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Printing Schedule for Agencies

Issue Number	*Submission deadline for Executive Orders, Adopted Rules and **Proposed Rules	*Submission deadline for State Contract Notices and other **Official Notices	Issue Date
SCHEDULE FOR VOLUME 5			
36	Monday Feb 23	Monday Mar 2	Monday Mar 9
37	Monday Mar 2	Monday Mar 9	Monday Mar 16
38	Monday Mar 9	Monday Mar 16	Monday Mar 23
39	Monday Mar 16	Monday Mar 23	Monday Mar 30

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

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

Instructions for submission of documents may be obtained from the Office of the State Register, 506 Rice Street, St. Paul, Minnesota 55103, (612) 296-0930.

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The *State Register* is the official publication of the State of Minnesota, containing executive orders of the governor, proposed and adopted rules of state agencies, and official notices to the public. Judicial notice shall be taken of material published in the *State Register*.

Albert H. Quie
Governor

Carol Anderson Porter
Editor

David Zunker
Information Officer

James J. Hiniker, Jr.
Commissioner
Department of Administration

Paul Hoffman, Robin PanLener
Editorial Staff

Stephen A. Ordahl
Director
State Register and
Public Documents Division

Roy Schmidtke
Circulation Manager

Cindy Peterson
Secretary

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NOTICE

How to Follow State Agency Rulemaking Action in the *State Register*

State agencies must publish notice of their rulemaking action in the *State Register*. If an agency seeks outside opinion before promulgating new rules or rule amendments, it must publish a **NOTICE OF INTENT TO SOLICIT OUTSIDE OPINION**. Such notices are published in the **OFFICIAL NOTICES** section. Proposed rules and adopted rules are published in separate sections of the magazine.

The **PROPOSED RULES** section contains:

- Calendar of Public Hearings on Proposed Rules.
- Proposed new rules (including Notice of Hearing and/or Notice of Intent to Adopt Rules without A Hearing).
- Proposed amendments to rules already in existence in the Minnesota Code of Agency Rules (MCAR).
- Proposed temporary rules.

The **ADOPTED RULES** section contains:

- Notice of adoption of new rules and rule amendments (those which were adopted without change from the proposed version previously published).
- Adopted amendments to new rules or rule amendments (changes made since the proposed version was published).
- Notice of adoption of temporary rules.
- Adopted amendments to temporary rules (changes made since the proposed version was published).

All **ADOPTED RULES** and **ADOPTED AMENDMENTS TO EXISTING RULES** published in the *State Register* will be published in the Minnesota Code of Agency Rules (MCAR). Proposed and adopted **TEMPORARY RULES** appear in the *State Register* but are not published in the MCAR due to the short-term nature of their legal effectiveness.

The *State Register* publishes partial and cumulative listings of rule action in the **MCAR AMENDMENTS AND ADDITIONS** list on the following schedule:

Issues 1-13, inclusive	Issue 39, cumulative for 1-39
Issues 14-25, inclusive	Issues 40-51; inclusive
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PROPOSED RULES

Pursuant to Minn. Laws of 1980, § 15.0412, subd. 4h, 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 seven 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 modifications are supported by the data and views submitted.

If, during the 30-day comment period, seven 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 § 15.0412, subsd. 4 through 4g, which state that if an agency decides to hold a public hearing, it must publish in the *State Register* a notice of its intent to do so. This notice must appear at least 30 days prior to the date set for the hearing, along with the full text of the proposed rules. (If the agency has followed the provisions of subd. 4h and has already published the proposed rules, a citation to the prior publication may be substituted for republication.)

Pursuant to Minn. Stat. § 15.0412, subd. 5, when a statute, federal law or court order to adopt, suspend or repeal a rule does not allow time for the usual rulemaking process, temporary rules may be proposed. Proposed temporary rules are published in the *State Register*, and for at least 30 days thereafter, interested persons may submit data and views in writing to the proposing agency.

Department of Revenue Income Tax Division

Proposed Rule Governing Individual Housing Accounts (13 MCAR § 1.6016)

Notice of Intent to Adopt Rule without A Public Hearing

Notice is hereby given that the Department of Revenue proposed to adopt the above-entitled rule without a public hearing. The commissioner 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, § 15.0412, subdivision 4h (1980).

Persons interested in this rule shall have 30 days to submit comments on the proposed rule. The proposed rule may be modified if the modifications are supported by the data and views submitted to the agency and do not result in a substantial change in the proposed language.

Unless seven or more persons submit written requests for a public hearing on the proposed rule within the 30-day comment period, a public hearing will not be held. In the event a public hearing is required, the agency will proceed according to the provisions of Minnesota Statutes, § 15.0412, subsd. 4-4f.

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

Mr. Gary P. Mesna
Attorney, Income Tax Division
Minnesota Department of Revenue
Centennial Office Building
St. Paul, Minnesota 55145
(612) 296-3439

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

Authority for the adoption of this rule is contained in Minnesota Statutes, §§ 290.09, subd. 30, and 290.52. Additionally, 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 Mr. Mesna upon request.

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

The proposed rule, if adopted, would impose or clarify certain duties on the trustee of an Individual Housing Account (IHA) with respect to qualification, reporting of information and withholding of tax and impose penalties for failure to comply.

The proposed rule requires that certain provisions be included in the trust agreement for an IHA. Also required is a disclosure statement, which the trustee must furnish a prospective participant.

Explained and clarified in the proposed rule are the deduction for contributions to an IHA, the exemption from tax for distributions used for the participant's first principal residence in Minnesota, and the tax treatment of distributions not so used.

Also covered by the proposed rule are certain special situations, such as disability or death, nonresidents, married participants, transfers of the account to a different trustee, and termination of the account.

Copies of this Notice and the proposed rule are available and may be obtained by contacting Mr. Mesna.

February 13, 1981

Clyde E. Allen, Jr.
Commissioner of Revenue

Rule as Proposed

13 MCAR § 1.6016 Individual housing accounts.

A. Definitions.

1. IHA. The term "IHA" shall mean an individual housing account established pursuant to this rule and the Young Family Housing Act.

2. Participant. The term "participant" shall mean an individual natural person for whose exclusive benefit an IHA is held. In the case of an IHA held jointly for an individual and his or her spouse, the term shall mean both of them.

3. Deposit. The term "deposit" shall mean a deposit or contribution of cash to an IHA, whether made by the participant or any other person.

4. Withdrawal. The term "withdrawal" shall mean a withdrawal or distribution of any amount from an IHA, whether withdrawn by or distributed to the participant or any other person or entity.

5. Principal residence. The term "principal residence" shall mean the dwelling unit that the participant actually lives in and that the participant intends to be his/her fixed abode. A principal residence shall require both a physical presence in the dwelling unit and an intention to make that dwelling unit one's home. A principal residence shall be that dwelling unit to which, during an absence, the participant intends to return and from which there is no present intention of moving. There shall be a presumption that the dwelling unit in which a person's family lives is that person's principal residence.

The dwelling unit must be located within Minnesota and may be all or part of a house, townhouse, condominium or cooperative. If a building contains more than one dwelling unit, only the dwelling unit actually occupied by the participant as his/her residence shall qualify as a residence. If a portion of the building is used for some purpose other than as a dwelling unit, for example, a portion of a building is used for a trade or business, only the portion used as a dwelling unit shall be considered a residence. The purchase price of such a building shall be properly allocated between the dwelling unit and the business portion of the building.

The participants may purchase the residence with others, for example, in joint tenancy, tenancy in common, or as a tenant-stockholder in a cooperative housing corporation. In this case, the dwelling unit shall qualify as a residence only to the extent of the participant's ownership interest therein.

In order to qualify for any of the benefits of the IHA provision, the residence must be the first dwelling unit ever owned and occupied by the participant as his/her own permanent residence. A taxpayer who previously owned or currently owns his/her own residence, whether located in Minnesota or in any other state or country, shall not qualify.

B. General requirements.

1. An IHA shall be a trust established in Minnesota for the exclusive benefit of a participant or, in the case of a married person, for the exclusive benefit of the participant and the participant's spouse, jointly.

2. An IHA shall not be established or maintained for a participant who currently owns or formerly owned a principal residence, whether or not it is (was) located in Minnesota.

3. An IHA shall not be established or maintained for a participant who is currently the participant of another IHA. An individual shall not have two IHAs at one time. However, an IHA may be established for an individual who had an IHA at some time in the past but which was terminated and not used for the purchase of a first principal residence.

4. Contents of Trust Agreement. (For recommended format of Trust Agreement, see Exhibit A.) The IHA trust shall be established pursuant to a written trust agreement which shall contain, in addition to any other provisions, a separate provision for each of the trustee's duties prescribed in Part C. of this rule and a statement that the trustee agrees to comply with the law and rules applicable to IHAs.

5. Contents of disclosure statement. (For recommended format of disclosure statement, see Exhibit B.)

a. The disclosure statement shall set forth in nontechnical language the income tax consequences of establishing an IHA, the limitations and restrictions on the program, and other matters as follows:

(1) The ineligibility of individuals who own or have owned a residence;

(2) The deductibility of deposits to an IHA, the \$1,500, \$2,500 and \$10,000 maximum limitations, and the requirement that the amount be on deposit for six months before a deduction is allowed;

(3) The tax treatment of a withdrawal from an IHA when the amount withdrawn is used for any purpose other than the purchase of a first principal residence that is located in Minnesota;

(4) The requirement that the first principal residence be purchased within 10 years from the date that the account was first established;

(5) An explanation of the additional taxes that may be due (in addition to the regular tax liability) on withdrawals not used for the purchase of a first principal residence.

(6) An explanation of the additional taxes that may be due (in addition to the regular tax liability) on excess contributions as well as an explanation of what constitutes an excess contribution.

(7) The availability of a tax free transfer of the account to a different financial institution or credit union and an explanation of what constitutes such a transfer.

(8) If the IHA is revocable within seven days after establishment, as provided in subpart C.1.f., the disclosure statement shall include a statement of the circumstances under which the participant may revoke the account and the procedure therefor, including the name, address and telephone number of the person designated to receive the notice of revocation. This explanation shall be prominently displayed at the beginning of the disclosure statement.

(9) A statement that the trustee is authorized by law to act as trustee of IHAs and has received approval to so act from the Commissioner of Banks or is not required to obtain such approval.

(10) A statement that the trustee will abide by all laws and rules applicable to trustees of IHAs.

(11) A statement that it is the participant's responsibility to assure that the financial institution is authorized by law to act as trustee of IHAs and that the particular account set up for that participant meets all of the requirements of the law and this rule.

(12) A statement that upon audit of the participant's income taxes by the Department of Revenue, if it is found that the account or the trustee do not meet all of the requirements of the law and this rule, the deductions under this program may be denied.

b. If the trustee does not furnish a disclosure statement as required by this rule or furnishes one that does not substantially comply with this rule, he shall be liable to the commissioner for a penalty of \$10 for each required disclosure statement that he did not furnish or that did not comply with this rule. A disclosure statement that is false or misleading shall not be considered to comply with this rule.

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

6. A financial institution or credit union may act as the trustee of IHAs only if it meets the requirements of the law and this rule and either it has received approval to so act from the Commissioner of Banks or it is not required to obtain such approval.

7. A financial institution or credit union, in order to act as a trustee of IHAs, must actively make residential real estate mortgage loans in Minnesota. This means that the particular financial institution or credit union must originate mortgage loans in Minnesota on Minnesota real estate by lending money to the original mortgagor and taking a mortgage back as security for the loan.

The mere holding of Minnesota mortgages, obtained in the secondary market by an institution that does not originate such loans, does not qualify.

Furthermore, the institution shall, subject to the availability of funds for such purpose, regularly throughout the year be ready and willing to make residential real estate mortgage loans in Minnesota. Whether or not an institution is actively engaged in making such loans shall be determined by reference to the general market conditions affecting all real estate lenders, rather than by the actual number of such mortgage loans made by the particular institution during a particular period of time: The fact that there is no mortgage money available or that the interest rate is so high that no one desires a mortgage loan shall not, alone, prevent a financial institution from being a trustee. The fact the institution seeking approval to administer IHAs made no such loans during a period of time while other financial institutions were making such loans shall be evidence that the particular financial institution is not actively making residential real estate loans in Minnesota.

8. The participant shall, upon request of the commissioner, submit copies of the trust agreement and disclosure statement and such other evidence as the commissioner may request to establish whether or not the particular IHA meets the requirements of the law and this rule. None of the tax benefits of the IHA provisions shall be available to a participant who is unable to show that both the IHA and the trustee meet the requirements of the law and this rule.

C. Duties of trustee.

1. In general.

a. The trustee shall accept only cash deposits to an IHA. No other property shall be accepted in an IHA trust, such as stocks, bonds, notes, debentures, mutual funds, real estate, or otherwise.

b. The trustee shall not accept deposits to an IHA in excess of \$2,500 for a single taxable year or in excess of \$10,000 for all taxable years.

c. The trustee shall not establish an IHA for an individual unless he receives a written statement from the individual indicating that the individual does not currently own and has never owned his/her own principal residence, whether in Minnesota or in any other state or country.

d. The trustee shall distribute the entire account to the participant within 10 years after the first deposit to the account. Transfer of the entire amount in the IHA into a different account, which is not an IHA, shall constitute such a distribution but the transfer shall be treated as a withdrawal not used for the purchase of a first principal residence, as provided in Part F. of this rule, and the trustee must withhold tax as prescribed by subpart 3. of this part.

e. For each withdrawal, the trustee shall withhold tax as prescribed by subpart 3. of this part unless it verifies in accordance with this rule that the withdrawal is being used for the purchase of a first principal residence that is located in Minnesota and makes the instrument of payment payable to the seller or the seller's designee (other than the participant), construction contractor or other vendor of the property. If only a portion of the withdrawal will be used for the purchase of a first principal residence, tax shall be withheld on the portion that will not be so used. This subparagraph is not applicable to a withdrawal attributable to disability or death which is verified in accordance with this rule.

f. The trustee at least seven days prior to the establishment of an IHA shall provide a written disclosure statement in accordance with this rule and a copy of the governing instrument to each person who proposes to establish an IHA with the trustee. In the alternative, the trustee may provide the written disclosure statement to the participant at the time that the IHA is established, but only if the trust agreement provides that the trust shall not constitute an IHA for seven days following execution of the agreement, during which period of time the grantor may revoke the trust.

g. In the case of an amendment to the terms of the account or trust agreement, whether or not made pursuant to a statutory or rule change, a revised disclosure statement shall be furnished to the participant. The revised statement need not repeat material furnished in a prior statement, but it must set forth those matters affected by the amendment.

h. The trustee may invest assets of the trust only in savings or time deposits. Certificates of deposit shall qualify as savings or time deposits. The savings or time deposits must be the trustee's own accounts or certificates; investment in accounts or certificates of other institutions is not permitted. The savings or time deposits must be fully insured by an agency of the state

or federal government. Assets of an IHA trust shall not be invested in any other types of assets, e.g., stocks, bonds, notes, debentures, mutual funds or otherwise.

i. The trustee may commingle funds held in IHA trusts for purposes of investment but the trustee shall maintain individual records on each IHA in accordance with this rule.

2. Reporting requirements.

a. Annual report to Commissioner of Revenue.

(1) The trustee shall file a report with the Commissioner of Revenue by February 28 of each year for each IHA administered by him at any time during the preceding calendar year, including the following information on each IHA:

(a) Name, address, and such other identifying information of the trustee as the commissioner may prescribe.

(b) Name, address and social security number of the participant(s).

(c) Date account was established.

(d) Whether a withdrawal was used for the first purchase of a principal residence in Minnesota. If so, the trustee shall submit with this report the verification form required under subpart c. of this part.

(e) Whether a withdrawal was claimed to be attributable to death or disability. If so, the amount thereof shall be indicated and the trustee shall submit with this report the written declaration required under Part H. of this rule.

(f) Date and amount of each deposit during the preceding calendar year.

(g) Date and amount of each withdrawal during the preceding calendar year.

(h) Amount of interest paid, accrued or credited to the account during the preceding calendar year.

(2) One copy of the report shall be filed with the Commissioner of Revenue; two copies shall be furnished to the individual participant.

b. Report and verification by trustee of withdrawals used for first principal residence in Minnesota.

(1) Before allowing a withdrawal from an IHA, the trustee shall either withhold tax as prescribed by paragraph 3, below, or verify that the withdrawal is being used for the purchase of a first principal residence that is located in Minnesota (unless the trustee determines in accordance with Part H. that the account holder has died or become disabled). The verification shall be supplied on a form prescribed by the commissioner which is completed by the participant and filed with trustee. The following information shall be included on the form:

(a) Location and description of property being purchased.

(b) Name and address of person or entity from whom the property is being purchased.

(c) Name of realtor, closing company, etc., if any.

(d) Type of ownership anticipated, i.e., whether title will be held alone, as tenancy in common, joint tenancy, or cooperative.

(e) Total purchase price, including any mortgages or contracts given or assumed.

(f) Amount to be financed, i.e., amount to be paid later than closing date, whether by mortgage, contract for deed or otherwise.

(g) Anticipated closing costs and description thereof.

(h) Closing date.

(i) Amount withdrawn from the account during the taxable year.

(j) Portion of amount withdrawn which will be used to purchase the first principal residence.

(k) The person or entity to whom the withdrawal or distribution is to be made payable.

(l) Name and address of trustee.

(m) Name, address and social security number of participant.

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PROPOSED RULES

(2) The trustee shall file a copy of this form with the Commissioner of Revenue at the time that he files the annual information return for the particular account.

3. Withholding requirements.

a. The trustee shall withhold tax in an amount equal to 10% of the amount of any withdrawal and remit the amount within 10 days to the Commissioner of Revenue unless the trustee satisfies one of the following requirements:

(1) Verifies in accordance with this rule that the withdrawal is used for the first purchase of a principal residence located in Minnesota, and makes the withdrawal payable to the person or entity from whom the residence is being purchased, either alone or jointly with the participant, or

(2) verifies in accordance with this rule that the participant has died or is disabled, or

(3) determines that the withdrawal is of an excess contribution and is withdrawn by the due date of the tax return for the taxable year in which the excess contribution was made.

b. The trustee shall be personally liable for the amount of any tax required to be withheld under this section.

4. Penalties. For each instance in which a trustee fails to timely file or furnish a report or return required by this rule with either the Commissioner of Revenue or with the individual participant, a penalty of \$10 shall be due from the trustee and shall be paid to the Commissioner of Revenue.

D. Deduction for contributions to an IHA.

1. The annual deduction for deposits to an IHA shall not exceed \$1,500. Moreover, the total amount of all deductions for deposits to an IHA that may be claimed by the participant and his spouse in all taxable years shall not exceed \$10,000. These limitations shall not apply to amounts deducted which constitute interest accrued on the IHA.

2. An additional deduction shall be allowed for interest accrued on the IHA during its 10 year existence. However, no deduction shall be allowed for the portion of any interest which is attributable to an excess contribution, as defined in Part G. of this rule. And, no deduction shall be allowed for interest paid or accrued after the termination of the IHA.

3. No deduction shall be allowed under the IHA provisions for any amounts which have already been excluded from gross income or deducted in computing taxable income whether under federal law or under another provision of state law. A taxpayer shall not deduct or exclude the same item twice. For example, if an unmarried participant excludes \$200 of interest income, earned from an IHA, in computing federal adjusted gross income under the federal provision allowing a partial exclusion of dividend and interest income received by individuals, he cannot take a deduction for the same \$200 of interest under the IHA provisions. If more than \$200 of interest was credited to his IHA during the taxable year, he may deduct the excess over \$200 under the IHA provisions.

4. To the extent that a deposit is deductible under this rule, no deduction shall be allowed for interest expense in connection with a loan the proceeds of which are deposited to the IHA.

5. The deduction shall be allowed only for amounts on deposit for at least six months at the close of the taxable year. For calendar year taxpayers, the deposit must have occurred prior to July 1 of the taxable year.

Amounts on deposit for less than six months at the close of the taxable year may be deducted only in the next succeeding taxable year and shall be included when determining the \$1,500 maximum deduction amount for that next succeeding taxable year. Thus, a deduction not exceeding \$1,500 is allowed for deposits to an IHA in the last six months of the preceding taxable year or in the first six months of the current taxable year.

The deduction for interest paid or accrued on an IHA shall be allowed only for interest paid or accrued during the taxable year. Thus, for a deposit made during the last six months of a taxable year, the interest paid or accrued during the last six months of the taxable year shall be allowed as a deduction for that taxable year even though the deposit itself is not deductible until the next taxable year.

6. Married participants shall not each get a \$1,500 deduction for each taxable year. The sum of the deductions, not including interest, allowed to the two married participants shall not exceed \$1,500. This rule shall apply whether the married participants file separately on separate forms, separately on a combined form, or jointly.

For married participants who file separate returns, only the individual to whom the money that is deposited actually belongs shall be allowed the deduction. For married participants who file separate returns on a combined form or who file joint returns, the deduction shall be allowed to the spouse to whom the money that is deposited actually belongs or the deduction may be divided between them as they elect.

Married participants shall not each be allowed deductions totaling \$10,000. Rather, the sum of all deductions, not

including interest, claimed by the two married participants for deposits to an IHA for all taxable years shall not exceed \$10,000. Any amount deposited in excess of \$10,000 shall be treated as an excess contribution and subject to the 6% additional tax.

E. Exemption from tax for distributions used for a first residence.

1. Amounts withdrawn from an IHA which are used exclusively in connection with the first purchase of a principal residence in Minnesota shall not be included in gross income in the taxable year withdrawn.

2. The term "used exclusively in connection with the first purchase of a principal residence" shall mean only those amounts used for items directly related to the initial purchase of the participant's own first residence. In addition to the actual down payment, the term may include fees and other acquisition expenses incurred and actually paid by the participant for the first residence, such as sales commissions, points (those not deductible as interest), title insurance, legal fees, inspection fees, and current or delinquent real estate taxes; provided, however, that each item shall be included in this term only to the extent that the item is not deductible under another provision of state or federal law.

The term shall not include interest (or points, to the extent the points are deductible as interest), since interest is deductible under another provision of law. The term shall not include expenditures for repairs or maintenance of the residence which do not increase its value or extend its useful life, i.e., noncapital expenditures. Also, the term shall not include expenditures for personal property, such as furniture, appliances or other furnishings.

If the participant is building his own new residence or purchasing and remodeling an existing residence (or having a contractor do it for him or her), the term may include amounts paid for building materials and labor, as well as for the lot or the existing residence being remodeled.

In order to qualify as an amount "used exclusively in connection with the first purchase of a principal residence," the amount withdrawn shall be made payable to the person or entity from whom the property is being purchased. This may include the seller, vendor, contractor, or designee of one of them (other than the participant), or the person or entity from whom the building materials or labor are being purchased. The amount may be made payable to such person or entity, alone, or jointly with the participant.

Use of an amount from an IHA pursuant to a written earnest money agreement shall be considered as used for the first purchase of a principal residence, if all other requirements are met. If the sale is not completed and the money is either forfeited pursuant to the earnest money agreement or immediately redeposited in the IHA, no tax consequences shall result, i.e., the withdrawal for earnest money is ignored. However, if the earnest money is used for any other purpose, the amount withdrawn shall be treated as "not used for the purchase of a first principal residence," as provided in Part F. of this rule. The trustee, however, is not required to withhold the 10% additional tax on a withdrawal used for earnest money as long as the trustee makes the withdrawal payable to the escrow agent and obtains from the participant a completed verification that the withdrawal is being used for the purchase of a first principal residence.

3. In order to be exempt from taxation, the amounts shall be used for the purchase of the principal residence within a reasonable time after withdrawal and shall not be used for any other purpose in the interim.

4. Only the participant of the particular IHA may use the account for the purchase of his/her own first principal residence. It cannot be used to purchase a residence for someone else, for example, by gift, loan, or rental to another.

5. A participant shall not deduct or exclude the same item twice, under different provisions of law. For example, when the participant makes a withdrawal from an IHA and uses it for the first purchase of a principal residence, if any portion of the withdrawal is used to pay interest expense in connection with the purchase of the residence, no deductions shall be allowed for the portion so used, since interest expense is deductible under another provision of law.

6. No adjustment to the basis of the residence that is purchased is required because of the use of amounts from an IHA.

7. A withdrawal used for the first purchase of a principal residence shall not be included in computing the low income alternative tax, the property tax refund, or in the income limitations for purposes of the homemaker credit, the dependent care credit, the farm loss modification, or the charitable deduction.

8. In order to claim exemption from income tax of amounts used for a first principal residence in Minnesota, the participant shall attach to his income tax return for the taxable year a copy of the verification form that he or she provided to the

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trustee as well as a copy of the closing statement, if any, from the purchase of the residence. The participants shall also furnish any additional information that the commissioner may request to verify that all requirements of this rule have been met.

F. Tax treatment of distributions not used for a first principal residence.

1. With certain limited exceptions, amounts withdrawn from an IHA which are not used for the purchase of a first principal residence, are includible in the participant's gross income and subject to an additional 10% tax in the taxable year of the withdrawal. The additional tax is in addition to any tax that is otherwise due on the amount of any withdrawal that must be included in gross income.

2. The amount to be included in gross income is not necessarily the total amount of the withdrawal. Rather, the amount includible in gross income is the portion of the withdrawal attributable to a contribution or accrued interest that was actually deducted under the IHA provisions, either in the current or a prior taxable year. The portion of a withdrawal that is not attributable to either a deductible contribution or deductible interest is not includible in gross income or subject to the 10% additional tax.

3. There is an exception to these rules where the participant has died or become disabled. The 10% additional tax shall not be due from the estate of a participant who has died or from a participant who has become disabled if the death or disability is verified in accordance with Part H. of this rule.

4. All amounts withdrawn and not used for the purchase of a first principal residence are ordinary income to the participant. The 10% additional tax is not to be offset by any nonrefundable tax credits.

5. The 10% additional tax shall not apply to a withdrawal of excess contributions where the withdrawal is made within the time for filing a return for the taxable year in which the excess contribution was made. This paragraph shall apply only if the interest attributable to the excess contribution is withdrawn at the same time.

6. The 10% additional tax shall not apply to amounts returned to a prospective participant pursuant to a revocation of the trust within seven days of its establishment, as provided in Part C.1.f. of this rule. Until the revocation period has expired, the account shall be treated as not constituting an IHA and the return of the initial deposit shall not be treated as a "withdrawal."

7. Any amounts remaining in the account on the termination date shall be treated as a withdrawal and shall be included in gross income in the taxable year in which the termination date falls and shall be subject to the additional tax for failure to use for a first principal residence.

G. Excess contributions.

1. An additional tax shall be due from the participant of an IHA in which there are "excess contributions" on deposit. The additional tax shall be an amount equal to 6% of the amount of the excess contributions in the account.

2. The additional tax shall be due in the taxable year in which the excess contribution is made and in each taxable year that the excess contribution remains in the account. When excess contributions are made in more than one taxable year, the amount of the excess contributions made in the current taxable year shall be added to the amount of excess contributions remaining in the account from previous taxable years in determining the amount of the excess contributions subject to the additional tax.

3. "Excess contributions" are those amounts deposited in an IHA during a particular taxable year which exceed \$2,500 or during the 10 year life of the IHA which exceed \$10,000. However, an amount in excess of \$2,500 deposited during a taxable year shall not be considered an excess contribution and shall not be subject to the 6% additional tax if the excess amount, together with the interest earned on the excess amount, is withdrawn from the account by the date that the tax return is due for the taxable year of the excess contribution. Thus, the 6% additional tax may be avoided by withdrawing the excess amount before the tax return is due. The interest earned on the excess contribution shall not be allowed as a deduction in the taxable year in which the contribution was made, or thereafter. The withdrawn contribution shall not be included in gross income except to the extent that any portion was deducted or otherwise not taxed in the year of the contribution.

4. An excess contribution may also be withdrawn in a year subsequent to the year in which the excess contribution was made. The 6% additional tax shall not be due on the amount of the excess contribution that was withdrawn before the close of the taxable year. There is no requirement that the interest earned on the excess contribution be withdrawn from the account with the excess contribution, as in the previous paragraph.

5. Any withdrawal from an IHA in which there are excess contributions on deposit shall be deemed a withdrawal of the excess contributions to the extent thereof. Thus, any withdrawal will reduce the amount subject to the excess contribution additional tax, yet will not reduce any allowable deduction or exemption to the extent of the excess contribution.

6. An excess contribution made in one taxable year may be used in another taxable year as a deductible contribution. An amount so used must be included with any deposits made in the current year in determining whether the deduction limitations of

\$1,500 and \$10,000, provided in Part D.1. of this rule, have been met. The deduction allowed for an excess amount in an IHA shall be the amount of the difference between the maximum amount allowable as a deduction and the amount that is actually deposited during the taxable year. A deduction shall not be allowed for an excess contribution in a taxable year prior to the year in which the excess contribution is made.

H. Special rules.

1. Disability or death.

a. A withdrawal by a participant who is disabled within the meaning of Minn. Stat. § 290A.03, subd. 10 shall not be subject to the 10% additional tax for not using it for the purchase of a first principal residence. The withdrawal shall, however, be included in the participant's gross income in the year of the withdrawal under the same rules as for a participant who is not disabled. A disabled participant shall be subject to the 6% additional tax on excess contributions.

A participant shall not be treated as disabled unless he furnishes to the trustee at or prior to the time of the withdrawal a signed declaration of his/her disability including a description of the disability, the name of his/her treating physician and a statement, signed by that physician, stating that the disability prevents the participant from engaging in any kind of substantial gainful work or that the participant is "blind" within the meaning of Minn. Stat. § 290A.03, subd. 10. The trustee shall file a copy of this declaration with the Commissioner of Revenue. Upon request, the participant claiming disability shall furnish to the Commissioner of Revenue a signed statement of a physician describing in detail the nature of the disability and, except in the case of blindness, how it prevents the participant from engaging in any substantial gainful work. In addition, the individual shall furnish such other information as the commissioner shall determine is necessary to verify that the disability is within the meaning of § 290A.03, subd. 10.

b. Except in the case of an account held jointly between spouses, upon the death of a participant of an IHA, the account shall terminate and become immediately payable to the estate of the deceased participant. The amount in the account as of the date of death, including any accrued interest, shall be treated as a withdrawal and included in the deceased participant's gross income on his/her final income tax return. The 10% additional tax for failure to use a withdrawal for the purchase of a first principal residence shall not be applicable to the deceased participant or his/her estate.

In the case of an account held jointly for the benefit of two spouses, upon the death of one of the spouses, the account shall continue for the benefit of the surviving spouse. Limitations and restrictions on the IHA shall apply to the surviving spouse as if he or she had made all prior deposits and withdrawals. No additional tax shall be due solely by reason of the death. Also, no additional tax shall be due by reason of a withdrawal attributable to the death. A withdrawal by surviving spouse shall be deemed to be attributable to the death if it is made within six months after the death. Any other withdrawal, not attributable to the death, shall be subject to the additional tax if it is not used for the purchase of a first principal residence. Also, the surviving spouse shall remain subject to the additional tax on excess contributions.

2. Transfers of IHAs.

a. The term "transfer" shall mean a transfer of the entire amount in an IHA in one financial institution or credit union to a new IHA in another financial institution or credit union.

b. The participant of an IHA may transfer an IHA from one financial institution or credit union to another. The transfer of an IHA pursuant to this rule shall not be treated as a withdrawal from the first account or as a deposit to the second account as long as each of the requirements of this rule are met with respect to each account. The amount transferred pursuant to this rule shall not be included in gross income in the year of the transfer or subject to the 10% additional tax for not being used for the purchase of a first principal residence in Minnesota. The 6% additional tax on excess contributions shall apply only if and to the extent that excess contributions are transferred as part of the account.

c. A transfer shall qualify under this rule only if the entire interest in the IHA is transferred to a new IHA and the original IHA is closed and terminated. A participant shall not have more than one IHA at any one time. The funds in an account to be transferred shall be promptly transferred from one financial institution or credit union to another. Any use of the funds for any purpose in the interim shall be treated as a withdrawal not used for a first principal residence and shall be included in gross income and subject to the additional tax.

d. The IHA account receiving the transfer shall terminate 10 years from the date the original IHA account was

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established and the written trust agreement shall so provide. The participant shall inform the new trustee that the deposit is a transfer of the IHA, rather than a new IHA, and the date of the first deposit to the original IHA.

e. The trustee of the account to be transferred shall not be subject to the withholding requirements of this rule if it received a written declaration from the participant of his or her intention to roll over the account and the name and address of the financial institution or credit union to which the account will be transferred. The original trustee shall make the instrument of payment payable to the new trustee, either alone or jointly with the participant. The original trustee shall within 10 days file a copy of the declaration with the Commissioner of Revenue.

3. Nonresidents. An individual who is not a resident of Minnesota shall be allowed to establish an IHA in Minnesota and shall be allowed a deduction for deposits to the account against any income that is assignable in Minnesota. A Minnesota resident who establishes an IHA but later changes his/her residence to another state may maintain the IHA in Minnesota.

A nonresident participant shall be subject to the same rules as a resident with respect to the includibility of withdrawals in gross income and the imposition of additional taxes. Any portion of a withdrawal that is required to be included in gross income shall be assignable to Minnesota. Any amounts upon which an additional tax is imposed shall be assignable to Minnesota.

4. Married participants. Whenever two single participants marry, their two accounts shall be treated for tax purposes as one joint account. This treatment, however, shall extend only to the two married participants and shall have no effect whatsoever on the trustees of either account, who shall continue to administer each account as if there was a single participant. Both accounts shall be treated as having terminated 10 years from the date of the first deposit to the account that was established first. Only those deposits made in the taxable year of the marriage and thereafter will be considered in determining the excess contributions. The \$1,500, \$2,500 and \$10,000 limitations shall apply separately to each participant for taxable years prior to the marriage and shall apply to the two participants together, the same as for other married participants, for the taxable year of the marriage and for all taxable years thereafter in which they are married. If, in the taxable year of the marriage, deposits made by both participants, together, total \$10,000 or more, all further deposits shall be excess contributions subject to the 6% additional tax. Interest shall be deductible in the year of the marriage and thereafter only to the extent that it is attributable to the first \$10,000 of total combined deposits.

The amounts in the two accounts prior to the tax year of the marriage shall not be considered an excess contribution in the year of the marriage solely because of the two accounts being treated as one.

For example, A set up an IHA in 1981 and deposited \$1,500 per year to the account. B set up an IHA in 1981 and deposited \$2,500 per year to the account. In 1985, A and B marry. A's account balance in 1985, not including interest or transactions in 1985, is \$6,000. B's account balance in 1985, not including interest or transactions in 1985, is \$10,000. Upon marriage, the two accounts will be treated as one account for tax purposes. The balance on the marriage date will be \$16,000, not including interest. Because the total deposits by the two spouses exceed \$10,000, no further deposits will be allowed. Any deposit made in 1985 or thereafter is an excess contribution subject to 6% additional tax. No additional tax shall be imposed for the year of the marriage as long as no deposits are made during that year or any that were made in 1985 are withdrawn by April 15, 1986. Interest will be deductible only to the extent it is attributable to the first \$10,000 of deposits. Interest on the other \$6,000 of deposits in the account is not deductible.

5. Termination of account.

a. The IHA shall terminate in the following cases:

(1) The account shall terminate whenever all or part of the account is used for the purchase of a first principal residence which is located in Minnesota. No deduction shall be allowed for deposits made or interest paid or accrued after the termination.

(2) The account shall terminate 10 years from the date of the first deposit to the account. In the case of an IHA which has received a transfer from another IHA under Part H.2. of this rule, the account shall terminate 10 years from the date of the first deposit to the first account. All amounts in the account on the termination date shall be distributed to the participant. Transfer of the total amount in the IHA to a non-IHA account shall satisfy this distribution requirement. However, it shall be treated as a withdrawal not used for the purchase of a first principal residence.

b. Any amounts remaining in the account on the termination date shall be treated as a withdrawal and shall be included in gross income in the taxable year in which the termination date falls and shall be subject to the additional tax for failure to use for a first principal residence.

6. Marriage dissolution transfers. A transfer of a participant's interest in an IHA to his former spouse pursuant to either a dissolution of marriage decree or a written instrument incident to a dissolution of marriage shall not be treated as a withdrawal and shall not be includible in gross income or subject to additional tax solely by reason of the transfer, as long as the IHA is

maintained as such by the transferee. However, the withdrawal of any amounts from the IHA by the transferee shall be treated as any other withdrawal and subject to all of the provisions of this rule. Limitations and restrictions on the IHA shall apply to the transferee as if he or she had made all prior deposits and withdrawals. For example, if the transferee had deducted \$9,000 for deposits to the account over a six year period prior to the marriage dissolution transfer, the transferee could deposit only \$1,000 more before reaching the \$10,000 deduction limitation. The IHA would automatically terminate four years after the transfer since the transferee is treated as having made the first deposit to the account six years prior to the transfer.

I. Exhibits

Exhibit A

PROTOTYPE
INDIVIDUAL HOUSING ACCOUNT
TRUST AGREEMENT

This Agreement is entered into this _____ day of _____, 19 _____, between:

Individual's Name: _____

Spouse's Name: _____
(If married, both spouses must be listed.)

Social Security Numbers: _____ and _____

Address: _____

hereafter referred to, singularly and collectively, as "Participant," and

Name of Financial Institution: _____

Banking Division's Approval Number: _____

(If none is required, so indicate.)

hereafter referred to as "Trustee,"

For the purpose of establishing a trust which qualifies as an Individual Housing Account under Minnesota Statutes, Section 290.09, Subd. 30 (also referred to as the Young Family Housing Act).

Participant has transferred and delivered to Trustee the sum of _____ Dollars (\$_____) in cash, as an initial contribution to the trust account hereby established.

NOW, THEREFORE, IT IS AGREED by and between Participant and Trustee that each party will abide by the laws and rules applicable to Individual Housing Accounts and that contributions made to the trust will be held and distributed pursuant to the terms of this Agreement as follows:

ARTICLE I. REPRESENTATIONS

- 1.1 Trustee is a financial institution authorized by law to act as Trustee for Individual Housing Accounts.
- 1.2 Trustee actively makes residential real estate mortgage loans in Minnesota.
- 1.3 Participant does not now own and has never owned a principal residence wherever located.
- 1.4 Participant does not now have another IHA either with this institution or any other institution.

ARTICLE II. REVOCATION

- 2.1 Unless Trustee has furnished a disclosure statement to Participant at least seven days prior to the date of this Agreement, the Trust shall not take effect until seven days after the date of this Agreement.
- 2.2 During the seven day period provided in paragraph 2.1, Participant may revoke this Agreement and receive back any deposits made to Trustee. The Agreement shall not constitute an Individual Housing Account. The Trustee will not withhold tax upon the revocation.
- 2.3 If during the period provided in paragraph 2.1, Participant does not revoke the Agreement, the trust shall relate back in time to the date of this Agreement.

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ARTICLE III. CONTRIBUTIONS

- 3.1 Trustee will accept additional deposits which shall become part of the corpus of this trust.
- 3.2 Participant will contribute and Trustee will accept no more than \$2,500 of total deposits to the trust in any taxable year and no more than \$10,000 of total deposits to the trust for all taxable years.
- 3.3 All deposits will be made in cash.

ARTICLE IV. INVESTMENTS

- 4.1 The assets of the trust will be invested only in savings or time deposits in amounts fully insured by a Minnesota agency or a federal agency established for the purpose of insuring accounts in financial institutions.
- 4.2 The assets of the trust may be commingled for purposes of investment provided that individual records are maintained by Trustee for Participant, as prescribed by the Commissioner of Revenue.

ARTICLE V. WITHDRAWALS

- 5.1 Participant may withdraw amounts from the trust at any time by written notice to the Trustee.
- 5.2 Trustee shall deduct and withhold from any amount withdrawn a tax in the amount of 10 percent of the amount withdrawn unless Trustee receives from Participant a written verification statement pursuant to paragraphs 5.3 or 5.4.
- 5.3 Trustee will not deduct and withhold tax from any amount withdrawn if he receives from Participant a written statement, in accordance with rules of the Commissioner of Revenue, verifying that the amount withdrawn is being used for the purchase of Participant's first principal residence and the residence is located in Minnesota. In this case Trustee will make the amount withdrawn payable to the seller, or the seller's designee (other than the buyer/Participant).
- 5.4 Trustee will not deduct and withhold tax from any amount withdrawn if he receives a written statement verifying, in accordance with rules of the Commissioner of Revenue, that Participant has died or has become disabled.
- 5.5 Trustee will remit and pay the tax deducted and withheld under paragraph 5.2 to the Commissioner of Revenue as required by law.

ARTICLE VI. TERMINATION

- 6.1 This trust will terminate no later than 10 years after the date of this agreement.
- 6.2 Upon termination, Trustee will deduct and withhold from the trust corpus a tax in the amount of 10 percent of the corpus and remit and pay the tax to the Commissioner of Revenue, as required by law.
- 6.3 Upon termination, Trustee will distribute the corpus of the trust to Participant, less the taxes deducted and withheld under the preceding paragraph, in accordance with rules of the Commissioner of Revenue.
- 6.4 The trust shall terminate upon the death of Participant, or the survivor of the Participants, in which case Trustee will pay over the entire corpus of the trust and earnings thereon to the decedent's estate. No taxes will be withheld.

ARTICLE VII. RECORDS AND REPORTS

- 7.1 Trustee will keep records and accounts of its administration of the trust.
- 7.2 Trustee will provide reports to Participant and to the Commissioner of Revenue at the times and in the manner prescribed by the Commissioner of Revenue.
- 7.3 Participant will furnish to Trustee the information prescribed by the Commissioner of Revenue.

ARTICLE VIII. OTHER PROVISIONS

(Other provisions that do not conflict with any laws, rules or other provisions of this trust agreement may be added here.)
IN WITNESS WHEREOF, the parties hereto set their hand the day and year first written above.

Participant

Participant

Trustee

By _____

Its _____

DISCLOSURE STATEMENT FOR
INDIVIDUAL HOUSING ACCOUNTS

NOTICE: YOU MAY REVOKE this account by contacting the following person within seven days from the date of your trust agreement. (See Part VIII of this statement for explanation.)

Name: _____
Address: _____
Telephone Number: _____

I. INTRODUCTION

The Individual Housing Account (IHA) is designed to help a first-time home buyer save up money for the purchase of his or her home by not taxing as income the first \$1,500 that you contribute to an IHA each taxable year, and by not taxing the interest earned on the account, with certain limitations that are explained in this statement.

BEWARE, however, that there will be a substantial tax penalty due if you use any of the money from this account for any other purpose than your first home. In fact, the trustee must withhold and send to the Department of Revenue 10 percent of any withdrawal that you make if you are not going to use the amount for the purchase of your first residence.

II. ELIGIBILITY

To be eligible to set up an IHA, you or your spouse must not now own and never have owned your own principal residence. Furthermore, you or your spouse must not now have another IHA, whether at this institution or any other financial institution.

III. TAX DEDUCTION AND LIMITS THEREON

Amounts that you deposit in your IHA may be deducted for Minnesota income tax purposes for the tax year in which you make the deposit. However, to be deductible, the amount must have been on deposit in the account for at least six months during the tax year. And your deduction for deposits to the account cannot exceed \$1,500 for any one tax year and your total deductions for deposits for all tax years cannot exceed \$10,000.

In addition to the deduction for the amounts that you deposit in your IHA, you are allowed an income tax deduction for the interest earned on your IHA during the tax year. This deduction for interest, however, is limited to interest on deposits of \$2,500 or less per year or on total deposits of \$10,000 or less for all taxable years. Interest cannot be deducted on amounts in excess of these limits.

IV. PENALTY TAX FOR NOT USING IHA FOR FIRST RESIDENCE

Your IHA is supposed to be used to purchase your first principal residence. The residence must be located in Minnesota. If you withdraw money from your IHA and do not use it for the purchase of your first principal residence, which is located in Minnesota, there is a substantial tax penalty due. Not only will you have to include the amount you withdraw in your income for Minnesota tax purposes and pay income tax on it, but you will also have to pay an additional tax of 10 percent of the amount withdrawn. The additional 10 percent tax will not, however, be due if the withdrawal was made because of your disability or death.

Your IHA can last only 10 years. Therefore, you must use the IHA to purchase your first residence within 10 years after the IHA is opened. If you do not use the IHA within 10 years, the IHA automatically terminates and the taxes and penalties explained in the preceding paragraph are applicable just as if you had made a withdrawal of all of the money in the account.

You are not allowed to use or pledge your IHA as security for a loan. If you do so, the amount so pledged will be treated as a withdrawal. You will have to include the amount pledged in your Minnesota taxable income and pay the 10 percent additional tax, just as if you had made a withdrawal of that amount and not used it for your first principal residence.

V. TRUSTEE MUST WITHHOLD TAX ON CERTAIN WITHDRAWALS

If you make a withdrawal from your IHA which will not be used to purchase your first principal residence or the residence you do purchase is not located in Minnesota, the trustee must withhold as tax 10 percent of the amount of your

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withdrawal. The trustee must send the amount withheld to the Department of Revenue to be applied against your additional tax liability. If the withdrawal is due to your health or disability, however, the trustee is not required to withhold this tax.

The trustee also must withhold the 10 percent tax whenever the IHA terminates because the account was not used for your first residence within 10 years from the date that you established the account.

VI. LIMITATIONS ON THE AMOUNT THAT YOU MAY DEPOSIT IN THE IHA

You are permitted to deposit no more than \$2,500 to your IHA in any one tax year. Moreover, you are permitted to deposit no more than a total of \$10,000 to your IHA for all taxable years. If you deposit more than you are allowed, you must pay an additional tax of six percent of the amount which exceeds these limits. This six percent additional tax is in addition to your regular income tax liability and is due for every year in which the excess deposit remains in your account.

VII. TRANSFERS OF YOUR ACCOUNT TO A DIFFERENT FINANCIAL INSTITUTION

You may transfer your IHA to another financial institution. If you follow the rules explained in this paragraph, your transfer of funds will not be treated as a withdrawal and not subject to tax or penalty. To transfer the IHA tax free, you must:

- (1) Have the entire amount in the account made payable to the new trustee or financial institution.
- (2) Transfer the entire account to a different financial institution and close out the original account. You cannot have more than one IHA at a time.
- (3) Have the new IHA terminate 10 years from the date that you opened the original IHA. To do this you must inform the new trustee of the date on which you opened your original IHA and have him put the proper termination date in the new trust agreement.

VIII. REVOCATION OF YOUR IHA

You must be given seven days to read this statement and consider your decision to participate in the IHA program. Your IHA does not become final until this seven day period is over. During the seven day period, you may revoke your IHA and receive your money back without it being treated as a "withdrawal." Therefore, the regular taxes and additional taxes for failure to use the account for the purchase of your first principal residence, as explained in Part IV of this disclosure statement, will not be due. After this seven day period, however, any withdrawal that you make and do not use for your first residence, will be subject to both regular tax and additional tax, as explained in Part IV.

The name of the person to contact if you wish to revoke this account is listed at the beginning of this disclosure statement.

IX. AUTHORITY AND QUALIFICATIONS OF TRUSTEE

This financial institution is authorized by law to act as the trustee of your IHA. The trustee has either been approved by the Minnesota Commissioner of Banks to act as the trustee of IHAs or under federal law is not required to obtain this approval.

Your IHA meets all of the requirements of Minn. Stat. § 290.09, subd. 30 and any applicable rules issued by the Minnesota Commissioner of Revenue. Furthermore, the trustee agrees to abide by all laws and rules applicable to IHAs.

X. YOUR RESPONSIBILITIES

You, as the participant of this IHA, have certain duties and responsibilities imposed on you. You must be sure that the financial institution is qualified to act as the trustee of your IHA. Also, you must be sure that the trustee will abide by any laws or rules applicable to IHAs. Finally, you must be sure that your IHA is set up according to the law and rules.

If at some future time it is discovered that your trustee is not qualified or is not abiding by the laws or rules or your IHA does not meet all the requirements of the laws and rules, you will not be allowed a tax deduction for the years involved.

Finally, there are certain forms you must file and information you must furnish to either the trustee or the Minnesota Department of Revenue. As mentioned in Part V of this disclosure statement, the trustee must withhold as tax 10 percent of any withdrawal that you make unless you are using the amount withdrawn for your first principal residence. In order to avoid this withholding of tax, you must furnish to the trustee a written statement, verifying that you are using the withdrawal for your first principal residence and that the residence is located in Minnesota. In this case, the trustee must make the withdrawal payable to the seller. The trustee cannot make the withdrawal payable to you alone. The withholding of tax may also be avoided if you die or become disabled by furnishing the trustee with a verification form certifying that you have died or become disabled. If you fail to furnish completed and signed verification forms to the trustee, the trustee is required by law to withhold the 10 percent tax.

To claim the income tax deduction on your Minnesota income tax return, you must attach a copy of the statement or statements of account that you receive from the trustee which show the date and amount of your deposits to the IHA and the date and amounts of any withdrawals during the entire tax year.

ADOPTED RULES

The adoption of a rule becomes effective after the requirements of Minn. Stat. § 15.0412, subd. 4, have been met and five working days after the rule is published in the *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 strike outs and new language will be underlined, and the rule's previous *State Register* publication will be cited.

A temporary rule becomes effective upon the approval of the Attorney General as specified in Minn. Stat. § 15.0412, subd. 5. Notice of his decision will be published as soon as practicable, and the adopted temporary rule will be published in the manner provided for adopted rules under subd. 4.

Department of Administration Building Codes and Standards Division

Adopted Rules for Energy Conservation Standards for Existing Residences

The proposed amendments to rules for energy conservation standards for existing residences published at *State Register*, Volume 4, Number 48, ppg. 1882-1890 (4 S.R. 1882) June 2, 1980 are now adopted with the following amendments:

Amendments as Adopted

RULES FOR ENERGY CONSERVATION STANDARDS FOR EXISTING RESIDENCES

2 MCAR § 1.16201 Authority. These rules are promulgated pursuant to Minn. Stat. § 116H.129 (1978) and (1979 supp.).

2 MCAR § 1.16202 Enforcement. The Minnesota Energy Agency shall conduct random inspections of certain renter occupied residences as provided in Minn. Stat. § 116H.129, subds. 3 and 4 (1978).

2 MCAR § 1.16203 Purpose and scope. The purpose of these rules is to establish minimum energy efficiency standards for existing residences. Such standards shall be applicable to certain rental residences as provided in Minn. Stat. Sec. 116H.129, subds. 3 and 4 (1978) and shall be utilized in the energy disclosure program required by Minn. Stat. § 116H.129, subds. 5, 6, and 7 (1978), and shall be applicable to certain rental residences as provided in Minn. Stat. § 116H.129, subds. 3 and 4 (1978).

The scope of these standards addresses two the following areas of energy savings:

A. The reduction of air infiltration as it relates to air leakage through the exterior envelope.

CAUTION: When infiltration is reduced it may be necessary to provide combustion air by other means as provided for in the Minnesota State Building Code.

B. The improvement of the thermal efficiency of the structure as it relates to the transfer of heat through the exterior envelope.

~~C. Reduction of energy usage by mechanical or electrical systems.~~

The rules also contain the methods for calculating energy savings and determining the economic feasibility of each minimum energy efficiency standard for each residence.

2 MCAR § 1.16204 Definitions.

A. Accessible. Shall mean exposed, without the removal of permanent parts of the structure.

B. Attic. The space between the ceiling joists and the rafters immediately above. The space between rafters formed where interior finish material is affixed directly to the rafters shall not be construed to be an attic space.

~~C. Clock thermostats. Shall mean a device which is designed to reduce energy consumption by regulating the demand on the heating or cooling system in which it is installed, and uses:~~

~~1. A temperature control device for interior spaces incorporating more than one temperature control level, and~~

~~2. A clock or other automatic mechanism for switching from one control level to another.~~

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ADOPTED RULES

C.D. Conditioned space. Space enclosed within a building that is heated or cooled by an energy-using system.

D.E. Degree day. Shall mean degree day, heating. A unit, based upon temperature difference and time, used in estimating fuel consumption and specifying nominal heating load of a building in winter. For any one day, when the mean temperature is less than 65° F (18° C) there exist as many Degree Days as there are Fahrenheit (Celsius) degrees difference in temperature between the mean temperature for the day and 65° F (18° C).

E.F. Economic feasibility. For the purpose of these rules, the test of economic feasibility is met when the savings in energy procurement costs, based on residential energy costs as certified by the Minnesota Energy Agency director in the *State Register*, exceed the cost of acquiring and installing each energy conserving item required to meet the minimum energy conservation standards as set forth at 2 MCAR § 1.16205, amortized over the subsequent 10-year period.

F. Electric load management devices. Shall mean customer owned or leased devices that reduce the maximum kilowatt demand on an electric utility and which are either;

1. Part of a radio, ripple or other utility controlled load switching system on the customer's premises;
2. Clock controlled load switching devices;
3. Interlocks, and other load actuated, load-limiting devices; or
4. Energy storage devices with control systems.

F.H. Exterior envelope. The elements of a building which enclose conditioned spaces and through which thermal energy may be transferred to or from the exterior.

G.I. Fireplace stove. A chimney-connected, solid fuel-burning stove having part of its fire chamber open to the room.

H.J. Floor insulation. A material as described in definition I, which is installed between the first level conditioned area of a building and an unconditioned basement, a crawl space or the outside beneath it.

K. Flow restrictors. A device placed in a shower head to limit the maximum flow to three gallons per minute, or a shower head with built in provisions for limiting the maximum flow to three gallons per minute.

L. Furnace efficiency modification. Shall mean:

1. Replacement furnace or boiler, including a heat pump, which replaces an existing furnace or boiler of the same fuel type and which reduces the amount of fuel consumed due to an increase in combustion efficiency, improved heat generation or reduced heat losses.

2. Furnace replacement burner (oil) means a device which atomizes the fuel oil, mixes it with air, and ignites the fuel-air mixture, and is an integral part of an oil-fired furnace or boiler including the combustion chamber, and which because of its design, achieves a reduction in the oil used from that used by the device which it replaces.

3. Vent dampers, means an automatically operated damper installed in the vent connector of a gas fire furnace, water heater, or boiler which:

a. Is installed downstream from the drafthood; and

b. Conserves energy by substantially reducing the flow of heated air through the chimney when the furnace or heater is not in operation.

4. Electronic ignition system, means a device which, when installed on a natural gas fired, force air furnace, automatically ignites the gas burner and replaces a gas pilot light.

I.M. Insulation. Any material or assembly of materials used primarily to provide resistance to heat flow in building structures, including but not limited to mineral fibrous, mineral cellular, organic fibrous, organic cellular, or reflective materials, whether in loose fill, flexible, or semi-rigid form.

N. Passive solar. Shall mean systems that make the most efficient use of, or enhance the use of, natural forces—including solar insolation, winds, night time coolness and opportunity to lose heat by radiation to the night sky—to heat or cool living space by the use of conductive, convective or radiant energy transfer. Passive solar systems include only:

1. Direct gain glazing system. A system using south-facing (+ or - 45 deg. of true south) panels of insulated glass, plastic, or other transparent substances that admit the sun's rays into the living space where the heat is retained. Glazing is either double or single equipped with moveable insulation.

2. Indirect gain system. A system using panels of insulated glass, plastic, or other (similar) transparent substances that direct the sun's rays onto specially constructed thermal walls, floors, ceilings, rockbeds, or containers of water or other fluids where heat is stored and radiated.

~~3. Solaria/sunspace system. A structure primarily of glass, plastic or (similar) transparent material which is attached to the south-facing (+ or - 45 deg. of true south) wall of a structure which allows for air circulation to bring heat into the residence, and which is able to be closed off from the residential structure during periods of low solar insolation.~~

~~4. Window heat gain retardant. Shall mean those mechanisms which significantly reduce summer heat gain through south-facing (+ or - 45 deg. of true south) windows by use of devices such as awnings, insulation rollup shades (external or internal), metal or plastic solar screen, or moveable rigid insulation.~~

~~J.O. Positive shut-off. A manuel shut-off device which can be utilized to produce a seal to inhibit the flow of air when a fireplace or fireplace stove is not operating. i.e. damper in fireplace, damper at top of flue, damper in connector pipe, or doors (glass or other) on fireplace or fireplace stove.~~

~~K.P. "R" Value. The measure of resistance to heat flow through a material or the reciprocal of the heat flow through a material expressed in British thermal units per hour per square foot per degree Farenheit at 75 degrees Farenheit (24° C) mean temperature.~~

~~Q. Replacement solar swimming pool heaters. Shall mean devices which are used solely for the purpose of using the sun's energy to heat swimming pool water and which replaces a swimming pool heater which uses electricity, gas or other fossil fuel.~~

~~L.R. Residence. Means any dwelling for habitation either seasonally, meaning all or a portion of the months of December through March, or permanently by one or more persons. A residence may be owned or rented and may be part of a multi-family dwelling or multi-purpose building, but shall not include buildings such as hotels, hospitals, motels, dormitories, sanitariums, nursing homes, schools and other buildings used for educational purposes, or correctional institutions. A mobile home as defined in Minn. Stat. § 168.011, subd. 8, shall be a residence for purposes of these rules.~~

~~M.S. Rim joist. That portion of the exterior envelope between the top of the foundation wall and the sub-floor immediately above. The perimeter of the floor joists.~~

~~N. "Seasonal operating efficiency" shall mean the quotient obtained by dividing the useful energy provided by a system to the residence during the entire season divided by the heating value of the fuel used. The useful heat provided by a combustion heating system to the residence shall include subtractions for heat lost due to air infiltration induced by any vents, draft hoods or barometric dampers attached to the system.~~

~~O.F. Single glazed. Windows with one sheet of glazing separating the conditioned space from the exterior. For the purposes of these rules non-conditioned enclosed porches, vestibules, or other appurtenances are considered the equivalent of one layer of glazing.~~

~~U. Solar domestic water heater. Shall mean equipment designed to absorb the sun's energy and to use this energy to heat water for use in a residential building other than for space heating, including thermosiphon hot water heaters.~~

~~P.V. Storm door. Shall mean a second door, installed outside or inside a primary door, creating an insulating air space.~~

~~W. Thermal door shall mean:~~

~~1. A door with enhanced resistance to heat flow through the glass area by affixing two or more sheets of glazing material, or~~

~~2. A primary exterior door with an "R" value of at least 2.~~

~~Q.X. Storm window. Shall mean a window or glazing material placed outside or inside of a window sash (prime window) creating an air space, to provide greater resistance to heat flow than the glazed window sash alone.~~

~~Y. Thermal duet insulation. Shall mean a material primarily designed to resist heat flow which is installed on a heating or cooling duet within unconditioned space or area of a building.~~

~~Z. Thermal pipe insulation. Shall mean a materail primarily designed to resist flow which is installed on a heating or cooling pipe within unconditioned space or area of a building.~~

~~R.AA. U-Value (U-Factor or U = Thermal Transmittance). The thermal transmission of heat in unit time through unit area of a particular body or assembly, including its boundary films divided by the difference between the environmental temperatures on either side of the body or assembly; Btu/(hr-ft²·F°). Also the reciprocal of total R-Value.~~

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ADOPTED RULES

~~BB. Water heater insulation. Shall mean a material primarily designed to resist heat flow which is suitable for wrapping around the exterior surface of the water heater casing.~~

~~CC. Wall insulation. Shall mean insulation installed within or on the walls between conditioned spaces of a building and unconditioned spaces of a building or the outside.~~

~~DD. Weatherstripping. Material permanently affixed to limit infiltration of air, usually made of metal, wood, felt, neoprene, expanded foam, or a combination thereof.~~

~~EE. Wind energy device. Shall mean equipment that uses wind energy to produce energy in any form for personal residential purposes.~~

2 MCAR § 1.16205 Minimum energy efficiency standards.

A. Where demonstrated to be economically feasible pursuant to 2 MCAR § 1.16206, 2 MCAR § 1.16207, and 2 MCAR § 1.16208 the following shall be standards for existing residences. Pursuant to Minn. Stat. § 116H.129, subs. 3 and 5 (1978) residential rental buildings built before January 1, 1976, which are not in compliance with these standards shall be modified to be in compliance within the economic feasibility defined in 2 MCAR § 1.16204 by January 1, 1980 with respect to caulking and weatherstripping and by July 1, 1983 with respect to all provisions herein. ~~A partial attainment of these standards shall be required if shown by calculations to be economically feasible even though full compliance will not meet criteria of economic feasibility.~~ These standards shall also provide a basis for evaluation of residences at time of sale.

~~B. The following standards 1 through 10 shall apply to residential rental buildings as described in Minn. Stat. § 116H.129, subd. 3.~~

1. Install weatherstripping between exterior operable window sash and frames and between exterior doors and frames.

EXCEPTION: Weatherstripping not required on storm doors or storm windows.

2. Caulk, gasket or otherwise seal accessible exterior joints between foundation and rim joist, around window and door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors, and roofs and all other openings in the exterior envelope.

3. Install positive shut-offs for all fireplaces or fireplace stoves.

4. Install insulation in accessible attics to achieve a minimum total "R" value of 19.

5. Install insulation in all accessible rim joist areas to achieve a minimum total "R" value of 11.

6. Install insulation in accessible walls and/or floors enclosing conditioned spaces to achieve a minimum total "R" value of 11. Accessible Walls should include above-grade foundation walls of basements, cellars or crawl spaces.

7. Install storm windows and/or thermal windows on all single glazed exterior window units enclosing conditioned space.

8. Install storm doors and/or thermal doors on all exterior door openings into conditioned spaces unless a single door, enclosed porch, vestibule, or other appurtenance provides a double door effect or provides an "R" value of 2 or more.

~~9. Install clock thermostat in tenant dwelling unit where such thermostat controls the tenants heating or cooling systems, and the tenant directly purchases fuel.~~

~~10. Install flow restrictors on all shower heads.~~

~~C. The following standards 1 through 22 shall be applicable to those residences requiring disclosure of certain energy characteristics pursuant to Minn. Stat. § 116H.129, subs. 5 and 7.~~

~~1. Caulk, gasket or otherwise seal accessible exterior joints between foundation and rim joist, around windows and door frames, between wall and roof, between wall panels, at penetrations for utility services through walls, floors, and roofs and all other openings in the exterior envelope. Caulking, gasketing or sealing may be accomplished either on the exterior or interior of the exterior envelope.~~

~~2. Install weatherstripping between exterior openable window sash and frames and between exterior doors and frames.~~

~~Exception: Weatherstripping not required on storm doors or storm windows.~~

~~3. Furnace efficiency modifications.~~

~~a. Install replacement energy efficient system if furnace and or boiler is older than 5 years.~~

~~b. Install replacement burner, if oil fired furnace or boiler is older than 5 years.~~

~~e. Install vent dampers on gas fired furnace, water heaters, and boilers, if the combustion air or draft dilution air is taken from a conditioned space.~~

ADOPTED RULES

- d. Install electronic ignition systems on natural gas fired forced air heating systems.
- 4. Replace central air conditioner with energy efficient model if older than five (5) years.
- 5. Install insulation in attic to achieve a minimum total "R" value of R-44 and provide ventilation as per current State Building Code. (Applicable if existing is R-30 or less.)
- 6. Install insulation in or on walls to achieve a minimum "R" value of 11.
- 7. Install floor insulation in floors over unconditioned spaces to achieve a minimum "R" value of 19. (Applicable if existing is R-9 or less.)
- 8. Install insulation in accessible rim joist areas to achieve a minimum "R" value of 19. (Applicable if existing is R-9 or less.)
- 9. Install insulation on or in foundation walls above grade to achieve a minimum "R" value of 11.
- 10. Install thermal duct insulation on all ducts, and or plenums installed in unconditioned spaces to achieve a minimum "R" value of 3.
- 11. Install thermal pipe insulation on all piping, containing heated water in unconditioned spaces, having a temperature difference exceeding 50 degrees F. (10°C) between ambient temperature and piping temperatures to achieve a minimum "R" value of 4.
- 12. Install water heater insulation on water heaters. Water heater insulation shall have a minimum "R" value of 3.
- 13. Install storm windows on all single glazed exterior window units enclosing conditioned space.

or

Install thermal windows on all single glazed exterior window units enclosing conditioned space, where primary window is in need of replacement.

- 14. Install storm or thermal doors on all exterior door openings into conditioned spaces unless a single door, enclosed porch, vestibule, or other appurtenance provides a double door effect or provides a "R" value of 2 or more.
- 15. Electric load management devices—applicable if such devices are available through the electric utility.
 - a. Radio or ripple control system.
 - b. Clock-controlled load switching.
 - c. Interlocks and other load switching devices.
 - d. Energy storage devices.
- 16. Install clock thermostat—applicable if house has a thermostat and existing heating or cooling system is compatible.
- 17. Install positive shut-offs for all fireplaces or fireplace stoves.
- 18. Install solar domestic hot water heater—applicable if a site exists which is free of major obstruction to solar radiation.
- 19. Install wind energy systems—applicable if lot is larger than .75 acres, there is no major wind obstruction and the tower is sited at least (50) fifty feet from property line or right of way for electrical transmission or distribution.
- 20. Install solar swimming pool heater to replace or supplement existing fossil fuel heater. Applicable where site is free of obstruction to solar radiation.
- 21. Passive solar/install.
 - a. Direct gain glazing systems—applicable if residence has a south facing wall or roof which is free of obstruction to solar radiation.
 - b. Indirect gain—applicable if site is free of obstruction to solar radiation.
 - c. Solar/sunspace systems—applicable if living space has a south-facing wall and is free of major obstruction to solar radiation.

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ADOPTED RULES

Caution: Sleeping rooms must have exterior egress windows or doors—refer to UBC Sec. 1204.

d. ~~Window heat gain retardants—applicable if residence has a south facing window that is not shaded from summer sunshine, and space is mechanically cooled.~~

~~22. Install thermal shutters, shades and/or draperies on exterior windows and glass doors. Devices shall have a minimum "R" value of 2.~~

2 MCAR § 1.16206 Procedures for calculating energy savings and determining economic feasibility. The calculation of the energy savings and the determination of the economic feasibility for each of the minimum energy efficiency standards shall be computed in a manner specific to each residence, i.e., on a case by case basis. Equal interest and inflation factors are assumed. This determination shall be performed according to the following procedures.

A. Determine the values of the general energy savings equation (2 MCAR § 1.16207) which are specific to each residence. These values include degree days, heating system efficiency and the heating value of the fuel but do not include the design heat loss per degree Fahrenheit (ΔH).

B. Calculate design heat per degree Fahrenheit (ΔH) for the standard under consideration using the equations outlined in 2 MCAR § 1.16207 A. through 2 MCAR § 1.16207 ~~H.~~

C. Calculate the quantity of annual energy savings for the standard under consideration by substituting the calculated value of ΔH into the general energy savings equation and solving for energy savings (ΔE).

D. Determine the price per unit of energy (P) for the annual energy savings quantity.

E. Determine the cost of the energy saving improvement (C) proposed to meet the standard under consideration.

F. Calculate the payback period (T) for the standard under consideration by substituting the values of P, C and ΔE into the general payback equation (2 MCAR § 1.16208) and solving for the payback period in years.

G. If the payback period is less than ten years the energy saving improvement meets the economic feasibility requirement.

H. Repeat the above procedure for each of the energy efficiency standards.

2 MCAR § 1.16207 General energy savings equations. The following equations shall be used to calculate energy savings for each of the energy efficiency standards.

Equation A*:

$$\Delta E = \Delta H \times \frac{D \times 20.4}{N \times V} \quad 14.4$$

Where

$\Delta E =$

The quantity of annual energy savings in the appropriate energy units, e.g. hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt hours of electricity.

$\Delta H =$

The difference in design heat loss per degree Fahrenheit between the improved condition and the existing condition for infiltration and/or thermal transmission. Equations for calculating ΔH are listed in subsequent subsections.

D =

The normalized annual degree days as published by the National Oceanic and Atmospheric Administration (NOAA).

N =

The seasonal operating efficiency of the heating system.

V =

The heating value of the fuel type, consistent with ΔE and ΔH .

* Equation (A) is derived from the ASHRAE Handbook, 1976 Systems, pp. 43.1-43.18; and Department of Energy, Residential Conservation Service Model Audit.

A. Install window and door weatherstripping. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-1 & C-2~~ (2 MCAR § 1.16205 A.).

Equation #1:

$$\Delta H = 1.08 \times (q_0 - q_1) \times L$$

Where:

$q_0 =$

The infiltration value in cubic feet per minute per lineal foot of crack, CFM, for the existing window or door weatherstripping condition before improvement; ft.

$q_1 =$

The infiltration value in cubic feet per minute per lineal foot of crack, CFM, for the proposed window or door weatherstripping condition after improvement; ft.

$L =$

The length of the crack in feet which is under consideration for weatherstripping.

B. Caulk, gasket or seal joints. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-2 and C-2~~ (2 MCAR § 1.16205 A.).

Equation #2:

$$\Delta H = 1.08 \times (q_0 - q_1) \times L$$

Where:

$q_0 =$

The infiltration value in cubic feet per minute per lineal foot of crack, CFM, for the existing crack before improvement; ft.

$q_1 =$

The infiltration value in cubic feet per minute per lineal foot of crack, CFM, for the proposed crack seal after improvement; ft.

$L =$

The crack length in feet for the crack under consideration.

C. Install positive shut-offs. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-3 and C-3~~ (2 MCAR § 1.16205 A.).

Equation #3:

$$\Delta H = 1.08 \times (q_0 - q_1) \times A$$

Where:

$q_0 =$ The infiltration value in cubic feet per minute per square foot, CFM, for the existing condition before improvement; ft.²

$q_1 =$ The infiltration value in cubic feet per minute per square foot, CFM, for the proposed condition after improvement with a positive shut-off; ft.²

$A =$ The cross sectional area of the flue or connector in square feet.

D. Install Attic Insulation. The following equation shall be used to calculate ΔH for energy efficiency standards ~~B-4 and C-4~~ (2 MCAR § 1.16205 A.);

Equation #4:

$$\Delta H = \left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A$$

Where:

$R_0 =$ The total R-Value of the attic/ceiling/roof assembly including existing insulation before improvement;

$R_1 =$ The total R-Value of the proposed attic/ceiling/roof assembly including existing insulation and additional insulation after improvement;

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A = The area of the attic/ceiling/roof assembly in square feet separating conditioned space from unconditioned space.

E. Install rim joist insulation. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-5 and C-5~~ (2 MCAR § 1.16205 A.).

Equation #5:

$$\Delta H = \left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A$$

Where:

R_0 = The total R-Value of the rim joist assembly including existing insulation before improvement;

R_1 = The total R-Value of the rim joist assembly including existing and additional insulation after improvement;

A = The area of the rim joist assembly in square feet separating conditioned space from unconditioned space.

F. Install Wall and/or Floor Insulation. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-5, C-6, C-7 and C-9~~ 6 (2 MCAR § 1.16205 A.).

Equation #6:

$$\Delta H = \left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A$$

Where:

R_0 = The total R-Value of the existing wall or floor assembly including existing insulation before improvement;

R_1 = The total R-Value of the proposed wall or floor assembly including existing and additional insulation after improvement;

A = The area of the wall or floor assembly in square feet separating conditioned space from unconditioned space.

G. Install Storm Windows and/or thermal windows. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-7 and C-13~~ 7 (2 MCAR § 1.16205 A.).

Equation #7:

$$\Delta H = (U_0 - U_1) \times A$$

Where:

U_0 = The U-Value for the existing window assembly before improvement;

U_1 = The U-Value for the proposed window assembly after improvement;

A = The area of the window assembly in square feet separating conditioned space from exterior.

H. Install Storm Doors and/or thermal doors. The following equation shall be used to calculate ΔH for energy efficiency standard ~~B-8 or C-14~~ 8 (2 MCAR § 1.16205 A.).

Equation #8:

$$\Delta H = (U_0 - U_1) \times A$$

Where:

U_0 = The U-Value for the existing door assembly before improvement;

U_1 = The U-Value for the proposed door assembly after improvement;

A = The area of the door assembly in square feet separating conditioned space from exterior.

I. ~~Install clock thermostats. The following equation shall be used to calculate ΔE for efficiency standards B-9 and C-16 (2 MCAR § 1.16205).~~

Equation #9

The equation is based upon a single eight (8) hour nighttime setback:

9-a: $E = .07E_h$ for 5F setback

9-b: $E = .10E_h$ for 10F setback

9-c: $E = .11E_h$ for 15F setback

Where:

E_h = Total and annual energy used for space heating, in units of fuel.

J. Install flow restrictors. The following equation shall be used to calculate ΔH for efficiency standard B10 (2MCAR) Sec. 1.16205).

Equation #10

$$\Delta E = \frac{6100 (f_1 - F_0) (100F - T)}{N_f V}$$

Where:

F_0 = The shower flow rate in gallons per minute before installing restrictor.

F_1 = The flow rate after installing restrictor.

T = Average cold water supply temperature.

N_f = Recovery efficiency of water heater.

V = Heating value of the fuel type in Btu's per unit of fuel.

K. Furnace efficiency modifications. The following equations shall be used to calculate ΔE for efficiency standard C-3) (2 MCAR § 1.16205).

Equation #11:

a. $\Delta E = E_{H(t)} - \frac{N_0}{N_1}$

Where:

E_h = Total annual energy used for space heating, in units of fuel.

N_0 = The seasonal operating efficiency of the existing heating system.

N_1 = The seasonal operating efficiency of the proposed heating system.

b. If the heating system already has a retention head burner, rotary cup burner, or if it is a wet base boiler, the energy savings shall be estimated as 0.

Low estimate of ΔE = $.10E_h$

High estimate of ΔE = $.18E_h$

Where:

E_h = Total annual energy used for space heating, in units of fuel.

c. Low estimate of ΔE = $.07E_h$

High estimate of ΔE = $.10E_h$

d. If pilot is turned off each summer—

$$\Delta E = \frac{3600F_p}{V}$$

If pilot is left on in the summer—

$$\Delta E = \frac{7300F_p}{V}$$

Where:

F_p = Rate at which pilot uses energy, in Btu per hour. (Typically 800-1000 Btu per hour.)

V = Heating value of the fuel type in Btu per unit of fuel.

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

ADOPTED RULES

L. Replace central air conditioner. The following equation shall be used to calculate ΔE for efficiency standard C-4 (2 MCAR § 1.16205).

Equation #12

$$\Delta E = E_o \{1 - (PSE/NSE)\}$$

Where:

E_o — Annual energy used by existing central air conditioner in units fuel.

PSE — Present Seasonal Efficiency.

NSE — New unit Seasonal Efficiency.

M. Install thermal duct insulation. The following equation shall be used to calculate ΔE for efficiency standard C-10. (2 MCAR § 1.16205.)

Equation # 13

$$\Delta E = \frac{\left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A \times (T_2 - T_1) \times HRS}{N \times V}$$

Where:

R_0 — The total R value of ducts before improvement.

R_1 — The total R-value of ducts after addition of duct insulation.

A — Area of ducts to be insulated in square feet.

T_2 — Temperature inside ducts during on cycle of heating systems.

HRS — Number of hours per year furnace is operating.

N — Seasonal operating efficiency of heating system.

V — Heating value of fuel.

N. Install thermal pipe insulation. The following equation shall be used to calculate ΔE for efficiency standard C-11 (2 MCAR § 1.16205).

Equation #14:

$$\Delta E = \frac{(Q_1 - Q_0) \times L \times HRS}{N \times V}$$

Where:

Q_0 — Heat loss in Btu/hr. ft. before improvement, (from charts).

Q_1 — Heat loss in Btu/hr. ft. after addition of pipe insulation. (from charts)

L — Length of un-insulated pipes in unconditioned space.

HRS — Number of hours per year furnace is operating.

N — Seasonal operating efficiency of heating system.

V — Heating value of fuel.

O. Install water heater insulation. The following equation shall be used to calculate ΔE for efficiency standard C-12 (2 MCAR § 1.16205).

Equation #15:

a. If water heater is in an unconditioned space.

$$\Delta E = \frac{\left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A \times (T_w - T_a) \times 8760}{N_f \times V}$$

If water heater is in a conditioned space.

$$\Delta E = \frac{\left(\frac{1}{R_0} - \frac{1}{R_1} \right) \times A \times (T_w - T_a) \times H_{65}}{N_r \times V}$$

Where:

R_0 — Total R value of water heater assembly before improvement.

R_1 — Total R value of water heater assembly after insulation added.

A — Area of water heater that could be insulated in square feet.

T_w — Temperature of hot water.

T_a — Average air temperature in area surrounding water heater.

N_r — Recovery efficiency of water heater.

V — Heating value of fuel type in Btu per unit of fuel.

H_{65} — Number of hours per year that the outside temperature is above 65 degrees F. (19° C).

P. Install load management devices. Standard C-15 (2 MCAR § 1.16250).

Equation #16.

Calculation procedures to determine installation costs and savings in energy costs must be obtained from the local electric utility; if the utility offers a residential rate which reflects any differences in the utility's cost of service between peak and offpeak periods.

Q. Install solar domestic water heater. The following shall be used to calculate ΔE for energy efficiency Standard C-18 (2 MCAR § 1.16205).

Equation #17.

The residence will be examined to determine if a collector site exists that would supply 60% of the annual domestic hot water heating energy.

$$\Delta E = .6E_{dhw}$$

Where:

E_{dhw} is the annual energy used for heating domestic hot water.

R. Install wind energy systems. The following shall be used to determine if energy savings may be accomplished. Standard C-19 (2 MCAR § 1.16205).

Procedure #18

Wind energy devices.

And evaluation of the site shall be made, including an approximation of the average annual wind speed and accessibility to an undisturbed wind stream at a 30 foot height. An energy savings estimate will be made for 2 types of systems;

1. Wind systems that deliver utility quality power for residential appliance loads and discretionary loads (including domestic hot water and space heating). Cost and savings estimates shall be made for typical systems sized to provide 40% of the residential electric load.

2. Wind systems dedicated to delivering thermal energy for space heating and domestic hot water heating. Cost and savings estimates shall be made for typical systems sized to provide 40% to 80% of the annual energy used for space and water heating.

S. Install Solar Swimming Pool Heater. The following shall be used to calculate ΔE for efficiency standard C-20 (2 MCAR § 1.16205).

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ADOPTED RULES

Procedure #19

The residence will be examined to determine if a collector site exists that would supply 30% to 75% of the energy used to heat the swimming pool for the months of May through September.

$$\Delta E = .3E_{sp} \text{ to } .75E_{sp}$$

Where:

E_{sp} = The energy used to heat the swimming pool for the months of May through September.

T. Install Passive Solar Systems. The following shall be used to determine if energy savings may be accomplished. Standard C-21 (2 MCAR § 1.16205).

Procedure #20

The residence shall be examined to determine if an acceptable site exists for the addition of:

1. Direct gain glazing.
2. Indirect gain glazing.
3. Passive solar sunspace, and
4. Window heat gain retardants.

U. Install thermal shades, shutters or draperies. The following shall be used to calculate ΔH for efficiency Standard C-22 (2 MCAR § 1.16205).

Equation #21

$$\Delta H = (U_a - U_e) \times A$$

Where:

U_a = Total "U" value of window assembly after addition of Thermal Shades, Shutters or Draperies.

U_e = Total "U" value of window assembly as it exists.

A = Total area of windows.

2 MCAR § 1.16208 General payback equation. The payback period in years shall be calculated by dividing the cost of the energy-saving improvement by the product of the price per unit of energy and the quantity of annual energy savings. The payback equation shall be:

Equation B:

$$T = \frac{C}{(P) \times (\Delta E)}$$

Where

T = payback period in years;

C = the total cost of purchasing and installing energy saving improvements minus applicable federal and/or state tax credits, grants or subsidies;

P = price per unit of energy, this unit being the same as the unit of annual energy savings, ΔE . The appropriate values of P shall be those certified by the director of the Minnesota Energy Agency in the State Register, pursuant to Minn. Stat. § 116H.129, subd. 1 (1978);

ΔE = the quantity of annual energy savings in the appropriate energy units, e.g., hundreds of cubic feet of natural gas, gallons of fuel oil, or kilowatt-hours of electricity, as calculated for each of the energy efficiency standards.

**State Board of Education
Department of Education
Special Services Division****Adopted Rules Governing the Library Grant Program and Multi-county Multi-type
Library Cooperation Development and Operating Grants**

The rules proposed and published at *State Register*, Volume 5, Number 16, pp. 624-627, October, 1980 (5 S.R. 624) were adopted by the State Board of Education, January 12, 1981, approved by the Office of the Attorney General, February 9, 1981, and filed with the Office of the Secretary of State, February 10, 1981.



HERMAN MONUMENT overlooks New Ulm, Minnesota, and symbolizes the city's Germanic beginnings. A Teutonic warrior, Herman defeated the Roman hordes in 9 A.D. The sculpture by Alfonzo Pelzer stands atop a 10-columned, 102' high temple designed and built by Julius Berndt between 1887 and 1889. (Pencil drawing by Sylvia M. Racher, ninth grade, New Ulm Junior High School, New Ulm, MN)

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SUPREME COURT

Decisions Filed Friday, February 20, 1981

Compiled by John McCarthy, Clerk

50903/Sp. Laures Kleinwachter, individually, and Laures Kleinwachter, as parent and natural guardian of James Kleinwachter and Jeffrey Kleinwachter, deceased, Appellant, v. Time Insurance Company. Kittson County.

A health and accident insurer is entitled to prorate coverage furnished an insured under a policy containing the provision for proration authorized by Minn. Stat. § 62A.04, subd. 3(4) (1980), whether or not it could have coordinated benefits pursuant to Minn. Stat. § 65B.61, subd. 4 (1980).

Affirmed. Sheran, C. J.

51223/Sp. Shirley M. Manthey, Widow of Elmer Manthey, deceased employee, v. Charles E. Bernick, Inc., *et al.*, Relators. Workers' Compensation Court of Appeals.

The finding of the Workers' Compensation Court of Appeals that the employee's intoxication was not the proximate cause of the injuries he sustained in a one-vehicle accident arising out of and in the course of his employment is not manifestly contrary to the evidence and permissible inferences.

Affirmed. Sheran, C. J. Dissenting, Otis, J., Peterson, J., and Simonett, J.

51382/Sp. State of Minnesota v. Ricky John Kvale, Appellant. Hennepin County.

Evidence was sufficient to establish that crime of aggravated robbery was committed.

Trial court did not clearly abuse its discretion in denying motion to prohibit use of prior conviction to impeach defendant's credibility if he testified.

Trial court's instructions on aggravated robbery were adequate.

Affirmed. Sheran, C. J. Dissenting, Wahl, J. and Otis, J.

50944/Sp. State of Minnesota v. Howard Maxwell Hardy, Appellant. Hennepin County.

Evidence of defendant's guilt was sufficient, and trial court did not err in admitting eyewitness identification testimony challenged on due process grounds or in refusing to give complete CRIMJIG 3.05 on circumstantial evidence.

Affirmed. Peterson, J.

50873/Sp. The City of Shakopee, petitioner, v. Minnesota Valley Electric Cooperative, Appellant, National Rural Utilities Cooperative Finance Corporation, *et al.* Scott County.

When a consistent use of the property is intended, a charter city may acquire the distribution facilities and service area of an electric cooperative association under a general power of eminent domain, a power which respondent here possesses.

When the prior public use of property is consistent with the one intended by a condemner, it need only be shown the taking is reasonably necessary or convenient for furtherance of the end in view, a burden met by respondent.

Affirmed. Simonett, J.

51478/Sp. State of Minnesota v. Charles Efton Horton, Appellant. Dodge County.

Evidence of defendant's guilt of assault in the first degree, Minn. Stat. § 609.221 (1980), was sufficient.

Trial court did not err in denying motion to suppress statements obtained by police during both on-the-scene and custodial interrogations of defendant.

Affirmed. Simonett, J.

Decision Filed Friday, February 13, 1981

52061/Sp. State of Minnesota v. Dale Gene Garcia, Appellant. Ramsey County.

Trial court in criminal case, in determining whether to depart from the "presumptive sentence" established by the Sentencing Guidelines, should (1) consider whether any mitigating or aggravating factors are present, including those not listed on the nonexclusive list prepared by the Sentencing Guidelines Commission, (2) determine whether these circumstances are "substantial and compelling circumstances" justifying departure, and (3) if there are "substantial and compelling circumstances," decide whether or not to depart; if the trial court decides to depart, it should make findings of fact and provide written reasons justifying its decision, so that meaningful review of the decision to depart is possible. *Held*, trial court in this case did not clearly abuse its discretion in departing from the presumptive sentence.

Affirmed. Sheran, C. J.

STATE CONTRACTS

Pursuant to the provisions of Minn. Stat. § 16.098, subd. 3, an agency must make reasonable effort to publicize the availability of any consultant services contract or professional and technical services contract which has an estimated cost of over \$2,000.

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

Office of the State Auditor

Notice of Availability of Contract to Write A Report to the Legislature for the Volunteer Firerelief Association

The State Auditor's Office plans to issue a contract to assist it in the implementation of Minn. Stat. § 6.72 (1980) which requires it to produce a report to the Legislature on the Volunteer Firerelief Association (VFA). The consultant will be required to submit a report fulfilling all of the requirements in Minn. Stat. § 6.72 (1980).

The purpose of this project is to generate in a timely fashion the VFA report. It is foreseen that contact with the Office, VFA's, the Commission of Insurance, the Legislative Commission on Pensions and Retirement (LCPR), and others may be necessary to produce the report.

The full text of the request for proposal is available on request. Inquiries and responses should be directed to:

Clifford G. McCann
State Auditor's Office
550 Park St.
St. Paul, MN 55103
(612) 296-2551

Proposal responses must be submitted no later than 4:30 p.m., March 13, 1981.

Department of Economic Development

Notice of Request for Proposals for Advertising Services

The Minnesota Department of Economic Development is seeking proposals on a \$468,000 contract for advertising services for the department between July 1, 1981 and June 30, 1982 with an option to extend the contract to June 30, 1983. The agency awarded the contract will create advertising for a business development campaign and for fall, winter, spring/summer, package tour and trade/convention campaigns for tourism development. Two copies of an agency's proposal are due at the Department of Economic Development by 4:30 on March 23, 1981. Questions on the content of the proposal should be directed to Hank Todd, Judy Mahoney or Ginger Sisco, Minnesota Department of Economic Development, 480 Cedar St., St. Paul, MN. 55101, (612) 296-5027.

Energy Agency Conservation Division

Notice of Request for Proposals for Technical Evaluation of Maxi-Audit and Energy Conservation Measure Grant Applications

The Commercial and Institutional Program Unit, Conservation Division, Energy Agency is seeking an engineering and/or architectural firm to perform technical review of grant applications requested through the Institutional Buildings Grants Program. This firm will be responsible for evaluating eligibility of grant requests and verifying technical information contained in the grant applications. The firm will also assist the Energy Agency in ranking applications and notifying institutions of the results of technical review. These services, which will be provided under contract, are outlined in detail in the Request for Proposal (RFP). The formal RFP may be requested from and all inquiries should be directed to:

STATE CONTRACTS

Rick Korinek
Commercial and Institutional Programs
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Boulevard
St. Paul, MN 55101
(612) 296-9326

It is anticipated that this technical review process will examine Maxi-Audit grant applications for approximately 1000 buildings and Energy Conservation Measure grant applications for approximately 800 buildings. Total cost should not exceed \$50,000. The deadline for submission of completed proposals will be the close of the working day on Friday, March 20, 1981. All contractors with the Minnesota Energy Agency must apply for a Certificate of Compliance from the Minnesota Department of Human Rights, 240 Bremer Building, St. Paul, MN, 55101.

Energy Agency Data and Analysis Division

Notice of Request for Proposals for Consulting Services on Issues Relating to the Reliability of the Mid-America Area Power Pool Transmission Grid

The Data and Analysis Division, Minnesota Energy Agency, is seeking proposals for consulting services relative to issues of reliability of the Mid-America Area Power Pool transmission grid. The Minnesota Supreme Court has ordered additional hearings on the proposed 345 KVA transmission line between the Dickinson and Wilmarth substations.

The Data and Analysis Division anticipates that these hearings may be held in the spring and summer of 1981 and that questions of reliability may be raised in these hearings. Therefore, the Data and Analysis Division is seeking a consultant to provide the following services:

- 1) Analyze effects of the proposed transmission line on the reliability of the transmission grid.
- 2) Prepare testimony on such analysis and appear as an expert witness during public hearings.
- 3) Assist the Data and Analysis Division in the preparation of briefs, cross-examinations, and proposed findings related to public hearings on the proposed transmission line.

In order to be considered as a possible consultant, an individual or organization must meet the following criteria:

- 1) Must not be a member of any party to the public hearings on the proposed transmission line.
- 2) Must not be a consultant to any other party to the public hearings on the proposed transmission line.
- 3) Must neither be employed by Mid-America Area Power or any of its utilities nor have been under such employment in the last five years.
- 4) Must have knowledge and formal training in electric power flows and electric transmission theory.

The Director of the Energy Agency will make decisions on the issues raised at the public hearings. The Data and Analysis Division is not seeking a consultant to the director. Rather the Data and Analysis Division will participate as a party in the public hearing.

The formal Request for Proposal may be requested and inquiries should be directed to:

David W. Buller
Data and Analysis Division
Minnesota Energy Agency
980 American Center Building
150 East Kellogg Blvd.
St. Paul, Minnesota 55101

It is anticipated that the cost of these consulting services will not exceed \$5,000.00. The deadline for the submission of completed proposals will be 4:00 p.m., March 31, 1981.

Each proposal must be accompanied by a statement indicating that an application has been made for a Certificate of Compliance from the Minnesota Department of Human Rights. Application for such certificates can be obtained by written request from the Minnesota Department of Human Rights, 240 Bremer Building, St. Paul, Minnesota 55101.

Metropolitan Council of the Twin Cities Area

Notice of Request for Proposals for Preparation of Environmental Impact Statements

The Metropolitan Council desires proposals for the preparation of environmental impact statements on six candidate sites for disposal of sewage sludge and solid waste from Metropolitan Waste Control Commission treatment plants.

Inquiries and responses should be directed to:

Metropolitan Council
Suite 300 Metro Square Bldg.
St. Paul, Minnesota 55101

Attention: Jack Frost
Telephone: (612) 291-6519

State Planning Agency Governor's Council on Rural Development

Notice of Request for Proposals for the Sixth and Seventh Annual Minnesota Rural Youth Institutes

The Governor's Council on Rural Development is presently requesting proposals from Minnesota institutions of higher education which are interested in conducting the sixth and seventh annual Minnesota Rural Youth Institutes to be held in the summers of 1982 and 1983.

The purpose of the Rural Youth Institute is to provide one week of intensive rural development leadership training to 100 select high school juniors and seniors. These potential leaders will be provided with general "process" skills as well as specific "content" information concerning rural development. The Governor's Council on Rural Development acted in 1977 to annually budget \$20,000 for the purpose of co-sponsoring such an institute as part of its overall objective of demonstrating innovative ways of addressing the needs of rural Minnesota.

The Request for Proposal guidelines to be used in preparation of the application, along with an information sheet outlining expected responsibilities and suggested criteria, are available on request. Deadline for notification of intent to submit a proposal is May 4, 1981. Final proposal deadline is May 11, 1981. To obtain guidelines, please write to:

Richard A. Woodbury
Director, Information & Education
Minnesota State Planning Agency
101 Capitol Square Building
St. Paul, MN 55101

OFFICIAL NOTICES

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

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

Department of Administration Cable Communications Board

Invitation to Comment on Proposed Cable Service Territory for the Municipalities of Forest Lake, Forest Lake Township and Scandia Township

On January 14, 1981, the City of Forest Lake proposed a cable service territory (CST) consisting of the corporate limits of the city of Forest Lake, and the townships of Forest Lake and Scandia.

OFFICIAL NOTICES

On April 10, 1981 the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from the municipalities included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, other units of government and individuals.

The board will set aside a portion of its March 13, 1981 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103, (612) 296-2545.

Invitation to Comment on Proposed Cable Service Territory for the Municipality of Wayzata

On December 23, 1980, the City of Wayzata proposed a cable service territory (CST) consisting of the corporate limits of the city of Wayzata.

On April 10, 1981 the board must make its decision to approve, reject or delay consideration of the proposed CST. Prior to that date, the board continues to seek written comments from parties interested in the proposed CST—not only from the municipality included in the original proposal and those who may wish to be, but also from other interested municipalities, organizations, agencies, school districts, other units of government and individuals.

The board will set aside a portion of its March 13, 1981 meeting in order to hear public comments on the proposed cable service territory.

Comments may be addressed to the Minnesota Cable Communications Board at 500 Rice Street, Saint Paul, Minnesota 55103, (612) 296-2545.

Invitation to Observe Oral Argument in the Minneapolis Cable Communications Franchise Contested Case

On March 6, 1981 the Minnesota Cable Communications Board will meet in special session to consider the Hearing Examiner Report concerning the Minneapolis Cable Communications Franchise Contested Case. The six parties involved will present oral arguments for board consideration.

The board invites interested persons and members of the public to observe the proceedings at 7:00 p.m., March 6, 1981 in Room 83 of the State Office Building at 435 Park Street in the Capitol Complex. For information call (612) 296-2545.

Department of Commerce Board of Architecture, Engineering, Land Surveying and Landscape Architecture

Notice of Intent to Solicit Outside Opinion Concerning the Revision of Current Rules and the Adoption of New Rules Governing Regulation of Architects, Engineers, Land Surveyors and Landscape Architects

Notice is hereby given that the Board of Architecture, Engineering, Land Surveying and Landscape Architecture is seeking information, opinions or advice from interested persons or groups in preparing proposed amendments to the rules governing the operation of the board. Amendments under consideration include:

1. 4 MCAR § 7.004 Fees. Proposal to increase license fees by \$4.00 per biennium per profession, to increase examination fees to cover cost of examination; and to increase the late license renewal fee to a maximum of \$15.00 in addition to the stated renewal fee. Increased fees would be effective upon adoption of this rule.

2. 4 MCAR § 7.009 Examination of architect applicants. The board proposes the adoption of voluntary Intern Development Program which sets forth certain areas where experience is desired. Also proposes enabling candidates to be admitted to the Site Planning and Design Test upon receipt of their first professional degree or completion of 10 years of combined education and experience as approved by the board. Would require all persons applying for examination after June 30, 1981 to take the Qualifying Test in addition to the Site Planning and Design Test. Would further require persons to

successfully complete the Qualifying Test prior to being admitted to the Section B, Professional Examination (Mark Series). To be effective upon adoption.

3. 4 MCAR § 7.010 Examination of engineer applicants. Oral examination. The board proposes to delete the mandatory requirements for oral examination by changing will to may. The board may then require the oral examination for those persons found to have marginal experience qualifications upon review of experience data submitted with applications. To be effective upon adoption.

4. 4 MCAR § 7.012 G. Rules of professional conduct. Improper solicitation of employment. The board proposes to repeal section C.2. which implies a prohibition against one professional supplanting another. Section C.4. governing advertising would be revised to clarify acceptable advertising. Section C.6. concerning moonlighting would be repealed. To be effective upon adoption.

5. 4 MCAR § 7.013 Partnership. The board proposes the repeal of this rule with this section being replaced by a new rule governing the filing of annual reports by professional corporations. To be effective upon adoption.

6. 4 MCAR § 7.014 Registration. The board proposes that Landscape Architects be added to the provisions of this rule. Minor clarifying language is also proposed. To be effective upon adoption.

7. 4 MCAR § 7.015 Responsible charge. The board proposes to clarify the definition of the term responsible charge and to add a new definition of the term direct supervision. Also proposed is a provision that would permit the review of plans prepared out of state by a person not licensed in Minnesota under certain conditions. To be effective upon adoption.

8. 4 MCAR § 7.017 Certificates. The board proposes adding Landscape Architects to the provisions of this rule and adding minor clarifying language. To be effective upon adoption.

9. 4 MCAR § 7.018 Seal. The board proposes adding Landscape Architects to the provisions of this rule and adding minor clarifying language. To be effective upon adoption.

Interested persons may submit data or views on these subjects in writing or orally to:

Lowell E. Torseth
Executive Secretary
Board of AELS&LA
500 Metro Square Building
St. Paul, Minnesota 55101
(612) 296-2388

Any written material received by the board shall become part of the hearing record, if a hearing is required.

Department of Commerce Banking Division

Bulletin No. 2346: Maximum Lawful Rate of Interest for Mortgages and Contracts for Deed for the Month of March 1981

Notice is hereby given that pursuant to § 47.20, subd. 4a, Minnesota Statutes, the maximum lawful rate of interest for conventional home mortgages for the month of March, 1981, is fifteen and one half (15.50) percentage points.

Further, pursuant to Senate File No. 273, Chapter 373, 1980 Session Laws, as it amended § 47.20, Minnesota Statutes, the maximum lawful rate of interest for contracts for deed for the month of March, 1981, is fifteen and one half (15.50) percentage points.

February 19, 1981

Michael J. Pint
Commissioner of Banks

Office of the Governor

Notice of Appointment of Department Head

In accordance with Minn. Stat. § 15.06, subd. 2, notice is hereby given of the appointment of Louis J. Breimhurst as Director of the Minnesota Pollution Control Agency, on February 2, 1981.

OFFICIAL NOTICES

Pollution Control Agency Water Quality Division

Notice of Intent to Solicit Outside Opinion Regarding Proposed Rules Affecting Disposal of Wastes in the State of Minnesota

Notice is hereby given that the Minnesota Pollution Control Agency is developing rules for the classification of facilities for the disposal of sewage sludge, solid waste and hazardous waste according to the degree of hazard to public health and the environment involved in the operation of such facilities. The Minnesota Pollution Control Agency is also developing rules for the classification of hazardous wastes according to which wastes should be excluded from or accepted for land disposal and minimum pretreatment standards required as a condition of acceptance of a waste for disposal.

The classification of disposal facilities must be based on the degree of intrinsic hazard, volume and rate of application of waste types; the intrinsic suitability of the location of a facility; and the design and operating character of a facility.

The criteria for classification of hazardous wastes must be based upon the degree of intrinsic hazard of the waste; the availability of conventional processing technologies for reducing, separating, reusing, recycling and treating the waste; the feasibility and cost of applying those technologies relative to benefits to be achieved; the class of facility; and minimum pre-treatment standards required as a condition of acceptance for disposal.

The agency invites all interested persons or groups to submit information or comments on these subjects to:

Ms. Georjean Adams, Supervisor
Standards Unit
Ground Water Section
Division of Water Quality
Minnesota Pollution Control Agency
1935 West County Road B2
Roseville, Minnesota 55113

Oral statements will be accepted during regular business hours over the telephone at (612) 296-7296. All statements of information and comments must be received by April 6, 1981.

Any written or oral information and comments will be reviewed by Agency staff and considered in development of these rules. Any written material received by the agency will become part of the record of any hearings held on these rules.

Louis Breimhurst, Director
Minnesota Pollution Control Agency

Spanish Speaking Affairs Council Communications Task Force

Notice of Minnesota Hispana Women's Conference/Conferencia Para La Mujer Latina "Un Primer Paso," St. Paul, MN, March 20th and 21st

The first Minnesota Hispana Women's Conference, which is expected to attract 250 participants throughout Region V, which includes Minnesota, Indiana, Illinois, Michigan, Ohio and Wisconsin, will be held Friday, March 20th at noon, and Saturday, March 21st, at 9:00 a.m.

The conference, entitled "Un Primer Paso" (A First Step), will be held both days at the College of St. Catherine in St. Paul on Randolph and Cleveland Avenues. The cost of the registration is \$15.00, which includes meals.

The conference is sponsored by the Spanish Speaking Affairs Council and co-sponsored by the Office of Intercultural Student Affairs at the College of St. Catherine. The Communications Task Force of the Spanish Speaking Affairs Council conducted a survey and the results indicated a serious need to discuss the issues and concerns of the Hispanic Woman. The issues identified in the survey which will be addressed at the conference include: Women in Education, the Battered Woman, the Hispanic Family, the Homemaker, and the Single Parent.

According to the United States Department of Labor, Hispanic women are the most disadvantaged group in the United States. They have the lowest income of any racial/ethnic group and statistics have consistently outlined a very depressing picture for Hispana Women.

For more information about the conference, please contact: Elsa Vega Perez, (612) 296-9587 or June Noronha, (612) 690-6784.

Minnesota Latina Women's Conference/Conferencie Para La Mujer Latina "Un Primer Paso" Preparada en St. Paul, Marzo 20 y 21

La primera conferencia para la mujer latina la cual se espera que atraiga 250 participantes através de la Region V, incluye a Minnesota, Indiana, Illinois, Michigan, Ohio y Wisconsin se llevara a efecto el Viernes 20 de Marzo al mediodía y el Sabado 21 de Marzo a las 9:00 a.m.

La Conferencia intitulada "Un Primer Paso" tendrá efecto los dos días en el colegio do Sta. Catherine en St. Paul en las avenidas Randolph y Cleveland. El costo do la matricula es de \$15.00 lo que incluye comidas los dos días.

La conferencia es respaldada por el Concilio Estatal Para Personas de Habla Hispana y por la Oficina de Relaciones Interculturales de Estudiantes del colegio de Sta. Catherine ha sido planeado por el grupo de Fuerza de comunicaciones del Concilio luego de aver conducido una encuesta. La encuesta indicaba seria necesidad de discutir y de informar a la comunidad Hispana de temas tocantes a la mujer Hispana.

Los temas que se identificaron en el encuesta fueron: La mujer en la educación, la mujer golpeada, la familia, la casera, la madre soltera y muchos mas.

La mujer Hispana ha sido caracterizada por el grupo mas desventajoso en todas las areas. Tienen los ingresos mas bajos en cualquier grupo racio/étnico y las estadísticas han señalado un cuadro muy deprimente de la mujer Hispana.

Para mas información llame a Elsa Vega Pérez (612) 296-9587 o a June Noronha (612) 690-6784.

Water Planning Board

Notice of Meeting

Notice is hereby given that the Water Planning Board will hold a meeting on Thursday, March 5, 1981, in the third floor conference room at the Department of Natural Resources, Centennial Building, beginning at 9:30 a.m. An agenda for the meeting may be obtained one week prior to the meeting by contacting the undersigned at 600 American Center Building, 150 E. Kellogg Boulevard, St. Paul, Minnesota 55101.

Thomas Kalitowski
Chairman

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