to teach English to children of ARAMCO employees at the junior high school level. During 1984 she earned \$660.49 and during 1985 she earned \$1,707. Prior to their move to Saudi Arabia Diane Setness was not employed.
26. Due to housing shortages in 1984, as newcomers in Ras Tanura, the appellants resided in temporary rental housing owned by ARAMCO.
27. In 1985 and 1986 the appellants resided in rental housing owned by ARAMCO specially designated for regular employees of ARAMCO.
28. Appellants received all their personal and business mail in Saudi Arabia during 1985.
29. The appellants learned to read and speak some of the Arabic language.
30. While residing in Saudi Arabia appellants purchased a number of household items including an upright piano, cars, golf carts, and an assortment of furniture.
31. While in Saudi Arabia the appellants attended social and professional activities.
32. Peter Setness voted in the 1984 Presidential Election at the American Consulate in Dhahran, Saudi Arabia.
33. While in Saudi Arabia Peter Setness purchased a car and obtained a Saudi driver's license. The Saudi driver's license is required in order to operate a motor vehicle in Saudi Arabia.
34. Appellants made no changes in their household insurance policy while they were in Saudi Arabia.
35. Appellants maintained household and car insurance on their possessions in Saudi Arabia through a Saudi insurance agency.
36. Peter Setness' Minnesota driver's license expired while he was in Saudi Arabia.
37. During his stay in Saudi Arabia Peter Setness did not engage in various activities he had enjoyed in Minnesota, including hunting, fishing, flying and attending Gopher basketball games.
38. During 1985 the appellants and their children visited Minnesota, North Dakota and Canada. They were in the United States for approximately one month and in Minnesota for a period of about two weeks.
39. At no time during 1985 did the appellants visit what had previously been their homestead in Minnesota.
40. The appellants rented no living accommodations in Minnesota during 1985.
41. The Setness children attended public school in Saudi Arabia.
42. The appellants have been members of Elim Lutheran Church in Scandia, Minnesota since 1973. Throughout 1984, 1985 and 1986, appellants remained listed as members of this church. Church membership at Elim Lutheran Church is maintained as long as members do not transfer to another church or do not attend worship services for a period of at least three years.
43. Christian Churches are not allowed in Saudi Arabia.
44. The appellants did not participate in church activities in Minnesota while residing in Saudi Arabia. They participated in "unofficial" church services and activities in Saudi Arabia.
45. Peter Setness surrendered local participation and membership in various professional associations when leaving Minnesota in 1984.
46. The appellants claimed no federal tax deduction for paying Minnesota taxes during 1985.
47. The appellants were allowed to and did claim an exclusion of a percentage of earned income as Saudi residents for 1985 and 1986 under the federal Foreign Earned Income Credit.
48. In both their original and amended "Foreign Earned Income" computations appellants indicated that the computations were

based on the 12 month "physical presence test" rather than the "bona fide residence" test.

49. During 1985 and 1986 Peter and Diane Setness paid Saudi Social Security payments and Saudi income taxes on income from ARAMCO.

50. Peter Setness maintained investments during 1985 and 1986 with Piper Jaffray, an investment firm located in Sioux Falls, South Dakota.

51. Peter Setness maintained his only active checking account at a bank in Forest Lake, Minnesota throughout 1985 and 1986.

52. No banks existed in Ras Tanura, Saudi Arabia.

53. While they were in Saudi Arabia appellants rented their previous homestead to a medical student and his wife for about a year, and then to a minister for about a year. The property was rented on an oral month-to-month tenancy and appellants charged \$450-\$500 per month as rent. No attempt was made to sell this home.

54. Appellants did not claim homestead status on their former homestead in Marine on St. Croix for the years 1985 or 1986.

55. In November or December, 1985, appellants' son developed an illness known as ulcerative colitis. An experimental treatment program for ulcerative colitis was maintained by a drug company located in Baudette, Minnesota. In 1986 the Setness family enrolled their son in the experimental treatment program.

56. In August, 1986 appellants moved to Minnesota into the same dwelling that had been their home in Marine on St. Croix. The lease was voluntarily abandoned by the tenants.

57. Following his return to Minnesota in August, 1986, Peter Setness became employed as a member of the faculty at Hennepin County Medical Center in Minneapolis, Minnesota.

58. During 1985 it was the appellants' intention to remain in Saudi Arabia for an indefinite but limited duration of time.

59. By his Orders dated June 24, 1988 the Commissioner of Revenue assessed additional tax, penalty and interest against appellants in the amounts of \$436.96 and \$7,023.65 for 1985 and 1986, respectively. The Commissioner assessed no additional tax for the year 1984. The Orders were based on the Commissioner's position that the appellants were residents and domiciliaries of Minnesota for both tax years, and the income earned by them while in Saudi Arabia during those years was taxable in Minnesota.

60. Appellants did not intend to change their domicile from Minnesota to Saudi Arabia.

### **CONCLUSIONS OF LAW**

1. The appellants were residents of Minnesota for income tax purposes during all of 1985 and 1986.

2. The Orders of the Commissioner of Revenue dated June 24, 1988, assessing additional income tax against appellants for the 1985 and 1986 tax years are hereby affirmed.

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

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

## **Tax Court—Regular Division**

**Docket No. 5106—Dated: 3 November 1989**

**John R. Clark and June H. Clark, Appellants, vs. Commissioner of Revenue, Appellee.**

The above-entitled matter came on for hearing before the Honorable Arthur C. Roemer, Judge of the Minnesota Tax Court, on May 22, 1989, at the Redwood County Courthouse in Redwood Falls, Minnesota.

John R. Clark, one of the appellants, appeared *pro se*.

Thomas M. O'Hern, Jr., Special Assistant Attorney General, appeared on behalf of the appellee.

The issues involved are whether the appellants are entitled to deduct on their 1982, 1983 and 1984 income tax returns legal and accounting expenses stemming from four legal actions, and whether June Clark is entitled to deduct a capital loss on her portion of the 1982 income tax return.

Briefs were filed by both parties and the matter was submitted to the Court for decision on August 3, 1989.

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

## FINDINGS OF FACT

1. John and June Clark, husband and wife, timely filed Minnesota income tax returns for the calendar years 1982, 1983 and 1984.
2. During the late 1940s and 1950s John Clark participated in a farming partnership with his parents, and later farmed independently.
3. By 1970 the farming operation dealt almost exclusively with turkey raising.
4. In 1970 a corporation called Clark Farms, Inc. ("Clark Farms") was formed by appellants and commenced operations on September 1, 1973. This corporation was a Chapter "C" or regular business corporation.
5. Clark Farms owned all of the operating assets and liabilities of the agricultural operation. John and June Clark retained ownership of the real estate which consisted of all the acreage and buildings used by Clark Farms to produce turkeys.
6. John and June Clark personally guaranteed most of the loans made by the corporation, including all major loans, and pledged real estate which they owned.
7. The year 1973 was very profitable, but due to large unfavorable cyclical market forces 1974 was unprofitable. The losses of Clark Farms had to be covered by pledges of previously unencumbered real estate owned personally by John and June Clark.
8. By 1976 all assets of Clark Farms and John and June Clark were bound together in a single security agreement guaranteeing the loans of Clark Farms.
9. In late 1976 or early 1977 a legal action was brought by Mr. Clark's brothers and sisters against Mr. Clark and Pansy Clark, Mr. Clark's mother, to prevent Pansy Clark from breaching an oral family agreement purportedly made in 1958 relating to the distribution of her assets.
10. This legal action was decided adversely to the appellant, John Clark, by the trial court and by the Supreme Court of Minnesota (*Clark v. Clark*, 288 N.W.2d 1 (Minn. 1979)).
11. Subsequent thereto a suit was brought by Roger Nierengarten, Mr. Clark's attorney in the *Clark v. Clark* action, for non-payment of attorney's fees in the amount of \$6,688.02. Mr. Clark counterclaimed alleging inadequate representation.
12. At about the same time, a companion suit was brought by Pansy Clark against Mr. Quinlivan, her attorney in the *Clark v. Clark* action, also alleging inadequate representation. This suit was settled for an undisclosed amount of money which was placed in trust for Pansy Clark.
13. The trial court jury in the case of *Roger J. Nierengarten v. John R. Clark* held that Mr. Nierengarten was negligent in his handling of the case. They also found that such negligence was a direct cause of the Hennepin County Court's decision in *Clark v. Clark* that prevented John Clark from borrowing or receiving money from his mother, Pansy Clark, but that that decision was not a direct cause of John Clark's going out of the turkey raising business. The jury awarded John Clark \$6,689.48 in damages, the amount of the attorney's fees. This was set aside by the trial court.
14. In 1983 a legal action was brought by Clark Farms and Mr. Clark against West Central Turkeys, Inc., alleging breach of contract and fraud with respect to the sale of the corporation's turkeys. Mr. Clark was unsuccessful in this legal action. By stipulation of the parties this suit was dismissed in July, 1985.
15. In 1983 Clark Farms also commenced a lawsuit against Swift Dairy and Poultry Company for breach of its contractual obligations and misrepresentation. The defendant's motion for summary judgment dismissing this suit was subsequently granted. This judgment was affirmed by the Eighth Circuit Court of Appeals.
16. The billings for legal fees and accounting fees connected with the four lawsuits were tabulated separately but payments were not allocated to a particular lawsuit. The legal fees attributable to these lawsuits and the amount paid is as follows:

	1982	1983	1984	TOTALS
Quinlivan	\$ 4,658.98	\$10,116.74	\$ 335.49	\$15,111.21
Nierengarten	10,486.54	15,757.90	2,092.72	28,337.16
West Central	1,244.24	1,187.49	.00	2,431.73
Swift Dairy	.00	11,088.22	3,316.89	14,405.11
Misc.	2,492.50	.00	643.00	3,135.50
AMT. CLAIMED ON RETURN	\$13,678.00	\$32,543.28	\$9,643.00	\$55,864.28

17. The appellants claimed a deduction on their 1982, 1983 and 1984 returns for the amounts paid for legal and accounting fees. The amounts paid are not in dispute.
18. The appellee alleges that the amounts paid are not allowable deductions on the appellants' individual income tax return.
19. On the appellants' 1982 income tax return Mrs. Clark deducted an amount of \$1,500 reflecting a capital loss.

20. Appellee denied all of the deductions for legal and accounting fees and the capital loss and, on October 2, 1987, assessed the following additional tax against the appellants:

YEAR	TAX	PENALTY	INTEREST	TOTAL
1982	\$1,627.90	\$ 99.98	\$864.57	\$2,592.45
1983	2,008.60	116.40	783.33	2,908.33
1984	1,171.00		296.11	1,467.11

21. The legal and accounting fees and capital loss are not allowable deductions for Minnesota individual income tax purposes.

22. The attached memorandum is hereby made a part of these findings of fact.

### **CONCLUSIONS OF LAW**

1. The payments of legal and accounting fees made by appellants in 1982, 1983 and 1984 are not allowable deductions on their individual income tax returns.

2. Appellant June Clark is not entitled to a capital loss deduction on her portion of the 1982 individual income tax return.

3. The Orders of the Commissioner of Revenue dated October 2, 1987, relating to the years 1982, 1983 and 1984, are hereby affirmed.

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

BY THE COURT,  
Arthur C. Roemer, Judge  
Minnesota Tax Court

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## **Supreme Court Decisions**

### **Decisions Filed 15 December 1989**

**C1-88-1353 Knut Co., petitioner, Appellant v. Knutson Construction Co., et al. Court of Appeals.**

An arbitration clause in a purchase agreement which requires arbitration of "any controversy or claim arising out of, or relating to, this Agreement or the making, performance or interpretation thereof" is sufficiently broad to require a controversy regarding a promissory note and a guaranty executed and delivered as part of the same transaction to be subject to arbitration.

Affirmed, remanded and consolidated with *Michael-Curry Companies, Inc. v. Knutson Shareholders Liquidating Trust, et al., v. John A. Curry, et al.*, No. C6-88-1509. Yetka, J.

**C5-88-2392 The St. Paul Companies, Inc., petitioner, Appellant v. Michael A. Hatch, Commissioner of the Minnesota Department of Commerce, et al., Alleghany Corporation. Court of Appeals.**

*Minnesota Statutes* § 60D.12, subd. 1 (1988), which provides for de novo review of orders of the Commissioner of the Minnesota Department of Commerce is constitutionally valid on its face.

Reversed and remanded. Yetka, J.

**C6-88-1509 Michael-Curry Companies, Inc. v. Knutson Shareholders Liquidating Trust, et al., defendants and third-party plaintiffs, petitioners, Appellants v. John A. Curry, et al., Third Party Defendants. Court of Appeals.**

The language of the parties' arbitration agreement is sufficiently broad to comprehend that the issue of fraud in the inducement be submitted to arbitration.

Judgment of court of appeals affirmed, case remanded to district court for an order compelling arbitration pursuant to the arbitration clause in the parties' purchase agreement. Keith, J.

**C4-89-76 Gordon W. Cell v. Moore & Schley Securities Corporation, Appellant, Joseph Jenkins, Jr., Defendant. Isanti County.**

1. New York arbitration law, rather than the Federal Arbitration Act, determines whether a claim is arbitrable where parties contracted under New York law and applicable New York law does not conflict with the goals of the Federal Arbitration Act. 9 U.S.C.A. §§ 1-14; New York CPLR §§ 7503 et seq.

2. Under New York law, the arbitration clause contained in the parties' Customers and Margin Agreement was broadly worded and comprehended arbitration of all disputes, including fraud in the inducement.

Reversed and remanded. Keith, J.

## Supreme Court Decisions

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### Orders

**C1-88-1353 C6-88-1509 Knut Co., petitioner, Appellant, v. C1-88-1353 Knutson Construction Co., et al. and Michael-Curry Companies, Inc. v. C6-88-1509, Knutson Shareholders Liquidating Trust, et al., defendants and third-party plaintiffs, petitioners, Appellants v. John A. Curry, et al. Supreme Court.**

Consolidated for all further proceedings. Popovich, C.J.

**C0-89-821 In Re: Mark Eugene Haggerty and Linda Jean Haggerty, Debtors. Supreme Court.**

Attached page 9. substituted for previous page 9. Popovich, C.J.

**C5-89-2094 In Re Petition for Disciplinary Action against Robert P. Morin, an Attorney at Law of the State of Minnesota. Supreme Court.**

Suspended. Popovich, C.J.

**C4-87-2289 In the Matter of the Application for Reinstatement of William J. Platto, an Attorney at Law of the State of Minnesota. Supreme Court.**

Reinstated. Kelley, J.

## Announcements

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**Environmental Quality Board (EQB):** Comments are due January 11, 1990 on EAWs (environmental assessment worksheets) for the following projects at their listed regional governing unit: **Crystal Bay Dredging Proposal**, City of Prior Lake (612) 447-4230; **296 East 7th Street Building Demolition**, City of St. Paul PED/Planning (612) 228-3393; **Midway Market Place**, City of St. Paul PED (612) 228-3393; **Lyle Wastewater Facility**, Minn. Pollution Control Agency (MPCA) (612) 296-7432; **Oklee Wastewater Treatment Facility**, MPCA (612) 296-7432. • A petition for environmental review has been received for the **UPA Powerline Modification, Lino Lakes**, by the Minnesota Environmental Quality Board (612) 296-8253. • The Minn. Dept. of Natural Resources (DNR) is planning a rehabilitation project for Naylor Pond, Dodge County, by removing all fish from the 6.3 acre pond during the winter of 1989-90. The pond is on DNR land adjacent to a wildlife management area. The chemical to be used for treatment will be rotenone (Musyn-Noxfish) and will be applied to produce a concentration of 3.0 parts per million of active ingredient in water. Comments or questions should be addressed to James Groebner, DNR, Div. Fish & Wildlife, Section of Fisheries, 500 Lafayette Road, Box 12, St. Paul, MN 55155-4012.

**Metropolitan Council News:** The Metropolitan Council made new appointments to its **Developmental Disabilities Advisory Committee**. Named to the committee were: Twyla Marie Misslehorn and Mary J. Piggott, both of Minneapolis; and Jack Raymond Stoehr of Vadnais Heights. • **"Countdown to the Census"** is the theme of an event designed to increase participation of Twin Cities Area racial and ethnic minority groups in the 1990 U.S. census. The event is intended to help develop strategies to increase census awareness and the number of people counted in the area's minority communities. The census will take place April 1, 1990. The census event will be held Wednesday, Jan. 10, from 12:30 to 5 p.m. at the Radisson University Hotel in Minneapolis. Chuck Hazama, mayor of Rochester, Minn., will be the keynote speaker. • The council appointed Bob Jensen of Farmington to represent District 15 on the **Transportation Advisory Board (TAB)**. The former Lakeville mayor will complete retiring TAB member Bob Johnson's term, which will end in October 1990. • And the council confirmed the appointment of Delbert Cavanaugh to its **Minority Issues Advisory Committee (MIAC)**. Cavanaugh of St. Paul was recommended to the committee by the Minnesota Indian Affairs Council, of which he is a member.

**Funds Available for Elderly/Handicapped Transportation:** Approximately \$600,000 in federal grant funds will be available from the Minnesota Department of Transportation (Mn/DOT) for assistance in purchasing vehicles equipped to transport elderly and handicapped people. Private, non-profit organizations serving the elderly and handicapped are eligible to apply for the federal assistance grant funds according to Leonard W. Levine, Transportation Commissioner. The grant funds will provide 80 percent of the cost of the vehicle. The applicant must provide the remaining 20 percent as well as all of the operating expenses. Applications are available from Mn/DOT. The application consists of a seven step process with six required deadlines, the first of which is February 14, 1990. The seventh and final step, submittal of all completed application materials, has a deadline of April 25, 1990. For further information and application assistance, contact Dennis McMann, Office of Transit, 815 Transportation Building, St. Paul, Minnesota 55155, or phone (612) 297-2067.

**ATV Registration Required for Private/Agricultural Use:** All-Terrain Vehicles (ATVs) used exclusively on private land or for agricultural purposes must now be registered with the Minnesota Department of Natural Resources (DNR). Agricultural purposes are defined as "agriculturally related activities or harvesting of wood for commercial or firewood purposes." Formerly, only those ATVs in use on public lands or waters were required to be registered.

Two categories of ATV registration are now available: the private/agricultural registration and the public use registration. The private/agricultural registration is a one-time, non-transferable registration that carries a \$6 fee. The public use registration costs \$18 and is renewable in three-year cycles. Either type of registration is available at any Deputy Registrar of Motor Vehicles Office, or at the DNR License Bureau, 500 Lafayette Road, St. Paul, MN 55155-4026.

**Grants Available for Nongame Wildlife Research:** The Minnesota Nongame Wildlife Program is soliciting grant proposals for research projects to be conducted during the 1990-91 field seasons. Proposals should be for work contributing to the conservation and management of nongame wildlife (vertebrate or invertebrate) in Minnesota. Grant requests average \$3,000 per year, but larger requests will be considered. Funding comes from contributions to the Minnesota Nongame Wildlife Tax Checkoff. Projects focusing on state endangered, threatened or special concern species will be given high priority when awarding the grants. Appropriate projects may include censuses, surveys, studies of life history or population dynamics, assessment or identification of habitat, design of long-term monitoring programs, or other such topics. Applicants are encouraged to discuss proposal ideas with grants coordinator Richard Baker before submitting applications. The deadline for submitting proposals is Jan. 1, 1990. Decisions on grant awards will be announced no later than March 1, 1990. For grant program guidelines, proposal format, sample research ideas, endangered and threatened species list, or other information, contact: Richard J. Baker, Nongame Wildlife Program, Minnesota Department of Natural Resources, 500 Lafayette Road, St. Paul, MN 55155-4007; or call (612) 297-3764.

**Gifts from the Minnesota Zoo:** Be the "reigning dear" in your beloved one's life this holiday season with a unique, high-flying gift from the Minnesota Zoo. "Adopt" the Zoo's new baby reindeer, Ranger, through the A.D.O.P.T. (Animals Depend On People Too) program. A.D.O.P.T. sponsorships make wonderful gifts that convey your concern for wildlife and help support the Minnesota Zoo. For each donation of \$25.00 or more, you will receive: A 7 inch plush reindeer toy, Personalized certificate of Adoption, Reindeer factsheet, Holiday gift card, and an A.D.O.P.T. bumper sticker. The Zoo handles all mailing and delivery. The baby reindeer is the perfect holiday gift animal, but many other animals are available. Call the Minnesota Zoo A.D.O.P.T. office at (612) 431-9216 for more information. The Minnesota Zoo is open from 10:00 a.m. to 4:00 p.m. daily. Admission is \$4.00 for adults, \$2.00 for senior citizens, \$1.50 for children 6-16, and free for children 5 and under and all Zoo members. For information on Zoo events and activities, call the Minnesota "Zoo to Do" Hotline at 432-9000.

### Voices of the Loon

Its voice severs the bonds to the world of cities, traffic, crowds, lights and noise. The lyrical magic of the loon, sometimes hauntingly eerie, makes the skin tingle, and the hair on the back of the neck stand on edge, awakening a primitive response. Its solitary wail turns the shadowy wilderness into a mysterious path into eternity.

**Voices of the Loon**, cassette tape, includes introduction and loon call identification, chorus from a distant lake, tremolo duet, wail duet, border confrontation, wails with morning songbird chorus, tremolos while running, wails during a thunderstorm, and coyotes calling with loons. Code #19-73, \$12.00.

**The Loon: Voice of the Wilderness**, hardbound with color plates and illustrations, 143 pages. Code #19-54, \$17.95.

**Love of Loons.** A Voyageur Wilderness Book, with color photos and lore of this delightful state bird make this a beautiful gift. Stock #9-22, \$12.95 + tax.

**Loon Lapel Pin.** Code #15-30, \$2.49.

**Loon Windsock**, 56 inches long in full color. Code #15-29, \$19.95.

**Loon Nature Print**, full-color poster 16" x 22", Code #15-18, \$3.00.

**Loon with Baby**—poster, 16" x 20". Code #15-48, \$3.00.

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# Minnesota's future environment

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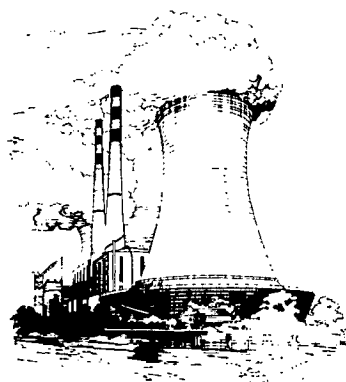
## 1988 Pollution Control Laws

Laws dealing with water pollution, disposal facilities, solid waste management, the MN Environmental Rights Act, recycling, and more. Code No. 2-21. \$16.00.

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Chapters 2800, 2805, and 2810 from the Minnesota Rules. *Essential* for both students and established brokers and salespersons. It contains all education and licensing requirements. Code No. 3-99. \$8.00

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**The Mushroom Hunter's Field Guide.** An all-color guide by Alexander Smith and Nancy Smith Weber with clear and orderly facts, explicit pictures and scientific accuracy. Stock # 9-10, \$14.95 + tax.

**Edible Mushrooms,** a classic guide to safe mushrooms, describes 60 species in detail, with photographs (many in color) to show each in its natural habitat. Advice to amateur mushroom hunters. Paperbound, 118 pp. Code #19-11, \$9.95.

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## Murder: Minnesota style

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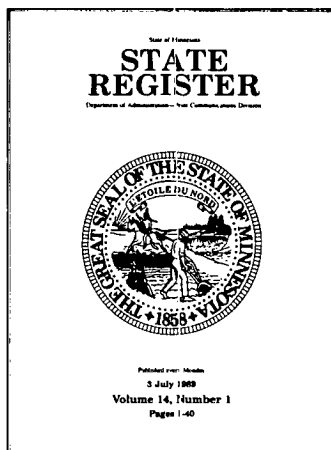
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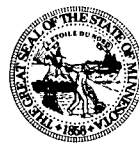
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## Human Services Laws and Rules

### Human Services Laws 1988

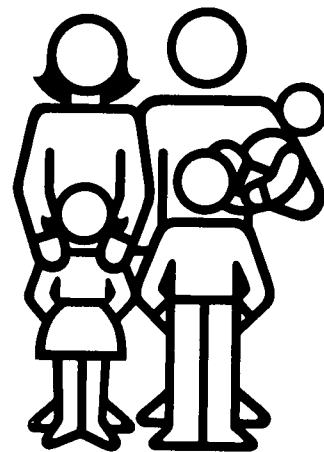
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