



**EMERGENCY EXECUTIVE ORDER 91-2
PROVIDING FOR RESTRICTING
STATE HIRING, PROCUREMENT, AND EXPENDITURES**

I, ARNE H. CARLSON, Governor of the State of Minnesota, by virtue of the authority vested in me by the Constitution and applicable statutes, do hereby issue this Executive Order:

WHEREAS, the most recent fiscal forecast indicates that the state has a budget problem of significant proportions; and

WHEREAS, it is the policy of this administration to manage the immediate and long-term budget crisis; and

WHEREAS, the constitution requires that the State of Minnesota conclude the current biennium with a balanced budget; and

WHEREAS, it is necessary to immediately reduce current expenditures in order to meet these policy and legal requirements;

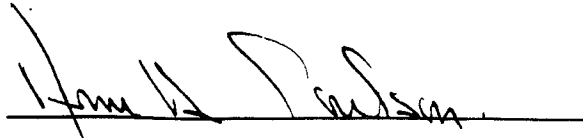
NOW, THEREFORE, I hereby order that all executive branch agencies immediately reduce their general fund expenditures:

1. Agency heads shall take all necessary measures to restrict general fund expenditures to those vital to the operation of state government.
2. No general fund position (classified or unclassified) shall be filled except:
 - a. Positions which provide direct care to residents and patients at state institutions and direct supervision of inmates at correctional facilities.
 - b. Positions which provide direct instructional services to students in state-operated educational facilities for courses scheduled prior to the date of this order.
 - c. Inmate, resident and student employees of state institutions.
 - d. Positions which perform services necessary to the maintenance of public safety or otherwise vital to the operation of state government, as determined by the agency head.
 - e. Agency heads and their immediate staff in order to complete the gubernatorial transition.
3. No new consultant, professional and technical services contracts, as defined by Minnesota Statutes 1990, Section 16B.17 and to be paid for by the general fund, shall be executed unless the agency head determines that the services are vital to the operation of state government and will result in improved efficiency.

4. All current consultant, professional, and technical services contracts paid for by the general fund shall be reviewed. Agency heads shall cancel those that they determine are not vital to the operation of state government and will not result in improved efficiency.
5. No supplies, materials, and equipment, as defined in Minnesota Statutes, Chapter 16B and to be paid for by the general fund, shall be purchased unless the agency head determines that they are vital to the operation of state government.
6. No person in the executive branch shall engage in out-of state travel to be paid from the general fund unless the agency head determines that such travel is vital to the effective operation of state government.
7. None of the foregoing provisions shall be interpreted to invalidate any legal or contractual obligations of the state.
8. Agency heads shall report monthly to the commissioners of finance and administration on savings resulting from their implementation of this order.

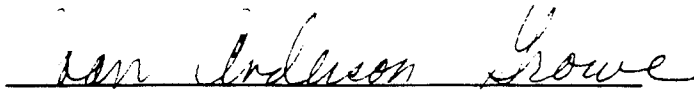
Pursuant to Minnesota Statutes 1990, Section 4.035, subdivision 2, this order is effective immediately and shall remain in effect until rescinded by proper authority or it expires in accordance with Minnesota Statutes 1990, Section 4.035, subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 7th day of
January, 1991.



ARNE H. CARLSON
Governor

Filed According to Law:



JOAN ANDERSON GROWE
Secretary of State

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED

JAN 07 1991



Secretary of State

4.001.02



Department of Administration

OFFICE OF THE COMMISSIONER

- Architectural Design
Building Code
Building Construction
Contracting
Data Practices
Data Processing
Employee Assistance
Energy Conservation
Fleet Management
Information Management
Inventory Management
Local Government Systems
Management Analysis
Plant Management
Printing & Mailing
Public Documents
Purchasing
Real Estate Management
Records Management
Resource Recycling
State Bookstore
Telecommunications
Volunteer Services

DATE: January 8, 1991
TO: ALL AGENCY HEADS
FROM: John M. Gunyou, Commissioner of Finance
Terry L. Bock, Acting Commissioner of Administration
Lance Teachworth, Acting Commissioner of Employee Relations
SUBJECT: IMPLEMENTATION OF EXECUTIVE ORDER NO. 91-2

revised by 91-23.

The purpose of this memorandum is to provide you the specific policies and operating procedures required to implement the governor's executive order restricting state hiring, procurement and expenditures.

A. Purpose of Executive Order

The purpose of Executive Order 91-2 is to address the current budget crisis and balance the budget for the current biennium. While both one-time and on-going reductions should be considered, an emphasis should be placed on long-term base savings.

Although the order is directed at general fund expenditures, it is expected that agencies will examine expenditures in all funds and apply the same principles, when appropriate, to reduce costs.

The governor has placed the responsibility for reducing expenditures on each of you. Rather than create a centralized bureaucracy to second-guess your management decisions, the governor will rely upon your ability to manage your own agency. You will report monthly to the governor, through the commissioners of finance and administration, on your efforts. You will be held personally accountable for results in managing through this crisis.

B. Scope of Executive Order

This order covers all agency operations financed by the general fund including those which fully or partially recover operating costs through fees deposited in the general fund. The governor expects you to use your judgement if exemptions from this order are justified for activities where fee revenues represent direct recovery of agency expenditures.

Savings achieved in such general fund activities contribute to the "bottom line" condition of the general fund.

C. Duration of Executive Order

Executive Order 91-2 went into effect at 4:00 p.m. on January 7, 1991. Executive Order 91-2 has no termination date and is in effect until the governor rescinds the order.

D. Hiring Restrictions

Executive Order 91-2 prohibits all appointments (classified or unclassified) to positions financed in full or in part by the general fund.

Certain exceptions are, however, provided. The purpose of this section is to elaborate on those exceptions as well as provide additional information relative to personnel transactions.

The order exempts:

1. Positions which provide direct care to residents and patients at state institutions and direct supervision of inmates at correctional facilities.
2. Positions which provide direct instructional services to students in the state-operated educational facilities for courses scheduled prior to the date of the order.
3. Inmate, resident and student employees of state institutions. This exemption may not, however, be used to "fill in" behind vacant permanent positions with such appointments.
4. Positions which perform services necessary to the maintenance of public safety or otherwise vital to the operation of state government, as determined by the agency head.

While "vital" is a subjective concept, the executive order clearly requires a stringent interpretation. The test is a clear demonstration that dire consequences will occur. The rationale that certain work won't get done, the efficiency or effectiveness of the agency will be impaired, or services to the public will be reduced is not sufficient justification. Governor Carlson assumes that one or more of these consequences will arise from failure to fill any vacant state positions.

5. Agency heads and their immediate staff in order to complete the gubernatorial transition.

Certain types of personnel transactions are not explicitly addressed by the executive order. All requirements of collective bargaining agreements, plans, and personnel rules will be followed:

- a. Employees returning from leaves of absences or "seasonal offs": Agencies may fill vacancies with state employees returning from documented leaves of absence or "seasonal offs."
- b. Previous Hiring Commitments: Agencies may hire individuals who have received written or oral commitments of appointments prior to the effective date and time of the order.
- c. Internal appointments: Agencies are encouraged to fill positions with current state employees, including using intra-agency reassignments or filling positions by appointing qualified employees from another agency. The following considerations should be noted:
 - 1) Movement from non-general to general fund positions is prohibited except as an unavoidable consequence of employees exercising seniority rights pursuant to collective bargaining agreements and plans (e.g., bumping, bidding, and claiming).
 - 2) Any position vacated as a result of the internal movement of employees shall not be filled (unless otherwise exempted) if the result will bring a new employee into state service.
- d. Promotions: Promotional appointments are permitted under the executive order. Positions vacated by promoted employees may not (unless otherwise exempted) be filled if the result is to bring a new employee into state service.
- e. Reallocations: Positions that are reallocated to a different class may be filled.
- f. Discretionary pay increases: Pay increases such as performance increases, achievement awards, and progression increases may be granted in accordance with collective bargaining agreements and plans.
- g. Work Out of Class: Work-out-of-class appointments may be approved according to collective bargaining agreements and plans.
- h. Overtime and Compensatory Time: Existing collective bargaining agreements and plans are to be followed. Agencies should not increase expenditures above amounts budgeted prior to the executive order or above F.Y. 1990 actual levels as adjusted for rate increases.

- i. Changes in Employment Condition: No increases in length of appointment or hours worked (e.g., part time to full time) should be processed for positions covered by the order.
- j. Extensions of Emergency/Temporary Appointments: No extensions should be processed for positions covered by the order.
- k. Federal Match Positions: Positions which are explicitly identified as "state match" for federal funding may be exempted provided that a specific position must be filled to comply with grant requirements.

E. Consultant/Professional/Technical Services Contracts

All contracts for consultant, professional and technical services that have not been approved prior to the executive order will be returned to agencies. Agency heads should review these and all future contracts in light of the provisions of the order.

Agencies may sign contracts, which, in the judgment of the agency head, provide for services necessary to the maintenance of public safety, are otherwise vital to the operation of state government, and/or will result in improved efficiency.

All contracts must be submitted to the Department of Administration for review and prior approval to ensure that no state employee is available to perform the work and that the contract is cost effective.

F. Procurement

Agency heads should review all purchases of goods, supplies, printing, and equipment in view of the requirements of this executive order.

Agencies should defer such expenditures where possible and cost effective.

G. Travel

The executive order prohibits all out-of-state travel financed from the general fund and not vital to the operation of state government.

All travel (both in-state and out-of-state) should be restricted to the minimum level necessary to conduct primary agency activities.

Governor Carlson understands that for state employees such as inspectors and regulators travel is a job requirement.

Agencies should review current travel practices to insure that necessary trips are made in the most economical manner possible.

Any out-of state travel must be authorized by the agency head.

H. Grants

Governor Carlson does not intend the executive order to prevent payment of state grants to individuals or organizations who, by formal notification, have reason to believe a state commitment exists. He does intend the order, however, to stop new commitments from being created.

Agency heads must review all grant programs and reduce expenditures where possible and appropriate.

I. Reports

By January 15 all agency heads will report to the commissioners of finance and administration on their plans for implementing Executive Order 91-2. The plans should include: projected savings through June 30, 1991; specific plans for restricting hiring, contracts, purchasing, travel, and grants; and the internal agency process for granting exemptions and monitoring savings.

By the 15th of every month agency heads will report to the commissioners of finance and administration on the previous month's results and any projected changes in general fund savings.

The commissioners of finance and administration will report agencies' results regularly to the governor.

K. Cooperation

Governor Carlson expects the full cooperation of all agency heads in implementing Executive Order 91-2. He has full confidence in our ability to work within these guidelines to help him provide continued service to the citizens of Minnesota and to meet his goal of a balanced budget.

For questions regarding implementation of Executive Order 91-2 please call your respective executive budget officer at the Department of Finance; Richard Diercks, Assistant Commissioner of Administration (297-4261); and Elaine Johnson, Deputy Commissioner of Employee Relations (297-3859).