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**Senate**

State of Minnesota

**S.F. No. 2939 - City of Pennock**

**Author:** Senator Dean E. Johnson

**Prepared by:** Daniel P. McGowan, Senate Counsel (651/296-4397)



**Date:** March 20, 2006

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The proposed special legislation for the city of Pennock would authorize Pennock to acquire a closed convenience store and convey the store to a private entity to be continued to be operated as a convenience store. The authority of statutory cities like Pennock is largely restricted by statute, primarily chapter 412, and even though statutory cities are authorized to acquire real estate for various purposes under that chapter, are authorized to sell or lease property no longer needed for city use, and even have authority in chapter 469 to convey city owned land to encourage business and industry, it is unclear whether or not a statutory city may acquire real property for the sole purpose of conveying it to a private entity. This special legislation would authorize Pennock to do so, and is similar to authority granted to larger cities either under a home rule charter, an economic development or port authority, or an HRA.

DPM:mvm

Senator Johnson, D.E. introduced-

S.F. No. 2939: Referred to the Committee on State and Local Government Operations.

1.2 A bill for an act  
 1.3 relating to the city of Pennock; authorizing the city to acquire a certain parcel  
 1.4 of real estate and appurtenant building and to expend city funds to improve  
 1.5 the building; authorizing the city to convey the parcel to a private entity to be  
 operated as a commercial establishment.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. CITY OF PENNOCK; ACQUIRE REAL ESTATE, EXPEND CITY  
 1.8 FUNDS, AND CONVEY TO PRIVATE ENTITY.

1.9 The city of Pennock may purchase a certain parcel of real estate in the city consisting  
 1.10 of four city lots and an appurtenant building formerly operated as a convenience store  
 1.11 known as Phil's Corner on the terms and conditions that may be agreed upon between  
 1.12 the city and the current owner of the parcel, and the city may expend city funds to make  
 1.13 necessary improvements to the building. Once acquired and improved and in order  
 1.14 to ensure the continued economic vitality of the city, the city may convey the parcel  
 1.15 and building by sale or lease to a private person, firm, partnership, corporation or other  
 1.16 entity for a nominal consideration or on whatever terms and conditions the city and the  
 1.17 private entity may agree upon in order for the building to be operated as a commercial  
 1.18 establishment.

1.19 Sec. 2. NO LOCAL APPROVAL; EFFECTIVE DATE.

1.20 Under Minnesota Statutes 2004, section 645.023, subdivision 1a, section 1 is  
 1.21 effective without local approval on the day following final enactment.



# COMMITTEE REPORT - NO AMENDMENTS

Committee on State and Local Government operations

S. F. No. 2939

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on \_\_\_\_\_

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
 1.2 **Operations, to which was referred**

1.4 **S.F. No. 2939:** A bill for an act relating to the city of Pennock; authorizing the city  
 1.5 to acquire a certain parcel of real estate and appurtenant building and to expend city funds  
 1.6 to improve the building; authorizing the city to convey the parcel to a private entity to be  
 operated as a commercial establishment.

1.7 Reports the same back with the recommendation that the bill do pass. Report  
 1.8 adopted.

1.9 .....  
 1.10 (Committee Chair)

1.11 March 27, 2006 .....  
 1.12 (Date of Committee recommendation)

**WEST CENTRAL**  
**TRIBUNE** *Online*

**Tribune Editorial: OK bill to allow town to help start local store**

*Tribune Opinion*

*West Central Tribune - 03/23/2006*

The town of Pennock is seeking a unique solution to reopen its gas station and convenience store. After a year and a half of Phil's Corner sitting closed on the town's southside, city officials began looking for alternatives. Pennock residents have no other place to buy gas, milk or a loaf of bread; the closest place is six miles away in Willmar.

Through the help of local legislators, Pennock is now seeking legislation to allow the city to purchase the land and refurbish the building.

Pennock officials have not made a decision whether to get into the convenience store business, but they are seeking legislation to allow the option if they need and choose to pursue it.

City officials are considering possibly getting the store back in operation first before bringing in a private party to lease and operate the business.

Getting the store reopened would be beneficial for the town's residents. The loss of the store has been a significant inconvenience.

The Legislature should approve this option for the town. The bill has passed a House committee and is awaiting full House approval. It has a scheduled Senate committee hearing next week.

We commend Pennock's officials for their efforts to seek out a unique solution to solve a challenging problem for the town's residents.

We encourage the Legislature to quickly approve the appropriate legislation to facilitate Pennock in its goal of getting a gas station and convenience store reopened.

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# Senate

State of Minnesota

## **S.F. No. 3394 - Adult Entertainment Establishments (Delete Everything Amendment)**

**Author:** Senator Steve Dille

**Prepared by:** Daniel P. McGowan, Senate Counsel (651/296-4397) 

**Date:** March 27, 2006

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**Section 1 [Purpose and Findings]** is a section that normally is not contained in a bill, but when it relates to first amendment issues is often helpful to a court deciding the constitutionality of the bill. Courts have upheld greater restrictions on adult entertainment establishments when there is a showing of adverse "secondary effects" in a community, and a legislative recognition of those effects would have a beneficial impact on allowing greater regulation of adult entertainment establishments.

### **Section 2 [Technical]**

### **Section 3 [Notice required]**

#### **Subdivision 1** Definition section

**Subdivision 2** The main substantive requirement of the bill in which a person may not operate an adult entertainment establishment at a location where one was not previously located without giving 60 days notice to the chief clerical officer of the city in which the operation will commence. The governing body would conduct hearings on the proposed operation and give written notice of the hearing to the operator of the establishment.

**Subdivision 3** provides that if an adult entertainment establishment is located within 50 miles of a statutory or home rule charter city or county the governing body or county board is not required to provide by zoning or otherwise for a location within the city or county limits where any adult entertainment establishment may be located.

**Subdivision 4** prohibits adult entertainment establishments within certain distance from various other properties, including residential properties, schools, and churches.

**Subdivision 5** limits the hours of operation of adult entertainment establishments to 10 a.m. to 10 p.m. Monday through Saturday.

**Subdivision 6** places restrictions on who may own or manage an adult entertainment establishment.

**Subdivision 7** authorizes a county or a city to enact an ordinance or a regulation not inconsistent with this section and may preempt the provisions of this bill by local ordinance.

**Section 4** provides an immediate effective date.

DPM:mvm

Senator Dille introduced--

S.F. No. 3394: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to adults-only businesses; requiring notice to be given to a city or county of intent to conduct adults-only businesses in certain circumstances; authorizing cities and counties certain zoning authority as it relates to adults-only businesses; proposing coding for new law in Minnesota Statutes, chapter 617.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. [617.44] NOTICE TO GOVERNING BODY WHEN PROPOSING TO CONDUCT CERTAIN ADULTS-ONLY BUSINESSES.**

**Subdivision 1. Definitions.** For the purposes of this section, the terms in this section have the meanings given them.

(a) "Adult" means a person who has attained the age of 18.

(b) "Adult entertainment establishment" means any commercial establishment, business, or service, or portion thereof, which offers sexually oriented material, devices, paraphernalia, or specific sexual activities, services, or performances, or any combination thereof, or in any other form, whether printed, filmed, recorded, or live.

(c) "Adult book store" means any corporation, partnership, or business of any kind which has as a part of its stock books, magazines, or other periodicals and which offers, sells, provides, or rents for a fee:

(1) any sexually oriented material that the corporation, partnership, or business restricts or purports to restrict admission to adults, within the meaning of this section, or to any class of adults;

(2) any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of a video machine or slide projector;

(3) any sexually oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism, or bestiality; or

2.1 (4) any sexually oriented material which has as its principal theme the depiction of  
2.2 sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region, or  
2.3 buttocks of children who are or appear to be under the age of 18.

2.4 (d) "Person" means an individual, firm, partnership, corporation, or other entity.

2.5 (e) "Sexually oriented material" means any book, article, magazine, publication, or  
2.6 written matter of any kind, drawing, etching, painting, photograph, motion picture film,  
2.7 or sound recording which depicts sexual activity, actual or simulated, involving human  
2.8 beings or human beings and animals, or which exhibits uncovered human genitals or  
2.9 pubic region in a lewd or lascivious manner or which exhibits human male genitals in a  
2.10 discernibly turgid state, even if completely covered.

2.11 (f) "Specific sexual activities" includes the following sexual activities and/or the  
2.12 exhibition of the following anatomical areas:

2.13 (1) human genitals in the state of sexual stimulation or arousal;

2.14 (2) acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio, or  
2.15 any excretory function, or representation thereof;

2.16 (3) the fondling or erotic touching of human genitals, pubic region, buttocks, or the  
2.17 female breasts; or

2.18 (4) less than completely opaquely covered:

2.19 (i) human genitals or pubic region;

2.20 (ii) buttocks;

2.21 (iii) female breasts below the top of the areola; or

2.22 (iv) human male genitals in a discernibly turgid state, even if completely and  
2.23 opaquely covered.

2.24 Subd. 2. Notice to city. No person shall engage in, carry on, or participate in  
2.25 the operation of an adult entertainment establishment or an adult bookstore unless  
2.26 within 60 days of the commencement of operations of the establishment or bookstore  
2.27 the person operating the establishment or bookstore gives written notice by certified  
2.28 mail to the chief clerical officer of the statutory or home rule charter city of the date on  
2.29 which it will commence operation of the establishment or bookstore. Upon receipt of  
2.30 the notice, the chief clerical officer must acknowledge receipt of the notice by certified  
2.31 mail, return receipt requested, and notify the governing body of the receipt of the notice.  
2.32 The governing body may conduct hearings on the proposed operation of the adult  
2.33 entertainment establishment or adult bookstore and must give written notice by ordinary  
2.34 mail to the operator or the establishment or bookstore of any hearings.

2.35 Subd. 3. Zoning; adult entertainment establishments or bookstores. If an  
2.36 adult entertainment establishment or an adult bookstore is located within 50 miles of

3.1 a statutory or home rule charter city, the governing body of the city is not required  
3.2 to provide by zoning or otherwise for a location within the city limits in which an  
3.3 adult entertainment establishment or an adult bookstore may be located. If an adult  
3.4 entertainment establishment or an adult bookstore is located within 50 miles of the  
3.5 boundaries of a county, the county board is not required to provide by zoning or otherwise  
3.6 for a location within the city limits in which an adult entertainment establishment or an  
3.7 adult bookstore may be located.

3.8 **Sec. 2. EFFECTIVE DATE.**

3.9 Section 1 is effective the day following final enactment.



*Adlykd*

1.1 Senator *Wiger*..... moves to amend S.F. No. 3394 as follows:

Delete everything after the enacting clause and insert:

1.3 "Section 1. **PURPOSE; FINDINGS.**

1.4 The purpose of this act is to establish requirements governing adult entertainment  
1.5 establishments in order to protect the public health, safety, and welfare and to prevent  
1.6 criminal activity. The legislature finds that:

1.7 (1) adult entertainment establishments can contribute to an increase in criminal  
1.8 activity in the area in which these businesses are located, increasing the demands on  
1.9 crime-prevention programs and law enforcement services;

1.10 (2) adult entertainment establishments can be used as fronts for prostitution and  
1.11 other criminal activity and the proper management and operation of these businesses can  
1.12 minimize this risk;

1.13 (3) adult entertainment establishments can increase the risk of exposure to  
1.14 communicable diseases and facilitate the spread of communicable diseases by virtue of the  
1.15 design and use of the premises, endangering not only the patrons of these establishments  
1.16 but also the general public;

1.17 (4) adult entertainment establishments can cause or contribute to public health  
1.18 problems by the presence of live adult entertainment in conjunction with food or drink on  
1.19 the same premises; and

1.20 (5) a regulatory scheme as prescribed in this act can aid in monitoring adult  
1.21 entertainment establishments for adverse secondary effects on the communities in which  
1.22 they are located.

Sec. 2. Minnesota Statutes 2004, section 617.241, subdivision 1, is amended to read:

1.24 Subdivision 1. **Definitions.** For purposes of this section and section 617.242, the  
1.25 following terms have the meanings given them:

1.26 (a) "Obscene" means that the work, taken as a whole, appeals to the prurient interest  
1.27 in sex and depicts or describes in a patently offensive manner sexual conduct and which,  
1.28 taken as a whole, does not have serious literary, artistic, political, or scientific value. In  
1.29 order to determine that a work is obscene, the trier of fact must find:

1.30 (i) that the average person, applying contemporary community standards would find  
1.31 that the work, taken as a whole, appeals to the prurient interest in sex;

1.32 (ii) that the work depicts sexual conduct specifically defined by clause (b) in a  
1.33 patently offensive manner; and

(iii) that the work, taken as a whole, lacks serious literary, artistic, political, or  
1.35 scientific value.

1.36 (b) "Sexual conduct" means any of the following:

2.1 (i) An act of sexual intercourse, normal or perverted, actual or simulated, including  
2.2 genital-genital, anal-genital, or oral-genital intercourse, whether between human beings  
2.3 or between a human being and an animal.

2.4 (ii) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who  
2.5 is nude or clad in undergarments or in a sexually revealing costume or the condition of  
2.6 being fettered, bound, or otherwise physically restricted on the part of one so clothed  
2.7 or who is nude.

2.8 (iii) Masturbation, excretory functions, or lewd exhibitions of the genitals including  
2.9 any explicit, close-up representation of a human genital organ.

2.10 (iv) Physical contact or simulated physical contact with the clothed or unclothed  
2.11 pubic areas or buttocks of a human male or female, or the breasts of the female, whether  
2.12 alone or between members of the same or opposite sex or between humans and animals  
2.13 in an act of apparent sexual stimulation or gratification.

2.14 (c) "Community" means the political subdivision from which persons properly  
2.15 qualified to serve as jurors in a criminal proceeding are chosen.

2.16 (d) "Work" means "material" or "performance."

2.17 (e) "Material" means a book, magazine, pamphlet, paper, writing, card,  
2.18 advertisement, circular, print, picture, photograph, motion picture film, videotape, script,  
2.19 image, instrument, statue, drawing, or other article.

2.20 (f) "Performance" means a play, motion picture, dance, or other exhibition performed  
2.21 before an audience.

2.22 **Sec. 3. [617.242] ADULT ENTERTAINMENT ESTABLISHMENTS.**

2.23 **Subdivision 1. Definitions. The definitions in this subdivision apply to this section.**

2.24 (a) **"Adult book store" means a business that has as a part of its stock books,**  
2.25 **magazines, or other periodicals and that offers, sells, provides, or rents for a fee:**

2.26 **(1) sexually oriented material to which the business restricts or purports to restrict**  
2.27 **admission to adults;**

2.28 **(2) sexually oriented material that is available for viewing by patrons on the**  
2.29 **premises by electronic means or by the operation of a video machine or slide projector;**

2.30 **(3) sexually oriented material that has a substantial portion of its contents devoted to**  
2.31 **the pictorial depiction of sadism, masochism, or bestiality; or**

2.32 **(4) sexually oriented material that has as its principal theme the depiction of sexual**  
2.33 **activity by, or lascivious exhibition of, the uncovered genitals, pubic region, or buttocks**  
2.34 **of children who are or appear to be under the age of 18.**

2.35 (b) **"Adult entertainment establishment" means an adult bookstore or adult**  
2.36 **performance establishment.**

3.1 (c) "Adult performance establishment" means a business that presents performances  
3.2 that:

3.3 (1) are distinguished or characterized by an emphasis on the depiction of sexual  
3.4 conduct; or

3.5 (2) involve the live exhibition of sexual conduct, or uncovered or less than  
3.6 completely opaquely covered: (i) human genitals or pubic region; (ii) buttocks; (iii) female  
3.7 breasts below the top of the areola; or (iv) human male genitals in a discernibly turgid  
3.8 state, even if completely and opaquely covered.

3.9 (d) "Sexually oriented material" means material that depicts or displays sexual  
3.10 conduct.

3.11 Subd. 2. **Notice to city.** A person must not operate an adult entertainment  
3.12 establishment at a location where this type of establishment was not previously located  
3.13 unless, within 60 days before commencing operation of the establishment, the person  
3.14 gives written notice by certified mail to the chief clerical officer of the statutory or home  
3.15 rule charter city in which it will be located of the date on which the person will commence  
3.16 operation of the establishment. Upon receipt of the notice, the chief clerical officer must  
3.17 acknowledge receipt of the notice by certified mail, return receipt requested, addressed to  
3.18 the person, and notify the governing body of the receipt of the notice. The governing body  
3.19 may conduct hearings on the proposed operation of the adult entertainment establishment  
3.20 and must give written notice by ordinary mail to the operator of the establishment of  
3.21 any hearings.

3.22 Subd. 3. **Zoning; adult entertainment establishments.** If an adult entertainment  
3.23 establishment is located within 50 miles of a statutory or home rule charter city, the  
3.24 governing body of the city is not required to provide by zoning or otherwise for a location  
3.25 within the city limits in which an adult entertainment establishment may be located. If an  
3.26 adult entertainment establishment is located within 50 miles of the boundaries of a county,  
3.27 the county board is not required to provide by zoning or otherwise for a location within  
3.28 the county limits in which an adult entertainment establishment may be located.

3.29 Subd. 4. **Proximity.** An adult entertainment establishment may not operate in the  
3.30 same building as, or within 1,500 feet from, another adult entertainment establishment;  
3.31 within 500 feet of residential property, regardless of how the property is zoned; or within  
3.32 2,800 feet of a public or private elementary or secondary school or a church. Distances are  
3.33 measured between the closest property lines.

3.34 Subd. 5. **Hours and days of operation.** An adult entertainment establishment  
3.35 may not be open for business before 10:00 a.m. or after 10:00 p.m. on Monday through

4.1 Saturday. An adult entertainment establishment may not be open for business on a Sunday  
4.2 or legal holiday.

4.3 Subd. 6. Restrictions on ownership or management by persons convicted of  
4.4 certain crimes. A person who has been convicted of one of the following offenses may  
4.5 not operate or manage an adult business establishment for three years after the conviction  
4.6 for the offense, or a conviction for a similar offense in another state or jurisdiction:

4.7 (1) prostitution under section 609.321; 609.324; or 609.3242;

4.8 (2) criminal sexual conduct under sections 609.342 to 609.3451;

4.9 (3) solicitation of children under section 609.352;

4.10 (4) indecent exposure under section 617.23;

4.11 (5) distribution or exhibition of obscene materials and performances under section  
4.12 617.241;

4.13 (6) use of a minor in a sexual performance under section 617.246; or

4.14 (7) possession of pornographic work involving minors under section 617.247.

4.15 Subd. 7. Local regulation allowed. If a county or statutory or home rule charter city  
4.16 does not enact an ordinance or regulation governing adult entertainment establishments,  
4.17 this section applies in the county or city. A county or city may adopt an ordinance or  
4.18 regulation that is consistent with this section, that supersedes or is in whole or in part more  
4.19 restrictive than this section, or that provides that this section does not apply in the county  
4.20 or city, and the county or city ordinance applies.

4.21 Sec. 4. EFFECTIVE DATE.

4.22 This act is effective the day following final enactment."

4.23 Amend the title accordingly



1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.5 **S.F. No. 3394:** A bill for an act relating to adults-only businesses; requiring notice  
1.6 to be given to a city or county of intent to conduct adults-only businesses in certain  
circumstances; authorizing cities and counties certain zoning authority as it relates to  
adults-only businesses; proposing coding for new law in Minnesota Statutes, chapter 617.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Delete everything after the enacting clause and insert:

1.9 "Section 1. **PURPOSE; FINDINGS.**

1.10 The purpose of this act is to establish requirements governing adult entertainment  
1.11 establishments in order to protect the public health, safety, and welfare and to prevent  
1.12 criminal activity. The legislature finds that:

1.13 (1) adult entertainment establishments can contribute to an increase in criminal  
1.14 activity in the area in which these businesses are located, increasing the demands on  
crime-prevention programs and law enforcement services;

1.16 (2) adult entertainment establishments can be used as fronts for prostitution and  
1.17 other criminal activity and the proper management and operation of these businesses can  
1.18 minimize this risk;

1.19 (3) adult entertainment establishments can increase the risk of exposure to  
1.20 communicable diseases and facilitate the spread of communicable diseases by virtue of the  
1.21 design and use of the premises, endangering not only the patrons of these establishments  
1.22 but also the general public;

1.23 (4) adult entertainment establishments can cause or contribute to public health  
1.24 problems by the presence of live adult entertainment in conjunction with food or drink on  
1.25 the same premises; and

1.26 (5) a regulatory scheme as prescribed in this act can aid in monitoring adult  
1.27 entertainment establishments for adverse secondary effects on the communities in which  
1.28 they are located.

1.29 **Sec. 2. Minnesota Statutes 2004, section 617.241, subdivision 1, is amended to read:**

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1.34 taken as a whole, does not have serious literary, artistic, political, or scientific value. In  
1.35 order to determine that a work is obscene, the trier of fact must find:

1.36 (i) that the average person, applying contemporary community standards would find  
1.37 that the work, taken as a whole, appeals to the prurient interest in sex;

2.1 (ii) that the work depicts sexual conduct specifically defined by clause (b) in a  
2.2 patently offensive manner; and

2.3 (iii) that the work, taken as a whole, lacks serious literary, artistic, political, or  
2.4 scientific value.

2.5 (b) "Sexual conduct" means any of the following:

2.6 (i) An act of sexual intercourse, normal or perverted, actual or simulated, including  
2.7 genital-genital, anal-genital, or oral-genital intercourse, whether between human beings  
2.8 or between a human being and an animal.

2.9 (ii) Sadomasochistic abuse, meaning flagellation or torture by or upon a person who  
2.10 is nude or clad in undergarments or in a sexually revealing costume or the condition of  
2.11 being fettered, bound, or otherwise physically restricted on the part of one so clothed  
2.12 or who is nude.

2.13 (iii) Masturbation, excretory functions, or lewd exhibitions of the genitals including  
2.14 any explicit, close-up representation of a human genital organ.

2.15 (iv) Physical contact or simulated physical contact with the clothed or unclothed  
2.16 pubic areas or buttocks of a human male or female, or the breasts of the female, whether  
2.17 alone or between members of the same or opposite sex or between humans and animals  
2.18 in an act of apparent sexual stimulation or gratification.

2.19 (c) "Community" means the political subdivision from which persons properly  
2.20 qualified to serve as jurors in a criminal proceeding are chosen.

2.21 (d) "Work" means "material" or "performance."

2.22 (e) "Material" means a book, magazine, pamphlet, paper, writing, card,  
2.23 advertisement, circular, print, picture, photograph, motion picture film, videotape, script,  
2.24 image, instrument, statue, drawing, or other article.

2.25 (f) "Performance" means a play, motion picture, dance, or other exhibition performed  
2.26 before an audience.

2.27 **Sec. 3. [617.242] ADULT ENTERTAINMENT ESTABLISHMENTS.**

2.28 **Subdivision 1. Definitions.** The definitions in this subdivision apply to this section.

2.29 (a) "Adult book store" means a business that has as a part of its stock books,  
2.30 magazines, or other periodicals and that offers, sells, provides, or rents for a fee:

2.31 (1) sexually oriented material to which the business restricts or purports to restrict  
2.32 admission to adults;

2.33 (2) sexually oriented material that is available for viewing by patrons on the  
2.34 premises by electronic means or by the operation of a video machine or slide projector;

2.35 (3) sexually oriented material that has a substantial portion of its contents devoted to  
2.36 the pictorial depiction of sadism, masochism, or bestiality; or

3.1 (4) sexually oriented material that has as its principal theme the depiction of sexual  
3.2 activity by, or lascivious exhibition of, the uncovered genitals, pubic region, or buttocks  
3.3 of children who are or appear to be under the age of 18.

3.4 (b) "Adult entertainment establishment" means an adult bookstore or adult  
3.5 performance establishment.

3.6 (c) "Adult performance establishment" means a business that presents performances  
3.7 that:

3.8 (1) are distinguished or characterized by an emphasis on the depiction of sexual  
3.9 conduct; or

3.10 (2) involve the live exhibition of sexual conduct, or uncovered or less than  
3.11 completely opaquely covered: (i) human genitals or pubic region; (ii) buttocks; (iii) female  
3.12 breasts below the top of the areola; or (iv) human male genitals in a discernibly turgid  
3.13 state, even if completely and opaquely covered.

3.14 (d) "Sexually oriented material" means material that depicts or displays sexual  
3.15 conduct.

3.16 Subd. 2. Notice to city. A person must not operate an adult entertainment  
3.17 establishment at a location where this type of establishment was not previously located  
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3.21 operation of the establishment. Upon receipt of the notice, the chief clerical officer must  
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3.27 Subd. 3. Zoning; adult entertainment establishments. If an adult entertainment  
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3.30 within the city limits in which an adult entertainment establishment may be located. If an  
3.31 adult entertainment establishment is located within 50 miles of the boundaries of a county,  
3.32 the county board is not required to provide by zoning or otherwise for a location within  
3.33 the county limits in which an adult entertainment establishment may be located.

3.34 Subd. 4. Proximity. An adult entertainment establishment may not operate in the  
3.35 same building as, or within 1,500 feet from, another adult entertainment establishment;  
3.36 within 500 feet of residential property, regardless of how the property is zoned; or within



4.1 2,800 feet of a public or private elementary or secondary school or a church. Distances are  
4.2 measured between the closest property lines.

4.3 Subd. 5. Hours and days of operation. An adult entertainment establishment  
4.4 may not be open for business before 10:00 a.m. or after 10:00 p.m. on Monday through  
4.5 Saturday. An adult entertainment establishment may not be open for business on a Sunday  
4.6 or legal holiday.

4.7 Subd. 6. Restrictions on ownership or management by persons convicted of  
4.8 certain crimes. A person who has been convicted of one of the following offenses may  
4.9 not operate or manage an adult business establishment for three years after the conviction  
4.10 for the offense, or a conviction for a similar offense in another state or jurisdiction:

- 4.11 (1) prostitution under section 609.321; 609.324; or 609.3242;
- 4.12 (2) criminal sexual conduct under sections 609.342 to 609.3451;
- 4.13 (3) solicitation of children under section 609.352;
- 4.14 (4) indecent exposure under section 617.23;
- 4.15 (5) distribution or exhibition of obscene materials and performances under section  
4.16 617.241;
- 4.17 (6) use of a minor in a sexual performance under section 617.246; or
- 4.18 (7) possession of pornographic work involving minors under section 617.247.

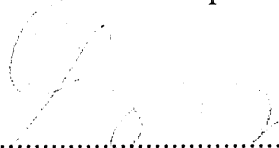
4.19 Subd. 7. Local regulation allowed. If a county or statutory or home rule charter city  
4.20 does not enact an ordinance or regulation governing adult entertainment establishments,  
4.21 this section applies in the county or city. A county or city may adopt an ordinance or  
4.22 regulation that is consistent with this section, that supersedes or is in whole or in part more  
4.23 restrictive than this section, or that provides that this section does not apply in the county  
4.24 or city, and the county or city ordinance applies.

4.25 **Sec. 4. EFFECTIVE DATE.**

4.26 This act is effective the day following final enactment."

4.27 Amend the title accordingly

4.28 And when so amended the bill do pass. Amendments adopted. Report adopted.

4.29   
4.30 (Committee Chair)

4.31 March 27, 2006 .....  
4.32 (Date of Committee recommendation)

DELAWARE LAW

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DE ST TI 24 § 1601  
24 Del.C. § 1601

to Regulate Adult  
ENTERTAINMENT Businesses

DELAWARE CODE ANNOTATED

TITLE 24. PROFESSIONS AND OCCUPATIONS

CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS

SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS

§ 1601 Purpose.

(a) It is the finding of the General Assembly that the health, safety and welfare of the people of the State are imperiled by the increasing incidence of the crimes of obscenity, prostitution and of offenses related thereto. The General Assembly finds that the foregoing crimes are principally facilitated by the widespread abuse of legitimate occupations and establishments, to wit, adult entertainment establishments. It is the further finding of the General Assembly that existing criminal penalties for the foregoing offenses have been rendered ineffective by the active concealment of the identities of the individuals who create, control and promote such businesses; by the failure of these individuals and businesses to exercise adequate control and supervision over the activities of their employees; and by the active promotion of prostitution and obscenity by these individuals and businesses for their own financial gain.

(b) To the end of furthering the substantial and compelling interest of the people of this State in being free of the crimes of obscenity, prostitution and its companion offenses, and in order to promote the health, safety and welfare, the General Assembly does hereby act.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 2.)

<General Materials (GM) - References, Annotations, or Tables>

NOTES, REFERENCES, AND ANNOTATIONS

Constitutionality of licensing provisions. -- The licensing provisions of this chapter are not violative of either the United States or Delaware Constitution. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

The minimal burden imposed by the act upon purveyors of adult entertainment is narrowly tailored to the substantial governmental interest the act is designed to further, and since it does not prohibit or impede presentation of live adult entertainment, leaves open adequate alternative means of communication. Mitchell v. Commission on Adult Entertainment Establishments, 764 F. Supp. 928 (D. Del. 1991).

The act does not impose any limitation on the content of adult entertainment or upon the ability to present the entertainment to an audience beyond the restrictions of the obscenity laws and it also does not restrict, with the exception of other laws applying to minors, the viewing of this type of entertainment by those who wish to see it. Mitchell v. Commission on Adult Entertainment Establishments, 764 F. Supp. 928 (D. Del. 1991).

There was no merit to defendant's contention that the application of the Adult Entertainment Establishments Act's (24 Del. C. § 1601, et seq.) license requirement to their restaurant/bar, while exempting video stores that sold sexually explicit material, violated the Federal Equal Protection Clause. State v. Fantasia Rest. & Lounge, Inc., -- A.2d -- (Del. Super. Ct. Mar. 9, 2004).

①

Scope of chapter. -- It is the General Assembly's intent to limit enforcement of this chapter to those businesses which are likely to facilitate the crimes of obscenity and prostitution. Richardson v. Wile, 535 A.2d 1346 (Del. 1988); Mitchell v. Commission on Adult Entertainment Establishments, 764 F. Supp. 928 (D. Del. 1991).

24 Del.C. § 1601, DE ST TI 24 § 1601

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SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS

§ 1602 Amendment of Adult Entertainment Establishment Statute.

As used in this chapter:

(1) "Adult" shall mean a person who has attained the age of 18.

(2) "Adult entertainment establishment" shall mean any commercial establishment, business or service, or portion thereof, which offers sexually oriented material, devices, paraphernalia or specific sexual activities, services, performances or any combination thereof, or in any other form, whether printed, filmed, recorded or live. The term "adult entertainment establishment" shall include but not be limited to such activities as:

a. "Adult book stores" which shall mean any corporation, partnership or business of any kind which has as part of its stock books, magazines or other periodicals and which offers, sells, provides or rents for a fee:

1. Any sexually oriented material, and which business restricts or purports to restrict admission to adults, within the meaning of this chapter, or to any class of adults;

2. Any sexually oriented material which is available for viewing by patrons on the premises by means of the operation of movie machines or slide projectors;

3. Any sexually oriented material which has a substantial portion of its contents devoted to the pictorial depiction of sadism, masochism or bestiality; or

4. Any sexually oriented material which has as its principal theme the depiction of sexual activity by, or lascivious exhibition of, the uncovered genitals, pubic region or buttocks of children who are or appear to be under the age of 18;

b. "Adult motion picture theatres" which shall mean an enclosed building used for presenting film presentations which are distinguished or characterized by an emphasis on matter depicting, describing or relating to specific sexual activities for observation by patrons therein;

c. "Adult shows" or "adult peep shows" which shall include all adult shows, exhibitions, performances or presentations which contain acts or depictions of specific sexual activities;

d. "Conversation parlors," "relaxation studios," "health salons" or "call services" which shall mean any commercial business, enterprise or service which offers or which holds itself out as offering conversations or relaxation or any other services whereby any employee, attendant or patron is involved in specific sexual activities or representations thereof;

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- e. "Massage establishments" which shall mean any business or enterprise which offers, sells or provides, or which holds itself out as offering, selling or providing, massages which include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating or other tactile stimulation of the human body, by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term shall not include the business or occupation of a chiropractor, chiropodist, podiatrist, barber, nurse, optometrist, cosmetologist, dentist, physician, massage/bodywork practitioner, physical therapist or operator of a funeral establishment, who is certified, registered or licensed pursuant to this title, or a hospital which is licensed pursuant to Title 16 or athletic coach or trainer.
- (3) "Applicant" shall mean the person in whose name or on whose behalf a license under this chapter is requested.
- (4) "Beastiality" shall mean sexual activity, actual or simulated, between a human being and an animal.
- (5) "Commission" shall mean the Commission on Adult Entertainment Establishments.
- (6) "Conviction" means a verdict of guilty by the trier of fact, whether judge or jury, or a plea of guilty or a plea of nolo contendere accepted by the court.
- (7) "Licensee" shall mean the person to whom and in whose name a license is issued under this chapter.
- (8) "Masochism" shall mean sexual gratification achieved by a person through, or the association of sexual activity with, submission or subjection to physical pain, suffering, humiliation, torture or death.
- (9) "Massage establishments" shall mean any business or enterprise which offers, sells or provides, or which holds itself out as offering, selling or providing, massages which include bathing, physical massage, rubbing, kneading, anointing, stroking, manipulating or other tactile stimulation of the human body, by either male or female employees or attendants, by hand or by any electrical or mechanical device, on or off the premises. This term shall not include the business or occupation of a chiropractor, chiropodist, podiatrist, barber, nurse, optometrist, cosmetologist, dentist, physician, physical therapist or operator of a funeral establishment, who is certified, registered or licensed pursuant to this title, or a hospital which is licensed pursuant to Title 16 or athletic coach or trainer.
- (10) "Massagist" shall mean any person who performs massage services for a massage establishment, and shall include self-employed individuals.
- (11) "Partner" shall include both a general and a limited partner.
- (12) "Partnership" shall include both a general and a limited partnership.
- (13) "Person" means a human being who has been born and is alive, and, where appropriate, a public or private corporation, an unincorporated association, a government or a governmental instrumentality.
- (14) "Principal stockholder" shall mean a person who owns equity securities of the licensee, whether voting or nonvoting, preferred or

common, in any amount equal to or greater than 10 percent of the total amount of equity securities of the licensee issued and outstanding.

(15) "Peace officer" shall include police officers, the Attorney General and the Attorney General's deputies and assistants.

(16) "Sadism" shall mean sexual gratification achieved through, or the association of sexual activity with, the infliction of physical pain, suffering, humiliation, torture or death upon another person or animal.

(17) "Sexually oriented material" shall mean any book, article, magazine, publication or written matter of any kind, drawing, etching, painting, photograph, motion picture film or sound recording, which depicts sexual activity, actual or simulated, involving human beings or human beings and animals, or which exhibits uncovered human genitals or pubic region in a lewd or lascivious manner or which exhibits human male genitals in a discernibly turgid state, even if completely covered.

(18) "Specific sexual activities" shall be defined as including the following sexual activities and/or the exhibition of the following anatomical areas:

- a. Human genitals in the state of sexual stimulation or arousal; or
- b. Acts of human masturbation, sexual intercourse, sodomy, cunnilingus, fellatio or any excretory function, or representation thereof;
- c. The fondling or erotic touching of human genitals, pubic region, buttocks or the female breasts; or
- d. Less than completely opaquely covered:
  1. Human genitals, pubic region;
  2. Buttocks;
  3. Female breasts below the top of the areola; or
  4. Human male genitals in a discernable turgid state, even if completely and opaquely covered.

(19) "Treat" shall mean to administer the services provided by a massage establishment as described by this section.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, §§ 3, 4; 63 Del. Laws, c. 13, § 1; 68 Del. Laws, c. 236, § 3; 70 Del. Laws, c. 186, § 1.)

<General Materials (GM) - References, Annotations, or Tables>

#### NOTES, REFERENCES, AND ANNOTATIONS

**Constitutionality.** -- The Adult Entertainment Establishments Act (24 Del. C. § 1061 et seq.) is neither vague nor overbroad; the terms "buttocks" and "female breasts below the top of the areola" are not unconstitutionally vague. *State v. Fantasia Rest. & Lounge, Inc.*, -- A.2d -- (Del. Super. Ct. Mar. 9, 2004).

Constitutionality of the Adult Entertainment Establishments Act, 24 Del. C. § 1601 et seq., was upheld, as: (1) the act was not overbroad because the

definition of specific sexual activities and the Act itself only applied to establishments meeting the definition of adult entertainment establishment for purposes of determining whether a license was required; (2) the act's use of the terms "buttocks" and "female breasts below the top of the areola" did not render it vague; (3) defendant's gender neutral argument failed, as 2 different subsections of 24 Del. C. § 1602 addressed the different genders out of necessity (based on the anatomical differences between the genders); and (4) the act did not operate as a prior restraint, since pre-authorization of material to be sold by licensees was not required. *State v. Carrea*, -- A.2d -- (Del. Super. Ct. Aug. 30, 2004).

Chapter does not seek to embrace noncommercial activities of any type such as libraries, museums or exhibitions. *State v. Huddleston*, 412 A.2d 1148 (Del. Super. Ct. 1980).

**"Adult entertainment establishment."** -- A video rental store which rents or sells X-rated videos is not per se an adult entertainment establishment. *Richardson v. Wile*, 535 A.2d 1346 (Del. 1988).

24 Del.C. § 1602, DE ST TI 24 § 1602

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§ 1603 Commission on Adult Entertainment Establishments.

(a) The Commission on Adult Entertainment Establishments is hereby established. The Commission shall consist of 5 members who shall be appointed by the Governor and who shall be residents of this State.

(b) The Governor shall appoint the 5 members of the Commission within 30 days of the enactment of this chapter. Two members shall be appointed for 2 years and 2 members for 3 years. Upon the expiration of said terms the Governor shall appoint successors for terms of 3 years. The Chairperson shall be designated by and serve at the pleasure of the Governor. In the event that a member of the Commission for any reason cannot complete a term of office, the Governor shall appoint another person to serve for the remainder of the term. The Commission shall designate 1 of its members as Secretary-Treasurer. All members of the Commission appointed by the Governor under this chapter shall be made by and with the consent of a majority of all the members elected to the Senate.

(c) A person who has never served on the Board may be appointed to the Board 2 consecutive times, but no such person shall thereafter be eligible for 2 consecutive appointments. No person who has been twice appointed to the Board, or who has served on the Board for 6 years within any 9-year period, shall again be appointed to the Board until an interim period of at least 1 term has expired since such person last served.

(d) Any act or vote by a person appointed in violation of subsection (c) of this section shall be invalid. An amendment or revision of this chapter is not sufficient cause for any appointment or attempted appointment in violation of subsection (c) of this section, unless such amendment or revision amends this section to permit such an appointment.

(e) Each member of the Commission shall receive as compensation the sum of \$30 per diem for each day or part thereof actually engaged in the discharge of the member's duties under this chapter, and shall be reimbursed by the State Treasurer for reasonable expenses and costs incurred in traveling to and from meetings of the Commission.

(f) Three members of the Commission shall constitute a quorum to conduct business. In the absence of the Chairperson, an acting Chairperson shall be designated by the quorum of Commissioners present.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 5; 67 Del. Laws, c. 368, § 8; 70 Del. Laws, c. 186, § 1.)

<General Materials (GM) - References, Annotations, or Tables>

NOTES, REFERENCES, AND ANNOTATIONS

Board members as public officers. -- The members of the boards or commissions described in this title and Title 23 are all "public officers" as that term is used in Del. Const., art. XV, § 5, for purposes of its holding over provision. Opinion of Justices, 672 A.2d 4 (Del. 1995).



24 Del.C. § 1603, DE ST TI 24 § 1603

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§ 1604 Duties and powers of Commission.

(a) The Commission shall issue, revoke and suspend licenses for operation of adult entertainment establishments, and for the occupation of massagist in accordance with this chapter.

(b) The Commission shall meet regularly not less than 1 day per month or within 30 days, whichever comes sooner, after receipt of a completed application for a license, and shall conduct such special meetings and hearings as shall be necessary to implement this chapter.

(c) Each member of the Commission shall have the power to administer oaths, and to compel the attendance of witnesses and the production of documents and other tangible objects material to its proceedings by the issuance of subpoenas to carry out the purposes of this chapter.

(d) No findings of fact shall be made by the Commission except upon a hearing before at least 3 members, 3 of which shall concur in said finding. All findings of fact shall be written or recorded.

(e) All fees received by the Commission shall be paid over to the State Treasurer in accordance with Chapter 61 of Title 29. All expenses of the Commission, within the limits of the appropriations made to it, shall be paid by the State Treasurer upon vouchers signed by the Secretary-Treasurer of the Commission.

(f) All documents filed with the Commission and all records maintained shall become public, official and business records of the State and shall be admissible in evidence in any judicial proceeding in this State in accordance with the laws of Delaware applicable to the admissibility of such records.

(g) The Commission shall have the power to make such rules and regulations not inconsistent with the law as are necessary for their performance of its duties.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 6.)

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§ 1605 Records.

(a) The Commission shall maintain separate indexes relating to the licensing of adult entertainment establishments and massagists.

(b) The Commission shall maintain an alphabetized or a computerized index containing the full name or names, including nicknames or aliases, residential address or addresses, business address or addresses, social security number, driver's license number, a picture and the identity of any banks within or without the State wherein accounts are maintained, of every applicant and licensee under this chapter. The same information shall be provided for any other person whose signature appears upon any document comprising an application for license submitted under this chapter. Said index shall be kept current and shall indicate the eligibility of such persons as licensees under this chapter, and whether the signatures of such persons on an application for license preclude the issuance of a license based thereon.

(c) In carrying out its responsibilities, the Commission may submit names of applicants and those appearing in applications to the Department of Justice for the purpose of a record check.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 7.)

<General Materials (GM) - References, Annotations, or Tables>

24 Del.C. § 1605, DE ST TI 24 § 1605

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§ 1606 Adult entertainment license requirement.

(a) No person shall engage in, carry on or participate in the operation of an adult entertainment establishment, or engage in the occupation of massagist without first having been issued a license therefor by the Commission.

(b) Whoever engages in the occupation of massagist in violation of this section shall be fined not more than \$500 or imprisoned not more than 6 months, or both.

(c) Any person, and in the case of corporation this shall include its principal stockholders, board of directors, officers and persons engaged in the management of such establishment, who shall engage in, carry on or participate in the operation of an adult entertainment establishment in violation of this section shall be fined not more than \$10,000 and imprisoned not more than 6 months, or both.

(d) Any person engaging in, carrying on or who participates in the operation of a massage establishment who is found to have upon the premises a massagist in violation of this section shall be fined not less than \$2,500, which fine shall not be subject to suspension, nor more than \$10,000. For the purposes of this subsection, neither arrest, prosecution nor conviction of a massagist for violation of this section shall be necessary in order for liability to attach.

(e) A certificate, certified by a member of the Commission, that a diligent search of the Commission's records, those pertaining to licenses kept in conformity with this chapter, has failed to disclose the existence of a valid license for an adult entertainment establishment in question shall be prima facie evidence of a violation of this section.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, §§ 8-10.)

<General Materials (GM) - References, Annotations, or Tables>

NOTES, REFERENCES, AND ANNOTATIONS

Chapter does not offend the concept of equal protection. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

Nor violate the First Amendment. -- This chapter is a reasonable governmental response to a strong societal concern over the commercial exploitation of obscene material and although it affects a fundamental right of free expression, its burden is slight and as such does not violate the First Amendment. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

Limits of license requirement. -- Only those businesses which are likely to promote the crimes of obscenity and prostitution, as expressed in § 1601 of this title, should be licensed as "adult entertainment establishment" under this chapter. Richardson v. Wile, 535 A.2d 1346 (Del. 1988).

Warrantless seizure of inventory of unlicensed establishment not permitted. --

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Where the police entered an establishment failing to have a license as required by subsection (a) of this section, the actions of the arresting officers in seizing a substantial portion of the inventory of the establishment without a warrant was clearly unwarranted and unnecessary. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

24 Del.C. § 1606, DE ST TI 24 § 1606

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§ 1607 License fee; term.

(a) No license to engage in the occupation of a massagist under this chapter, or renewal thereof, shall be issued unless the applicant shall have paid the nonrefundable application fee as provided in § 1612 of this title.

(b) No license for the operation of any adult entertainment establishment under this chapter, nor renewal thereof, shall be issued unless the applicant shall have paid the nonrefundable application fee as provided in § 1613 of this title.

(c) Nothing in this chapter, however, shall be construed to affect or impair in any manner the requirements of Title 30.

(d) Each license granted pursuant to this chapter shall be for a period of 1 year and may only be renewed by making a new application in the manner provided in this chapter.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 11; 63 Del. Laws, c. 284, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1607, DE ST TI 24 § 1607

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§ 1608 Transferability of license.

(a) Each license issued under this chapter shall be for the sole use and benefit of the licensee to whom it is issued and shall not be transferable.

(b) Whoever intentionally uses or permits the use, or attempts to use or permit the use of a license issued under this chapter by or on behalf of a person other than the licensee to whom said license shall be issued shall be fined not more than \$500, or imprisoned for not more than 6 months, or both.

(61 Del. Laws, c. 122, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1608, DE ST TI 24 § 1608

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§ 1609 Form and content of license.

(a) Every license issued under this chapter shall be signed by the signature or by the facsimile signature of the Secretary-Treasurer of the Commission, shall bear in bold letters the date of issuance and termination and shall state the name and address of the licensee.

(b) Every license for the operation of an adult entertainment establishment shall describe the nature of the business or enterprise as "massage establishment," "adult bookstore," or as otherwise appropriate within the meaning of § 1602(2) of this title, and the location of the premises at which such business is authorized. Where the licensee is a corporation, the license shall state the name and address of said corporation's registered agent in this State, and the name of its registered agent at such address.

(c) Every license issued to a massagist shall bear the photograph of the licensee.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 12.)

<General Materials (GM) - References, Annotations, or Tables>  
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LAWARE CODE ANNOTATEDTITLE 24. PROFESSIONS AND OCCUPATIONSCHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTSSUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS§ 1610 License tied to physical location; prohibited activities.

(a) No license issued under this chapter shall authorize the licensee to engage in or carry on the business of operating an adult entertainment establishment in any place other than the premises set forth in said license. In addition, each applicant or licensee seeking a license or renewal must affirmatively establish within their application that the location or proposed location of the place of business is in compliance with all applicable laws and ordinances. If a licensee changes the location of the licensee's place of business during the period for which the license was issued, the license shall be amended by making application in accordance with this chapter in making a new application, to authorize business at the new location, provided that said business is otherwise permitted at the new location by applicable law and ordinance.

(b) Any person, and in the case of a corporation this shall include its principal stockholders, board of directors, officers and persons engaged in the management of each establishment, who is the holder of a license issued under this chapter and who engages in, carries on or participates in the operation of the business of operating a massage establishment or an adult book store at a place other than that authorized by said license shall be fined not more than \$500, or imprisoned for not more than 6 months, or both.

(c) No new adult entertainment establishment as defined in § 1602 of this title shall operate in the same building or in separate buildings less than 1,500 feet from each other, within 500 feet of any residence regardless of how such property is zoned, or within 2,800 feet from a church or school. Violations of this subsection shall be punishable by a fine in the amount of \$5,000. Distances shall be measured from property line to property line.

(d) Notwithstanding any provision of law to the contrary, no municipal corporation or county may adopt any ordinance or charter amendment with distance restrictions less than those provided in this section.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 13; 63 Del. Laws, c. 284, § § 2, 3; 70 Del. Laws, c. 186, § 1; 72 Del. Laws, c. 452, § 1.)

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## NOTES, REFERENCES, AND ANNOTATIONS

Effect of section is that an applicant cannot obtain the state license necessary to the opening of a business in New Castle County until the applicant receives a permit from the County demonstrating that the applicant has complied with the applicable New Castle County regulations. Amico v. New Castle County, 571 F. Supp.

160 (D. Del. 1983).

**Constitutionality of zoning ordinance prohibiting adult entertainment in proximity to school or church.** -- For a case challenging the constitutionality of a county zoning ordinance prohibiting location of adult entertainment centers less than 2,800 feet of a school, church or other place of worship, see Amico v. New Castle County, 101 F.R.D. 472 (D. Del. 1984), aff'd, 770 F.2d 1066 (3d Cir. 1985).

Statute that required adult entertainment establishments to be a certain distance from residences, churches, and schools was a properly tailored time, place, and manner regulation since it related to proper governmental aims of reducing related crimes; existence of 12 alternative sites for the petitioning establishment was constitutionally sufficient. State v. Fantasia Rest. & Lounge, Inc., -- A.2d -- (Del. Super. Ct. Mar. 9, 2004).

**Younger abstention was properly applied.** -- Younger abstention was properly applied to an adult entertainment establishment owner's constitutional challenge to New Castle County, County Code § 40-133(a)(13) and the Delaware Adult Entertainment Establishments Act, 24 Del. C. § 1601 et seq., because: (1) the owner was defending a pending criminal prosecution in state court; (2) the prosecution implicated the state's interest in controlling the negative effects of adult entertainment establishments; and (3) the owner actually did raise, unsuccessfully, his constitutional claims as a defense to his prosecution in state court; however, the district court erred by retaining jurisdiction as to fees and costs, as even a successful defense of the state criminal charges would not entitle the owner to fees and costs under 42 U.S.C. § 1988. Lui v. Comm'n on Adult Entm't Establishments of Del., 369 F.3d 319 (3d Cir. 2004).

**County immune from damage claim.** -- Adult business's claim for damages against a county was barred where the county was merely enforcing a zoning policy mandated by the state by this section. Lui v. Comm'n on Adult Entm't Establishments, 213 F.R.D. 166 (D. Del. 2003), aff'd, 369 F.3d 319 (3d Cir. 2004).

24 Del.C. § 1610, DE ST TI 24 § 1610

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§ 1611 Display of license.

(a) Every person licensed to operate an adult entertainment establishment under this chapter shall display each license in a conspicuous manner on the premises for which the license shall have been issued.

(b) Every massagist licensed under this chapter shall have in the massagist's possession during the course of performance of services as a massagist, and while on the premises of a massage establishment, and shall display upon request of a peace officer, the license issued under this chapter.

(c) Violation of this section shall be punished by a fine of not more than \$1,000.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 14; 70 Del. Laws, c. 186, § 1.)

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§ 1612 Massagist license application.

(a) No license to engage in the occupation of massagist shall be issued under this chapter unless the applicant has executed and filed with the Commission an application for license which shall include:

(1) Except as otherwise provided for in this chapter, no person may be licensed as a massagist under this chapter unless such person shall pay the fee as provided for and have an education equivalent to the completion of the 12th grade, shall have passed the appropriate examination and completed a course in the occupation of massagist, consisting of all or the majority of practical theory in a school of massagist, of at least 1,000 hours of continuous training, not to exceed more than 8 hours in any 1 day;

(2) The applicant's full name(s), including nicknames or aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, date of birth, driver's license number and a photograph of the applicant taken within 30 days of application;

(3) The applicant's sworn statement that the applicant has never been convicted of any of the following offenses: Lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction within 3 years of the date of application;

(4) A letter or certification of a physician stating that the applicant has been examined and found free of communicable diseases as of a date not more than 30 days prior to submission of the application; and

(5) A copy of the applicant's fingerprints on a Delaware State Police fingerprint card.

(b) Every application for a license to engage in the occupation of a massagist, or for renewal thereof, shall be accompanied by a nonrefundable fee in the amount of \$25.

(61 Del. Laws, c. 122, § 1; 63 Del. Laws, c. 284, § 4; 64 Del. Laws, c. 416, § 1; 70 Del. Laws, c. 186, § 1.)

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§ 1613 Adult entertainment establishment license application.

(a) No license for the operation of an adult entertainment establishment shall be issued under this chapter unless the applicant has executed and filed with the Commission an application for license under oath on a form prepared by the Commission which is in compliance with this chapter.

(b) Every application for license for the operation of an adult entertainment establishment shall state the full name(s) of the applicant appearing pursuant to § 1615 of this title, including nickname(s) or alias(es), residential address(es), place(s) of employment, including address(es) and phone number(s), social security number, date of birth, driver's license number, a photograph of the applicant taken within 30 days of the application, federal employer's identification number and an address of the premises for which the application for license is made. Each application shall further provide the full name(s), including nickname(s) and alias(es), residential address(es), place of employment(s) including address(es) and phone number(s), date of birth, social security number and a recent photograph taken within 30 days of providing this information to the Commission of those persons employed by the adult entertainment establishment, and to specifically identify who is to be responsible for the day-to-day management of the adult entertainment establishment.

(c) Where the applicant is a corporation, no license shall be issued unless there first be filed with the Commission, as part of the application of license:

(1) A copy of the certificate of incorporation certified by the Secretary of State of the state of incorporation;

(2) Where the applicant is a foreign corporation within the meaning of § 371 of Title 8, a copy of the certificate of the Secretary of State prescribed by subsection (c) of that section;

(3) A certificate which shall bear the full name(s), including nicknames or aliases, place(s) of employment, including address(es) and phone number(s), social security number, date of birth, driver's license number and a photograph taken within 30 days of application of every director, officer and principal stockholder of the applicant, and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution; and

(4) The names and addresses of all holders of stock of the applicant as of a date 30 days or less prior to the date of application, which shall be certified as true and correct by an authorized director or officer of said corporation.

(d) Where the applicant is a partnership or other unincorporated association, no license shall be issued unless there is first filed with the Commission, as part of the application for license, a certificate which shall bear the full name(s), including nicknames or aliases, signature(s), place(s) of employment, including address(es) and phone number(s), social security number, date of

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birth, driver's license number and a photograph taken within 30 days of application of every partner or member, and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution.

(e) An application for license for the operation of an adult entertainment establishment shall include a certificate stating the full name(s), including nicknames or aliases, signature(s), residential address(es), place(s) of employment, including address(es) and phone number(s), date of birth, social security number, driver's license number and a photograph taken within 30 days of application of the person or persons who shall be responsible for the selection or procurement of all sexually oriented material for each such establishment and each such signature shall be separately witnessed and acknowledged by a notary public of the district of execution. This subsection shall not be construed to preclude the responsibility of any other person or persons for the procurement of sexually oriented materials.

(f) Every application for a license for the operation of an adult entertainment establishment, or for renewal thereof, shall be accompanied by a nonrefundable fee in the amount of \$100 plus a fee of \$25 for each separate branch or business location.

(g) No application for a license to operate an adult entertainment establishment shall be received by the Commission within 6 months following the date upon which an application to operate an adult entertainment establishment at the same location has been denied.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, §§ 15-17; 63 Del. Laws, c. 284, § 5; 71 Del. Laws, c. 469, § 1.)

<General Materials (GM) - References, Annotations, or Tables>

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**Informational requirement of license application not violative of Fifth Amendment.** -- The informational requirement of this chapter is sustainable because of the limited nonincriminatory character of the data requested, not because it would otherwise be maintained. So tested, it does not infringe Fifth Amendment rights of prospective licensees. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

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§ 1614 Form of signature.

No signature of an applicant or licensee, or of any director, officer, principal stockholder or employee of an applicant or licensee, or of any partner associated with an applicant or licensee, which is required to be affixed to any document filed under this chapter, shall be a facsimile signature.

(61 Del. Laws, c. 122, § 1.)

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§ 1615 Personal appearance required.

(a) No license shall be issued under this chapter except upon personal appearance of the applicant before a member of the Commission. The applicant shall affix the applicant's signature and Social Security number to the application for license in said member's presence and shall acknowledge under oath that said application for license is the applicant's act and deed and that the facts stated therein are true.

(b) Where the applicant is a corporation, subsection (a) of this section shall be satisfied by the appearance, signature and Social Security number of a director on behalf of the corporation in the same manner. Where the applicant is a partnership or other unincorporated association, subsection (a) of this section shall be satisfied by the appearance, signature and Social Security number of a general partner or member on behalf of the applicant.

(61 Del. Laws, c. 122, § 1; 70 Del. Laws, c. 186, § 1.)

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§ 1616 Grounds for denial of license.

(a) The Commission after a hearing shall issue a license for the operation of an adult entertainment establishment for every applicant who shall have satisfactorily completed and filed an application for license as required by this chapter and shall have paid the required fee.

(b) No license to engage in the occupation of massagist shall be issued to any person convicted of any of the following offenses: Lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction within 3 years of the date of application.

(c) No license for the operation of a massage establishment shall be issued under this chapter:

(1) To any person convicted within 3 years of the date of application of any of the following offenses: Lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction;

(2) To any person who formerly held a license for the operation of a massage establishment under this chapter, which license was revoked pursuant to § 1617 of this title, for 2 years following revocation;

(3) To any person who was an officer, director or principal stockholder of a corporation, or a partner or member of a partnership or other unincorporated association, which was licensed as a massage establishment and which license was revoked pursuant to § 1617 of this title for an offense or violation committed by anyone while said person served in that capacity, for 2 years following revocation;

(4) To any person on the basis of an application of license which bears the signature of any person specified in paragraph (1) of this subsection; who has been convicted within 3 years of the date of application of any of the crimes set forth in paragraph (1) of this subsection; or

(5) To any person on the basis of an application for license which bears the signature of any person specified in paragraph (2) or (3) of this subsection, for 2 years following revocation.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 18.)

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§ 1617 Grounds for refusal to issue a license; suspension; revocation.

(a) The Commission shall refuse to issue a license to any applicant, and shall revoke any license for the operation of an adult entertainment establishment other than a massage establishment, for any of the following reasons:

(1) An intentional misrepresentation or omission of any material fact required to be filed pursuant to this chapter;

(2) A transfer of a license in violation of § 1608(a) or § 1610(a) of this title; or the failure to comply with § 1622 or § 1623 of this title;

(3) A conviction of the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: Lewdness, tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction;

(4) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee or of a partner associated with the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: Lewdness, tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction, occurring on the licensed premises; or

(5) A conviction of any director, officer, principal stockholder, manager, procurer, employee or independent contractor of the licensee, or of a partner associated with the licensee, for any of the following offenses, including conspiracy to commit any of the following offenses: Lewdness, tax evasion, obscenity, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other jurisdiction, not occurring on licensed premises, where said director, officer, principal stockholder, manager, procurer, employee or independent contractor, at the time of the conduct constituting the offense, was off the premises at the request or direction or pursuant to the authority of the licensee for the purpose of furthering the business of the licensee.

(b) The person or persons responsible for any intentional misrepresentation or omission of any material fact required to be filed pursuant to this chapter shall be fined \$1,000, imprisoned for 30 days, or both. For the purpose of this subsection, a fact is deemed "material" when it could have affected the decision as to whether to grant or deny an application for license.

(c) A license to engage in the occupation of massagist shall be revoked for a period of 2 years upon the conviction of the licensee for any of the following offenses, including conspiracy to commit any of the following offenses: Lewdness, prostitution, promoting prostitution, sexual assault, sexual misconduct, indecent exposure, incest, rape or sodomy, in this State or any other state or jurisdiction.

(d) The license for the operation of an adult entertainment establishment other than a massage establishment may be suspended by the Commission, for a period not to exceed 6 months, for any violation of this chapter not otherwise punishable by subsection (a) of this section, or § 1616 of this title.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 19; 63 Del. Laws, c. 285, §§ 1, 2; 68 Del. Laws, c. 133, §§ 3, 4; 68 Del. Laws, c. 158, §§ 1, 2; 72 Del. Laws, c. 452, § 2.)

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§ 1618 Suspension of license to operate massage establishment or act as  
massagist; regulations imposing sanctions.

(a) A license for the operation of a massage establishment shall be suspended for a period of 60 days upon conviction of the licensee for a violation of § 1620 of this title.

(b) A license to engage in the occupation of massagist shall be suspended for a period of 2 years upon conviction of the licensee for a violation of § 1620 of this title.

(c) Notwithstanding anything in § 1617 of this title to the contrary, the Commission may adopt regulations imposing sanctions for violations of any provision of this chapter. Such sanctions may include fines or suspension of license to operate an adult entertainment establishment. The sanctions so adopted may be imposed in lieu of or in addition to license revocation.

(d) The Commission may adopt regulations requiring a licensee to post a bond with surety of \$10,000 for the collection of any fines imposed pursuant to regulations promulgated under subsection (c) of this section. In the event that the Commission requires the posting of a bond with surety, the bond shall be executed and proof of its execution shall be demonstrated to the Commission prior to the issuance of a license or renewal thereof.

(61 Del. Laws, c. 122, § 1; 63 Del. Laws, c. 285, § 3.)

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§ 1619 Hearings.

(a) The Commission shall not suspend or revoke any license under this chapter except after a hearing where the licensee has been given at least 20 days' notice in writing, specifying the reason or reasons for such suspension or revocation and a date of the hearing.

(b) Any hearing pursuant to this section or § 1616 of this title shall be at such time and place as the Commission shall prescribe, but no later than 20 days after the Commission is in receipt of a completed application or 20 days after a licensee has received notice of a proposed suspension or revocation action. Failure of the person or persons to appear after receiving notice shall constitute a waiver of the right to appear in such hearing.

(c) Hearings shall be before a panel of no less than 3 Commissioners and the applicant or licensee shall be permitted the assistance of counsel at the applicant's or licensee's own expense, to present witnesses in the applicant's or licensee's own behalf and to cross-examine witnesses against the applicant or licensee. The proceedings shall be recorded either electronically or stenographically. The Commission shall make specific findings of fact based upon a preponderance of the evidence upon the concurring vote of no fewer than 3 Commissioners. The Commission shall give written notice, accompanied by its findings of fact and conclusions of law, of its action within 10 days of said hearing.

(d) The applicant or licensee shall have the right of appeal to the Superior Court upon filing notice of appeal within 20 days of the decision of the Commission. Such review shall be on the record and shall not be de novo, and the cost of transportation shall be borne by the appellant.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 20; 70 Del. Laws, c. 186, § 1.)

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**Constitutionality.** -- This subchapter is facially valid because it provides a time limit within which the Commission must render a decision regarding a license application or revocation. Mitchell v. Commission on Adult Entertainment Establishments, 764 F. Supp. 928 (D. Del. 1991).

**Commission's failure to act deemed unconstitutional.** -- The Commission's failure to take action prevented plaintiffs from appealing the denial of a license and litigating their entitlement to a license under the act before the state courts and violated their constitutional rights. Mitchell v. Commission on Adult Entertainment Establishments, 764 F. Supp. 928 (D. Del. 1991).

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§ 1620 Prohibited massage establishment acts.

(a) No massage establishment shall:

(1) Permit a massagist in its employ to treat a patron while pubic area, buttocks or female breasts of either massagist or patron are not fully covered; or

(2) Permit a massagist in its employ to treat the genitals of a patron.

(b) No massage establishment shall be located on the premises or have an adjoining door to an establishment that sells alcoholic beverages.

(c) A violation of this section by either a massage establishment or a massagist shall be punished by a fine in the amount of \$1,000 or by imprisonment for not more than 30 days, or both.

(61 Del. Laws, c. 122, § 1; 64 Del. Laws, c. 416, § 2.)

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§ 1621 Records; inspection of records.

(a) Every massage establishment which is licensed under this chapter shall maintain on the premises and keep current a record of all massagists in its employ, a record of all massagists who have been employed after the effective date of this chapter and a record containing the names and addresses of all customers, the date of attendance and the name of the massagist.

(b) Every adult entertainment establishment which is licensed under this chapter shall maintain on the premises a record which shall state the name and address of every person, distributor, wholesaler or publisher from whom said establishment has received any sexually oriented material, and the date such material was received, for purposes of sale, exhibition or dissemination on the premises after the effective date of this chapter.

(c) All records which are required to be maintained pursuant to this section shall be subject to inspection on demand by any peace officer or by the Commission or any member thereof.

(d) Violation of this section shall be punished by a fine of not more than \$200 or by imprisonment for not more than 6 months, or both.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 21.)

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**Subsection (b) record of suppliers is information with expectation of privacy.** -- The identity of suppliers required to be kept on record in subsection (b) of this section is the type of information concerning which a businessperson has an expectation of privacy. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

**Warrantless seizure of inventory of unlicensed establishment not allowed.** -- Where the police entered an establishment failing to have a license as required by § 1606(a) of this title, the actions of the arresting officers in seizing a substantial portion of the inventory of the establishment without a warrant was clearly unwarranted and unnecessary. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

**Subsection (c) creates unreasonable government intrusion.** -- Subsection (c) of this section creates an invitation to random and standardless inquiry by any peace officer so inclined. So applied, the statute presents an obvious case of governmental intrusion which is per se unreasonable. State v. Huddleston, 412 A.2d 1148 (Del. Super. Ct. 1980).

24 Del.C. § 1621, DE ST TI 24 § 1621

Current through the First Regular Session of the 143rd General Assembly

75 Del. Laws, Ch. 222 (2005)

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DE ST TI 24 § 1622  
24 Del.C. § 1622

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CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS  
SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1622 Change of management of adult entertainment establishment.

(a) An adult entertainment establishment shall notify the Commission in writing within 10 days of any change, containing the full name(s), including nicknames or aliases, residential address(es), place(s) of employment, including address(es) and phone number(s), Social Security number, date of birth, driver's license number and a photograph taken within 30 days of notification, of any change in the identity of the persons identified pursuant to § 1613(b) and (e) of this title.

(b) A violation of this section shall be punishable by a fine in the amount of \$1,000.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 413, § 22.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1622, DE ST TI 24 § 1622

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24 Del.C. § 1623

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CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS  
SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1623 Applicability of chapter.

This chapter, except as provided in § 1607(c) of this title, shall apply with equal force and effect to businesses and enterprises in existence prior to the effective date of this chapter and to those undertaken thereafter. The information required of all applicants hereunder shall be supplied to the Commission by any business subject to this chapter previously licensed pursuant to § 2905 of Title 30 within 20 days after the effective date of this chapter if such business has more than 90 days remaining on its then existing license.

(61 Del. Laws, c. 122, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1623, DE ST TI 24 § 1623

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§ 1624 Inspections of massage establishments.

The premises at which the business of a massage establishment is carried on shall be subject to periodic inspection by the Department of Health and Social Services, upon reasonable notice to said establishment, for the prevention of the spread of communicable diseases.

(61 Del. Laws, c. 122, § 1; 70 Del. Laws, c. 149, § 210.)

<General Materials (GM) - References, Annotations, or Tables>

24 Del.C. § 1624, DE ST TI 24 § 1624

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24 Del.C. § 1625

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CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS  
SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1625 Rules and prohibitions relating to adult entertainment establishments.

(a) No adult entertainment establishment shall be established in a shopping area containing 1 or more parcels of land owned by a common owner or owners and having in such area 4 or more retail stores.

(b) No adult entertainment establishment shall open to do business before 10:00 a.m., Monday through Saturday; and no adult entertainment establishment shall remain open after 10:00 p.m., Monday through Saturday. No adult entertainment establishment shall be open for business on any Sunday or a legal holiday as designated in § 501 of Title 1. This subsection shall not apply to any business which, on or before January 1, 1997, was regulated under both this chapter and Title 4, and which is not an adult book store, conversation parlor or adult motion picture theater as the same are defined in this chapter.

(62 Del. Laws, c. 270, § 2; 63 Del. Laws, c. 69, § 1; 68 Del. Laws, c. 133, §§ 1, 2; 69 Del. Laws, c. 19, § 1; 71 Del. Laws, c. 160, § 1.)

<General Materials (GM) - References, Annotations, or Tables>

NOTES, REFERENCES, AND ANNOTATIONS

Closing hours held constitutional. -- As the closing-hours amendment to this section only limits adult entertainment establishments' hours of operation to 12 hours per day, excluding Sundays and legal holidays, it does not affect the content of speech directly, but only incidentally; the provision was found to be constitutional under U.S. Const., amend. I., 10 F.3d 123 (3d Cir. 1993).

The stated purpose in enacting subsection (b) was clearly outlined in the synopsis attached to Senate Bill No. 163. The General Assembly noted that time restrictions on adult entertainment establishments had been found to "further a significant community interest in promoting the welfare of a community's neighborhoods." Mitchell v. Commissioners of Comm'n on Adult Entertainment Establishments, 802 F. Supp. 1112 (D. Del. 1992), aff'd, 10 F.3d 123 (3d Cir. 1993).

Use of post-enactment evidence to support subsection (b) of this section was proper where the subsection was challenged under U.S. Const., amend. I., 10 F.3d 123 (3d Cir. 1993).

24 Del.C. § 1625, DE ST TI 24 § 1625

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DE ST TI 24 § 1626  
24 Del.C. § 1626

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CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS  
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§ 1626 Offenses.

Unless otherwise provided, all violations of this chapter are misdemeanors.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 270, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1626, DE ST TI 24 § 1626

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DE ST TI 24 § 1627  
24 Del.C. § 1627

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SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1627 Jurisdiction.

Exclusive jurisdiction for all criminal violations of this chapter shall be in the Superior Court.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 270, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1627, DE ST TI 24 § 1627

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DE ST TI 24 § 1628  
24 Del.C. § 1628

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SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1628 Words of gender or number.

Unless the context otherwise requires, words denoting the singular number may, and where necessary, shall be construed as denoting the plural number, and words denoting the plural number may, and where necessary, shall be construed as denoting the singular number, and words denoting the masculine gender may, and where necessary, shall be construed as denoting the feminine gender or the neuter gender.

(61 Del. Laws, c. 122, § 1; 62 Del. Laws, c. 270, § 1.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1628, DE ST TI 24 § 1628

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DE ST TI 24 § 1629  
24 Del.C. § 1629

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CHAPTER 16. ADULT ENTERTAINMENT ESTABLISHMENTS  
SUBCHAPTER I. ADULT BOOK STORES AND OTHER ADULT ENTERTAINMENT ESTABLISHMENTS  
§ 1629 Presence of minors prohibited; penalties.

(a) It shall be unlawful for an owner, manager, operator, procurer, employee or independent contractor of an adult entertainment or massage establishment to knowingly admit or allow to remain on the premises of such establishment an individual under the age of 18 years.

(b) Any person who violates this section shall be fined in the amount of \$1,000 for the first conviction, and in the amount of \$5,000 for each subsequent conviction.

(c) It shall be an affirmative defense to a prosecution under this section that the minor presented to the accused identification, with a photograph of such minor affixed thereon, which identification sets forth information which would lead a reasonable person to believe such individual was 18 years of age or older.

(63 Del. Laws, c. 284, § 6.)

<General Materials (GM) - References, Annotations, or Tables>  
24 Del.C. § 1629, DE ST TI 24 § 1629

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**Senate**

**State of Minnesota**

**S.F. No. 2906 - State Employee Compensation for Partial  
Government Shutdown**

**Author:** Senator Richard J. Cohen

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 27, 2006

---

This bill would compensate state employees who were prevented from working during the partial government shutdown by crediting an employee's vacation time for any time during the shutdown for which the employee has not been fully paid by the state. At the employee's option, the employee may elect a cash payment for the hours in lieu of additional vacation time. The Commissioner of Employee Relations is given 30 days after the effective date of this legislation to make full payment or credit as required by the bill.

TSB:rdr

Senator Cohen introduced—

S.F. No. 2906: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to state government; compensating state employees for time they were not able to work due to the 2005 partial government shutdown.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

**Section 1. COMPENSATION FOR PERIOD OF PARTIAL GOVERNMENT SHUTDOWN.**

**Subdivision 1. Definitions; coverage. For purposes of this section:**

**(1) "employee" means a state employee, as defined in Minnesota Statutes, section 43A.02, subdivision 21, who the commissioner determines was prevented from working because of the partial government shutdown;**

**(2) "partial government shutdown" means the period from July 1, 2005, through July 14, 2005, during which appropriations needed to fund certain state government functions had not been enacted; and**

**(3) "commissioner" means the commissioner of employee relations.**

**Subd. 2. Credit for uncompensated hours. (a) The commissioner must determine the number of hours an employee was prevented from working due to the partial government shutdown and for which the employee has not been fully paid by the state.**

**(b) An employee's vacation bank must be credited with the number of hours determined under paragraph (a). Notwithstanding any law or policy to the contrary, an employee credited with hours under this paragraph may choose to be paid in cash for these hours, rather than having the hours credited to the employee's vacation bank.**

**(c) If a memorandum of understanding or other agreement or policy provides an employee with partial compensation for hours not worked due to the partial government shutdown, compensation provided under that agreement or policy must be subtracted**

- 2.1 from compensation in cash or in credit to the employee's vacation bank that otherwise  
2.2 would be due under this section.
- 2.3 **EFFECTIVE DATE.** This section is effective the day following final enactment.
- 2.4 The commissioner must make payments or credits required by this section within 30  
2.5 days of the effective date of this section.



# COMMITTEE REPORT - NO AMENDMENTS

Committee on State and Local Government Operations

S . F. No. 29096

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on Finance

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.4 **S.F. No. 2906:** A bill for an act relating to state government; compensating state  
1.5 employees for time they were not able to work due to the 2005 partial government  
shutdown.

1.6 Reports the same back with the recommendation that the bill do pass and be  
1.7 re-referred to the Committee on Finance. Report adopted.

1.8 .....  
1.9 (Committee Chair)

1.10 March 27, 2006 .....  
1.11 (Date of Committee recommendation)

1.1 A bill for an act  
 1.2 relating to securities; enacting and modifying the 2002 Uniform Securities Act of  
 1.3 the National Conference of Commissioners on Uniform State Laws; prescribing  
 1.4 criminal penalties; amending Minnesota Statutes 2004, sections 60A.077,  
 1.5 subdivision 9; 82.23; 82.43, subdivision 7; 144A.01, subdivision 4; 245A.02,  
 1.6 subdivision 5a; 302A.011, subdivision 26; 302A.251, subdivision 4; 308A.505;  
 1.7 308B.465, subdivision 2; 322B.03, subdivision 43; 322B.663, subdivision 4;  
 1.8 356A.06, subdivision 6; proposing coding for new law in Minnesota Statutes,  
 1.9 chapter 80A; repealing Minnesota Statutes 2004, sections 80A.01; 80A.02;  
 1.10 80A.03; 80A.04; 80A.041; 80A.05; 80A.06; 80A.07; 80A.08; 80A.09; 80A.10;  
 1.11 80A.11; 80A.115; 80A.12; 80A.122; 80A.125; 80A.13; 80A.14; 80A.15;  
 1.12 80A.16; 80A.17; 80A.18; 80A.19; 80A.22; 80A.23; 80A.24; 80A.25; 80A.26;  
 1.13 80A.27; 80A.28; 80A.29; 80A.30; 80A.31.

1.14 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

UNIFORM SECURITIES ACT GENERAL PROVISIONS

1.17 Section 1. [80A.40] SECTION 101; SHORT TITLE.

1.18 This chapter may be cited as the Uniform Securities Act (2002).

1.19 Sec. 2. [80A.41] SECTION 102; DEFINITIONS.

1.20 In this chapter, unless the context otherwise requires:

1.21 (1) "Administrator" means the commissioner of commerce.

1.22 (2) "Agent" means an individual, other than a broker-dealer, who represents a

1.23 broker-dealer in effecting or attempting to effect purchases or sales of securities or

1.25 represents an issuer in effecting or attempting to effect purchases or sales of the issuer's

1.26 securities. But a partner, officer, or director of a broker-dealer or issuer, or an individual

having a similar status or performing similar functions is an agent only if the individual

2.1 otherwise comes within the term. The term does not include an individual excluded by  
2.2 rule adopted or order issued under this chapter.

2.3 (3) "Bank" means:

2.4 (A) a banking institution organized under the laws of the United States;

2.5 (B) a member bank of the Federal Reserve System;

2.6 (C) any other banking institution, whether incorporated or not, doing business  
2.7 under the laws of a state or of the United States, a substantial portion of the business  
2.8 of which consists of receiving deposits or exercising fiduciary powers similar to those  
2.9 permitted to be exercised by national banks under the authority of the Comptroller of the  
2.10 Currency pursuant to Section 1 of Public Law 87-722 (12 U.S.C. Section 92a), and which  
2.11 is supervised and examined by a state or federal agency having supervision over banks,  
2.12 and which is not operated for the purpose of evading this chapter; and

2.13 (D) a receiver, conservator, or other liquidating agent of any institution or firm  
2.14 included in subparagraph (A), (B), or (C).

2.15 (4) "Broker-dealer" means a person engaged in the business of effecting transactions  
2.16 in securities for the account of others or for the person's own account. The term does  
2.17 not include:

2.18 (A) an agent;

2.19 (B) an issuer;

2.20 (C) a depository institution; provided such activities are conducted in accordance  
2.21 with such rules as may be adopted by the administrator;

2.22 (D) an international banking institution; or

2.23 (E) a person excluded by rule adopted or order issued under this chapter.

2.24 (5) "Depository institution" means:

2.25 (A) a bank; or

2.26 (B) a savings institution, trust company, credit union, or similar institution that  
2.27 is organized or chartered under the laws of a state or of the United States, authorized  
2.28 to receive deposits, and supervised and examined by an official or agency of a state or  
2.29 the United States if its deposits or share accounts are insured to the maximum amount  
2.30 authorized by statute by the Federal Deposit Insurance Corporation, the National Credit  
2.31 Union Share Insurance Fund, or a successor authorized by federal law. The term does  
2.32 not include:

2.33 (i) an insurance company or other organization primarily engaged in the business  
2.34 of insurance;

2.35 (ii) a Morris Plan bank; or

3.1 (iii) an industrial loan company that is not an "insured depository institution" as  
3.2 defined in section 3(c)(2) of the Federal Deposit Insurance Act, United States Code, title  
3.3 12, section 1813(c)(2), or any successor federal statute.

3.4 (6) "Federal covered investment adviser" means a person registered under the  
3.5 Investment Advisers Act of 1940.

3.6 (7) "Federal covered security" means a security that is, or upon completion of a  
3.7 transaction will be, a covered security under Section 18(b) of the Securities Act of 1933  
3.8 (15 U.S.C. Section 77r(b)) or rules or regulations adopted pursuant to that provision.

3.9 (8) "Filing" means the receipt under this chapter of a record by the administrator or  
3.10 a designee of the administrator.

3.11 (9) "Fraud," "deceit," and "defraud" are not limited to common law deceit.

3.12 (10) "Guaranteed" means guaranteed as to payment of all principal and all interest.

3.13 (11) "Institutional investor" means any of the following, whether acting for itself or  
3.14 for others in a fiduciary capacity:

3.15 (A) a depository institution or international banking institution;

3.16 (B) an insurance company;

3.17 (C) a separate account of an insurance company;

3.18 (D) an investment company as defined in the Investment Company Act of 1940;

3.19 (E) a broker-dealer registered under the Securities Exchange Act of 1934;

3.20 (F) an employee pension, profit-sharing, or benefit plan if the plan has total assets  
3.21 in excess of \$10,000,000 or its investment decisions are made by a named fiduciary, as  
3.22 defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer  
3.23 registered under the Securities Exchange Act of 1934, an investment adviser registered  
3.24 or exempt from registration under the Investment Advisers Act of 1940, an investment  
3.25 adviser registered under this chapter, a depository institution, or an insurance company;

3.26 (G) a plan established and maintained by a state, a political subdivision of a state, or  
3.27 an agency or instrumentality of a state or a political subdivision of a state for the benefit  
3.28 of its employees, if the plan has total assets in excess of \$10,000,000 or its investment  
3.29 decisions are made by a duly designated public official or by a named fiduciary, as  
3.30 defined in the Employee Retirement Income Security Act of 1974, that is a broker-dealer  
3.31 registered under the Securities Exchange Act of 1934, an investment adviser registered  
3.32 or exempt from registration under the Investment Advisers Act of 1940, an investment  
3.33 adviser registered under this chapter, a depository institution, or an insurance company;

3.34 (H) a trust, if it has total assets in excess of \$10,000,000, its trustee is a depository  
3.35 institution, and its participants are exclusively plans of the types identified in subparagraph

4.1 (F) or (G), regardless of the size of their assets, except a trust that includes as participants  
4.2 self-directed individual retirement accounts or similar self-directed plans;

4.3 (I) an organization described in Section 501(c)(3) of the Internal Revenue Code (26  
4.4 U.S.C. Section 501(c)(3)), corporation, Massachusetts trust or similar business trust,  
4.5 limited liability company, or partnership, not formed for the specific purpose of acquiring  
4.6 the securities offered, with total assets in excess of \$10,000,000;

4.7 (J) a small business investment company licensed by the Small Business  
4.8 Administration under Section 301(c) of the Small Business Investment Act of 1958 (15  
4.9 U.S.C. Section 681(c)) with total assets in excess of \$10,000,000;

4.10 (K) a private business development company as defined in Section 202(a)(22) of  
4.11 the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(22)) with total assets  
4.12 in excess of \$10,000,000;

4.13 (L) a federal covered investment adviser acting for its own account;

4.14 (M) a "qualified institutional buyer" as defined in Rule 144A(a)(1), other than Rule  
4.15 144A(a)(1)(i)(H), adopted under the Securities Act of 1933 (17 C.F.R. 230.144A);

4.16 (N) a "major U.S. institutional investor" as defined in Rule 15a-6(b)(4)(i) adopted  
4.17 under the Securities Exchange Act of 1934 (17 C.F.R. 240.15a-6);

4.18 (O) any other person, other than an individual, of institutional character with total  
4.19 assets in excess of \$10,000,000 not organized for the specific purpose of evading this  
4.20 chapter; or

4.21 (P) any other person specified by rule adopted or order issued under this chapter;

4.22 (12) "Insurance company" means a company organized as an insurance company  
4.23 whose primary business is writing insurance or reinsuring risks underwritten by insurance  
4.24 companies and which is subject to supervision by the insurance commissioner or a similar  
4.25 official or agency of a state.

4.26 (13) "Insured" means insured as to payment of all principal and all interest.

4.27 (14) "International banking institution" means an international financial institution  
4.28 of which the United States is a member and whose securities are exempt from registration  
4.29 under the Securities Act of 1933.

4.30 (15) "Investment adviser" means a person that, for compensation, engages in the  
4.31 business of advising others, either directly or through publications or writings, as to the  
4.32 value of securities or the advisability of investing in, purchasing, or selling securities or  
4.33 that, for compensation and as a part of a regular business, issues or promulgates analyses  
4.34 or reports concerning securities. The term includes a financial planner or other person  
4.35 that, as an integral component of other financially related services, provides investment

5.1 advice to others for compensation as part of a business or that holds itself out as providing  
5.2 investment advice to others for compensation. The term does not include:

5.3 (A) an investment adviser representative;

5.4 (B) a lawyer, accountant, engineer, or teacher whose performance of investment  
5.5 advice is solely incidental to the practice of the person's profession;

5.6 (C) a broker-dealer or its agents whose performance of investment advice is solely  
5.7 incidental to the conduct of business as a broker-dealer and that does not receive special  
5.8 compensation for the investment advice;

5.9 (D) a publisher of a bona fide newspaper, news magazine, or business or financial  
5.10 publication of general and regular circulation;

5.11 (E) a federal covered investment adviser;

5.12 (F) a bank or savings institution;

5.13 (G) any other person that is excluded by the Investment Advisers Act of 1940 from  
5.14 the definition of investment adviser; or

5.15 (H) any other person excluded by rule adopted or order issued under this chapter.

5.16 (16) "Investment adviser representative" means an individual employed by or  
5.17 associated with an investment adviser or federal covered investment adviser and who  
5.18 makes any recommendations or otherwise gives investment advice regarding securities,  
5.19 manages accounts or portfolios of clients, determines which recommendation or advice  
5.20 regarding securities should be given, provides investment advice or holds herself or  
5.21 himself out as providing investment advice, receives compensation to solicit, offer, or  
5.22 negotiate for the sale of or for selling investment advice, or supervises employees who  
5.23 perform any of the foregoing. The term does not include an individual who:

5.24 (A) performs only clerical or ministerial acts;

5.25 (B) is an agent whose performance of investment advice is solely incidental to  
5.26 the individual acting as an agent and who does not receive special compensation for  
5.27 investment advisory services;

5.28 (C) is employed by or associated with a federal covered investment adviser, unless  
5.29 the individual has a "place of business" in this state as that term is defined by rule adopted  
5.30 under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a)  
5.31 and is

5.32 (i) an "investment adviser representative" as that term is defined by rule adopted  
5.33 under Section 203A of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-3a); or

5.34 (ii) not a "supervised person" as that term is defined in Section 202(a)(25) of the  
5.35 Investment Advisers Act of 1940 (15 U.S.C. Section 80b-2(a)(25)); or

5.36 (D) is excluded by rule adopted or order issued under this chapter.

6.1 (17) "Issuer" means a person that issues or proposes to issue a security, subject to  
6.2 the following:

6.3 (A) The issuer of a voting trust certificate, collateral trust certificate, certificate of  
6.4 deposit for a security, or share in an investment company without a board of directors or  
6.5 individuals performing similar functions is the person performing the acts and assuming  
6.6 the duties of depositor or manager pursuant to the trust or other agreement or instrument  
6.7 under which the security is issued.

6.8 (B) The issuer of an equipment trust certificate or similar security serving the same  
6.9 purpose is the person by which the property is or will be used or to which the property  
6.10 or equipment is or will be leased or conditionally sold or that is otherwise contractually  
6.11 responsible for assuring payment of the certificate.

6.12 (C) The issuer of a fractional undivided interest in an oil, gas, or other mineral lease  
6.13 or in payments out of production under a lease, right, or royalty is the owner of an interest  
6.14 in the lease or in payments out of production under a lease, right, or royalty, whether  
6.15 whole or fractional, that creates fractional interests for the purpose of sale.

6.16 (18) "Nonissuer transaction" or "nonissuer distribution" means a transaction or  
6.17 distribution not directly or indirectly for the benefit of the issuer.

6.18 (19) "Offer to purchase" includes an attempt or offer to obtain, or solicitation of an  
6.19 offer to sell, a security or interest in a security for value. The term does not include a  
6.20 tender offer that is subject to Section 14(d) of the Securities Exchange Act of 1934 (15  
6.21 U.S.C. Section 78n(d)).

6.22 (20) "Person" means an individual; corporation; business trust; estate; trust;  
6.23 partnership; limited liability company; association; joint venture; government;  
6.24 governmental subdivision, agency, or instrumentality; public corporation; or any other  
6.25 legal or commercial entity.

6.26 (21) "Place of business" of a broker-dealer, an investment adviser, or a federal  
6.27 covered investment adviser means:

6.28 (A) an office at which the broker-dealer, investment adviser, or federal covered  
6.29 investment adviser regularly provides brokerage or investment advice or solicits, meets  
6.30 with, or otherwise communicates with customers or clients; or

6.31 (B) any other location that is held out to the general public as a location at which  
6.32 the broker-dealer, investment adviser, or federal covered investment adviser provides  
6.33 brokerage or investment advice or solicits, meets with, or otherwise communicates with  
6.34 customers or clients.

6.35 (22) "Predecessor Act" means Minnesota Statutes 2002, sections 80A.01 to 80A.31.



7.1 (23) "Price amendment" means the amendment to a registration statement filed under  
7.2 the Securities Act of 1933 or, if an amendment is not filed, the prospectus or prospectus  
7.3 supplement filed under the Securities Act of 1933 that includes a statement of the offering  
7.4 price, underwriting and selling discounts or commissions, amount of proceeds, conversion  
7.5 rates, call prices, and other matters dependent upon the offering price.

7.6 (24) "Principal place of business" of a broker-dealer or an investment adviser means  
7.7 the executive office of the broker-dealer or investment adviser from which the officers,  
7.8 partners, or managers of the broker-dealer or investment adviser direct, control, and  
7.9 coordinate the activities of the broker-dealer or investment adviser.

7.10 (24a) "Purchaser" does not include:

7.11 (A) any relative, spouse, or relative of the spouse of a purchaser who has the same  
7.12 principal residence as the purchaser;

7.13 (B) any trust or estate in which a purchaser and any of the persons related to him as  
7.14 specified in Regulation D, Rule 501(e)(1)(i) or (e)(1)(ii) collectively have more than 50  
7.15 percent of the beneficial interest (excluding contingent interests);

7.16 (C) any corporation or other organization of which a purchaser and any of the  
7.17 persons related to the purchaser as specified in Regulation D, Rule 501(e)(1)(i) or  
7.18 (e)(1)(ii) collectively are beneficial owners of more than 50 percent of the equity securities  
7.19 (excluding directors' qualifying shares) or equity interests; and

7.20 (D) any accredited investor as defined by Regulation D, Rule 501(3).

7.21 A corporation, partnership, or other entity must be counted as one purchaser. If,  
7.22 however, that entity is organized for the specific purpose of acquiring the securities offered  
7.23 and is not an accredited investor, then each beneficial owner of equity securities or equity  
7.24 interests in the entity shall count as a separate purchaser for all provisions of Regulation  
7.25 D, except to the extent provided in Regulation D, Rule 501(e)(1).

7.26 A noncontributory employee benefit plan within the meaning of Title I of the  
7.27 Employee Retirement Income Security Act of 1974 shall be counted as one purchaser  
7.28 where the trustee makes all investment decisions for the plan.

7.29 (25) "Record," except in the phrases "of record," "official record," and "public  
7.30 record," means information that is inscribed on a tangible medium or that is stored in an  
7.31 electronic or other medium and is retrievable in perceivable form.

7.32 (26) "Sale" includes every contract of sale, contract to sell, or disposition of, a  
7.33 security or interest in a security for value, and "offer to sell" includes every attempt or  
7.34 offer to dispose of, or solicitation of an offer to purchase, a security or interest in a  
7.35 security for value.

8.1 (A) A security given or delivered with, or as a bonus on account of, any purchase of  
8.2 securities or any other thing is considered to constitute part of the subject of the purchase  
8.3 and to have been offered and sold for value.

8.4 (B) A gift of assessable stock is considered to involve an offer and sale.

8.5 (C) A sale or offer of a warrant or right to purchase or subscribe to another security  
8.6 of the same or another issuer and a sale or offer of a security that gives the holder a present  
8.7 or future right or privilege to convert the security into another security of the same or  
8.8 another issuer, are each considered to include an offer of the other security.

8.9 (27) "Securities and Exchange Commission" means the United States Securities and  
8.10 Exchange Commission.

8.11 (28) "Security" means a note; stock; treasury stock; security future; bond; debenture;  
8.12 evidence of indebtedness; certificate of interest or participation in a profit-sharing  
8.13 agreement; collateral trust certificate; preorganization certificate or subscription;  
8.14 transferable share; investment contract; voting trust certificate; certificate of deposit for a  
8.15 security; fractional undivided interest in oil, gas, or other mineral rights; put, call, straddle,  
8.16 option, or privilege on a security, certificate of deposit, or group or index of securities,  
8.17 including an interest therein or based on the value thereof; put, call, straddle, option, or  
8.18 privilege entered into on a national securities exchange relating to foreign currency; or,  
8.19 in general, an interest or instrument commonly known as a "security"; or a certificate of  
8.20 interest or participation in, temporary or interim certificate for, receipt for, guarantee of, or  
8.21 warrant or right to subscribe to or purchase, any of the foregoing. The term:

8.22 (A) includes both a certificated and an uncertificated security;

8.23 (B) does not include an insurance or endowment policy or annuity contract under  
8.24 which an insurance company promises to pay a fixed or variable sum of money either in a  
8.25 lump sum or periodically for life or other specified period;

8.26 (C) does not include an interest in a contributory or noncontributory pension or  
8.27 welfare plan subject to the Employee Retirement Income Security Act of 1974;

8.28 (D) includes as an "investment contract" an investment in a common enterprise with  
8.29 the expectation of profits to be derived primarily from the efforts of a person other than  
8.30 the investor and a "common enterprise" means an enterprise in which the fortunes of the  
8.31 investor are interwoven with those of either the person offering the investment, a third  
8.32 party, or other investors;

8.33 (E) includes as an "investment contract," among other contracts, an interest in  
8.34 a limited partnership and a limited liability company and an investment in a viatical  
8.35 settlement or similar agreement; and

9.1 (F) does not include any equity interest of a closely held corporation or other entity  
 9.3 with not more than 35 holders of the equity interest of such entity offered or sold pursuant  
 9.4 to a transaction in which 100 percent of the equity interest of such entity is sold as a means  
 9.5 to effect the sale of the business of the entity if the transaction has been negotiated on  
 9.6 behalf of all purchasers and if all purchasers have access to inside information regarding  
 9.7 the entity before consummating the transaction.

9.8 (29) "Self-regulatory organization" means a national securities exchange registered  
 9.9 under the Securities Exchange Act of 1934, a national securities association of  
 9.10 broker-dealers registered under the Securities Exchange Act of 1934, a clearing agency  
 9.11 registered under the Securities Exchange Act of 1934, or the Municipal Securities  
Rulemaking Board established under the Securities Exchange Act of 1934.

9.12 (30) "Sign" means, with present intent to authenticate or adopt a record:

9.13 (A) to execute or adopt a tangible symbol; or

9.14 (B) to attach or logically associate with the record an electronic symbol, sound,  
 9.15 or process.

9.16 (31) "State" means a state of the United States, the District of Columbia, Puerto  
 9.17 Rico, the United States Virgin Islands, or any territory or insular possession subject to the  
 9.18 jurisdiction of the United States.

9.19 (32) "Associated with" with respect to a person means any partner, officer, director,  
 9.20 or manager of such person or any person occupying a similar status or performing  
 9.21 similar functions or any person directly or indirectly controlling, controlled by, or in  
 9.22 common control with, such person, but does not include a person whose primary duties  
are ministerial or clerical.

9.24 **Sec. 3. [80A.42] SECTION 103; REFERENCES TO FEDERAL STATUTES.**

9.25 "Securities Act of 1933" (15 U.S.C. Section 77a et seq.), "Securities Exchange  
 9.26 Act of 1934" (15 U.S.C. Section 78a et seq.), "Public Utility Holding Company Act of  
 9.27 1935" (15 U.S.C. Section 79 et seq.), "Investment Company Act of 1940" (15 U.S.C.  
 9.28 Section 80a-1 et seq.), "Investment Advisers Act of 1940" (15 U.S.C. Section 80b-1 et  
 9.29 seq.), "Employee Retirement Income Security Act of 1974" (29 U.S.C. Section 1001 et  
 9.30 seq.), "National Housing Act" (12 U.S.C. Section 1701 et seq.), "Commodity Exchange  
 9.31 Act" (7 U.S.C. Section 1 et seq.), "Internal Revenue Code" (26 U.S.C. Section 1 et seq.),  
 9.32 "Securities Investor Protection Act of 1970" (15 U.S.C. Section 78aaa et seq.), "Securities  
 9.33 Litigation Uniform Standards Act of 1998" (112 Stat. 3227), "Small Business Investment  
 9.34 Act of 1958" (15 U.S.C. Section 661 et seq.), and "Electronic Signatures in Global and  
 9.35 National Commerce Act" (15 U.S.C. Section 7001 et seq.) mean those statutes and the

10.1 rules and regulations adopted under those statutes, as in effect on the date of enactment of  
10.2 this chapter, or as later amended.

10.3 **Sec. 4. [80A.43] SECTION 104; REFERENCES TO FEDERAL AGENCIES.**

10.4 A reference in this chapter to an agency or department of the United States is also a  
10.5 reference to a successor agency or department.

10.6 **Sec. 5. [80A.44] SECTION 105; ELECTRONIC RECORDS AND SIGNATURES.**

10.7 This chapter modifies, limits, and supersedes the federal Electronic Signatures in  
10.8 Global and National Commerce Act, but does not modify, limit, or supersede Section  
10.9 101(c) of that act (15 U.S.C. Section 7001(c)) or authorize electronic delivery of any of  
10.10 the notices described in Section 103(b) of that act (15 U.S.C. Section 7003(b)). This  
10.11 chapter authorizes the filing of records and signatures, when specified by provisions of  
10.12 this chapter or by a rule adopted or order issued under this chapter, in a manner consistent  
10.13 with Section 104(a) of that act (15 U.S.C. Section 7004(a)).

10.14 **EXEMPTIONS FROM REGISTRATION OF SECURITIES**

10.15 **Sec. 6. [80A.45] SECTION 201; EXEMPT SECURITIES.**

10.16 The following securities are exempt from the requirements of sections 80A.49  
10.17 through 80A.54 and 80A.71:

10.18 (1) a security, including a revenue obligation or a separate security as defined in  
10.19 Rule 131 (17 C.F.R. 230.131) adopted under the Securities Act of 1933, issued, insured,  
10.20 or guaranteed by the United States; by a state; by a political subdivision of a state;  
10.21 by a public authority, agency, or instrumentality of one or more states; by a political  
10.22 subdivision of one or more states or by a person controlled or supervised by and acting  
10.23 as an instrumentality of the United States under authority granted by Congress; or a  
10.24 certificate of deposit for any of the foregoing;

10.25 (2) a security issued, insured, or guaranteed by a foreign government with which the  
10.26 United States maintains diplomatic relations, or any of its political subdivisions, if the  
10.27 security is recognized as a valid obligation by the issuer, insurer, or guarantor;

10.28 (3) a security issued by and representing or that will represent an interest in or a  
10.29 direct obligation of, or be guaranteed by:

10.30 (A) an international banking institution;

10.31 (B) a banking institution organized under the laws of the United States; a member  
10.32 bank of the Federal Reserve System; or a depository institution a substantial portion of  
10.33 the business of which consists or will consist of receiving deposits or share accounts  
10.34 that are insured to the maximum amount authorized by statute by the Federal Deposit

- 11.1 Insurance Corporation, the National Credit Union Share Insurance Fund, or a successor  
11.2 authorized by federal law or exercising fiduciary powers that are similar to those permitted  
11.3 for national banks under the authority of the Comptroller of Currency pursuant to Section  
11.4 1 of Public Law 87-722 (12 U.S.C. Section 92a); or
- 11.5 (C) any other depository institution, unless by rule or order the administrator  
11.6 proceeds under section 80A.48;
- 11.7 (4) a security issued by and representing an interest in, or a debt of, or insured or  
11.8 guaranteed by, an insurance company authorized to do business in this state;
- 11.9 (5) a security issued or guaranteed by a railroad, other common carrier, public utility,  
11.10 or public utility holding company that is:
- 11.11 (A) regulated in respect to its rates and charges by the United States or a state;  
11.12 (B) regulated in respect to the issuance or guarantee of the security by the United  
11.13 states, a state, Canada, or a Canadian province or territory; or
- 11.14 (C) a public utility holding company registered under the Public Utility Holding  
11.15 Company Act of 1935 or a subsidiary of such a registered holding company within the  
11.16 meaning of that act;
- 11.17 (6) a federal covered security specified in Section 18(b)(1) of the Securities Act of  
11.18 1933 (15 U.S.C. Section 77r(b)(1)) or by rule adopted under that provision or a security  
11.19 listed or approved for listing on another securities market specified by rule under this  
11.20 chapter; a put or a call option contract; a warrant; a subscription right on or with respect  
11.21 to such securities; or an option or similar derivative security on a security or an index of  
11.22 securities or foreign currencies issued by a clearing agency registered under the Securities  
11.23 Exchange Act of 1934 and listed or designated for trading on a national securities  
11.24 exchange, a facility of a national securities exchange, or a facility of a national securities  
11.25 association registered under the Securities Exchange Act of 1934 or an offer or sale, of the  
11.26 underlying security in connection with the offer, sale, or exercise of an option or other  
11.27 security that was exempt when the option or other security was written or issued; or an  
11.28 option or a derivative security designated by the Securities and Exchange Commission  
11.29 under Section 9(b) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78i(b));
- 11.30 (7) a security issued by a person organized and operated exclusively for religious,  
11.31 educational, benevolent, fraternal, charitable, social, athletic, or reformatory purposes,  
11.32 or as a chamber of commerce, and not for pecuniary profit, no part of the net earnings  
11.33 of which inures to the benefit of a private stockholder or other person, or a security of a  
11.34 company that is excluded from the definition of an investment company under Section  
11.35 3(c)(10)(B) of the Investment Company Act of 1940 (15 U.S.C. Section 80a-3(c)(10)(B));  
11.36 except that with respect to the offer or sale, an issuer of such a note, bond, debenture, or

12.1 other evidence of indebtedness is required to file a notice specifying the material terms of  
12.2 the proposed offer or sale and copies of any proposed sales and advertising literature to be  
12.3 used together with the fee required by section 80A.65 and provided that this exemption  
12.4 shall be effective if the administrator does not disallow the exemption in writing within 15  
12.5 days following the date of the notice filing.

12.6 **Sec. 7. [80A.46] SECTION 202; EXEMPT TRANSACTIONS.**

12.7 The following transactions are exempt from the requirements of sections 80A.49  
12.8 through 80A.54 and 80A.71:

12.9 (1) isolated nonissuer transactions, consisting of sale to not more than ten purchasers  
12.10 in Minnesota during any period of 12 consecutive months, whether effected by or through  
12.11 a broker-dealer or not;

12.12 (2) a nonissuer transaction by or through a broker-dealer registered, or exempt from  
12.13 registration under this chapter, and a resale transaction by a sponsor of a unit investment  
12.14 trust registered under the Investment Company Act of 1940, in a security of a class that  
12.15 has been outstanding in the hands of the public for at least 90 days, if, at the date of  
12.16 the transaction:

12.17 (A) the issuer of the security is engaged in business, the issuer is not in the  
12.18 organizational stage or in bankruptcy or receivership, and the issuer is not a blank check,  
12.19 blind pool, or shell company that has no specific business plan or purpose or has indicated  
12.20 that its primary business plan is to engage in a merger or combination of the business with,  
12.21 or an acquisition of, an unidentified person;

12.22 (B) the security is sold at a price reasonably related to its current market price;

12.23 (C) the security does not constitute the whole or part of an unsold allotment to, or  
12.24 a subscription or participation by, the broker-dealer as an underwriter of the security  
12.25 or a redistribution;

12.26 (D) a nationally recognized securities manual or its electronic equivalent designated  
12.27 by rule adopted or order issued under this chapter or a record filed with the Securities and  
12.28 Exchange Commission that is publicly available contains:

12.29 (i) a description of the business and operations of the issuer;

12.30 (ii) the names of the issuer's executive officers and the names of the issuer's  
12.31 directors, if any;

12.32 (iii) an audited balance sheet of the issuer as of a date within 18 months before the  
12.33 date of the transaction or, in the case of a reorganization or merger when the parties to  
12.34 the reorganization or merger each had an audited balance sheet, a pro forma balance  
12.35 sheet for the combined organization; and

13.1 (iv) an audited income statement for each of the issuer's two immediately previous  
13.2 fiscal years or for the period of existence of the issuer, whichever is shorter, or, in the case  
13.3 of a reorganization or merger when each party to the reorganization or merger had audited  
13.4 income statements, a pro forma income statement; and

13.5 (E) any one of the following requirements is met:

13.6 (i) the issuer of the security has a class of equity securities listed on a national  
13.7 securities exchange registered under Section 6 of the Securities Exchange Act of 1934  
13.8 or designated for trading on the National Association of Securities Dealers Automated  
13.9 Quotation System;

13.10 (ii) the issuer of the security is a unit investment trust registered under the Investment  
13.11 Company Act of 1940;

13.12 (iii) the issuer of the security, including its predecessors, has been engaged in  
13.13 continuous business for at least three years; or

13.14 (iv) the issuer of the security has total assets of at least \$2,000,000 based on an  
13.15 audited balance sheet as of a date within 18 months before the date of the transaction or, in  
13.16 the case of a reorganization or merger when the parties to the reorganization or merger  
13.17 each had such an audited balance sheet, a pro forma balance sheet for the combined  
13.18 organization;

13.19 (3) a nonissuer transaction by or through a broker-dealer registered or exempt from  
13.20 registration under this chapter in a security of a foreign issuer that is a margin security  
13.21 defined in regulations or rules adopted by the Board of Governors of the Federal Reserve  
13.22 System;

13.23 (4) a nonissuer transaction by or through a broker-dealer registered or exempt  
13.24 from registration under this chapter in an outstanding security if the guarantor of the  
13.25 security files reports with the Securities and Exchange Commission under the reporting  
13.26 requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934 (15 U.S.C.  
13.27 Sections 78m or 78o(d));

13.28 (5) a nonissuer transaction by or through a broker-dealer registered or exempt from  
13.29 registration under this chapter in a security that:

13.30 (A) is rated at the time of the transaction by a nationally recognized statistical rating  
13.31 organization in one of its four highest rating categories; or

13.32 (B) has a fixed maturity or a fixed interest or dividend, if:

13.33 (i) a default has not occurred during the current fiscal year or within the three  
13.34 previous fiscal years or during the existence of the issuer and any predecessor if less than  
13.35 three fiscal years, in the payment of principal, interest, or dividends on the security; and

14.1 (ii) the issuer is engaged in business, is not in the organizational stage or in  
14.2 bankruptcy or receivership, and is not and has not been within the previous 12 months a  
14.3 blank check, blind pool, or shell company that has no specific business plan or purpose or  
14.4 has indicated that its primary business plan is to engage in a merger or combination of the  
14.5 business with, or an acquisition of, an unidentified person;

14.6 (6) a nonissuer transaction by or through a broker-dealer registered or exempt from  
14.7 registration under this chapter effecting an unsolicited order or offer to purchase;

14.8 (7) a nonissuer transaction executed by a bona fide pledgee without the purpose  
14.9 of evading this chapter;

14.10 (8) a nonissuer transaction by a federal covered investment adviser with investments  
14.11 under management in excess of \$100,000,000 acting in the exercise of discretionary  
14.12 authority in a signed record for the account of others;

14.13 (9) a transaction in a security, whether or not the security or transaction is otherwise  
14.14 exempt, in exchange for one or more bona fide outstanding securities, claims, or property  
14.15 interests, or partly in such exchange and partly for cash, if the terms and conditions of  
14.16 the issuance and exchange or the delivery and exchange and the fairness of the terms and  
14.17 conditions have been approved by the administrator after a hearing;

14.18 (10) a transaction between the issuer or other person on whose behalf the offering is  
14.19 made and an underwriter, or among underwriters;

14.20 (11) a transaction in a note, bond, debenture, or other evidence of indebtedness  
14.21 secured by a mortgage or other security agreement if:

14.22 (A) the note, bond, debenture, or other evidence of indebtedness is offered and sold  
14.23 with the mortgage or other security agreement as a unit;

14.24 (B) a general solicitation or general advertisement of the transaction is not made; and

14.25 (C) a commission or other remuneration is not paid or given, directly or indirectly, to  
14.26 a person not registered under this chapter as a broker-dealer or as an agent;

14.27 (12) a transaction by an executor, administrator of an estate, sheriff, marshal,  
14.28 receiver, trustee in bankruptcy, guardian, or conservator;

14.29 (13) a sale or offer to sell to:

14.30 (A) an institutional investor;

14.31 (B) an accredited investor as that term is defined in Regulation D, Rule 501(a);

14.32 (C) a federal covered investment adviser; or

14.33 (D) any other person exempted by rule adopted or order issued under this chapter;

14.34 (14) a sale or an offer to sell securities by an issuer, if the transaction is part of  
14.35 a single issue in which:



15.1 (A) not more than 35 purchasers are present in this state during any 12 consecutive  
15.2 months, other than those designated in paragraph (13);

15.3 (B) a general solicitation or general advertising is not made in connection with  
15.4 the offer to sell or sale of the securities;

15.5 (C) a commission or other remuneration is not paid or given, directly or indirectly, to  
15.6 a person other than a broker-dealer registered under this chapter or an agent registered  
15.7 under this chapter for soliciting a prospective purchaser in this state; and

15.8 (D) the issuer reasonably believes that all the purchasers in this state, other than  
15.9 those designated in paragraph (13), are purchasing for investment;

15.10 (15) a transaction under an offer to existing security holders of the issuer, including  
15.11 persons that at the date of the transaction are holders of convertible securities, options, or  
15.12 warrants, if a commission or other remuneration, other than a standby commission, is not  
15.13 paid or given, directly or indirectly, for soliciting a security holder in this state;

15.14 (16) an offer to sell, but not a sale, of a security not exempt from registration under  
15.15 the Securities Act of 1933 if:

15.16 (A) a registration or offering statement or similar record as required under the  
15.17 Securities Act of 1933 has been filed, but is not effective, or the offer is made in compliance  
15.18 with Rule 165 adopted under the Securities Act of 1933 (17 C.F.R. 230.165); and

15.19 (B) a stop order of which the offeror is aware has not been issued against the offeror  
15.20 by the administrator or the Securities and Exchange Commission, and an audit, inspection,  
15.21 or proceeding that is public and that may culminate in a stop order is not known by the  
15.22 offeror to be pending;

15.23 (17) an offer to sell, but not a sale, of a security exempt from registration under the  
15.24 Securities Act of 1933 if:

15.25 (A) a registration statement has been filed under this chapter, but is not effective;

15.26 (B) a solicitation of interest is provided in a record to offerees in compliance with a  
15.27 rule adopted by the administrator under this chapter; and

15.28 (c) a stop order of which the offeror is aware has not been issued by the administrator  
15.29 under this chapter and an audit, inspection, or proceeding that may culminate in a stop  
15.30 order is not known by the offeror to be pending;

15.31 (18) a transaction involving the distribution of the securities of an issuer to the  
15.32 security holders of another person in connection with a merger, consolidation, exchange  
15.33 of securities, sale of assets, or other reorganization to which the issuer, or its parent or  
15.34 subsidiary and the other person, or its parent or subsidiary, are parties;

15.35 (19) a rescission offer, sale, or purchase under section 80A.77;

16.1 (20) an offer or sale of a security to a person not a resident of this state and not  
16.2 present in this state if the offer or sale does not constitute a violation of the laws of the  
16.3 state or foreign jurisdiction in which the offeree or purchaser is present and is not part of  
16.4 an unlawful plan or scheme to evade this chapter;

16.5 (21) employees' stock purchase, savings, option, profit-sharing, pension, or  
16.6 similar employees' benefit plan, including any securities, plan interests, and guarantees  
16.7 issued under a compensatory benefit plan or compensation contract, contained in a  
16.8 record, established by the issuer, its parents, its majority-owned subsidiaries, or the  
16.9 majority-owned subsidiaries of the issuer's parent for the participation of their employees  
16.10 including offers or sales of such securities to:

16.11 (A) directors; general partners; trustees, if the issuer is a business trust; officers;  
16.12 consultants; and advisors;

16.13 (B) family members who acquire such securities from those persons through gifts or  
16.14 domestic relations orders;

16.15 (C) former employees, directors, general partners, trustees, officers, consultants, and  
16.16 advisors if those individuals were employed by or providing services to the issuer when  
16.17 the securities were offered; and

16.18 (D) insurance agents who are exclusive insurance agents of the issuer, or the issuer's  
16.19 subsidiaries or parents, or who derive more than 50 percent of their annual income from  
16.20 those organizations;

16.21 (22) a transaction involving:

16.22 (A) a stock dividend or equivalent equity distribution, whether the corporation or  
16.23 other business organization distributing the dividend or equivalent equity distribution is  
16.24 the issuer or not, if nothing of value is given by stockholders or other equity holders for  
16.25 the dividend or equivalent equity distribution other than the surrender of a right to a cash  
16.26 or property dividend if each stockholder or other equity holder may elect to take the  
16.27 dividend or equivalent equity distribution in cash, property, or stock;

16.28 (B) an act incident to a judicially approved reorganization in which a security is  
16.29 issued in exchange for one or more outstanding securities, claims, or property interests, or  
16.30 partly in such exchange and partly for cash; or

16.31 (C) the solicitation of tenders of securities by an offeror in a tender offer in  
16.32 compliance with Rule 162 adopted under the Securities Act of 1933 (17 C.F.R. 230.162);

16.33 (23) a nonissuer transaction in an outstanding security by or through a broker-dealer  
16.34 registered or exempt from registration under this chapter, if the issuer is a reporting  
16.35 issuer in a foreign jurisdiction designated by this paragraph or by rule adopted or order  
16.36 issued under this chapter; has been subject to continuous reporting requirements in the

17.1 foreign jurisdiction for not less than 180 days before the transaction; and the security is  
17.2 listed on the foreign jurisdiction's securities exchange that has been designated by this  
17.3 paragraph or by rule adopted or order issued under this chapter, or is a security of the same  
17.4 issuer that is of senior or substantially equal rank to the listed security or is a warrant or  
17.5 right to purchase or subscribe to any of the foregoing. For purposes of this paragraph,  
17.6 Canada, together with its provinces and territories, is a designated foreign jurisdiction  
17.7 and The Toronto Stock Exchange, Inc., is a designated securities exchange. After an  
17.8 administrative hearing in compliance with chapter 14, the administrator, by rule adopted  
17.9 or order issued under this chapter, may revoke the designation of a securities exchange  
17.10 under this paragraph, if the administrator finds that revocation is necessary or appropriate  
17.11 in the public interest and for the protection of investors;

17.12 (24) any transaction effected by or through a Canadian broker-dealer exempted from  
17.13 broker-dealer registration pursuant to section 80A.56(b)(3); or

17.14 (25)(A) the offer and sale by a cooperative organized under chapter 308A, or  
17.15 under the laws of another state, of its securities when the securities are offered and sold  
17.16 only to its members, or when the purchase of the securities is necessary or incidental to  
17.17 establishing membership in the cooperative, or when the securities are issued as patronage  
17.18 dividends. This paragraph applies to a cooperative organized under the laws of another  
17.19 state only if the cooperative has filed with the administrator a consent to service of process  
17.20 under section 80A.88 and has, not less than ten days before the issuance or delivery,  
17.21 furnished the administrator with a written general description of the transaction and any  
17.22 other information that the administrator requires by rule or otherwise;

17.23 (B) the offer and sale by a cooperative organized under chapter 308B of its securities  
17.24 when the securities are offered and sold to its existing members or when the purchase of the  
17.25 securities is necessary or incidental to establishing patron membership in the cooperative,  
17.26 or when such securities are issued as patronage dividends. The administrator has the  
17.27 power to define "patron membership" for purposes of this paragraph. This paragraph  
17.28 applies to securities, other than securities issued as patronage dividends, only when:

17.29 (i) the issuer, before the completion of the sale of the securities, provides each  
17.30 offeree or purchaser disclosure materials that, to the extent material to an understanding of  
17.31 the issuer, its business, and the securities being offered, substantially meet the disclosure  
17.32 conditions and limitations found in rule 502(b) of Regulation D promulgated by the  
17.33 Securities and Exchange Commission, Code of Federal Regulations, title 17, section  
17.34 230.502; and

17.35 (ii) within 15 days after the completion of the first sale in each offering completed in  
17.36 reliance upon this exemption, the cooperative has filed with the administrator a consent to

18.1 service of process under section 80A.88 (or has previously filed such a consent), and has  
18.2 furnished the administrator with a written general description of the transaction and any  
18.3 other information that the administrator requires by rule or otherwise; and

18.4 (C) a cooperative may, at or about the same time as offers or sales are being  
18.5 completed in reliance upon the exemptions from registration found in this subpart and as  
18.6 part of a common plan of financing, offer or sell its securities in reliance upon any other  
18.7 exemption from registration available under this chapter. The offer or sale of securities in  
18.8 reliance upon the exemptions found in this subpart will not be considered or deemed a part  
18.9 of or be integrated with any offer or sale of securities conducted by the cooperative in  
18.10 reliance upon any other exemption from registration available under this chapter, nor will  
18.11 offers or sales of securities by the cooperative in reliance upon any other exemption from  
18.12 registration available under this chapter be considered or deemed a part of or be integrated  
18.13 with any offer or sale conducted by the cooperative in reliance upon this paragraph.

18.14 **Sec. 8. [80A.47] SECTION 203; ADDITIONAL EXEMPTIONS AND WAIVERS.**

18.15 A rule adopted or order issued under this chapter may exempt a security, transaction,  
18.16 or offer; a rule under this chapter may exempt a class of securities, transactions, or offers  
18.17 from any or all of the requirements of sections 80A.49 through 80A.54 and 80A.71; and  
18.18 an order under this chapter may waive, in whole or in part, any or all of the conditions for  
18.19 an exemption or offer under sections 80A.45 and 80A.46.

18.20 **Sec. 9. [80A.48] SECTION 204; DENIAL, SUSPENSION, REVOCATION,**  
18.21 **CONDITION, OR LIMITATION OF EXEMPTIONS.**

18.22 (a) **Enforcement related powers.** Except with respect to a federal covered security  
18.23 or a transaction involving a federal covered security, an order under this chapter may  
18.24 deny, suspend application of, condition, limit, or revoke an exemption created under  
18.25 section 80A.45(3)(C), (7) or (8) or 80A.46 or an exemption or waiver created under  
18.26 section 80A.47 with respect to a specific security, transaction, or offer. An order under this  
18.27 section may be issued only pursuant to the procedures in section 80A.54(d) or 80A.81  
18.28 and only prospectively.

18.29 (b) **Knowledge of order required.** A person does not violate sections 80A.49,  
18.30 80A.51 through 80A.54, 80A.71, or 80A.77 by an offer to sell, offer to purchase, sale, or  
18.31 purchase effected after the entry of an order issued under this section if the person did not  
18.32 know, and in the exercise of reasonable care could not have known, of the order.

18.33 **REGISTRATION OF SECURITIES AND NOTICE FILING OF**  
18.34 **FEDERAL COVERED SECURITIES**

19.1       Sec. 10. **[80A.49] SECTION 301; SECURITIES REGISTRATION**  
19.2       **REQUIREMENT.**

19.3             It is unlawful for a person to offer or sell a security in this state unless:

19.4             (1) the security is a federal covered security;

19.5             (2) the security, transaction, or offer is exempted from registration under sections  
19.6       80A.45 through 80A.47; or

19.7             (3) the security is registered under this chapter.

19.8       Sec. 11. **[80A.50] SECTION 302; FEDERAL COVERED SECURITIES; SMALL**  
19.9       **CORPORATE OFFERING REGISTRATION.**

19.10            (a) Federal covered securities.

19.11            (1) Required filing of records. With respect to a federal covered security, as defined  
19.12       in Section 18(b)(2) of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(2)), that is not  
19.13       otherwise exempt under sections 80A.45 through 80A.47, a rule adopted or order issued  
19.14       under this chapter may require the filing of any or all of the following records:

19.15            (A) before the initial offer of a federal covered security in this state, all records  
19.16       that are part of a federal registration statement filed with the Securities and Exchange  
19.17       Commission under the Securities Act of 1933 and a consent to service of process  
19.18       complying with section 80A.88 signed by the issuer;

19.19            (B) after the initial offer of the federal covered security in this state, all records that  
19.20       are part of an amendment to a federal registration statement filed with the Securities and  
19.21       Exchange Commission under the Securities Act of 1933; and

19.22            (C) to the extent necessary or appropriate to compute fees, a report of the value of  
19.23       the federal covered securities sold or offered to persons present in this state, if the sales  
19.24       data are not included in records filed with the Securities and Exchange Commission.

19.25            (2) Notice filing effectiveness and renewal. A notice filing under subsection (a) is  
19.26       effective for one year commencing on the later of the notice filing or the effectiveness of  
19.27       the offering filed with the Securities and Exchange Commission. On or before expiration,  
19.28       the issuer may renew a notice filing by filing a copy of those records filed by the issuer  
19.29       with the Securities and Exchange Commission that are required by rule or order under  
19.30       this chapter to be filed. A previously filed consent to service of process complying with  
19.31       section 80A.88 may be incorporated by reference in a renewal. A renewed notice filing  
19.32       becomes effective upon the expiration of the filing being renewed.

19.33            (3) Notice filings for federal covered securities under section 18(b)(4)(D). With  
19.34       respect to a security that is a federal covered security under Section 18(b)(4)(D) of the  
19.35       Securities Act of 1933 (15 U.S.C. Section 77r(b)(4)(D)), a rule under this chapter may

20.1 require a notice filing by or on behalf of an issuer to include a copy of Form D, including  
20.2 the Appendix, as promulgated by the Securities and Exchange Commission, and a consent  
20.3 to service of process complying with section 80A.88 signed by the issuer not later than 15  
20.4 days after the first sale of the federal covered security in this state.

20.5 (4) Stop orders. Except with respect to a federal security under Section 18(b)(1)  
20.6 of the Securities Act of 1933 (15 U.S.C. Section 77r(b)(1)), if the administrator finds  
20.7 that there is a failure to comply with a notice or fee requirement of this section, the  
20.8 administrator may issue a stop order suspending the offer and sale of a federal covered  
20.9 security in this state. If the deficiency is corrected, the stop order is void as of the time of  
20.10 its issuance and no penalty may be imposed by the administrator.

20.11 (b) Small corporation offering registration.

20.12 (1) Registration required. A security meeting the conditions set forth in this section  
20.13 may be registered as set forth in this section.

20.14 (2) Availability. Registration under this section is available only to the issuer of  
20.15 securities and not to an affiliate of the issuer or to any other person for resale of the issuer's  
20.16 securities. The issuer must be organized under the laws of one of the states or possessions  
20.17 of the United States. The securities offered must be exempt from registration under the  
20.18 Securities Act of 1933 pursuant to Rule 504 of Regulation D (15 U.S.C. section 77c).

20.19 (3) Disqualification. Registration under this section is not available to any of the  
20.20 following issuers:

20.21 (A) an issuer subject to the reporting requirements of section 13 or 15(d) of the  
20.22 Securities Exchange Act of 1934;

20.23 (B) an investment company;

20.24 (C) a development stage company that either has no specific business plan or  
20.25 purpose or has indicated that its business plan is to engage in a merger or acquisition with  
20.26 an unidentified company or companies or other entity or person;

20.27 (D) an issuer if the issuer or any of its predecessors, officers, directors, governors,  
20.28 partners, ten percent stock or equity holders, promoters, or any selling agents of the  
20.29 securities to be offered, or any officer, director, governor, or partner of the selling agent:

20.30 (i) has filed a registration statement that is the subject of a currently effective  
20.31 registration stop order entered under a federal or state securities law within five years  
20.32 before the filing of the small corporate offering registration application;

20.33 (ii) has been convicted within five years before the filing of the small corporate  
20.34 offering registration application of a felony or misdemeanor in connection with the  
20.35 offer, purchase, or sale of a security or a felony involving fraud or deceit, including, but

21.1 not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny,  
21.2 or conspiracy to defraud;

21.3 (iii) is currently subject to a state administrative enforcement order or judgment  
21.4 entered by a state securities administrator or the Securities and Exchange Commission  
21.5 within five years before the filing of the small corporate offering registration application,  
21.6 or is subject to a federal or state administrative enforcement order or judgment in which  
21.7 fraud or deceit, including, but not limited to, making untrue statements of material facts or  
21.8 omitting to state material facts, was found and the order or judgment was entered within  
21.9 five years before the filing of the small corporate offering registration application;

21.10 (iv) is currently subject to an order, judgment, or decree of a court of competent  
21.11 jurisdiction temporarily restraining or enjoining, or is subject to an order, judgment, or  
21.12 decree of a court of competent jurisdiction permanently restraining or enjoining the party  
21.13 from engaging in or continuing any conduct or practice in connection with the purchase  
21.14 or sale of any security or involving the making of a false filing with a state or with the  
21.15 Securities and Exchange Commission entered within five years before the filing of the  
21.16 small corporate offering registration application; or

21.17 (v) is subject to a state's administrative enforcement order, or judgment that  
21.18 prohibits, denies, or revokes the use of an exemption for registration in connection with  
21.19 the offer, purchase, or sale of securities,

21.20 (I) except that clauses (i) to (iv) do not apply if the person subject to the  
21.21 disqualification is duly licensed or registered to conduct securities-related business in the  
21.22 state in which the administrative order or judgment was entered against the person or if  
21.23 the dealer employing the party is licensed or registered in this state and the form BD filed  
21.24 in this state discloses the order, conviction, judgment, or decree relating to the person, and

21.25 (II) except that the disqualification under this subdivision is automatically  
21.26 waived if the state securities administrator or federal agency that created the basis for  
21.27 disqualification determines upon a showing of good cause that it is not necessary under  
21.28 the circumstances to deny the registration.

21.29 (4) Filing and effectiveness of registration statement. A small corporate offering  
21.30 registration statement must be filed with the administrator. If no stop order is in effect  
21.31 and no proceeding is pending under section 80A.54, such registration statement shall  
21.32 become effective automatically at the close of business on the 20th day after filing of the  
21.33 registration statement or the last amendment of the registration statement or at such earlier  
21.34 time as the administrator may designate by rule or order.

21.35 (5) Contents of registration statement. A small corporate offering registration  
21.36 statement under this section shall be on Form U-7, including exhibits required by



22.1 the instructions thereto, as adopted by the North American Securities Administrators  
 22.2 Association, or such alternative form as may be designated by the administrator by rule or  
 22.3 order and must include:

22.4 (A) a consent to service of process complying with section 80A.88;

22.5 (B) a statement of the type and amount of securities to be offered and the amount of  
 22.6 securities to be offered in this state;

22.7 (C) a specimen or copy of the security being registered, unless the security is  
 22.8 uncertificated, a copy of the issuer's articles of incorporation and bylaws or their  
 22.9 substantial equivalents in effect, and a copy of any indenture or other instrument covering  
 22.10 the security to be registered;

22.11 (D) a signed or conformed copy of an opinion of counsel concerning the legality  
 22.12 of the securities being registered which states whether the securities, when sold, will be  
 22.13 validly issued, fully paid, and nonassessable and, if debt securities, binding obligations  
 22.14 of the issuer;

22.15 (E) the states (i) in which the securities are proposed to be offered; (ii) in which a  
 22.16 registration statement or similar filing has been made in connection with the offering  
 22.17 including information as to effectiveness of each such filing; and (iii) in which a stop  
 22.18 order or similar proceeding has been entered or in which proceedings or actions seeking  
 22.19 such an order are pending;

22.20 (F) a copy of the offering document proposed to be delivered to offerees; and

22.21 (G) a copy of any other pamphlet, circular, form letter, advertisement, or other sales  
 22.22 literature intended as of the effective date to be used in connection with the offering and  
 22.23 any solicitation of interest used in compliance with section 80A.46(17)(B).

22.24 (6) Copy to purchaser. A copy of the offering document as filed with the  
 22.25 administrator must be delivered to each person purchasing the securities prior to sale  
 22.26 of the securities to such person.

22.27 **Sec. 12. [80A.51] SECTION 303; SECURITIES REGISTRATION BY**  
 22.28 **COORDINATION.**

22.29 (a) Registration permitted. A security for which a registration statement has been  
 22.30 filed under the Securities Act of 1933 in connection with the same offering may be  
 22.31 registered by coordination under this section.

22.32 (b) Required records. A registration statement and accompanying records under  
 22.33 this section must contain or be accompanied by the following records in addition to the  
 22.34 information specified in section 80A.53 and a consent to service of process complying  
 22.35 with section 80A.88:



- 23.1 (1) a copy of the latest form of prospectus filed under the Securities Act of 1933;  
23.2 (2) a copy of the articles of incorporation and bylaws or their substantial equivalents  
23.3 currently in effect; a copy of any agreement with or among underwriters; a copy of any  
23.4 indenture or other instrument governing the issuance of the security to be registered;  
23.5 and a specimen, copy, or description of the security that is required by rule adopted or  
23.6 order issued under this chapter;  
23.7 (3) copies of any other information or any other records filed by the issuer under the  
23.8 Securities Act of 1933 requested by the administrator; and  
23.9 (4) an undertaking to forward each amendment to the federal prospectus, other than  
23.10 an amendment that delays the effective date of the registration statement, promptly after  
23.11 it is filed with the Securities and Exchange Commission.

23.12 (c) **Conditions for effectiveness of registration statement.** A registration statement  
23.13 under this section becomes effective simultaneously with or subsequent to the federal  
23.14 registration statement when all of the following conditions are satisfied:

23.15 (1) a stop order under subsection (d) or section 80A.54 or issued by the Securities  
23.16 and Exchange Commission is not in effect and a proceeding is not pending against the  
23.17 issuer under section 80A.54; and

23.18 (2) the registration statement has been on file for at least 20 days or a shorter period  
23.19 provided by rule adopted or order issued under this chapter.

23.20 (d) **Notice of federal registration statement effectiveness.** The registrant shall  
23.21 promptly notify the administrator in a record of the date when the federal registration  
23.22 statement becomes effective and the content of any price amendment and shall promptly  
23.23 file a record containing the price amendment. If the notice is not timely received, the  
23.24 administrator may issue a stop order, without prior notice or hearing, retroactively denying  
23.25 effectiveness to the registration statement or suspending its effectiveness until compliance  
23.26 with this section. The administrator shall promptly notify the registrant of an order by  
23.27 telegram, telephone, or electronic means and promptly confirm this notice by a record. If  
23.28 the registrant subsequently complies with the notice requirement of this section, the stop  
23.29 order is void as of the date of its issuance.

23.30 (e) **Effectiveness of registration statement.** If the federal registration statement  
23.31 becomes effective before each of the conditions in this section is satisfied or is waived  
23.32 by the administrator, the registration statement is automatically effective under this  
23.33 chapter when all the conditions are satisfied or waived. If the registrant notifies the  
23.34 administrator of the date when the federal registration statement is expected to become  
23.35 effective, the administrator shall promptly notify the registrant by telegram, telephone, or  
23.36 electronic means and promptly confirm this notice by a record, indicating whether all the

24.1 conditions are satisfied or waived and whether the administrator intends the institution of a  
24.2 proceeding under section 80A.54. The notice by the administrator does not preclude the  
24.3 institution of such a proceeding.

24.4 Sec. 13. **[80A.52] SECTION 304; SECURITIES REGISTRATION BY**  
24.5 **QUALIFICATION.**

24.6 **(a) Registration permitted.** A security may be registered by qualification under  
24.7 this section.

24.8 **(b) Required records.** A registration statement under this section must contain  
24.9 the information or records specified in section 80A.53, a consent to service of process  
24.10 complying with section 80A.88, and, if required by rule adopted under this chapter, the  
24.11 following information or records:

24.12 (1) with respect to the issuer and any significant subsidiary, its name, address, and  
24.13 form of organization; the state or foreign jurisdiction and date of its organization; the  
24.14 general character and location of its business; a description of its physical properties  
24.15 and equipment; and a statement of the general competitive conditions in the industry or  
24.16 business in which it is or will be engaged;

24.17 (2) with respect to each director and officer of the issuer, and other person having a  
24.18 similar status or performing similar functions, the person's name, address, and principal  
24.19 occupation for the previous five years; the amount of securities of the issuer held by  
24.20 the person as of the 30th day before the filing of the registration statement; the amount  
24.21 of the securities covered by the registration statement to which the person has indicated  
24.22 an intention to subscribe; and a description of any material interest of the person in any  
24.23 material transaction with the issuer or a significant subsidiary effected within the previous  
24.24 three years or proposed to be effected;

24.25 (3) with respect to persons covered by paragraph (2), the aggregate sum of the  
24.26 remuneration paid to those persons during the previous 12 months and estimated to be  
24.27 paid during the next 12 months, directly or indirectly, by the issuer, and all predecessors,  
24.28 parents, subsidiaries, and affiliates of the issuer;

24.29 (4) with respect to a person owning of record or owning beneficially, if known, ten  
24.30 percent or more of the outstanding shares of any class of equity security of the issuer, the  
24.31 information specified in paragraph (2) other than the person's occupation;

24.32 (5) with respect to a promoter, if the issuer was organized within the previous three  
24.33 years, the information or records specified in paragraph (2), any amount paid to the  
24.34 promoter within that period or intended to be paid to the promoter, and the consideration  
24.35 for the payment;

25.1           (6) with respect to a person on whose behalf any part of the offering is to be made  
25.2           in a nonissuer distribution, the person's name and address; the amount of securities of  
25.3           the issuer held by the person as of the date of the filing of the registration statement; a  
25.4           description of any material interest of the person in any material transaction with the issuer  
25.5           or any significant subsidiary effected within the previous three years or proposed to be  
25.6           effected, and a statement of the reasons for making the offering;

25.7           (7) the capitalization and long-term debt, on both a current and pro forma basis,  
25.8           of the issuer and any significant subsidiary, including a description of each security  
25.9           outstanding or being registered or otherwise offered, and a statement of the amount and  
25.10          kind of consideration, whether in the form of cash, physical assets, services, patents,  
25.11          goodwill, or anything else of value, for which the issuer or any subsidiary has issued its  
25.12          securities within the previous two years or is obligated to issue its securities;

25.13          (8) the kind and amount of securities to be offered; the proposed offering price or the  
25.14          method by which it is to be computed; any variation at which a proportion of the offering is  
25.15          to be made to a person or class of persons other than the underwriters, with a specification  
25.16          of the person or class; the basis on which the offering is to be made if otherwise than for  
25.17          cash; the estimated aggregate underwriting and selling discounts or commissions and  
25.18          finders' fees, including separately cash, securities, contracts, or anything else of value to  
25.19          accrue to the underwriters or finders in connection with the offering or, if the selling  
25.20          discounts or commissions are variable, the basis of determining them and their maximum  
25.21          and minimum amounts; the estimated amounts of other selling expenses, including legal,  
25.22          engineering, and accounting charges; the name and address of each underwriter and each  
25.23          recipient of a finder's fee; a copy of any underwriting or selling group agreement under  
25.24          which the distribution is to be made or the proposed form of any such agreement whose  
25.25          terms have not yet been determined; and a description of the plan of distribution of any  
25.26          securities that are to be offered otherwise than through an underwriter;

25.27          (9) the estimated monetary proceeds to be received by the issuer from the offering;  
25.28          the purposes for which the proceeds are to be used by the issuer; the estimated amount to  
25.29          be used for each purpose; the order or priority in which the proceeds will be used for the  
25.30          purposes stated; the amounts of any funds to be raised from other sources to achieve the  
25.31          purposes stated; the sources of the funds; and, if a part of the proceeds is to be used to  
25.32          acquire property, including goodwill, otherwise than in the ordinary course of business,  
25.33          the names and addresses of the vendors, the purchase price, the names of any persons that  
25.34          have received commissions in connection with the acquisition, and the amounts of the  
25.35          commissions and other expenses in connection with the acquisition, including the cost of  
25.36          borrowing money to finance the acquisition;

26.1 (10) a description of any stock options or other security options outstanding, or to  
26.2 be created in connection with the offering, and the amount of those options held or to be  
26.3 held by each person required to be named in paragraph (2), (4), (5), (6), or (8) and by any  
26.4 person that holds or will hold ten percent or more in the aggregate of those options;

26.5 (11) the dates of, parties to, and general effect concisely stated of each managerial  
26.6 or other material contract made or to be made otherwise than in the ordinary course of  
26.7 business to be performed in whole or in part at or after the filing of the registration  
26.8 statement or that was made within the previous two years, and a copy of the contract;

26.9 (12) a description of any pending litigation, action, or proceeding to which the issuer  
26.10 is a party and that materially affects its business or assets, and any litigation, action, or  
26.11 proceeding known to be contemplated by governmental authorities;

26.12 (13) a copy of any prospectus, pamphlet, circular, form letter, advertisement, or other  
26.13 sales literature intended as of the effective date to be used in connection with the offering  
26.14 and any solicitation of interest used in compliance with section 80A.46(17)(B);

26.15 (14) a specimen or copy of the security being registered, unless the security  
26.16 is uncertificated; a copy of the issuer's articles of incorporation and bylaws or their  
26.17 substantial equivalents, in effect; and a copy of any indenture or other instrument covering  
26.18 the security to be registered;

26.19 (15) a signed or conformed copy of an opinion of counsel concerning the legality of  
26.20 the security being registered, with an English translation if it is in a language other than  
26.21 English, which states whether the security when sold will be validly issued, fully paid, and  
26.22 nonassessable and, if a debt security, a binding obligation of the issuer;

26.23 (16) a signed or conformed copy of a consent of any accountant, engineer, appraiser,  
26.24 or other person whose profession gives authority for a statement made by the person, if the  
26.25 person is named as having prepared or certified a report or valuation, other than an official  
26.26 record, that is public, which is used in connection with the registration statement;

26.27 (17) a balance sheet of the issuer as of a date within four months before the filing of  
26.28 the registration statement; a statement of income and a statement of case flows for each of  
26.29 the three fiscal years preceding the date of the balance sheet and for any period between  
26.30 the close of the immediately previous fiscal year and the date of the balance sheet, or for  
26.31 the period of the issuer's and any predecessor's existence if less than three years; and, if  
26.32 any part of the proceeds of the offering is to be applied to the purchase of a business, the  
26.33 financial statements that would be required if that business were the registrant; and

26.34 (18) any additional information or records required by rule adopted or order issued  
26.35 under this chapter.

27.1 (c) Conditions for effectiveness of registration statement. A registration statement  
27.2 under this section becomes effective 30 days, or any shorter period provided by rule  
27.3 adopted or order issued under this chapter, after the date the registration statement or the  
27.4 last amendment other than a price amendment is filed, if:

27.5 (1) a stop order is not in effect and a proceeding is not pending under section 80A.54;

27.6 (2) the administrator has not issued an order under section 80A.54 delaying  
27.7 effectiveness; and

27.8 (3) the applicant or registrant has not requested that effectiveness be delayed.

27.9 (d) Delay of effectiveness of registration statement. The administrator may  
27.10 delay effectiveness once for not more than 90 days if the administrator determines the  
27.11 registration statement is not complete in all material respects and promptly notifies  
27.12 the applicant or registrant of that determination. The administrator may also delay  
27.13 effectiveness for a further period of not more than 30 days if the administrator determines  
27.14 that the delay is necessary or appropriate.

27.15 (e) Prospectus distribution may be required. A rule adopted or order issued  
27.16 under this chapter may require as a condition of registration under this section that a  
27.17 prospectus containing a specified part of the information or record specified in subsection  
27.18 (b) be sent or given to each person to which an offer is made, before or concurrently,  
27.19 with the earliest of:

27.20 (1) the first offer made in a record to the person otherwise than by means of a public  
27.21 advertisement, by or for the account of the issuer or another person on whose behalf the  
27.22 offering is being made or by an underwriter or broker-dealer that is offering part of an  
27.23 unsold allotment or subscription taken by the person as a participant in the distribution;

27.24 (2) the confirmation of a sale made by or for the account of the person;

27.25 (3) payment pursuant to such a sale; or

27.26 (4) delivery of the security pursuant to such a sale.

27.27 **Sec. 14. [80A.53] SECTION 305; SECURITIES REGISTRATION FILINGS.**

27.28 (a) Who may file. A registration statement may be filed by the issuer, a person on  
27.29 whose behalf the offering is to be made, or a broker-dealer registered under this chapter.

27.30 (b) Status of offering. A registration statement filed under section 80A.51 or  
27.31 80A.52 must specify:

27.32 (1) the amount of securities to be offered in this state;

27.33 (2) the states in which a registration statement or similar record in connection with  
27.34 the offering has been or is to be filed; and

28.1 (3) any adverse order, judgment, or decree issued in connection with the offering by  
28.2 a state securities regulator, the Securities and Exchange Commission, or a court.

28.3 (c) **Incorporation by reference.** A record filed under this chapter or the predecessor  
28.4 act within five years preceding the filing of a registration statement may be incorporated  
28.5 by reference in the registration statement to the extent that the record is currently accurate.

28.6 (d) **Nonissuer distribution.** In the case of a nonissuer distribution, information  
28.7 or a record may not be required under subsection (i) or section 80A.52, unless it is  
28.8 known to the person filing the registration statement or to the person on whose behalf  
28.9 the distribution is to be made or unless it can be furnished by those persons without  
28.10 unreasonable effort or expense.

28.11 (e) **Escrow and impoundment.** A rule adopted or order issued under this chapter  
28.12 may require as a condition of registration that a security issued within the previous five  
28.13 years or to be issued to a promoter for a consideration substantially less than the public  
28.14 offering price or to a person for a consideration other than cash be deposited in escrow; and  
28.15 that the proceeds from the sale of the registered security in this state be impounded until  
28.16 the issuer receives a specified amount from the sale of the security either in this state or  
28.17 elsewhere. The conditions of any escrow or impoundment required under this subsection  
28.18 may be established by rule adopted or order issued under this chapter, but the administrator  
28.19 may not reject a depository institution solely because of its location in another state.

28.20 (f) **Form of subscription.** A rule adopted or order issued under this chapter may  
28.21 require as a condition of registration that a security registered under this chapter be sold  
28.22 only on a specified form of subscription or sale contract and that a signed or conformed  
28.23 copy of each contract be filed under this chapter or preserved for a period specified by  
28.24 the rule or order, which may not be longer than five years.

28.25 (g) **Effective period.** Except while a stop order is in effect under section 80A.54, a  
28.26 registration statement is effective for one year after its effective date, or for any longer  
28.27 period designated in an order under this chapter during which the security is being offered  
28.28 or distributed in a nonexempted transaction by or for the account of the issuer or other  
28.29 person on whose behalf the offering is being made or by an underwriter or broker-dealer  
28.30 that is still offering part of an unsold allotment or subscription taken as a participant in  
28.31 the distribution. For the purposes of a nonissuer transaction, all outstanding securities of  
28.32 the same class identified in the registration statement as a security registered under this  
28.33 chapter are considered to be registered while the registration statement is effective. If any  
28.34 securities of the same class are outstanding, a registration statement may not be withdrawn  
28.35 until one year after its effective date. A registration statement may be withdrawn only  
28.36 with the approval of the administrator.

29.1 (h) Periodic reports. While a registration statement is effective, a rule adopted or  
 29.2 order issued under this chapter may require the person that filed the registration statement  
 29.3 to file reports, not more often than quarterly, to keep the information or other record in the  
 29.4 registration statement reasonably current and to disclose the progress of the offering.

29.5 (i) Posteffective amendments. A registration statement may be amended after its  
 29.6 effective date. The posteffective amendment becomes effective when the administrator  
 29.7 so orders. If a posteffective amendment is made to increase the number of securities  
 29.8 specified to be offered or sold, the person filing the amendment shall pay a registration  
 29.9 fee. A posteffective amendment relates back to the date of the offering of the additional  
 29.10 securities being registered if, within one year after the date of the sale, the amendment is  
 29.11 filed and the additional registration fee is paid.

29.12 Sec. 15. [80A.54] SECTION 306; DENIAL, SUSPENSION, AND REVOCATION  
 29.13 OF SECURITIES REGISTRATION.

29.14 (a) Stop orders. The administrator may issue a stop order denying effectiveness to,  
 29.15 or suspending or revoking the effectiveness of, a registration statement if the administrator  
 29.16 finds that the order is in the public interest and that:

29.17 (1) the registration statement as of its effective date or before the effective date in the  
 29.18 case of an order denying effectiveness, an amendment under section 80A.53(j) as of its  
 29.19 effective date, or a report under section 80A.53(i), is incomplete in a material respect or  
 29.20 contains a statement that, in the light of the circumstances under which it was made, was  
 29.21 false or misleading with respect to a material fact;

29.22 (2) this chapter or a rule adopted or order issued under this chapter or a condition  
 29.23 imposed under this chapter has been willfully violated, in connection with the offering, by:

29.24 (A) the person filing the registration statement, if the person is directly or indirectly  
 29.25 controlled by or acting for the issuer;

29.26 (B) the issuer;

29.27 (C) a partner, officer, or director of the issuer or a person having a similar status  
 29.28 or performing similar functions;

29.29 (D) a promoter of the issuer;

29.30 (E) a person directly or indirectly controlling or controlled by the issuer; or

29.31 (F) an underwriter;

29.32 (3) the security registered or sought to be registered is the subject of a permanent or  
 29.33 temporary injunction of a court of competent jurisdiction or an administrative stop order  
 29.34 or similar order issued under any federal, foreign, or state law other than this chapter  
 29.35 applicable to the offering, but the administrator may not institute a proceeding against an



30.1 effective registration statement under this paragraph more than one year after the date of  
30.2 the order or injunction on which it is based, and the administrator may not issue an order  
30.3 under this paragraph on the basis of an order or injunction issued under the securities act  
30.4 of another state unless the order or injunction was based on conduct that would constitute,  
30.5 as of the date of the order, a ground for a stop order under this section;

30.6 (4) the issuer's enterprise or method of business includes or would include activities  
30.7 that are unlawful where performed;

30.8 (5) with respect to a security sought to be registered under section 80A.51, there has  
30.9 been a failure to comply with the undertaking required by section 80A.51(b)(4); or

30.10 (6) the applicant or registrant has not paid the filing fee, but the administrator shall  
30.11 void the order if the deficiency is corrected.

30.12 (b) Institution of stop order. The administrator may not institute a stop order  
30.13 proceeding against an effective registration statement on the basis of conduct or a  
30.14 transaction known to the administrator when the registration statement became effective  
30.15 unless the proceeding is instituted within 30 days after the registration statement became  
30.16 effective.

30.17 (c) Summary process. The administrator may summarily revoke, deny, postpone,  
30.18 or suspend the effectiveness of a registration statement pending final determination of  
30.19 an administrative proceeding. Upon the issuance of the order, the administrator shall  
30.20 promptly notify each person specified in subsection (d) that the order has been issued;  
30.21 the reasons for the revocation, denial, postponement, or suspension; and that within 15  
30.22 days after the receipt of a request in a record from the person the matter will be scheduled  
30.23 for a hearing. If a hearing is not requested and none is ordered by the administrator,  
30.24 within 30 days after the date of service of the order, the order becomes final. If a hearing  
30.25 is requested or ordered, the administrator, after notice of and opportunity for hearing for  
30.26 each person subject to the order, may modify or vacate the order or extend the order  
30.27 until final determination.

30.28 (d) Procedural requirements for stop order. A stop order may not be issued  
30.29 under this section without:

30.30 (1) appropriate notice to the applicant or registrant, the issuer, and the person on  
30.31 whose behalf the securities are to be or have been offered;

30.32 (2) an opportunity for hearing; and

30.33 (3) findings of fact and conclusions of law in a record in accordance with chapter 14.

30.34 (e) Modification or vacation of stop order. The administrator may modify or  
30.35 vacate a stop order issued under this section if the administrator finds that the conditions



31.1 that caused its issuance have changed or that it is necessary or appropriate in the public  
 31.2 interest or for the protection of investors.

31.3 **Sec. 16. [80A.55] SECTION 307; WAIVER AND MODIFICATION.**

31.4 The administrator may waive or modify, in whole or in part, any or all of the  
 31.5 requirements of sections 80A.50, 80A.51, and 80A.52(b) or the requirement of any  
 31.6 information or record in a registration statement or in a periodic report filed pursuant to  
 31.7 section 80A.53(i).

31.8 **BROKER-DEALERS, AGENTS, INVESTMENT ADVISERS,**  
 31.9 **INVESTMENT ADVISER REPRESENTATIVES, AND FEDERAL**  
 31.10 **COVERED INVESTMENT ADVISERS**

31.11 **Sec. 17. [80A.56] SECTION 401; BROKER-DEALER REGISTRATION**  
**REQUIREMENT AND EXEMPTIONS.**

31.13 (a) **Registration requirement.** It is unlawful for a person to transact business in this  
 31.14 state as a broker-dealer unless the person is registered under this chapter as a broker-dealer  
 31.15 or is exempt from registration as a broker-dealer under subsection (b) or (d).

31.16 (b) **Exemptions from registration.** The following persons are exempt from the  
 31.17 registration requirement of subsection (a):

31.18 (1) a broker-dealer without a place of business in this state if its only transactions  
 31.19 effected in the state are with:

31.20 (A) the issuer of the securities involved in the transactions;

31.21 (B) a broker-dealer registered under this chapter or not required to be registered as a  
 31.22 broker-dealer under this chapter;

(C) an institutional investor;

31.24 (D) a nonaffiliated federal covered investment adviser with investments under  
 31.25 management in excess of \$100,000,000 acting for the account of others pursuant to  
 31.26 discretionary authority in a signed record;

31.27 (E) a bona fide preexisting customer whose principal place of residence is not in  
 31.28 this state and the person is registered as a broker-dealer under the Securities Exchange  
 31.29 Act of 1934 or not required to be registered under the Securities Exchange Act of 1934  
 31.30 and is registered under the securities act of the state in which the customer maintains a  
 31.31 principal place of residence;

31.32 (F) a bona fide preexisting customer whose principal place of residence is in this  
 31.33 state but was not present in this state when the customer relationship was established, if:

31.34 (i) the broker-dealer is registered under the Securities Exchange Act of 1934 or not  
 31.35 required to be registered under the Securities Exchange Act of 1934 and is registered

32.1 under the securities laws of the state in which the customer relationship was established  
32.2 and where the customer had maintained a principal place of residence; and

32.3 (ii) within 45 days after the customer's first transaction in this state, the person files  
32.4 an application for registration as a broker-dealer in this state and a further transaction is not  
32.5 effected more than 75 days after the date on which the application is filed, or, if earlier, the  
32.6 date on which the administrator notifies the person that the administrator has denied the  
32.7 application for registration or has stayed the pendency of the application for good cause;

32.8 (G) not more than three customers in this state during the previous 12 months,  
32.9 in addition to those customers specified in subparagraphs (A) through (F) and under  
32.10 subparagraph (H), if the broker-dealer is registered under the Securities Exchange Act of  
32.11 1934 or not required to be registered under the Securities Exchange Act of 1934 and is  
32.12 registered under the securities act of the state in which the broker-dealer has its principal  
32.13 place of business; and

32.14 (H) any other person exempted by rule adopted or order issued under this chapter;  
32.15 and

32.16 (2) a person that deals solely in United States government securities and is supervised  
32.17 as a dealer in government securities by the Board of Governors of the Federal Reserve  
32.18 System, the Comptroller of the Currency, the Federal Deposit Insurance Corporation,  
32.19 or the Office of Thrift Supervision; and

32.20 (3) a broker-dealer that is registered in Canada and who has no office or other  
32.21 physical presence in this state if the broker-dealer complies with the following conditions:

32.22 (A) the broker-dealer is registered with or is a member of a self-regulatory  
32.23 organization in Canada, a stock exchange in Canada, or the Bureau des services financiers;

32.24 (B) the broker-dealer maintains in good standing its provincial or territorial  
32.25 registration and its registration with or membership in a self-regulatory organization in  
32.26 Canada, a stock exchange in Canada, or the Bureau des services financiers; and

32.27 (C) the broker-dealer effects or attempts to effect transactions in securities:

32.28 (i) with or for a person from Canada who is temporarily present in this state, with  
32.29 whom the broker-dealer had a bona fide broker-dealer-client relationship before the person  
32.30 entered the United States; or

32.31 (ii) with or for a person from Canada who is present in this state, whose transactions  
32.32 are in a Canadian self-directed tax advantaged retirement account of which the person is  
32.33 the holder or contributor.

32.34 (c) **Limits on employment or association.** It is unlawful for a broker-dealer, or  
32.35 for an issuer engaged in offering, offering to purchase, purchasing, or selling securities in  
32.36 this state, directly or indirectly, to employ or associate with an individual to engage in an

33.1 activity related to securities transactions in this state if the registration of the individual is  
33.2 suspended or revoked or the individual is barred from employment or association with a  
33.3 broker-dealer, an issuer, an investment adviser, or a federal covered investment adviser by  
33.4 an order of the administrator under this chapter, the Securities and Exchange Commission,  
33.5 or a self-regulatory organization. A broker-dealer or issuer does not violate this subsection  
33.6 if the broker-dealer or issuer did not know and in the exercise of reasonable care could not  
33.7 have known, of the suspension, revocation, or bar. Upon request from a broker-dealer or  
33.8 issuer and for good cause, an order under this chapter may modify or waive, in whole or in  
33.9 part, the application of the prohibitions of this subsection to the broker-dealer.

33.10 (d) Foreign transactions. A rule adopted or order issued under this chapter may  
33.11 permit:

33.12 (1) a broker-dealer that is registered in Canada or other foreign jurisdiction and that  
33.13 does not have a place of business in this state to effect transactions in securities with or  
33.14 for, or attempt to effect the purchase or sale of any securities by:

33.15 (A) an individual from Canada or other foreign jurisdiction who is temporarily  
33.16 present in this state and with whom the broker-dealer had a bona fide customer relationship  
33.17 before the individual entered the United States;

33.18 (B) an individual from Canada or other foreign jurisdiction who is present in the  
33.19 state and whose transactions are in a self-directed tax advantaged retirement plan of which  
33.20 the individual is the holder or contributor in that foreign jurisdiction; or

33.21 (C) an individual who is present in this state, with whom the broker-dealer customer  
33.22 relationship arose while the individual was temporarily or permanently resident in Canada  
33.23 or the other foreign jurisdiction; and

33.24 (2) an agent who represents a broker-dealer that is exempt under this subsection to  
33.25 effect transactions in securities or attempt to effect the purchase or sale of securities in this  
33.26 state as permitted for a broker-dealer described in paragraph (1).

33.27 **Sec. 18. [80A.57] SECTION 402; AGENT REGISTRATION REQUIREMENT**  
33.28 **AND EXEMPTIONS.**

33.29 (a) Registration requirement. It is unlawful for an individual to transact business  
33.30 in the state as an agent unless the individual is registered under this chapter as an agent or  
33.31 is exempt from registration as an agent under subsection (b).

33.32 (b) Exemptions from registration. The following individuals are exempt from the  
33.33 registration requirement of subsection (a):

34.1 (1) an individual who represents a broker-dealer in effecting transactions in this state  
34.2 limited to those described in Section 15(h)(2) of the Securities Exchange Act of 1934 (15  
34.3 U.S.C. Section 78(o)(2));

34.4 (2) an individual who represents a broker-dealer that is exempt under section  
34.5 80A.56(b) or (d);

34.6 (3) an individual who represents an issuer with respect to an offer or sale of the  
34.7 issuer's own securities or those of the issuer's parent or any of the issuer's subsidiaries,  
34.8 and who is not compensated in connection with the individual's participation by  
34.9 the payment of commissions or other remuneration based, directly or indirectly, on  
34.10 transactions in those securities;

34.11 (4) an individual who represents an issuer and who effects transactions in the issuer's  
34.12 securities exempted by section 80A.46, other than section 80A.46(11) and (14);

34.13 (5) an individual who represents an issuer that effects transactions solely in federal  
34.14 covered securities of the issuer, but an individual who effects transactions in a federal  
34.15 covered security under Section 18(b)(3) or 18(b)(4)(D) of the Securities Act of 1933 (15  
34.16 U.S.C. Section 77r(b)(3) or 77r(b)(4)(D)) is not exempt if the individual is compensated  
34.17 in connection with the agent's participation by the payment of commissions or other  
34.18 remuneration based, directly or indirectly, on transactions in those securities;

34.19 (6) an individual who represents a broker-dealer registered in this state under section  
34.20 80A.56(a) or exempt from registration under section 80A.56(b) in the offer and sale  
34.21 of securities for an account of a nonaffiliated federal covered investment adviser with  
34.22 investments under management in excess of \$100,000,000 acting for the account of others  
34.23 pursuant to discretionary authority in a signed record;

34.24 (7) an individual who represents an issuer in connection with the purchase of the  
34.25 issuer's own securities;

34.26 (8) an individual who represents an issuer and who restricts participation to  
34.27 performing clerical or ministerial acts;

34.28 (9) an individual who represents an issuer in effecting transactions in a security  
34.29 exempted by section 80A.45;

34.30 (10) an individual who represents an issuer in effecting transactions with existing  
34.31 employees, partners, or directors of the issuer if no commission or other remuneration is  
34.32 paid or given directly or indirectly for soliciting any person in this state;

34.33 (11) an individual who represents one or more issuers with respect to an offer or sale  
34.34 of the issuer's securities if the offer or sale of the securities is exempted by section 80A.46  
34.35 and the individual complies with or satisfies each of the following conditions:

35.1 (A) the individual (i) would not be deemed disqualified pursuant to section 80A.50  
35.2 (b)(3)(D)(ii) to (iv); (ii) is not employed by or associated with a broker-dealer; and  
35.3 (iii) has not been the subject of (a) an action, order, or decision by any self-regulatory  
35.4 organization, commodities exchange, or securities exchange resulting in a censure or  
35.5 other sanction within 12 months prior to the offer or sale or (b) a denial, revocation, or  
35.6 restriction of any license or membership by any self-regulatory organization, commodities  
35.7 exchange, or securities exchange that has been effective at any time within 12 months  
35.8 prior to the offer or sale;

35.9 (B) neither the individual nor any person associated with the individual handles  
35.10 or takes possession of funds or securities;

35.11 (C) the individual files with the administrator a consent to service of process  
35.12 complying with Section 611 before commencing any such representation; and

35.13 (D) the individual files with the administrator a notice that contains (i) the full legal  
35.14 name, address, and phone of the individual; (ii) any other names used by the individual in  
35.15 the prior five years; (iii) a statement whether the individual is, or within the last prior years  
35.16 has been, licensed by or registered with any state or federal government, government  
35.17 agency, or any self-regulatory organization, commodities exchange, or securities exchange  
35.18 as a broker-dealer, registered representative, investment advisor, or investment advisor  
35.19 representative, including, if applicable, the individual's IARD/CRD number; (iv) an  
35.20 undertaking to notify the administrator in writing of a change in any of the foregoing  
35.21 within five business days of such change; and (v) any additional information that may be  
35.22 required by rule adopted or order issued under this chapter. This notice must be filed  
35.23 before the individual commences any issuer representation. The notice is effective through  
35.24 December 31 of the year following the year in which it is filed and may be renewed  
35.25 annually in such manner as prescribed by the administrator; and

35.26 (12) any other individual exempted by rule adopted or order issued under this chapter.

35.27 (c) **Registration effective only while employed or associated.** The registration of  
35.28 an agent is effective only while the agent is employed by or associated with a broker-dealer  
35.29 registered under this chapter or an issuer that is offering, selling, or purchasing its  
35.30 securities in this state.

35.31 (d) **Limit on employment or association.** It is unlawful for a broker-dealer, or an  
35.32 issuer engaged in offering, selling, or purchasing securities in this state, to employ or  
35.33 associate with an agent who transacts business in the state on behalf of broker-dealers or  
35.34 issuers unless the agent is registered under subsection (a) or exempt from registration  
35.35 under subsection (b).

36.1 (e) Limit on affiliations. An individual may not act as an agent for more than one  
36.2 broker-dealer or one issuer at a time, unless the broker-dealer or the issuer for which the  
36.3 agent acts are affiliated by direct or indirect common control or are authorized by rule or  
36.4 order under this chapter.

36.5 Sec. 19. [80A.58] SECTION 403; INVESTMENT ADVISER REGISTRATION  
36.6 REQUIREMENT AND EXEMPTIONS.

36.7 (a) Registration requirement. It is unlawful for a person to transact business in  
36.8 this state as an investment adviser unless the person is registered under this chapter as  
36.9 an investment adviser or is exempt from registration as an investment adviser under  
36.10 subsection (b).

36.11 (b) Exemptions from registration. The following persons are exempt from the  
36.12 registration requirement of subsection (a):

36.13 (1) any person whose only clients in this state are:

36.14 (A) federal covered investment advisers, investment advisers registered under this  
36.15 chapter, or broker-dealers registered under this chapter;

36.16 (B) institutional investors;

36.17 (C) bona fide preexisting clients whose principal places of residence are not in this  
36.18 state if the investment adviser is registered under the securities act of the state in which the  
36.19 clients maintain principal places of residence; or

36.20 (D) any other client exempted by rule adopted or order issued under this chapter;

36.21 (2) a person without a place of business in this state if the person has had, during the  
36.22 preceding 12 months, not more than five clients that are resident in this state in addition  
36.23 to those specified under paragraph (1); or

36.24 (3) any other person exempted by rule adopted or order issued under this chapter.

36.25 (c) Limits on employment or association. It is unlawful for an investment adviser,  
36.26 directly or indirectly, to employ or associate with an individual to engage in an activity  
36.27 related to investment advice in this state if the registration of the individual is suspended  
36.28 or revoked or the individual is barred from employment or association with an investment  
36.29 adviser, federal covered investment adviser, or broker-dealer by an order under this  
36.30 chapter, the Securities and Exchange Commission, or a self-regulatory organization,  
36.31 unless the investment adviser did not know, and in the exercise of reasonable care could  
36.32 not have known, of the suspension, revocation, or bar. Upon request from the investment  
36.33 adviser and for good cause, the administrator, by order, may waive, in whole or in part, the  
36.34 application of the prohibitions of this subsection to the investment adviser.

37.1       Sec. 20. [80A.60] SECTION 405; FEDERAL COVERED INVESTMENT  
37.2       ADVISER NOTICE FILING REQUIREMENT.

37.3       (a) Notice filing requirement. Except with respect to a federal covered investment  
37.4       adviser described in subsection (b), it is unlawful for a federal covered investment adviser  
37.5       to transact business in this state as a federal covered investment adviser unless the federal  
37.6       covered investment adviser complies with subsection (c).

37.7       (b) Notice filing requirement not required. The following federal covered  
37.8       investment advisers are not required to comply with subsection (c):

37.9       (1) a federal covered investment adviser without a place of business in this state if  
37.10      its only clients in this state are:

37.11      (A) federal covered investment advisers, investment advisers registered under this  
37.12      chapter, and broker-dealers registered under this chapter;

37.13      (B) institutional investors;

37.14      (C) bona fide preexisting clients whose principal places of residence are not in  
37.15      this state; or

37.16      (D) other clients specified by rule adopted or order issued under this chapter;

37.17      (2) a federal covered investment adviser without a place of business in this state if  
37.18      the person has had, during the preceding 12 months, not more than five clients that are  
37.19      resident in this state in addition to those specified under paragraph (1); and

37.20      (3) any other person excluded by rule adopted or order issued under this chapter.

37.21      (c) Notice filing procedure. A person acting as a federal covered investment adviser,  
37.22      not excluded under subsection (b), shall file a notice, a consent to service of process  
37.23      complying with section 80A.88, and such records as have been filed with the Securities  
37.24      and Exchange Commission under the Investment Advisers Act of 1940 required by rule  
37.25      adopted or order issued under this chapter and pay the fees specified in section 80A.65(e).

37.26      (d) Effectiveness of filing. The notice under subsection (c) becomes effective upon  
37.27      its filing.

37.28       Sec. 21. [80A.61] SECTION 406; REGISTRATION BY BROKER-DEALER,  
37.29       AGENT, AND INVESTMENT ADVISER.

37.30       (a) Application for initial registration. A person shall register as a broker-dealer,  
37.31       agent, or investment adviser by filing an application and a consent to service of process  
37.32       complying with section 80A.88, and paying the fee specified in section 80A.65 and any  
37.33       reasonable fees charged by the designee of the administrator for processing the filing. The  
37.34       application must contain:

37.35       (1) the information or record required for the filing of a uniform application; and

38.1 (2) upon request by the administrator, any other financial or other information or  
38.2 record that the administrator determines is appropriate.

38.3 (b) Amendment. If the information or record contained in an application filed under  
38.4 subsection (a) is or becomes inaccurate or incomplete in a material respect, the registrant  
38.5 shall promptly file a correcting amendment.

38.6 (c) Effectiveness of registration. If an order is not in effect and a proceeding is not  
38.7 pending under section 80A.67, registration becomes effective at noon on the 45th day after  
38.8 a completed application is filed, unless the registration is denied. A rule adopted or order  
38.9 issued under this chapter may set an earlier effective date or may defer the effective date  
38.10 until noon on the 45th day after the filing of any amendment completing the application.

38.11 (d) Registration renewal. A registration is effective until midnight on December  
38.12 31 of the year for which the application for registration is filed. Unless an order is in  
38.13 effect under section 80A.67, a registration may be automatically renewed each year by  
38.14 filing such records as are required by rule adopted or order issued under this chapter, by  
38.15 paying the fee specified in section 80A.65, and by paying costs charged by the designee of  
38.16 the administrator for processing the filings.

38.17 (e) Additional conditions or waivers. A rule adopted or order issued under this  
38.18 chapter may impose such other conditions, not inconsistent with the National Securities  
38.19 Markets Improvement Act of 1996. An order issued under this chapter may waive, in  
38.20 whole or in part, specific requirements in connection with registration as are in the public  
38.21 interest and for the protection of investors.

38.22 **Sec. 22. [80A.62] SECTION 407; SUCCESSION AND CHANGE IN**  
38.23 **REGISTRATION OF BROKER-DEALER OR INVESTMENT ADVISER.**

38.24 (a) Succession. A broker-dealer or investment adviser may succeed to the current  
38.25 registration of another broker-dealer or investment adviser or a notice filing of a federal  
38.26 covered investment adviser, and a federal covered investment adviser may succeed to the  
38.27 current registration of an investment adviser or notice filing of another federal covered  
38.28 investment adviser, by filing as a successor an application for registration pursuant to  
38.29 section 80A.56 or 80A.58 or a notice pursuant to section 80A.60 for the unexpired portion  
38.30 of the current registration or notice filing.

38.31 (b) Organizational change. A broker-dealer or investment adviser that changes its  
38.32 form of organization or state of incorporation or organization may continue its registration  
38.33 by filing an amendment to its registration if the change does not involve a material change  
38.34 in its financial condition or management. The amendment becomes effective when filed or  
38.35 on a date designated by the registrant in its filing. The new organization is a successor



39.1 to the original registrant for the purposes of this chapter. If there is a material change in  
39.2 financial condition or management, the broker-dealer or investment adviser shall file a  
39.3 new application for registration. A predecessor registered under this chapter shall stop  
39.4 conducting its securities business other than winding down transactions and shall file  
39.5 for withdrawal of broker-dealer or investment adviser registration within 45 days after  
39.6 filing its amendment to effect succession.

39.7 (c) **Name change.** A broker-dealer or investment adviser that changes its name  
39.8 may continue its registration by filing an amendment to its registration. The amendment  
39.9 becomes effective when filed or on a date designated by the registrant.

39.10 (d) **Change of control.** A change of control of a broker-dealer or investment adviser  
39.11 may be made in accordance with a rule adopted or order issued under this chapter.

39.12 **Sec. 23. [80A.63] SECTION 408; TERMINATION OF EMPLOYMENT**  
39.13 **OR ASSOCIATION OF AGENT AND TRANSFER OF EMPLOYMENT OR**  
39.14 **ASSOCIATION.**

39.15 (a) **Notice of termination.** If an agent registered under this chapter terminates  
39.16 employment by or association with a broker-dealer or issuer, or terminates activities that  
39.17 require registration as an agent, the broker-dealer, or issuer shall promptly file a notice  
39.18 of termination. If the registrant learns that the broker-dealer or issuer has not filed the  
39.19 notice, the registrant may do so.

39.20 (b) **Transfer of employment or association.** If an agent registered under this  
39.21 chapter terminates employment by or association with a broker-dealer registered under this  
39.22 chapter and begins employment by or association with another broker-dealer registered  
39.23 under this chapter, then upon the filing by or on behalf of the registrant, within 30 days  
39.24 after the termination, of an application for registration that complies with the requirement  
39.25 of section 80A.61(a) and payment of the filing fee required under section 80A.65, the  
39.26 registration of the agent is:

39.27 (1) immediately effective as of the date of the completed filing, if the agent's Central  
39.28 Registration Depository record or successor record does not contain a new or amended  
39.29 disciplinary disclosure within the previous 12 months; or

39.30 (2) temporarily effective as of the date of the completed filing, if the agent's  
39.31 Central Registration Depository record or successor record contains a new or amended  
39.32 disciplinary disclosure within the preceding 12 months.

39.34 (c) **Withdrawal of temporary registration.** The administrator may withdraw a  
39.35 temporary registration if there are or were grounds for discipline as specified in section  
80A.67 and the administrator does so within 30 days after the filing of the application. If

40.1 the administrator does not withdraw the temporary registration within the 30 day period,  
40.2 registration becomes automatically effective on the 31st day after filing.

40.3 (d) Power to prevent registration. The administrator may prevent the effectiveness  
40.4 of a transfer of an agent under subsection (b)(1) or (2) based on the public interest and the  
40.5 protection of investors.

40.6 (e) Termination of registration or application for registration. If the  
40.7 administrator determines that a registrant or applicant for registration is no longer in  
40.8 existence or has ceased to act as a broker-dealer, agent, or investment adviser, or is  
40.9 the subject of an adjudication of incapacity or is subject to the control of a committee,  
40.10 conservator, or guardian, or cannot reasonably be located, a rule adopted or order issued  
40.11 under this chapter may require the registration be canceled or terminated or the application  
40.12 denied. The administrator may reinstate a canceled or terminated registration, with or  
40.13 without hearing, and may make the registration retroactive.

40.14 Sec. 24. **[80A.64] SECTION 409; WITHDRAWAL OF REGISTRATION OF**  
40.15 **BROKER-DEALER, AGENT, AND INVESTMENT ADVISER.**

40.16 Withdrawal of registration by a broker-dealer, agent, or investment adviser becomes  
40.17 effective 60 days after the filing of the application to withdraw or within any shorter  
40.18 period as provided by rule adopted or order issued under this chapter unless a revocation  
40.19 or suspension proceeding is pending when the application is filed. If a proceeding is  
40.20 pending, withdrawal becomes effective when and upon such conditions as required by rule  
40.21 adopted or order issued under this chapter. The administrator may institute a revocation or  
40.22 suspension proceeding under section 80A.67 within one year after the withdrawal became  
40.23 effective automatically and issue a revocation or suspension order as of the last date on  
40.24 which registration was effective if a proceeding is not pending.

40.25 Sec. 25. **[80A.65] SECTION 410; FEES AND EXPENSES.**

40.26 Subdivision 1. Registration or notice filing fee. (a) There shall be a filing fee of  
40.27 \$100 for every application for registration or notice filing. There shall be an additional fee  
40.28 of one-tenth of one percent of the maximum aggregate offering price at which the securities  
40.29 are to be offered in this state, and the maximum combined fees shall not exceed \$300.

40.30 (b) When an application for registration is withdrawn before the effective date  
40.31 or a preeffective stop order is entered under section 80A.54, all but the \$100 filing fee  
40.32 shall be returned. If an application to register securities is denied, the total of all fees  
40.33 received shall be retained.

41.1 (c) Where a filing is made in connection with a federal covered security under  
41.2 section 18(b)(2) of the Securities Act of 1933, there is a fee of \$100 for every initial filing.  
41.3 If the filing is made in connection with redeemable securities issued by an open end  
41.4 management company or unit investment trust, as defined in the Investment Company Act  
41.5 of 1940, there is an additional annual fee of 1/20 of one percent of the maximum aggregate  
41.6 offering price at which the securities are to be offered in this state during the notice filing  
41.7 period. The fee must be paid at the time of the initial filing and thereafter in connection  
41.8 with each renewal no later than July 1 of each year and must be sufficient to cover the  
41.9 shares the issuer expects to sell in this state over the next 12 months. If during a current  
41.10 notice filing the issuer determines it is likely to sell shares in excess of the shares for which  
41.11 fees have been paid to the administrator, the issuer shall submit an amended notice filing  
41.12 to the administrator under section 80A.50, together with a fee of 1/20 of one percent of the  
41.13 maximum aggregate offering price of the additional shares. Shares for which a fee has  
41.14 been paid, but which have not been sold at the time of expiration of the notice filing, may  
41.15 not be sold unless an additional fee to cover the shares has been paid to the administrator  
41.16 as provided in this section and section 80A.50. If the filing is made in connection with  
41.17 redeemable securities issued by such a company or trust, there is no maximum fee for  
41.18 securities filings made according to this paragraph. If the filing is made in connection  
41.19 with any other federal covered security under Section 18(b)(2) of the Securities Act of  
41.20 1933, there is an additional fee of one-tenth of one percent of the maximum aggregate  
41.21 offering price at which the securities are to be offered in this state, and the combined fees  
41.22 shall not exceed \$300. Beginning with fiscal year 2001 and continuing each fiscal year  
41.23 thereafter, as of the last day of each fiscal year, the administrator shall determine the total  
41.24 amount of all fees that were collected under this paragraph in connection with any filings  
41.25 made for that fiscal year for securities of an open-end investment company on behalf of a  
41.26 security that is a federal covered security pursuant to section 18(b)(2) of the Securities  
41.27 Act of 1933. To the extent the total fees collected by the administrator in connection  
41.28 with these filings exceed \$25,000,000 in a fiscal year, the administrator shall refund, on  
41.29 a pro rata basis, to all persons who paid any fees for that fiscal year, the amount of fees  
41.30 collected by the administrator in excess of \$25,000,000. No individual refund is required  
41.31 of amounts of \$100 or less for a fiscal year.

41.32 Subd. 2. Registration application and renewal filing fee. Every applicant for an  
41.33 initial or renewal registration shall pay a filing fee of \$200 in the case of a broker-dealer,  
41.34 \$50 in the case of an agent, and \$100 in the case of an investment adviser. When an  
41.35 application is denied or withdrawn, the filing fee shall be retained. A registered agent who  
41.36 has terminated employment with one broker-dealer shall, before beginning employment

42.1 with another broker-dealer, pay a transfer fee of \$25. The fee for a filing made according  
42.2 to section 80A.56 is \$100.

42.3 Subd. 3. **Amendment fee.** Any amendment to an existing registration requiring  
42.4 an order of the administrator shall require payment of an amendment fee of \$25. If the  
42.5 amendment increases the aggregate amount of securities to be registered, there shall be  
42.6 an additional fee calculated in accordance with subdivision 1, provided the maximum  
42.7 additional fees, if applicable, have not previously been paid. The administrator shall by  
42.8 rule designate those amendments which require an order of the administrator.

42.9 Subd. 4. **Periodic report fee.** Every periodic report required by section 80A.53  
42.10 shall be accompanied by a fee of \$100.

42.11 Subd. 5. **Exemption filing fee.** The filing of any exemption for which notice is  
42.12 required to be given the administrator under section 80A.45 shall be accompanied by a  
42.13 fee of \$50.

42.14 Subd. 6. **Rescission offer filing fee.** The filing of a rescission offer under section  
42.15 80A.77 shall be accompanied by the fees as calculated in subdivision 1.

42.16 Subd. 7. **Written opinion request fee.** Every request for a written opinion from  
42.17 the administrator shall be accompanied by a fee of \$50.

42.18 Subd. 7a. **Excess securities registration filing fee.** If securities of an issuer are sold  
42.19 in this state in excess of the quantity registered, the excess securities may be registered by  
42.20 paying a filing fee of \$100, and an additional fee in the amount of three times that which  
42.21 is prescribed under subdivision 1, for the excess securities to be registered. There shall  
42.22 be no maximum combined fees under this subdivision, notwithstanding the limitation set  
42.23 forth in subdivision 1, clause (a).

42.24 Registration of the excess securities shall be effective retroactively to the date of sale.

42.25 Subd. 8. **Expense deposits.** When the administrator deems it necessary to incur any  
42.26 expense in connection with any application or registration, the administrator shall have the  
42.27 power to require the interested person to make an advance deposit with the administrator  
42.28 in an amount estimated as sufficient to cover such expense. All such deposits shall be  
42.29 covered into the state treasury and credited to the state administrator's investigation fund,  
42.30 from which fund the administrator shall have power to make disbursements to pay for  
42.31 expenses necessarily incurred in the investigation. Any unexpended portion shall be  
42.32 refunded. On field examinations made by the administrator or an employee away from  
42.33 the office of the administrator, a per diem of \$10 for each such person may be charged in  
42.34 addition to actual expenses. Where additional technical, expert, or special services are  
42.35 used, the actual cost of such services may be charged in addition to actual expenses.

43.1 Subd. 9. Generally. No filing for which a fee is required shall be deemed to be filed  
43.2 or given any effect until the proper fee is paid. All fees and charges collected by the  
43.3 administrator shall be covered into the state treasury. When any person is entitled to a  
43.4 refund under this section, the administrator shall certify to the commissioner of finance  
43.5 the amount of the fee to be refunded to the applicant, and the commissioner of finance  
43.6 shall issue a warrant in payment thereof out of the fund to which such fee was credited in  
43.7 the manner provided by law. There is hereby appropriated to the person entitled to such  
43.8 refunds from the fund in the state treasury to which such fees were credited an amount to  
43.9 make such refunds and payments.

43.10 Sec. 26. [80A.66] SECTION 411; POSTREGISTRATION REQUIREMENTS.

43.11 (a) Financial requirements. Subject to Section 15(h) of the Securities Exchange  
43.12 Act of 1934 (15 U.S.C. Section 78o(h)) or Section 222 of the Investment Advisers Act  
43.13 of 1940 (15 U.S.C. Section 80b-22), a rule adopted or order issued under this chapter  
43.14 may establish minimum financial requirements for broker-dealers registered or required  
43.15 to be registered under this chapter and investment advisers registered or required to be  
43.16 registered under this chapter.

43.17 (b) Financial reports. Subject to Section 15(h) of the Securities Exchange Act of  
43.18 1934 (15 U.S.C. Section 78o(h)) or Section 222(b) of the Investment Advisers Act of 1940  
43.19 (15 U.S.C. Section 80b-22), a broker-dealer registered or required to be registered under  
43.20 this chapter and an investment adviser registered or required to be registered under this  
43.21 chapter shall file such financial reports as are required by a rule adopted or order issued  
43.22 under this chapter. If the information contained in a record filed under this subsection is or  
43.23 becomes inaccurate or incomplete in a material respect, the registrant shall promptly file  
43.24 a correcting amendment.

43.25 (c) Record keeping. Subject to Section 15(h) of the Securities Exchange Act of  
43.26 1934 (15 U.S.C. Section 78o(h)) or Section 222 of the Investment Advisers Act of 1940  
43.27 (15 U.S.C. Section 80b-22):

43.28 (1) a broker-dealer registered or required to be registered under this chapter and an  
43.29 investment adviser registered or required to be registered under this chapter shall make  
43.30 and maintain the accounts, correspondence, memoranda, papers, books, and other records  
43.31 required by rule adopted or order issued under this chapter;

43.32 (2) broker-dealer records required to be maintained under paragraph (1) may be  
43.33 maintained in any form of data storage acceptable under Section 17(a) of the Securities  
43.34 Exchange Act of 1934 (15 U.S.C. Section 78q(a)) if they are readily accessible to the  
43.35 administrator; and

44.1 (3) investment adviser records required to be maintained under paragraph (1)  
44.2 may be maintained in any form of data storage required by rule adopted or order issued  
44.3 under this chapter.

44.4 (d) Audits or inspections. The records of a broker-dealer registered or required  
44.5 to be registered under this chapter and of an investment adviser registered or required to  
44.6 be registered under this chapter are subject to such reasonable periodic, special, or other  
44.7 audits or inspections by a representative of the administrator, within or without this state,  
44.8 as the administrator considers necessary or appropriate in the public interest and for the  
44.9 protection of investors. An audit or inspection may be made at any time and without prior  
44.10 notice. The administrator may copy, and remove for audit or inspection copies of, all  
44.11 records the administrator reasonably considers necessary or appropriate to conduct the  
44.12 audit or inspection. The administrator may assess a reasonable charge for conducting an  
44.13 audit or inspection under this subsection.

44.14 (e) Custody and discretionary authority bond or insurance. Subject to Section  
44.15 15(h) of the Securities Exchange Act of 1934 (15 U.S.C. Section 78o(h)) or Section 222  
44.16 of the Investment Advisers Act of 1940 (15 U.S.C. Section 80b-22), a rule adopted or  
44.17 order issued under this chapter may require a broker-dealer or investment adviser that has  
44.18 custody of or discretionary authority over funds or securities of a customer or client to  
44.19 obtain insurance or post a bond or other satisfactory form of security in an amount not  
44.20 to exceed \$25,000. The administrator may determine the requirements of the insurance,  
44.21 bond, or other satisfactory form of security. Insurance or a bond or other satisfactory form  
44.22 of security may not be required of a broker-dealer registered under this chapter whose net  
44.23 capital exceeds, or of an investment adviser registered under this chapter whose minimum  
44.24 financial requirements exceed, the amounts required by rule or order under this chapter.  
44.25 The insurance, bond, or other satisfactory form of security must permit an action by  
44.26 a person to enforce any liability on the insurance, bond, or other satisfactory form of  
44.27 security if instituted within the time limitations in section 80A.76(j)(2).

44.28 (f) Requirements for custody. Subject to Section 15(h) of the Securities Exchange  
44.29 Act of 1934 (15 U.S.C. Section 78o(h)) or Section 222 of the Investment Advisers Act of  
44.30 1940 (15 U.S.C. Section 80b-22), an agent may not have custody of funds or securities  
44.31 of a customer except under the supervision of a broker-dealer and an investment adviser  
44.32 representative may not have custody of funds or securities of a client except under the  
44.33 supervision of an investment adviser or a federal covered investment adviser. A rule  
44.34 adopted or order issued under this chapter may prohibit, limit, or impose conditions on a  
44.35 broker-dealer regarding custody of funds or securities of a customer and on an investment  
44.36 adviser regarding custody of securities or funds of a client.

45.1 (g) Investment adviser brochure rule. With respect to an investment adviser  
45.2 registered or required to be registered under this chapter, a rule adopted or order  
45.3 issued under this chapter may require that information or other record be furnished or  
45.4 disseminated to clients or prospective clients in this state as necessary or appropriate in the  
45.5 public interest and for the protection of investors and advisory clients.

45.6 (h) Continuing education. A rule adopted or order issued under this chapter  
45.7 may require an individual registered under section 80A.57 or 80A.59 to participate in a  
45.8 continuing education program approved by the Securities and Exchange Commission and  
45.9 administered by a self-regulatory organization or, in the absence of such a program, a  
45.10 rule adopted or order issued under this chapter may require continuing education for an  
45.11 individual registered under section 80A.59.

45.12 Sec. 27. [80A.67] SECTION 412; DENIAL, REVOCATION, SUSPENSION,  
45.13 WITHDRAWAL, RESTRICTION, CONDITION, OR LIMITATION OF  
45.14 REGISTRATION.

45.15 (a) Disciplinary conditions-applicants. If the administrator finds that the order is  
45.16 in the public interest and subsection (d) authorizes the action, an order issued under this  
45.17 chapter may deny an application, or may condition or limit registration of an applicant to  
45.18 be a broker-dealer, agent, or investment adviser, and, if the applicant is a broker-dealer  
45.19 or investment adviser, of a partner, officer, director, or person having a similar status  
45.20 or performing similar functions, or a person directly or indirectly in control of the  
45.21 broker-dealer or investment adviser.

45.22 (b) Disciplinary conditions-registrants. If the administrator finds that the order is  
45.23 in the public interest and subsection (d) authorizes the action an order issued under this  
45.24 chapter may revoke, suspend, condition, or limit the registration of a registrant and, if the  
45.25 registrant is a broker-dealer or investment adviser, of a partner, officer, director, or person  
45.26 having a similar status or performing similar functions, or a person directly or indirectly in  
45.27 control of the broker-dealer or investment adviser. However, the administrator may not:

45.28 (1) institute a revocation or suspension proceeding under this subsection based on an  
45.29 order issued under a law of another state that is reported to the administrator or a designee  
45.30 of the administrator more than one year after the date of the order on which it is based; or

45.31 (2) under subsection (d)(5)(A) or (B), issue an order on the basis of an order issued  
45.32 under the securities act of another state unless the other order was based on conduct for  
45.33 which subsection (d) would authorize the action had the conduct occurred in this state.

45.34 (c) Disciplinary penalties-registrants. If the administrator finds that the order is  
45.35 in the public interest and subsection (d)(1) through (6), (8), (9), (10), or (12) and (13)



46.1 authorizes the action, an order under this chapter may censure, impose a bar, or impose a  
46.2 civil penalty in an amount up to \$10,000 for each violation, on a registrant, and, if the  
46.3 registrant is a broker-dealer or investment adviser, a partner, officer, director, person  
46.4 having a similar status or performing similar functions, or a person directly or indirectly in  
46.5 control, of the broker-dealer or investment adviser.

46.6 (d) Grounds for discipline. A person may be disciplined under subsections (a)  
46.7 through (c) if the person:

46.8 (1) has filed an application for registration in this state under this chapter or the  
46.9 predecessor act within the previous ten years, which, as of the effective date of registration  
46.10 or as of any date after filing in the case of an order denying effectiveness, was incomplete  
46.11 in any material respect or contained a statement that, in light of the circumstances under  
46.12 which it was made, was false or misleading with respect to a material fact;

46.13 (2) willfully violated or willfully failed to comply with this chapter or the  
46.14 predecessor act or a rule adopted or order issued under this chapter or the predecessor  
46.15 act within the previous ten years;

46.16 (3) has been convicted of a felony or within the previous ten years has been  
46.17 convicted of a misdemeanor involving a security, a commodity future or option contract,  
46.18 or an aspect of a business involving securities, commodities, investments, franchises,  
46.19 insurance, banking, or finance;

46.20 (4) is enjoined or restrained by a court of competent jurisdiction in an action  
46.21 instituted by the administrator under this chapter or the predecessor act, a state, the  
46.22 Securities and Exchange Commission, or the United States from engaging in or continuing  
46.23 an act, practice, or course of business involving an aspect of a business involving  
46.24 securities, commodities, investments, franchises, insurance, banking, or finance.

46.25 (5) is the subject of an order, issued after notice and opportunity for hearing by:

46.26 (A) the securities, depository institution, insurance, or other financial services  
46.27 regulator of a state or by the Securities and Exchange Commission or other federal agency  
46.28 denying, revoking, barring, or suspending registration as a broker-dealer, agent, investment  
46.29 adviser, federal covered investment adviser, or investment adviser representative;

46.30 (B) the securities regulator of a state or the Securities and Exchange Commission  
46.31 against a broker-dealer, agent, investment adviser, investment adviser representative, or  
46.32 federal covered investment adviser;

46.33 (C) the Securities and Exchange Commission or a self-regulatory organization  
46.34 suspending or expelling the registrant from membership in the self-regulatory organization;

46.35 (D) a court adjudicating a United States Postal Service fraud order;



47.1 (E) the insurance regulator of a state denying, suspending, or revoking registration  
47.2 as an insurance agent; or

47.3 (F) a depository institution regulator suspending or barring the person from the  
47.4 depository institution business;

47.5 (6) is the subject of an adjudication or determination, after notice and opportunity  
47.6 for hearing, by the Securities and Exchange Commission, the Commodity Futures Trading  
47.7 Commission; the Federal Trade Commission; a federal depository institution regulator,  
47.8 or a depository institution, insurance, or other financial services regulator of a state that  
47.9 the person willfully violated the Securities Act of 1933, the Securities Exchange Act of  
47.10 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, or the  
47.11 Commodity Exchange Act, the securities or commodities law of a state, or a federal or  
47.12 state law under which a business involving investments, franchises, insurance, banking, or  
47.13 finance is regulated;

47.14 (7) is insolvent, either because the person's liabilities exceed the person's assets  
47.15 or because the person cannot meet the person's obligations as they mature, but the  
47.16 administrator may not enter an order against an applicant or registrant under this paragraph  
47.17 without a finding of insolvency as to the applicant or registrant;

47.18 (8) refuses to allow or otherwise impedes the administrator from conducting an audit  
47.19 or inspection under section 80A.66(d) or refuses access to a registrant's office to conduct  
47.20 an audit or inspection under section 80A.66(d);

47.21 (9) has failed to reasonably supervise an agent, investment adviser representative,  
47.22 or other individual, if the agent, investment adviser representative, or other individual  
47.23 was subject to the person's supervision and committed a violation of this chapter or the  
47.24 predecessor act or a rule adopted or order issued under this chapter or the predecessor  
47.25 act within the previous ten years;

47.26 (10) has not paid the proper filing fee within 30 days after having been notified by  
47.27 the administrator of a deficiency, but the administrator shall vacate an order under this  
47.28 paragraph when the deficiency is corrected;

47.29 (11) after notice and opportunity for a hearing, has been found within the previous  
47.30 ten years:

47.31 (A) by a court of competent jurisdiction to have willfully violated the laws of a  
47.32 foreign jurisdiction under which the business of securities, commodities, investment,  
47.33 franchises, insurance, banking, or finance is regulated;

47.34 (B) to have been the subject of an order of a securities regulator of a foreign  
47.35 jurisdiction denying, revoking, or suspending the right to engage in the business of

48.1 securities as a broker-dealer, agent, investment adviser, investment adviser representative,  
48.2 or similar person; or

48.3 (C) to have been suspended or expelled from membership by or participation in  
48.4 a securities exchange or securities association operating under the securities laws of a  
48.5 foreign jurisdiction;

48.6 (12) is the subject of a cease and desist order issued by the Securities and Exchange  
48.7 Commission or issued under the securities, commodities, investment, franchise, banking,  
48.8 finance, or insurance laws of a state;

48.9 (13) has engaged in dishonest or unethical practices in the securities, commodities,  
48.10 investment, franchise, banking, finance, or insurance business within the previous ten  
48.11 years; or

48.12 (14) is not qualified on the basis of factors such as training, experience, and  
48.13 knowledge of the securities business. However, in the case of an application by an agent  
48.14 for a broker-dealer that is a member of a self-regulatory organization or by an individual  
48.15 for registration as an investment adviser representative, a denial order may not be based on  
48.16 this paragraph if the individual has successfully completed all examinations required by  
48.17 subsection (e). The administrator may require an applicant for registration under section  
48.18 80A.57 or 80A.59 who has not been registered in a state within the two years preceding  
48.19 the filing of an application in this state to successfully complete an examination.

48.20 (e) Examinations. A rule adopted or order issued under this chapter may require that  
48.21 an examination, including an examination developed or approved by an organization of  
48.22 securities regulators, be successfully completed by a class of individuals or all individuals.  
48.23 An order issued under this chapter may waive, in whole or in part, an examination as to  
48.24 an individual and a rule adopted under this chapter may waive, in whole or in part, an  
48.25 examination as to a class of individuals if the administrator determines that the examination  
48.26 is not necessary or appropriate in the public interest and for the protection of investors.

48.27 (f) Summary process. The administrator may suspend or deny an application  
48.28 summarily; restrict, condition, limit, or suspend a registration; or censure, bar, or impose a  
48.29 civil penalty on a registrant before final determination of an administrative proceeding.  
48.30 Upon the issuance of an order, the administrator shall promptly notify each person subject  
48.31 to the order that the order has been issued, the reasons for the action, and that within 15  
48.32 days after the receipt of a request in a record from the person the matter will be scheduled  
48.33 for a hearing. If a hearing is not requested and none is ordered by the administrator within  
48.34 30 days after the date of service of the order, the order becomes final by operation of law.  
48.35 If a hearing is requested or ordered, the administrator, after notice of and opportunity for

49.1 hearing to each person subject to the order, may modify or vacate the order or extend the  
 49.2 order until final determination.

49.3 (g) PROCEDURAL REQUIREMENTS. An order issued may not be issued under  
 49.4 this section, except under subsection (f), without:

49.5 (1) appropriate notice to the applicant or registrant;

49.6 (2) opportunity for hearing; and

49.7 (3) findings of fact and conclusions of law in a record in accordance with chapter 14.

49.8 (h) CONTROL PERSON LIABILITY. A person that controls, directly or  
 49.9 indirectly, a person not in compliance with this section may be disciplined by order of the  
 49.10 administrator under subsections (a) through (c) to the same extent as the noncomplying  
 49.11 person, unless the controlling person did not know, or knowingly or recklessly disregarded  
 49.12 evidence, of the existence of conduct that is a ground for discipline under this section.

49.13 (i) LIMIT ON INVESTIGATION OR PROCEEDING. The administrator may  
 49.14 not institute a proceeding under subsection (a), (b), or (c) based solely on material facts  
 49.15 actually known by the administrator unless an investigation or the proceeding is instituted  
 49.16 within one year after the administrator actually acquires knowledge of the material facts.

49.17 **FRAUD AND LIABILITIES**

49.18 **Sec. 28. [80A.68] SECTION 501; GENERAL FRAUD.**

49.19 It is unlawful for a person, in connection with the offer, sale, or purchase of a  
 49.20 security, directly or indirectly:

49.21 (1) to employ a device, scheme, or artifice to defraud;

49.22 (2) to make an untrue statement of a material fact or to omit to state a material fact  
 49.23 necessary in order to make a statement made, in the light of the circumstances under  
 49.24 which it is made, not misleading; or

49.25 (3) to engage in an act, practice, or course of business that operates or would operate  
 49.26 as a fraud or deceit upon another person.

49.27 **Sec. 29. [80A.69] SECTION 502; PROHIBITED CONDUCT IN PROVIDING**  
 49.28 **INVESTMENT ADVICE.**

49.29 (a) Fraud in providing investment advice. It is unlawful for a person that advises  
 49.30 others for compensation, either directly or indirectly or through publications or writings,  
 49.31 as to the value of securities or the advisability of investing in, purchasing, or selling  
 49.32 securities or that, for compensation and as part of a regular business, issues or promulgates  
 49.33 analyses or reports relating to securities:

49.34 (1) to employ a device, scheme, or artifice to defraud another person; or

50.1 (2) to engage in an act, practice, or course of business that operates or would operate  
50.2 as a fraud or deceit upon another person.

50.3 (b) Rules defining fraud. A rule adopted under this chapter may define an act,  
50.4 practice, or course of business of an investment adviser or an investment adviser  
50.5 representative, other than a supervised person of a federal covered investment adviser,  
50.6 as fraudulent, deceptive, or manipulative, and prescribe means reasonably designed to  
50.7 prevent investment advisers and investment adviser representatives, other than supervised  
50.8 persons of a federal covered investment adviser, from engaging in acts, practices, and  
50.9 courses of business defined as fraudulent, deceptive, or manipulative.

50.10 (c) Rules specifying contents of advisory contract. A rule adopted under this  
50.11 chapter may specify the contents of an investment advisory contract entered into,  
50.12 extended, or renewed by an investment adviser.

50.13 Sec. 30. [80A.70] SECTION 503; EVIDENTIARY BURDEN.

50.14 (a) Civil. In a civil action or administrative proceeding under this chapter, a person  
50.15 claiming an exemption, exception, preemption, or exclusion has the burden to prove the  
50.16 applicability of the claim.

50.17 (b) Criminal. In a criminal proceeding under this chapter, a person claiming an  
50.18 exemption, exception, preemption, or exclusion has the burden of going forward with  
50.19 evidence of the claim.

50.20 Sec. 31. [80A.71] SECTION 504; FILING OF SALES AND ADVERTISING  
50.21 LITERATURE.

50.22 (a) Filing requirement. Except as otherwise provided in subsection (b), a rule  
50.23 adopted or order issued under this chapter may require the filing of a prospectus, pamphlet,  
50.24 circular, form letter, advertisement, sales literature, or other advertising record relating  
50.25 to a security or investment advice, addressed or intended for distribution to prospective  
50.26 investors, including clients or prospective clients of a person registered or required to be  
50.27 registered as an investment adviser under this chapter.

50.28 (b) Excluded communications. This section does not apply to sales and advertising  
50.29 literature specified in subsection (a) which relates to a federal covered security, a federal  
50.30 covered investment adviser, or a security or transaction exempted by section 80A.45,  
50.31 80A.46, or 80A.47 except as required pursuant to section 80A.45(7).

50.32 Sec. 32. [80A.72] SECTION 505; MISLEADING FILINGS.

51.1 It is unlawful for a person to make or cause to be made, in a record that is used in  
51.2 an action or proceeding or filed under this chapter other than a contested case hearing,  
51.3 a statement that, at the time and in the light of the circumstances under which it is  
51.4 made, is false or misleading in a material respect, or, in connection with the statement,  
51.5 to omit to state a material fact necessary to make the statement made, in the light of the  
51.6 circumstances under which it was made, not false or misleading.

51.7 **Sec. 33. [80A.73] SECTION 506; MISREPRESENTATIONS CONCERNING**  
51.8 **REGISTRATION OR EXEMPTION.**

51.9 The filing of an application for registration, a registration statement, a notice  
51.10 filing under this chapter, the registration of a person, the notice filing by a person, or  
51.11 the registration of a security under this chapter does not constitute a finding by the  
51.12 administrator that a record filed under this chapter is true, complete, and not misleading.  
51.13 The filing or registration or the availability of an exemption, exception, preemption, or  
51.14 exclusion for a security or a transaction does not mean that the administrator has passed  
51.15 upon the merits or qualifications of, or recommended or given approval to, a person,  
51.16 security, or transaction. It is unlawful to make, or cause to be made, to a purchaser,  
51.17 customer, client, or prospective customer or client a representation inconsistent with  
51.18 this section.

51.19 **Sec. 34. [80A.74] SECTION 507; QUALIFIED IMMUNITY.**

51.20 A broker-dealer, agent, investment adviser, federal covered investment adviser, or  
51.21 investment adviser representative is not liable to another broker-dealer, agent, investment  
51.22 adviser, federal covered investment adviser, or investment adviser representative  
51.23 for defamation relating to a statement that is contained in a record required by the  
51.24 administrator, or designee of the administrator, the Securities and Exchange Commission,  
51.25 or a self-regulatory organization, unless the person knew, or should have known at the  
51.26 time that the statement was made, that it was false in a material respect or the person acted  
51.27 in reckless disregard of the statement's truth or falsity.

51.28 **Sec. 35. [80A.75] SECTION 508; CRIMINAL PENALTIES.**

51.29 (a) **Criminal penalties.** A person that willfully violates this chapter, or a rule adopted  
51.30 or order issued under this chapter, except section 80A.71 or the notice filing requirements  
51.31 of section 80A.50 or 80A.60, or that willfully violates section 80A.72 knowing the  
51.32 statement made to be false or misleading in a material respect, upon conviction, shall be  
51.33 fined not more than \$10,000 or imprisoned not more than five years or both. Each of the

52.1 acts specified constitutes a separate offense and a prosecution or conviction for any such  
52.2 offense does not bar prosecution or conviction for any other offense.

52.3 (b) Criminal reference not required. The attorney general with or without a  
52.4 reference from the administrator, may institute criminal proceedings under this chapter.

52.5 (c) No limitation on other criminal enforcement. This chapter does not limit  
52.6 the power of this state to punish a person for conduct that constitutes a crime under  
52.7 other laws of this state.

52.8 Sec. 36. **[80A.76] SECTION 509; CIVIL LIABILITY.**

52.9 (a) Securities Litigation Uniform Standards Act. Enforcement of civil liability  
52.10 under this section is subject to the Securities Litigation Uniform Standards Act of 1998.

52.11 (b) Liability of seller to purchaser. A person is liable to the purchaser if the person  
52.12 sells a security in violation of section 80A.49 or, by means of an untrue statement of a  
52.13 material fact or an omission to state a material fact necessary in order to make the statement  
52.14 made, in light of the circumstances under which it is made, not misleading, the purchaser  
52.15 not knowing the untruth or omission and the seller not sustaining the burden of proof that  
52.16 the seller did not know and, in the exercise of reasonable care, could not have known of  
52.17 the untruth or omission. An action under this subsection is governed by the following:

52.18 (1) The purchaser may maintain an action to recover the consideration paid for the  
52.19 security, less the amount of any income received on the security, and interest from the date  
52.20 of the purchase, costs, and reasonable attorneys' fees determined by the court, upon the  
52.21 tender of the security, or for actual damages as provided in paragraph (3).

52.22 (2) The tender referred to in paragraph (1) may be made any time before entry  
52.23 of judgment. Tender requires only notice in a record of ownership of the security and  
52.24 willingness to exchange the security for the amount specified. A purchaser that no longer  
52.25 owns the security may recover actual damages as provided in paragraph (3).

52.26 (3) Actual damages in an action arising under this subsection are the amount that  
52.27 would be recoverable upon a tender less the value of the security when the purchaser  
52.28 disposed of it, and interest from the date of the purchase, costs, and reasonable attorneys'  
52.29 fees determined by the court.

52.30 (c) Liability of purchaser to seller. person is liable to the seller if the person buys a  
52.31 security by means of an untrue statement of a material fact or omission to state a material  
52.32 fact necessary in order to make the statement made, in light of the circumstances under  
52.33 which it is made, not misleading, the seller not knowing of the untruth or omission, and  
52.34 the purchaser not sustaining the burden of proof that the purchaser did not know, and in

53.1 the exercise of reasonable care, could not have known of the untruth or omission. An  
53.2 action under this subsection is governed by the following:

53.3 (1) The seller may maintain an action to recover the security, and any income  
53.4 received on the security, costs, and reasonable attorneys' fees determined by the court,  
53.5 upon the tender of the purchase price, or for actual damages as provided in paragraph (3).

53.6 (2) The tender referred to in paragraph (1) may be made any time before entry  
53.7 of judgment. Tender requires only notice in a record of the present ability to pay the  
53.8 amount tendered and willingness to take delivery of the security for the amount specified.  
53.9 If the purchaser no longer owns the security, the seller may recover actual damages as  
53.10 provided in paragraph (3).

53.11 (3) Actual damages in an action arising under this subsection are the difference  
53.12 between the price at which the security was sold and the value the security would have  
53.13 had at the time of the sale in the absence of the purchaser's conduct causing liability, and  
53.14 interest from the date of the sale of the security, costs, and reasonable attorneys' fees  
53.15 determined by the court.

53.16 (d) **Liability of unregistered broker-dealer and agent.** A person acting as a  
53.17 broker-dealer or agent that sells or buys a security in violation of section 80A.56(a),  
53.18 80A.57(a), or 80A.73 is liable to the customer. The customer, if a purchaser, may maintain  
53.19 an action for recovery of actual damages as specified in subsections (b)(1) through (3), or,  
53.20 if a seller, for a remedy as specified in subsections (c)(1) through (3).

53.21 (e) **Liability of unregistered investment adviser and investment adviser**  
53.22 **representative.** A person acting as an investment adviser or investment adviser  
53.23 representative that provides investment advice for compensation in violation of section  
53.24 80A.58(a), 80A.59(a), or 80A.73 is liable to the client. The client may maintain an action  
53.25 to recover the consideration paid for the advice, interest from the date of payment, costs,  
53.26 and reasonable attorneys' fees determined by the court.

53.27 (f) **Liability for investment advice.** A person that receives directly or indirectly  
53.28 any consideration for providing investment advice to another person and that employs a  
53.29 device, scheme, or artifice to defraud the other person or engages in an act, practice, or  
53.30 course of business that operates or would operate as a fraud or deceit on the other person,  
53.31 is liable to the other person. An action under this subsection is governed by the following:

53.32 (1) The person defrauded may maintain an action to recover the consideration  
53.33 paid for the advice and the amount of any actual damages caused by the fraudulent  
53.34 conduct, interest from the date of the fraudulent conduct, costs, and reasonable attorneys'  
53.35 fees determined by the court, less the amount of any income received as a result of the  
53.36 fraudulent conduct.

54.1 (2) This subsection does not apply to a broker-dealer or its agents if the investment  
54.2 advice provided is solely incidental to transacting business as a broker-dealer and no  
54.3 special compensation is received for the investment advice.

54.4 (g) Joint and several liability. The following persons are liable jointly and severally  
54.5 with and to the same extent as persons liable under subsections (b) through (f):

54.6 (1) a person that directly or indirectly controls a person liable under subsections (b)  
54.7 through (f), unless the controlling person sustains the burden of proof that the person did  
54.8 not know, and in the exercise of reasonable care could not have known, of the existence of  
54.9 conduct by reason of which the liability is alleged to exist;

54.10 (2) an individual who is a managing partner, executive officer, or director of a person  
54.11 liable under subsections (b) through (f), including an individual having a similar status or  
54.12 performing similar functions, unless the individual sustains the burden of proof that the  
54.13 individual did not know and, in the exercise of reasonable care could have known, of the  
54.14 existence of conduct by reason of which the liability is alleged to exist;

54.15 (3) an individual who is an employee of or associated with a person liable under  
54.16 subsections (b) through (f) and who materially aids the conduct giving rise to the liability,  
54.17 unless the individual sustains the burden of proof that the individual did not know and,  
54.18 in the exercise of reasonable care could not have known, of the existence of conduct by  
54.19 reason of which the liability is alleged to exist; and

54.20 (4) a person that is a broker-dealer, agent, investment adviser, or investment adviser  
54.21 representative that materially aids the conduct giving rise to the liability under subsections  
54.22 (b) through (f), unless the person sustains the burden of proof that the person did not know  
54.23 and, in the exercise of reasonable care could not have known, of the existence of conduct  
54.24 by reason of which liability is alleged to exist.

54.25 (h) Right of contribution. A person liable under this section has a right of  
54.26 contribution as in cases of tort against any other person liable under this section for the  
54.27 same conduct.

54.28 (i) Survival of cause of action. A cause of action under this section survives the  
54.29 death of an individual who might have been a plaintiff or defendant.

54.30 (j) Statute of limitations. A person may not obtain relief:

54.31 (1) under subsection (b) for violation of section 80A.49, or under subsection (d) or  
54.32 (e), unless the action is instituted within one year after the violation occurred; or

54.33 (2) under subsection (b), other than for violation of section 80A.49, or under  
54.34 subsection (c) or (f), unless the action is instituted within the earlier of two years after  
54.35 discovery of the facts constituting the violation or five years after the violation.



55.1 (k) No enforcement of violative contract. A person that has made, or has engaged  
55.2 in the performance of, a contract in violation of this chapter or a rule adopted or order  
55.3 issued under this chapter, or that has acquired a purported right under the contract with  
55.4 knowledge of conduct by reason of which its making or performance was in violation of  
55.5 this chapter, may not base an action on the contract.

55.6 (l) No contractual waiver. A condition, stipulation, or provision binding a person  
55.7 purchasing or selling a security or receiving investment advice to waive compliance with  
55.8 this chapter or a rule adopted or order issued under this chapter is void.

55.9 (m) Survival of other right or remedies. The rights and remedies provided by this  
55.10 chapter are in addition to any other rights or remedies that may exist, but this chapter does  
55.11 not create a cause of action not specified in this section or section 80A.66(e).

55.12 **Sec. 37. [80A.77] SECTION 510; RESCISSION OFFERS.**

55.13 A purchaser, seller, or recipient of investment advice may not maintain an action  
55.14 under section 80A.76 if:

55.15 (1) the purchaser, seller, or recipient of investment advice receives in a record,  
55.16 before the action is instituted:

55.17 (A) an offer stating the respect in which liability under section 80A.76 may have  
55.18 arisen and fairly advising the purchaser, seller, or recipient of investment advice of  
55.19 that person's rights in connection with the offer, and any financial or other information  
55.20 necessary to correct all material misrepresentations or omissions in the information that  
55.21 was required by this chapter to be furnished to that person at the time of this purchase,  
55.22 sale, or investment advice;

55.23 (B) if the basis for relief under this section may have been a violation of section  
55.24 80A.76(b), an offer to repurchase the security for cash, payable on delivery of the security,  
55.25 equal to the consideration paid, and interest from the date of the purchase, less the amount  
55.26 of any income received on the security, or, if the purchaser no longer owns the security, an  
55.27 offer to pay the purchaser upon acceptance of the offer damages in an amount that would  
55.28 be recoverable upon a tender, less the value of the security when the purchaser disposed  
55.29 of it, and interest from the date of the purchase in cash equal to the damages computed  
55.30 in the manner provided in this subsection.

55.31 (C) if the basis for relief under this section may have been a violation of section  
55.32 80A.76(c), an offer to tender the security, on payment by the seller of an amount equal to  
55.33 the purchase price paid, less income received on the security by the purchaser and interest  
55.34 from the date of the sale; or if the purchaser no longer owns the security, an offer to pay  
55.35 the seller upon acceptance of the offer, in cash, damages in the amount of the difference

56.1 between the price at which the security was purchased and the value the security would  
56.2 have had at the time of the purchase in the absence of the purchaser's conduct that may  
56.3 have caused liability and interest from the date of the sale.

56.4 (D) if the basis for relief under this section may have been a violation of section  
56.5 80A.76(d); and if the customer is a purchaser, an offer to pay as specified in subparagraph  
56.6 (B); or, if the customer is a seller, an offer to tender or to pay as specified in subparagraph  
56.7 (C);

56.8 (E) if the basis for relief under this section may have been a violation of section  
56.9 80A.76(e), an offer to reimburse in cash the consideration paid for the advice and interest  
56.10 from the date of payment; or

56.11 (F) if the basis for relief under this section may have been a violation of section  
56.12 80A.76(f), an offer to reimburse in cash the consideration paid for the advice, the amount  
56.13 of any actual damages that may have been caused by the conduct, and interest from the  
56.14 date of the violation causing the loss;

56.15 (2) the offer under paragraph (1) states that it must be accepted by the purchaser,  
56.16 seller, or recipient of investment advice within 30 days after the date of its receipt by the  
56.17 purchaser, seller, or recipient of investment advice or any shorter period, of not less than  
56.18 three days, that the administrator, by order, specifies;

56.19 (3) the offeror has the present ability to pay the amount offered or to tender the  
56.20 security under paragraph (1);

56.21 (4) the offer under paragraph (1) is delivered to the purchaser, seller, or recipient  
56.22 of investment advice, or sent in a manner that ensures receipt by the purchaser, seller, or  
56.23 recipient of investment advice; and

56.24 (5) the purchaser, seller, or recipient of investment advice that accepts the offer  
56.25 under paragraph (1) in a record within the period specified under paragraph (2) is paid  
56.26 in accordance with the terms of the offer.

56.27 **ADMINISTRATION AND JUDICIAL REVIEW**

56.28 **Sec. 38. [80A.78] SECTION 601; ADMINISTRATION.**

56.29 **(a) Administration.** The administrator shall administer this chapter.

56.30 **(b) Unlawful use of records or information.** It is unlawful for the administrator  
56.31 or an officer, employee, or designee of the administrator to use for personal benefit  
56.32 or the benefit of others records or other information obtained by or filed with the  
56.33 administrator that are not public under section 80A.84(b). This chapter does not authorize  
56.34 the administrator or an officer, employee, or designee of the administrator to disclose the  
56.35 record or information, except in accordance with section 80A.79, 80A.84(c), or 80A.85.

57.1 (c) No privilege or exemption created or diminished. This chapter does not  
57.2 create or diminish a privilege or exemption that exists at common law, by statute or rule,  
57.3 or otherwise.

57.4 (d) Investor education. The administrator may develop and implement investor  
57.5 education initiatives to inform the public about investing in securities, with particular  
57.6 emphasis on the prevention and detection of securities fraud. In developing and  
57.7 implementing these initiatives, the administrator may collaborate with public and  
57.8 nonprofit organizations with an interest in investor education. The administrator may  
57.9 accept a grant or donation from a person that is not affiliated with the securities industry  
57.10 or from a nonprofit organization, regardless of whether the organization is affiliated with  
57.11 the securities industry, to develop and implement investor education initiatives. This  
57.12 subsection does not authorize the administrator to require participation or monetary  
57.13 contributions of a registrant in an investor education program.

57.14 Sec. 39. [80A.79] SECTION 602; INVESTIGATIONS AND SUBPOENAS.

57.15 (a) Authority to investigate. The administrator may:

57.16 (1) conduct public or private investigations within or outside of this state which  
57.17 the administrator considers necessary or appropriate to determine whether a person has  
57.18 violated, is violating, or is about to violate this chapter or a rule adopted or order issued  
57.19 under this chapter, or to aid in the enforcement of this chapter or in the adoption of rules  
57.20 and forms under this chapter;

57.21 (2) require or permit a person to testify, file a statement, or produce a record, under  
57.22 oath or otherwise as the administrator determines, as to all the facts and circumstances  
57.23 concerning a matter to be investigated or about which an action or proceeding is to be  
57.24 instituted; and

57.25 (3) publish a record concerning an action, proceeding, or an investigation under,  
57.26 or a violation of, this chapter or a rule adopted or order issued under this chapter if the  
57.27 administrator determines it is necessary or appropriate in the public interest and for the  
57.28 protection of investors.

57.29 (b) Administrator powers to investigate. For the purpose of an investigation  
57.30 under this chapter, the administrator or its designated officer may administer oaths and  
57.31 affirmations, subpoena witnesses, seek compulsion of attendance, take evidence, require  
57.32 the filing of statements, and require the production of any records that the administrator  
57.33 considers relevant or material to the investigation.

57.34 (c) Procedure and remedies for noncompliance. If a person does not appear or  
57.35 refuses to testify, file a statement, produce records, or otherwise does not obey a subpoena

58.1 as required by the administrator under this chapter, the administrator may refer the matter  
58.2 to the attorney general, who may apply to the district court or a court of another state to  
58.3 enforce compliance. The court may:

58.4 (1) hold the person in contempt;

58.5 (2) order the person to appear before the administrator;

58.6 (3) order the person to testify about the matter under investigation or in question;

58.7 (4) order the production of records;

58.8 (5) grant injunctive relief, including restricting or prohibiting the offer or sale of  
58.9 securities or the providing of investment advice;

58.10 (6) impose a civil penalty up to \$10,000 for each violation; and

58.11 (7) grant any other necessary or appropriate relief.

58.12 (d) **Application for relief.** This section does not preclude a person from applying to  
58.13 the district court or a court of another state for relief from a request to appear, testify, file a  
58.14 statement, produce records, or obey a subpoena.

58.15 (e) **Use immunity procedure.** An individual is not excused from attending,  
58.16 testifying, filing a statement, producing a record or other evidence, or obeying a subpoena  
58.17 of the administrator under this chapter or in an action or proceeding instituted by the  
58.18 administrator under this chapter on the ground that the required testimony, statement,  
58.19 record, or other evidence, directly or indirectly, may tend to incriminate the individual or  
58.20 subject the individual to a criminal fine, penalty, or forfeiture. If the individual refuses to  
58.21 testify, file a statement or produce a record or other evidence on the basis of the individual's  
58.22 privilege against self-incrimination, the administrator may apply to the district court to  
58.23 compel the testimony, the filing of the statement, the production of the record, or the giving  
58.24 of other evidence. The testimony, record, or other evidence compelled under such an order  
58.25 may not be used, directly or indirectly, against the individual in a criminal case, except in  
58.26 a prosecution for perjury or contempt or otherwise failing to comply with the order.

58.27 (f) **Assistance to securities regulator of another jurisdiction.** At the request of  
58.28 the securities regulator of another state or a foreign jurisdiction, the administrator may  
58.29 provide assistance if the requesting regulator states that it is conducting an investigation to  
58.30 determine whether a person has violated, is violating, or is about to violate a law or rule  
58.31 of the other state or foreign jurisdiction relating to securities matters that the requesting  
58.32 regulator administers or enforces. The administrator may provide the assistance by using  
58.33 the authority to investigate and the powers conferred by this section as the administrator  
58.34 determines is necessary or appropriate. The assistance may be provided without regard  
58.35 to whether the conduct described in the request would also constitute a violation of this  
58.36 chapter or other law of this state if occurring in this state. In deciding whether to provide

59.1 the assistance, the administrator may consider whether the requesting regulator is permitted  
59.2 and has agreed to provide assistance reciprocally within its state or foreign jurisdiction  
59.3 to the administrator on securities matters when requested; whether compliance with the  
59.4 request would violate or prejudice the public policy of this state; and the availability of  
59.5 resources and employees of the administrator to carry out the request for assistance.

59.6 **Sec. 40. [80A.80] SECTION 603; CIVIL ENFORCEMENT.**

59.7 **(a) Civil action instituted by administrator.** If the administrator believes that a  
59.8 person has engaged, is engaging, or is about to engage in an act, practice, or course of  
59.9 business constituting a violation of this chapter or a rule adopted or order issued under  
59.10 this chapter or that a person has, is, or is about to engage in an act, practice, or course of  
59.11 business that materially aids a violation of this chapter or a rule adopted or order issued  
59.12 under this chapter, the administrator may maintain an action in the district court to enjoin  
59.13 the act, practice, or course of business and to enforce compliance with this chapter or a  
59.14 rule adopted or order issued under this chapter.

59.15 **(b) Relief available.** In an action under this section and on a proper showing, the  
59.16 court may:

59.17 **(1) issue a permanent or temporary injunction, restraining order, or declaratory**  
59.18 **judgment;**

59.19 **(2) order other appropriate or ancillary relief, which may include:**

59.20 **(A) an asset freeze, accounting, writ of attachment, writ of general or specific**  
59.21 **execution, and appointment of a receiver or conservator, that may be the administrator,**  
59.22 **for the defendant or the defendant's assets;**

59.23 **(B) ordering the administrator to take charge and control of a defendant's property,**  
59.24 **including investment accounts and accounts in a depository institution, rents, and profits;**  
59.25 **to collect debts; and to acquire and dispose of property;**

59.26 **(C) imposing a civil penalty up to \$10,000 for each violation; an order of rescission,**  
59.27 **restitution, or disgorgement directed to a person that has engaged in an act, practice, or**  
59.28 **course of business constituting a violation of this chapter or the predecessor act or a rule**  
59.29 **adopted or order issued under this chapter or the predecessor act; and**

59.30 **(D) ordering the payment of prejudgment and postjudgment interest; or**

59.31 **(3) order such other relief as the court considers appropriate.**

59.32 **(c) No bond required.** The administrator may not be required to post a bond in an  
59.33 action or proceeding under this chapter.

59.34 **Sec. 41. [80A.81] SECTION 604; ADMINISTRATIVE ENFORCEMENT.**

60.1 (a) Issuance of an order or notice. If the administrator determines that a person  
60.2 has engaged, is engaging, or is about to engage in an act, practice, or course of business  
60.3 constituting a violation of this chapter or a rule adopted or order issued under this chapter  
60.4 or that a person has materially aided, is materially aiding, or is about to materially aid an  
60.5 act, practice, or course of business constituting a violation of this chapter or a rule adopted  
60.6 or order issued under this chapter, the administrator may:

60.7 (1) issue an order directing the person to cease and desist from engaging in the  
60.8 act, practice, or course of business or to take other action necessary or appropriate to  
60.9 comply with this chapter;

60.10 (2) issue an order denying, suspending, revoking, or conditioning the exemptions  
60.11 for a broker-dealer under section 80A.56(b)(1)(D) or (F) or an investment adviser under  
60.12 section 80A.58(b)(1)(C); or

60.13 (3) issue an order under section 80A.48.

60.14 (b) Summary process. An order under subsection (a) is effective on the date of  
60.15 issuance. Upon issuance of the order, the administrator shall promptly serve each person  
60.16 subject to the order with a copy of the order and a notice that the order has been entered.  
60.17 The order must include a statement whether the administrator will seek a civil penalty or  
60.18 costs of the investigation, a statement of the reasons for the order, and notice that, within  
60.19 15 days after receipt of a request in a record from the person, the matter will be scheduled  
60.20 for a hearing. If a person subject to the order does not request a hearing and none is  
60.21 ordered by the administrator within 30 days after the date of service of the order, the order,  
60.22 which may include a civil penalty or costs of the investigation if a civil penalty or costs  
60.23 were sought in the statement accompanying the order, becomes final as to that person by  
60.24 operation of law. If a hearing is requested or ordered, the administrator, after notice of  
60.25 an opportunity for hearing to each person subject to the order, may modify or vacate the  
60.26 order or extend it until final determination.

60.27 (c) Procedure for final order. If a hearing is requested or ordered pursuant to  
60.28 subsection (b), a hearing must be held under chapter 14. A final order may not be issued  
60.29 unless the administrator makes findings of fact and conclusions of law in a record  
60.30 according to chapter 14. The final order may make final, vacate, or modify the order  
60.31 issued under subsection (a).

60.32 (d) Civil penalty. In a final order under subsection (c), the administrator may  
60.33 impose a civil penalty up to \$10,000 for each violation.

60.34 (e) Costs. In a final order, the administrator may charge the actual cost of an  
60.35 investigation or proceeding for a violation of this chapter or a rule adopted or order issued  
60.36 under this chapter.

61.1 (f) Filing of certified final order with court; effect of filing. If a petition for  
61.2 judicial review of a final order is not filed in accordance with section 80A.86, the  
61.3 administrator may file a certified copy of the final order with the clerk of a court of  
61.4 competent jurisdiction. The order so filed has the same effect as a judgment of the court  
61.5 and may be recorded, enforced, or satisfied in the same manner as a judgment of the court.

61.6 (g) Enforcement by court; further civil penalty. If a person does not comply  
61.7 with an order under this section, the administrator may petition a court of competent  
61.8 jurisdiction to enforce the order. The court may not require the administrator to post a  
61.9 bond in an action or proceeding under this section. If the court finds, after service and  
61.10 opportunity for hearing, that the person was not in compliance with the order, the court  
61.11 may adjudge the person in civil contempt of the order. The court may impose a further  
61.12 civil penalty against the person for contempt in an amount up to \$10,000 for each violation  
61.13 and may grant any other relief the court determines is just and proper in the circumstances.

61.14 Sec. 42. [80A.82] SECTION 605; RULES, FORMS, ORDERS,  
61.15 INTERPRETATIVE OPINIONS, AND HEARINGS.

61.16 (a) Issuance and adoption of forms, orders, and rules.The administrator may:

61.17 (1) issue forms and orders and, after notice and comment, may adopt and amend  
61.18 rules necessary or appropriate to carry out this chapter and may repeal rules, including  
61.19 rules and forms governing registration statements, applications, notice filings, reports,  
61.20 and other records;

61.21 (2) by rule, define terms, whether or not used in this chapter, but those definitions  
61.22 may not be inconsistent with this chapter; and

61.23 (3) by rule, classify securities, persons, and transactions and adopt different  
61.24 requirements for different classes.

61.25 (b) Findings and cooperation. Under this chapter, a rule or form may not be  
61.26 adopted or amended, or an order issued or amended, unless the administrator finds that the  
61.27 rule, form, order, or amendment is necessary or appropriate in the public interest or for the  
61.28 protection of investors and is consistent with the purposes intended by this chapter. In  
61.29 adopting, amending, and repealing rules and forms, section 80A.85 applies in order to  
61.30 achieve uniformity among the states and coordination with federal laws in the form and  
61.31 content of registration statements, applications, reports, and other records, including the  
61.32 adoption of uniform rules, forms, and procedures.

61.33 (c) Financial statements. Subject to Section 15(h) of the Securities Exchange Act  
61.34 and Section 222 of the Investment Advisers Act of 1940, the administrator may require  
61.35 that a financial statement filed under this chapter be prepared in accordance with generally

62.1 accepted accounting principles in the United States and comply with other requirements  
62.2 specified by rule adopted or order issued under this chapter. A rule adopted or order  
62.3 issued under this chapter may establish:

62.4 (1) subject to Section 15(h) of the Securities Exchange Act and Section 222 of the  
62.5 Investment Advisors Act of 1940, the form and content of financial statements required  
62.6 under this chapter;

62.7 (2) whether unconsolidated financial statements must be filed; and

62.8 (3) whether required financial statements must be audited by an independent  
62.9 certified public accountant.

62.10 (d) **Interpretative opinions.** The administrator may provide interpretative opinions  
62.11 or issue determinations that the administrator will not institute a proceeding or an  
62.12 action under this chapter against a specified person for engaging in a specified act,  
62.13 practice, or course of business if the determination is consistent with this chapter. A  
62.14 rule adopted or order issued under this chapter may establish a reasonable charge for  
62.15 interpretative opinions or determinations that the administrator will not institute an action  
62.16 or a proceeding under this chapter.

62.17 (e) **Effect of compliance.** A penalty under this chapter may not be imposed for, and  
62.18 liability does not arise from conduct that is engaged in or omitted in good faith believing it  
62.19 conforms to a rule, form, or order of the administrator under this chapter.

62.20 (f) **Presumption for public hearings.** A hearing in an administrative proceeding  
62.21 under this chapter must be conducted in public unless the administrator for good cause  
62.22 consistent with this chapter determines that the hearing will not be so conducted.

62.23 **Sec. 43. [80A.83] SECTION 606; ADMINISTRATIVE FILES AND OPINIONS.**

62.24 (a) **Public register of filings.** The administrator shall maintain, or designate a person  
62.25 to maintain, a register of applications for registration of securities; registration statements;  
62.26 notice filings; applications for registration of broker-dealers, agents, investment advisers,  
62.27 and investment adviser representatives; notice filings by federal covered investment  
62.28 advisers that are or have been effective under this chapter or the predecessor act; notices of  
62.29 claims of exemption from registration or notice filing requirements contained in a record;  
62.30 orders issued under this chapter or the predecessor act; and interpretative opinions or no  
62.31 action determinations issued under this chapter.

62.32 (b) **Public availability.** The administrator shall make all rules, forms, interpretative  
62.33 opinions, and orders available to the public.

62.34 (c) **Copies of public records.** The administrator shall furnish a copy of a record  
62.35 that is a public record or a certification that the public record does not exist to a person



63.1 that so requests. A rule adopted under this chapter may establish a reasonable charge  
63.2 for furnishing the record or certification. A copy of the record certified or a certificate  
63.3 by the administrator of a record's nonexistence is prima facie evidence of a record or its  
63.4 nonexistence.

63.5 **Sec. 44. [80A.84] SECTION 607; PUBLIC RECORDS; CONFIDENTIALITY.**

63.6 **(a) Presumption of public records.** Except as otherwise provided in subsection  
63.7 (b), records obtained by the administrator or filed under this chapter, including a record  
63.8 contained in or filed with a registration statement, application, notice filing, or report, are  
63.9 public records and are available for public examination.

63.10 **(b) Nonpublic records.** The following records are not public records and are not  
63.11 available for public examination under subsection (a):

63.12 (1) a record obtained by the administrator in connection with an audit or inspection  
63.13 under section 80A.66(d) or an investigation under section 80A.79;

63.14 (2) a part of a record filed in connection with a registration statement under sections  
63.15 80A.49 and 80A.51 through 80A.53 or a record under section 80A.66(d) that contains  
63.16 trade secrets or confidential information if the person filing the registration statement or  
63.17 report has asserted a claim of confidentiality or privilege that is authorized by law;

63.18 (3) a record that is not required to be provided to the administrator or filed under this  
63.19 chapter and is provided to the administrator only on the condition that the record will not  
63.20 be subject to public examination or disclosure;

63.21 (4) a nonpublic record received from a person specified in section 80A.85(a);

63.22 (5) any social security number, residential address unless used as a business address,  
63.23 and residential telephone number contained in a record that is filed; and

63.24 (6) a record obtained by the administrator through a designee of the administrator  
63.25 that a rule or order under this chapter determines has been:

63.26 (A) expunged from the administrator's records by the designee; or

63.27 (B) determined to be nonpublic or nondisclosable by that designee if the  
63.28 administrator finds the determination to be in the public interest and for the protection of  
63.29 investors.

63.30 **(c) Administrator discretion to disclose.** If disclosure is for the purpose of a civil,  
63.31 administrative, or criminal investigation, action, or proceeding or to a person specified  
63.32 in section 80A.85(a), the administrator may disclose a record obtained in connection  
63.33 with an audit or inspection under section 80A.66(d) or a record obtained in connection  
63.34 with an investigation under section 80A.79.

64.1 Sec. 45. [80A.85] SECTION 608; UNIFORMITY AND COOPERATION WITH  
64.2 OTHER AGENCIES.

64.3 (a) Objective of uniformity. The administrator shall, in its discretion, cooperate,  
64.4 coordinate, consult, and, subject to section 80A.84, share records and information with the  
64.5 securities regulator of another state, Canada, a Canadian province or territory, a foreign  
64.6 jurisdiction, the Securities and Exchange Commission, the United States Department of  
64.7 Justice, the Commodity Futures Trading Commission, the Federal Trade Commission, the  
64.8 Securities Investor Protection Corporation, a self-regulatory organization, a national or  
64.9 international organization of securities regulators, a federal or state banking and insurance  
64.10 regulator, and a governmental law enforcement agency to effectuate greater uniformity in  
64.11 securities matters among the federal government, self-regulatory organizations, states,  
64.12 and foreign governments.

64.13 (b) Policies to consider. In cooperating, coordinating, consulting, and sharing  
64.14 records and information under this section and in acting by rule, order, or waiver under  
64.15 this chapter, the administrator shall, in its discretion, take into consideration in carrying  
64.16 out the public interest the following general policies:

- 64.17 (1) maximizing effectiveness of regulation for the protection of investors;  
64.18 (2) maximizing uniformity in federal and state regulatory standards; and  
64.19 (3) minimizing burdens on the business of capital formation, without adversely  
64.20 effecting essentials of investor protection.

64.21 (c) Subjects for cooperation. The cooperation, coordination, consultation, and  
64.22 sharing of records and information authorized by this section includes:

64.23 (1) establishing or employing one or more designees as a central depository for  
64.24 registration and notice filings under this chapter and for records required or allowed to  
64.25 be maintained under this chapter;

64.26 (2) developing and maintaining uniform forms;

64.27 (3) conducting a joint examination or investigation;

64.28 (4) holding a joint administrative hearing;

64.29 (5) instituting and prosecuting a joint civil or administrative proceeding;

64.30 (6) sharing and exchanging personnel;

64.31 (7) coordinating registrations under sections 80A.49 and 80A.56 through 80A.59  
64.32 and exemptions under section 80A.47;

64.33 (8) sharing and exchanging records, subject to section 80A.84;

64.34 (9) formulating rules, statements of policy, guidelines, forms, and interpretative  
64.35 opinions and releases;

64.36 (10) formulating common systems and procedures;

65.1 (11) notifying the public of proposed rules, forms, statements of policy, and  
 65.2 guidelines;

65.3 (12) attending conferences and other meetings among securities regulators, which  
 65.4 may include representatives of governmental and private sector organizations involved in  
 65.5 capital formation, deemed necessary or appropriate to promote or achieve uniformity; and

65.6 (13) developing and maintaining a uniform exemption from registration for small  
 65.7 issuers, and taking other steps to reduce the burden of raising investment capital by small  
 65.8 businesses.

65.9 **Sec. 46. [80A.86] SECTION 609; JUDICIAL REVIEW.**

65.10 (a) **Judicial review of orders.** A final order issued by the administrator under this  
 65.11 chapter is subject to judicial review in accordance with chapter 14.

65.12 (b) **Judicial review of rules.** A rule adopted under this chapter is subject to judicial  
 65.13 review in accordance with chapter 14.

65.14 **Sec. 47. [80A.87] SECTION 610; JURISDICTION.**

65.15 (a) **Sales and offers to sell.** Sections 80A.49, 80A.50, 80A.56(a), 80A.57(a),  
 65.16 80A.58(a), 80A.59(a), 80A.68, 80A.73, 80A.76, and 80A.77 do not apply to a person that  
 65.17 sells or offers to sell a security unless the offer to sell or the sale is made in this state or the  
 65.18 offer to purchase or the purchase is made and accepted in this state.

65.19 (b) **Purchases and offers to purchase.** Sections 80A.56(a), 80A.57(a), 80A.58(a),  
 65.20 80A.59(a), 80A.68, 80A.73, 80A.76, and 80A.77 do not apply to a person that purchases  
 65.21 or offers to purchase a security unless the offer to purchase or the purchase is made in this  
 65.22 state or the offer to sell or the sale is made and accepted in this state.

65.23 (c) **Offers in this state.** For the purpose of this section, an offer to sell or to purchase  
 65.24 a security is made in this state, whether or not either party is then present in this state, if  
 65.25 the offer:

65.26 (1) originates from within this state; or

65.27 (2) is directed by the offeror to a place in this state and received at the place to  
 65.28 which it is directed.

65.29 (d) **Acceptances in this state.** For the purpose of this section, an offer to purchase  
 65.30 or to sell is accepted in this state, whether or not either party is then present in this  
 65.31 state, if the acceptance:

65.32 (1) is communicated to the offeror in this state and the offeree reasonably believes  
 65.33 the offeror to be present in this state and the acceptance is received at the place in this  
 65.34 state to which it is directed; and

66.1 (2) has not previously been communicated to the offeror, orally or in a record,  
66.2 outside this state.

66.3 (e) Publications, radio, television, or electronic communications. An offer  
66.4 to sell or to purchase is not made in this state when a publisher circulates or there is  
66.5 circulated on the publisher's behalf in this state a bona fide newspaper or other publication  
66.6 of general, regular, and paid circulation that is not published in this state, or that is  
66.7 published in this state but has had more than two-thirds of its circulation outside this state  
66.8 during the previous 12 months or when a radio or television program or other electronic  
66.9 communication originating outside this state is received in this state. A radio or television  
66.10 program, or other electronic communication is considered as having originated in this  
66.11 state if either the broadcast studio or the originating source of transmission is located  
66.12 in this state, unless:

66.13 (1) the program or communication is syndicated and distributed from outside this  
66.14 state for redistribution to the general public in this state;

66.15 (2) the program or communication is supplied by a radio, television, or other  
66.16 electronic network with the electronic signal originating from outside this state for  
66.17 redistribution to the general public in this state;

66.18 (3) the program or communication is an electronic communication that originates  
66.19 outside this state and is captured for redistribution to the general public in this state by a  
66.20 community antenna or cable, radio, cable television, or other electronic system; or

66.21 (4) the program or communication consists of an electronic communication that  
66.22 originates in this state, but which is not intended for distribution to the general public in  
66.23 this state.

66.24 (f) Investment advice and misrepresentations. Sections 80A.58(a), 80A.59(a),  
66.25 80A.60(a), 80A.69, 80A.72, and 80A.73 apply to a person if the person engages in an act,  
66.26 practice, or course of business instrumental in effecting prohibited or actionable conduct  
66.27 in this state, whether or not either party is then present in this state.

66.28 **Sec. 48. [80A.88] SECTION 611; SERVICE OF PROCESS.**

66.29 (a) Signed consent to service of process. A consent to service of process complying  
66.30 with this section required by this chapter must be signed and filed in the form required by  
66.31 a rule or order under this chapter. A consent appointing the administrator the person's  
66.32 agent for service of process in a noncriminal action or proceeding against the person, or  
66.33 the person's successor or personal representative under this chapter or a rule adopted or  
66.34 order issued under this chapter after the consent is filed, has the same force and validity as  
66.35 if the service were made personally on the person filing the consent. A person that has

67.1 filed a consent complying with this subsection in connection with a previous application  
 67.2 for registration or notice filing need not file an additional consent.

67.3 **(b) Conduct constituting appointment of agent for service.** If a person, including  
 67.4 a nonresident of this state, engages in an act, practice, or course of business prohibited  
 67.5 or made actionable by this chapter or a rule adopted or order issued under this chapter  
 67.6 and the person has not filed a consent to service of process under subsection (a), the act,  
 67.7 practice, or course of business constitutes the appointment of the administrator as the  
 67.8 person's agent for service of process in a noncriminal action or proceeding against the  
 67.9 person or the person's successor or personal representative.

67.10 **(c) Procedure for service of process.** Service under subsection (a) or (b) may be  
 67.11 made by providing a copy of the process to the office of the administrator, but it is not  
 67.12 effective unless:

67.13 **(1) the plaintiff, which may be the administrator, promptly sends notice of the**  
 67.14 **service and a copy of the process, return receipt requested, to the defendant or respondent**  
 67.15 **at the address set forth in the consent to service of process or, if a consent to service of**  
 67.16 **process has not been filed, at the last known address, or takes other reasonable steps**  
 67.17 **to give notice; and**

67.18 **(2) the plaintiff files an affidavit of compliance with this subsection in the action or**  
 67.19 **proceeding on or before the return day of the process, if any, or within the time that the**  
 67.20 **court, or the administrator in a proceeding before the administrator, allows.**

67.21 **(d) Service in administrative proceedings or civil actions by administrator.**  
 67.22 **Service pursuant to subsection (c) may be used in a proceeding before the administrator or**  
 67.23 **by the administrator in a civil action in which the administrator is the moving party.**

67.24 **(e) Opportunity to defend.** If process is served under subsection (c), the court, or  
 67.25 the administrator in a proceeding before the administrator, shall order continuances as are  
 67.26 necessary or appropriate to afford the defendant or respondent reasonable opportunity  
 67.27 to defend.

67.28 **Sec. 49. [80A.89] SECTION 612; SEVERABILITY CLAUSE.**

67.29 **If any provision of this chapter or its application to any person or circumstances is**  
 67.30 **held invalid, the invalidity does not affect other provisions or applications of this chapter**  
 67.31 **that can be given effect without the invalid provision or application, and to this end the**  
 67.32 **provisions of this chapter are severable.**

67.33 **TRANSITION**

67.34 **Sec. 50. [80A.90] SECTION 703; APPLICATION OF ACT TO EXISTING**  
 67.35 **PROCEEDING AND EXISTING RIGHTS AND DUTIES.**

68.1 **(a) Applicability of predecessor act to pending proceedings and existing rights.**

68.2 The predecessor act exclusively governs all actions or proceedings that are pending on the  
 68.3 effective date of this chapter or may be instituted on the basis of conduct occurring before  
 68.4 the effective date of this chapter, but a civil action may not be maintained to enforce any  
 68.5 liability under the predecessor act unless instituted within any period of limitation that  
 68.6 applied when the cause of action accrued or within five years after the effective date of  
 68.7 this chapter, whichever is earlier.

68.8 **(b) Continued effectiveness under predecessor act.** All effective registrations  
 68.9 under the predecessor act, all administrative orders relating to the registrations, rules,  
 68.10 statements of policy, interpretative opinions, declaratory rulings, no action determinations,  
 68.11 and conditions imposed on the registrations under the predecessor act remain in effect  
 68.12 while they would have remained in effect if this chapter had not been enacted. They are  
 68.13 considered to have been filed, issued, or composed under this chapter, but are exclusively  
 68.14 governed by the predecessor act.

68.15 **(c) Applicability of predecessor act to offers or sales.** The predecessor act  
 68.16 exclusively applies to an offer or sale made within one year after the effective date of this  
 68.17 chapter pursuant to an offering made in good faith before the effective date of this chapter  
 68.18 on the basis of an exemption available under the predecessor act.

68.19 **Sec. 51. REPEALER.**

68.20 Minnesota Statutes 2004, sections 80A.01; 80A.02; 80A.03; 80A.04; 80A.041;  
 68.21 80A.05; 80A.06; 80A.07; 80A.08; 80A.09; 80A.10; 80A.11; 80A.115; 80A.12; 80A.122;  
 68.22 80A.125; 80A.13; 80A.14; 80A.15; 80A.16; 80A.17; 80A.18; 80A.19; 80A.22; 80A.23;  
 68.23 80A.24; 80A.25; 80A.26; 80A.27; 80A.28; 80A.29; 80A.30; and 80A.31, are repealed.

68.24 **Sec. 52. EFFECTIVE DATE.**

68.25 This act is effective August 1, 2007.

68.26 **ARTICLE 2**

68.27 **CONFORMING CHANGES**

68.28 Section 1. Minnesota Statutes 2004, section 60A.077, subdivision 9, is amended to  
 68.29 read:

68.30 Subd. 9. **Membership interests.** A membership interest in a domestic mutual  
 68.31 insurance holding company does not constitute a security as defined in section ~~80A.14,~~  
 68.32 ~~subdivision 18~~ 80A.41(28). No member of a mutual insurance holding company may  
 68.33 transfer or pledge membership in the mutual insurance holding company or any right

69.1 arising from the membership except as attendant to the valid transfer or assignment  
69.2 of the member's policy in any reorganized company that gave rise to the member's  
69.3 membership interest. A member of a mutual insurance holding company is not, as a  
69.4 member, personally liable for the acts, debts, liabilities, or obligations of the company.  
69.5 No assessments of any kind may be imposed upon the members of a mutual insurance  
69.6 holding company by the directors or members, or because of any liability of any company  
69.7 owned or controlled by the mutual insurance holding company or because of any act, debt,  
69.8 or liability of the mutual insurance holding company. A member's interest in the mutual  
69.9 insurance holding company shall automatically terminate upon cancellation, nonrenewal,  
69.10 expiration, or termination of the member's policy in any insurance company that gave  
69.11 rise to the member's membership interest.

69.12 Sec. 2. Minnesota Statutes 2004, section 82.23, is amended to read:

69.13 **82.23 EXCEPTIONS.**

69.14 Unless a person is licensed or otherwise required to be licensed under this chapter,  
69.15 the term real estate broker does not include:

69.16 (a) a licensed practicing attorney if the attorney complies in all respects with the  
69.17 trust account provisions of this chapter;

69.18 (b) a receiver, trustee, administrator, guardian, executor, or other person appointed  
69.19 by or acting under the judgment or order of any court;

69.20 (c) any person owning and operating a cemetery and selling lots therein solely for  
69.21 use as burial plots;

69.22 (d) any custodian, janitor, or employee of the owner or manager of a residential  
69.23 building who leases residential units in the building;

69.24 (e) any bank, trust company, savings association, industrial loan and thrift company,  
69.25 regulated lender under chapter 56, public utility, or land mortgage or farm loan association  
69.26 organized under the laws of this state or the United States, when engaged in the transaction  
69.27 of business within the scope of its corporate powers as provided by law;

69.28 (f) public officers while performing their official duties;

69.29 (g) employees of persons enumerated in clauses (b), (e), and (f), when engaged in  
69.30 the specific performance of their duties;

69.31 (h) any person who acts as an auctioneer bonded in conformity with section 330.02,  
69.32 when that person is engaged in the specific performance of duties as an auctioneer, and  
69.33 when that person has been employed to auction real estate by a person licensed under this  
69.34 chapter or when the auctioneer has engaged a licensed attorney to supervise the real  
69.35 estate transaction;

70.1 (i) any person who acquires real estate for the purpose of engaging in and does  
70.2 engage in, or who is engaged in the business of constructing residential, commercial or  
70.3 industrial buildings for the purpose of resale if no more than 25 such transactions occur in  
70.4 any 12-month period and the person complies with section 82.50;

70.5 (j) any person who is licensed as a securities broker-dealer or is licensed as a  
70.6 securities agent representing a broker-dealer pursuant to chapter 80A and who offers to  
70.7 sell or sells an interest or estate in real estate which is a security as defined in section  
70.8 ~~80A.14, subdivision 18~~ 80A.41(28), and is registered or exempt from registration or part  
70.9 of a transaction exempt from registration pursuant to chapter 80A, when acting solely as  
70.10 an incident to the sale of these securities;

70.11 (k) any person who offers to sell or sells a business opportunity which is a franchise  
70.12 registered pursuant to chapter 80C, when acting solely to sell the franchise;

70.13 (l) any person who contracts with or solicits on behalf of a provider a contract  
70.14 with a resident or prospective resident to provide continuing care in a facility, pursuant  
70.15 to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when  
70.16 acting solely as incident to the contract;

70.17 (m) any broker-dealer or agent of a broker-dealer when participating in a transaction  
70.18 in which all or part of a business opportunity or business, including any interest therein, is  
70.19 conveyed or acquired pursuant to an asset purchase, merger, exchange of securities, or  
70.20 other business combination, if the agent or broker-dealer is licensed pursuant to chapter  
70.21 80A;

70.22 (n) an accountant acting incident to the practice of the accounting profession if the  
70.23 accountant complies in all respects with the trust account provisions of this chapter.

70.24 Sec. 3. Minnesota Statutes 2004, section 82.43, subdivision 7, is amended to read:

70.25 Subd. 7. **Application for recovery.** When any aggrieved person obtains a final  
70.26 judgment in any court of competent jurisdiction regardless of whether the judgment  
70.27 has been discharged by a bankruptcy court against an individual licensed under this  
70.28 chapter, on grounds of fraudulent, deceptive, or dishonest practices, or conversion of  
70.29 trust funds arising directly out of any transaction when the judgment debtor was licensed  
70.30 and performed acts for which a license is required under this chapter, or performed acts  
70.31 permitted by section 327B.04, subdivision 5, the aggrieved person may, upon the judgment  
70.32 becoming final, and upon termination of all proceedings, including reviews and appeals,  
70.33 file a verified application in the court in which the judgment was entered. The application  
70.34 shall state with specificity the grounds upon which the application seeks to recover from  
70.35 the fund, and request an order directing payment out of the fund of the amount of actual



71.1 and direct out of pocket loss in the transaction, but excluding any attorney's fees, interest  
 71.2 on the loss and on any judgment obtained as a result of the loss, up to the sum of \$150,000  
 71.3 of the amount unpaid upon the judgment, provided that nothing in this chapter shall be  
 71.4 construed to obligate the fund for more than \$150,000 per claimant, per transaction,  
 71.5 subject to the limitations set forth in subdivision 14, regardless of the number of persons  
 71.6 aggrieved or parcels of real estate involved in the transaction, provided that regardless  
 71.7 of the number of claims against a licensee, nothing in this chapter may obligate the fund  
 71.8 for more than \$250,000 per licensee. An aggrieved person who has a cause of action  
 71.9 under section ~~80A.23~~ 80A.76 shall first seek recovery as provided in section ~~80A.05~~,  
 71.10 ~~subdivision 5~~ 80A.66(e), before the commissioner may order payment from the recovery  
 71.11 fund. For purposes of this section, persons who are joint tenants or tenants in common are  
 71.12 deemed to be a single claimant. A copy of the verified application shall be served upon  
 71.13 the commissioner and upon the judgment debtor, and a certificate or affidavit of service  
 71.14 filed with the court. For the purpose of this section, "aggrieved person" does not include  
 71.15 a government agency, financial institution, or other entity that purchases, guarantees, or  
 71.16 insures a loan secured by real estate, and does not include a licensee unless (1) the licensee  
 71.17 is acting in the capacity of principal in the sale of interests in real property owned by the  
 71.18 licensee; or (2) the licensee is acting in the capacity of principal in the purchase of interests  
 71.19 in real property to be owned by the licensee. Under no circumstances shall a licensee be  
 71.20 entitled to payment under this section for the loss of a commission or similar fee.

71.21 For the purposes of this section, recovery is limited to transactions where the property  
 71.22 involved is intended for the direct personal habitation or commercial use of the buyer.

71.23 Except for securities permitted to be sold by a licensee pursuant to section 82.41,  
 71.24 subdivision 8, for any action commenced after July 1, 1993, recovery under this section  
 71.25 is not available where the buyer's participation is for investment purposes only, and is  
 71.26 limited to providing capital to fund the transaction.

71.27 Sec. 4. Minnesota Statutes 2004, section 144A.01, subdivision 4, is amended to read:

71.28 Subd. 4. **Controlling person.** "Controlling person" means any public body,  
 71.29 governmental agency, business entity, officer, nursing home administrator, or director  
 71.30 whose responsibilities include the direction of the management or policies of a nursing  
 71.31 home. "Controlling person" also means any person who, directly or indirectly, beneficially  
 71.32 owns any interest in:

71.33 (a) Any corporation, partnership or other business association which is a controlling  
 71.34 person;

71.35 (b) The land on which a nursing home is located;

72.1 (c) The structure in which a nursing home is located;

72.2 (d) Any mortgage, contract for deed, or other obligation secured in whole or part by  
72.3 the land or structure comprising a nursing home; or

72.4 (e) Any lease or sublease of the land, structure, or facilities comprising a nursing  
72.5 home.

72.6 "Controlling person" does not include:

72.7 (a) A bank, savings bank, trust company, savings association, credit union, industrial  
72.8 loan and thrift company, investment banking firm, or insurance company unless the entity  
72.9 directly or through a subsidiary operates a nursing home;

72.10 (b) An individual state official or state employee, or a member or employee of the  
72.11 governing body of a political subdivision of the state which operates one or more nursing  
72.12 homes, unless the individual is also an officer or director of a nursing home, receives any  
72.13 remuneration from a nursing home, or owns any of the beneficial interests not excluded  
72.14 in this subdivision;

72.15 (c) A natural person who is a member of a tax-exempt organization under section  
72.16 290.05, subdivision 1, clause (i), unless the individual is also an officer or director of a  
72.17 nursing home, or owns any of the beneficial interests not excluded in this subdivision; and

72.18 (d) A natural person who owns less than five percent of the outstanding common  
72.19 shares of a corporation:

72.20 (1) whose securities are exempt by virtue of section ~~80A.15, subdivision 1, clause (f)~~  
72.21 80A.45(6); or

72.22 (2) whose transactions are exempt by virtue of section ~~80A.15, subdivision 2, clause~~  
72.23 ~~(b)~~ 80A.46(7).

72.24 Sec. 5. Minnesota Statutes 2004, section 245A.02, subdivision 5a, is amended to read:

72.25 Subd. 5a. **Controlling individual.** "Controlling individual" means a public body,  
72.26 governmental agency, business entity, officer, owner, or managerial official whose  
72.27 responsibilities include the direction of the management or policies of a program. For  
72.28 purposes of this subdivision, owner means an individual who has direct or indirect  
72.29 ownership interest in a corporation, partnership, or other business association issued a  
72.30 license under this chapter. For purposes of this subdivision, managerial official means  
72.31 those individuals who have the decision-making authority related to the operation of  
72.32 the program, and the responsibility for the ongoing management of or direction of the  
72.33 policies, services, or employees of the program. Controlling individual does not include:

73.1 (1) a bank, savings bank, trust company, savings association, credit union, industrial  
 73.2 loan and thrift company, investment banking firm, or insurance company unless the entity  
 73.3 operates a program directly or through a subsidiary;

73.4 (2) an individual who is a state or federal official, or state or federal employee, or a  
 73.5 member or employee of the governing body of a political subdivision of the state or  
 73.6 federal government that operates one or more programs, unless the individual is also an  
 73.7 officer, owner, or managerial official of the program, receives remuneration from the  
 73.8 program, or owns any of the beneficial interests not excluded in this subdivision;

73.9 (3) an individual who owns less than five percent of the outstanding common  
 73.10 shares of a corporation:

73.11 (i) whose securities are exempt under section ~~80A.15, subdivision 1, clause (f)~~  
 73.12 80A.45(6); or

73.13 (ii) whose transactions are exempt under section ~~80A.15, subdivision 2, clause (b)~~  
 73.14 80A.46(2); or

73.15 (4) an individual who is a member of an organization exempt from taxation under  
 73.16 section 290.05, unless the individual is also an officer, owner, or managerial official of  
 73.17 the program or owns any of the beneficial interests not excluded in this subdivision. This  
 73.18 clause does not exclude from the definition of controlling individual an organization that  
 73.19 is exempt from taxation.

73.20 Sec. 6. Minnesota Statutes 2004, section 302A.011, subdivision 26, is amended to read:

73.21 Subd. 26. **Security.** "Security" has the meaning given it in section ~~80A.14,~~  
 73.22 ~~subdivision 18~~ 80A.41(28).

73.23 Sec. 7. Minnesota Statutes 2004, section 302A.251, subdivision 4, is amended to read:

73.24 Subd. 4. **Elimination or limitation of liability.** A director's personal liability to the  
 73.25 corporation or its shareholders for monetary damages for breach of fiduciary duty as a  
 73.26 director may be eliminated or limited in the articles. The articles shall not eliminate or  
 73.27 limit the liability of a director:

73.28 (a) for any breach of the director's duty of loyalty to the corporation or its  
 73.29 shareholders;

73.30 (b) for acts or omissions not in good faith or that involve intentional misconduct  
 73.31 or a knowing violation of law;

73.32 (c) under section 302A.559 or ~~80A.23~~ 80A.76;

73.33 (d) for any transaction from which the director derived an improper personal benefit;

73.34 or

74.1 (e) for any act or omission occurring prior to the date when the provision in the  
74.2 articles eliminating or limiting liability becomes effective.

74.3 Sec. 8. Minnesota Statutes 2004, section 308A.505, is amended to read:

74.4 **308A.505 SUBJECT TO SECURITIES LAW.**

74.5 Cooperatives are subject to the provisions of chapter 80A, except as specifically  
74.6 provided in ~~section 80A.15~~ sections 80A.45 and 80A.46.

74.7 Sec. 9. Minnesota Statutes 2004, section 308B.465, subdivision 2, is amended to read:

74.8 **Subd. 2. Restrictions on liability limitation.** The articles or bylaws may not  
74.9 eliminate or limit the liability of a director:

74.10 (1) for a breach of the director's duty of loyalty to the cooperative or its members;

74.11 (2) for acts or omissions that are not in good faith or involve intentional misconduct  
74.12 or a knowing violation of law;

74.13 (3) for knowing violations of securities laws ~~under section 80A.23~~ or for illegal  
74.14 distributions;

74.15 (4) for a transaction from which the director derived an improper personal benefit; or

74.16 (5) for an act or omission occurring before the date when the provision in the articles  
74.17 or bylaws eliminating or limiting liability becomes effective.

74.18 Sec. 10. Minnesota Statutes 2004, section 322B.03, subdivision 43, is amended to read:

74.19 **Subd. 43. Security.** "Security" has the meaning given it in section ~~80A.14,~~  
74.20 ~~subdivision 18~~ 80A.41(28).

74.21 Sec. 11. Minnesota Statutes 2004, section 322B.663, subdivision 4, is amended to read:

74.22 **Subd. 4. Elimination or limitation of liability.** A governor's personal liability to  
74.23 the limited liability company or its members for monetary damages for breach of fiduciary  
74.24 duty as a governor may be eliminated or limited in the articles of organization or a  
74.25 member control agreement. Neither the articles nor a member control agreement may  
74.26 eliminate or limit the liability of a governor:

74.27 (1) for any breach of the governor's duty of loyalty to the limited liability company  
74.28 or its members;

74.29 (2) for acts or omissions not in good faith or that involve intentional misconduct  
74.30 or a knowing violation of law;

74.31 (3) under section ~~80A.23~~ 80A.76 or 322B.56;

75.1 (4) for any transaction from which the governor derived an improper personal  
benefit; or

75.3 (5) for any act or omission occurring before the date when the provision in the  
75.4 articles of organization or a member control agreement eliminating or limiting liability  
75.5 becomes effective.

75.6 Sec. 12. Minnesota Statutes 2004, section 356A.06, subdivision 6, is amended to read:

75.7 Subd. 6. **Limited list of authorized investment securities.** (a) Except to the  
75.8 extent otherwise authorized by law, a covered pension plan may invest its assets only in  
75.9 investment securities authorized by this subdivision if the plan does not:

75.10 (1) have assets with a book value in excess of \$1,000,000;

75.11 (2) use the services of an investment advisor registered with the Securities and  
75.12 Exchange Commission in accordance with the Investment Advisers Act of 1940, or  
75.13 ~~licensed registered~~ as an investment advisor in accordance with sections ~~80A.04,~~  
75.14 ~~subdivision 4 80A.58,~~ and ~~80A.14, subdivision 9 80A.59,~~ for the investment of at least 60  
75.15 percent of its assets, calculated on book value;

75.16 (3) use the services of the State Board of Investment for the investment of at least 60  
75.17 percent of its assets, calculated on book value; or

75.18 (4) use a combination of the services of an investment advisor meeting the  
75.19 requirements of clause (2) and the services of the State Board of Investment for the  
75.20 investment of at least 75 percent of its assets, calculated on book value.

75.21 (b) Investment securities authorized for a pension plan covered by this subdivision  
75.22 are:

75.23 (1) certificates of deposit issued, to the extent of available insurance or  
75.24 collateralization, by a financial institution that is a member of the Federal Deposit  
75.25 Insurance Corporation or the Federal Savings and Loan Insurance Corporation, is insured  
75.26 by the National Credit Union Administration, or is authorized to do business in this state  
75.27 and has deposited with the chief administrative officer of the plan a sufficient amount of  
75.28 marketable securities as collateral in accordance with section 118A.03;

75.29 (2) savings accounts, to the extent of available insurance, with a financial institution  
75.30 that is a member of the Federal Deposit Insurance Corporation or the Federal Savings  
75.31 and Loan Insurance Corporation;

75.32 (3) governmental obligations, including bonds, notes, bills, or other fixed  
75.33 obligations, issued by the United States, an agency or instrumentality of the United States,  
75.34 an organization established and regulated by an act of Congress or by a state, state agency  
75.35 or instrumentality, municipality, or other governmental or political subdivision that:

76.1 (i) for the obligation in question, issues an obligation that equals or exceeds the  
76.2 stated investment yield of debt securities not exempt from federal income taxation and of  
76.3 comparable quality;

76.4 (ii) for an obligation that is a revenue bond, has been completely self-supporting  
76.5 for the last five years; and

76.6 (iii) for an obligation other than a revenue bond, has issued an obligation backed by  
76.7 the full faith and credit of the applicable taxing jurisdiction and has not been in default on  
76.8 the payment of principal or interest on the obligation in question or any other nonrevenue  
76.9 bond obligation during the preceding ten years;

76.10 (4) corporate obligations, including bonds, notes, debentures, or other regularly  
76.11 issued and readily marketable evidences of indebtedness issued by a corporation organized  
76.12 under the laws of any state that during the preceding five years has had on average  
76.13 annual net pretax earnings at least 50 percent greater than the annual interest charges  
76.14 and principal payments on the total issued debt of the corporation during that period  
76.15 and that, for the obligation in question, has issued an obligation rated in one of the top  
76.16 three quality categories by Moody's Investors Service, Incorporated, or Standard and  
76.17 Poor's Corporation; and

76.18 (5) shares in an open-end investment company registered under the federal  
76.19 Investment Company Act of 1940, if the portfolio investments of the company are limited  
76.20 to investments that meet the requirements of clauses (1) to (4).

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**80A.01 SALES AND PURCHASES.**

It is unlawful for any person, in connection with the offer, sale or purchase of any security, directly or indirectly:

- (a) to employ any device, scheme, or artifice to defraud;
- (b) to make any untrue statement of a material fact or to omit to state material facts necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading; or
- (c) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon any person.

**80A.02 PROHIBITED ACTIVITIES.**

Subdivision 1. **Advisory activities and principal transactions.** (a) It is unlawful for any person who receives, directly or indirectly, any consideration from another primarily for advising the other as to the value of securities or their purchase or sale:

- (1) to employ any device, scheme, or artifice to defraud the other; or
- (2) to engage in any act, practice, or course of business which operates or would operate as a fraud or deceit upon the other.

(b) It is unlawful for an investment adviser to knowingly sell any security to or purchase any security from a client while acting as principal for the person's own account or knowingly effect any sale or purchase of any security for the account of a client while acting as broker for one other than the client, unless the person discloses to the client in writing before the execution of the transaction the capacity in which the person is acting and obtains the consent of the client to the transaction.

Subd. 1a. **Solicitation activities.** In the solicitation of advisory clients, it is unlawful for any person to make any untrue statements of material facts, or, in light of the circumstances under which they are made, to omit to state material facts necessary in order to make the statements made not misleading.

Subd. 2. **Contract activities.** It is unlawful for any investment adviser to enter into, extend, or renew any investment advisory contract the terms of which are in contravention of rules the commissioner prescribes as necessary or appropriate in the public interest or for the protection of investors.

Subd. 3. **Activities as custodian of certain funds.** It is unlawful for any investment adviser to take or have custody of any securities or funds of any client in contravention of rules the commissioner prescribes as necessary or appropriate in the public interest or for the protection of investors.

**80A.03 UNLAWFUL ACTIVITIES.**

It is unlawful for any person to effect any transaction in, or to induce the purchase or sale of any security by means of any manipulative, deceptive or other fraudulent device or contrivance, including any fictitious quotation. The terms "manipulative, deceptive, or other fraudulent device or contrivance" shall include, but shall not be limited to, the following practices:

(a) effecting any transaction in a security which involves no change in the beneficial ownership thereof, or entering any order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time, and at substantially the same price, for the sale or purchase of the security, have been or will be entered by or for the same or affiliated persons, for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security;

(b) effecting, alone or with one or more other persons, a series of transactions in any security creating actual or apparent active trading in the security or raising or depressing the price of the security, for the purpose of inducing the purchase or sale of the security by others; or

(c) inducing the purchase or sale of any security by the circulation or dissemination of information to the effect that the price of the security will or is likely to rise or fall because of market operations of any one or more persons conducted for the purpose of raising or depressing the price of the security, if the person circulating or disseminating the information is selling or

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offering to sell or purchasing or offering to purchase the security or is receiving a consideration, directly or indirectly, from any person to whom the information is circulated or disseminated.

#### **80A.04 LICENSING.**

Subdivision 1. **Requirement.** It is unlawful for any person to transact business in this state as a broker-dealer or agent unless licensed under this chapter.

Subd. 2. **Agent license.** It is unlawful for any broker-dealer or issuer to employ an agent as a representative in this state unless the agent is licensed. The licensing of an agent is not effective during any period when the agent is not associated with a specified broker-dealer licensed under this chapter or a specified issuer. No agent shall at any time represent more than one broker-dealer or issuer, except that where broker-dealers affiliated by direct common control are licensed under this chapter, an agent may represent the broker-dealer. When an agent begins or terminates employment with a broker-dealer or issuer, or begins or terminates those activities which make that person an agent, the agent as well as the broker-dealer or issuer shall promptly notify the commissioner or the commissioner's designated representative.

A broker-dealer or investment adviser is affiliated by direct common control when 80 percent or more of the equity of each broker-dealer or investment adviser is beneficially owned by the same person or group of persons.

Subd. 3. **Investment adviser license.** It is unlawful for any person to transact business in this state as an investment adviser unless that person is so licensed or licensed as a broker-dealer as described in section 80A.14, subdivision 9, clause (3), or unless: (1) that person's only clients in this state are investment companies as defined in the Investment Company Act of 1940, other investment advisers, broker-dealers, banks, trust companies, savings associations, federal covered advisers insurance companies, corporations with a class of equity securities registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934, small business investment companies, and government agencies or instrumentalities, whether acting for themselves or as trustees with investment control, or other institutional buyers; or (2) that person has no place of business in this state and during the preceding 12-month period has had fewer than six clients who are residents of this state.

Subd. 4. **Renewal.** Every license or notice filing expires on December 31 of each year unless an application for renewal has been received by the commissioner by November 15.

Subd. 5. **Federal covered adviser limitations.** Except with respect to advisers whose only clients are those described in subdivision 3, it is unlawful for a federal covered adviser to conduct advisory business in this state unless the person complies with section 80A.05, subdivision 1a.

#### **80A.041 EXEMPTION.**

A real estate broker or agent licensed under chapter 82 who arranges for the sale of a contract for deed is exempt from the license requirement of section 80A.04 if the real estate broker or agent receives no compensation in addition to the brokerage commission or fee and represents the seller, buyer, lessor, or lessee in the sale, lease, or exchange of the subject property.

#### **80A.05 LICENSING PROCEDURE.**

Subdivision 1. **Broker-dealer, agent, or investment adviser.** A broker-dealer, agent, or investment adviser may obtain an initial or renewal license by filing with the commissioner or a designee an application together with a consent to service of process pursuant to section 80A.27, subdivision 7. The application shall be on a form prescribed by the commissioner and shall contain whatever information the commissioner requires concerning such matters as the applicant's form and place of organization, proposed method of doing business and financial condition, the qualifications and experience of the applicant, including, in the case of a broker-dealer or investment adviser, the qualifications and experience of any partner, officer, director or controlling person, any injunction or administrative order or conviction of a misdemeanor involving securities and any conviction of a felony. The commissioner may by order, with respect to any particular application, require the submission of information concerning any other matters which the commissioner determines are relevant to the application. The commissioner may by rule or order require an applicant for an initial license to publish an announcement of the application in one or more specified newspapers published in this state.

If no denial order is in effect, no proceeding is pending under section 80A.07, and all of the requirements of this subdivision and subdivision 3 have been complied with, the licensing becomes effective 30 days after an application is filed. The commissioner may by rule or order



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specify an earlier effective date, and may by order defer the effective date until 30 days after the filing of any amendment.

An application that is incomplete will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

**Subd. 1a. Federal covered advisers.** Except with respect to federal covered advisers whose only clients are those described in section 80A.04, subdivision 3, clause (2), a federal covered adviser shall file with the commissioner, before acting as a federal covered adviser in this state, all documents required by the commissioner that have been filed with the Securities and Exchange Commission. Notwithstanding any other provision of this section, until October 10, 1999, the commissioner may require the registration of any federal covered investment adviser who has failed to promptly pay the fees required by section 80A.28 after being notified in writing by the commissioner of the nonpayment or underpayment of such fees. A person shall be considered to have promptly paid such fees if the fees are remitted to the commissioner within 15 days following the receipt of written notification from the commissioner.

**Subd. 2. Successors.** A licensed broker-dealer or investment adviser may file an application for licensing of a successor, whether or not the successor is then in existence, for the unexpired portion of the license. There shall be no filing fee.

**Subd. 3. Examination and training; rulemaking.** The commissioner may by rule prescribe standards of qualification with respect to training, experience and knowledge of the securities business and provide for examinations, which may be written or oral or both, to be taken by any class of or all applicants, as well as persons who represent or will represent an investment adviser, and the commissioner may by order require an examination of a licensed broker-dealer, agent or investment adviser for due cause.

**Subd. 4. Financial requirements; rulemaking.** The commissioner may by rule require a minimum capital for broker-dealers, subject to the limitations of section 15 of the Securities Act of 1934, and establish minimum financial requirements for investment advisers, subject to the limitations of section 222 of the Investment Advisers Act of 1940 which may include different requirements for those investment advisers who maintain custody of clients' funds or securities or who have discretionary authority over the funds or securities and those investment advisers who do not.

**Subd. 5. Surety bonds; rulemaking.** The commissioner may by rule require licensed broker-dealers, agents and investment advisers who have custody of or discretionary authority over client funds or securities, to post surety bonds in amounts as the commissioner may prescribe subject to the limitations of section 15 of the Securities Exchange Act of 1934 for broker-dealers and section 222 of the Investment Advisers Act of 1940 for investment advisers and may by rule or order determine their conditions. Any appropriate deposit of cash or securities shall be accepted in lieu of any bond so required. No bond may be required of any broker-dealer whose net capital, which may be defined by rule, exceeds the amounts required by the commissioner. Every bond shall provide for suit thereon by any person who has a cause of action under section 80A.23 and, if the commissioner by rule or order requires, by any person who has a cause of action not arising under sections 80A.01 to 80A.31. Every bond shall provide that no suit may be maintained to enforce any liability on the bond unless brought within three years after the sale or other act upon which it is based.

**Subd. 6. General authority of commissioner.** The commissioner may by rule or order impose other conditions in connection with the issuance of licenses under this chapter as the commissioner deems appropriate in the public interest and for the protection of investors.

#### **80A.06 POSTLICENSING PROVISIONS.**

**Subdivision 1. Record keeping.** Every licensed broker-dealer and investment adviser shall make and keep all accounts, correspondence, memoranda, papers, books and other records which the commissioner by rule prescribes by rule or order, except as provided by section 15 of the Securities Act of 1934 in the case of a broker-dealer and section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser. All records required shall be preserved for three years unless the commissioner by rule prescribes otherwise for particular types of records. All required records shall be kept within the state or shall, at the request of the commissioner, be made available at any time for examination by the commissioner either in the principal office of the licensee or by production of exact copies thereof in this state.

**Subd. 2. Reports.** Every licensed broker-dealer and investment adviser shall file such reports as the commissioner by rule or order prescribes except as provided in section 15 of the

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Securities Exchange Act of 1934 in the case of a broker-dealer and section 222 of the Investment Advisers Act of 1940 in the case of an investment adviser.

Subd. 3. **Correcting amendments.** If the information contained in any document filed with the commissioner is or becomes inaccurate or incomplete in any material respect, the licensee or federal covered adviser shall within 30 days file a correcting amendment unless notification of the correction has been given under section 80A.04, subdivision 2.

Subd. 4. **Examinations.** The commissioner shall make periodic examinations, within or without this state, of the business and records of each licensed broker-dealer and investment adviser, at such times and in such scope as the commissioner determines. The examinations may be made without prior notice to the broker-dealer or investment adviser. For the purpose of avoiding unnecessary duplication of examinations, the commissioner, insofar as the commissioner deems it practicable in administering this subdivision, may cooperate with securities administrators of other states, the securities and exchange commission, and any national securities exchange or national securities association registered under the Securities Exchange Act of 1934.

Subd. 5. **Remuneration and charges.** (a) Except as otherwise provided in paragraph (b), no investment adviser who shall recommend the purchase or sale of a security to a client, and no licensed broker-dealer acting as a broker-dealer for a customer in the purchase or sale of a security shall take or accept any remuneration or other thing of value from any person other than the client or customer in connection with the purchase or sale unless, prior to or contemporaneously with the recommendation in the case of an investment adviser and prior to or contemporaneously with the confirmation of the transaction in the case of a licensed broker-dealer so acting, written disclosure to the client or customer is made of the acceptance or intended acceptance of the remuneration or other thing of value and of the amount of it. All charges made by an investment adviser for services and all charges by a licensed broker-dealer for services rendered as a broker-dealer or for advice with respect to securities shall be reasonable, and except in compliance with rules adopted by the commissioner, no charges shall be based upon or measured by profits accrued or to accrue from transactions recommended or carried out by an investment adviser, or licensed broker-dealer. This subdivision shall not be construed to prohibit charges by an investment adviser based upon the total value of the assets under management averaged over a definite period, or as of definite dates, or taken as of a definite date, nor charges based upon the performance of the managed assets as compared to an established index in compliance with rules adopted by the commissioner.

(b) Disclosure of payment received by a licensed investment advisor or licensed broker-dealer for directing order flow need not comply with paragraph (a) if the disclosure is made in compliance with rules governing disclosure of payments for directing order flow adopted by the securities and exchange commission.

**80A.07 DENIAL, SUSPENSION, AND REVOCATION OF LICENSES.**

Subdivision 1. **General grounds.** The commissioner may by order deny, suspend, or revoke any license or may censure the licensee, if the commissioner finds (a) that the order is in the public interest and (b) that the applicant or licensee or, in the case of a broker-dealer or investment adviser, any partner, officer, or director, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling the broker-dealer or investment adviser:

(1) has filed an application for license which as of its effective date, or as of any date after filing in the case of an order denying effectiveness, was incomplete in any material respect or contained any statement which was, in light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) has willfully violated or failed to comply with any provision of this chapter or a predecessor law or any provision of the Securities Act of 1933, the Securities Exchange Act of 1934, the Investment Advisers Act of 1940, the Investment Company Act of 1940, the Commodity Exchange Act, or any rule or order under any of these statutes, of which that person has notice and is subject;

(3) has been convicted, within the past ten years, of any misdemeanor involving a security or any aspect of the securities business, or any felony;

(4) is permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the securities business;

(5) is the subject of an order of the commissioner denying, suspending, or revoking a license as a broker-dealer, agent or investment adviser;

(6) is the subject of an order entered within the past five years by the securities administrator of any other state or by the Securities and Exchange Commission, or any national securities exchange or national securities association registered under the Securities Exchange

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Act of 1934, denying or revoking registration or license as a broker-dealer, agent, or investment adviser, or is the subject of an order of the Securities and Exchange Commission or any national securities exchange or national securities association registered under the Securities Exchange Act of 1934, suspending, barring, or expelling that person from a national securities exchange or association registered under the Securities Exchange Act of 1934, or is the subject of a United States post office fraud order. The commissioner may not institute a revocation or suspension proceeding under this clause more than one year from the date of the order relied on, and may not enter an order under this clause on the basis of an order under another state law unless the order was based on facts which would currently constitute a ground for an order under this section;

(7) has engaged in dishonest or fraudulent practices in the securities business;

(8) has failed to maintain the minimum net capital or to comply with the limitation on aggregate indebtedness which the commissioner by rule prescribes;

(9) is not qualified on the basis of such factors as training, experience, and knowledge of the securities business;

(10) has failed reasonably to supervise agents, investment adviser representatives, or employees to assure their compliance with this chapter;

(11) has failed to pay the proper filing fee, but the commissioner shall vacate the order when the deficiency has been corrected;

(12) has offered or sold securities in this state through any unlicensed agent;

(13) has made any material misrepresentation to the commissioner, or upon request reasonably made by the commissioner, has withheld or concealed information from, or refused to furnish information to, the commissioner;

(14) has failed to reasonably supervise agents, investment adviser representatives, or employees if that person has assumed or has been designated to carry out the supervisory procedures of the broker-dealer or investment adviser; or

(15) has failed, within 20 business days after receiving written instructions from a customer, to do any of the following:

(a) transfer or deliver securities that have been purchased;

(b) transfer or deliver any free credit balances reflecting completed transactions; or

(c) transfer or deliver a customer's account securities positions and balances to another broker-dealer.

This clause shall not serve as a basis for denial, suspension, or revocation of a broker-dealer's or agent's license if: (i) the transfer or delivery is between broker-dealers and meets the rules and requirements established by the New York Stock Exchange with regard to the transfer or delivery; or (ii) the delivery of securities to a customer cannot be accomplished within 20 business days, and the broker-dealer or agent has notified the customer in writing of the inability to deliver the securities and the reasons for the nondelivery within 20 business days of receiving the customer's written instructions.

**Subd. 1a. Investment adviser representatives.** The commissioner, by order, shall censure or place limitations on the activities of any investment adviser representative or person seeking to become an investment adviser representative, or suspend or bar any person from being an investment adviser representative, if the commissioner finds, after notice and opportunity for hearing, that the censure, placing of limitations, suspension, or bar is in the public interest and that the person has committed or omitted any act or omission enumerated in subdivision 1. It shall be unlawful for any person as to whom an order suspending or barring that person from being an investment adviser representative is in effect willfully to become, or to be, associated with an investment adviser without the consent of the commissioner, and it shall be unlawful for any investment adviser to permit this person to become, or remain, an investment adviser representative without the consent of the commissioner, if the investment adviser knew, or in the exercise of reasonable care, should have known of the order.

**Subd. 2. Limitation.** The commissioner may not institute a suspension or revocation proceeding solely on the basis of a fact or transaction known to the commissioner when the initial license was issued unless the proceeding is instituted within the next 30 days after the issuance of the initial license.

**Subd. 3. Order to show cause.** The commissioner may issue an order requiring a licensee or an applicant for a license to show cause why the license should not be revoked or the application denied. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend a license, or in the case of an investment adviser representative or person seeking to become an investment adviser representative, summarily suspend or bar that person from acting in that capacity, pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits shall be

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held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making a disposition of the matter as the facts require. If the licensee or applicant fails to appear at a hearing of which that person has been duly notified, the person shall be deemed in default and the proceeding may be determined against that person upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

Subd. 4. **Specific grounds.** If the commissioner finds that any licensee or applicant is no longer in existence or has ceased to do business as a broker-dealer, agent or investment adviser, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the commissioner may by order revoke the license or deny the application.

Subd. 5. **Withdrawals.** Withdrawal from the status of a licensed broker-dealer, agent or investment adviser becomes effective 30 days after receipt of an application to withdraw or within such shorter period as the commissioner determines unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within 30 days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the commissioner by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the commissioner may institute a revocation or suspension proceeding under subdivision 1, clause (b) within two years after withdrawal became effective and enter a revocation or suspension order as of the last date on which the license was in effect.

#### **80A.08 REGISTRATION REQUIREMENT.**

It is unlawful for any person to offer or sell any security in this state unless (a) it is registered under sections 80A.01 to 80A.31 or (b) the security or transaction is exempted under section 80A.15 or (c) it is a federal covered security.

#### **80A.09 REGISTRATION BY NOTIFICATION.**

Subdivision 1. **Authority.** The following securities may be registered by notification: any securities issued by a person organized exclusively for social, religious, educational, benevolent, fraternal, charitable, reformatory, athletic, chamber of commerce, trade, industrial development, or professional association purposes and not for pecuniary gain, and no part of the net earnings of which inures to the benefit of any private stockholder or individual; provided that no securities issued by any person offering and furnishing a burial service or funeral benefit, directly or indirectly for financial consideration, may be registered under this section.

Subd. 2. **Contents.** A registration statement under this section shall contain the consent to service of process required by section 80A.27, subdivision 7, and such additional information as the commissioner by rule or otherwise requires.

Subd. 3. **When effective.** If no stop order is in effect, no proceeding is pending under section 80A.13, and no order has been issued under subdivision 4, a registration statement under this section automatically becomes effective at 5:00 in the afternoon on the fifth full business day after the filing of the registration statement or the last amendment, or at such earlier time as the commissioner by order determines.

Subd. 4. **Condition of registration.** The commissioner may by order require that any security otherwise permitted to be registered under this section be registered by qualification under section 80A.11 if the commissioner determines that registration by qualification is in the public interest and is necessary for the protection of investors.

Subd. 5. **Withdrawal.** A registration statement that is incomplete will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

#### **80A.10 REGISTRATION BY COORDINATION.**

Subdivision 1. **Authority.** Any security for which a registration statement has been filed under the Securities Act of 1933 in connection with the same offering may be registered by coordination.

Subd. 2. **Contents.** A registration statement under this section shall contain the following information and be accompanied by the following documents in addition to the information

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specified in section 80A.12 and the consent to service of process required by section 80A.27, subdivision 7:

- (a) one copy of the latest form of prospectus filed under the Securities Act of 1933;
- (b) if the commissioner by rule or otherwise requires, a copy of the articles of incorporation and bylaws (or their substantial equivalent) currently in effect, a copy of any agreements with or among underwriters, a copy of any indenture or other instrument governing the issuance of the security to be registered, and a specimen or copy of the security;
- (c) if the commissioner requests, any other information, or copies of any other documents, filed under the Securities Act of 1933; and
- (d) an undertaking to forward all amendments to the federal prospectus, other than an amendment which merely delays the effective date of the registration statement, not later than the first business day after the day they are forwarded to or filed with the Securities and Exchange Commission or such longer period as the commissioner permits.

**Subd. 3. When effective.** A registration statement under this section automatically becomes effective at the moment the federal registration statement becomes effective if all the following conditions are satisfied: (a) no stop order is in effect and no proceeding is pending under section 80A.13; (b) the registration statement has been on file with the commissioner for at least 20 days; and (c) a statement of the maximum proposed offering prices and the maximum underwriting discounts and commissions has been on file for two full business days or such shorter period as the commissioner permits by rule or otherwise and the offering is made within those limitations. The registrant shall promptly notify the commissioner by telephone or telegram or similar electronic means of communication of the date and time when the federal registration statement became effective and the content of the price amendment, if any, and shall promptly file an amendment containing the information and documents in the price amendment. "Price amendment" means the final federal amendment which includes a statement of the offering price, underwriting and selling discounts or commissions, amount of proceeds, conversion rates, call prices and other matters dependent upon the offering price. Upon failure to receive the required notification with respect to the price amendment, the commissioner may enter a stop order, without notice or hearing, retroactively denying effectiveness to the registration statement or suspending its effectiveness until compliance with this subsection, if the commissioner promptly notifies the registrant by telephone or telegram or similar electronic means of communication (and promptly confirms by letter or telegram when the commissioner notifies by telephone) of the issuance of the order. If the registrant proves compliance with the requirements of this subdivision as to notice and price amendment, the stop order is void as of the time of its entry. The commissioner may by rule or otherwise waive either or both of the conditions specified in clauses (b) and (c). If the federal registration statement becomes effective before all the conditions in this subdivision are satisfied and they are not waived, the registration statement automatically becomes effective as soon as all the conditions are satisfied. If the registrant advises the commissioner of the date when the federal registration statement is expected to become effective, the commissioner shall promptly advise the registrant by telephone or telegram or similar electronic means of communication, at the registrant's expense, whether all the conditions are satisfied and whether the commissioner then contemplates the institution of a proceeding under section 80A.13; but this advice by the commissioner does not preclude the institution of such a proceeding at any time.

**Subd. 4. Withdrawal.** A registration statement that is pending effectiveness will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

#### **80A.11 REGISTRATION BY QUALIFICATION.**

**Subdivision 1. Authority.** Any security may be registered by qualification.

**Subd. 2. Contents.** A registration statement under this section shall contain the information specified in section 80A.12 and the consent to service of process required by section 80A.27, subdivision 7, and shall contain such further information and be accompanied by such further documents as the commissioner by rule or otherwise requires.

**Subd. 3. When effective.** A registration statement under this section becomes effective when the commissioner so orders.

**Subd. 4. Condition of registration.** The commissioner may by rule or order require as a condition of registration under this section that a prospectus containing any designated part of the information specified in subdivision 2 be sent or given to each person to whom an offer is made before or concurrently with (a) the first written offer made to that person (otherwise than by means of a public advertisement) by or for the account of the issuer or any other person on whose



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behalf the offering is being made, or by any underwriter or broker-dealer who is offering part of an unsold allotment or subscription taken by that person as a participant in the distribution, (b) the confirmation of any sale made by or for the account of any such person, (c) payment pursuant to any such sale, or (d) delivery of the security pursuant to any such sale, whichever first occurs.

Subd. 5. **Withdrawal.** A registration statement that is pending effectiveness will be considered withdrawn if no activity occurs with respect to the application for a period of 120 days. Notwithstanding section 80A.28, subdivision 1, paragraph (c), no part of the filing fee shall be returned if a registration statement is withdrawn according to this subdivision.

**80A.115 SMALL CORPORATE OFFERING REGISTRATION.**

Subdivision 1. **Filing requirements.** A security meeting the conditions set forth in this section may be registered by filing a small corporate offering registration form otherwise known as a form U-7 adopted by the North American Securities Administrators Association as a uniform state securities registration form.

Subd. 2. **Availability.** Registration under this section is available only to the issuer of the securities and not to an affiliate of that issuer or to any other person for resale of the issuer's securities. The issuer must be a corporation organized under the laws of one of the states or possessions of the United States. Registration under this section is not available to any of the following issuers:

- (1) an issuer that engages in or proposes to engage in the business of petroleum exploration or production or mining or other extractive industries;
- (2) an investment company, including a mutual fund;
- (3) an issuer subject to the reporting requirements of section 13 or 15(d) of the Securities Exchange Act of 1934;
- (4) a direct participation program;
- (5) a development stage company that either has no specific business plan or purpose or has indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies or other entity or person; and
- (6) an issuer seeking to register a debt offering unless the commissioner finds that the issuer has demonstrated a reasonable ability to service the debt.

Subd. 3. **Disqualification.** (a) An issuer is disqualified from registration under this section if the issuer or any of its officers, directors, ten-percent stockholders, promoters, or any selling agents of the securities to be offered, or any officer, director, or partner of the selling agent:

- (1) has filed a registration statement that is the subject of a currently effective registration stop order entered under a federal or state securities law within five years before the filing of the small corporate offering registration application;
- (2) has been convicted within five years before the filing of the small corporate offering registration application of a felony or misdemeanor in connection with the offer, purchase, or sale of a security or a felony involving fraud or deceit, including, but not limited to, forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;
- (3) is currently subject to a state administrative enforcement order or judgment entered by a state securities administrator or the Securities and Exchange Commission within five years before the filing of the small corporate offering registration application, or is subject to a federal or state administrative enforcement order or judgment in which fraud or deceit, including, but not limited to, making untrue statements of material facts or omitting to state material facts, was found and the order or judgment was entered within five years before the filing of the small corporate offering registration application;
- (4) is currently subject to an order, judgment, or decree of a court of competent jurisdiction temporarily restraining or enjoining, or is subject to an order, judgment, or decree of a court of competent jurisdiction, permanently restraining or enjoining the party from engaging in or continuing any conduct or practice in connection with the purchase or sale of any security or involving the making of a false filing with a state or with the Securities and Exchange Commission entered within five years before the filing of the small corporate offering registration application; or
- (5) is subject to a state's administrative enforcement order, or judgment that prohibits, denies, or revokes the use of an exemption for registration in connection with this offer, purchase, or sale of securities.

Clauses (1) to (4) do not apply if the person subject to the disqualification is duly licensed or registered to conduct securities-related business in the state in which the administrative order or judgment was entered against the person or if the dealer employing the party is licensed or

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registered in this state and the form BD filed in this state discloses the order, conviction, judgment, or decree relating to the person.

(b) No person disqualified under this subdivision may act in any capacity other than that for which the person is licensed or registered. A disqualification under this subdivision is automatically waived if the state securities administrator or federal agency that created the basis for disqualification determines upon a showing of good cause that it is not necessary under the circumstances to deny the registration.

**Subd. 4. Conditions.** In order to register under this section, all of the following conditions must be satisfied:

(1) the offering price for common stock and the exercise price, if the securities offered are options, warrants, or rights for common stock, and the conversion price if the securities are convertible into common stock must be equal to or greater than \$1 per share;

(2) the aggregate offering price of the securities offered, within or outside this state, may not exceed \$1,000,000 less the aggregate offering price of all securities sold within the 12 months before the start of and during the offering of the securities under Securities and Exchange Commission Rule 504 in reliance on an exemption under section 3(b) of the Securities Act of 1933. The issuer may not split its common stock, or declare a stock dividend for two years after effectiveness of the registration, except that in connection with a subsequent public offering, the issuer may upon application and consent of the commissioner take this action;

(3) unless an issuer or its predecessors have demonstrated profitable operations for two of the three fiscal years prior to registration, determined in accordance with generally accepted accounting principles, after taxes and excluding extraordinary items, the fair value of the equity investment, as defined by the commissioner by rule, of such issuer shall be at least five percent of the equity investment, as defined by the commissioner by rule, that would result from the sale of all the securities proposed to be offered; and

(4) the maximum quantity of cheap stock, as defined by the commissioner by rule, allowable, expressed as a percentage of the total number of shares to be outstanding after the proposed offering, shall be determined by calculating the fair value of equity investment as a percentage of equity investment in accordance with the following formulations. If the percentage is 20 percent or less, the maximum quantity of cheap stock allowable shall be 50 percent. If the percentage is greater than 20 percent, the maximum quantity of cheap stock allowable shall be two times the percentage plus ten percent. The maximum quantity of cheap stock allowable shall not exceed 90 percent of the total number of shares to be outstanding after the proposed offering.

**Subd. 5. Contents of registration form.** The small corporate offering registration form (form U-7) must comply with and contain all exhibits required by the Instructions for Use of Form U-7 as adopted by the North American Securities Administrators Association. The registration must include financial statements prepared in accordance with generally accepted accounting principles. An issuer that has not conducted significant operations shall provide statements of receipts and disbursements in lieu of statements of income. Interim financial statements may be unaudited. All other financial statements shall be audited by independent certified public accountants. Financial statements may be unaudited if reviewed by independent certified public accountants in accordance with the accounting and review service standards promulgated by the American Institute of Certified Public Accountants and:

(1) the issuer has not previously sold securities through an offering involving the general solicitation of prospective investors by means of advertising, mass mailings, public meetings, cold call telephone solicitation, or any other method directed toward the public;

(2) the issuer has not been previously required under federal or state securities laws to provide audited financial statements in connection with any sale of its securities; and

(3) the aggregate amount of all previous sales of securities by the issuer, exclusive of debt financing with banks and similar commercial lenders does not exceed \$1,000,000.

**Subd. 6. Stop orders.** The commissioner may in the commissioner's discretion issue a stop order for any of the following additional reasons:

(1) the issuer's principal place of business is not in this state or in North Dakota, South Dakota, Iowa, or Wisconsin;

(2) at least 50 percent of the issuer's full-time employees are not located in this state or in North Dakota, South Dakota, Iowa, or Wisconsin; or

(3) at least 80 percent of the net proceeds of the offering are not going to be used in connection with the operations of the issuer in this state or in North Dakota, South Dakota, Iowa, or Wisconsin.

**Subd. 7. Suitability.** The commissioner may, in the commissioner's discretion, require investors in a particular offering to meet suitability standards relating to annual gross income, net worth, or other factors to determine the suitability of the investment for the investor.

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Subd. 8. **Financial reporting requirements.** The issuer shall deliver to investors on an annual basis financial statements prepared in accordance with generally accepted accounting principles.

Subd. 9. **Effective date.** If no stop order is in effect and no proceeding is pending under section 80A.13, a registration statement under this section becomes effective automatically at 5:00 p.m. on the 20th full business day after the filing of the registration statement or the last amendment of it, or at such earlier time as the commissioner by order determines.

**80A.12 PROVISIONS APPLICABLE TO REGISTRATION GENERALLY.**

Subdivision 1. **Filing.** A registration statement may be filed by the issuer, any other person on whose behalf the offering is to be made, or a licensed broker-dealer.

Subd. 2. **Contents.** Every registration statement shall specify (a) the amount of securities to be offered in this state; (b) the states in which a registration statement or similar document in connection with the offering has been or is to be filed; and (c) any adverse order, judgment or decree entered in connection with the offering by the regulatory authorities in each state or by any court or the Securities and Exchange Commission.

Subd. 3. **Incorporations by reference.** Any document filed under sections 80A.01 to 80A.31 or a predecessor act within three years preceding the filing of a registration statement may be incorporated by reference in the registration statement to the extent that the document is currently accurate.

Subd. 4. **Permitted omissions.** The commissioner may by rule or otherwise permit the omission of any item of information or document from any registration statement.

Subd. 5. **Conditions; registration by qualification or coordination; escrow or impounding.** The commissioner may by rule or order require as a condition of registration by qualification or coordination (a) that any security issued within the past three years or to be issued to a promoter for a consideration substantially different from the public offering price, or to any person for a consideration other than cash, be deposited in escrow; and (b) that the proceeds from the sale of the registered security in this state be impounded until the issuer receives a specified amount from the sale of the security either in this state or elsewhere. The commissioner may by rule or order determine the conditions of any escrow or impounding required hereunder, but may reject a depository solely because of location in another state only if the offering is not being registered under the Securities Act of 1933 and the principal place of business of the registrant is in this state.

Subd. 6. **Conditions; registration by qualification or coordination; contract requirements.** The commissioner may by rule or order require as a condition of registration that any security registered by qualification or coordination be sold only on a specified form of subscription or sale contract, and that a signed or conformed copy of each contract be filed with the commissioner or preserved for any period up to three years specified in the rule or order.

Subd. 7. **Effective date.** Every registration statement shall be effective, for the purpose of any nonissuer distribution until withdrawn, suspended or revoked. All outstanding securities of the same class as a registered security are considered to be registered for the purpose of any nonissuer transaction so long as the registration statement is effective. A registration statement may not be withdrawn for one year from its effective date if any securities of the same class are outstanding.

Subd. 8. **Periodic reports.** So long as a registration statement is effective, the commissioner may by rule or order require the person who filed the registration statement to file reports, not more often than quarterly, to keep reasonably current the information contained in the registration statement, to disclose the progress of the offering and the use of any proceeds received therefrom, and to submit reports of sales. The commissioner may by rule or order require that the issuer distribute annual reports to its shareholders.

Subd. 9. **Certain investment companies; amendments.** A registration statement relating to a security issued by a face amount certificate company or a redeemable security issued by an open end management company or unit investment trust, as those terms are defined in the Investment Company Act of 1940, may be amended after its effective date so as to increase the securities specified as proposed to be offered. Such an amendment becomes effective when the commissioner so orders. Every person filing such an amendment shall pay a filing fee, calculated in the manner specified in section 80A.28 with respect to the additional securities proposed to be offered.

Subd. 10. **Annual report.** So long as a registration statement is effective the issuer shall file an annual report in such form as the commissioner by rule prescribes. Every annual report shall be due on the 90th day following the end of the issuer's fiscal year, unless extended in



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writing for good cause by the commissioner. Failure to file the annual report within 30 days after its due date shall be deemed a request for withdrawal.

Subd. 11. **Withdrawal, suspension, or revocation notice.** Within two business days after receipt of an order of the commissioner withdrawing, suspending, or revoking effectiveness of an issuer's registration statement, the issuer must notify all persons making a market in the issuer's securities of the termination of the effectiveness of the registration statement. Failure to provide this notice may result in the imposition of a civil penalty not to exceed \$2,000 per violation.

Subd. 12. **Coordinated registration.** The commissioner may enter into cooperative and reciprocal agreements with members of a national securities regulatory organization composed of securities administrators of this and other states to participate in a coordinated review of securities offerings in lieu of conducting the commissioner's own review.

**80A.122 FEDERAL COVERED SECURITIES.**

Subdivision 1. **18(b)(2) filings.** The commissioner may, by rule or otherwise, require the filing of any or all of the following documents with respect to a federal covered security under section 18(b)(2) of the Securities Act of 1933:

(1) prior to the initial offer of a federal covered security in this state, all documents that are part of a current federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, together with a fee and a consent to service of process;

(2) after the initial offer of a federal covered security in this state, all documents that are part of an amendment to a current federal registration statement filed with the Securities and Exchange Commission under the Securities Act of 1933, which must be filed concurrently with the commissioner;

(3) notices that increase the aggregate amount of securities offered or sold in this state, together with the fee.

Subd. 2. **18(b)(4)(d) filings.** With respect to a security that is a federal covered security under section 18(b)(4)(D) of the Securities Act of 1933, the commissioner, by rule or otherwise, may require the issuer to file a notice on form D of the Securities and Exchange Commission, together with a fee and a consent to service of process no later than 15 days after the first sale of the covered security in this state.

Subd. 3. **18(b)(3) or (4) filings.** The commissioner, by rule or otherwise, may require the filing of any document filed with the Securities and Exchange Commission under the Securities Act of 1933 with respect to a federal covered security under section 18(b)(3) or (4) of the Securities Act of 1933 together with the fee.

Subd. 4. **Registration.** Notwithstanding any other provision of this section, until October 10, 1999, the commissioner may require registration of a federal covered security for which the fees required by section 80A.28 have not been promptly paid after the issuer of such securities has been notified in writing by the commissioner of the nonpayment or underpayment of such fees. An issuer shall be considered to have promptly paid such fees if the fees are remitted to the commissioner within 15 days following the receipt of written notification from the commissioner.

Subd. 4a. **Expiration.** (a) A filing made in connection with the securities of an open-end investment company under subdivision 1 expires the next June 30 unless renewed. To renew a notice filing, an issuer shall:

(1) before expiration of a current notice filing, file with the commissioner the documents specified by the commissioner under subdivision 1, clause (2), together with any fees required by section 80A.28, subdivision 1, paragraph (c); and

(2) no later than September 1 following expiration, file a sales report for the prior fiscal year with the commissioner specifying:

(i) the registered sales;

(ii) the actual sales; and

(iii) the balance that could be sold without an additional filing under section 80A.28, subdivision 1, paragraph (c).

(b) No portion of the unsold balance of shares indicated on the issuer's sales report may be lawfully sold in this state in connection with a renewed notice filing until fees have been paid to renew the shares.

Subd. 5. **Stop orders.** The commissioner may issue a stop order suspending the offer and sale of a federal covered security, except a federal covered security under section 18(b)(1) of the Securities Act of 1933, if the commissioner finds that: (1) the order is in the public interest; and (2) there is a failure to comply with any condition established under this section.

Subd. 6. **Commissioner's waiver.** The commissioner may, by rule or otherwise, waive any or all of the provisions of this section.

**80A.125 PROHIBITION; NONRECOURSE LOANS.**

No part of the offering proceeds resulting from the sale of bonds or similar interest-bearing securities issued by the United States, any state, any political subdivision of any state, or any corporate or other instrumentality of one or more of those entities may be loaned to a person on a nonrecourse basis. This prohibition does not apply to bonds or similar interest-bearing securities:

- (1) exempt from registration under section 80A.15;
- (2) rated in one of the top four letter rating categories by Fitch Investors Service, Inc., Standard and Poor's Corporation, or Moody's Investor Services, Inc.; or
- (3) issued to provide housing facilities with respect to which low income tax credits are to be obtained.

**80A.13 DENIAL, SUSPENSION AND REVOCATION OF REGISTRATION.**

Subdivision 1. **Stop order.** The commissioner may issue a stop order denying effectiveness to, or suspending or revoking the effectiveness of, any registration statement if the commissioner finds (a) that the order is in the public interest and (b) that

(1) the registration statement as of its effective date or as of any earlier date in the case of an order denying effectiveness, or any amendment under section 80A.12, subdivision 9, as of its effective date, or any report under section 80A.12, subdivision 8, is incomplete in any material respect or contains any statement which was, in the light of the circumstances under which it was made, false or misleading with respect to any material fact;

(2) any provision of sections 80A.01 to 80A.31 or any rule, order, or condition lawfully imposed under sections 80A.01 to 80A.31 has been willfully violated in connection with the offering, by (i) the person filing the registration statement, (ii) the issuer, any partner, officer, or director of the issuer, any person occupying a similar status or performing similar functions, or any person directly or indirectly controlling or controlled by the issuer, but only if the person filing the registration statement is directly or indirectly controlled by or acting for the issuer, or (iii) any underwriter;

(3) the security registered or sought to be registered is the subject of an administrative stop order or similar order or a permanent or temporary injunction of any court of competent jurisdiction entered under any other federal or state act applicable to the offering; but (i) the commissioner may not institute a proceeding against an effective registration statement under this clause more than one year from the date of the order or injunction relied on, and (ii) may not enter an order under this clause on the basis of an order or injunction entered under any other state act unless that order or injunction was based on facts which would currently constitute a ground for a stop order under this section;

(4) the issuer's enterprise or method of business includes or would include activities which are illegal where performed;

(5) the offering has worked or tended to work a fraud upon purchasers or would so operate;

(6) except with respect to securities which are being registered by notification, the terms of the securities are unfair and inequitable; provided, however, that the commissioner may not determine that an offering is unfair and inequitable solely on the grounds that the securities are to be sold at an excessive price where the offering price has been determined by arm's-length negotiation between nonaffiliated parties. The selling price of any security being sold by a broker-dealer licensed in this state shall be presumed to have been determined by arm's-length negotiation;

(7) when a security is sought to be registered by coordination there has been a failure to comply with the undertaking required by section 80A.10, subdivision 2, clause (d);

(8) the applicant or registrant has failed to pay the proper filing fee; but the commissioner may enter only a denial order under this clause and shall vacate any such order when the deficiency has been corrected; or

(9) the offering of securities sought to be registered is not firmly underwritten and (i) the minimum amount of proceeds from the sale of the securities is not more than \$500,000, and (ii) the maximum amount of proceeds is more than 200 percent of the minimum amount of proceeds required to go forward with the offering.

The commissioner may not institute a stop order proceeding against an effective registration statement solely on the basis of a fact or transaction known to the commissioner when the registration statement became effective unless the proceeding is instituted within the next 30 days.

Subd. 2. **Order to show cause.** The commissioner may issue an order requiring the person for whom a registration was made to show cause why the registration should not be

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revoked. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the issuance of the order. The commissioner may by order summarily suspend a registration pending final determination of any order to show cause. If the registration is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order or suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require. If the person for whom the registration was made fails to appear at a hearing of which the person has been duly notified, such person shall be deemed in default and the proceeding may be determined against the person upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

#### **80A.14 DEFINITIONS.**

Subdivision 1. **Terms.** When used in sections 80A.01 to 80A.31, the terms defined in this section have the meanings given them unless the context otherwise requires.

Subd. 2. **Affiliate.** "Affiliate" of another person means any person directly or indirectly controlling, controlled by, or under common control with the other person.

Subd. 3. **Agent.** "Agent" means any individual other than a broker-dealer who represents a broker-dealer or issuer in effecting or attempting to effect purchases or sales of securities.

"Agent" does not include:

- (a) an individual who represents an issuer in:
  - (1) effecting transactions in a security exempted by section 80A.15, subdivision 1;
  - (2) effecting transactions exempted by section 80A.15, subdivision 2;
  - (3) effecting transactions with existing employees, partners or directors of the issuer if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state;
  - (4) effecting other transactions, if the individual is an officer or director of the issuer, no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state, and, upon application, the individual is specifically authorized by name in an order issued by the commissioner;
  - (5) effecting transactions in securities registered by notification under section 80A.09 if no commission or other remuneration is paid or given directly or indirectly for soliciting any person in this state; or
  - (6) effecting transactions in a federal covered security as described in sections 18(b)(3) and 18(b)(4) of the Securities Act of 1933; or
- (b) an individual who represents a broker-dealer in effecting transactions in the state limited to those transactions described in section 15(h)(2) of the Securities Exchange Act of 1934.

A partner, officer or director of a broker-dealer or issuer, or a person occupying a similar status or performing similar functions, is an agent only if that person otherwise comes within this definition.

Subd. 4. **Broker-dealer.** "Broker-dealer" means any person engaged in the business of effecting transactions in securities for the account of others or for that person's own account. "Broker-dealer" does not include:

- (1) an agent;
- (2) an issuer;
- (3) a trust company; or
- (4) a bank, savings institution, savings association, credit union:
  - (i) acting for the account of others, provided that such activities are conducted in compliance with such rules as may be adopted by the commissioner;
  - (ii) acting for its own account; or
  - (iii) acting in a fiduciary capacity pursuant to the powers and privileges described by sections 48.36 to 48.49 or United States Code, title 12, section 92(a);
- (5) a person who has no place of business in this state if that person effects transactions in this state exclusively with or through (i) the issuers of the securities involved in the transactions, (ii) other broker-dealers, or (iii) banks, savings institutions, trust companies, insurance companies, investment companies as defined in the Investment Company Act of 1940, or other financial institutions or institutional buyers, or to broker-dealers, whether the purchaser is acting for itself or in some fiduciary capacity; or
- (6) other persons not within the intent of this subsection whom the commissioner by rule or order designates.

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Subd. 5. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 5a. **Federal covered adviser.** "Federal covered adviser" means a person who is: (1) registered under section 203 of the Investment Act of 1940; or (2) is excluded from the definition of "investment adviser" under section 202(a)(11).

Subd. 5b. **Federal covered security.** "Federal covered security" means a security that is a covered security under section 18(b) of the Securities Act of 1933 or regulations adopted under that act.

Subd. 6. **Fraud, deceit, defraud.** "Fraud," "deceit" and "defraud" are not limited to common law deceit.

Subd. 7. **Guaranteed.** "Guaranteed" means guaranteed as to payment of principal and interest or principal and dividends.

Subd. 8a. **Institutional buyer.** For the purposes of sections 80A.04, subdivision 3; 80A.14, subdivision 4, clause (5); and 80A.15, subdivision 2, paragraph (g), "institutional buyer" includes, but is not limited to, a corporation with a class of equity securities registered under section 12(b) or 12(g) of the Securities Exchange Act of 1934, as amended, a "qualified institutional buyer" within the meaning of rule 144A, and an "accredited investor" within the meaning of rule 501(a) of regulation D.

Subd. 9. **Investment adviser.** "Investment adviser" means any person who, for compensation, engages in the business of advising others, either directly or through publications, writings or electronic means, as to the value of securities or as to the advisability of investing in, purchasing, or selling securities, or who, for compensation and as a part of a regular business, issues or promulgates analyses or reports concerning securities. "Investment adviser" does not include:

- (1) a bank, savings institution, credit union, or trust company;
- (2) a lawyer, accountant, engineer, or teacher whose performance of these services is solely incidental to the practice of that person's profession;
- (3) a broker-dealer whose performance of these services is solely incidental to the conduct of the business as a broker-dealer and who receives no special compensation for them;
- (4) a publisher of any newspaper, news column, newsletter, news magazine, or business or financial publication or service, whether communicated in hard copy form, or by electronic means, or otherwise, that does not consist of the rendering of advice on the basis of the specific investment situation of each client; or
- (5) other persons not within the intent of this subdivision as the commissioner may by rule or order designate.

Subd. 9a. **Investment adviser representative.** "Investment adviser representative" means any partner, officer, or director of an investment adviser, or any person performing similar functions, or any person, directly or indirectly, controlling or controlled by an investment adviser, including any employee of an investment adviser who provides investment advice to clients.

Subd. 10. **Investment metal.** "Investment metal" means any object which contains gold, silver, platinum, indium, chromium, or germanium, or any other metal which the commissioner may specify by rule upon a showing that such other metal is being purchased and sold by the public as an investment.

Subd. 11. **Investment gem.** "Investment gem" means any gem which the commissioner may specify by rule upon a showing that the gem is being purchased and sold by the public as an investment.

Subd. 12. **Investment metal contract.** (a) "Investment metal contract" or "investment gem contract" means:

- (i) a sale of an investment metal or investment gem in which the seller or an affiliate of the seller retains possession of the investment metal or investment gem; or
- (ii) a contract of purchase or sale which provides for the future delivery of an investment metal or investment gem, or any option to purchase or option to sell such a contract; or
- (iii) a sale of an investment metal or investment gem pursuant to a contract known to the trade as a margin account, margin contract, leverage account, or leverage contract.

(b) "Investment metal contract" or "investment gem contract" shall not include:

- (i) the sale of an investment metal or investment gem where the seller has reasonable grounds to believe that the investment metal or investment gem is being acquired for manufacturing, commercial or industrial purposes; or
- (ii) the sale, or contract for the future purchase or sale, of jewelry, art objects or other manufactured or crafted goods other than bullion or bulk sales of coins; or
- (iii) the sale of an investment metal or investment gem where full payment is made to the seller, and delivery of the investment metal or investment gem is made to the purchaser, or to a bank, savings institution, trust company, broker-dealer, or safe deposit company designated by the

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purchaser, within 20 days of the date of purchase, if the bank, savings institution, trust company, broker-dealer, or safe deposit company is located within this state, and is, where required, licensed under the laws of this state, provided that a safe deposit company accepting such delivery may not be an affiliate of the seller; or

(iv) any futures contracts traded on a commodities exchange registered under the Federal Commodity Futures Trading Commission Act of 1974.

Subd. 13. **Issuer.** "Issuer" means any person who issues or proposes to issue any security and any promoter who acts for an issuer to be formed, except:

(1) with respect to certificates of deposit or trust certificates, issuer means the person performing the act and assuming the duties of depositor, manager or trustee pursuant to the provisions of the trust or other instrument under which the security is issued;

(2) with respect to certificates of interest or participation in oil, gas or mining rights, titles or leases, issuer means the owner of any such right, title or lease, who creates fractional interest therein for the purposes of sale.

Subd. 14. **Nonissuer.** "Nonissuer" means not directly or indirectly for the benefit of the issuer or an affiliate of the issuer.

Subd. 15. **Person.** "Person" means an individual, corporation, a partnership, an association, a joint stock company, a trust where the interests of the beneficiaries are evidenced by a security, an unincorporated organization, a government, a political subdivision of a government or any other entity.

Subd. 16. **Purchasing for investment.** "Purchasing for investment" means a purchase made for investment and not for the purpose of resale. In determining whether securities have been purchased for investment, the length of the period for which the securities are held will be one of the factors considered. Securities held for two years after their purchase shall be conclusively deemed to have been purchased for investment.

Subd. 17. **Sale, sell.** (1) "Sale" or "sell" includes every contract of sale of, contract to sell, or disposition of, a security or interest in a security for value.

(2) "Offer" or "offer to sell" includes every attempt or offer to dispose of, or solicitation of an offer to buy, a security or interest in a security for value.

(3) Any security given or delivered with, or as a bonus on account of, any purchase of securities or any other thing is considered to constitute part of the subject of the purchase and to have been offered and sold for value.

(4) A purported gift of assessable stock is considered to involve an offer and sale.

(5) Every sale or offer of a warrant or right to purchase or subscribe to another security of the same or another issuer, as well as every sale or offer of a security which gives the holder a present or future right or privilege to convert into another security of the same or another issuer, is considered to include an offer of the other security.

(6) The terms defined in this subdivision do not include (i) any bona fide pledge or loans; (ii) any stock dividend, whether the corporation or other entity distributing the dividend is the issuer of the stock or not; or (iii) a dividend on equity distributed by a cooperative organized under chapter 308B.

Subd. 18. **Security.** (a) "Security" means any note; stock; treasury stock; bond; debenture; evidence of indebtedness; certificate of interest or participation in any profit sharing agreement; collateral trust certificate; preorganization certificate or subscription; transferable shares; investment contract; investment metal contract or investment gem contract; voting trust certificate; certificate of deposit for a security; certificate of interest or participation in an oil, gas or mining right, title or lease or in payments out of production under the right, title or lease; or, in general, any interest or instrument commonly known as a security, or any certificate of interest or participation in, temporary or interim certificate for, receipt for guarantee of, or warrant or right to subscribe to or purchase, any of the foregoing. "Security" does not include:

(1) any insurance or endowment policy or annuity contract under which an insurance company promises to pay money either in a lump sum or periodically for life or for some other specified period; or

(2) stock of a closely held corporation offered or sold pursuant to a transaction in which 100 percent of the stock of that corporation is sold as a means to effect the sale of the business of the corporation if the transaction has been negotiated on behalf of all purchasers, and if all purchasers have access to inside information regarding the corporation before consummating the transaction.

(b) A security that is offered and sold pursuant to section 4(5) of the Securities Act of 1933 or that is a "mortgage related security" (as defined in section 3(a)(41) of the Securities Exchange Act of 1934) is not a security exempt from registration under section 80A.15, subdivision 1, paragraph (a), in the same manner as obligations issued or guaranteed as to principal and interest

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by the United States or its agencies or instrumentalities. This provision specifically overrides the preemption of state law contained in section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law 98-440.

Subd. 19. **State.** "State" means any state, territory or possession of the United States, the District of Columbia and Puerto Rico.

Subd. 20. **Qualified charity.** "Qualified charity" means an organization that is described in section 501(c)(3) of the Internal Revenue Code and that is not a private foundation as described in section 509 of the Internal Revenue Code.

Subd. 21. **Internal Revenue Code.** "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended, United States Code, title 26, section 1 et seq.

Subd. 22. **Pooled income fund.** "Pooled income fund" means a trust that meets the requirements of a pooled income fund as defined in section 642(C)(5) of the Internal Revenue Code, provided that the remainder beneficiary is a qualified charity.

Subd. 23. **Charitable remainder trust.** "Charitable remainder trust" means a trust that meets the requirements of either a charitable remainder annuity trust or a charitable remainder unitrust as defined in section 664 of the Internal Revenue Code, provided that the remainder beneficiary is a qualified charity.

Subd. 24. **Charitable lead trust.** "Charitable lead trust" means a trust that meets the requirements of a charitable lead trust as described in section 170(F)(2) of the Internal Revenue Code, provided that the lead beneficiary is a qualified charity.

Subd. 25. **Charitable gift annuity.** "Charitable gift annuity" means an annuity that meets the requirements of a charitable gift annuity as defined in section 501(m)(5) of the Internal Revenue Code.

#### **80A.15 EXEMPTIONS.**

Subdivision 1. **Securities exempted.** The following securities are exempted from sections 80A.08 and 80A.16:

(a) Any security, including a revenue obligation, issued or guaranteed by the United States, any state, any political subdivision of a state, or any agency or corporate or other instrumentality of one or more of the foregoing; but this exemption does not apply to a security issued by any of the foregoing that is payable solely from payments to be received in respect of property or money used under a lease, sale, or loan arrangement by or for a nongovernmental industrial or commercial enterprise. Pursuant to section 106(c) of the Secondary Mortgage Market Enhancement Act of 1984, Public Law 98-440, this exemption does not apply to a security that is offered or sold pursuant to section 106(a)(1) or (2) of that act.

(b) Any security issued or guaranteed by Canada, any Canadian province, any political subdivision of any province, any agency or corporate or other instrumentality of one or more of the foregoing, if the security is recognized as a valid obligation by the issuer or guarantor; but this exemption shall not include any revenue obligation payable solely from payments to be made in respect of property or money used under a lease, sale or loan arrangement by or for a nongovernmental industrial or commercial enterprise.

(c) Any security issued by and representing an interest in or a debt of, or guaranteed by, any bank organized under the laws of the United States, or any bank, savings institution or trust company organized under the laws of any state and subject to regulation in respect of the issuance or guarantee of its securities by a governmental authority of that state.

(d) Any security issued by and representing an interest in or a debt of, or guaranteed by, any federal savings association, or any savings association or similar association organized under the laws of any state and authorized to do business in this state.

(e) Any security issued or guaranteed by any federal credit union or any credit union, or similar association organized and supervised under the laws of this state.

(f) Any security listed or approved for listing upon notice of issuance on the New York Stock Exchange, the American Stock Exchange, the Midwest Stock Exchange, the Pacific Stock Exchange, or the Chicago Board Options Exchange; any other security of the same issuer which is of senior or substantially equal rank; any security called for by subscription rights or warrants so listed or approved; or any warrant or right to purchase or subscribe to any of the foregoing. This exemption does not apply to second tier listings on any of the exchanges in this paragraph.

(g) Any commercial paper which arises out of a current transaction or the proceeds of which have been or are to be used for current transactions, and which evidences an obligation to pay cash within nine months of the date of issuance, exclusive of days of grace, or any renewal of the paper which is likewise limited, or any guarantee of the paper or of any renewal which



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are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television or direct mailing.

(h) Any interest in any employee's savings, stock purchase, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(i) Any security issued or guaranteed by any railroad, other common carrier or public utility which is subject to regulation in respect to the issuance or guarantee of its securities by a governmental authority of the United States.

(j) Any interest in a common trust fund or similar fund maintained by a state bank or trust company organized and operating under the laws of Minnesota, or a national bank wherever located, for the collective investment and reinvestment of funds contributed thereto by the bank or trust company in its capacity as trustee, executor, administrator, or guardian; and any interest in a collective investment fund or similar fund maintained by the bank or trust company, or in a separate account maintained by an insurance company, for the collective investment and reinvestment of funds contributed thereto by the bank, trust company or insurance company in its capacity as trustee or agent, which interest is issued in connection with an employee's savings, pension, profit sharing or similar benefit plan, or a self-employed person's retirement plan.

(k) Any security which meets all of the following conditions:

(1) If the issuer is not organized under the laws of the United States or a state, it has appointed a duly authorized agent in the United States for service of process and has set forth the name and address of the agent in its prospectus;

(2) A class of the issuer's securities is required to be and is registered under section 12 of the Securities Exchange Act of 1934, and has been so registered for the three years immediately preceding the offering date;

(3) Neither the issuer nor a significant subsidiary has had a material default during the last seven years, or for the period of the issuer's existence if less than seven years, in the payment of (i) principal, interest, dividend, or sinking fund installment on preferred stock or indebtedness for borrowed money, or (ii) rentals under leases with terms of three years or more;

(4) The issuer has had consolidated net income, before extraordinary items and the cumulative effect of accounting changes, of at least \$1,000,000 in four of its last five fiscal years including its last fiscal year; and if the offering is of interest bearing securities, has had for its last fiscal year, net income, before deduction for income taxes and depreciation, of at least 1-1/2 times the issuer's annual interest expense, giving effect to the proposed offering and the intended use of the proceeds. For the purposes of this clause "last fiscal year" means the most recent year for which audited financial statements are available, provided that such statements cover a fiscal period ended not more than 15 months from the commencement of the offering;

(5) If the offering is of stock or shares other than preferred stock or shares, the securities have voting rights and the rights include (i) the right to have at least as many votes per share, and (ii) the right to vote on at least as many general corporate decisions, as each of the issuer's outstanding classes of stock or shares, except as otherwise required by law; and

(6) If the offering is of stock or shares, other than preferred stock or shares, the securities are owned beneficially or of record, on any date within six months prior to the commencement of the offering, by at least 1,200 persons, and on that date there are at least 750,000 such shares outstanding with an aggregate market value, based on the average bid price for that day, of at least \$3,750,000. In connection with the determination of the number of persons who are beneficial owners of the stock or shares of an issuer, the issuer or broker-dealer may rely in good faith for the purposes of this clause upon written information furnished by the record owners.

(l) Any certificate of indebtedness sold or issued for investment, other than a certificate of indebtedness pledged as a security for a loan made contemporaneously therewith, and any savings account or savings deposit issued, by an industrial loan and thrift company.

(m) Any security designated or approved for designation upon notice of issuance on the NASDAQ/National Market System; any other security of the same issuer that is of senior or substantially equal rank; any security called for by subscription rights or warrants so designated or approved; or any warrant or right to purchase or subscribe to any of the securities referred to in this paragraph; provided that the National Market System provides the commissioner with notice of any material change in its designation requirements. The commissioner may revoke this exemption if the commissioner determines that the designation requirements are not enforced or are amended in a manner that lessens protection to investors.

**Subd. 2. Transactions exempted.** The following transactions are exempted from sections 80A.08 and 80A.16:

(a) Any sales, whether or not effected through a broker-dealer, provided that:

(1) no person shall make more than ten sales of securities in Minnesota of the same issuer pursuant to this exemption, exclusive of sales according to clause (2), during any period of

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12 consecutive months; provided further, that in the case of sales by an issuer, except sales of securities registered under the Securities Act of 1933 or exempted by section 3(b) of that act, (i) the seller reasonably believes that all buyers are purchasing for investment, and (ii) the securities are not advertised for sale to the general public in newspapers or other publications of general circulation or otherwise, or by radio, television, electronic means or similar communications media, or through a program of general solicitation by means of mail or telephone; or

(2) no issuer shall make more than 25 sales of its securities in Minnesota according to this exemption, exclusive of sales pursuant to clause (1), during any period of 12 consecutive months; provided further, that the issuer meets the conditions in clause (1) and, in addition meets the following additional conditions: (i) files with the commissioner, ten days before a sale according to this clause, a statement of issuer on a form prescribed by the commissioner; and (ii) no commission or other remuneration is paid or given directly or indirectly for soliciting any prospective buyers in this state in connection with a sale according to this clause except reasonable and customary commissions paid by the issuer to a broker-dealer licensed under this chapter.

(b) Any nonissuer distribution of an outstanding security if (1) either Moody's, Fitch's, or Standard & Poor's Securities Manuals, or other recognized manuals approved by the commissioner contains the names of the issuer's officers and directors, a balance sheet of the issuer as of a date not more than 18 months prior to the date of the sale, and a profit and loss statement for the fiscal year preceding the date of the balance sheet, and (2) the issuer or its predecessor has been in active, continuous business operation for the five-year period next preceding the date of sale, and (3) if the security has a fixed maturity or fixed interest or dividend provision, the issuer has not, within the three preceding fiscal years, defaulted in payment of principal, interest, or dividends on the securities.

(c) The execution of any orders by a licensed broker-dealer for the purchase or sale of any security, pursuant to an unsolicited offer to purchase or sell; provided that the broker-dealer acts as agent for the purchaser or seller, and has no direct material interest in the sale or distribution of the security, receives no commission, profit, or other compensation from any source other than the purchaser and seller and delivers to the purchaser and seller written confirmation of the transaction which clearly itemizes the commission, or other compensation.

(d) Any nonissuer sale of notes or bonds secured by a mortgage lien if the entire mortgage, together with all notes or bonds secured thereby, is sold to a single purchaser at a single sale.

(e) Any judicial sale, exchange, or issuance of securities made pursuant to an order of a court of competent jurisdiction.

(f) The sale, by a pledge holder, of a security pledged in good faith as collateral for a bona fide debt.

(g) Any offer or sale to a bank, savings institution, trust company, insurance company, investment company as defined in the Investment Company Act of 1940, or other financial institution or institutional buyer, or to a broker-dealer, whether the purchaser is acting for itself or in some fiduciary capacity.

(h) An offer or sale of securities by an issuer made in reliance on the exemptions provided by Rule 505 or 506 of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.501 to 230.508, subject to the conditions and definitions provided by Rules 501 to 503 of Regulation D, if the offer and sale also satisfies the conditions and limitations in clauses (1) to (10).

(1) The exemption under this paragraph is not available for the securities of an issuer if any of the persons described in Rule 252(c) to (f) of Regulation A promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, sections 230.251 to 230.263:

(i) has filed a registration statement that is the subject of a currently effective order entered against the issuer, its officers, directors, general partners, controlling persons, or affiliates, according to any state's law within five years before the filing of the notice required under clause (5), denying effectiveness to, or suspending or revoking the effectiveness of, the registration statement;

(ii) has been convicted, within five years before the filing of the notice required under clause (5), of a felony or misdemeanor in connection with the offer, sale, or purchase of a security or franchise, or a felony involving fraud or deceit, including but not limited to forgery, embezzlement, obtaining money under false pretenses, larceny, or conspiracy to defraud;

(iii) is subject to an effective administrative order or judgment entered by a state securities administrator within five years before the filing of the notice required under clause (5), that prohibits, denies, or revokes the use of an exemption from securities registration, that prohibits the transaction of business by the person as a broker-dealer or agent, that is based on fraud, deceit, an untrue statement of a material fact, or an omission to state a material fact; or



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(iv) is subject to an order, judgment, or decree of a court entered within five years before the filing of the notice required under clause (5), temporarily, preliminarily, or permanently restraining or enjoining the person from engaging in or continuing any conduct or practice in connection with the offer, sale, or purchase of a security, or the making of a false filing with a state.

A disqualification under paragraph (h) involving a broker-dealer or agent is waived if the broker-dealer or agent is or continues to be licensed in the state in which the administrative order or judgment was entered against the person or if the broker-dealer or agent is or continues to be licensed in this state as a broker-dealer or agent after notifying the commissioner of the act or event causing disqualification.

The commissioner may waive a disqualification under paragraph (h) upon a showing of good cause that it is not necessary under the circumstances that use of the exemption be denied.

A disqualification under paragraph (h) may be waived if the state securities administrator or agency of the state that created the basis for disqualification has determined, upon a showing of good cause, that it is not necessary under the circumstances that an exemption from registration of securities under the state's laws be denied.

It is a defense to a violation of paragraph (h) based upon a disqualification if the issuer sustains the burden of proof to establish that the issuer did not know, and in the exercise of reasonable care could not have known, that a disqualification under paragraph (h) existed.

(2) This exemption must not be available to an issuer with respect to a transaction that, although in technical compliance with this exemption, is part of a plan or scheme to evade registration or the conditions or limitations explicitly stated in paragraph (h).

(3) No commission, finder's fee, or other remuneration shall be paid or given, directly or indirectly, for soliciting a prospective purchaser, unless the recipient is appropriately licensed, or exempt from licensure, in this state as a broker-dealer.

(4) Nothing in this exemption is intended to or should be in any way construed as relieving issuers or persons acting on behalf of issuers from providing disclosure to prospective investors adequate to satisfy the antifraud provisions of the securities law of Minnesota.

(5) The issuer shall file with the commissioner a notice on form D as adopted by the Securities and Exchange Commission according to Regulation D, Code of Federal Regulations, title 17, section 230.502. The notice must be filed not later than 15 days after the first sale in this state of securities in an offering under this exemption. Every notice on form D must be manually signed by a person duly authorized by the issuer and must be accompanied by a consent to service of process on a form prescribed by the commissioner.

(6) A failure to comply with a term, condition, or requirement of paragraph (h) will not result in loss of the exemption for an offer or sale to a particular individual or entity if the person relying on the exemption shows that: (i) the failure to comply did not pertain to a term, condition, or requirement directly intended to protect that particular individual or entity, and the failure to comply was insignificant with respect to the offering as a whole; and (ii) a good faith and reasonable attempt was made to comply with all applicable terms, conditions, and requirements of paragraph (h), except that, where an exemption is established only through reliance upon this provision, the failure to comply shall nonetheless constitute a violation of section 80A.08 and be actionable by the commissioner.

(7) The issuer, upon request by the commissioner, shall, within ten days of the request, furnish to the commissioner a copy of any and all information, documents, or materials furnished to investors or offerees in connection with the offer and sale according to paragraph (h).

(8) Neither compliance nor attempted compliance with the exemption provided by paragraph (h), nor the absence of an objection or order by the commissioner with respect to an offer or sale of securities undertaken according to this exemption, shall be considered to be a waiver of a condition of the exemption or considered to be a confirmation by the commissioner of the availability of this exemption.

(9) The commissioner may, by rule or order, increase the number of purchasers or waive any other condition of this exemption.

(10) The determination whether offers and sales made in reliance on the exemption set forth in paragraph (h) shall be integrated with offers and sales according to other paragraphs of this subdivision shall be made according to the integration standard set forth in Rule 502 of Regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502. If not subject to integration according to that rule, offers and sales according to paragraph (h) shall not otherwise be integrated with offers and sales according to other exemptions set forth in this subdivision.

(i) Any offer (but not a sale) of a security for which a registration statement has been filed under sections 80A.01 to 80A.31, if no stop order or refusal order is in effect and no public proceeding or examination looking toward an order is pending; and any offer of a security if the

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sale of the security is or would be exempt under this section. The commissioner may by rule exempt offers (but not sales) of securities for which a registration statement has been filed as the commissioner deems appropriate, consistent with the purposes of sections 80A.01 to 80A.31.

(j) The offer and sale by a cooperative organized under chapter 308A or under the laws of another state, of its securities when the securities are offered and sold only to its members, or when the purchase of the securities is necessary or incidental to establishing membership in the cooperative, or when such securities are issued as patronage dividends. This paragraph applies to a cooperative organized under the laws of another state only if the cooperative has filed with the commissioner a consent to service of process under section 80A.27, subdivision 7, and has, not less than ten days prior to the issuance or delivery, furnished the commissioner with a written general description of the transaction and any other information that the commissioner requires by rule or otherwise.

(l) The issuance and delivery of any securities of one corporation to another corporation or its security holders in connection with a merger, exchange of shares, or transfer of assets whereby the approval of stockholders of the other corporation is required to be obtained, provided, that the commissioner has been furnished with a general description of the transaction and with other information as the commissioner by rule prescribes not less than ten days prior to the issuance and delivery. For purposes of this paragraph, a corporation includes a cooperative organized under chapter 308B, and the approval of stockholders applies to members of such a cooperative.

(m) Any transaction between the issuer or other person on whose behalf the offering is made and an underwriter or among underwriters.

(n) The distribution by a corporation of its or other securities to its own security holders as a stock dividend or as a dividend from earnings or surplus or as a liquidating distribution; or upon conversion of an outstanding convertible security; or pursuant to a stock split or reverse stock split. For purposes of this paragraph, a corporation includes a cooperative organized under chapter 308B, and the term "stock" applies to interests in such a cooperative.

(o) Any offer or sale of securities by an affiliate of the issuer thereof if: (1) a registration statement is in effect with respect to securities of the same class of the issuer and (2) the offer or sale has been exempted from registration by rule or order of the commissioner.

(p) Any transaction pursuant to an offer to existing security holders of the issuer, including persons who at the time of the transaction are holders of convertible securities, nontransferable warrants, or transferable warrants exercisable within not more than 90 days of their issuance, if: (1) no commission or other remuneration (other than a standby commission) is paid or given directly or indirectly for soliciting any security holder in this state; and (2) the commissioner has been furnished with a general description of the transaction and with other information as the commissioner may by rule prescribe no less than ten days prior to the transaction.

(q) Any nonissuer sales of any security, including a revenue obligation, issued by the state of Minnesota or any of its political or governmental subdivisions, municipalities, governmental agencies, or instrumentalities.

(r) Any transaction as to which the commissioner by rule or order finds that registration is not necessary in the public interest and for the protection of investors.

(s) An offer or sale of a security issued in connection with an employee's stock purchase, savings, option, profit sharing, pension, or similar employee benefit plan, if the following conditions are met:

(1) the issuer, its parent corporation or any of its majority-owned subsidiaries offers or sells the security according to a written benefit plan or written contract relating to the compensation of the purchaser; and

(2) the class of securities offered according to the plan or contract, or if an option or right to purchase a security, the class of securities to be issued upon the exercise of the option or right, is registered under section 12 of the Securities Exchange Act of 1934, or is a class of securities with respect to which the issuer files reports according to section 15(d) of the Securities Exchange Act of 1934; or

(3) the issuer fully complies with the provisions of Rule 701 as adopted by the Securities and Exchange Commission, Code of Federal Regulations, title 12, section 230.701.

The issuer shall file not less than ten days before the transaction, a general description of the transaction and any other information that the commissioner requires by rule or otherwise or, if applicable, a Securities and Exchange Form S-8. Annually, within 90 days after the end of the issuer's fiscal year, the issuer shall file a notice as provided with the commissioner.

(t) Any sale of a security of an issuer that is a pooled income fund, a charitable remainder trust, or a charitable lead trust that has a qualified charity as the only charitable beneficiary.

(u) Any sale by a qualified charity of a security that is a charitable gift annuity if the issuer has a net worth, otherwise defined as unrestricted fund balance, of not less than \$300,000 and

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either: (1) has been in continuous operation for not less than three years; or (2) is a successor or affiliate of a qualified charity that has been in continuous operation for not less than three years.

(v) The offer and sale by a cooperative organized under chapter 308B of its securities when the securities are offered and sold only to its existing members or when the purchase of the securities is necessary or incidental to establishing patron membership in the cooperative, or when such securities are issued as patronage dividends. This paragraph applies when securities are issued as patronage dividends or otherwise only when:

(1) the issuer, prior to the completion of the sale of such securities, provides each offeree or purchaser disclosure materials, which to the extent material to an understanding of the issuer, its business, and the securities being offered substantially meet the disclosure conditions and limitations found in rule 502(b) of regulation D promulgated by the Securities and Exchange Commission, Code of Federal Regulations, title 17, section 230.502; and

(2) within 15 days after the completion of the first sale in each offering completed in reliance upon this exemption, the cooperative has filed with the commissioner a consent to service of process under section 80A.27, subdivision 7, and has furnished the commissioner with a written general description of the transaction and any other information that the commissioner requires by rule or otherwise.

A cooperative may, at or about the same time as offers or sales are being completed in reliance upon this exemption from registration and as part of a common plan of financing, offer or sell its securities in reliance upon any other exemption from registration available under this chapter. The offer or sale of securities in reliance upon this paragraph shall not be considered or deemed a part of or be integrated with any offer or sale of securities conducted by the cooperative in reliance upon any other exemption from registration available under this chapter, nor shall offers or sales of securities by the cooperative in reliance upon any other exemption from registration available under this chapter be considered or deemed a part of or be integrated with any offer or sale conducted by the cooperative in reliance upon this paragraph.

**Subd. 3. Revocation; order to show cause.** The commissioner may issue an order requiring any person who claims the benefit of an exemption with respect to a specific security or transaction, to show cause why the exemption should not be revoked. The order shall be calculated to give reasonable notice of the time and place for hearing thereon, and shall state the reasons for the entry of the order. The commissioner may by order summarily suspend an exemption pending final determination of any order to show cause. If an exemption is suspended pending final determination of an order to show cause, a hearing on the merits shall be held within 30 days of the issuance of the order of suspension. All hearings shall be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order making such disposition of the matter as the facts require. If the person claiming the benefit of the exemption fails to appear at a hearing of which the person has been duly notified, such person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the order to show cause, the allegations of which may be deemed to be true. The commissioner may adopt rules of procedure concerning all proceedings conducted pursuant to this subdivision.

A notice filing that is incomplete is considered withdrawn if no activity occurs with respect to the notice filing for a period of 120 days.

**Subd. 4. Burden of proof.** In any judicial or administrative proceeding under sections 80A.01 to 80A.31, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

#### **80A.16 FILING OF SALES AND ADVERTISING LITERATURE.**

The commissioner may by rule or order require the filing of any prospectus, pamphlet, circular, form letter, advertisement, or other sales literature or advertising communication addressed or intended for distribution to prospective investors, including clients or prospective clients of an investment adviser or broker-dealer unless: (1) the security or transaction is exempted by section 80A.15; or (2) the security is a federal covered security.

#### **80A.17 MISLEADING FILINGS.**

It is unlawful for any person to make or cause to be made, in any document filed with the commissioner or in any proceeding under sections 80A.01 to 80A.31, other than a contested case hearing any statement which is, at the time and in the light of the circumstances under which it is made, false or misleading in any material respect or, in connection with such statement, to

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omit to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they are made, not misleading.

#### **80A.18 UNLAWFUL REPRESENTATIONS CONCERNING REGISTRATION OR EXEMPTION.**

Neither the fact that a registration statement or an application for a license has been filed nor the fact that a security is effectively registered or a person is licensed constitutes a finding by the commissioner that any document filed under this chapter is true, complete and not misleading. Neither any such fact nor the fact that an exemption or exception is available for a security or a transaction means that the commissioner has passed in any way upon the merits or qualifications of, or recommended or given approval to, any person, security, or transaction. It is unlawful to make, or cause to be made, to any prospective purchaser, customer or client any representation inconsistent with the foregoing.

#### **80A.19 ADMINISTRATION.**

**Subdivision 1. Commissioner of commerce.** This chapter shall be administered by the commissioner of commerce.

**Subd. 2. Information regulation.** It is unlawful for the commissioner or any of the commissioner's officers or employees to use for personal benefit any information which is filed with or obtained by the commissioner and which is not a matter of public record. Nothing in this chapter authorizes the commissioner or any of the commissioner's officers or employees to disclose information which is not a matter of public record except among themselves or when necessary or appropriate in a proceeding or investigation under this chapter. No provision of this chapter either creates or derogates from any privilege which exists at common law or otherwise when documentary or other evidence is sought under a subpoena directed to the commissioner or any of the commissioner's officers or employees.

**Subd. 3. Biennial report.** It shall be the duty of the commissioner biennially, on or before October 1, in each even numbered year, to prepare and file in the office of the governor a report for the preceding two fiscal years ending June 30 preceding the report, which shall contain a summary of all applications received, withdrawn, granted and denied; a summary of all registrations and licenses suspended, revoked or canceled, a schedule of receipts and disbursements of the commissioner, and such other information as the commissioner considers material.

#### **80A.22 CRIMINAL PENALTY.**

**Subdivision 1. False or misleading statements.** Any person who willfully violates any provision of sections 80A.01 to 80A.31 except section 80A.17, or any rule or order under sections 80A.01 to 80A.31, of which that person has notice, or who violates section 80A.17 knowing that the statement was false or misleading in any material respect, may be fined not more than \$10,000 or imprisoned not more than five years or both. Each of the acts specified shall constitute a separate offense and a prosecution or conviction for any one of such offenses shall not bar prosecution or conviction for any other offense.

**Subd. 2. Referral to attorney general.** The commissioner may refer such evidence as is available concerning violations of sections 80A.01 to 80A.31 or of any rule or order hereunder to the attorney general or the county attorney of the appropriate county, who may, with or without any such reference, institute the appropriate criminal proceedings under sections 80A.01 to 80A.31. If referred to a county attorney, the county attorney shall within 90 days file with the commissioner a statement concerning any action taken, or, if no action has been taken, the reasons therefor.

**Subd. 3. Other crimes.** Nothing in sections 80A.01 to 80A.31 limits the power of the state to punish any person for any conduct which constitutes a crime under any other statute.

#### **80A.23 CIVIL LIABILITIES.**

**Subdivision 1. Registration-related actions.** Any person who sells a security in violation of sections 80A.08 or 80A.18, or of any condition imposed under section 80A.11, subdivision 4, or 80A.12, subdivisions 5 and 6, is liable to the person purchasing the security, who may sue either in equity for rescission upon tender of the security or at law for damages if that person no longer owns the security. In any action for rescission, the purchaser shall be entitled to recover the consideration paid for the security together with interest at the legal rate, costs, and reasonable attorney's fees, less the amount of any income received on the securities. In an action at law, damages shall be the consideration paid for the security together with interest at the

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legal rate to the date of disposition, costs, and reasonable attorney's fees, less the value of the security at the date of disposition.

**Subd. 2. Sales and purchase actions.** Any person who violates section 80A.01 in connection with the purchase or sale of any security shall be liable to any person damaged thereby who sold such security to that person or to whom that person sold such security, and any person who violates section 80A.03 in connection with the purchase or sale of any security shall be liable to any person damaged by the conduct prescribed by section 80A.03. Any person who violates section 80A.02 in connection with the purchase or sale of any security shall be liable to any investment advisory client who is damaged thereby. Damages in an action pursuant to this subdivision shall include the actual damages sustained plus interest from the date of payment or sale, costs and reasonable attorney's fees.

**Subd. 3. Joint and several liability of others.** Every person who directly or indirectly controls a person liable under subdivision 1 or 2, every partner, principal executive officer or director of such person, every person occupying a similar status or performing a similar function, every employee of such person who materially aids in the act or transaction constituting the violation, and every broker-dealer or agent who materially aids in the act or transaction constituting the violation, are also liable jointly and severally with and to the same extent as such person. There is contribution as in cases of contract among the several persons so liable.

**Subd. 4. Liability exception.** No person shall be liable under subdivisions 1 to 3 who shall sustain the burden of proof that the person did not know, and in the exercise of reasonable care could not have known, of the existence of facts by reason of which the liability is alleged to exist.

**Subd. 5. Tender.** Any tender specified in this section may be made at any time before entry of judgment. Tender by a purchaser shall require only notice of willingness to exchange the security for the amount computed pursuant to subdivision 1. Tender by a seller shall require only notice of willingness to pay the amount specified in exchange for the security. Any notice may be given by service as in civil actions or by certified mail to the last known address of the person liable.

**Subd. 6. Survival of action.** Every cause of action under this statute survives the death of any person who might have been a plaintiff or defendant.

**Subd. 7. Limitation on actions.** No person may commence an action under subdivision 1 more than three years after the sale upon which such action is based. No person may commence an action under subdivision 2 more than three years after the occurrence of the act or transaction constituting the violation.

**Subd. 8. Offer to prevent suit.** No purchaser may commence an action under subdivision 1 if, before suit is commenced, the purchaser has received a written offer to repurchase the security for cash payable on delivery of the security equal to the consideration paid, together with interest at the legal rate from the date of payment, less the amount of any income received thereon or, if the purchaser no longer owns the security, an offer to pay an amount in cash equal to the damages computed in accordance with subdivision 1 and the purchaser has failed to accept such offer in writing within 30 days of its receipt. No offer shall be effective to prevent suit under this section unless a duplicate copy thereof shall have been filed with the commissioner at least 20 days prior to its delivery to the offeree and the commissioner shall not have objected to the offer within that time. The offer shall be in the form and contain the information the commissioner by rule or order prescribes. If the offer is not performed in accordance with its terms, suit by the offeree under this section shall be permitted without regard to this subdivision.

**Subd. 9. Conduct-related action restrictions.** No person who has made or engaged in the performance of any contract in violation of any provision of this section or any rule or order hereunder or has acquired any purported rights under any such contract with knowledge of the facts by reason of which its making or performance was in violation may base any suit on such violation under the contract.

**Subd. 10. Compliance waivers void.** Any condition, stipulation or provision binding any person to waive compliance with any provision of sections 80A.01 to 80A.31 or any rule or order hereunder in the purchase or sale of any security is void.

**Subd. 11. Other actions.** The rights and remedies promulgated by sections 80A.01 to 80A.31 are in addition to any other right or remedy that may exist at law or in equity, but sections 80A.01 to 80A.31 do not create any cause of action not specified in this section or section 80A.05, subdivision 5. No civil cause of action may be based solely upon the failure of a broker-dealer or agent to comply with the requirements of section 80A.04, subdivision 1 or 3, except a cause of action arising under section 45.027.

**80A.24 HEARINGS AND JUDICIAL REVIEW.**



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Subdivision 1. **Application and conduct of hearing.** Within 30 days after an order has been issued without a hearing, any interested party may apply to the commissioner for a hearing in respect to matters determined by the order, and a hearing shall be held, on a date fixed by the commissioner, within 30 days after the application is filed. After the hearing the commissioner may modify the order as the commissioner deems appropriate. Hearings shall be public unless the commissioner grants a request joined in by all parties that the hearing be conducted privately.

Subd. 2. **Reviewability of orders.** Orders of the commissioner shall be subject to judicial review under chapter 14, but orders originally issued without hearing may be reviewed only if the party seeking review has requested a hearing within the time provided by subdivision 1.

#### **80A.25 RULES, FORMS AND ORDERS.**

Subdivision 1. **Commissioner's general authority.** The commissioner may from time to time make, amend, and rescind such rules, forms, and orders as are necessary to carry out the provisions of sections 80A.01 to 80A.31, including but not limited to rules and forms governing the conduct of business by broker-dealers, agents and investment advisers, registration statements, applications, and reports, and defining any terms, whether or not used in sections 80A.01 to 80A.31, insofar as the definitions are not inconsistent with the provisions of sections 80A.01 to 80A.31. For the purpose of rules and forms, the commissioner may classify securities, persons, and matters within the commissioner's jurisdiction, and prescribe different requirements for different classes.

Subd. 2. **Scope of authority.** No rule, form or order may be made, amended or rescinded unless the commissioner finds that the action is necessary or appropriate in the public interest or for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of sections 80A.01 to 80A.31. In prescribing rules and forms the commissioner may cooperate with securities administrators of the other states and the Securities and Exchange Commission with a view to effectuating the policy of this statute to achieve maximum uniformity in the form and content of registration statements, application, and reports wherever practicable.

Subd. 3. **Financial statements.** The commissioner may by rule or order prescribe (a) the form and content of financial statements required under sections 80A.01 to 80A.31, (b) the circumstances under which consolidated financial statements shall be filed, and (c) whether any required financial statements shall be certified by independent or certified public accountants. All financial statements shall be prepared in accordance with generally accepted accounting principles unless otherwise permitted by rule or order.

Subd. 4. **Publishing of rules and forms.** All rules and forms of the commissioner shall be published.

Subd. 5. **Good faith exception to liability.** No provision of sections 80A.01 to 80A.31 imposing any liability applies to any act done or omitted in good faith in conformity with any rule, form, or order of the commissioner, notwithstanding that the rule, form, or order may later be amended or rescinded or be determined by judicial or other authority to be invalid for any reason.

#### **80A.26 ADMINISTRATIVE FILES AND OPINIONS.**

Subdivision 1. **Filings.** A document is filed when it is received by the commissioner.

Subd. 2. **Register.** The commissioner shall keep a register of all applications for registration and registration statements which are or have ever been effective, and all denial, suspension, or revocation orders which have ever been entered under this chapter and any predecessor laws. Any information contained in the register shall be a matter of public record.

Subd. 3. **Classification of information.** All information contained in or filed with any registration statement, application, or report, except such information as to which the commissioner, upon request and for good cause shown, grants confidential treatment, and except as to reports of sales provided for in section 45.027, subdivision 1, clause (7), shall be a matter of public record and shall be made available to the public under such rules as the commissioner prescribes.

Subd. 4. **Copying.** Upon request and at such reasonable charges as the commissioner prescribes, the commissioner shall furnish to any person photostatic or other copies (certified under the seal of office if requested) of any entry in the register or any document which is a matter of public record. In any proceeding or prosecution under this chapter, any copy so certified is prima facie evidence of the contents of the entry or document certified.

Subd. 5. **Interpretive opinions.** The commissioner may honor requests from interested persons for interpretive opinions.

**80A.27 SCOPE OF SECTIONS 80A.01 TO 80A.31 AND SERVICE OF PROCESS.**

Subdivision 1. **Sales.** Sections 80A.01; 80A.04, subdivision 1; 80A.08; 80A.18; and 80A.23, apply to persons who sell or offer to sell when (a) an offer to sell is made in this state or (b) an offer to buy is made and accepted in this state.

Subd. 2. **Purchases.** Sections 80A.01; 80A.04, subdivision 1; 80A.18; and 80A.23, apply to persons who buy or offer to buy when (a) an offer to buy is made in this state, or (b) an offer to sell is made and accepted in this state.

Subd. 3. **Offers made.** For the purpose of this section an offer to sell or to buy is made in this state, whether or not either party is then present in this state, when the offer (a) originates from this state or (b) is directed by the offeror to this state and received by the offeree in this state, but for the purpose of section 80A.08 an offer to sell which is not directed to or received by the offeree in this state is not made in this state.

Subd. 4. **Offers accepted.** For the purpose of this section an offer to buy or to sell is accepted in this state when acceptance (a) is communicated to the offeror in this state and (b) has not previously been communicated to the offeror, orally or in writing outside of this state; and acceptance is communicated to the offeror in this state, whether or not either party is then present in this state, when the offeree directs it to the offeror in this state reasonably believing the offeror to be in this state and it is received by the offeror in this state.

Subd. 5. **Offers not made in state.** An offer to sell or to buy is not made in this state when (a) the publisher circulates or there is circulated on the publisher's behalf in this state any bona fide newspaper or other publication of general, regular, and paid circulation which is not published in this state, or which is published in this state but has had more than two-thirds of its circulation outside this state during the past 12 months, or (b) a radio or television program originating outside this state is received in this state.

Subd. 6. **Application of certain sales and licensing restrictions.** Sections 80A.01 and 80A.04, subdivision 3, so far as investment advisers are concerned, and section 80A.03 so far as any person is concerned, apply when any act instrumental in effecting prohibited conduct is done in this state, whether or not either party is then present in this state.

Subd. 7. **Consent to service of process.** Every applicant for registration under sections 80A.01 to 80A.31 and every issuer who proposes to offer a security in this state through any person acting on an agency basis in the common law sense shall file with the commissioner, in such form as the commissioner by rule prescribes, an irrevocable consent appointing the commissioner or a successor in office to be the attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against that person or a successor, executor, or administrator which arises under sections 80A.01 to 80A.31 or any rule or order hereunder after the consent has been filed, with the same force and validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration or license which is then in effect. Service may be made in compliance with section 45.028, subdivision 2.

Subd. 8. **Appointment of commissioner to receive process.** When any person, including any nonresident of this state, engages in conduct prohibited or made actionable by sections 80A.01 to 80A.31 or any rule or order hereunder, and has not filed a consent to service of process under subdivision 7 and personal jurisdiction cannot otherwise be obtained in this state, that conduct shall be considered equivalent to an appointment of the commissioner or a successor in office to be the attorney to receive service of any lawful process in any noncriminal suit, action, or proceeding against that person or a successor executor or administrator which grows out of that conduct and which is brought under sections 80A.01 to 80A.31 or any rule or order hereunder, with the same force and validity as if served personally. Service under this section shall be made in compliance with section 45.028, subdivision 2.

Subd. 9. **Authority to grant continuance.** When process is served under this section, the court, or the commissioner in a proceeding before the commissioner, shall order such continuance as may be necessary to afford the defendant or respondent reasonable opportunity to defend.

**80A.28 FEES AND EXPENSES.**

Subdivision 1. **Registration or notice filing fee.** (a) There shall be a filing fee of \$100 for every application for registration or notice filing. There shall be an additional fee of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the maximum combined fees shall not exceed \$300.

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(b) When an application for registration is withdrawn before the effective date or a preeffective stop order is entered under section 80A.13, subdivision 1, all but the \$100 filing fee shall be returned. If an application to register securities is denied, the total of all fees received shall be retained.

(c) Where a filing is made in connection with a federal covered security under section 18(b)(2) of the Securities Act of 1933, there is a fee of \$100 for every initial filing. If the filing is made in connection with redeemable securities issued by an open end management company or unit investment trust, as defined in the Investment Company Act of 1940, there is an additional annual fee of 1/20 of one percent of the maximum aggregate offering price at which the securities are to be offered in this state during the notice filing period. The fee must be paid at the time of the initial filing and thereafter in connection with each renewal no later than July 1 of each year and must be sufficient to cover the shares the issuer expects to sell in this state over the next 12 months. If during a current notice filing the issuer determines it is likely to sell shares in excess of the shares for which fees have been paid to the commissioner, the issuer shall submit an amended notice filing to the commissioner under section 80A.122, subdivision 1, clause (3), together with a fee of 1/20 of one percent of the maximum aggregate offering price of the additional shares. Shares for which a fee has been paid, but which have not been sold at the time of expiration of the notice filing, may not be sold unless an additional fee to cover the shares has been paid to the commissioner as provided in this section and section 80A.122, subdivision 4a. If the filing is made in connection with redeemable securities issued by such a company or trust, there is no maximum fee for securities filings made according to this paragraph. If the filing is made in connection with any other federal covered security under Section 18(b)(2) of the Securities Act of 1933, there is an additional fee of one-tenth of one percent of the maximum aggregate offering price at which the securities are to be offered in this state, and the combined fees shall not exceed \$300. Beginning with fiscal year 2001 and continuing each fiscal year thereafter, as of the last day of each fiscal year, the commissioner shall determine the total amount of all fees that were collected under this paragraph in connection with any filings made for that fiscal year for securities of an open-end investment company on behalf of a security that is a federal covered security pursuant to section 18(b)(2) of the Securities Act of 1933. To the extent the total fees collected by the commissioner in connection with these filings exceed \$25,000,000 in a fiscal year, the commissioner shall refund, on a pro rata basis, to all persons who paid any fees for that fiscal year, the amount of fees collected by the commissioner in excess of \$25,000,000. No individual refund is required of amounts of \$100 or less for a fiscal year.

**Subd. 2. License application and renewal filing fee.** Every applicant for an initial or renewal license shall pay a filing fee of \$200 in the case of a broker-dealer, \$50 in the case of an agent, and \$100 in the case of an investment adviser. When an application is denied or withdrawn, the filing fee shall be retained. A licensed agent who has terminated employment with one broker-dealer shall, before beginning employment with another broker-dealer, pay a transfer fee of \$25. The fee for a filing made according to section 80A.05, subdivision 1a, is \$100.

**Subd. 3. Amendment fee.** Any amendment to an existing license or registration requiring an order of the commissioner shall require payment of an amendment fee of \$25. If the amendment increases the aggregate amount of securities to be registered, there shall be an additional fee calculated in accordance with subdivision 1, provided the maximum additional fees, if applicable, have not previously been paid. The commissioner shall by rule designate those amendments which require an order of the commissioner.

**Subd. 4. Annual report fee.** Every annual report required by section 80A.12, subdivision 10, shall be accompanied by a fee of \$100.

**Subd. 5. Exemption filing fee.** The filing of any exemption for which notice is required to be given the commissioner under section 80A.15, subdivision 2, shall be accompanied by a fee of \$50.

**Subd. 6. Rescission offer filing fee.** The filing of a rescission offer under section 80A.23, subdivision 8, shall be accompanied by the fees as calculated in subdivision 1.

**Subd. 7. Written opinion request fee.** Every request for a written opinion from the commissioner shall be accompanied by a fee of \$50.

**Subd. 7a. Excess securities registration filing fee.** If securities of an issuer are sold in this state in excess of the quantity registered, the excess securities may be registered by paying a filing fee of \$100, and an additional fee in the amount of three times that which is prescribed under subdivision 1, for the excess securities to be registered. There shall be no maximum combined fees under this subdivision, notwithstanding the limitation set forth in subdivision 1, clause (a).

Registration of the excess securities shall be effective retroactively to the date of sale.

**Subd. 8. Expense deposits.** When the commissioner deems it necessary to incur any expense in connection with any application, registration or license, the commissioner shall have



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the power to require the interested person to make an advance deposit with the commissioner in an amount estimated as sufficient to cover such expense. All such deposits shall be covered into the state treasury and credited to the state commissioner of commerce's investigation fund, from which fund the commissioner shall have power to make disbursements to pay for expenses necessarily incurred in the investigation. Any unexpended portion shall be refunded. On field examinations made by the commissioner or an employee away from the office of the commissioner, a per diem of \$10 for each such person may be charged in addition to actual expenses. Where additional technical, expert, or special services are used, the actual cost of such services may be charged in addition to actual expenses.

Subd. 9. **Generally.** No filing for which a fee is required shall be deemed to be filed or given any effect until the proper fee is paid. All fees and charges collected by the commissioner shall be covered into the state treasury. When any person is entitled to a refund under this section, the commissioner shall certify to the commissioner of finance the amount of the fee to be refunded to the applicant, and the commissioner of finance shall issue a warrant in payment thereof out of the fund to which such fee was credited in the manner provided by law. There is hereby appropriated to the person entitled to such refunds from the fund in the state treasury to which such fees were credited an amount to make such refunds and payments.

#### **80A.29 SALE OF LIQUOR WAREHOUSE RECEIPTS IS SALE OF SECURITIES.**

The sale of warehouse receipts or other evidence of ownership for the storing of liquor during the aging or processing period of liquor is hereby declared to be a sale of securities subject to all of the provisions of sections 80A.01 to 80A.31 except section 80A.15. The sale of such warehouse receipts by broker-dealers and agents licensed under sections 80A.01 to 80A.31 is hereby authorized without such broker-dealers or agents having to procure a liquor license when such liquor is not to be imported nor shipped into this state, except as authorized by law. The provisions of sections 80A.01 to 80A.31 shall not apply to the sale of warehouse receipts to distillers, manufacturers, or wholesalers of liquor duly licensed as such in the state of Minnesota.

#### **80A.30 REGISTRATION OF OIL OR GAS LANDS OR INTEREST BEFORE SALE.**

Subdivision 1. **Generally.** No person shall sell to any person in this state any lands represented to contain or to be a prospect for oil or gas, or any interest therein or thereunder, or in royalties therefrom, unless and until those lands, interests or royalties shall have been first registered under this chapter. Registration shall be made or denied in substantially the same manner and upon substantially the same grounds and conditions as are prescribed for the registration of securities by section 80A.11. The fees for registration shall be calculated in the same manner as the fees for registration of securities under section 80A.28, subdivision 1.

Subd. 2. **Exception.** This section shall not apply to any isolated sale not made or occurring in the course of repeated or successive sale; nor to any judicial sale or any transaction lawfully ordered, authorized, or approved by a court of competent jurisdiction in this state; nor to any sale to a bank or financial institution under the supervision of any instrumentality or officer of the United States or of the commissioner of commerce of this state, or a licensed broker-dealer; nor to any sale made in compliance with the provisions of section 80A.15, subdivision 2, clause (g) or (h). In any complaint, information or indictment charging a sale in violation of this section, it shall not be necessary to specifically name or identify persons other than the complainant to whom like sales have been made.

#### **80A.31 STATUTORY POLICY.**

Sections 80A.01 to 80A.31 shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it and to coordinate the interpretation of sections 80A.01 to 80A.31 with the related federal regulation.

# COMMITTEE REPORT - NO AMENDMENTS

Committee on State & Local Gov ops

S . F. No. 2319

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

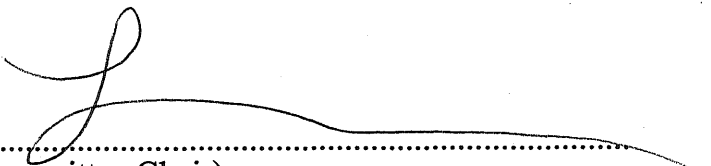
OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was re-referred**

1.4 **S.F. No. 2319:** A bill for an act relating to securities; enacting and modifying the  
1.5 2002 Uniform Securities Act of the National Conference of Commissioners on Uniform  
1.6 State Laws; prescribing criminal penalties; amending Minnesota Statutes 2004, sections  
1.7 60A.077, subdivision 9; 82.23; 82.43, subdivision 7; 144A.01, subdivision 4; 245A.02,  
1.8 subdivision 5a; 302A.011, subdivision 26; 302A.251, subdivision 4; 308A.505; 308B.465,  
1.9 subdivision 2; 322B.03, subdivision 43; 322B.663, subdivision 4; 356A.06, subdivision 6;  
1.10 proposing coding for new law in Minnesota Statutes, chapter 80A; repealing Minnesota  
1.11 Statutes 2004, sections 80A.01; 80A.02; 80A.03; 80A.04; 80A.041; 80A.05; 80A.06;  
1.12 80A.07; 80A.08; 80A.09; 80A.10; 80A.11; 80A.115; 80A.12; 80A.122; 80A.125; 80A.13;  
1.13 80A.14; 80A.15; 80A.16; 80A.17; 80A.18; 80A.19; 80A.22; 80A.23; 80A.24; 80A.25;  
80A.26; 80A.27; 80A.28; 80A.29; 80A.30; 80A.31.

1.14 Reports the same back with the recommendation that the bill do pass. Report  
1.15 adopted.

5  
1.17  
  
.....  
(Committee Chair)

1.18 March 27, 2006 .....  
1.19 (Date of Committee recommendation)



## SUMMARY

### Uniform Securities Act

#### Background

The Uniform Law Commissioners have turned to the subject of securities regulation four times in their history. The first act was the Uniform Sales of Securities Act of 1930, which predates the first major federal effort in 1933. The dating of this first act seems appropriate in light of the events of 1929. Recognizing the need for state uniformity, the Uniform Law Commissioners had begun their work eight years earlier, in 1922. There were not many enactments, however.

A second Uniform Securities Act was promulgated by the Uniform Law Commissioners in 1956 to replace the 1930 Act. It was enacted in 37 jurisdictions. The first revision of this mainstay of state securities regulation occurred in 1985; amendments were added to the 1985 Act in 1988, but the revision was enacted in only six states. The Uniform Law Commissioners have now promulgated a fourth Act which replaces both the 1956 and 1985 Acts. It is a carefully balanced result of four years of intensive consideration and drafting, and reflects consensus support from most representatives of the broad array of government and private sector interests that participated in the process. This summary describes the 2002 Uniform Securities Act.

#### Federal and State Law

Initially it is necessary to recognize that there are two concurrent securities regulatory regimes: one at the federal level and the other at the state level. Federal regulation of securities began effectively with Congress' enactment of the Securities Act of 1933 and the Securities Exchange Act of 1934, which created the Securities and Exchange Commission (SEC). These two Acts, plus the Investment Company and the Investment Adviser Acts enacted in 1940, all of them much amended over the years since their original enactment, are still the core federal law on securities regulation. But there are more federal statutes relevant to securities regulation: Section 103 of the 2002 Act lists a total of 13. From 1956 through 2002, drafters of the successive versions of the Uniform Securities Act have had to deal with the relationship with federal law. Coordinating federal and state regulation has been a substantial objective of the drafters of the new 2002 Uniform Act.

The failure of the 1985 Act to gain many enactments was rooted in the duplication of regulation problem, the role of merit regulation at the state level, and many states' reluctance to address the subject when there was such controversy about its provisions. In 1996, Congress partially resolved this problem in the National Securities Markets Improvements Act of 1996 (NSMIA) and the Securities Litigation Uniform Standards Act of 1998. In NSMIA Congress preempted significant parts of state power to duplicate federal regulation. For example, it prohibits a state from subjecting an offering of "federal covered securities" to merit review and other registration requirements. A principal effort of the 2002 Uniform Act is to reconcile, and to achieve better coordination of, federal and state securities regulation.

#### State Role in Securities Regulation

The states have an important role in securities regulation. There is fraudulent activity at a level that eludes federal law protection, even when federal law applies. And by no means is every security sold a "federal covered security." Many schemes to defraud investors involve locally generated pyramid schemes, misrepresentation, and scam sales. Without state regulation

accompanied by civil and criminal enforcement of the law in state courts, there would be little hope of redress for many victimized investors. State enforcement is also available when there are fraudulent schemes involving federal covered securities. In effect, Congress and the SEC have acknowledged that the federal level is unable to cope with all the enforcement that needs to be done.

The 2002 Uniform Act is an effort to give states regulatory and enforcement authority that minimizes duplication of regulatory resources and that blends with federal regulation and enforcement in a more efficient system for investor protection. Uniformity of law among the states is essential for this to happen, but it needs to be a uniform law that coordinates with federal law.

### **Elements of Securities Regulation**

Securities regulation exists to prevent fraudulent sales of securities to investors. The purpose is achieved by three methods. First, initial public offerings of securities by issuers and control persons must be registered. Second, broker-dealers and their agents, and investment advisers and their representatives, must be registered. Third, fraud in securities transactions must be prohibited and enforcement powers given to an appropriate regulatory agency. These powers include the ability to make rules and regulations, issue stop-orders, bring criminal prosecutions and pursue civil actions in court. The 2002 Uniform Act brings all of this up-to-date with expansion of enforcement authority at the state level.

### **Registration and Filing for Securities Offerings**

There are three methods for dealing with public offerings of securities under the new Act: notice filing, registration by coordination, and registration by qualification.

Notice filing is for certain "federal covered securities". These are securities which by reason of federal preemption are no longer registered at the state level. They include securities that are, or on completion of the offering will be, listed on the New York or American Stock Exchanges, on NASDAQ, or on other exchanges that the SEC approves; or are securities issued by SEC registered investment companies (most of which are the mutual funds); or are securities issued under specified exemptions in the Securities Act of 1933. Public offerings of listed securities and mutual funds, of course, will be registered with the SEC. The notice filing under the 2002 Uniform Act is for federal covered securities other than listed securities, and includes a consent to service of process, payment of a filing fee, and, depending on the state securities administrator's requirements, can include copies of material filed with the SEC as part of registration there. The intent of both NSMIA and the 2002 Uniform Act is to remain essentially revenue neutral as to the states. The Act provides a platform for eventually effectuating one-stop filing whereby documents filed with the SEC can be electronically filed with states within which offerings are to be made.

Offerings of securities that are not federal covered securities must be registered at the state level unless exempt, by means of either coordination or qualification. The provision in the 1956 Act for registration by notification has been eliminated in the 2002 Act, both because it has rarely been used in recent years and because most securities to which it was applicable are now preempted federal covered securities.

Coordination registration at the state level is available for securities that, even though not federal covered securities, are registered with the SEC. These would include securities that do not meet the listing standards of exchanges, which have been going through a process of upgrading. The new Act's registration by coordination provision is little changed from the 1956 Act, which originated it. The objective of the coordination is the simultaneous registration of the offering at the SEC and in the states where the offering is to be made. In order to facilitate the coordination registration process, the state securities administrators association has implemented a system for coordinated review of such an offering by the states in which the offering is to be made. The new Act provides support for that effort. The new Act continues to permit "merit" regulation, which for the limited number of SEC registered issues to which it would apply remains, to that extent, inconsistent with the disclosure basis for SEC registration. A provision of the new Act does require that to the extent practicable any merit standards should be published so as to provide notice. It is hoped that such standards would be uniform among those states imposing such

regulation. A number of states do not apply merit regulation.

Qualification registration at the state level applies to all other offerings being made within a state, for which an exemption is not available. These can include intra-state offerings and offerings that are within exemptions from SEC registration because of their relatively small size. This provision in the new Act, including the required information content of the state registration (which is applicable also to issues being registered by coordination), is little changed from the 1956 Act, except for modernizing language.

The 2002 Act, like the 1956 Act, contains a number of exemptions from the general requirement that all securities offerings must be registered. Some exemptions are for securities, such as government (both U.S. and foreign) and municipal securities, and some are for transactions in securities, such as unsolicited brokerage and limited offering transactions.

Relevant to transaction exemptions is the definition of "institutional investor" in the new Act. It seeks both to make uniform the varied definitions in current state laws and to be consistent under federal law. With respect to securities exemptions, authority is given to the state securities administrator to limit the availability of the exemption for nonprofit organizations securities if debt obligations are being publicly offered. A number of states have been confronted with problems, sometimes of fraud and sometimes simply of inadequate disclosure, in the sale of church bonds.

It is important to recognize that all of these exemptions are only from the registration of securities. They do not free broker-dealers, investment advisers, agents, or investment adviser representatives from the separate registration requirements applicable to them under the Act. In addition, the antifraud provisions of the Act continue to apply to anyone engaging in an exempted transaction or in a transaction involving an exempted security.

#### **Registration of Securities Professionals**

The second method of securities regulation is the registration, and continued oversight, of broker-dealers and investment advisers, and the individuals who are agents of broker-dealers or issuers or who are investment adviser representatives, all defined terms in the Act. Here again there is a necessary interaction of federal and state law. The 2002 Act systematizes and reorganizes the provisions dealing with these securities professionals and coordinates them to the extent feasible with federal regulation.

In NSMIA, Congress limited, in certain respects, the state regulation of broker-dealers. In practice most broker-dealers are required under the Securities Exchange Act to be registered with the National Association of Securities Dealers (NASD) and are regulated by both that self-regulatory organization and by the SEC. Nevertheless, under NSMIA and the 2002 Act they are still subject to registration with, and antifraud enforcement by, the states. The individuals who are agents of broker-dealers are also required to be dually registered, and agents of issuers are in general required by the Act to be registered in the states. The new uniform Act clarifies these federal-state interrelationships and promotes an efficient coordination of the duality of registration and regulation in the public interest to the benefit of both the regulators and the regulated.

NSMIA took a somewhat different tack with respect to investment advisers and the individuals who are investment adviser representatives. For investment advisers Congress exercised its constitutional preemptive power to allocate regulatory authority between the SEC and the states. State registration of large investment advisers (those having assets under management in excess of \$25 million) was preempted and is exclusively with the SEC. However, under the Act and as permitted by NSMIA notice filings by such "federal covered investment advisers", who must be registered with the SEC, are to be made at the state level, along with payment of filing fees and consents to service of process. Smaller investment advisers (those having assets under management of less than \$25 million) are left to exclusive state registration and regulation. The new Uniform Act provides for the notification by larger advisers and the registration of smaller advisers.

The individuals who are investment adviser representatives of both federal covered investment advisers and the investment advisers subject to state registration must be registered with the

states in which they do business, unless exempted. There is no system for federal registration of investment adviser representatives, but the NASD is cooperating with the national association of state securities regulators in the creation of a centralized filing system for such representatives. The new Act supports such a system.

There are certain clarifying exclusions from the definitions of broker-dealer, agent, investment adviser, and investment adviser representative and certain exemptions from their registration in the 2002 Uniform Act, which are in general consistent with the federal statutes and with the 1956 Act.

### **Enforcement**

The third method of securities regulation, of course, is enforcement, against anyone for fraudulent practices in securities transactions and against issuers and securities professionals for failure to comply with the registration regimes applicable to them. The new Uniform Act continues the enforcement powers of the state securities regulators contained in the 1956 Act with some enhancements. Enforcement includes civil and criminal actions in the courts and administrative proceedings. The new Act authorizes the state securities administrator to issue, under appropriate procedures, cease and desist orders for violations of the Act, and authorizes courts to enforce such orders. Also contained in the Act are authority for conduct of investigations and issuance of subpoenas and provision of assistance to securities regulators in other jurisdictions. The Act also includes civil liability provisions for defrauded persons to obtain damages or rescission that are substantially the same as in the 1956 Act, except that the statute of limitations is lengthened to be the same as the federal statute of limitations for securities fraud liability.

Fraud in connection with securities is a broadly defined term under both federal and state securities law, and the 2002 Act preserves that breadth. In fact, the applicability of the anti-fraud provisions has been expanded by having moved some exclusions from definitions in the 1956 Act to exemptions from registration in the 2002 Act. The antifraud provisions in the Act apply within the state equally to state registered entities and persons, to federal covered investment advisers, and to anyone in connection with transactions in any securities, including federal covered securities.

The definition of "security" largely determines the scope of the Act. The new Act tracks the definition of "security" in federal law, with some additional explicit language to make clear that the Act applies to uncertificated as well as certificated securities, to interests in limited partnerships and limited liability companies, and to investments in viatical settlements of insurance contracts, as to which there has been evidence of abuses. The Act also codifies a generally accepted definition of an "investment contract", a term included in the federal and state definition of "security", for the assistance of state courts. Following federal law, interests in pension plans subject to ERISA are excluded from the definition of "security", as are insurance contracts which are also regulated under other law.

The new Act, as did the 1956 Act, leaves open for resolution state by state whether variable annuity contracts issued by insurance companies should be excluded from the definition of "security". Variable annuities, which operate like and compete with mutual fund investments, are securities under federal law. Because the separate accounts of insurance companies that issue variable annuities would likely be registered with the SEC as investment companies, they would under NSMIA be federal covered securities not subject to state registration. Including them within the definition of security would have the effect of making their sale subject to the notice filing and antifraud provisions of the 2002 Uniform Act and require agent registration for their sellers.

While not strictly related to enforcement, it is worth noting that the 2002 Uniform Act contains a new provision that would authorize the state securities administrator to develop and implement programs for investor education, with particular emphasis on the prevention and detection of securities fraud. The new Act also creates a Securities Investor Education and Training Fund to support such a program, the funding of which is left to state by state determination. These initiatives are in recognition that financial literacy is increasingly important as participation in the country's equity markets has significantly broadened.

### **Coordination and Uniformity**

In NSMIA, Congress declared that its policy is to increase Federal and State cooperation in securities matters. To implement this, it instructed the SEC, at its discretion, to cooperate, coordinate and share information with state securities regulators so as to maximize effectiveness of securities regulation, maximize uniformity in federal and state regulatory standards, and minimize interference with the business of capital formation, including sharing of information regarding registration or exemption of securities issues and development and maintenance of uniform securities forms and procedures. Congress made it explicit that the policy it enunciated was not intended to be preemptive of state law.

The 2002 Uniform Securities Act responds to this federal initiative by containing a provision that contains a reciprocal instruction, in substantially the same language, from the state legislature to its securities administrator. Thus, upon enactment of the 2002 Act, both the federal and state regulators would have the same marching instructions from their respective legislatures to make securities regulation as efficient, effective and coordinated as practicable in the public interest and for the protection of investors. For this to happen both federal/state coordination and uniformity among the states must be the objectives. The 2002 Uniform Act provides a platform for these to occur at the state level.

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FOR SF 2319

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## MEMORANDUM

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**DATE:** March 2, 2006

**TO:** Senator Don Betzold, Chair  
Minnesota Senate Judiciary Committee

**FROM:** Thomas G. Lovett IV, Co-Chair  
[tlovett@lindquist.com](mailto:tlovett@lindquist.com)  
612.371.3270

Bruce A Mackenzie, Co-Chair  
[MackenzieBruce@Dorsey.com](mailto:MackenzieBruce@Dorsey.com)  
612.340.5678

**RE:** MSBA Task Force on Uniform Securities Act; S.F. No. 2319

The Minnesota State Bar Association Task Force on the Uniform Securities Act ("Committee") was formed in November 2003 at the request of the Executive Council of the Business Law Section of the MSBA to review the proposed Uniform Securities Act. The Committee and its Subcommittees included a number of lawyers in private practice as well as representatives from the Minnesota Department of Commerce and industry representatives. The Committee formed Subcommittees to study the following areas of the Act:

- Broker-Dealers, Agents, Investment Advisers, Investment Adviser Representatives, and Federal Covered Investment Advisers
- Fraud and Enforcement
- Registration
- Exemptions from Registration of Securities
- Administration

The Subcommittees and the full Committee met on a number of occasions beginning in November of 2003, studied the Uniform Act and recommended changes to the Uniform Act to reflect existing provisions in Minnesota law that the Committee believed were important. These changes were either reflected in S.F. No. 2319 as introduced on April 9, 2005, or are being introduced today.

Key non-technical Minnesota changes to Uniform Act include the following:

1. The Act would continue the current Minnesota exemption from registration for sales to accredited investors.
2. The Act would continue and simplify the current Minnesota small corporate offering registration (SCOR) but retain the "bad boy" disqualifications.
3. The Act would create a new limited safe harbor exemption from registration as broker-dealers for individuals who act as "finders" for issuers selling securities if those individuals are not subject to "bad boy" disqualifications, limit their activities to introduction of investors, and provide a notice filing to the State.
4. The Act would continue the current Minnesota exemptions from registration for offerings by cooperatives.
5. The Act would continue the current Minnesota practice of not requiring registration of investment adviser representatives.

Significantly, the Act would eliminate merit review of registered securities offerings, but would strengthen and enhance the enforcement authority of the Minnesota Department of Commerce.

The Act has a proposed effective date of August 1, 2007. The Committee believes this time frame is appropriate to enable the Department of Commerce to propose and adopt the new regulations necessary to implement the Act.

Based upon its review, the Committee recommends passage of the Uniform Act, as amended.

**The Committee Task Force Members included:**

Thomas G. Lovett IV, Co-Chair  
Bruce A Mackenzie, Co-Chair

Jeffrey Cotter  
Jennifer Dasari  
Jean Davis  
Avron Gordon  
Ronald D. McFall  
David B. Miller  
Girard Miller  
William Mower  
Charles L. Potuznik  
Michael W. Schley  
Janna Severance  
Todd A. Taylor  
Philip Tilton  
Albert Woodward

**Minnesota Department of Commerce Participants**

Scott Borchert  
Dan Sexton

**Observers:**

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DIRECTOR

**Senate**

State of Minnesota

**S.F. No. 3183 - Public Employees Retirement Association  
Accounts for Postemployment Benefits**

**Author:** Senator Don Betzold

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 27, 2006

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This bill authorizes political subdivisions to deposit money in accounts that will be maintained by the Public Employees Retirement Association (PERA) to pay for postretirement benefits owed to officers and employees. The bill does not affect benefits to be paid by Minnesota public pension plans.

**Section 1. ACCOUNTS FOR POSTEMPLOYMENT BENEFITS.**

**Subdivision 1. Establishment.** requires PERA to establish two funds for political subdivisions to use for postemployment benefits owed to officers and employees after they leave service. Directs that one of the funds must provide that each account within the fund is irrevocable and that the other fund must allow a political subdivision to revoke its accounts within the fund and withdraw some or all money for any reason. Appropriates all the money in the funds to PERA for the purposes of this section.

**Subdivision 2. Definitions.**

**Subdivision 3. Exclusivity.** prohibits a political subdivision from establishing a trust or any other equivalent arrangement to pay for postemployment benefits.

**Subdivision 4. Account maintenance and investment.** authorizes political subdivisions to establish an account in one or both funds that are created in this bill. Authorizes PERA to charge administrative costs to political subdivisions and appropriates the fees to PERA. Authorizes PERA to establish other terms and conditions for participation. Paragraph (b) requires PERA to certify all

of the money in the funds to the State Board of Investment for investment in combined investment funds.

**Subdivision 5. Limit on deposit in irrevocable account.** prohibits a political subdivision from depositing money in an irrevocable account if the deposit would cause the political subdivision's accounts to exceed actuarially determined liabilities for postretirement benefits.

**Subdivision 6. Withdrawal of funds and termination of account.** allows withdrawal of some or all money in an irrevocable account at any time for any reason. Requires that any money withdrawn from an irrevocable account must be deposited in a separate fund that must be used only to pay postemployment benefits. For irrevocable accounts, authorizes withdrawals only for:

- (1) payment of postemployment benefits; or
- (2) where changes in health care laws cause the amount in the account to exceed 120 percent of actuarially determined liabilities.

**Subdivision 7. Status of irrevocable fund.** exempts money deposited in the irrevocable funds from the claims of former officers and employees, creditors of the state, participating political subdivisions, or officers and employees of political subdivisions. Deems the irrevocable fund equivalent to a trust arrangement for all legal purposes.

TSB:rdr

Senators Betzold, Metzen, Robling, Solon and Kiscaden introduced-

S.F. No. 3183: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to local government; authorizing political subdivisions to establish accounts to pay for postemployment benefits owed to officers and employees; proposing coding for new law in Minnesota Statutes, chapter 353.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [353.95] ACCOUNTS FOR POSTEMPLOYMENT BENEFITS.

Subdivision 1. Establishment. The Public Employees Retirement Association must establish two funds that political subdivisions may use to hold money to pay for postemployment benefits owed to officers and employees after termination of service. One of the funds must provide that each account within the fund is irrevocable, and that money may be withdrawn only as permitted in this section. The other fund must provide that a political subdivision may revoke its account within the fund and withdraw some or all of the money in its account for any reason. All money in the two funds is appropriated to the Public Employees Retirement Association for purposes of this section.

Subd. 2. Definitions. For purposes of this section:

(1) "political subdivision" means any entity authorized by section 471.61 to provide benefits to its retired officers and employees; and

(2) "postemployment benefit" does not include benefits to be paid by a Minnesota public pension plan listed in section 356.20, subdivision 2, or 356.30, subdivision 3.

Subd. 3. Exclusivity. After the effective date of this section, except as authorized in this section, a political subdivision may not establish a trust or equivalent arrangement to pay for postemployment benefits owed to officers and employees after termination of service.

2.1            **Subd. 4. Account maintenance and investment.** (a) A political subdivision  
2.2            may establish an account in one or both of the funds created in this section. The Public  
2.3            Employees Retirement Association shall maintain a separate account within each fund for  
2.4            each participating political subdivision. The Public Employees Retirement Association  
2.5            may charge participating political subdivisions fees for reasonable administrative costs,  
2.6            and the amount of those fees is appropriated to the association from the accounts. The  
2.7            Public Employees Retirement Association may establish other terms and conditions for  
2.8            participation in the funds.

2.9            **(b) The Public Employees Retirement Association must certify all money in the**  
2.10           funds to the state board of investment for investment in the combined investment funds  
2.11           established in section 11A.14. Investment earnings must be credited to the account of each  
2.12           individual political subdivision.

2.13           **Subd. 5. Limit on deposit in revocable account.** A political subdivision may not  
2.14           deposit money in a revocable account if the deposit would cause the total amount in  
2.15           the political subdivision's revocable and irrevocable accounts to exceed the political  
2.16           subdivision's actuarially determined liabilities for postretirement benefits due to officers  
2.17           and employees, as determined under standards of the Government Accounting Standards  
2.18           Board.

2.19           **Subd. 6. Withdrawal of funds and termination of account.** (a) For a revocable  
2.20           account, a political subdivision may withdraw some or all of its money or terminate the  
2.21           account for any reason. Money withdrawn from a revocable account must be deposited  
2.22           in a fund separate and distinct from any other funds of the political subdivision, and this  
2.23           money, with accrued investment earnings, must be used only to pay postemployment  
2.24           benefits to former officers and employees.

2.25           **(b) For an irrevocable account, a political subdivision may withdraw money only:**

2.26           **(1) as needed to pay postemployment benefits owed to former officers and**  
2.27           **employees of the political subdivision; or**

2.28           **(2) to the extent that a change in federal or state health care laws has caused the**  
2.29           **amount in the account to exceed 120 percent of the political subdivision's actuarially**  
2.30           **determined liabilities for postemployment benefits due to officers and employees, as**  
2.31           **determined under standards of the Government Accounting Standards Board.**

2.32           **(c) A political subdivision requesting withdrawal of money from an account created**  
2.33           **under this section must do so at a time and in the manner required by the executive director**  
2.34           **of the Public Employees Retirement Association. The executive director must ensure that**  
2.35           **withdrawals comply with the requirements of this section.**

3.1            Subd. 7. Status of irrevocable fund. (a) All money in the irrevocable fund created  
3.2            in this section are held in trust for the exclusive benefit of former officers and employees  
                 of the participating political subdivisions, and are not subject to claims by creditors of  
3.4            the state, the participating political subdivisions, or the officers and employees of those  
3.5            political subdivisions.

3.6            (b) The irrevocable fund created in this section shall be deemed an arrangement  
3.7            equivalent to a trust for all legal purposes.



1.1 Senator *Senjem*..... moves to amend S.F. No. 3183 as follows:

2 Page 1, line 18, delete everything after "(2)" and insert "postemployment benefit"  
1.3 means a benefit giving rise to a liability under statement 45 of the Government Accounting  
1.4 Standards Board, and therefore does not include benefits to be paid by a Minnesota public  
1.5 pension plan listed in section 356.20, subdivision 2, or section 356.30, subdivision 3, and  
1.6 benefits provided on a defined contribution, individual account basis."

1.7 Page 1, delete line 19

*Adopted*

*Wiger*

1.1 Senator ..... moves to amend S.F. No. 3183 as follows:

Page 1, line 17, delete "and"

1.3 Page 1, line 19, delete the period and insert "; and"

1.4 Page 1, after line 19, insert:

1.5 "(3) "plan administrator" means third party agent or administrator handling the  
1.6 payment of benefits on behalf of the political subdivision consistent with the requirements  
1.7 of the Government Accounting Standards Board."

1.8 Page 1, line 23, after the period insert "This section shall not affect an employer's  
1.9 ability to contribute to individual medical savings or reimbursement accounts that are  
1.10 given preferential tax treatment under the internal revenue code, and established for the  
1 benefit of current or former employees or officers."

1.12 Page 2, delete lines 25 to 31 and insert:

1.13 "(b) For an irrevocable account:

1.14 (1) the plan administrator may withdraw money only as needed to pay post  
1.15 employment benefits owed to former officers and employees of the political subdivision; or

1.16 (2) the political subdivision may withdraw money only to the extent the political  
1.17 subdivision's actuarial liability is satisfied or otherwise defeased."

1.18 Page 2, line 32, after "A" insert "plan administrator or"

1.19 Page 3, line 4, after the third "the" insert "current and former"

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and Fiscal Analysis**

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# Senate

State of Minnesota

## **S.F. No. 3053 - Rulemaking to Allow All-Terrain Vehicle Use on Private Lands During Deer Season**

**Author:** Senator Steve Murphy

**Prepared by:** Thomas S. Bottem, Senate Counsel (651/296-3810) *TSB*

**Date:** March 27, 2006

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This bill directs the Commissioner of Natural Resources to amend Minnesota Rules to allow the operation of an all-terrain vehicle (ATV) on privately owned land during the legal shooting hours of firearms during deer season if the person operating the ATV is the owner of the land or is operating the ATV on the land with the landowners permission.

Authorizes the use of the good-cause exemption under section 14.388, subdivision 1, clause (3), which allows the incorporation of statutory changes into rules when no interpretation of law is required. Section 14.388 requires that the agency adopting the rule provide electronic and written notice of its intent to do so and provide five business days after the date of the notice for comments on the rule to be submitted to the Office of Administrative Hearings.

TSB:rd

Senators Murphy, Bakk, Saxhaug, Pariseau and Sams introduced--

S.F. No. 3053: Referred to the Committee on Environment and Natural Resources.

A bill for an act

1.2 relating to game and fish; requiring rulemaking to allow all-terrain vehicle use on  
1.3 privately owned land during legal shooting hours of a deer season.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. REQUIRED RULEMAKING; ALL-TERRAIN VEHICLE USE ON  
1.6 PRIVATE LANDS DURING DEER SEASON.

1.7 (a) The commissioner of natural resources shall amend Minnesota Rules, part  
1.8 6232.0300, subpart 7, to permit an individual to operate an all-terrain vehicle on privately  
1.9 owned land in an area open to taking deer by firearms during the legal shooting hours of  
1.10 the deer season, if the individual is:

1.11 (1) the owner of the land on which the all-terrain vehicle is operated; or

1.12 (2) a person with the landowner's permission to operate the all-terrain vehicle on  
1.13 the land.

1.14 (b) The commissioner may use the good cause exemption under Minnesota Statutes,  
1.15 section 14.388, subdivision 1, clause (3), in amending the rule under paragraph (a).  
1.16 Minnesota Statutes, section 14.386, does not apply, except to the extent provided under  
1.17 Minnesota Statutes, section 14.388.

# COMMITTEE REPORT - NO AMENDMENTS

Committee on State and Local Gov ops

S . F. No. 3053

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

No Committee report because the bill was not suppose to be heard in SLGO. The bill was only sent to Environment Not State and Local gov ops.

A bill for an act

1.2 relating to coroners; modifying and updating the coroner and medical examiners  
 1.3 law; providing criminal penalties; amending Minnesota Statutes 2004, sections  
 1.4 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.21; 390.221; 390.23;  
 1.5 390.25; 390.31, subdivision 1; Minnesota Statutes 2005 Supplement, section  
 1.6 390.05; proposing coding for new law in Minnesota Statutes, chapter 390;  
 1.7 repealing Minnesota Statutes 2004, sections 383A.36; 383B.225; 390.006;  
 1.8 390.06; 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.31, subdivisions 2,  
 1.9 3; 390.32; 390.33; 390.34; 390.35; 390.36.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2004, section 390.005, is amended to read:

1.12 **390.005 ELECTION OR APPOINTMENT, ELIGIBILITY; VACANCIES;  
 1.13 REMOVAL.**

1.14 Subdivision 1. ~~County election~~ **Selection of coroner or medical examiner.** Each  
 1.15 county must have a coroner or medical examiner. A coroner ~~shall~~ may be elected ~~in each~~  
 1.16 ~~county,~~ as prescribed by section 382.01, except as provided in this section or appointed in  
 1.17 each county. A medical examiner must be appointed by the county board. The term of an  
 1.18 appointed coroner or medical examiner must not be longer than five years.

1.19 Subd. 2. **Appointment by resolution.** ~~In a county where the office of coroner has~~  
 1.20 ~~not been abolished,~~ The board of county commissioners may, by resolution, state its  
 1.21 intention to fill the office of coroner by appointment. The resolution must be adopted at  
 1.22 least six months before the end of the term of the incumbent coroner, if elected. After the  
 1.23 resolution is adopted, the board shall fill the office by appointing a person not less than  
 1.24 30 days before the end of the incumbent's term. The appointed coroner shall serve for a  
 1.25 term of office determined by the board beginning upon the expiration of the term of the  
 1.26 incumbent. The term must not be longer than four years.

2.1 If there is a vacancy in the elected office ~~in the county~~, the board may by resolution,  
 2.2 state its intention to fill the office by appointment. When the resolution is adopted, the  
 2.3 board shall fill the office by appointment immediately. The coroner shall serve for a term  
 2.4 determined by the board. The term must not be longer than four years.

2.5 Subd. 3. ~~Subd. 3. Educational requirements~~ Qualifications. ~~A coroner must have~~  
 2.6 ~~successfully completed academic courses in pharmacology, surgery, pathology, toxicology,~~  
 2.7 ~~and physiology. However, if a board of county commissioners determines that the office~~  
 2.8 ~~of coroner shall not be elective and it cannot appoint any person meeting the educational~~  
 2.9 ~~qualifications as coroner, the board may:~~

2.10 ~~(1) appoint any qualified person, whether or not a resident of the county; or~~

2.11 ~~(2) if no qualified person can be found, appoint a person who is serving or has served~~  
 2.12 ~~as deputy coroner, whether or not a resident of the county. (a) The medical examiner must~~

2.13 ~~be a forensic pathologist who is certified or eligible for certification by the American~~  
 2.14 ~~Board of Pathology. The medical examiner is an appointed public official in a system of~~  
 2.15 ~~death investigation in which the administrative control, the determination of the extent~~  
 2.16 ~~of the examination, need for autopsy and the filing of the cause and manner of death~~  
 2.17 ~~information with the state registrar pursuant to section 144.221 are all under the control~~  
 2.18 ~~of the medical examiner.~~

2.19 ~~(b) The coroner must be a physician with a valid license in good standing under~~  
 2.20 ~~chapter 147, to practice medicine as defined under section 147.081, subd. 3. The coroner~~  
 2.21 ~~is a public official, elected or appointed, whose duty is to make inquiry into deaths in~~  
 2.22 ~~certain categories, determine the cause and manner of death, and file the information~~  
 2.23 ~~with the state registrar pursuant to section 144.221. The coroner must obtain additional~~  
 2.24 ~~training in medicolegal death investigation, such as training by the American Board of~~  
 2.25 ~~Medicolegal Death Investigators, within four years of taking office, unless the coroner~~  
 2.26 ~~has already obtained this training.~~

2.27 ~~(c) The coroner or medical examiner need not be a resident of the county.~~

2.28 Subd. 4. **Certain incumbents.** An incumbent coroner or medical examiner in  
 2.29 office on ~~July 1, 1965~~ meets the effective date of this section is hereby deemed to meet  
 2.30 the qualifications prescribed by this section for the purpose of continuance in, reelection  
 2.31 to, or appointment to the office of coroner until the end of the current term of office,  
 2.32 after which this statute will apply.

2.33 Subd. 5. **Vacancies, removal.** Vacancies in the office of coroner or medical  
 2.34 examiner shall be filled according to sections 375.08 and 382.02, or under subdivision 1.  
 2.35 ~~A~~ The medical examiner or appointed coroner may be removed from office as provided  
 2.36 by law: by the county board during a term of office for cause shown after a hearing upon

3.1 due notice of written charges. The hearing shall be conducted in accordance with that  
 3.2 county's human resources policy.

3.3 Sec. 2. [390.0065] HENNEPIN COUNTY MEDICAL EXAMINER; SELECTION  
 3.4 AND TERM.

3.5 Hennepin County shall use the following procedure to select the Hennepin County  
 3.6 medical examiner: The Hennepin County Board shall designate three licensed physicians  
 3.7 who shall constitute a Medical Examiner Board. One member shall be a dean or professor  
 3.8 of the Department of Pathology of a Class A medical school as designated by the American  
 3.9 Medical Association. Another member of the board shall be a member of the Minnesota  
 3.10 Society of Pathologists. The third member shall be designated by the Hennepin County  
 3.11 Medical Association from its membership. The Medical Examiner Board shall accept  
 3.12 applications for the position of Hennepin County medical examiner when a vacancy exists  
 3.13 in the office. Applications therefore shall be considered from doctors of medicine who  
 3.14 are: (1) graduates of a medical school recognized by the American Medical Association  
 3.15 or American Osteopathic Association, (2) members in good standing in the medical  
 3.16 profession, (3) eligible for appointment to the staff of the Hennepin County Medical  
 3.17 Center, and (4) certified or eligible for certification in forensic pathology by the American  
 3.18 Board of Pathology. The Medical Examiner Board shall review the qualifications of the  
 3.19 applicants and shall rank the applicants deemed qualified for the position and provide  
 3.20 to the county board a report of the seven highest ranked applicants together with their  
 3.21 qualifications. The county board shall appoint a county medical examiner from those  
 3.22 listed in the report. The term of the examiner shall continue for four years from the date of  
 3.23 appointment. Reappointment shall be made at least 90 days prior to the expiration of the  
 3.24 term. If a vacancy requires a temporary appointment, the board of commissioners shall  
 3.25 appoint a medical doctor on the staff of the county medical examiner's office to assume  
 3.26 the duties of the medical examiner until an appointment can be made in compliance with  
 3.27 the specified selection procedure. Actual and necessary expenses of the Medical Examiner  
 3.28 Board shall be paid in accordance with sections 471.38 to 471.415.

3.29 Sec. 3. Minnesota Statutes 2004, section 390.01, is amended to read:

3.30 **390.01 BOND AND INDEMNIFICATION .**

3.31 ~~Before taking office, the coroner shall post bond to the state in a penal sum set by the~~  
 3.32 ~~county board, not less than \$500 nor more than \$10,000. The coroner's bond is subject~~  
 3.33 ~~to the same conditions in substance as in the bond required by law to be given by the~~  
 3.34 ~~sheriff, except as to the description of the office. The coroner or medical examiner shall~~



4.1 be included in the bond held by the county for all appointed and elected county officials  
 4.2 and shall be defended and indemnified, pursuant to section 466.07. The bond and oath of  
 4.3 office shall be recorded and filed with the county recorder.

4.4 Sec. 4. **[390.011] AUTONOMY.**

4.5 The coroner or medical examiner is an independent official of the county, subject  
 4.6 only to appointment, removal, and budgeting by the county board.

4.7 Sec. 5. **[390.012] JURISDICTION.**

4.8 The coroner or medical examiner of the county in which a person dies or is  
 4.9 pronounced dead shall have jurisdiction over the death, regardless of where any injury that  
 4.10 resulted in the death occurred. The place where death is pronounced is deemed to be the  
 4.11 place where death occurred. If the place of death is unknown but the dead body is found in  
 4.12 Minnesota, the place where the body is found is considered the place of death. If the date  
 4.13 of death is unknown, the date the body is found is considered the date of death, but only for  
 4.14 purposes of this chapter. When a death occurs in a moving conveyance and the body is first  
 4.15 removed in Minnesota, documentation of death must be filed in Minnesota and the place  
 4.16 of death is considered the place where the body is first removed from the conveyance.

4.17 Sec. 6. Minnesota Statutes 2004, section 390.04, is amended to read:

4.18 **390.04 TO ACT WHEN SHERIFF A PARTY TO AN ACTION PROVISION**  
 4.19 **FOR TRANSFER OF JURISDICTION.**

4.20 When the sheriff is a party to an action or when a party, or a party's agent or  
 4.21 attorney, files with the court administrator of the district court an affidavit stating that the  
 4.22 party believes the sheriff, coroner or medical examiner, because of partiality, prejudice,  
 4.23 consanguinity, or interest, will is not faithfully able to perform the sheriff's coroner or  
 4.24 medical examiner's duties in an action commenced, or about to be commenced, the clerk  
 4.25 shall direct process in the action to the coroner. The coroner shall perform the duties of  
 4.26 the sheriff relative to the action in the same manner required for a sheriff., the coroner or  
 4.27 medical examiner shall have the authority to transfer jurisdiction to another coroner or  
 4.28 medical examiner, as arranged by the county board.

4.29 Sec. 7. Minnesota Statutes 2005 Supplement, section 390.05, is amended to read:

4.30 **390.05 DEPUTIES MEDICAL EXAMINER OR CORONER STAFF.**

4.31 ▲ The coroner shall or medical examiner may appoint one or more deputies.  
 4.32 assistant coroners or assistant medical examiners, as necessary to fulfill the duties of the

5.1 office, subject to authorization by the county board. Such assistants shall have the same  
 5.2 qualifications as a coroner or medical examiner. When the coroner or medical examiner is  
 absent or unable to act, ~~deputies~~ assistants shall have the same powers and duties and are  
 5.4 subject to the same liabilities as coroners. A deputy shall be appointed in writing. The  
 5.5 oath and appointment shall be recorded with the county recorder. The deputy shall act by  
 5.6 name as deputy coroner and hold office at the same time as the coroner. limitations as the  
 5.7 coroner or medical examiner. The assistants shall be appointed in writing, shall take an  
 5.8 oath that shall be recorded and filed with the county recorder, and shall be included in the  
 5.9 county bond. The assistant shall act by name as assistant coroner or medical examiner and  
 5.10 hold office at the same time as the coroner or medical examiner.

5.11 A coroner or medical examiner may appoint one or more investigators, with such  
 5.12 qualifications as the coroner or medical examiner deems appropriate. Such investigators  
 3 shall have the powers and duties that are delegated to them by the coroner or medical  
 5.14 examiner. Unless they are public employees of that county, investigators shall be  
 5.15 appointed in writing and take an oath, shall be included in the county bond, and the  
 5.16 oath and appointment shall be recorded and filed with the county recorder. Subject to  
 5.17 authorization of the county board, assistants may be appointed to the unclassified service  
 5.18 and investigators to the classified service of the county.

5.19 **Sec. 8. [390.061] MORGUE.**

5.20 Every county need not have a morgue, but there must be a system or process for  
 5.21 receiving, storing, and releasing all dead bodies subject to this statute.

2 Sec. 9. Minnesota Statutes 2004, section 390.11, is amended to read:

5.23 **390.11 INVESTIGATIONS AND INQUESTS.**

5.24 **Subdivision 1. ~~Deaths requiring inquests and investigations~~ Reports of death.**  
 5.25 ~~Except as provided in subdivision 1a, the coroner shall investigate and may conduct~~  
 5.26 ~~inquests in all human deaths of the following types: All sudden or unexpected deaths~~  
 5.27 ~~and all deaths that may be due entirely or in part to any factor other than natural disease~~  
 5.28 ~~processes must be promptly reported to the coroner or medical examiner for evaluation.~~  
 5.29 Sufficient information must be provided to the coroner or medical examiner. Reportable  
 5.30 deaths include, but are not limited to:

5.31 (1) unnatural deaths, including violent deaths, whether apparently homicidal,  
 suicidal, or accidental, including but not limited to deaths due to thermal, chemical,  
 5.33 electrical, or radiational injury, and deaths due to criminal abortion, whether apparently  
 5.34 self induced or not, arising from homicide, suicide, or accident;

- 6.1 (2) deaths due to a fire or associated with burns or chemical, electrical, or radiation  
 6.2 injury;
- 6.3 (3) unexplained or unexpected perinatal and postpartum maternal deaths;  
 6.4 ~~(2)~~ (4) deaths under suspicious, unusual, or mysterious unexpected circumstances;  
 6.5 ~~(3)~~ (5) deaths of persons whose bodies are to be cremated, dissected, buried at sea,  
 6.6 or otherwise disposed of so that the bodies will later be unavailable for examination; and  
 6.7 ~~(4)~~ (6) deaths of inmates of public institutions and persons in custody of law  
 6.8 enforcement officers who are have not been hospitalized primarily for organic disease and  
 6.9 whose deaths are not of any type referred to in clause (1) or (2);
- 6.10 (7) deaths that occur during, in association with, or as the result of diagnostic,  
 6.11 therapeutic, or anesthetic procedures;
- 6.12 (8) deaths due to culpable neglect;
- 6.13 (9) stillbirths of 20 weeks or longer gestation unattended by a physician;
- 6.14 (10) sudden deaths of persons not affected by recognizable disease;
- 6.15 (11) unexpected deaths of persons notwithstanding a history of underlying disease;
- 6.16 (12) deaths in which a fracture of a major bone such as a femur, humerus, or tibia  
 6.17 has occurred within the past six months;
- 6.18 (13) deaths unattended by a physician occurring outside of a licensed health care  
 6.19 facility or licensed residential hospice program;
- 6.20 (14) deaths of persons not seen by their physician within 120 days of demise;
- 6.21 (15) deaths of persons occurring in an emergency department;
- 6.22 (16) stillbirths or deaths of newborn infants in which there has been maternal use of  
 6.23 or exposure to unprescribed controlled substances including street drugs or in which there  
 6.24 is history or evidence of maternal trauma;
- 6.25 (17) unexpected deaths of children;
- 6.26 (18) solid organ donors;
- 6.27 (19) unidentified bodies;
- 6.28 (20) skeletonized remains;
- 6.29 (21) deaths occurring within 24 hours of arrival at a health care facility if death  
 6.30 is unexpected;
- 6.31 (22) deaths associated with the decedent's employment;
- 6.32 (23) deaths of nonregistered hospice patients or patients in nonlicensed hospice  
 6.33 programs; and
- 6.34 (24) deaths attributable to acts of terrorism.

6.35 The coroner or medical examiner shall determine the extent of the coroner's or medical  
 6.36 examiner's investigation, including whether additional investigation is needed by the

7.1 coroner or medical examiner, jurisdiction is assumed, or an autopsy will be performed,  
7.2 notwithstanding any other statute.

Subd. 1a. **Commissioner of corrections; investigation of deaths.** ~~The~~  
7.4 ~~commissioner of corrections may require that all Department of Corrections incarcerated~~  
7.5 ~~deaths be reviewed by an independent, contracted, board-certified forensic pathologist.~~  
7.6 For deaths occurring within a facility licensed by the Department of Corrections, the  
7.7 coroner or medical examiner shall ensure that a forensic pathologist who is certified by  
7.8 the American Board of Pathology reviews each death and performs an autopsy on all  
7.9 unnatural, unattended, or unexpected deaths and others as necessary.

7.10 **Subd. 1b. Hospice registration.** Each coroner and medical examiner shall establish  
7.11 a registration policy regarding hospice patients. If a hospice patient is determined to be  
7.12 properly preregistered, the coroner or medical examiner may treat the death as attended  
3 by a physician.

7.14 **Subd. 2. ~~Violent or mysterious deaths; Autopsies.~~** The coroner or medical  
7.15 examiner may ~~conduct~~ order an autopsy, at the coroner or medical examiner's sole  
7.16 discretion, in the case of any human death referred to in subdivision 1, ~~clause (1) or (2),~~  
7.17 when, in the judgment of the coroner ~~judges that~~ or medical examiner the public interest  
7.18 requires would be served by an autopsy, ~~except that an autopsy must be conducted in all~~  
7.19 ~~unattended inmate deaths that occur in a state correctional facility.~~ The autopsy shall be  
7.20 performed without unnecessary delay. A report of the facts developed by the autopsy  
7.21 and findings of the person performing the autopsy shall be made promptly and filed in  
7.22 the office of the coroner or medical examiner. When further investigation is deemed  
7.23 advisable, a copy of the report shall be delivered to the county attorney. Every autopsy  
4 performed pursuant to this subdivision shall, whenever practical, be performed in the  
7.25 county morgue. Nothing herein shall require the coroner or medical examiner to order an  
7.26 autopsy upon the body of a deceased person if the person died of known or ascertainable  
7.27 causes or had been under the care of a licensed physician immediately prior to death or if  
7.28 the coroner or medical examiner determines the autopsy to be unnecessary.

7.29 Autopsies performed pursuant to this subdivision may include the removal,  
7.30 retention, testing, or use of organs, parts of organs, fluids or tissues, at the discretion of  
7.31 the coroner or medical examiner, when removal, retention, testing, or use may be useful  
7.32 in determining or confirming the cause of death, mechanism of death, manner of death,  
7.33 identification of the deceased, presence of disease or injury or preservation of evidence.  
7.34 Such tissue retained by the coroner or medical examiner pursuant to this subdivision shall  
7.35 be disposed of in accordance with standard biohazardous hospital and/or surgical material  
7.36 and does not require specific consent or notification of the legal next of kin. When

8.1 removal, retention, testing, and use of organs, parts of organs, fluids, or tissues is deemed  
8.2 beneficial, and is done only for research or the advancement of medical knowledge and  
8.3 progress, written consent or documented oral consent shall be obtained from the legal next  
8.4 of kin, if any, of the deceased person prior to the removal, retention, testing, or use.

8.5 Subd. 2a. **Deaths caused by fire; autopsies.** ~~The coroner shall conduct an autopsy~~  
8.6 ~~in the case of any human death reported to the coroner by the state fire marshal or a chief~~  
8.7 ~~officer under section 299F.04, subdivision 5, and apparently caused by fire. The coroner or~~  
8.8 medical examiner shall conduct an autopsy or require that one be performed in the case of a  
8.9 death reported to the coroner or medical examiner by the state fire marshal or a chief officer  
8.10 under section 299F.04, subdivision 5, and apparently caused by fire, and in which the  
8.11 decedent is pronounced dead outside of a hospital in which identification of the decedent  
8.12 has not been confirmed. If the decedent has died in a hospital and identification is not in  
8.13 question, an autopsy may be performed or ordered by the coroner or medical examiner.

8.14 Subd. 3. **~~Other deaths; autopsies; Exhumation; consent disinterment.~~** The  
8.15 coroner ~~may conduct an autopsy in the case of any human death referred to in subdivision~~  
8.16 ~~1, clause (3) or (4); or medical examiner may exhume any human body and perform~~  
8.17 ~~an autopsy on it in the case of any human death referred to in subdivision 1 when the~~  
8.18 ~~coroner or medical examiner judges that the public interest requires an autopsy. No~~  
8.19 ~~autopsy exhumation shall be conducted unless the surviving spouse, or legal next of kin~~  
8.20 ~~if there is no surviving spouse, consents to it, or the district court of the county where the~~  
8.21 ~~body is located or buried, upon notice as the court directs, enters an order authorizing an~~  
8.22 ~~autopsy or an exhumation and autopsy orders it. Notice of such exhumation shall be given~~  
8.23 ~~as directed by the district court. Application for an order may be made by the coroner,~~  
8.24 ~~medical examiner, or by the county attorney of the county where the body is located or~~  
8.25 ~~buried, and shall be granted upon a showing that the court deems appropriate.~~

8.26 Subd. 4. **Assistance of medical specialists.** If during an investigation the coroner or  
8.27 medical examiner believes the assistance of pathologists, toxicologists, ~~deputy coroners,~~  
8.28 ~~laboratory technicians, or other medical, scientific, or forensic experts is necessary to~~  
8.29 ~~determine or confirm the cause or manner of death, identification, time of death, or to~~  
8.30 ~~address other issues requiring expert opinion, the coroner shall or medical examiner may~~  
8.31 ~~obtain their assistance.~~

8.32 Subd. 5. **Inquest.** An inquest into a death may be held at the request of the medical  
8.33 examiner and the county attorney or the coroner and the county attorney. An inquest is  
8.34 optional and the coroner or medical examiner may investigate and certify a death without  
8.35 one. The coroner or medical examiner and county attorney may decide how to empanel  
8.36 the inquest. Inquest records will be made public, but the record and report of the inquest

9.1 proceedings may not be used in evidence in any civil action arising out of the death for  
 9.2 which an inquest was ordered. ~~Before an inquest is held, the coroner shall notify the~~  
~~county attorney to appear and examine witnesses at the inquest.~~

9.4 Whenever the decision is made to hold an inquest, the county attorney may issue  
 9.5 subpoenas for witnesses and enforce their attendance. The persons served with subpoenas  
 9.6 shall be allowed the same compensation and be subject to the same enforcement and  
 9.7 penalties as provided by Rule 22 of the Minnesota Rules of Criminal Procedure.

9.8 Subd. 6. **Records kept by coroner or medical examiner.** The coroner or medical  
 9.9 examiner shall keep full and complete records, properly indexed records, giving the name,  
 9.10 if known, of every person whose death is investigated, the place where the body was  
 9.11 found, the date, cause, and manner of death, and all other ~~relevant~~ available information  
 9.12 concerning the death: ~~that the coroner or medical examiner considers pertinent.~~ These  
 9.13 records of the coroner or medical examiner are the property of the county and subject to  
 9.14 chapter 13. These records shall be kept at the coroner's or medical examiner's office,  
 9.15 unless no storage space is available. They shall then be kept with official county records  
 9.16 and only released in accordance with the Data Practices Act. Records shall be kept in  
 9.17 accordance with section 15.17.

9.18 Subd. 7. **Reports Duty to report.** (a) Deaths of the types described in this section  
 9.19 must be promptly reported for investigation to the coroner or medical examiner by the law  
 9.20 enforcement officer, attending physician, health care professional, mortician or funeral  
 9.21 director, person in charge of the public institutions referred to in subdivision 1, or ~~other~~  
 9.22 ~~person with knowledge of the death:~~ anyone who discovers a deceased person. In a case  
 9.23 in which a crime may be involved, the coroner or medical examiner shall promptly notify  
 9.24 the law enforcement agency with jurisdiction over a criminal investigation of the death.

9.25 Subd. 7a. **Records and other material available to coroner or medical examiner.**  
 9.26 (b) ~~For the purposes of this section, health-related records or data on a decedent, Except~~  
 9.27 for health data defined in section 13.3805, subdivision 1, paragraph (a), clause (2),  
 9.28 health-related records or data on a decedent whose death is being investigated under  
 9.29 this section, whether the records or data are recorded or unrecorded, including but  
 9.30 not limited to those concerning medical, surgical, psychiatric, psychological, or any  
 9.31 other consultation, diagnosis, or treatment, including medical imaging, shall be made  
 9.32 promptly available to the coroner or medical examiner, upon the coroner's or medical  
 9.33 examiner's written request, by a any person, agency, entity, or organization having  
 9.34 custody of, possession of, access to, or knowledge of the records or data. This provision  
 9.35 includes records and data, whether recorded or unrecorded, including but not limited to,  
 9.36 records and data, including medical imaging, concerning medical, surgical, psychiatric,

10.1 psychological, chemical dependency, or any other consultation, diagnosis, or treatment. In  
10.2 cases involving a stillborn infant or the death of a fetus or infant less than one year of age,  
10.3 the prenatal records on the decedent's mother shall also be made available promptly to the  
10.4 coroner or medical examiner. The coroner or medical examiner shall pay the reasonable  
10.5 costs of copies of records or data so provided to the coroner under this section. Data  
10.6 collected or created pursuant to this subdivision relating to any psychiatric, psychological,  
10.7 or mental health consultation with, diagnosis of, or treatment of the decedent whose  
10.8 death is being investigated shall remain confidential or protected nonpublic data, except  
10.9 that the coroner's or medical examiner's final summary report may contain a summary  
10.10 of, or references to, such data. Where records of a decedent become part of the medical  
10.11 examiner's or coroner's file, they are not subject to subpoena or a request for production  
10.12 directed to the medical examiner or coroner. Body fluids, slides, tissue, organ specimens,  
10.13 radiographs, monitor records, video or other recordings, and any other material or article  
10.14 of diagnostic value obtained from the decedent prior to death, shall be made available to  
10.15 the coroner or medical examiner upon request. Notwithstanding the provisions of sections  
10.16 13.384 and 595.02, the coroner or medical examiner shall have the power to subpoena any  
10.17 and all documents, records, including medical records, and papers deemed useful in the  
10.18 investigation of a death.

10.19 Subd. 7b. **Records released by coroner or medical examiner.** Records and  
10.20 reports, including those of autopsies performed, generated, and certified by the coroner or  
10.21 medical examiner shall be admissible as evidence in any court or grand jury proceeding.  
10.22 The admissibility of such evidence under this subdivision shall not include statements  
10.23 made by witnesses or other persons unless otherwise admissible.

10.24 Subd. 8. **Investigation procedure; coroner or medical examiner in charge of**  
10.25 body. Upon notification of a the death subject to of any person as defined in this section,  
10.26 the coroner or ~~deputy shall~~ medical examiner staff or their designee may proceed to the  
10.27 body, take charge of it, and; arrange for transfer of it, when appropriate. This provision  
10.28 also applies to bones, body parts, and specimens that may be human remains. Discovery  
10.29 of such bones, body parts, and specimens must be promptly reported to the coroner or  
10.30 medical examiner. When necessary, the coroner or medical examiner staff, in coordination  
10.31 with the applicable law enforcement agency, may order that there be no interference with  
10.32 or compromise of the body or the scene of death. In the event a person is transported to  
10.33 an emergency vehicle or facility and pronounced dead, the scene of death shall include  
10.34 the original location of the decedent when first discovered to be ill, unresponsive, or  
10.35 stricken prior to removal by emergency medical personnel. Any person violating such  
10.36 an order is guilty of a gross misdemeanor. The coroner or medical examiner staff shall

11.1 make inquiry regarding the cause and manner of death and, in cases that fall under the  
 11.2 medical examiner's or coroner's jurisdiction, prepare written findings together with the  
 11.3 report of death and its circumstances, which shall be filed in the office of the coroner or  
 11.4 medical examiner.

11.5 Subd. 9. **Criminal act report.** ~~On coming to believe that the death may have~~  
 11.6 ~~resulted from a criminal act, The coroner or deputy~~ medical examiner shall deliver a  
 11.7 ~~signed~~ to the county attorney copies of reports or other information created by the  
 11.8 coroner's or medical examiner's office in any cases of a potential criminal nature. ~~copy of~~  
 11.9 ~~the report of investigation or inquest to the county attorney.~~

11.10 Subd. 10. **Sudden Infant death.** If a child under the age of two years dies suddenly  
 11.11 and unexpectedly ~~under circumstances indicating that the death may have been caused~~  
 11.12 ~~by sudden infant death syndrome, the coroner, medical examiner, or personal physician~~  
 11.13 ~~shall notify the child's parents or guardian that an autopsy is essential to establish the~~  
 11.14 ~~cause of death as sudden infant death syndrome. If an autopsy reveals that sudden infant~~  
 11.15 ~~death syndrome is the cause of death, that fact must be stated in the autopsy report., the~~  
 11.16 parents or guardian of the child shall be promptly notified of the ~~cause of death and of the~~  
 11.17 availability of counseling services.

11.18 Subd. 11. **Autopsy fees.** ~~The coroner may charge a reasonable fee to a person~~  
 11.19 ~~requesting an autopsy if the autopsy would not otherwise be conducted under subdivision~~  
 11.20 ~~1, 2, or 3.~~

11.21 Subd. 12. **Authorized removal of the brain.** If the coroner or medical examiner is  
 11.22 informed by a physician ~~or pathologist~~ that a ~~dead person~~ decedent is suspected of having  
 11.23 had Alzheimer's disease, the coroner ~~shall~~ or medical examiner may authorize the removal  
 11.24 of the brain ~~of the dead person~~ for the purposes of sections 145.131 and 145.132.

11.25 Sec. 10. Minnesota Statutes 2004, section 390.111, is amended to read:

11.26 **390.111 EXPENSES AND COMPENSATION.**

11.27 The county board ~~may allow~~ is responsible for the reasonable and necessary  
 11.28 compensation and expenses of the coroner or ~~deputies incurred for telephone tolls,~~  
 11.29 ~~telegrams, postage, the cost of transcribing the testimony taken at an inquest, and other~~  
 11.30 ~~expenses incurred solely for the officers' official business under this chapter.~~ medical  
 11.31 examiner, assistants, investigators, and other medical specialists.

Sec. 11. Minnesota Statutes 2004, section 390.15, is amended to read:

11.33 **390.15 WITNESSES; FEES.**



12.1           The coroner or medical examiner may ~~issue subpoenas for witnesses, returnable~~  
12.2 ~~immediately or at a specified time and place. The persons served with the subpoenas shall~~  
12.3 ~~be allowed the fees, the coroner shall enforce their attendance, and they shall be subject~~  
12.4 ~~to the penalties provided by statute or the Rules of Criminal Procedure. charge a fee for~~  
12.5 ~~cremation approval, duplication of reports, and other administrative functions to recover~~  
12.6 ~~reasonable expenses, subject to county board approval.~~

12.7           Sec. 12. **[390.151] ORGAN AND TISSUE DONATION.**

12.8           The coroner or medical examiner may facilitate donation of organs and tissues in  
12.9 compliance with the Uniform Anatomical Gift Act, sections 525.921 to 525.9224.

12.10          Sec. 13. **[390.152] CREMATION APPROVAL.**

12.11          After investigating deaths of persons who are to be cremated, the coroner or medical  
12.12 examiner may give approval for cremation and shall record such approval by either  
12.13 signing a cremation authorization form, or electronically through the centralized electronic  
12.14 system for the processing of death records established by the state registrar. It shall be a  
12.15 misdemeanor to perform a cremation without such approval.

12.16          Sec. 14. Minnesota Statutes 2004, section 390.21, is amended to read:

12.17                 **390.21 DISPOSITION; BURIAL.**

12.18                 ~~When a coroner holds an inquest upon view of the dead body of any person~~  
12.19 ~~unknown, or, being called for that purpose, does not think it necessary, on view of~~  
12.20 ~~the body, that an inquest be held, the coroner shall have the body decently buried. All~~  
12.21 ~~expenses of the inquisition and burial shall be paid by the county where the dead body is~~  
12.22 ~~found. After an investigation has been completed, including an autopsy if one is done, the~~  
12.23 ~~body shall be released promptly to the person or persons who have the right to control the~~  
12.24 ~~disposition of the body. Section 149A.80, subdivision 2, shall control. If the identity of~~  
12.25 ~~the deceased person is unknown, or if the body is unclaimed, the medical examiner or~~  
12.26 ~~coroner shall provide for dignified burial or storage of the remains. Dignified burial shall~~  
12.27 ~~not include cremation, donation for anatomic dissection, burial at sea, or other disposition~~  
12.28 ~~that will make the body later unavailable. The county where the dead body is found shall~~  
12.29 ~~pay reasonable expenses of the burial. If an estate is opened within six years and claim~~  
12.30 ~~made for the property or proceeds of the sale of the property of the decedent, the county~~  
12.31 ~~shall be reimbursed the amount spent on burial, with interest at the statutory rate.~~

13.1 Sec. 15. Minnesota Statutes 2004, section 390.221, is amended to read:

13.2 **390.221 BODIES; EFFECTS; CUSTODY.**

13.3 A person may not ~~remove~~ move, interfere with, or handle the body or the effects  
13.4 of ~~any person~~ a decedent subject to an investigation by the ~~county~~ coroner or medical  
13.5 examiner except upon order of the coroner ~~or~~, medical examiner, assistant, or deputy  
13.6 authorized investigator. The coroner or medical examiner shall take charge of the effects  
13.7 found on or near the body of a deceased person and dispose of them as the ~~district~~  
13.8 ~~court directs by written order~~ directed under section 390.225. If a crime is suspected  
13.9 in connection with the death of a deceased person ~~is suspected~~, the coroner or medical  
13.10 examiner may prevent any person, except law enforcement personnel, from entering the  
13.11 premises, rooms, or buildings, and shall have the custody of objects that the coroner or  
13.12 examiner deems material evidence in the case. The coroner or medical examiner shall  
13.13 release any property or articles needed for any criminal investigation to law enforcement  
13.14 officers conducting the investigation, except as noted in section 390.225, subdivision 2. A  
13.15 ~~willful~~ knowing violation of this section is a gross misdemeanor.

13.16 Sec. 16. **[390.225] PROPERTY.**

13.17 Subdivision 1. Procedure. The coroner or medical examiner may take possession of  
13.18 all articles that may be useful in establishing the cause or manner of death, identification,  
13.19 or next of kin of the deceased, and, if taken, mark them for identification, make an  
13.20 inventory, and retain them securely until they are no longer needed for evidence or  
13.21 investigation. Except as noted in subdivision 2, the coroner or medical examiner shall  
13.22 release any property or articles needed for any criminal investigation to law enforcement  
13.23 officers conducting the investigation.

13.24 Subd. 2. Retention of property. When a reasonable basis exists for not releasing  
13.25 property or articles to law enforcement officers, the coroner or medical examiner shall  
13.26 consult with the county attorney. If the county attorney determines that a reasonable basis  
13.27 exists for not releasing the property or articles, the coroner or medical examiner may  
13.28 retain them. The coroner or medical examiner shall obtain written confirmation of this  
13.29 opinion and keep a copy in the decedent's file.

13.30 Subd. 3. Release of property. With the exception of firearms, when property or  
13.31 articles are no longer needed for the investigation or as evidence, the coroner or medical  
13.32 examiner shall release such property or articles to the person or persons entitled to them.  
13.33 Personal property, including wearing apparel, may be released to the person entitled to  
13.34 control the disposition of the body of the decedent or to the personal representative of the

14.1 decendent. Personal property not otherwise released pursuant to this subdivision must be  
 14.2 disposed of pursuant to section 525.393.

14.3 Subd. 4. Firearms. The coroner or medical examiner shall release all firearms,  
 14.4 when no longer needed, to the law enforcement agency handling the investigation.

14.5 Subd. 5. Property of unknown decedents. If the name of the decedent is not  
 14.6 known, the coroner or medical examiner shall release such property to the county for  
 14.7 disposal or sale. If the unknown decedent's identity is established and if a representative  
 14.8 shall qualify within six years from the time of such sale, the county administrator, or a  
 14.9 designee, shall pay the amount of the proceeds of the sale to the representative on behalf  
 14.10 of the estate upon order of the court. If no order is made within six years, the proceeds of  
 14.11 the sale shall become a part of the general revenue of the county.

14.12 Sec. 17. Minnesota Statutes 2004, section 390.23, is amended to read:

14.13 **390.23 DEATH RECORDS OF VIOLENT OR MYSTERIOUS DEATH.**

14.14 No person, other than the county coroner, or medical examiner, judge exercising  
 14.15 probate jurisdiction, or Department of Corrections' independent, contracted,  
 14.16 board-certified forensic pathologist, or, for deaths occurring within a facility licensed by  
 14.17 the Department of Corrections, the forensic pathologist who reviewed the death, shall issue  
 14.18 a record file or amend the cause or manner of death information with the state registrar in  
 14.19 cases of likely or suspected accidental, suicidal, homicidal, violent, or mysterious deaths,  
 14.20 including suspected homicides, occurring in the county. The Department of Corrections'  
 14.21 independent, contracted, board-certified forensic pathologist must issue the certificate of  
 14.22 death in all Department of Corrections-incarcerated deaths. The forensic pathologist who  
 14.23 reviewed the death of an incarcerated person within a facility licensed by the Department  
 14.24 of Corrections may file or amend the cause or manner of death information with the State  
 14.25 Registrar. If there is reasonable proof that a death has occurred, but no body has been  
 14.26 found, a judge may direct the state registrar to register the death with the fact of death  
 14.27 information provided by the court order according to section 144.221 subdivision 3.

14.28 Sec. 18. Minnesota Statutes 2004, section 390.25, is amended to read:

14.29 **390.25 FINGERPRINTING OF UNIDENTIFIED DECEASED PERSON**  
 14.30 **PERSONS.**

14.31 Subdivision 1. Attempts to identify. Each coroner shall have fingerprinted all  
 14.32 deceased persons in the county whose identity is not immediately established. Within  
 14.33 24 hours after the body is found, the coroner shall forward to the Bureau of Criminal  
 14.34 Apprehension the fingerprints, fingerprint records, and other identification data. The

15.1 ~~superintendent of the bureau shall prescribe the form of these reports. The duties are in~~  
15.2 ~~addition to those imposed on the coroner by section 525.393. The coroner or medical~~  
15.3 ~~examiner shall make reasonable attempts to identify the deceased person promptly. These~~  
15.4 ~~actions may include obtaining: photographs of the body; fingerprints from the body, if~~  
15.5 ~~possible; formal dental examination by a dentist with forensic training, with charting and~~  
15.6 ~~radiographs; full body radiographs; specimens such as tissue, blood, bone, teeth, and/or~~  
15.7 ~~hair, suitable for DNA analysis or other identification techniques; blood type; photographs~~  
15.8 ~~of items such as clothing and property found on and with the body; and anthropological~~  
15.9 ~~determination of age, race, sex, and stature, if appropriate. All of these actions shall be~~  
15.10 ~~taken prior to the disposition of any unidentified deceased person.~~

15.11 Subd. 2. Report to BCA. After 60 days, the coroner or medical examiner  
15.12 shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse  
15.13 information to be entered into federal and state databases that can aid in the identification,  
15.14 including the National Crime Information Center database. The coroner or medical  
15.15 examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for  
15.16 DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal  
15.17 Apprehension into federal and state DNA databases within five business days after the  
15.18 completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

15.19 Subd. 3. Other efforts to identify. Nothing in this section shall be interpreted  
15.20 to preclude any medical examiner or coroner from pursuing other efforts to identify  
15.21 unidentified deceased persons, including publicizing information, descriptions, or  
15.22 photographs that may aid in the identification, allow family members to identify missing  
15.23 persons, and seek to protect the dignity of the missing persons.

15.24 Subd. 4. Preservation of data. The coroner or medical examiner may preserve  
15.25 and retain photographs, specimens, documents, and other data such as dental records,  
15.26 radiographs, fingerprints, or DNA, for establishing or confirming the identification of  
15.27 bodies or for other forensic purposes deemed appropriate under the jurisdiction of the  
15.28 office. Upon request by an appropriate agency, or upon the coroner or medical examiner's  
15.29 own initiative, the coroner or medical examiner may make the information available to aid  
15.30 in the establishment of the identity of a deceased person.

15.31 Subd. 5. Notice to state archaeologist. After the coroner or medical examiner  
15.32 has completed the investigation, the coroner or medical examiner shall notify the state  
15.33 archaeologist, according to section 307.08, of all unidentified human remains found  
15.34 outside of platted, recorded, or identified cemeteries and in contexts which indicate  
15.35 antiquity of greater than 50 years.

16.1 Sec. 19. **[390.251] REQUEST FOR EXAMINATIONS.**

16.2 The coroner or medical examiner may, when requested, make physical examinations  
16.3 and tests incident to any matter of a criminal nature under consideration by the district  
16.4 court or county attorney, law enforcement agency, or publicly appointed criminal defense  
16.5 counsel, and shall deliver a copy of a report of such tests and examinations to the person  
16.6 making the request. Such an examination does not establish a doctor-patient relationship.  
16.7 The person making the request shall pay the cost of such examinations and tests.

16.8 Sec. 20. **[390.252] CONTRACTS FOR SERVICES.**

16.9 A county board may contract to perform coroner or medical examiner services  
16.10 with other units of government or their agencies under a schedule of fees approved by  
16.11 that board.

16.12 Sec. 21. Minnesota Statutes 2004, section 390.31, subdivision 1, is amended to read:

16.13 Subdivision 1. **Purpose Expiration.** Those counties currently using the "simplified  
16.14 investigations of death," sections 390.31 to 390.35 provide a simplified system for the  
16.15 investigation of the death of any person when the county attorney determines that an  
16.16 investigation is necessary and provide for professional assistance to those making the  
16.17 investigation. It is declared to be in the public interest for medical doctors to conduct the  
16.18 medical investigations deemed necessary under the supervision of the county attorney  
16.19 and, if a trial is deemed necessary, that it be held in a court of record. may continue to do  
16.20 so until December 31, 2007, after which this statute will apply.

16.21 Sec. 22. **REPEALER.**

16.22 Minnesota Statutes 2004, sections 383A.36; 383B.225; 390.006; 390.06; 390.07;  
16.23 390.16; 390.17; 390.19; 390.20; 390.24; 390.31, subdivisions 2 and 3; 390.32; 390.33;  
16.24 390.34; 390.35; and 390.36, are repealed.

*Adopted*  
*Wiger*

- 1.1 Senator ..... moves to amend S.F. No. 3250 as follows:
- 1.2 Page 1, line 18; delete "five" and insert "four"
- 1.3 Page 5, line 10, delete "same time as" and insert "pleasure of"
- 1.4 Page 8, line 11, after "hospital" insert "or"
- 1.5 Page 16, delete section 21
- 1.6 Renumber the sections in sequence and correct the internal references
- 1.7 Amend the title accordingly

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops

3 .F. No. 3250

Resolution

Re-referred (from another committee)

**Amendments:**

A-3

**Committee recommendation:**

\_\_\_\_\_ And when so amended the bill do pass.

\_\_\_\_\_ And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on

Crime prevention

**No recommendation:** And when so amended the bill be  
\_\_\_\_\_ (re-referred to the Committee on \_\_\_\_\_)

OR \_\_\_\_\_ (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
 1.2 **Operations, to which was re-referred**

1.4 **S.F. No. 3250:** A bill for an act relating to coroners; modifying and updating the  
 1.5 coroner and medical examiners law; providing criminal penalties; amending Minnesota  
 1.6 Statutes 2004, sections 390.005; 390.01; 390.04; 390.11; 390.111; 390.15; 390.21;  
 1.7 390.221; 390.23; 390.25; 390.31, subdivision 1; Minnesota Statutes 2005 Supplement,  
 1.8 section 390.05; proposing coding for new law in Minnesota Statutes, chapter 390;  
 1.9 repealing Minnesota Statutes 2004, sections 383A.36; 383B.225; 390.006; 390.06;  
 1.10 390.07; 390.16; 390.17; 390.19; 390.20; 390.24; 390.31, subdivisions 2, 3; 390.32;  
 390.33; 390.34; 390.35; 390.36.

1.11 Reports the same back with the recommendation that the bill be amended as follows:

1.12 Page 1, line 18, delete "five" and insert "four"

1.13 Page 5, line 10, delete "same time as" and insert "pleasure of"

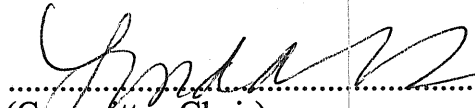
1.14 Page 8, line 11, after "hospital" insert "or"

1.15 Page 16, delete section 21

Renumber the sections in sequence

1.17 Amend the title accordingly

1.18 And when so amended the bill do pass and be re-referred to the Committee on Crime  
 1.19 Prevention and Public Safety. Amendments adopted. Report adopted.

1.20   
 1.21 (Committee Chair)

1.22 March 27, 2006 .....  
 1.23 (Date of Committee recommendation)



SF 3250

# Medical Examiners and Coroners

H.F. 3636 / S.F. 3250

## Description

The purpose of this bill is to update and re-codify Minnesota Statutes 390 and 383B.225, which outline the responsibilities of county coroners and medical examiners. The statutes governing medicolegal death investigations in Minnesota are complex and anachronistic with many outdated and obsolete provisions. It has been decades since there was a systematic revision of Chapter 390. The goal of the Minnesota Coroners and Medical Examiners Association is to develop a unified and universal law that is both effective and efficient for all of Minnesota's counties.

## Historical Background

There are currently three statutory provisions for coroners and medical examiners: Chapters 390.005—390.26 are essentially the original coroner statute which has been in place since territorial days.

In 1965, the office of the Hennepin County Medical Examiner was created under 383B.225.

Also in 1965, educational requirements were added to Chapter 390, so currently most Minnesota coroners and medical examiners are physicians.

In 1971, the "Simplified Investigations of Death", 390.31—390.35, was created. This took away the independent investigative function from the coroner and gave control to the county sheriff and county attorney. Since most deaths investigated by coroners and medical examiners are non-criminal, this is not a wise use of resources, and it abandons the parallel death investigation that has been a cornerstone of such inquiries for centuries.

## Current Public Expectations

In 1997 the U.S. Department of Justice published National Guidelines for Death Investigation. Since then, the National Association of Medical Examiners and the American Board of Medicolegal Death Investigators have promoted standards for death investigation and this statutory revision is an effort to bring Minnesota into compliance with minimum national standards. Public awareness and expectations have been raised by such television shows as "CSI", "Crossing Jordan", and "Law and Order", to name a few. Ideally, each county would have a board-certified forensic pathologist directing medicolegal death investigation. However, given the limited number of forensic pathologists, this re-codification attempts to improve the level of education and training required for coroners and to insure systematic investigation of deaths.

## Specifics

### Qualifications and Terminology

"Coroner" would be a MD or DO (Doctor of Osteopathy) with training in standard death investigation practices and "Medical Examiner" would be a forensic pathologist. This brings Minnesota more in line with how these terms are used elsewhere. The coroner would no longer be forced to perform the duties of a disabled or disqualified sheriff and would not have the same power as a county or municipal judge or be able to commit someone to the county jail, all of which are in the current coroner statute!

**Medical examiner or coroner staff**

Defines the qualifications, duties, and authority of assistants and investigators. Currently deputies have the same powers as the coroner, which is not appropriate for non-physician death investigators.

**Reports of Death**

Clarifies the types of deaths that must be reported to the coroner or medical examiner. The list is expanded from the current statute, better addresses public health concerns, provides standards, promotes uniformity and insures that unexpected deaths are appropriately investigated.

**Hospice**

Enables persons who have chosen to die at home under the care of a hospice program to do so without undue interference, while providing a systematic level of investigation.

**Inquests**

Simplifies and modernizes the procedure for an inquest, although these are rarely held.

**Unidentified deceased persons**

Each year families in the United States have to cope with the disappearance of a loved one who is never found. The Minnesota Coroners and Medical Examiners Association, in partnership with the Bureau of Criminal Apprehension, developed a protocol in compliance with the President's DNA Initiative on Identifying the Missing for coroners and medical examiners to follow, in an effort to minimize the number of people who remain unidentified.

**Property**

Defines the proper handling and disposal of the property of decedents.

**Supporters**

- Minnesota Coroners and Medical Examiners Association**
- Minnesota Medical Association**
- Minnesota Funeral Directors Association**
- Minnesota County Attorneys Association**

March 2006  
Minnesota Coroners and Medical Examiners  
Association  
530 Chicago Avenue  
Minneapolis MN 55415

Senator McGinn introduced-

S.F. No. 3245: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to public safety; modifying terms related to the statewide public safety radio system; repealing obsolete provisions; amending Minnesota Statutes 2004, sections 403.21, subdivisions 2, 7; 403.34, subdivision 2; repealing Minnesota Statutes 2004, sections 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29; 403.30, subdivisions 2, 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Sec. 1. Minnesota Statutes 2004, section 403.21, subdivision 2, is amended to read:

Subd. 2. **Board.** "Board" or "radio board" ~~or "Metropolitan Radio Board"~~ means the Metropolitan Statewide Radio Board or its successor regional radio board.

Sec. 2. Minnesota Statutes 2004, section 403.21, subdivision 7, is amended to read:

Subd. 7. **Plan.** "Plan" or "regionwide public safety radio system communication plan" means ~~the a plan adopted by the Metropolitan Radio Board for a regionwide public safety radio communications system.~~ a regional radio board.

Sec. 3. Minnesota Statutes 2004, section 403.34, subdivision 2, is amended to read:

Subd. 2. **Requirements to join.** Local governments and other entities eligible to join the regional public safety radio system which elect to join the system must do so in accordance with and meet the requirements of the provisions of the plan adopted by the radio board as provided in section ~~403.23, subdivision 2.~~ 403.36.

Sec. 4. **REPEALER.**

Minnesota Statutes 2004, sections 403.22; 403.23; 403.24; 403.25; 403.26; 403.28; 403.29; and 403.30, subdivisions 2 and 4, are repealed.

**403.22 BOARD; MEMBERSHIP, ADMINISTRATION.**

Subdivision 1. **General.** The Metropolitan Radio Board is established as a political subdivision with jurisdiction in the counties of Anoka, Carver, Chisago, Dakota, Hennepin, Isanti, Ramsey, Scott, and Washington. The board shall be organized, structured, and administered as provided in this section. Until funds to administer the board become available under section 403.23, subdivision 19, the Metropolitan Council shall provide office space and administrative support to the board at no cost.

Subd. 2. **Membership.** (a) The board consists of 21 members. Seventeen members shall be local officials and shall include:

(1) one county commissioner appointed by each respective county board from each of the counties in the board's jurisdiction;

(2) an elected official from each of the cities of Minneapolis, St. Paul, and Bloomington appointed by each respective city governing body;

(3) two elected officials from other metropolitan cities appointed by the governor, who shall consider recommendations made by the Association of Metropolitan Municipalities when making these appointments;

(4) an elected official from a county or a city within a county in Minnesota that is contiguous to the metropolitan area appointed by the governor, who shall consider recommendations made by the League of Minnesota Cities when making this appointment;

(5) a sheriff appointed by the governor, who shall consider recommendations made by the Metropolitan Sheriffs Association when making this appointment; and

(6) a police chief appointed by the governor, who shall consider recommendations made by the Minnesota Police Chiefs Association when making this appointment.

The 18th member shall be a member of the Metropolitan Council appointed by the council.

The 19th member shall be the director of electronic communications of the Minnesota Department of Transportation. The 20th member shall be the commissioner of public safety, or a designee of the commissioner. As provided in section 403.23, subdivision 20, the chair of the Technical Operations Committee serves as the 21st member of the board.

(b) The members shall be appointed within 30 days of the effective date of Laws 1995, chapter 195. Upon the effective date of Laws 1995, chapter 195, the Metropolitan Council shall inform the entities listed in this subdivision of the appointments required by this subdivision and shall provide whatever assistance is necessary to facilitate the appointment process and establish the radio board.

(c) Board members have no set term and remain on the board until a successor is appointed as provided by this subdivision. However, with respect to those board members who, under this subdivision, must be elected officials, a successor must be appointed as provided by this subdivision no later than the date that a member is no longer an elected official, unless the member dies while in office, in which case a successor must be named as soon as practicable.

Subd. 3. **Officers.** The officers of the board are: chair; vice-chair; secretary; and treasurer. The chair shall preside at all meetings of the board, and in the chair's absence, the vice-chair shall preside. The secretary shall keep a complete record of the minutes of each meeting. The treasurer shall keep the financial records of the board. The chair and vice-chair of the board shall be selected by a majority vote from the members of the board. The secretary and treasurer need not be members of the board.

Subd. 4. **Contracts.** Contracts and other written instruments of the board shall be signed by the chair or vice-chair and if the board has an executive director, by the executive director of the board pursuant to authority from the board.

Subd. 5. **Bylaws.** The board shall conduct its business in accordance with bylaws duly adopted by a majority of the board.

Subd. 6. **Voting.** Each member has one vote. The majority of the voting power of the board constitutes a quorum although a smaller number may adjourn from time to time. Any motion, other than adjournment, shall be favored by a majority of the voting power of the board in order to carry.

**403.23 POWERS OF THE BOARD.**

Subdivision 1. **General.** The board has the powers necessary and convenient to discharge the duties imposed on it by law, including those listed in this section.

Subd. 2. **Planning.** (a) The board shall review and, within 90 days of the effective date of Laws 1995, chapter 195, adopt the regionwide public safety radio system communication plan

prepared by the Metropolitan Radio Systems Planning Committee pursuant to Laws 1993, chapter 313, section 3, subdivision 2, for using the 800 megahertz and other frequencies available for public safety use. The plan must include, at a minimum:

(1) a system design recommended by the Minnesota commissioner of transportation for the first phase consisting of a shared regionwide infrastructure network;

(2) a system design for subsequent phases; and

(3) a plan for assignment of frequencies to the regional network and to each subsystem.

(b) No later than 30 days prior to adoption of the plan by the board, the board shall submit the plan to the Metropolitan Council for review in accordance with section 473.165, clause (1). The council may make comments to the board about the plan in accordance with section 473.165, clause (2), except that the deadline for comments shall be made within 30 days after submission of the plan to the council.

(c) If, within the 30-day review period, the council has made no comment on the plan or has made no findings as provided in section 473.165, clause (2), the plan shall go into effect as of the date of adoption by the board.

(d) If, within the 30-day review period, the council has made findings as provided in section 473.165, clause (2), the board and the council shall follow the procedure provided in section 473.165, clause (2). The board may adopt revisions to the plan in the same manner as is provided in this subdivision for adoption of the plan.

**Subd. 3. Application to FCC.** Within 180 days from adoption of the regionwide public safety radio system communication plan, the commissioner of transportation, on behalf of the state of Minnesota, shall use the plan adopted by the board under subdivision 2 to submit an extended implementation application to the Federal Communications Commission (FCC) for the NPSPAC channels and other public safety frequencies available for use in the metropolitan area and necessary to implement the plan. Local governments and all other public or private entities eligible under part 90 of the FCC rules shall not apply for public safety channels in the 821 to 824 and 866 to 869 megahertz bands for use within the metropolitan counties until the FCC takes final action on the regional application submitted under this section. Exceptions to the restrictions on the application for the NPSPAC channels may be granted by the board. The Minnesota Department of Transportation shall hold the master system licenses for all public safety frequencies assigned to the first phase under the board's plan and these channels must be used for the implementation of the plan. The board shall hold the master system licenses for the public safety frequencies assigned to local government subsystems under the board's plan and these channels must be used for implementation of the plan. Upon approval by the board of a local government's subsystem plan and evidence of a signed contract with a vendor for construction of a subsystem consistent with the board's system plan, the board shall apply to the FCC to transfer to the local government the licenses for the public safety frequencies assigned by the plan for use in the network infrastructure owned by the local government. The board, the commissioner of the Minnesota Department of Transportation, and local subsystem owners shall jointly colicense all subscriber equipment for the system backbone.

**Subd. 4. Plan implementation.** The board shall supervise the implementation of the regionwide public safety radio system communication plan adopted under subdivision 2 and must ensure that the system is built, owned, operated, and maintained in accordance with the plan. The board will work with the region 22 NPSPAC committee to incorporate the board's adopted plan into federal communication system regulations.

**Subd. 5. Required minimum level of service for local governments.** Subject to system capacity and channel availability, the board shall ensure that all local governments, quasi-public service operations, and private entities in the metropolitan counties that are eligible to use radio frequencies reserved for public safety use have adequate communications capacity and intercommunications capability.

**Subd. 6. Backbone and subsystems.** In the regionwide public safety radio system communication plan, the board shall define the backbone consistent with the recommendations made by the commissioner of transportation and the subsystems of the system, the timing and phasing of system development, the geographic scope of the system, the timing and extent of participation in the system including participation by additional entities, and standards for system performance. System performance standards shall be developed in consultation with the commissioner of transportation. The initial backbone shall serve state and regional agencies and shall include capabilities for regionwide mutual aid and emergency medical services communications and potentially provide alternative routing for 911 services.

**Subd. 7. Existing channel allocation.** The board shall coordinate allocation of existing radio channels made available to the board by conversion to 800 megahertz or other public safety frequencies.

Repealed Minnesota Statutes:

Subd. 8. **Cost apportionment.** The board shall determine how capital, operating, and administrative costs of the first phase system will be spread across users of the statewide public safety radio communication system, including costs for additional participants.

Subd. 9. **Excess capacity allocation.** The board shall determine how excess capacity provided in the initial system design in the statewide public safety radio communication system will be allocated.

Subd. 10. **System enhancement regulation.** The board shall determine the extent to which local governments, quasi-public service corporations, and private entities eligible to use the system may provide system enhancements at their own direct expense.

Subd. 11. **Standards.** The board is authorized to set or adopt performance and technical standards for operation of the backbone and subsystems and may modify standards as necessary to meet changing needs.

Subd. 12. **Use priorities.** The board shall establish priorities or protocols for use of the system.

Subd. 13. **First phase construction.** In order to implement the first phase backbone, the board shall contract with the state of Minnesota, through the commissioner of transportation for construction, ownership, operation, maintenance, and enhancement of these elements of the first phase backbone as defined in the plan. The commissioner, under appropriate state law, shall contract for, or procure by purchase or lease (including joint purchase and lease agreements), construction, installation of materials, supplies and equipment, and other services as may be needed to build, operate, and maintain the first phase system network. In accordance with the terms of the contract entered into with the radio board under this subdivision, the Department of Transportation will own, operate, and maintain those elements identified by the radio board in the plan as the first phase. The state will finance and pay for its share of the first phase.

Subd. 14. **Executive director.** The board may employ and fix the duties and compensation of an executive director who shall supervise the implementation of the plan including the design, ownership, construction, and operation of the first phase system and shall administer the business affairs of the board. The executive director is eligible for membership in the Minnesota State Retirement System. Until funds to administer the board become available under subdivision 19, the Metropolitan Council shall provide to the board an executive director who will be a staff member of the council. The executive director shall serve at the pleasure of the board.

Subd. 15. **System use by nongovernmental entities.** The board may contract with entities in the metropolitan counties eligible to use the public safety channels other than local governments, to provide them with public safety radio communication service. The board may contract with eligible jurisdictions and entities outside the metropolitan counties for inclusion in the statewide public safety radio communication system.

Subd. 16. **Minutes of board meetings.** The board shall keep proper minutes of all its proceedings which shall be open to public inspection at all reasonable times.

Subd. 17. **Accounting.** The board shall keep proper and adequate books of accounts showing all its receipts and disbursements by date, source, and amount. The board must be audited at least once each year. The board may elect to be audited by a certified public accountant or by the state auditor.

Subd. 18. **Insurance.** The board may obtain suitable, proper, and adequate public liability and workers' compensation insurance and other insurance as it deems necessary, including but not limited to, insurance against the liability of the board or its officers and employees for personal injury or death and property damage or destruction, with the force and effect stated in chapter 466, and against risks of damage to or destruction of any of its facilities, equipment, or other property.

Subd. 19. **User fees.** In accordance with the plan authorized in subdivision 2, the board may establish and impose user fees on entities using the first phase system to cover the board's costs of implementing the plan and the costs of operating the first phase system in the metropolitan area. The Metropolitan Council will collect the user fees.

Subd. 20. **Technical Operations Committee.** The board shall establish a Technical Operations Committee composed of representatives of the following functional categories to advise it in carrying out its purposes:

- (1) Minnesota Department of Public Safety;
- (2) Minnesota Department of Transportation;
- (3) sheriffs;
- (4) police;
- (5) fire protection;
- (6) emergency medical service;
- (7) public works;
- (8) civil defense;

Repealed Minnesota Statutes:

- (9) Metro 911 Telephone Board;
- (10) entities using 800 megahertz prior to initiation of the regional system;
- (11) managers or purchasing agents possessing expertise from a general perspective;
- (12) representatives of local units of government; and
- (13) regionwide public safety radio communication system users.

The members of the Technical Operations Committee serve without compensation. The chair of the Technical Operations Committee is an ex officio member of the radio board.

Subd. 21. **Contracts.** The board may enter into contracts necessary to carry out its responsibilities.

Subd. 22. **Property.** The board may acquire by purchase, lease, gift, or grant, property, both real and personal, and interests in property necessary for the accomplishment of its purposes and may sell or otherwise dispose of property which it no longer requires.

Subd. 23. **Gifts; grants.** The board may apply for, accept, and disburse gifts, grants, or loans from the United States, the state, or from any person for any of its purposes. It may enter into an agreement required for the gifts, grants, or loans and may hold, use, and dispose of money or property received according to the terms of the gift, grant, or loan.

Subd. 24. **Authority to litigate.** The board may sue and be sued.

#### 403.24 ADVERSE INTERESTS OF BOARD MEMBERS.

As provided in section 471.87, no member of the board shall have any personal or financial interest in any sale, lease, or other contract made by the board. Any violation of section 471.87 may make the sale, lease, or other contract voidable by the board. Upon conviction for a violation of section 471.87, a board member is automatically disqualified from further service on the board.

#### 403.25 COMPENSATION OF BOARD MEMBERS.

Subdivision 1. **Per diem and expenses.** Except as provided in subdivision 2, and unless otherwise prohibited by law, each board member of the radio board shall be reimbursed for actual and necessary expenses incurred in the performance of duties. The chair shall be paid a per diem in the same amount as is provided in section 15.0575, subdivision 3, for attending meetings, monthly, executive, and special, and board members shall be paid a per diem in the same amount as is provided in section 15.0575, subdivision 3, for attending meetings, monthly, executive, and special. A board member who receives a per diem from the board member's county or city shall not be paid a per diem for the same day by the board for attending meetings of the board. The annual budget of the board shall provide, as a separate account, anticipated expenditures for per diem, travel, and associated expenses for the chair and members, and compensation or reimbursement shall be made to the chair or members only when budgeted.

Subd. 2. **Limitation.** A board member whose annual public salary is \$25,000 or more shall only be reimbursed for expenses related to travel.

#### 403.26 FINANCE.

Subdivision 1. **Budget preparation; review and approval.** (a) The board shall prepare a proposed budget by August 1 of each year. The budget shall include operating revenues and expenditures for operation, administration, and maintenance. In addition, the budget must show for each fiscal year of the state biennium:

(1) the estimated operating revenues from all sources including funds on hand at the beginning of the year, and estimated expenditures for costs of operation, administration, maintenance, and debt service;

(2) capital improvement funds estimated to be on hand at the beginning of the year and estimated to be received during the year from all sources and estimated cost of capital improvements to be paid out or expended during the year, all in such detail and form as the council may prescribe; and

(3) the estimated source and use of pass-through funds.

(b) As early as practicable before August 15 of each year, the board shall hold a public hearing on a draft of the proposed budget. Along with the draft, the board shall publish a report on user charges. The report must include an estimated analysis of the changes in user charges, rates, and fees that will be required by the board's budget. Not less than 14 days before the hearing, the board shall publish notice of the hearing in a newspaper having general circulation in the metropolitan area, stating the date, time, and place of hearing, and the place where the proposed budget and report on user charges may be examined by any interested person.



Repealed Minnesota Statutes:

(c) Following the hearing, the board shall publish a report of the hearing that summarizes the comments received and board's response. The council shall approve or disapprove the entire budget by October 1 of each year. The council may disapprove only if the budget does not have adequate reserves to meet debt service. If the council disapproves the budget in accordance with this subdivision, the board shall, by November 1, resubmit to the council for approval, a budget which meets the requirements for council approval as provided in this subdivision. The council shall approve or disapprove the entire resubmitted budget by December 1.

(d) Before December 15 of each year, the board shall, by resolution, adopt a final budget. The board shall file its final budget with the council on or before December 20 of each year. The council shall file the budgets with the secretary of the senate and the clerk of the house of representatives not later than January 1 of each year. Before adoption, the board must submit any budget amendment which would affect debt service reserves to the council for review. The council has 15 days to approve or disapprove the amendment. The council shall disapprove the budget amendment only if the budget does not have adequate reserves to meet debt service.

(e) Except in an emergency, for which procedures must be established by the board, the board and its officers, agents, and employees may not spend money for any purpose, other than debt service, without an appropriation by the board, and no obligation to make such an expenditure shall be enforceable except as the obligation of the person or persons incurring it. The creation of any debt obligation or the receipt of any federal or state grant is a sufficient appropriation of the proceeds for the purpose for which it is authorized, and of the tax or other revenues pledged to pay the obligation and interest on it whether or not specifically included in any annual budget. After obtaining the approval of the council, the board may amend the budget at any time by transferring any appropriation from one purpose to another, except appropriations of the proceeds of bonds issued for a specific purpose. The council shall disapprove only if the amended budget does not have adequate reserves to meet debt service.

**Subd. 2. Program evaluation.** The budget procedure of the board must include a substantive assessment and evaluation of the effectiveness of each significant part of the regionwide public safety radio communication system implementation plan adopted by the board with, to the extent possible, quantitative information on the status, progress, costs, benefits, and effects of each program.

The board shall transmit the evaluation to the Metropolitan Council annually.

**Subd. 3. Council report to legislature.** Biennially the council shall submit a report to the legislature detailing the board's activities and finances for the previous year, the extent to which the system has been expanded beyond the metropolitan area, and the appropriateness of transferring responsibility for the Metropolitan Radio Board to a state agency.

**Subd. 4. Resale of services or capacity prohibited.** Neither the council, the board, or any local government unit may resell any service or capacity of this system to a nonpublic entity, except for those private entities eligible to hold Federal Communications Commission licenses in the public safety and special emergency radio services, as defined in Code of Federal Regulations, title 47, part 90 (1994).

#### **403.28 DEPOSITORIES.**

The Metropolitan Council shall, from time to time, designate one or more national or state banks, or trust companies authorized to do banking business, as official depositories for money of the board and shall require the board's treasurer to deposit all or a part of such money in those institutions. The designation shall be in writing and shall set forth all the terms and conditions upon which the deposits are made and shall be signed by the chair and treasurer and made a part of the minutes of the board. Any bank or trust company designated shall qualify as a depository by furnishing a corporate surety bond or collateral in the amounts required by section 118A.03. No bond or collateral shall be required to secure any deposit insofar as it is insured under federal law.

#### **403.29 MONEY; ACCOUNTS; INVESTMENTS.**

**Subdivision 1. Treasurer's duties.** All money received by the Metropolitan Council under section 403.23, subdivision 19, shall be deposited or invested by the board's treasurer and disposed of as the board may direct in accordance with its budget, provided that any money that has been pledged or dedicated by the Metropolitan Council to the payment of obligations or interest on them or expenses incident to them, or for any other specific purpose authorized by law, shall be paid by the board's treasurer into the fund to which they have been pledged.



Repealed Minnesota Statutes:

Subd. 2. **Funds and accounts established.** The Metropolitan Council shall establish funds and accounts as may be necessary or convenient to handle the receipts and disbursements of the board in an orderly fashion.

Subd. 3. **Depositories; investments.** The money on hand in the funds and accounts may be deposited in the official depositories of the Metropolitan Council or invested as provided in this subdivision. The amount not currently needed or required by law to be kept in cash on deposit, may be invested in obligations authorized for the investment of public funds by section 118A.04. The money may also be held under certificates of deposit issued by any official depository of the Metropolitan Council.

Subd. 4. **Use of bond proceeds.** The use of proceeds of all bonds issued by the Metropolitan Council for the purposes enumerated in section 403.27, subdivision 1, other than investment of all money on hand in any sinking fund or funds of the council, shall be governed by the provisions of chapter 475, the provisions of resolutions authorizing the issuance of the bonds, and by the trust indenture.

**403.30 APPROPRIATION; TRANSFERS; BUDGET.**

Subd. 2. **Radio board budget.** The Metropolitan Council shall transmit the annual budget of the radio board to the commissioner of public safety no later than December 15 of each year. The commissioner shall include all eligible costs approved by the radio board for the regionwide public safety communication system in the commissioner's request for legislative appropriations from the 911 emergency telecommunications service fee account.

Subd. 4. **Implementation of phases three to six.** To implement phases three to six of the statewide public safety radio communication system, the commissioner of public safety shall contract with the commissioner of transportation to construct, own, operate, maintain, and enhance the elements of phases three to six identified in the plan developed under section 403.36. The commissioner of transportation, under appropriate state law, shall contract for, or procure by purchase or lease (including joint purchase and lease agreements), construction, installation of materials, supplies and equipment, and other services as may be needed to build, operate, and maintain phases three to six of the system.

Adopted  
Tomassoni

1.1 Senator Tomassoni moves to amend S.F. No. 3245 as follows:

1.2 Page 1, delete section 3 and insert:

1.3 "Sec. 3. Minnesota Statutes 2005 Supplement, section 403.21, subdivision 8,  
is amended to read:

1.5 Subd. 8. **Subsystems.** "Subsystems" or "public safety radio subsystems" means  
1.6 systems identified in the plan or a plan developed under section 403.36 as subsystems  
1.7 interconnected by the system backbone and operated by ~~the Metropolitan Radio Board,~~ a  
1.8 regional radio board, or local government units for their own internal operations.

1.9 Sec. 4. Minnesota Statutes 2004, section 403.21, subdivision 9, is amended to read:

1.10 Subd. 9. **System backbone.** "System backbone" or "backbone" means a public  
1.11 safety radio communication system that consists of a shared, trunked, communication,  
1.12 and interoperability infrastructure network, including, but not limited to, radio towers and  
1.13 associated structures and equipment, the elements of which are identified in the regionwide  
1.14 public safety radio communication system plan ~~under section 403.23, subdivision 6,~~ and  
1.15 the statewide radio communication plan under section 403.36.

1.16 Sec. 5. Minnesota Statutes 2004, section 403.33, is amended to read:

1.17 **403.33 LOCAL PLANNING.**

1.18 Subdivision 1. **County planning process.** (a) No later than two years from May  
1.19 22, 1995, each metropolitan county shall undertake and complete a planning process  
1.20 for its public safety radio subsystem to ensure participation by representatives of local  
1.21 government units, quasi-public service organizations, and private entities eligible to use  
1.22 the regional public safety radio system and to ensure coordination and planning of the  
1.23 local subsystems. Local governments and other eligible users shall cooperate with the  
1.24 county in its preparation of the subsystem plan to ensure that local needs are met.

1.25 (b) The regional radio board for the metropolitan area shall encourage the  
1.26 establishment by each metropolitan county of local public safety radio subsystem

2.1 committees composed of representatives of local governments and other eligible users  
2.2 for the purposes of:

2.3 (1) establishing a plan for coordinated and timely use of the regionwide public safety  
2.4 radio system by the local governments and other eligible users within each metropolitan  
2.5 county; and

2.6 (2) assisting and advising the regional radio board for the metropolitan area in its  
2.7 implementation of the regional public safety radio plan by identification of local service  
2.8 needs and objectives.

2.9 (c) The regional radio board for the metropolitan area shall also encourage the  
2.10 establishment of joint or multicounty planning for the regionwide public safety radio  
2.11 system and subsystems.

2.12 (d) The regional radio board for the metropolitan area may provide local boards with  
2.13 whatever assistance it deems necessary and appropriate.

2.14 (e) No metropolitan county or city of the first class shall be required to undertake a  
2.15 technical subsystem design to meet the planning process requirements of this subdivision  
2.16 or subdivision 2.

2.17 Subd. 2. **Cities of first class; planning process.** Each city of the first class in the  
2.18 metropolitan counties shall have the option to participate in the county public safety radio  
2.19 subsystem planning process or develop its own plan.

2.20 Subd. 3. **Submission of plans to board.** Each metropolitan county and each city  
2.21 of the first class in the metropolitan area which has chosen to develop its own plan shall  
2.22 submit the plan to the regional radio board for the metropolitan area for the board's review  
2.23 and approval.

2.24 Subd. 4. **Local government joinder.** Local government units, except for cities of  
2.25 the first class, quasi-public service organizations, and private entities eligible to use the  
2.26 regional public safety radio system cannot join the system until its county plan has been  
2.27 approved by the regional radio board for the metropolitan area.

2.28 Sec. 6. Minnesota Statutes 2004, section 403.34, is amended to read:

2.29 **403.34 OPTIONAL LOCAL USE OF ~~REGIONAL~~ STATEWIDE SYSTEM.**

2.30 Subdivision 1. **Options.** Use of the ~~regional~~ statewide public safety radio system  
2.31 by local governments, quasi-public service organizations, and private entities eligible to  
2.32 use the system shall be optional and no local government or other eligible user of the  
2.33 system shall be required to abandon or modify current public safety radio communication  
2.34 systems or purchase new equipment until the local government or other eligible user  
2.35 elects to join the system. Public safety radio communication service to local governments

3.1 and other eligible users who do not initially join the system shall not be interrupted. No  
3.2 local government or other eligible users who do not join the system shall be charged a  
user fee for the use of the system.

3.4 Subd. 2. **Requirements to join.** Local governments and other entities eligible to  
3.5 join the ~~regional~~ statewide public safety radio system which elect to join the system must  
3.6 do so in accordance with and meet the requirements of the provisions of the plan adopted  
3.7 by the ~~radio~~ board as provided in section ~~403.23, subdivision 2~~ 403.36.

3.8 Sec. 7. Minnesota Statutes 2005 Supplement, section 403.36, subdivision 1, is  
3.9 amended to read:

3.10 Subdivision 1. **Membership.** (a) The commissioner of public safety shall convene  
3.11 and chair the Statewide Radio Board to develop a project plan for a statewide, shared,  
3.12 trunked public safety radio communication system. The system may be referred to as  
3.13 "Allied Radio Matrix for Emergency Response," or "ARMER."

3.14 (b) The board consists of the following members or their designees:

3.15 (1) the commissioner of public safety;

3.16 (2) the commissioner of transportation;

3.17 (3) the state chief information officer;

3.18 (4) the commissioner of natural resources;

3.19 (5) the chief of the Minnesota State Patrol;

3.20 (6) the commissioner of health;

3.21 (7) the commissioner of finance;

3.22 (8) two elected city officials, one from the nine-county metropolitan area and one  
3.23 from Greater Minnesota, appointed by the governing body of the League of Minnesota  
3.24 Cities;

3.25 (9) two elected county officials, one from the nine-county metropolitan area and  
3.26 one from Greater Minnesota, appointed by the governing body of the Association of  
3.27 Minnesota Counties;

3.28 (10) two sheriffs, one from the nine-county metropolitan area and one from Greater  
3.29 Minnesota, appointed by the governing body of the Minnesota Sheriffs' Association;

3.30 (11) two chiefs of police, one from the nine-county metropolitan area and one from  
3.31 Greater Minnesota, appointed by the governor after considering recommendations made  
3.32 by the Minnesota Chiefs' of Police Association;

3.33 (12) two fire chiefs, one from the nine-county metropolitan area and one from  
3.34 Greater Minnesota, appointed by the governor after considering recommendations made  
3.35 by the Minnesota Fire Chiefs' Association;

4.1 (13) two representatives of emergency medical service providers, one from the  
4.2 nine-county metropolitan area and one from Greater Minnesota, appointed by the governor  
4.3 after considering recommendations made by the Minnesota Ambulance Association;

4.4 (14) the chair of the ~~Metropolitan~~ regional radio board for the metropolitan area; and

4.5 (15) a representative of Greater Minnesota elected by those units of government in  
4.6 phase three and any subsequent phase of development as defined in the statewide, shared  
4.7 radio and communication plan, who have submitted a plan to the Statewide Radio Board  
4.8 and where development has been initiated.

4.9 (c) The Statewide Radio Board shall coordinate the appointment of board members  
4.10 representing Greater Minnesota with the appointing authorities and may designate the  
4.11 geographic region or regions from which an appointed board member is selected where  
4.12 necessary to provide representation from throughout the state.

4.13 Sec. 8. Minnesota Statutes 2004, section 403.36, subdivision 1f, is amended to read:

4.14 Subd. 1f. **Advisory groups.** (a) The Statewide Radio Board shall establish one or  
4.15 more advisory groups for the purpose of advising on the plan, design, implementation, and  
4.16 administration of the statewide, shared trunked radio and communication system.

4.17 (b) At least one such group must consist of the following members:

4.18 (1) ~~the chair of the Metropolitan Radio Board~~ and the chair of each regional radio  
4.19 board or, if no regional radio board has been formed, a representative of each region of  
4.20 development as defined in the statewide, shared, trunked radio and communication plan,  
4.21 once planning and development have been initiated for the region, or a designee;

4.22 (2) the chief of the Minnesota State Patrol or a designee;

4.23 (3) a representative of the Minnesota State Sheriffs' Association;

4.24 (4) a representative of the Minnesota Chiefs of Police Association;

4.25 (5) a representative of the Minnesota Fire Chiefs' Association; and

4.26 (6) a representative of the Emergency Medical Services Board."

4.27 Page 1, line 22, before the semicolon, insert "subdivisions 1, 2, and 3"

4.28 Page 1, line 22, delete the first "and"

4.29 Page 1, line 22, delete "4," and insert "4; and 403.35,"

4.30 Renumber the sections in sequence and correct the internal references

4.31 Amend the title accordingly

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops

S .F. No. 3245

Resolution

Re-referred (from another committee)

**Amendments:**

*Author's Amendment*

**Committee recommendation:**

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on

**No recommendation:** And when so amended the bill be  
 (re-referred to the Committee on \_\_\_\_\_)

OR  (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.5 **S.F. No. 3245:** A bill for an act relating to public safety; modifying terms related  
1.6 to the statewide public safety radio system; repealing obsolete provisions; amending  
1.7 Minnesota Statutes 2004, sections 403.21, subdivisions 2, 7; 403.34, subdivision 2;  
repealing Minnesota Statutes 2004, sections 403.22; 403.23; 403.24; 403.25; 403.26;  
403.28; 403.29; 403.30, subdivisions 2, 4.

1.8 Reports the same back with the recommendation that the bill be amended as follows:

1.9 Page 1, delete section 3 and insert:

1.10 "Sec. 3. Minnesota Statutes 2005 Supplement, section 403.21, subdivision 8,  
1.11 is amended to read:

1.12 **Subd. 8. Subsystems.** "Subsystems" or "public safety radio subsystems" means  
1.13 systems identified in the plan or a plan developed under section 403.36 as subsystems  
1.14 interconnected by the system backbone and operated by ~~the Metropolitan Radio Board, a~~  
regional radio board, or local government units for their own internal operations.

1.16 Sec. 4. Minnesota Statutes 2004, section 403.21, subdivision 9, is amended to read:

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1.18 safety radio communication system that consists of a shared, trunked, communication,  
1.19 and interoperability infrastructure network, including, but not limited to, radio towers and  
1.20 associated structures and equipment, the elements of which are identified in the regionwide  
1.21 public safety radio communication system plan ~~under section 403.23, subdivision 6, and~~  
1.22 the statewide radio communication plan under section 403.36.

1.23 Sec. 5. Minnesota Statutes 2004, section 403.33, is amended to read:

1.24 **403.33 LOCAL PLANNING.**

1.25 **Subdivision 1. County planning process.** (a) No later than two years from May  
1.26 22, 1995, each metropolitan county shall undertake and complete a planning process  
1.27 for its public safety radio subsystem to ensure participation by representatives of local  
1.28 government units, quasi-public service organizations, and private entities eligible to use  
1.29 the regional public safety radio system and to ensure coordination and planning of the  
1.30 local subsystems. Local governments and other eligible users shall cooperate with the  
1.31 county in its preparation of the subsystem plan to ensure that local needs are met.

1.32 (b) The regional radio board for the metropolitan area shall encourage the  
1.33 establishment by each metropolitan county of local public safety radio subsystem  
1.34 committees composed of representatives of local governments and other eligible users  
for the purposes of:

2.1 (1) establishing a plan for coordinated and timely use of the regionwide public safety  
2.2 radio system by the local governments and other eligible users within each metropolitan  
2.3 county; and

2.4 (2) assisting and advising the regional radio board for the metropolitan area in its  
2.5 implementation of the regional public safety radio plan by identification of local service  
2.6 needs and objectives.

2.7 (c) The regional radio board for the metropolitan area shall also encourage the  
2.8 establishment of joint or multicounty planning for the regionwide public safety radio  
2.9 system and subsystems.

2.10 (d) The regional radio board for the metropolitan area may provide local boards with  
2.11 whatever assistance it deems necessary and appropriate.

2.12 (e) No metropolitan county or city of the first class shall be required to undertake a  
2.13 technical subsystem design to meet the planning process requirements of this subdivision  
2.14 or subdivision 2.

2.15 **Subd. 2. Cities of first class; planning process.** Each city of the first class in the  
2.16 metropolitan counties shall have the option to participate in the county public safety radio  
2.17 subsystem planning process or develop its own plan.

2.18 **Subd. 3. Submission of plans to board.** Each metropolitan county and each city  
2.19 of the first class in the metropolitan area which has chosen to develop its own plan shall  
2.20 submit the plan to the regional radio board for the metropolitan area for the board's review  
2.21 and approval.

2.22 **Subd. 4. Local government joinder.** Local government units, except for cities of  
2.23 the first class, quasi-public service organizations, and private entities eligible to use the  
2.24 regional public safety radio system cannot join the system until its county plan has been  
2.25 approved by the regional radio board for the metropolitan area.

2.26 **Sec. 6. Minnesota Statutes 2004, section 403.34, is amended to read:**

2.27 **403.34 OPTIONAL LOCAL USE OF ~~REGIONAL~~ STATEWIDE SYSTEM.**

2.28 **Subdivision 1. Options.** Use of the ~~regional~~ statewide public safety radio system  
2.29 by local governments, quasi-public service organizations, and private entities eligible to  
2.30 use the system shall be optional and no local government or other eligible user of the  
2.31 system shall be required to abandon or modify current public safety radio communication  
2.32 systems or purchase new equipment until the local government or other eligible user  
2.33 elects to join the system. Public safety radio communication service to local governments  
2.34 and other eligible users who do not initially join the system shall not be interrupted. No



3.1 local government or other eligible users who do not join the system shall be charged a  
3.2 user fee for the use of the system.

3.3 Subd. 2. **Requirements to join.** Local governments and other entities eligible to  
3.4 join the ~~regional~~ statewide public safety radio system which elect to join the system must  
3.5 do so in accordance with and meet the requirements of the provisions of the plan adopted  
3.6 by the ~~radio~~ board as provided in section ~~403.23, subdivision 2~~ 403.36.

3.7 Sec. 7. Minnesota Statutes 2005 Supplement, section 403.36, subdivision 1, is  
3.8 amended to read:

3.9 Subdivision 1. **Membership.** (a) The commissioner of public safety shall convene  
3.10 and chair the Statewide Radio Board to develop a project plan for a statewide, shared,  
3.11 trunked public safety radio communication system. The system may be referred to as  
"Allied Radio Matrix for Emergency Response," or "ARMER."

3.13 (b) The board consists of the following members or their designees:

3.14 (1) the commissioner of public safety;

3.15 (2) the commissioner of transportation;

3.16 (3) the state chief information officer;

3.17 (4) the commissioner of natural resources;

3.18 (5) the chief of the Minnesota State Patrol;

3.19 (6) the commissioner of health;

3.20 (7) the commissioner of finance;

3.21 (8) two elected city officials, one from the nine-county metropolitan area and one  
3.22 from Greater Minnesota, appointed by the governing body of the League of Minnesota  
Cities;

3.24 (9) two elected county officials, one from the nine-county metropolitan area and  
3.25 one from Greater Minnesota, appointed by the governing body of the Association of  
3.26 Minnesota Counties;

3.27 (10) two sheriffs, one from the nine-county metropolitan area and one from Greater  
3.28 Minnesota, appointed by the governing body of the Minnesota Sheriffs' Association;

3.29 (11) two chiefs of police, one from the nine-county metropolitan area and one from  
3.30 Greater Minnesota, appointed by the governor after considering recommendations made  
3.31 by the Minnesota Chiefs' of Police Association;

3.32 (12) two fire chiefs, one from the nine-county metropolitan area and one from  
3.33 Greater Minnesota, appointed by the governor after considering recommendations made  
by the Minnesota Fire Chiefs' Association;

4.1 (13) two representatives of emergency medical service providers, one from the  
 4.2 nine-county metropolitan area and one from Greater Minnesota, appointed by the governor  
 4.3 after considering recommendations made by the Minnesota Ambulance Association;

4.4 (14) the chair of the ~~Metropolitan~~ regional radio board for the metropolitan area; and

4.5 (15) a representative of Greater Minnesota elected by those units of government in  
 4.6 phase three and any subsequent phase of development as defined in the statewide, shared  
 4.7 radio and communication plan, who have submitted a plan to the Statewide Radio Board  
 4.8 and where development has been initiated.

4.9 (c) The Statewide Radio Board shall coordinate the appointment of board members  
 4.10 representing Greater Minnesota with the appointing authorities and may designate the  
 4.11 geographic region or regions from which an appointed board member is selected where  
 4.12 necessary to provide representation from throughout the state.

4.13 Sec. 8. Minnesota Statutes 2004, section 403.36, subdivision 1f, is amended to read:

4.14 Subd. 1f. **Advisory groups.** (a) The Statewide Radio Board shall establish one or  
 4.15 more advisory groups for the purpose of advising on the plan, design, implementation, and  
 4.16 administration of the statewide, shared trunked radio and communication system.

4.17 (b) At least one such group must consist of the following members:

4.18 (1) ~~the chair of the Metropolitan Radio Board~~ and the chair of each regional radio  
 4.19 board or, if no regional radio board has been formed, a representative of each region of  
 4.20 development as defined in the statewide, shared, trunked radio and communication plan,  
 4.21 once planning and development have been initiated for the region, or a designee;

4.22 (2) the chief of the Minnesota State Patrol or a designee;

4.23 (3) a representative of the Minnesota State Sheriffs' Association;

4.24 (4) a representative of the Minnesota Chiefs of Police Association;

4.25 (5) a representative of the Minnesota Fire Chiefs' Association; and

4.26 (6) a representative of the Emergency Medical Services Board."

4.27 Page 1, delete line 22 and insert "403.29, subdivisions 1, 2, and 3; 403.30,  
 4.28 subdivisions 2 and 4; and 403.35, are repealed."

4.29 Renumber the sections in sequence

4.30 Amend the title accordingly

4.31 And when so amended the bill do pass. Amendments adopted. Report adopted.

4.32 .....  
 4.33 (Committee Chair)

4.34 March 27, 2006 .....  
 4.35 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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**Senate**

**State of Minnesota**

**S.F. No. 3096 - Open Meeting Law**

**Author:** Senator Paul Koering

**Prepared by:** Daniel P. McGowan, Senate Counsel (651/296-4397)

**Date:** March 24, 2006



---

The proposed legislation would authorize the Minnesota Veterans Homes Board to conduct board meetings by telephone or other means as long as certain conditions are met, including all the members being able to hear one another and hear all the discussions and testimony; members of the public present at the meeting likewise able to hear the discussion and the testimony and the votes of the members; at least one member of the board, the executive director, or an attorney is physically present at the regular meeting location; and all votes conducted by a roll call. This bill is similar to language currently in the open meeting law that allows meetings to be conducted by interactive T.V.

DPM:mvm

SENATE  
STATE OF MINNESOTA  
EIGHTY-FOURTH LEGISLATURE

S.F. No. 3096

(SENATE AUTHORS: KOERING and Wergin)

DATE	D-PG	OFFICIAL STATUS
03/13/2006	4023	Introduction and first reading
03/13/2006		Referred to Agriculture, Veterans and Gaming
03/20/2006		Committee report: To pass as amended
03/20/2006		Second reading

1.1 A bill for an act  
 1.2 relating to the Minnesota Veterans Homes Board; authorizing the board to  
 1.3 conduct certain meetings by telephone or other electronic means; amending  
 1.4 Minnesota Statutes 2004, section 198.003, by adding a subdivision.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. Minnesota Statutes 2004, section 198.003, is amended by adding a  
 1.7 subdivision to read:

1.8 Subd. 6. Meetings by telephone or other electronic means. (a) Notwithstanding  
 1.9 sections 13D.01 and 13D.02 of the Open Meeting Law, the Minnesota Veterans Homes  
 1.10 Board of Directors may conduct a meeting of its members by telephone or other electronic  
 11 means so long as the following conditions are met:

1.12 (1) all members of the board participating in the meeting, wherever their physical  
 1.13 location, can hear one another and can hear all discussion and testimony;

1.14 (2) members of the public present at the regular meeting location of the board can  
 1.15 hear all discussion and testimony and all votes of the members of the board;

1.16 (3) at least one member of the board, the executive director, or an attorney for the  
 1.17 agency is physically present at the regular meeting location; and

1.18 (4) all votes are conducted by roll call, so each member's vote on each issue can be  
 1.19 identified and recorded.

1.20 (b) Each member of the board participating in a meeting by electronic means is  
 1.21 considered present at the meeting for purposes of determining a quorum and participating  
 2 in all proceedings.

1.23 (c) If telephone or another electronic means is used to conduct a meeting, to the  
 1.24 extent practical, the board shall allow a person to monitor the meeting electronically from

2.1 a remote location. The board may require the person making a connection to pay for the  
2.2 documented additional cost that the board incurs as a result of the additional connection.  
2.3 (d) If telephone or another electronic means is used to conduct a regular, special, or  
2.4 emergency meeting, the agency shall provide notice of the regular meeting location, of  
2.5 the fact that some members may participate by electronic means, and of the provisions  
2.6 of paragraph (c). The timing and method of providing notice is governed by section  
2.7 13D.04 of the Open Meeting Law.

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops

3 .F. No. 3096

Resolution

Re-referred (from another committee)

**Amendments:**

~~Pg 2, line 7 Section 1 Effective DATE ~~1/1/82~~  
DAY Following Final enactment~~

Pg 2, line 8,

"EFFECTIVE DATE

Section 1 is effective the day following final enactment."

**Committee recommendation:**

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on \_\_\_\_\_

**No recommendation:** And when so amended the bill be

\_\_\_\_\_ (re-referred to the Committee on \_\_\_\_\_)

OR \_\_\_\_\_ (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was re-referred**

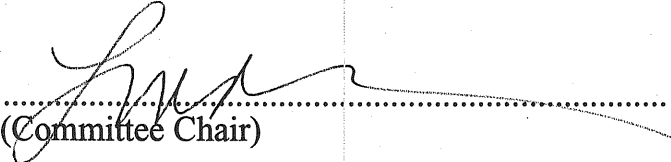
1.4 **S.F. No. 3096:** A bill for an act relating to the Minnesota Veterans Homes Board;  
1.5 authorizing the board to conduct certain meetings by telephone or other electronic means;  
amending Minnesota Statutes 2004, section 198.003, by adding a subdivision.

1.6 Reports the same back with the recommendation that the bill be amended as follows:

1.7 Page 2, after line 7, insert:

1.8 **"EFFECTIVE DATE. This section is effective the day following final enactment."**

1.9 And when so amended the bill do pass. Amendments adopted. Report adopted.

1.10   
1.11 (Committee Chair)

1.12 March 27, 2006 .....  
1.13 (Date of Committee recommendation)

Senator Vickerman introduced-

S.F. No. 3410: Referred to the Committee on State and Local Government Operations.

1.1 A bill for an act  
1.2 relating to veterans; authorizing the placement of a plaque on the Capitol grounds  
1.3 honoring the nation's war dogs and their handlers.

1.4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.5 Section 1. PLAQUE HONORING MILITARY WAR DOGS AND THEIR  
1.6 HANDLERS.

1.7 A memorial plaque may be placed in the court of honor on the Capitol grounds to  
1.8 recognize the valiant service to our nation by the thousands of brave military war dogs and  
1.9 their handlers who served honorably as members of the United States armed forces during  
1.10 all of our nation's wars and during peacetime. The plaque must be furnished by a person  
1 or organization other than the Department of Veterans Affairs and must be approved by the  
1.12 commissioner of veterans affairs and the Capitol Area Architectural and Planning Board.

1.13 Sec. 2. EFFECTIVE DATE.

1.14 Section 1 is effective the day following final enactment.



# COMMITTEE REPORT - NO AMENDMENTS

Committee on State and Local Gov ops

S. F. No. 3410

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on \_\_\_\_\_

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

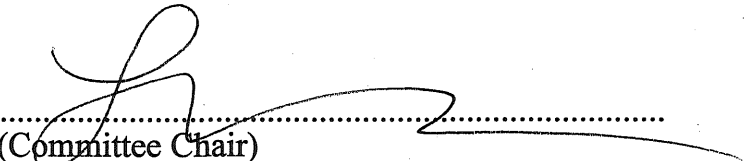
OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
 1.2 **Operations, to which was referred**

1.4 **S.F. No. 3410:** A bill for an act relating to veterans; authorizing the placement of a plaque on the Capitol grounds honoring the nation's war dogs and their handlers.

1.5 Reports the same back with the recommendation that the bill do pass. Report  
 1.6 adopted.

1.7  
 1.8   
 (Committee Chair)

1.9 March 27, 2006 .....  
 1.10 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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DIRECTOR

# Senate

State of Minnesota

## **S.F. No. 3616 - Policy for State Investment in Sudan (Delete-Everything Amendment)**

**Author:** Senator Terri Bonoff

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 27, 2006

---

This bill requires the State Board of Investment (SBI) (composed of the Governor, State Auditor, Secretary of State, and the Attorney General) to make a semiannual determination regarding the investment of the basic and postretirement funds in companies that have equity ties to Sudan. "Equity tie" is defined to mean ownership of equipment or maintenance of employees or other apparatus of business operations. The bill directs the SBI to: (1) whenever feasible, support shareholder resolutions designed to encourage listed corporations to divest equity ties to Sudan and (2) develop and implement a strategy to urge the corporations to divest their equity ties in Sudan. The bill specifically states that it does not require the SBI to dispose of any existing investments or to alter future investments. The bill also requires a semiannual report listing state investments and corporations with equity ties to Sudan.

TSB:rdr

Senator Bonoff introduced-

S.F. No. 3616: Referred to the Committee on State and Local Government Operations.

1.1 A bill for an act  
 1.2 relating to state government; requiring the State Board of Investment to monitor  
 1.3 state investments in companies doing business with Sudan and to support  
 1.4 shareholder resolutions that require affirmative action to end the crisis in Sudan;  
 1.5 proposing coding for new law in Minnesota Statutes, chapter 11A.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. [11A.243] INVESTMENT IN SUDAN.

1.8 Subdivision 1. List of investments. (a) By January 1 of each year, the State Board  
 1.9 of Investment shall:

1.10 (1) compile a list of corporations that, directly or through a subsidiary, do business  
 1.11 in Sudan and in whose stocks or obligations the board has invested under section 11A.24,  
subdivision 3 or 5; and

1.13 (2) determine whether each corporation on the list has, during the preceding year,  
 1.14 taken affirmative action to improve the human rights situation in Sudan.

1.15 (b) In making the determination required by paragraph (a), clause (2), the State  
 1.16 Board of Investment shall consider whether a corporation doing business in Sudan  
 1.17 has, during the preceding year, taken substantial action designed to lead toward the  
 1.18 achievement of the following goals:

1.19 (1) increasing representation of persons from underrepresented religious or ethnic  
 1.20 groups at all levels in its work force;

1.21 (2) providing adequate security for employees who are members of minority  
 1.22 religious groups, both at the workplace and while traveling to and from work; and

1.23 (3) placing pressure on the government of Sudan to end the crisis and genocide  
 1.24 in Sudan's Darfur region.

2.1            Subd. 2. Affirmative action policy. Whenever feasible, the board shall sponsor,  
2.2 cosponsor, or support shareholder resolutions designed to encourage corporations in  
2.3 which the board has invested to pursue a policy of affirmative action to improve the  
2.4 human rights situation in Sudan.

2.5            Subd. 3. Divestment not required. Nothing in this section may be construed to  
2.6 require the State Board of Investment to dispose of existing investments or to make future  
2.7 investments that violate sound investment policy for public pensions.

*Adopted  
Niger*

1.1 Senator ..... moves to amend S.F. No. 3616 as follows:

2 Delete everything after the enacting clause and insert:

1.3 "Section 1. **[11A.243] INVESTMENT IN SUDAN.**

1.4 Subdivision 1. (a) For the purposes of this section, the following item shall have  
1.5 the meaning given to it in this subdivision.

1.6 (b) "Equity tie" means:

1.7 (1) ownership of equipment, facilities, or property; or

1.8 (2) maintenance of employees or any other apparatus of business or commerce.

1.9 Subd. 2. **List of investments.** By January 15 and July 15 of each year, the state  
1.10 board shall:

1.11 (1) compile a list of corporations with an equity tie to Sudan and in whose stocks or  
1.12 obligations the board has invested under section 11A.24, subdivision 3 or 5; and

1.13 (2) determine in writing whether each corporation on the list has, during the  
1.14 preceding 12 months, taken steps to divest equity ties to Sudan.

1.15 Subd. 3. **Shareholder policy.** The board shall:

1.16 (1) whenever feasible, sponsor, cosponsor, or support shareholder resolutions  
1.17 designed to encourage corporations listed under subdivision 2 to divest equity ties to  
1.18 Sudan; and

1.19 (2) develop and implement a strategy to urge corporations listed under subdivision  
1.20 2 to divest equity ties to Sudan.

1.21 Subd. 4. **Divestment not required.** Nothing in this section may be construed to  
2 require the state board to dispose of existing investments or to make future investments  
1.23 that violate sound investment policy for public pensions.

1.24 Subd. 5. **Report.** By January 15 and July 15 of each year, the board shall provide a  
1.25 report to the legislature, as provided in section 3.195, listing any determinations made  
1.26 under subdivision 2 and any actions taken under subdivision 3. The board shall also post  
1.27 a copy of the report on its Web site and provide a copy of the report to each member of  
1.28 the Legislative Commission on Pensions and Retirement."

1.29 Amend the title accordingly

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov Ops

3 .F. No. 3616

Resolution

Re-referred (from another committee)

**Amendments:**

A-1

line 1.9 delete "and July 15" A-1

line 24 delete "and July 15" A-1

After line 28 insert heading "SUNSET," Subd. 6, This section expires on January 15, 2011." A-1

**Committee recommendation:**

\_\_\_\_\_ And when so amended the bill do pass.

\_\_\_\_\_ And when so amended the bill do pass and be placed on the Consent Calendar.

X And when so amended the bill do pass and be re-referred to the Committee on

Finance

**No recommendation:** And when so amended the bill be

\_\_\_\_\_ (re-referred to the Committee on \_\_\_\_\_)

OR \_\_\_\_\_ (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.5 **S.F. No. 3616:** A bill for an act relating to state government; requiring the State  
1.6 Board of Investment to monitor state investments in companies doing business with Sudan  
and to support shareholder resolutions that require affirmative action to end the crisis in  
Sudan; proposing coding for new law in Minnesota Statutes, chapter 11A.

1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Delete everything after the enacting clause and insert:

1.9 "Section 1. [11A.243] INVESTMENT IN SUDAN.

1.10 Subdivision 1. (a) For the purposes of this section, the following item shall have  
1.11 the meaning given to it in this subdivision.

1.12 (b) "Equity tie" means:

1.13 (1) ownership of equipment, facilities, or property; or

1.14 (2) maintenance of employees or any other apparatus of business or commerce.

1.15 Subd. 2. List of investments. By January 15 of each year, the state board shall:

1.16 (1) compile a list of corporations with an equity tie to Sudan and in whose stocks or  
1.17 obligations the board has invested under section 11A.24, subdivision 3 or 5; and

1.18 (2) determine in writing whether each corporation on the list has, during the  
1.19 preceding 12 months, taken steps to divest equity ties to Sudan.

1.20 Subd. 3. Shareholder policy. The board shall:

1.21 (1) whenever feasible, sponsor, cosponsor, or support shareholder resolutions  
1.22 designed to encourage corporations listed under subdivision 2 to divest equity ties to  
1.23 Sudan; and

1.24 (2) develop and implement a strategy to urge corporations listed under subdivision  
1.25 2 to divest equity ties to Sudan.

1.26 Subd. 4. Divestment not required. Nothing in this section may be construed to  
1.27 require the state board to dispose of existing investments or to make future investments  
1.28 that violate sound investment policy for public pensions.

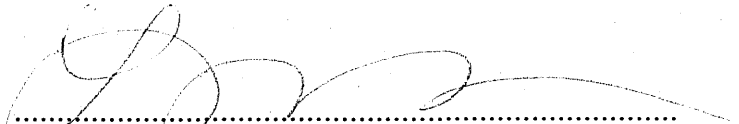
1.29 Subd. 5. Report. By January 15 of each year, the board shall provide a report  
1.30 to the legislature, as provided in section 3.195, listing any determinations made under  
1.31 subdivision 2 and any actions taken under subdivision 3. The board shall also post a copy  
1.32 of the report on its Web site and provide a copy of the report to each member of the  
1.33 Legislative Commission on Pensions and Retirement.

1.34 Subd. 6. Sunset. This section expires on January 15, 2011."

1.35 Amend the title accordingly



2.1 And when so amended the bill do pass and be re-referred to the Committee on  
2.2 Finance. Amendments adopted. Report adopted.

  
.....  
(Committee Chair)

2.3  
2.4

2.5 March 27, 2006 .....  
2.6 (Date of Committee recommendation)

SF 3616

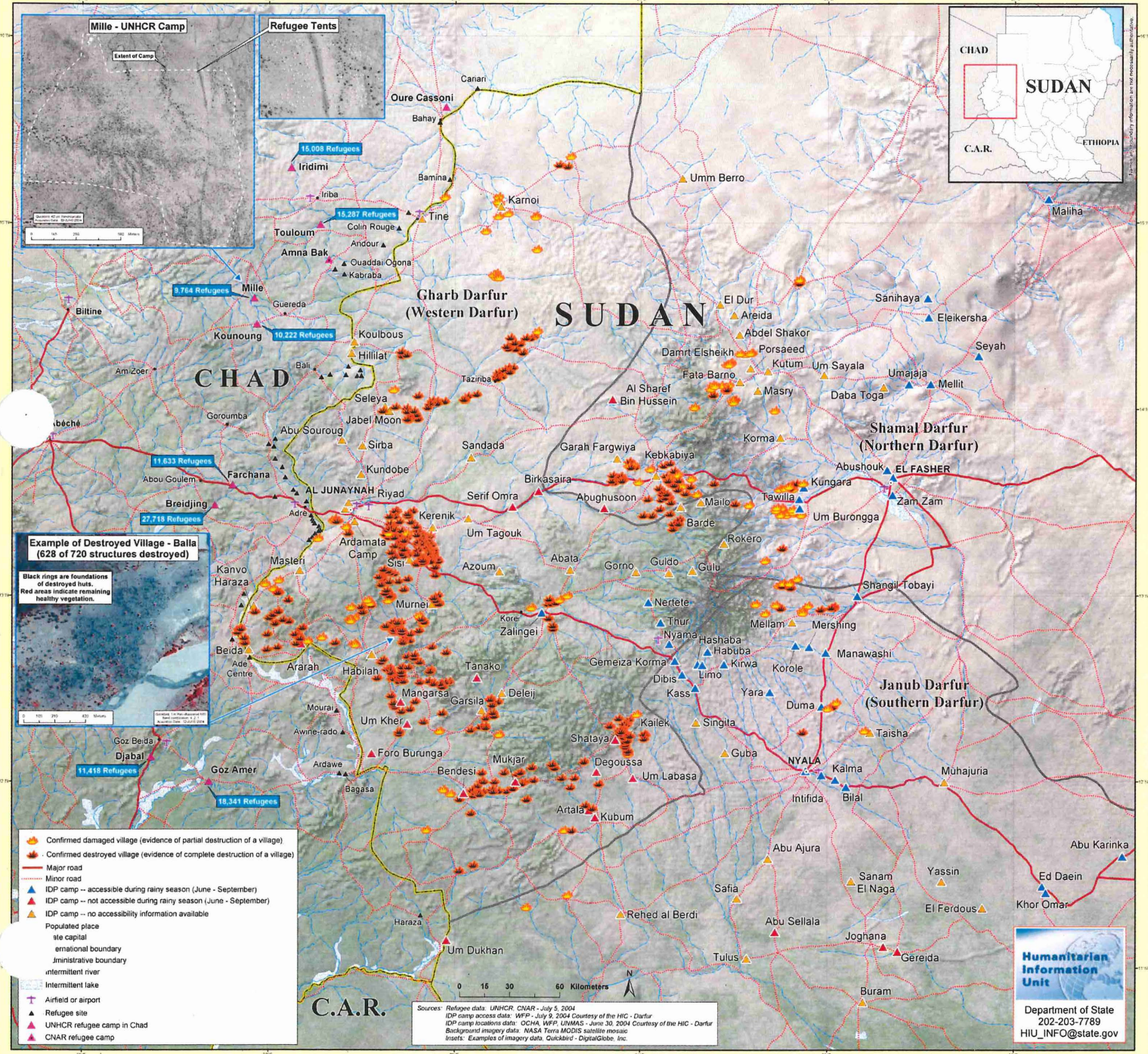
August 2, 2004

### Sudan (Darfur) - Chad Border Region Confirmed Damaged and Destroyed Villages

UNCLASSIFIED

Villages in Darfur confirmed as destroyed: 395  
Villages in Darfur confirmed as damaged: 121

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UNCLASSIFIED



Senator Higgins introduced--

S.F. No. 3459: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to state government; creating a task force to study the design of the state flag.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **LEGISLATIVE TASK FORCE ON DESIGN OF STATE FLAG.**

**Subdivision 1. Establishment.** The legislative task force on the design of the state flag consists of three members of the senate appointed by the Subcommittee on Committees of the Committee on Rules and Administration, and three members of the house of representatives appointed by the speaker.

**Subd. 2. Form and style of state flag.** The task force shall study the form, style, and design of the state flag and suggest any desired changes, while preserving its basic symbolism. The task force may solicit and secure the voluntary service and aid of persons who have either technical or artistic skill in flag construction and design.

**Subd. 3. Report; expiration.** The task force shall make its report and recommendations to the legislature by January 15, 2007. The task force expires after submitting the report.

# COMMITTEE REPORT - NO AMENDMENTS

Committee on State & Local Gov ops

SF. F. No. 3459

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on \_\_\_\_\_

**No recommendation:**

(be re-referred to the Committee on \_\_\_\_\_ )

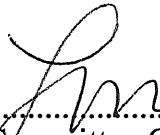
OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.4 **S.F. No. 3459:** A bill for an act relating to state government; creating a task force to study the design of the state flag.

1.5 Reports the same back with the recommendation that the bill do pass. Report  
1.6 adopted.

1.7   
1.8 .....  
(Committee Chair)

1.9 March 27, 2006 .....  
1.10 (Date of Committee recommendation)

**Senate Counsel, Research,  
and Fiscal Analysis**

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JO ANNE ZOFF SELLNER  
DIRECTOR

**Senate**

**State of Minnesota**

**S.F. No. 3482 - Historic Preservation**

**Author:** Senator Linda Higgins

**Prepared by:** Daniel P. McGowan, Senate Counsel (651/296-4397)

*DPM*

**Date:** March 24, 2006

---

**Section 1** establishes an implementation and steering task force to develop strategies for the restoration of Victory Memorial Drive Historic District in Minneapolis.

**Section 2** provides for membership on the task force of 13 members.

**Section 3** requires the task force to report its actions to the appropriate policy committees of the legislature once each biennium.

**Section 4** requires staff support from various state and local governmental agencies to the task force.

**Section 5** authorizes the task force members to receive per diem and compensation for expenses, except the public members, who would not receive per diem.

**Section 6** sunsets the task force at an unspecified date.

DPM:mvm

Senator Higgins introduced--

S.F. No. 3482: Referred to the Committee on State and Local Government Operations.

1. A bill for an act  
 1.2 relating to historic preservation; creating an implementation and steering task  
 1.3 force to develop strategies for the restoration of the Victory Memorial Drive  
 1.4 Historic District in Hennepin County; requiring reports to the legislature.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. **TASK FORCE ESTABLISHED.**

1.7 An implementation and steering task force is established to develop strategies around  
 1.8 the master plan for restoration of Victory Memorial Drive Historic District, as designated  
 1.9 in Minnesota Statutes, section 138.73, subdivision 26, including, but not limited to, efforts  
 1.10 to secure National Register designation and other efforts to provide funding to preserve  
 1.11 and restore the district's significant historical components and natural features.

1.12 Sec. 2. **MEMBERSHIP.**

1.13 The implementation and steering task force shall consist of 13 members including:  
 1.14 (1) the director of the Minnesota Historical Society or a designee;  
 1.15 (2) the Minneapolis City Council member representing the area;  
 1.16 (3) the Robbinsdale City Council member representing the area;  
 1.17 (4) the chair of the Hennepin County Board of Commissioners or the chair's  
 1.18 designee;  
 1.19 (5) the president of the Minneapolis Park and Recreation Board or the president's  
 1.20 designee;  
 1.21 (6) two members from the house of representatives representing the area;  
 1.22 (7) two members of the senate representing the area;  
 1.23 (8) two citizen representatives appointed by the chair; and

2.1 (9) two representatives from local veterans organizations appointed by the chair.

2.2 **Sec. 3. REPORT.**

2.3 The implementation and steering task force shall report its actions to the appropriate  
2.4 policy committees of the legislature once each biennium.

2.5 **Sec. 4. STAFF SUPPORT.**

2.6 The State Historic Preservation Office of the Minnesota Historical Society; the  
2.7 Minneapolis Heritage Preservation Commission; the Minneapolis Department of Public  
2.8 Works; the Minneapolis Department of Grants and Planning; the Minneapolis Park Board;  
2.9 and the city of Robbinsdale shall provide staff support to the Victory Memorial Drive  
2.10 Implementation and Steering Task Force.

2.11 **Sec. 5. COMPENSATION.**

2.12 Task force members may be compensated for expenses according to section  
2.13 15.0575, subdivision 3.

2.14 **Sec. 6. SUNSET.**

2.15 The implementation and steering task force expires on December 31, 20...



# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops

3 .F. No. 3482

       Resolution

       Re-referred (from another committee)

**Amendments:**

Pg 2, line 2.15 insert "2009"

Pg 2 Delete section 5

**Committee recommendation:**

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on

**No recommendation:** And when so amended the bill be

(re-referred to the Committee on \_\_\_\_\_)

OR  (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
 1.2 **Operations, to which was referred**

1.3 **S.F. No. 3482:** A bill for an act relating to historic preservation; creating an  
 1.4 implementation and steering task force to develop strategies for the restoration of the  
 1.5 Victory Memorial Drive Historic District in Hennepin County; requiring reports to the  
 1.6 legislature.

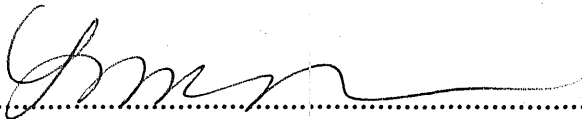
1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Page 2, delete section 5

1.9 Page 2, line 15, delete "20." and insert "2009."

1.10 Renumber the sections in sequence

1.11 And when so amended the bill do pass. Amendments adopted. Report adopted.

  
 .....  
 (Committee Chair)

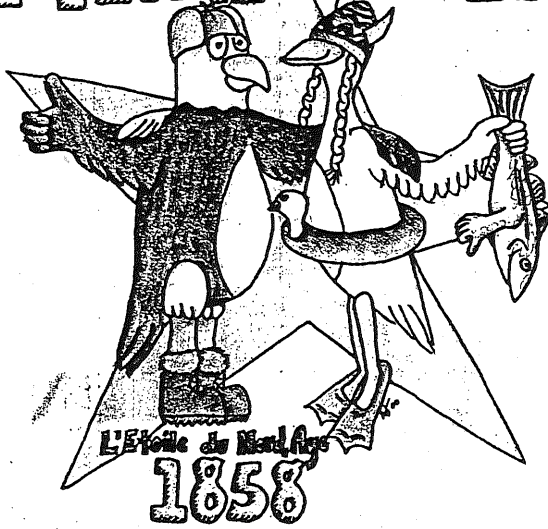
1.14 March 27, 2006 .....  
 1.15 (Date of Committee recommendation)

# Run them up the pole

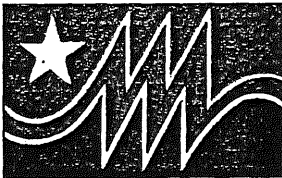
SF 3459

STAR TRIBUNE MAR 14 '00

## MINNESOTA



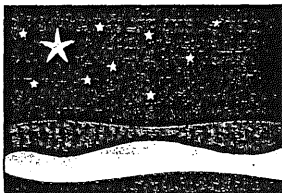
Darcl Hepler of Hopkins chose symbolic animals, a star and the date of statehood.



Mary Wangen of Albert Lea designed an "M" whose shape stands for Minnesota and for green forests.



Randy Haukom of Minneapolis used golden grain, brown timber and a sweep of blue water to accent his North Star.



A very popular theme. Robert Farlee of Minneapolis used green, white and blue with a North Star.

What says Minnesota best? That's the question Sen. Ed Oliver, R-Deephaven, wants the Legislature to consider. Two weeks ago, he lamented that our state flag may be too complex, and wondered if a new design would connect with people quicker and more directly.

So, what if? We asked readers to suggest a new flag, and we received almost 400 responses. While we can't print them all, it's fair to say most used the colors green; blue or white — or all three — and a star, representing the North Star.

The rationales ranged from the comical to impassioned and serious treatises on the pride and visibility embodied in a state flag.

What could a new flag look like? See for yourself. More drawings are on Page E10. It's worth noting that another bundle of flags arrived too late for our production deadlines. Our apologies.

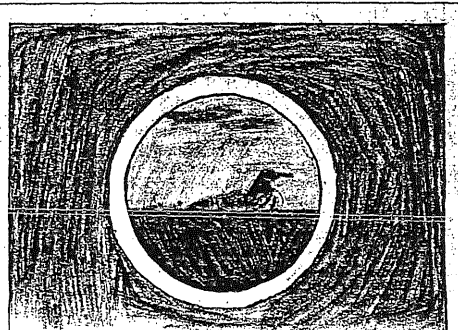
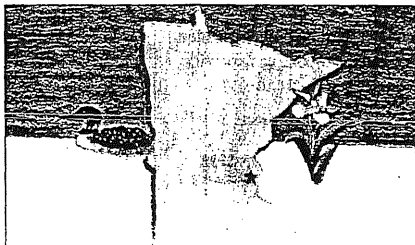
— Graydon Royce



Kaitlin Boyd of Red Wing chose the lady-slipper with a blue background to represent water.

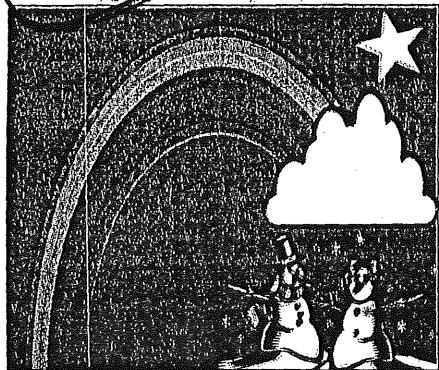


The 32 trees that border Wayne and Carol Segulir's flag signify Minnesota as the 32nd state. The Prior Lake couple also pointed out the two major rivers.

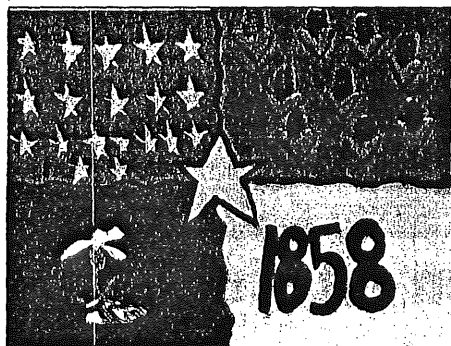


# From stars to loons, even Snoopy

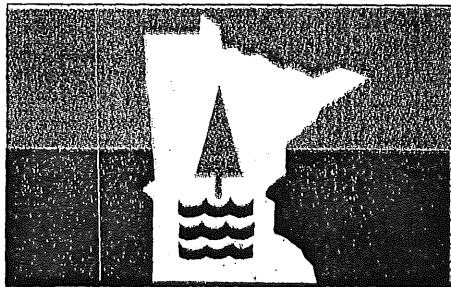
Continued from E1



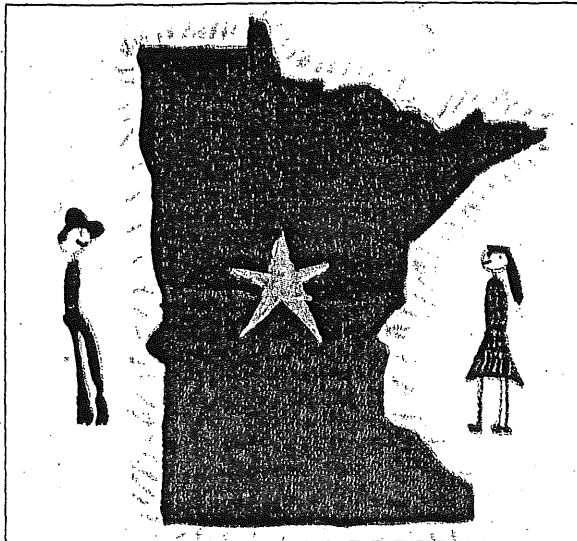
Halat Basheer of Little Canada featured elements that speak for themselves.



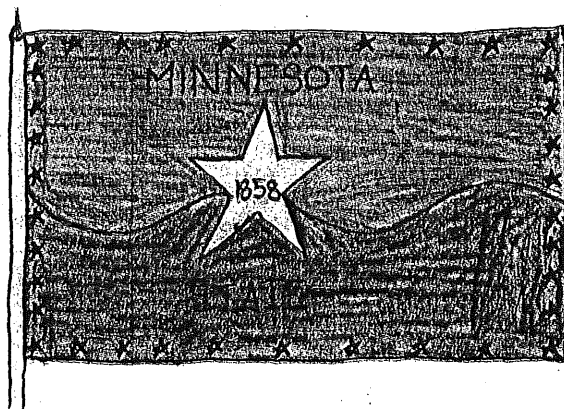
Kelly Smith of Red Wing chose 19 stars because Minnesota was the 19th state after the original 13. Crops, statehood date and lady-slipper fill out the flag.



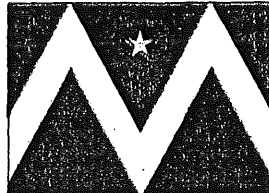
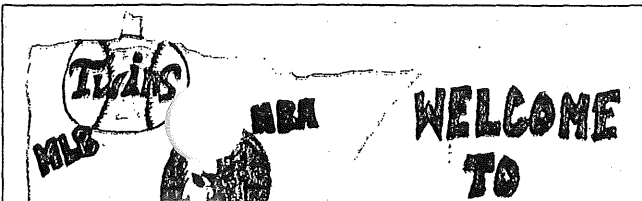
Neal Johnson of Minnetonka used blue and green for a natural resources look.



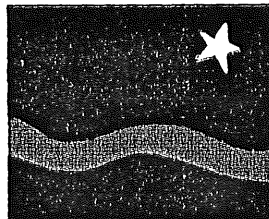
Carmen Ross of Red Wing pictured a settler and an American Indian to symbolize Minnesota's past.



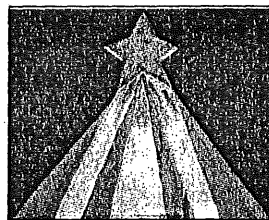
Matthew Anthony of Welch had another variation on the blue-green-star theme.



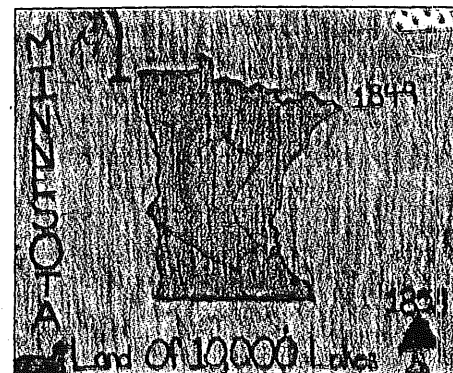
Nicholas Stocco of Minneapolis got an "M" into his blue/green motif.



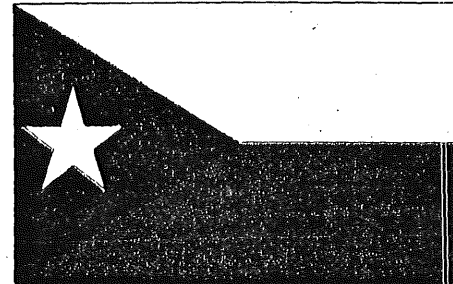
Sarah Lentz of Oakdale displayed the blue sky and blue water with the North Star in a simple design.



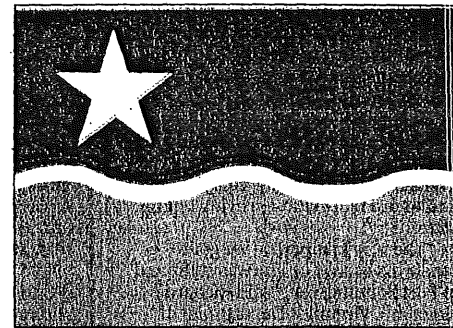
Myrna Lorell Miller of Lindstrom said the yellow and gold lines symbolize the many roads that lead into the state.



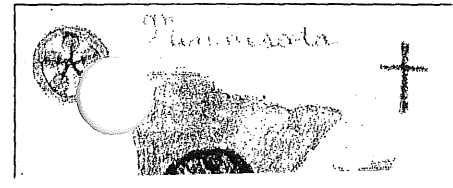
Caitly Green of Park Rapids represented the usual suspects, but added a blueberry muffin and a Norway pine.

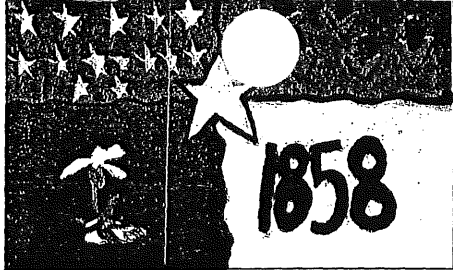


Terry Peterson of Minneapolis picked a design reminiscent of many nations' flags, with the Minnesota colors, of course.

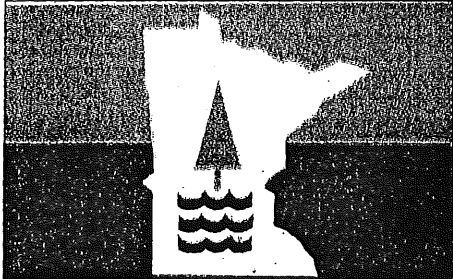


Al Pappas of Minneapolis used orange to represent autumn.

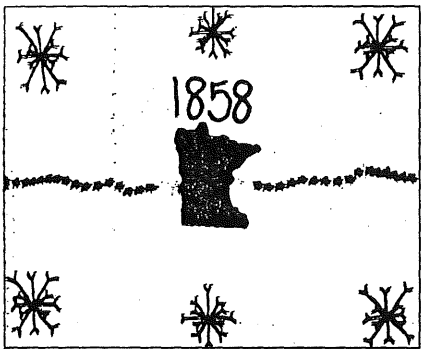




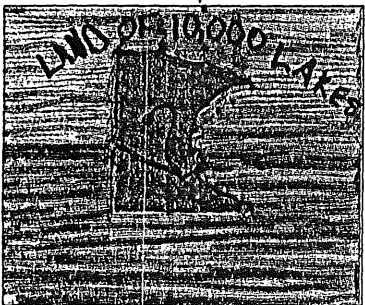
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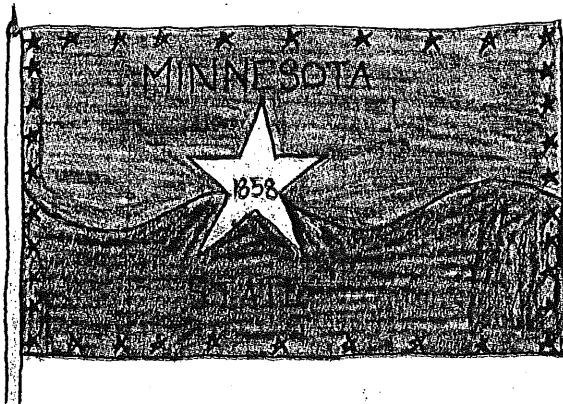


Allsa Axelson of Red Wing incorporated 32 stars, the year 1858 and snowflakes.



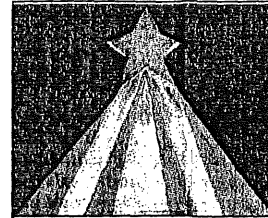
A strong blue and green theme, with brown for grain, inspired Brook Nielsen of Red Wing.

Carmen Ross of Red Wing pictured a settler and American Indian to symbolize Minnesota's past.

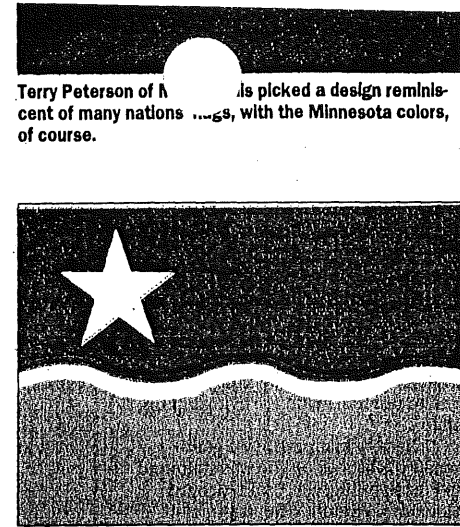


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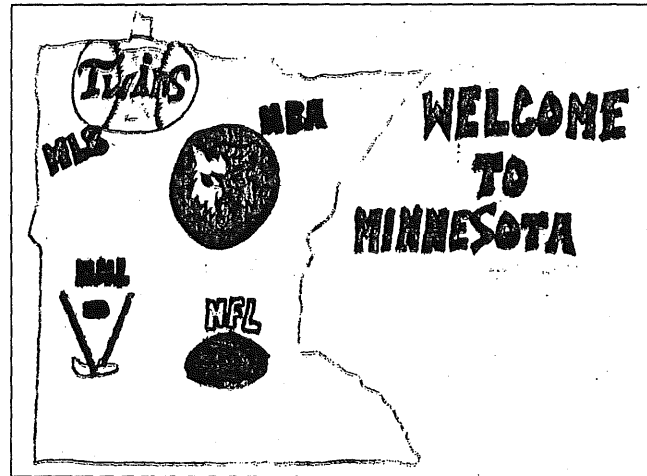


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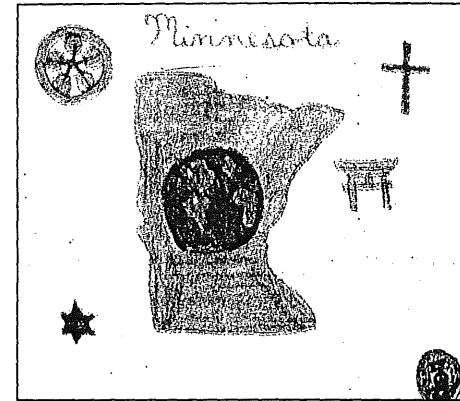


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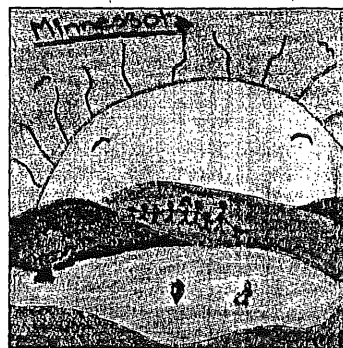
Jennifer Eggers of St. Paul wanted to represent the state's professional sports teams.



Lauren Shaver of Bloomington designed a flag that represents the many different faiths of Minnesotans.



Another loon flag came from Danny Schmit of Red Wing.



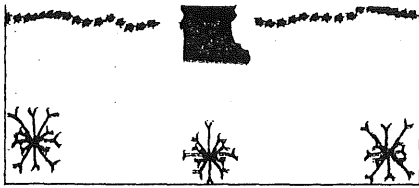
Sonja Boatman of Bloomington wanted to represent a clean, pure environment.



Shawn Robinson of North St. Paul asked "Who better to represent Minnesota symbolically than the Minneapolis man who taught Minnesota how to be funky?"



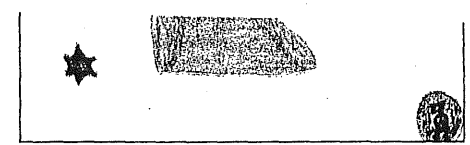




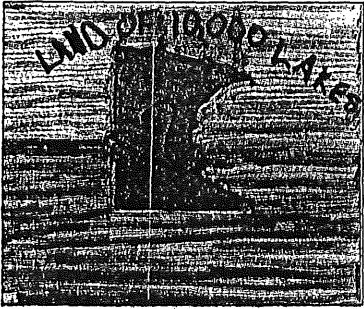
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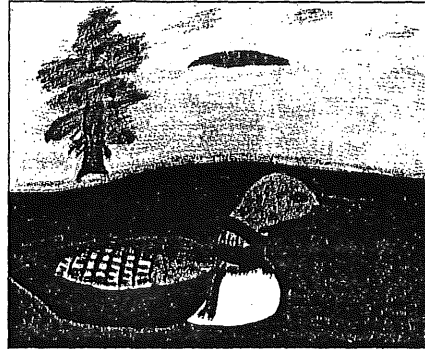
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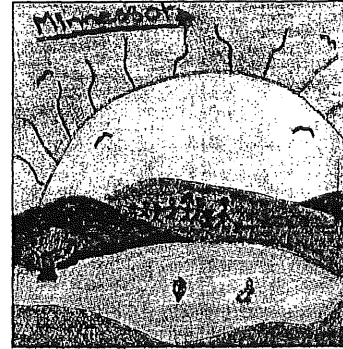
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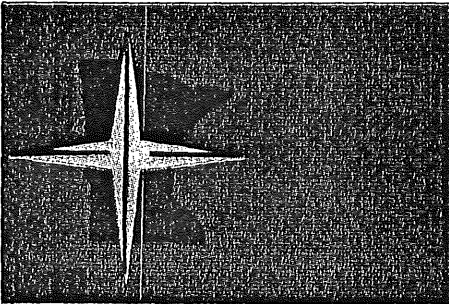
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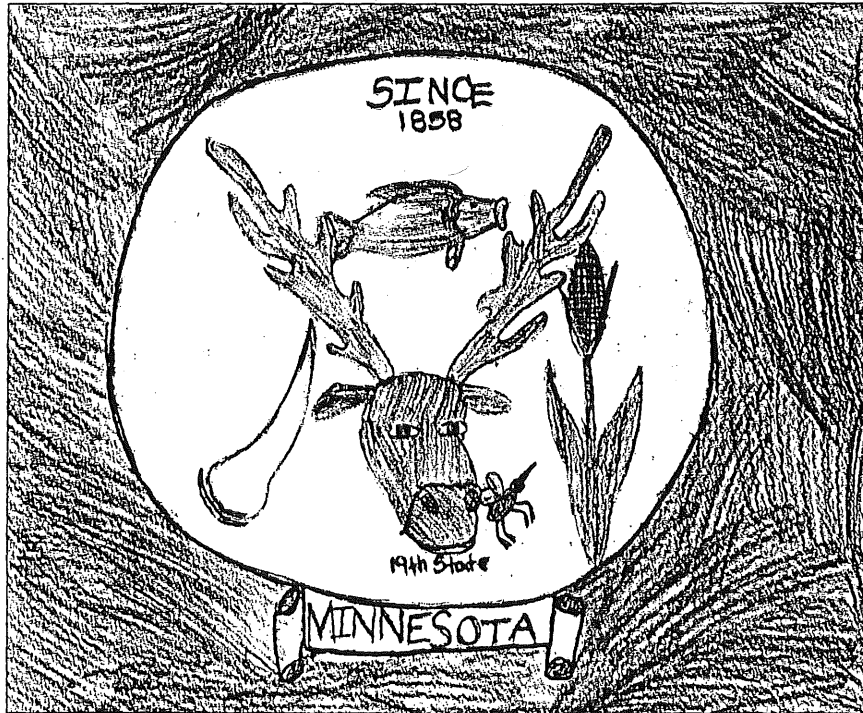
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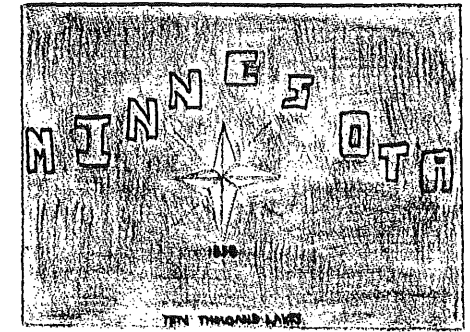
Shawn Robinson of North St. Paul asked "Who better to represent Minnesota symbolically than the Minneapolis man who taught Minnesota how to be funky?"



John Lynn Gullickson of St. Paul employed sky-blue waters, the North Star and green to represent the state's progressive history.



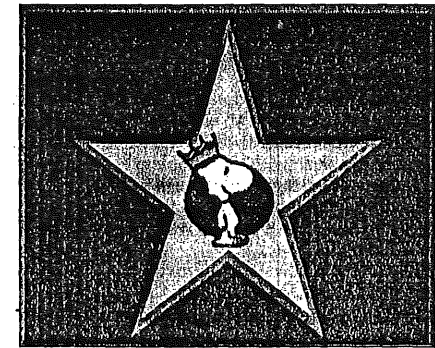
Marc Weber of Richfield chose the moose and fish, mosquito, corn and Viking horn as Minnesota icons.



Nisa Passmore of Apple Valley said her flag is simple in design and reminds us of the 10,000 lakes.



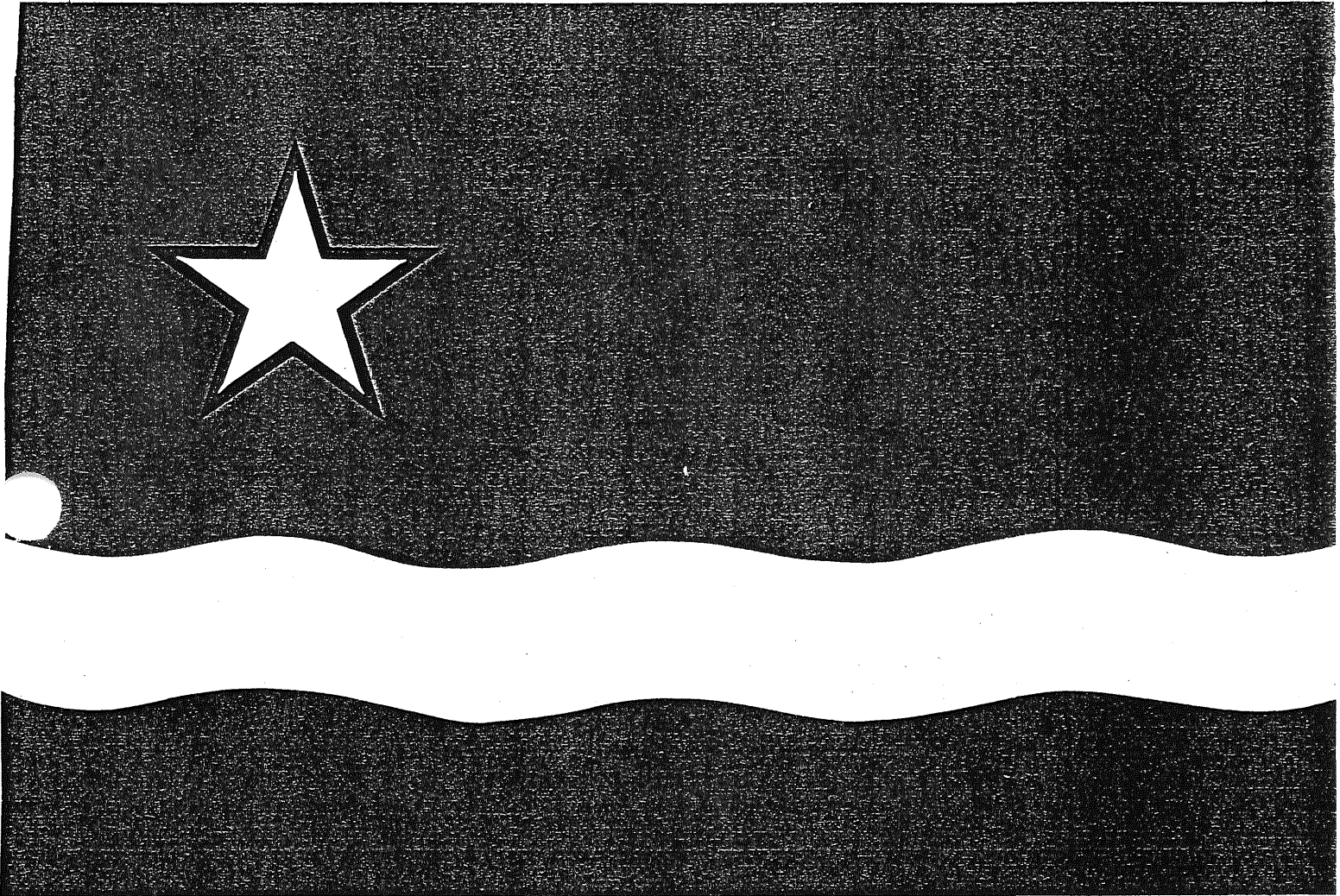
David Jackson of North St. Paul put a pine tree at the center of his design.



Clare Bartel of Golden Valley thought native son Charles Schulz should be honored in the Minnesota flag.

# Monitor

November 1989



## New Wave

*Two state-flag enthusiasts are running a new design up the flagpole.*

**I**N THE PANTHEON OF BRIGHT AND flashy flags, the Minnesota flag is all tans and beiges, say Father Bill Becker and tax accountant Lee Herold, two amateur vexillologists (those who study flags) from Rochester. They are proposing to redesign the state flag, whose current design and color scheme is nearly identical to the flags from 13 other states.

Becker says he and another Minnesotan, while studying in Rome to become priests, felt a need to express their roots. "It was just hard to become endeared to the Minne-

sota flag," he says. So he began sketching new designs.

One of his earliest designs depicted the heads of two loons. He scrubbed it, however, because it was ridiculed by people who suggested that changing the flag was akin to beheading a loon or calling Paul Bunyan a sissy.

House Speaker Bob Vanasek (DFL-New Prague) referred to the proposed design, which was unveiled at the state capitol last spring, as "a couple of dead ducks or whatever they are." *St. Paul Pioneer Press Dispatch* columnist Joe Soucheray wrote, "It

looks like the official state flag of *Sesame Street*." And *Pioneer Press Dispatch* columnist Nick Coleman called it "a silly cartoon with silly cartoon symbols. It isn't worthy of flying over Minnesota."

State legislator Eileen Tompkins (R-Apple Valley) didn't hold back when she first heard the proposal, either. "To me it's ridiculous," she said. "I'm a fifth-generation Minnesotan. I certainly resent the fact that anybody wants to change it."

Becker and Herold say they weren't surprised by the reception. They expected even





# Annin

FLAGMAKERS 1

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# 2003

JANUARY						
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28	29	30	31			

## *Proudly Fly your U.S. Flag Every Day Especially on These Days...*

- New Year's Day ..... January 1
- Martin Luther King Jr. Day ..... *OBSV.* January 20
- Lincoln's Birthday ..... February 12
- President's Day, *third Monday in February* ..... *OBSV.* February 17
- Easter Sunday, *variable* ..... April 20
- Mother's Day, *second Sunday in May* ..... May 11
- Armed Forces Day, *third Saturday in May* ..... May 17
- Memorial Day, *half staff till noon, the last Monday in May* ..... May 26
- Flag Day ..... June 14
- Father's Day *third Sunday in June* ..... June 15
- Independence Day ..... July 4
- Labor Day, *first Monday in September* ..... September 1
- Patriot Day *half-staff* ..... September 11
- Constitution Day ..... September 17
- Columbus Day, *second Monday in October* ..... October 13
- Navy Day ..... October 27
- Election Day ..... November 4
- Veterans Day ..... November 11
- Thanksgiving Day, *fourth Thursday in November* ..... November 27
- Christmas Day ..... December 25



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Note: Product specifications and prices are subject to change without notice.



## NYL-GLO ColorFast® U.S. FLAGS

An Advance So Revolutionary The Colors of Every Flag are Guaranteed

Annin's Nyl-Glo ColorFast U.S. Flags are the first U.S. Flags that will never change color. In fact, all Nyl-Glo ColorFast U.S. Flags are guaranteed to remain color fast for at least one year.

Every Nyl-Glo ColorFast U.S. Flag shipped from Annin Distribution Centers is packaged with a guarantee program. This program ensures that every flag will stay color fast for ONE FULL YEAR from date of purchase or Annin & Co. will replace it with a new Nyl-Glo ColorFast flag at no charge.

This unconditional guarantee program indicates just how advanced these flags really are.

Independent competitive testing has shown that these U.S. Flags stay color fast far longer than any U.S. Flag now manufactured. The colors will outlast all competitive U.S. Flag products.

Annin Nyl-Glo ColorFast® U.S. Flags are simply the best nylon U.S. flags you can buy - GUARANTEED!

# NYL-GLO COLORFAST

## THE BEST NYLON U.S. FLAG EVER MADE!

*Large, full size "dense-filled-embroidered" stars on sizes through 10' x 15'. (12' x 18' and larger have appliqued stars.)*

*Hand fitted, double needle seam with back-stitch reinforcement.*

*Premium quality extra-strength polyester thread, color matched to stripes, front and back.*







### Dupont's Newest Nylon Flag Material Out Performs Other Nylons:

- ★ Best Resistance To Damaging Ultraviolet Radiation
- ★ Dense 200 Denier Nylon Weave
- ★ Longest Lasting Nylon Flag Material Available.
- ★ Flies In The Lightest Breeze
- ★ Provides The Brightest Colors For A Great Appearance



**SolarMax™**  
Only by DuPont

*The Best Nylon Flag  
Material Available*

Dupont developed SolarMax™ to meet the needs of the flag industry. SolarMax provides a very durable and attractive fabric that also stands up to bright sunlight and strong ultraviolet radiation. Although a densely woven material, SolarMax retains nylon's traditionally great ability to fly in very light winds. Its unique structure allows full dye

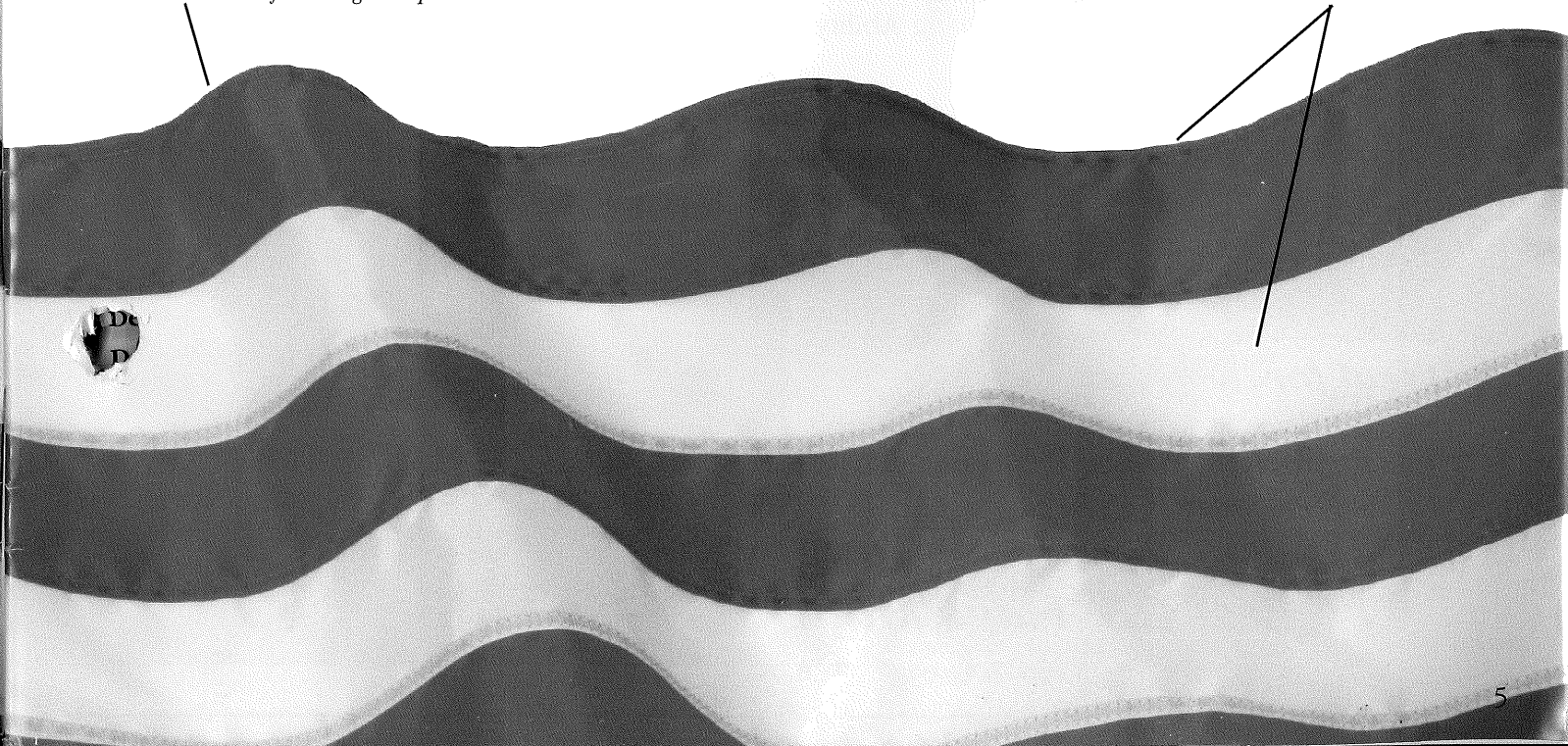
penetration for bright, long-lasting colors without damaging the nylon fibers. SolarMax represents the pinnacle of nylon flag material development from the world's leading maker of nylon flag fabrics. When combined with Annin's ColorFast System, SolarMax™ makes the best U.S. nylon flags available.

## OUTDOOR UNITED STATES FLAGS

Item #	002420	002440	002460	002220	002240	002270	002280	002300	002320	002340	002350	002360	002380	002400	002410	002415	002428
	2 x 3'	2 1/2 x 4'	3 x 5'	4 x 6'	4 1/3 x 5 1/2'	5 x 8'	5 x 9 1/2'	6 x 10'	8 x 12'	10 x 15'	10 x 19'	12 x 18'	15 x 25'	20 x 30'	20 x 38'	30 x 50'	30 x 60'
Nyl-Glo ColorFast	26.80	33.70	38.50	53.40	56.10	79.50	85.20	105.60	187.90	298.90	338.20	399.90	625.40	883.10	1053.90	2061.20	2374.10
Item #	002600	002610	002620	According to popular usage, the length of the flag should be between one-quarter and one-third the height of the flagpole.													
Nyl-Glo	12 x 18"	16 x 24"	20 x 30"														
Small Size	18.90	20.50	23.70														

*Two rows of stitching on top and bottom hems.*

*Four rows of lock stitching with back-stitch reinforcements.  
(Six or more rows on flags 8' x 12' and larger)*





**1-Year  
ColorFast  
Guarantee**

*Annin's Exclusive*

# ★ *Tough-Tex* ★<sup>®</sup>

*The Flag Industry's World Leader*



### *Greatest Durability*

- ★ Exclusive 100% 2-Ply, Spun Woven Polyester Fabric Resists High Winds
- ★ Open Weave Reduces Fabric Stress For Longest Wear
- ★ The Longest Lasting Flag Made

★ **One Year ColorFast Guarantee** ★



### *Best Appearance*

- ★ Brightest, Fade-Resistant Colors
- ★ True Fabric Feel and Looks
- ★ Special Weave Improves Flying Ability

### *Highest Quality*

- ★ Every Flag Double Inspected
- ★ Made By The Most Experienced Flagmakers In The Industry
- ★ Backed By The Oldest And Largest Flag Manufacturer In The U.S.

Item	Size	Each
002710	3x5'	\$47.80
002720	4x6'	62.80
002730	5x8'	101.40
002735	5x9½'	117.00
002740	6x10'	148.90
002750	8x12'	220.70
002760	10x15'	338.10
002765	10x19'	386.60
002770	12x18'	448.40
002780	15x25'	719.10
002790	20x30'	1059.70
002800	20x38'	1252.40
002810	30x50'	2526.30
002830	30x60'	2870.30

### *Ideal for*

- ★ Larger Flags Flown Daily
- ★ All Commercial, Industrial and Institutional Uses
- ★ High Wind Areas

★ *Tough-Tex* ★<sup>®</sup>

*The Best U.S. Flags Made Anywhere - Guaranteed*





# BULLDOG®

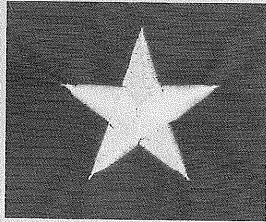
## Cotton Outdoor U.S. Flags

The world famous Bulldog Cotton Bunting is our exclusive. With rich, vibrant colors, excellent durability and economy, Bulldog brand US flags offer true value in a traditional cotton flag. Featuring densely embroidered stars, sewn stripes and hems, strong polyester headings, Bulldog U.S. flags are made from extra strength cotton weave designed to resist the elements. Bulldog US flags are available in sizes 2 x 3 ft. up to 8 x 12 ft.

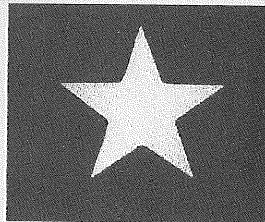
UN.  
US

## BULLDOG®

Item #	Size	Each	Item #	Size	Each
001220	2 x 3'	\$27.20	001200	5 x 8'	\$81.70
001140	2½ x 4'	33.70	001420	5 x 9½'	93.80
001160	3 x 5'	39.50	001440	6 x 10'	122.30
001180	4 x 6'	52.40	001460	8 x 12'	219.90



Embroidered stars are densely sewn with a distinctive, classic look as featured in Bulldog flag



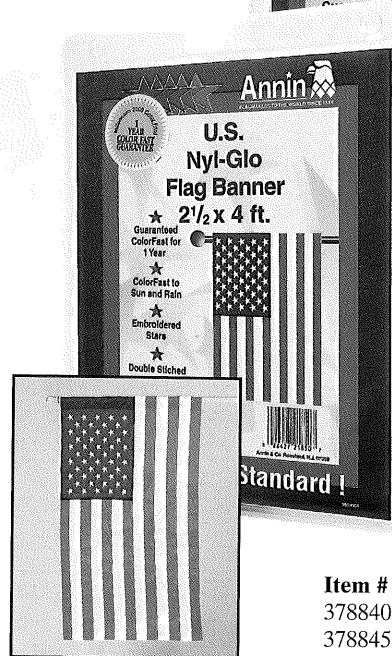
Printed, translucent stars offer bright sun highlights. Great for flags viewed from a distance as in the Reliance flag



## Reliance

The Reliance U.S. flag is made from selected heavy cotton sheeting. The red and white stripes are stitched and the star field is dyed. The flag is finished with canvas heading and brass grommets. For sets featuring Reliance U.S. flags see the following page.

Item #	Size	Flag	Each
001120	3 x 5'	Reliance	\$16.90



Item #	Size	Each
378840	30 x 48"	\$36.10
378845	3 x 5'	\$43.50

## ColorFast U.S. Banner

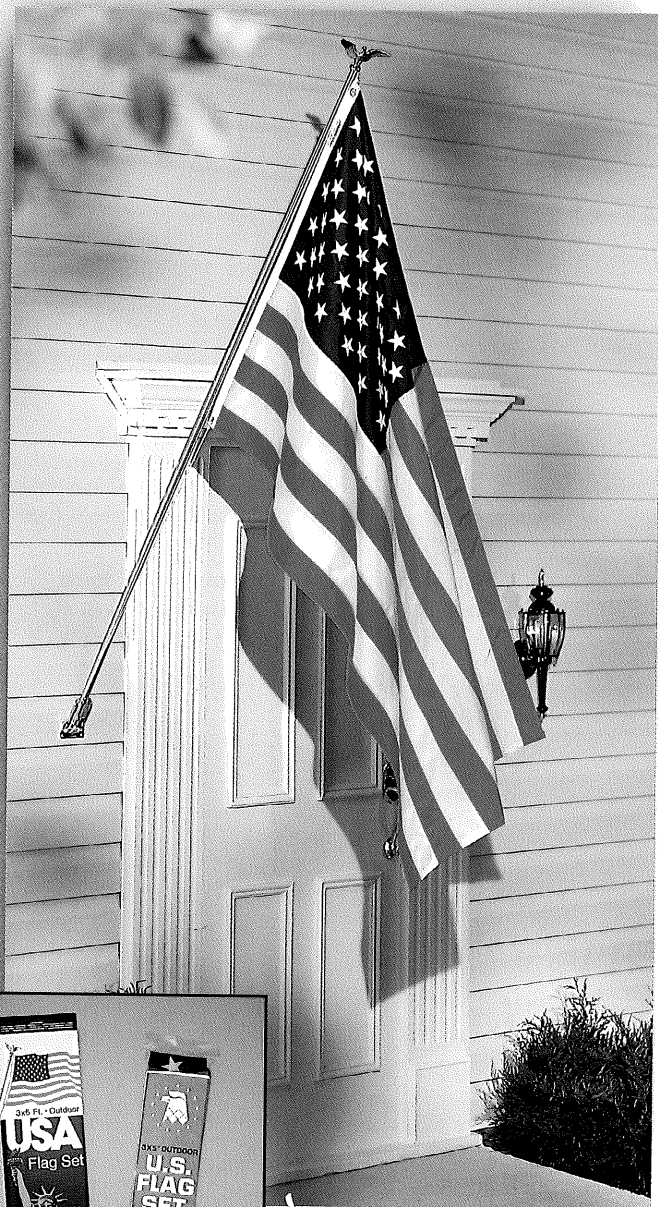
### With 1 Year Color Fast Guarantee

Heavyweight Nyl-Glo U.S. Banner replaces any decorative banner on your existing pole. Embroidered stars and sewn stripes. Packaged in peg-able clamshells.





# OLD GLORY FLAG SETS America's Favorites For Home



All sets include sturdy 6' aluminum pole, 5" Gold Plastic Eagle, Steel mounting bracket with screws, Halyard, Flag Etiquette Brochure and Assembly Instructions.

The ultimate in home sets...the Deluxe US Banner Set – a truly beautiful set featuring a 3x5' ColorFast US Banner with gloss embroidered stars and sewn stripes, a white aluminum pole with secure snap-lock joint, varnished wood ball, and a fully adjustable white bracket of strong cast aluminum. With the easiest assembly ever, this set also contains a non-furl tube, flag etiquette brochure, and installation instructions.

Item #	Style	Flag Quality	Each Set
011415	N-35B-3	Nyl-Glo ColorFast®	\$42.20
011303	R-35B-3	Reliance	24.90
011411	R-35P-3	Reliance	23.60
011451	RE-35P-3	Republic	20.90

Item #	Style	Each
011490	Deluxe US Banner Set	\$80.10

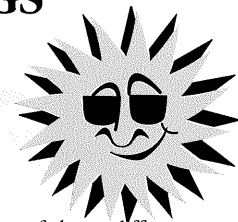
### Replacement Flags Only

Item #	Style	Material	Each
001120	Reliance Flag	100% Cotton-Sewn Stripes	\$16.90
001135	Republic Flag	Poly/Cotton Blend	14.60

Item #	Style	Each
378845	US ColorFast® Nyl-Glo Banner	43.50



# RESIDENTIAL FLAGPOLES AND DYED U.S. FLAGS



## Let the Sun Shine In.....

...with fully printed US flags in your choice of three different materials. Unlike flags with sewn stars that block the light these dyed US flags feature radiant white stars illuminated by the bright light of the sun.

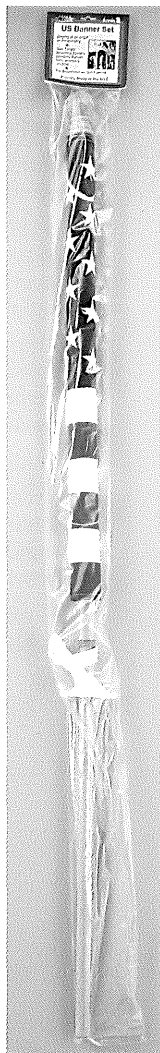
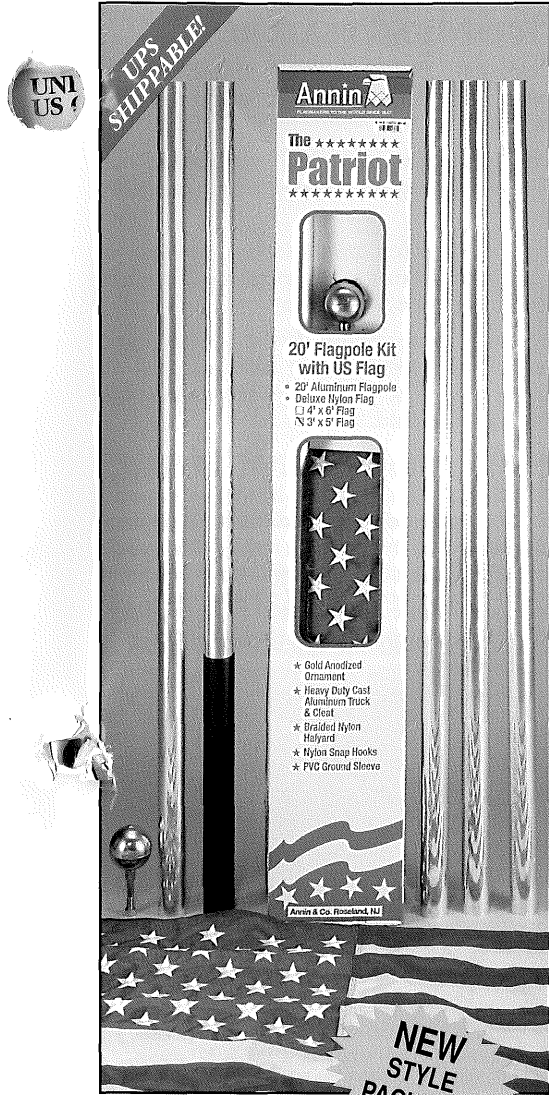
**Sun-Glo US flags** are made of 100% SolarMax nylon for extra durability.

Item #	Size	Description	Each
002470	8" x 12"	Sun-Glo	\$8.70
002480	12" x 18"	Sun-Glo	10.30
002500	16" x 24"	Sun-Glo	13.20
002520	20" x 30"	Sun-Glo	18.70
002550	2' x 3'	Sun-Glo	21.10
002555	3' x 5'	Sun-Glo	23.00
002556	4' x 6'	Sun-Glo	41.20
002557	5' x 8'	Sun-Glo	65.90

**Republic US flags** combine the look and feel of cotton with lightweight polyester in this economical blend.

Item #	Size	Description	Each
001135	3' x 5'	Republic	\$14.60

All of the US flags listed above are finished with lock-stitched hems, heavy duck heading and strong brass grommets.



### Wood Pole Banner Set

This affordable US banner set features a 2 1/4 x 4' printed poly/cotton flag, 5' one-piece wooden pole with varnished ball top, sturdy 2-way nylon bracket with mounting screws, a non-furl clip to discourage tangling and a flag etiquette brochure. Comes pre-assembled for quick set-up.

031800R \$28.10

### Residential Do-It-Yourself Flagpole Kits

The **Patriot Flag Pole Kit** has become the world's best selling residential flag pole.

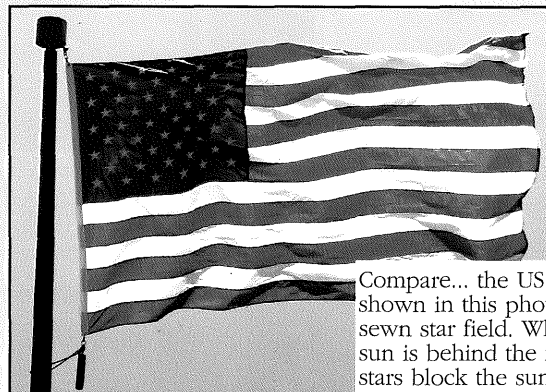
The new **PATRIOT Flag Pole Kit** features a 20 ft. maintenance-free aluminum pole, with a Nyl-Glo® ColorFast® US Flag and all the materials necessary for a complete, and removable, D-I-Y installation. This fully equipped, reasonably priced package is labeled for fast turnover and Self-Serve sales.

The **PATRIOT flag and flagpole set** is the best selling, large-sized flagpole set in Annin's line. New - 5 section pole on P-20 and P-20F.

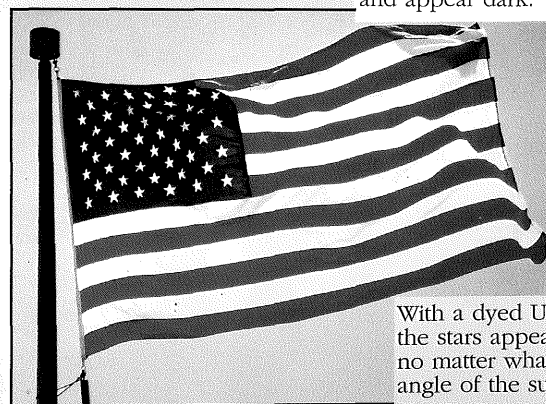
Item #	Style	Ht.	No. Sec.	Weight	Each
742360	P-20F	20'	5 sect.	19 lbs.	\$193.00
742350	P-20*	20'	5 sect.	17 lbs.	168.20
742250	P-15*	15'	3 sect.	14 lbs.	136.60

\*Flag not included

Packaged in plain white cartons



Compare... the US flag shown in this photo has a sewn star field. When the sun is behind the flag the stars block the sunlight and appear dark.



With a dyed US flag the stars appear bright no matter what the angle of the sun.

See page 61 for additional residential poles



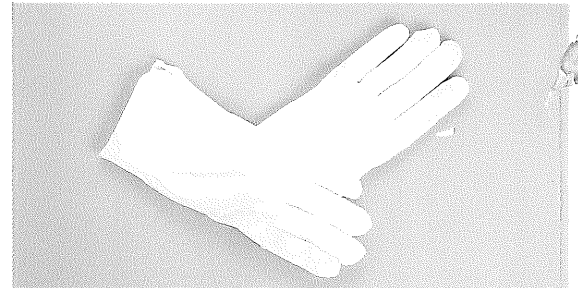


## INDOOR AND PARADE U.S. FLAGS AND SETS



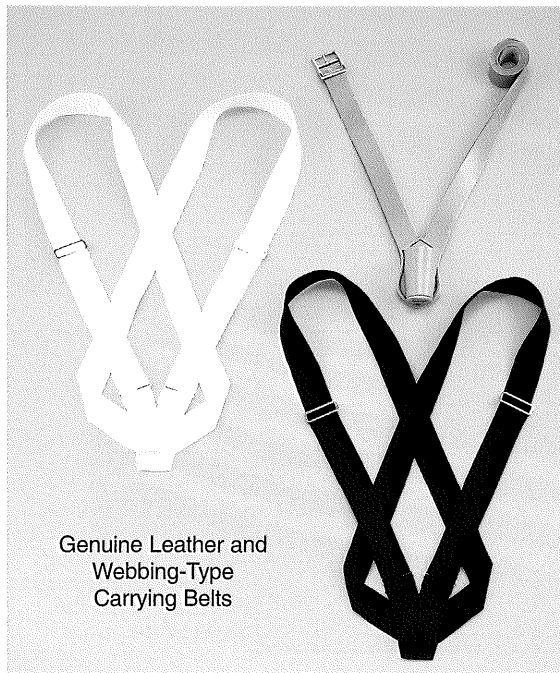
### COMPARE THESE OUTSTANDING FEATURES!

- ★ Flag construction combines the finest quality materials with the industry's most skillful sewing and embroidery.
- ★ Sturdy hardwood poles have highly polished oak finish and metal joints for unparalleled durability and beauty.
- ★ Wood-grained steel poles combine the strength of steel with the warm beauty of pecanwood, artfully simulated in a tough, vinyl laminate.
- ★ Aluminum poles feature the finest design and construction, complemented by a lustrous gold or silver anodized finish for brilliant performance both on and off the parade field.
- ★ Traditional golden eagle ornament is highlighted by a rich, plated finish.
- ★ Distinctive Admiral, Commodore and Ensign style floor stands are designed to blend with any decor, while providing excellent stability and long lasting beauty.
- ★ Finishing touches include flannel-lined pole headings, golden yellow fringe, cord and tassels. Velcro tabs facilitate flag mounting.



### Parade Gloves

White cotton with "non-slip" rubberized palm.  
Please specify size (M, L, XL).  
M - 450300, L - 450305, XL - 450310  
**Each Pair \$14.10**



Genuine Leather and  
Webbing-Type  
Carrying Belts

### Parade Carrying Belts

The choice of our nation's finest marching units. Choose from a complete selection - single or double styles - genuine leather or webbing types - white or colors. All leather belts feature strong leather cups.

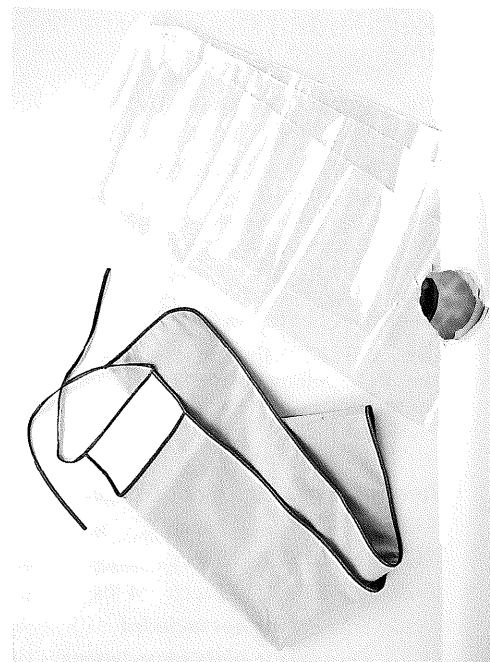
Item #	Style	Type	Color	Each
660003	Single	Leather	Russet	\$52.90
660001	Single	Leather	Black	52.90
660005	Single	Leather	White	52.90
660004	Double	Leather	Russet	83.30
660006	Double	Leather	White	83.30
660007	Single	Webbing	White	20.10
660009	Single	Webbing	O.D.	20.10
660017	Single	Webbing	Black	20.10
660008	Double	Webbing	White	34.40
660018	Double	Webbing	Black	34.40

### Dust Cover

Protects mounted flag sets while on display.  
Clear, heavy-gauge polyethylene, 12" x 108".  
**600420 \$4.20 Each**

### Rain Cover

For carrying or storing mounted flag sets. Durable waterproof material with tie tapes. 8" x 72".  
**600402 \$21.80 Each**





## Colonial Nyl-Glo

Made of 100% SolarMax nylon, Colonial Nyl-Glo is a gleaming taffeta material that exceeds stringent U.S. Government specifications. Rich, brilliant colors on weather resistant nylon that is equally at home indoors or on parade. Colonial Nyl-Glo Flags feature high gloss, densely embroidered stars and lock-stitched, hand sewn stripes and hems. Finished with flannel-lined pole heading, Velcro tabs and golden yellow rayon fringe.

UNIT  
US C

### Fringed Flags Only

Item #	Size	Each
021095	2x3'	\$49.70
021098	2½x4'	64.50
021500	3x5'	65.50
021600	4x6'	99.10
021700	4½x5½'	99.10
021800	5x8'	133.20

### Unfringed Flags Only

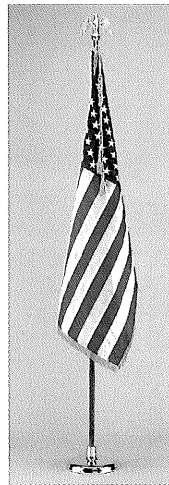
Item #	Size	Each
021099	2x3'	\$42.00
021099	2½x4'	53.90
021100	3x5'	55.00
021200	4x6'	87.00
021300	4½x5½'	87.00
021400	5x8'	117.70

## Colonial Nyl-Glo Mounted Sets

Complete Colonial sets are packaged fully mounted and ready for immediate use. Style XN sets include the **Admiral Floor Stand**, fringed flag, 2-piece polished oak pole, 7 inch gold plated eagle, and golden yellow cord and tassels. Style XNL sets include the items in the XN set but use the **Liberty Floor Stand**. Style VN sets use a wood-grained steel pole instead of oak and the **Commodore Floor Stand** instead of the Admiral. All bases may be special ordered with any flag set.

**COMPONENTS SOLD SEPARATELY ON PAGES 55-58.**

Item #	Set	Size	Each
031400	35XN	3x5'	\$188.10
031470	35XNL	3x5'	188.10
031500	46XN	4x6'	262.00
031570	46XNL	4x6'	262.00
031600	57XN	4½x5½'	262.00
031670	57XNL	4½x5½'	262.00
031700	58XN	5x8'	345.50
031770	58XNL	5x8'	345.50



## VALUE-PRICED COMPLETE MOUNTED SETS

*Suitable for Auditorium, Classroom and Parade Use*

Outstanding quality at an economical price. Choice of Bulldog 100% heavy cotton bunting or Nyl-Glo 100% nylon flag with sewn stripes and large embroidered stars, trimmed with decorative golden yellow fringe. Complete set includes two-piece varnished hardwood pole with large gilded wood spear ornament and gilt-finish Ensign floor stand. Completely mounted and individually boxed.

Style	Flag Size/Quality	Staff Size	Complete Set
52DF	3 x 5' Bulldog	8' x 1"	\$98.50
52NF	3 x 5' Nyl-Glo	8' x 1"	98.50

## STANDARD PRESENTATION AND PARADE MOUNTINGS

for U.S./State/Foreign/Custom Flags

Mtgs. Style	For Flag Size	Two-piece Pole	Pole Ornament	Floor Stand	Tassel Size	Mtgs. Only
35X	3 x 5'	8' x 1¼" oak	7S eagle	Admiral (AD)	5"	\$124.70
46X	4 x 6' or 4½ x 5½'	9' x 1¼" oak	7S eagle	Admiral (AD)	6"	149.40
58X	5 x 8'	12' x 1¾" oak	11A eagle	Admiral (AAA)	6"	215.40
35S	(same as 35X except w/31S spear in lieu of eagle)					124.70
46S	(same as 46X except w/31S spear in lieu of eagle)					149.40
35G	3 x 5'	8' x 1¼" oak	7A eagle	Admiral (AM-G)	6"	152.90
46G	4 x 6' or 4½ x 5½'	9' x 1¾" oak	7A eagle	Admiral (AAA)	7"	187.40
35V	3 x 5'	8' x 1¼" wood gr. steel	7S eagle	Commodore (C)	5"	98.10
46V	4 x 6' or 4½ x 5½'	9' x 1¼" wood gr. steel	7S eagle	Commodore (C)	5"	105.30
52D	3 x 5'	8' x 1" varnished hardwood	6" gilt spear	Ensign (EN)	-	45.60



# ANNIN MILITARY FLAGS

**Item # Description Each**

## US Army

324507	4x6" on 10" Staff	\$3.50
213100	8x12" on 18" Staff	6.50
439022	12x18" Nyl-Glo	13.80
439033	2x3' Nyl-Glo	27.60
439035	3x5' Nyl-Glo	46.10
439021	4x6' Nyl-Glo	55.80
439120	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	66.30

## US Navy

324508	4x6" on 10" Staff	\$3.50
213102	8x12" on 18" Staff	6.50
439024	12x18" Nyl-Glo	13.80
439029	2x3' Nyl-Glo	27.60
439030	3x5' Nyl-Glo	50.90
439031	4x6' Nyl-Glo	63.90
439115	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	71.00

## US Air Force

324509	4x6" on 10" Staff	\$3.50
213103	8x12" on 18" Staff	6.50
439023	12x18" Nyl-Glo	13.80
439034	2x3' Nyl-Glo	27.60
439010	3x5' Nyl-Glo	48.60
439012	4x6' Nyl-Glo	61.50
439110	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	68.70

## US Marine Corps

324511	4x6" on 10" Staff	\$3.50
213101	8x12" on 18" Staff	6.50
439003	12x18" Nyl-Glo	13.80
439004	2x3' Nyl-Glo	27.60
439005	3x5' Nyl-Glo	46.10
439007	4x6' Nyl-Glo	55.80
439105	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	66.30

## US Coast Guard

324510	4x6" on 10" Staff	\$3.50
213104	8x12" on 18" Staff	6.50
439025	12x18" Nyl-Glo	13.80
439039	2x3' Nyl-Glo	27.60
439040	3x5' Nyl-Glo	46.10
439127	4x6' Nyl-Glo	55.80
439125	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	66.30



**Item # Description Each**

## POW-MIA Single Reverse

388000	4x6" on 10" Staff	\$3.50
388050	8x12" on 18" Staff*	6.50
377984	12x18" Nyl-Glo	13.80
377986	2x3' Nyl-Glo	18.00
377991	3x5' Nyl-Glo	34.50
377994	4x6' Nyl-Glo	45.20
378997	5x8' Nyl-Glo	77.40
377998	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	54.80

\* Made to order

## POW-MIA Double Sided

377987	2x3' Nyl-Glo	\$28.50
377990	3x5' Nyl-Glo	53.30
377995	4x6' Nyl-Glo	61.30
378998	5x8' Nyl-Glo	107.70
902029	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	74.90

## US Army Retired

975561	3x4' Nyl-Glo	\$65.50
475565	3x4' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	85.30

**Item # Description Each**

## US Navy Retired

977524	3x4' Nyl-Glo	\$65.50
439215	3x4' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	85.30

## US Air Force Retired

977617	3x4' Nyl-Glo	\$65.50
439210	3x4' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	85.30

## Vietnam Veterans of America

438650	4x6" on 10" Staff	\$3.50
438600	3x5' Nyl-Glo	65.50
438605	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	85.30

## Korean War Veterans

438720	4x6" on 10" Staff	\$3.50
438700	3x5' Nyl-Glo	55.40
438705	3x5' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	75.60

## Korean War Commemorative

438750	3x5 Nyl-Glo	\$60.50
438760	3x5 Col. Nyl-Glo with Pole Sleeve & Gold Fringe	78.50

## World War II Commemorative

438850	4x6" on 10" Staff	\$3.50
438800	3x4' Nyl-Glo	44.60
438830	5x9 1/2' Nyl-Glo	147.80
438810	3x4' Colonial Nyl-Glo with Pole Sleeve & Gold Fringe	64.70



**NEW**

## Service Banner- Back by Popular Demand

This standard is displayed by immediate family members of a person serving in the Armed Forces during a period of war. The family member who is in the Service does not need to be stationed overseas in order for his or her family to display the banner. Organizations and businesses may also display the Service Banner if they have members serving in the Armed Forces.

Annin & Co. has been authorized by the US Government to manufacture and sell the Service Banner.

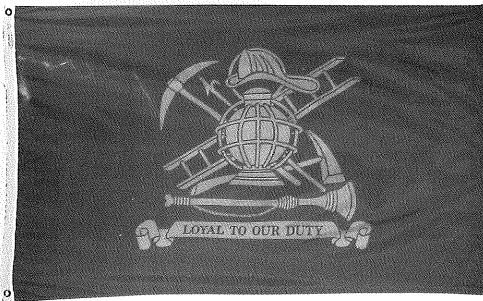
<b>Item #</b>	<b>Description</b>	<b>Each</b>
440191	8x15" Nyl-Glo, Crossbar, Gold Cord & Tassel	\$14.00





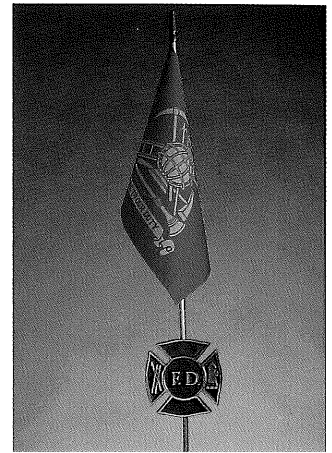
## FIREFIGHTERS FLAGS

TED  
Outdo



Honor members and this loyal organization with our special firefighters flag. It's the perfect tribute and symbol of recognition for this dedicated group. The flag's inscription reads: "Loyal to Our Duty". Available either as a Grave Marker/Parade flag mounted on a plain wood staff with gold spearheads or as an outdoor flag finished with strong duck heading and brass grommets.

Item #	Description	Each
380200	12 X 18" Poly on 30" dowel	\$4.00
379327	3 X 5' Nyl-Glo	\$29.90



Firefighters Flag 12x18"

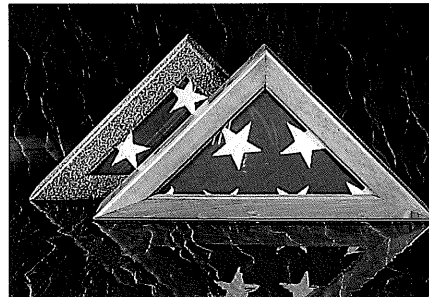
### Deluxe Oak Case



Stately solid oak case holds up to 5x9½" flag in triangle. May be wall mounted or free standing. Removable back panel, and glass face.

Item #	Each
700265	\$179.90

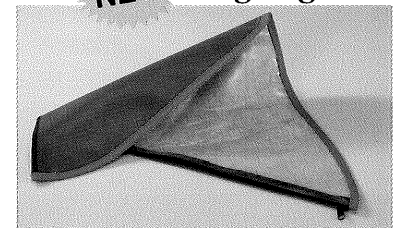
### Good Quality Wood Case



Your choice of either walnut stain or granite look finish. Holds up to 5x9½" flag folded into triangle. Plexiglas face.

Item #	Color	Each
700235	Walnut	\$101.30
700285	Granite	101.30

### NEW Flag Bag

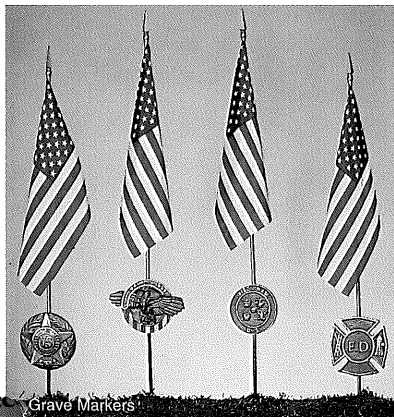


Vinyl flag bag with canvas back. 23" x 12". Zips close. This bag holds up to 5 x 9½" sized flag. Great for transport or storage.

Item #	Description	Each
810300	Vinyl Flag Bag	\$8.00

## Grave Markers

A 12x18" Size U. S. Spearhead Flag is Recommended to Complete this Grave Marker Set.



Cast bronze or bronze finished aluminum. These official designs are mounted on 21" aluminum rods and hold one 12x18" flag on a ¾" staff (flag not included). Cast bronze is stocked in these designs: General Military Service, WWI, WWII, Korea, Vietnam and Fireman.

Because of seasonal demand, PLACE MEMORIAL DAY ORDERS NO LATER THAN MAY 1st.

Item #	Style	Finish	Each
601704	World War I	Aluminum	\$21.30
601714	World War I	Bronze	31.40
601705	World War II	Aluminum	21.30
601715	World War II	Bronze	31.40
601706	General Military	Aluminum	21.30
601716	General Military	Bronze	31.40
601703	Korean	Aluminum	21.30
601713	Korean	Bronze	31.40
601702	Vietnam	Aluminum	21.30
601712	Vietnam	Bronze	31.40
601701	Fireman (Maltese Cross)	Red Aluminum	21.30
601711	Fireman (Maltese Cross)	Bronze	31.40

## Custom Authentic Military Guidons

Made in accordance with military regulations.

### Classification of Arm or Service Insignia

Class 1	Class 2	Class 3
Air Force Eagle	Artillery	Armor
Infantry	Chemical Corps	Medical Corps
Ordnance	Corps of Engineers	Signal Corps
Field Artillery	Military Police	Transportation
		Quartermaster Corps

### 20x27¾" Guidon Only— with Insignia

Nyl-Glo up to 6 letters.

Class	Each
Class 1	\$118.20
Class 2	155.50
Class 3	183.40

### Guidon Staffs

8"x1½" & 9"x1½" hardwood jointed staff with light ash finish, 7" or 8½" army spear, and pointed bottom ferrule.

Item #	Size	Spear	Each
555810	8"	7" Brass	\$151.20
555811	8"	7" Chrome	192.20
555910	9"	8½" Brass	163.80
555911	9"	8½" Chrome	225.90
614110	Pointed	Brass Bottom Ferrule	50.50
614115	Pointed	Chrome Plated Bottom Ferrule	59.80

### 20x27¾" Guidon Only—without Insignia

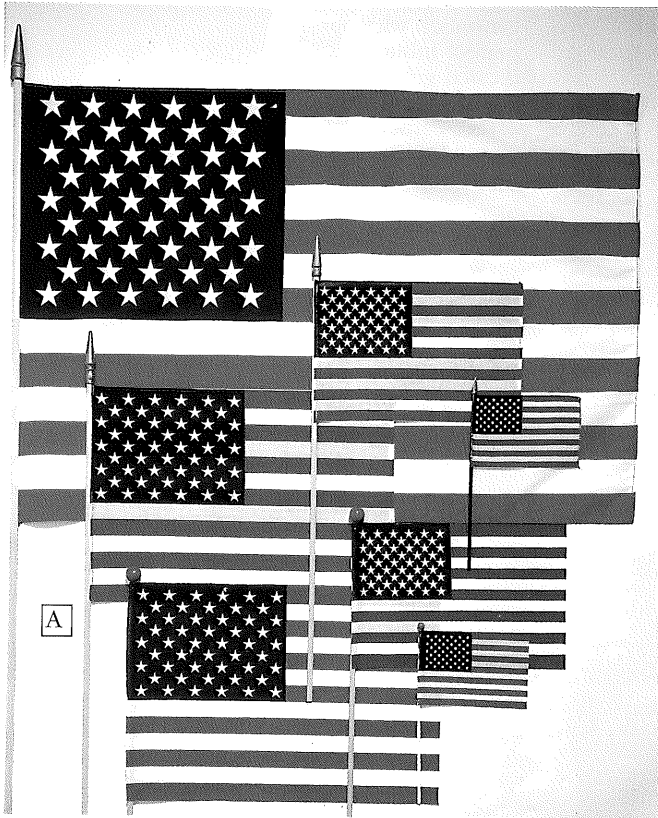
Nyl-Glo up to 14 letters.

Class	Each
Class 1	\$148.30

All guidons furnished with pole hem and leather tabs. Lettering and insignia appliquéd.



## Fast-Selling! SPEARHEAD AND SAF-T-BALL® U.S. FLAGS



### A. Verona Brand Poly/Cotton Spearhead Flags

Also referred to as "stick" flags or "grave" flags. The traditional hand-held flag for parades and other patriotic or festive affairs. 8 x 12" and 12 x 18" sizes are also used to decorate veterans' graves.

Item #	Flag Size	Staff Size	Each
041100	4 x 6"	3/16 x 10" Black	\$.66
041200	8 x 12"	5/16 x 24" White	1.30
041300	12 x 18"	5/16 x 30" White	2.20
041400	12 x 18"	3/8 x 30" Black	2.70
041500	24 x 36"	7/16 x 48" White	8.00



### B. Verona Brand Poly/Cotton Saf-T-Ball® Flags

Item #	Flag Size	Saf-T-Ball Staff Size	Each
041110	4 x 6"	3/16 x 10" White	\$.68
047910	8 x 12"	5/16 x 16"	1.40
041450	12 x 18"	5/16 x 30"	1.80

Made of the same extra poly/cotton sheeting as our Spearhead flags, Saf-T-Ball flags are finished with safety in mind. Recommended for all hand held applications such as parades and other festive events.

## AUTO FENDER FLAG SETS

These handsome sets are now available in two different mounting styles. Style M features an 18" polished aluminum staff and stainless steel base with powerful built-in magnet for mounting on top of fender. Style A (illus.) consists of a 26" aluminum staff with cast aluminum claw bracket which attaches to lip of fender. Both are topped with a chrome-plated eagle ornament.

Item #	Style	Type-Mount	Flag Size	Comp. Set
011865	ME-F	Magnetic	8" x 12"	\$69.80
011850	AE-F	Bracket	12" x 18"	67.50
002435	U.S. flag only, fringed:		8" x 12"	15.60
002430	U.S. flag only, fringed:		12" x 18"	16.70

### Automobile Flag Staffs - Without Flags

Item #	Style	Type-Mount	Ornament	Each
642607	AE	Bracket	Eagle	\$54.20
642610	AB	Bracket	Ball	54.20
642618	ME	Magnetic	Eagle	55.10
642615	MB	Magnetic	Ball	55.10

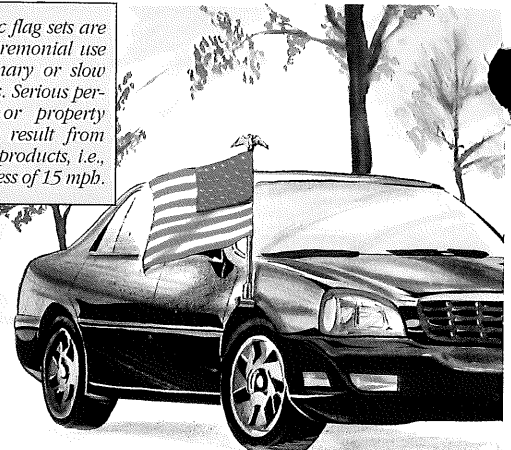
### "No Fray" U. S. Flags

#### The perfect "giveaway" flag

Made of special fray resistant fabric that does not require hemming. Made in the U.S.A. Mounted on spear-top or ball top staffs.

Item #	Size	Type	Each
041180	4x6"	Ball top	\$.54
041185	4x6"	Ball top	.54
041290	8x12"	Spear-top	1.40
041390	12x18"	Spear-top	2.00

*NOTE: Magnetic flag sets are designed for ceremonial use only on stationary or slow moving vehicles. Serious personal injury or property damage could result from misuse of these products, i.e., at speeds in excess of 15 mph.*

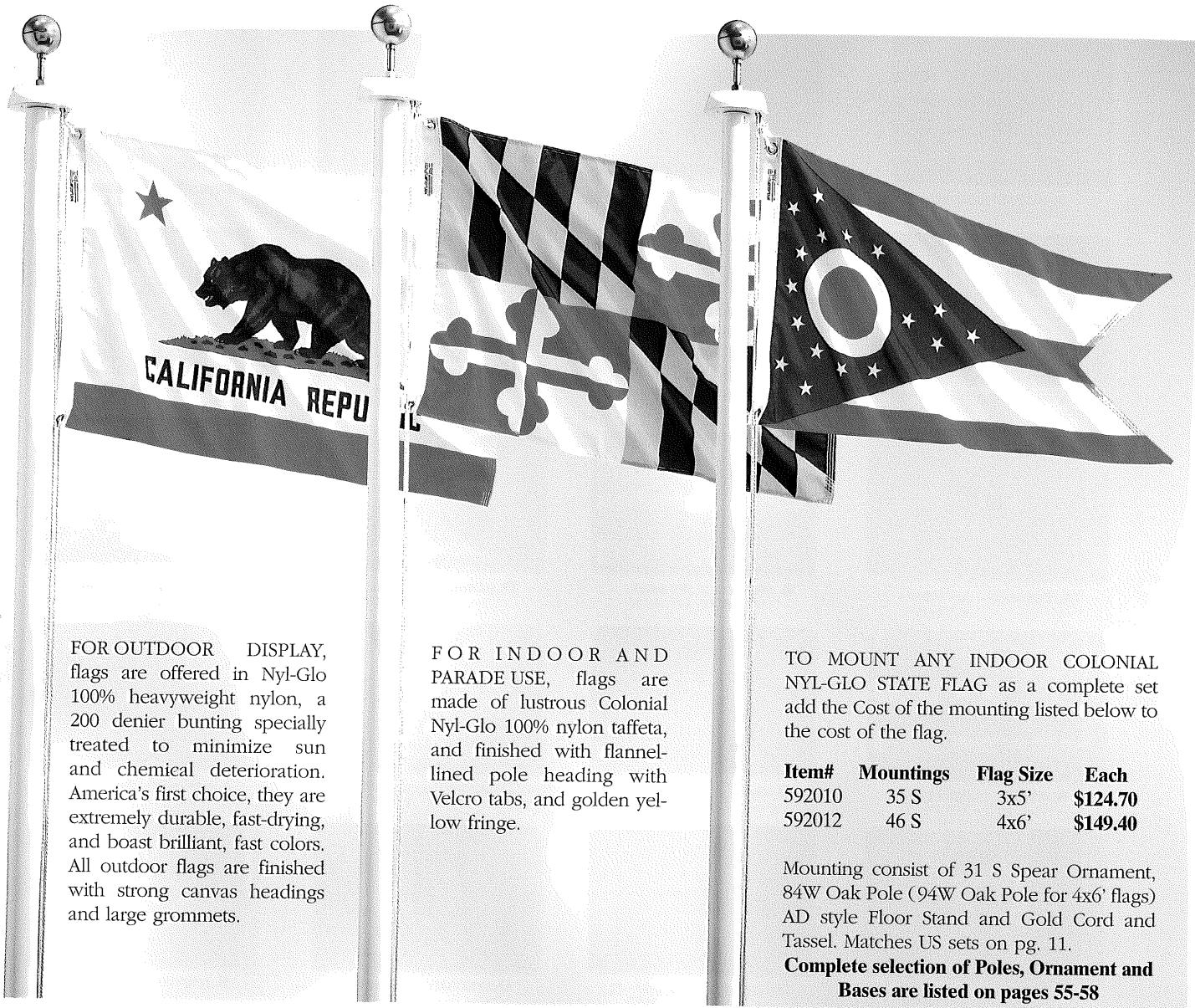




# STATE AND TERRITORIAL FLAGS

## For Outdoor/Indoor/Parade

ITEL  
Out



FOR OUTDOOR DISPLAY, flags are offered in Nyl-Glo 100% heavyweight nylon, a 200 denier bunting specially treated to minimize sun and chemical deterioration. America's first choice, they are extremely durable, fast-drying, and boast brilliant, fast colors. All outdoor flags are finished with strong canvas headings and large grommets.

FOR INDOOR AND PARADE USE, flags are made of lustrous Colonial Nyl-Glo 100% nylon taffeta, and finished with flannel-lined pole heading with Velcro tabs, and golden yellow fringe.

TO MOUNT ANY INDOOR COLONIAL NYL-GLO STATE FLAG as a complete set add the Cost of the mounting listed below to the cost of the flag.

Item#	Mountings	Flag Size	Each
592010	35 S	3x5'	\$124.70
592012	46 S	4x6'	\$149.40

Mounting consist of 31 S Spear Ornament, 84W Oak Pole (94W Oak Pole for 4x6' flags) AD style Floor Stand and Gold Cord and Tassel. Matches US sets on pg. 11.

**Complete selection of Poles, Ornament and Bases are listed on pages 55-58**

### Nyl-Glo State Flags

State	Outdoor					
	12x18"	2x3'	3x5'	4x6'	5x8'	6x10'
Texas	\$12.80	\$17.60	\$28.20	\$37.80	\$58.00	\$121.20
Washington	12.80	39.50	74.00	115.00	149.50	258.40
Oregon	12.80	38.50	72.60	111.30	146.10	246.00
All Others	12.80	24.60	36.70	See Chart Below for Class		
				4x6'	5x8'	6x10'
		All Others Class A	53.40	82.90	145.90	
		All Others Class B	64.90	97.40	168.00	
		All Others Class C	73.70	112.10	194.30	
		All Others Class D	82.30	130.30	223.70	
Complete Sets	637.60	1225.70	1881.00	3459.60	5328.70	9156.10

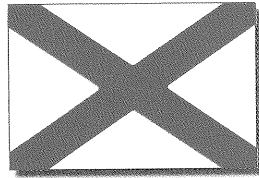
Nyl-Glo Colonial State Flags		
State	3x5'	4x6'
Texas	\$51.80	\$64.90
Washington	97.80	142.90
Oregon	95.60	139.10
All Others	60.40	A - 81.20 B - 92.70 C - 101.50 D - 110.10
Complete Sets	3065.00	4850.00
For Flags without fringe Specify and deduct \$7.00 from 3x5' price or \$8.00 from 4x6' price		



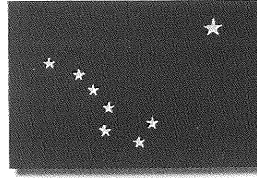


# STATE AND TERRITORIAL FLAGS

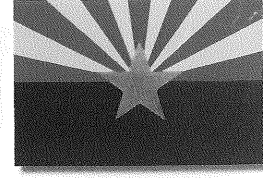
Note: Letter denotes price class for sizes 4x6', 5x8', and 6x10'



**A ALABAMA** 3x5' 140060  
4x6' 140070



**A ALASKA** 3x5' 140165  
4x6' 140170



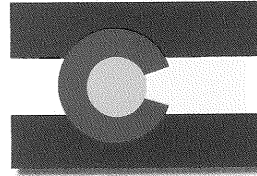
**B ARIZONA** 3x5' 140260  
4x6' 140270



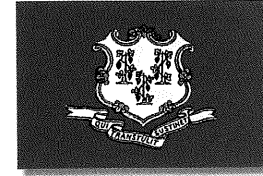
**A ARKANSAS** 3x5' 140360  
4x6' 140370



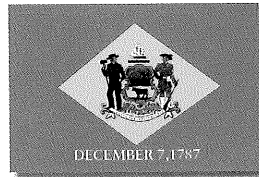
**B CALIFORNIA** 3x5' 140460  
4x6' 140470



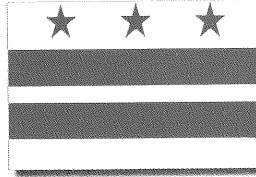
**B COLORADO** 3x5' 140660  
4x6' 140670



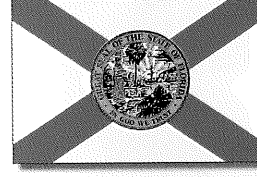
**C CONNECTICUT** 3x5' 140760  
4x6' 140770



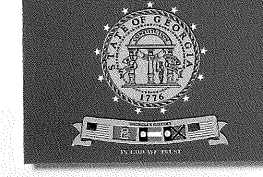
**C DELAWARE** 3x5' 140860  
4x6' 140870



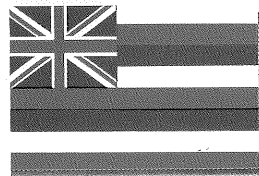
**B DISTRICT OF COLUMBIA** 3x5' 146460  
4x6' 146470



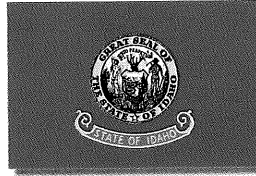
**D FLORIDA** 3x5' 140960  
4x6' 140970



**A GEORGIA** 3x5' 147460  
4x6' 147470



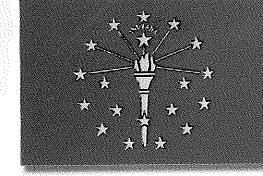
**A HAWAII** 3x5' 141260  
4x6' 141270



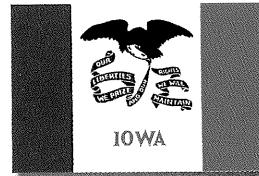
**D IDAHO** 3x5' 141360  
4x6' 141370



**D ILLINOIS** 3x5' 141460  
4x6' 141470



**A INDIANA** 3x5' 141660  
4x6' 141670



**B IOWA** 3x5' 141760  
4x6' 141770



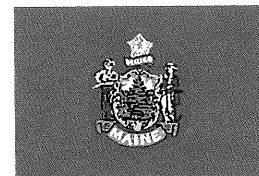
**D KANSAS** 3x5' 141860  
4x6' 141870



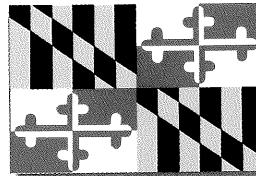
**D KENTUCKY** 3x5' 141960  
4x6' 141970



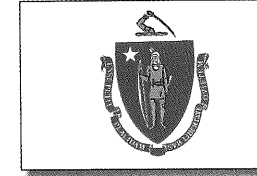
**B LOUISIANA** 3x5' 142160  
4x6' 142170



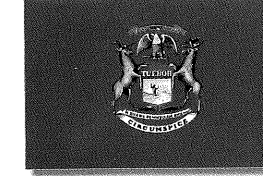
**D MAINE** 3x5' 142260  
4x6' 142270



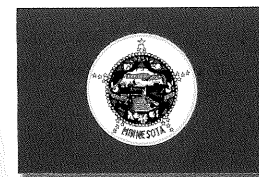
**A MARYLAND** 3x5' 142360  
4x6' 142370



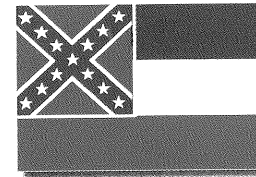
**A MASSACHUSETTS** 3x5' 142460  
4x6' 142470



**D MICHIGAN** 3x5' 142660  
4x6' 142670



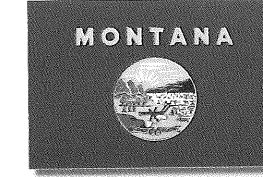
**C MINNESOTA** 3x5' 142760  
4x6' 142770



**A MISSISSIPPI** 3x5' 142860  
4x6' 142870



**C MISSOURI** 3x5' 142960  
4x6' 142970



**D MONTANA** 3x5' 143160  
4x6' 143170

Item numbers refer to outdoor Nyl-Glo Flags  
Note: Letter denotes price class

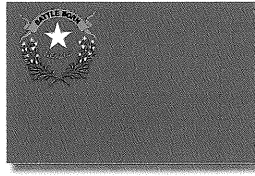


# STATE AND TERRITORIAL FLAGS

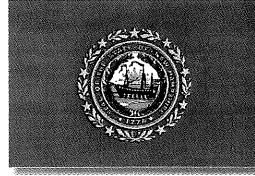
NTEL  
Out



**B** NEBRASKA 3x5' 143260  
4x6' 143270



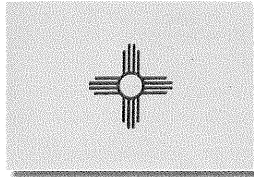
**B** NEVADA 3x5' 143360  
4x6' 143370



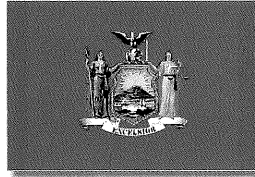
**D** NEW HAMPSHIRE 3x5' 143460  
4x6' 143470



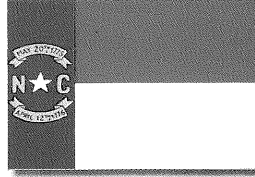
**D** NEW JERSEY 3x5' 143660  
4x6' 143670



**A** NEW MEXICO 3x5' 143760  
4x6' 143770



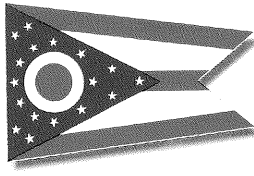
**D** NEW YORK 3x5' 143860  
4x6' 143870



**B** NORTH CAROLINA 3x5' 143960  
4x6' 143970



**C** NORTH DAKOTA 3x5' 144160  
4x6' 144170



**A** OHIO 3x5' 144260  
4x6' 144270



**C** OKLAHOMA 3x5' 144360  
4x6' 144370



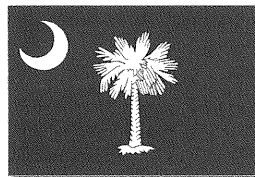
OREGON 3x5' 144460  
4x6' 144470



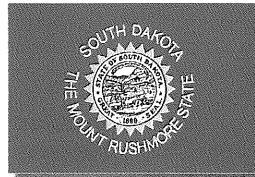
**D** PENNSYLVANIA 3x5' 144660  
4x6' 144670



**A** RHODE ISLAND 3x5' 144760  
4x6' 144770



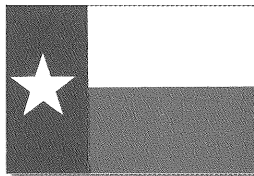
**A** SOUTH CAROLINA 3x5' 144860  
4x6' 144870



**B** SOUTH DAKOTA 3x5' 144960  
4x6' 144970



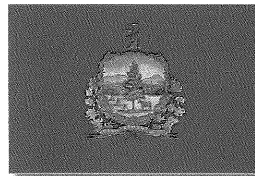
**A** TENNESSEE 3x5' 145160  
4x6' 145170



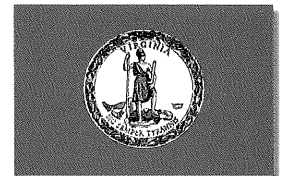
TEXAS 3x5' 145260  
4x6' 145270



**C** UTAH 3x5' 145360  
4x6' 145370



**D** VERMONT 3x5' 145460  
4x6' 145470



**D** VIRGINIA 3x5' 145660  
4x6' 145670



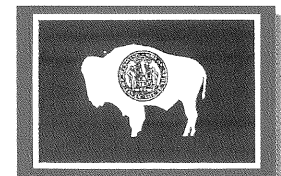
WASHINGTON 3x5' 145760  
4x6' 145770



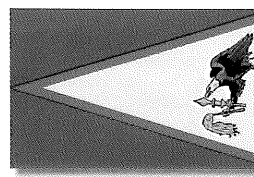
**D** WEST VIRGINIA 3x5' 145860  
4x6' 145870



**D** WISCONSIN 3x5' 145960  
4x6' 145970



**B** WYOMING 3x5' 146160  
4x6' 146170



**D** AMERICAN SAMOA 3x5' 146300  
4x6' 146302



**D** GUAM 3x5' 146660  
4x6' 146670



**A** PUERTO RICO 3x5' 146760  
4x6' 146770



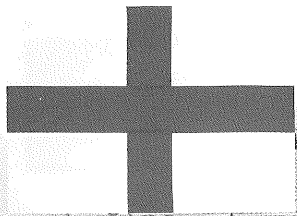
**A** U.S. VIRGIN ISLANDS 3x5' 146860  
4x6' 146870

Item numbers refer to outdoor Nyl-Glo Flags

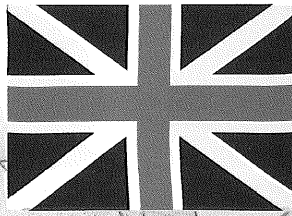




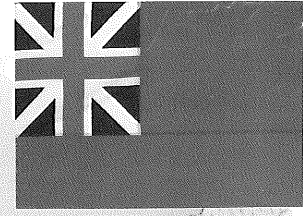
# HISTORICAL FLAGS OF THE UNITED STATES



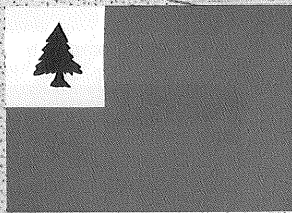
**Item # 1. St. George Cross Each**  
 313592 2x3' Nyl-Glo \$27.90  
 313595 3x5' Nyl-Glo 37.80  
 313560 3x5' Bulldog 38.70



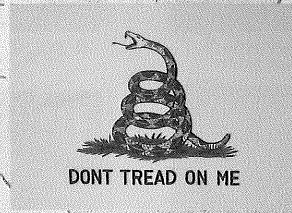
**Item # 2. Kings Colors Each**  
 313742 2x3' Nyl-Glo \$27.90  
 313745 3x5' Nyl-Glo 37.90



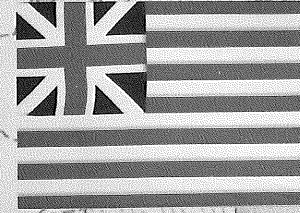
**Item # 3. British Red Ens. Each**  
 313892 2x3' Nyl-Glo \$27.90  
 313895 3x5' Nyl-Glo 37.80



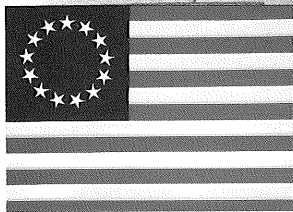
**Item # 4. Continental Each**  
 314892 2x3' Nyl-Glo \$27.90  
 314895 3x5' Nyl-Glo 37.80



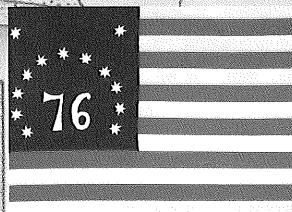
**Item # 5. Gadsden Each**  
 316410 2x3' Nyl-Glo \$27.90  
 316420 3x5' Nyl-Glo 37.80



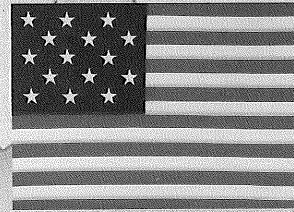
**Item # 6. Grand Union Each**  
 317592 2x3' Nyl-Glo \$27.90  
 317595 3x5' Nyl-Glo 37.80



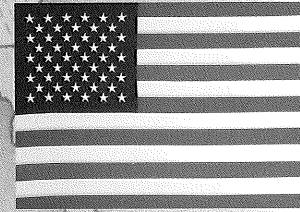
**Item # 7. Betsy Ross Each**  
 318300 2x3' Nyl-Glo \$27.90  
 318325 3x5' Nyl-Glo 37.80  
 318100 3x5' Bulldog 38.70



**Item # 8. Bennington Each**  
 315220 2x3' Nyl-Glo \$28.40  
 315225 3x5' Nyl-Glo 38.70  
 315205 3x5' Bulldog 39.30



**Item # 9. Star Spangled Banner Each**  
 319392 2x3' Nyl-Glo \$28.40  
 319395 3x5' Nyl-Glo 38.70  
 318900 3x5' Bulldog 39.30



**Item # 10. Old Glory Each**  
 002420 2x3' Nyl-Glo \$26.80  
 002460 3x5' Nyl-Glo 38.50  
 001160 3x5' Bulldog 39.50

## Complete Set of 10 Flags of Our Country

2x3' Nyl-Glo

Item # .....Ea.  
 313355 .....\$279.00

3x5' Nyl-Glo

Item # .....Ea.  
 313360 .....\$380.00

## "Flags of Our Country"

A special selection of ten flags which have played important roles in the unfolding of our Nation's history.

1. *ST. GEORGE CROSS* . . . the flag carried to the New World by most of the early English explorers. Its use can be traced back to 1277 in Britain.
2. *KING'S COLORS* . . . one of the military colors used by British colonial troops after 1743. As the *BRITISH UNION FLAG* it was the standard raised by the Jamestown settlers in 1607. The design originated when King James I of England combined the St. George Cross with the Scottish Cross of St. Andrew.
3. In 1707 Queen Anne adopted a new flag for the United Kingdom – The Union Jack on a field of red. Called the *BRITISH RED ENSIGN*, Cornwallis surrendered under this flag at Yorktown in 1781.
4. Colonel John Trumbull's painting, "The Death of Warren," now at the Yale University Art Gallery, shows the red *CONTINENTAL FLAG* to be the one used by American forces at the Battle of Bunker Hill, June 17, 1775.
5. *GADSDEN FLAG* . . . named after Colonel Christopher Gadsden of South Carolina, was flown early in 1776 by Commodore Esek Hopkins of Rhode Island, first Commander-in-chief of the Continental Fleet. Its inscription represented a warning by the colonists to the British.
6. *GRAND UNION* . . . the first (unofficial) national flag of the United States. It was raised in 1776 to celebrate the official status of the newly formed Continental Army by General George Washington, whose camp was then in Cambridge. Also known as the *CAMBRIDGE FLAG* or *CONTINENTAL COLORS*.

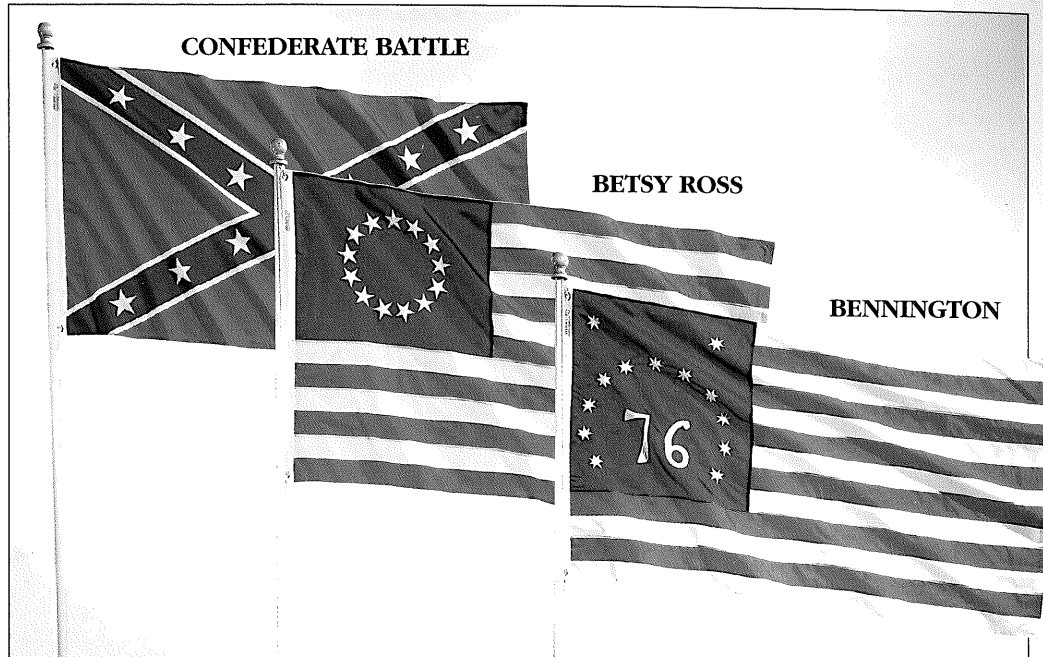
7. The first official United States flag, adopted by an Act of Congress on June 14, 1777. According to legend, a group headed by George Washington commissioned seamstress *BETSY ROSS* to execute their design for presentation to Congress.
8. *BENNINGTON* . . . believed by many authorities to be the first Stars and Stripes used by American land troops. Flown over the military stores at Bennington on August 16, 1777 when General John Stark's militia led Americans to victory over British raiding force. Original flag is preserved in the Bennington, Vermont Museum.
9. Shortly before the War of 1812, two new states were added to the Union and a flag consisting of 15 stars and 15 stripes was created. This *STAR SPANGLED BANNER*, flying over Fort McHenry during a British naval bombardment, inspired Francis Scott Key to compose what later became our National Anthem. The restored flag now hangs in the Smithsonian.
10. *OLD GLORY* . . . born of the need for a more practical design to accommodate new states entering the Union. On April 4, 1818, Congress established the number of stripes at seven red and six white, and provided for the addition of one star for each new state. The 50-star flag has been in use since July 4, 1960.



LED S  
Outdoor

# Betsy Ross, Bennington, & Confederate Battle Flags

Popular favorites for generations, these colorful flags for outdoor use feature sturdy construction throughout, including heavy white duck headings and strong brass grommets.



CONFEDERATE BATTLE		
Item #	Description	Each
281155	12 x 18" Nyl-Glo	\$10.30
311445	2 x 3' Nyl-Glo	20.80
311450	3 x 5' Nyl-Glo	40.20
311455	4 x 6' Nyl-Glo	49.30
311458	5 x 8' Nyl-Glo	96.80
311150	3 x 5' Bulldog	40.90
311125	3 x 5' Premier*	12.10

\*All printed polyester

BETSY ROSS		
Item #	Description	Each
318300	2 x 3' Nyl-Glo	\$27.90
318325	3 x 5' Nyl-Glo	37.80
318350	4 x 6' Nyl-Glo	46.30
318360	5 x 8' Nyl-Glo	76.80
317900	2 x 3' Bulldog	28.40
318100	3 x 5' Bulldog	38.70
318200	4 x 6' Bulldog	47.30

BENNINGTON		
Item #	Description	Each
315220	2 x 3' Nyl-Glo	\$28.40
315225	3 x 5' Nyl-Glo	38.70
315230	4 x 6' Nyl-Glo	54.90
315235	5 x 8' Nyl-Glo	78.10
315200	2 x 3' Bulldog	28.80
315205	3 x 5' Bulldog	39.30
315210	4 x 6' Bulldog	53.90

## 3x5' Historical Flags



Confederate Battle  
Listed Above



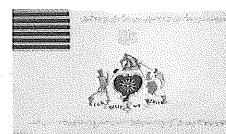
311475 Stars and Bars  
(First Confederate)  
Nyl-Glo Ea. \$41.60  
311470 3 x 5' Bulldog  
Ea. \$42.20



311485 Third Confederate  
Nyl-Glo Ea. \$41.60



319600 Taunton  
Nyl-Glo Ea. \$41.60



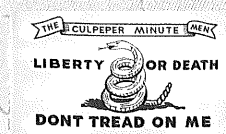
318780  
Philadelphia Light Horse  
Nyl-Glo Ea. \$41.60



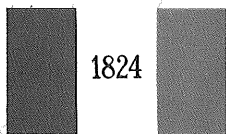
316100 First Navy Jack  
Nyl-Glo Ea. \$41.60



319675 Fort Moultrie  
Nyl-Glo Ea. \$41.60



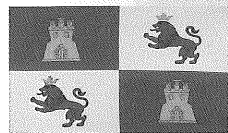
318760 Culpeper  
Nyl-Glo Ea. \$41.60



319895 Alamo  
Nyl-Glo Ea. \$41.60



319725  
Rhode Island Regiment  
Nyl-Glo Ea. \$41.60



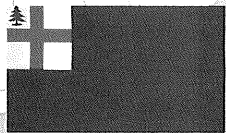
318740 Lions and Castles  
(Royal Standard of Spain)  
Nyl-Glo Ea. \$41.60



318795 Commodore Perry  
Nyl-Glo Ea. \$41.60



315795 Pine Tree  
Nyl-Glo Ea. \$41.60



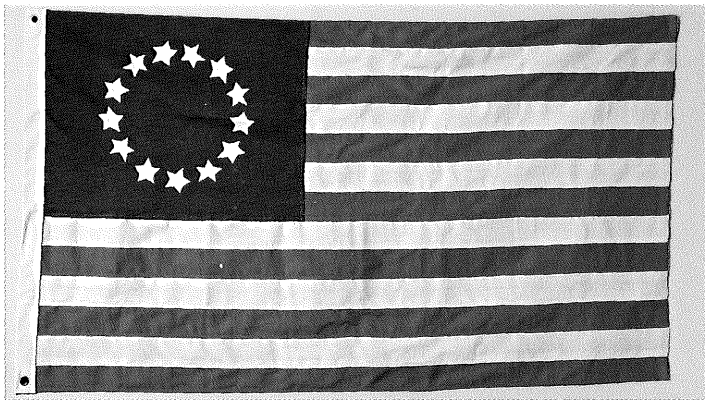
318725 Bunker Hill  
Nyl-Glo Ea. \$41.60



319575 French Fleur-de-lis  
Nyl-Glo Ea. \$41.60



## ADDITIONS TO THE HISTORICAL LINE



**NEW** **Vintage Design Betsy Ross Flag**

*Colonial Style United States Flag*

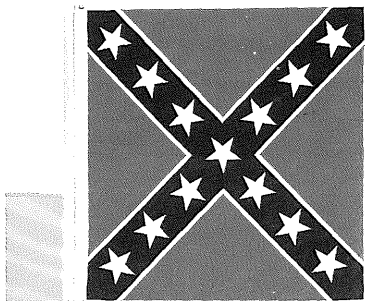
Styled after the thirteen star flag created by Betsy Ross in 1776, this historic American classic has been recreated with care using 100% domestic cotton cloth textured with an authentic feel.

This 3x5 foot all cotton flag features appliquéd stars of distinctive shapes and stitched stripes. The specialty fabric is colored with hues of red, white and blue that simulate the natural dyes used in 18th century America.

Packaged in a decorative box, suitable for display or gift giving.

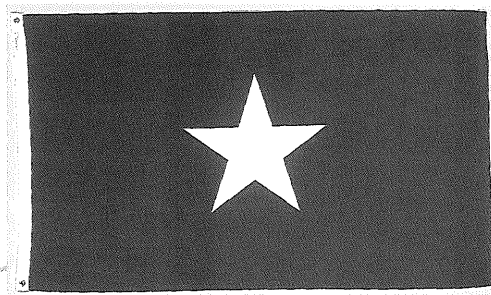


Item #	Description	Each
318130	3x5' Speciality Cotton	\$49.90



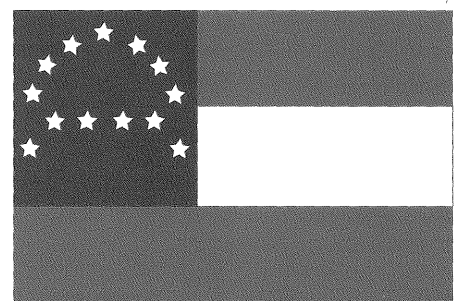
**Confederate Field Artillery-**

Item #	Description	Each
310503	3x3' Nyl-Glo	\$41.60



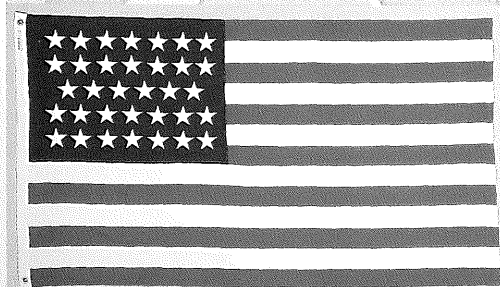
**The Bonnie Blue Flag-**

Item #	Description	Each
319925	3x5' Nyl-Glo	41.60



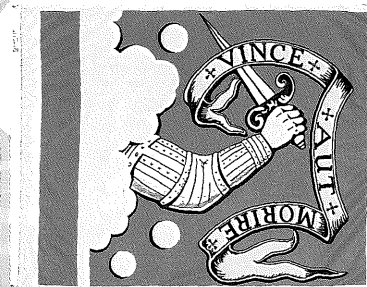
**General Lee's Headquarters Flag-**

Item #	Description	Each
311905	3x5' Nyl-Glo	41.60



**Union Civil War-34 Star**

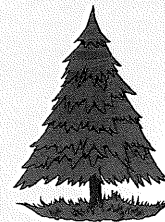
Item #	Description	Each
310605	3x5' Nyl-Glo	60.90



**The Bedford Flag-**

Item #	Description	Each
319726	3x3' Nyl-Glo	\$41.60

**AN APPEAL TO HEAVEN**



**Washington's Cruisers' Flag-**

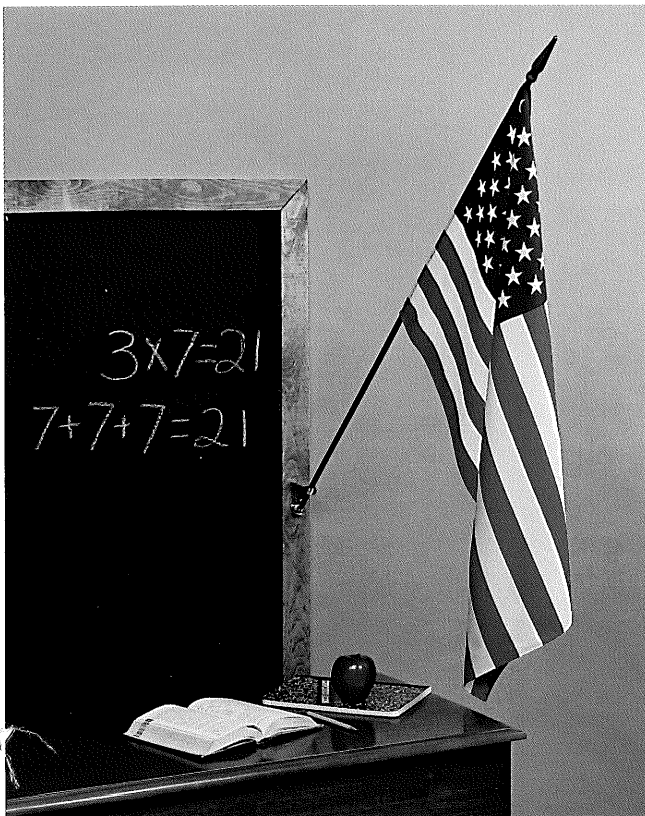
Item #	Description	Each
319728D	3x5' Nyl-Glo	\$41.60





# SCHOOL DAYS ... CLASSROOM FLAGS AND ACCESSORIES!

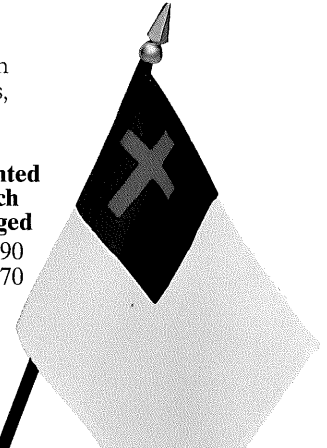
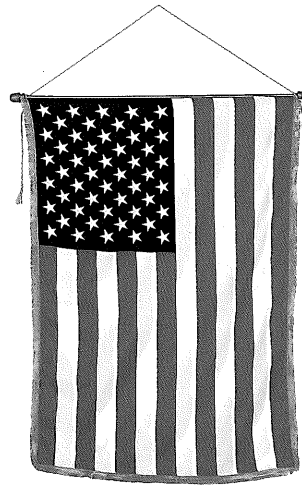
ED SL  
ttdoo



## Classroom Flag Banners

U.S. Flag, banner-style, mounted on ebonized crossbar with gilt spear ends, gold cord and tassels.

Item #	Size	Mounted	
		Each Plain	Each Fringed
023100	16x24"	\$12.00	
023300	24x36"	16.50	
023200		\$14.90	
023400		20.70	



## Christian Empire Brand Flags

Item #	Size	Each
111100	4x6"	\$3.50
	on 3/16"x10" Staff	
111200	8x12"	6.50
	on 1/4"x18" Staff	
111300	12x18"	8.90
	on 3/8"x30" Staff	
111230	16x24"	11.50
	on 3/8"x36" Staff	
111403	24x36"	18.80
	on 7/16"x48" Staff	

## Empire Brand U.S. Flags For Classroom Display

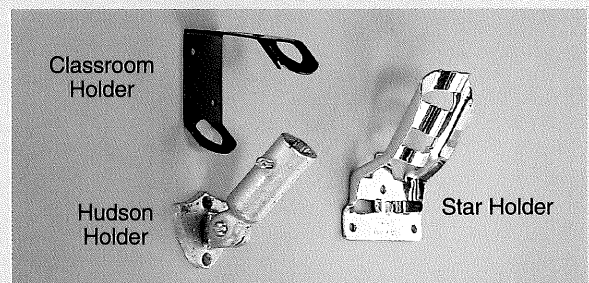
Item #	Flag Size	Staff Size	Mounted Each Plain	Item #	Mounted Each Fringed
042600	4 x 6"	3/16 x 10"	\$1.50	043900	\$2.70
042700	8 x 12"	1/4 x 18"	2.60	044100	4.20
042800	12 x 18"	3/8 x 30"	4.20	044200	6.10
042900	16 x 24"	3/8 x 36"	6.70	044300	9.50
043100	24 x 36"	7/16 x 48"	14.20	044400	17.20

## State Empire Brand Flags

State Flags also available for classroom use.

Size	Availability	Each
4x6" on 3/16"x10" Staff	All States	\$3.50
8x12" on 1/4"x18" Staff	All States	6.50
12x18" on 3/8"x30" Staff	Select States	8.90

*Check with Customer Service*



Item #	Style	Description	Staff Size	Each
642605	Classroom Holder	Steel, black enamel finish	3/8" to 3/4"	\$2.50
642604	Hudson Holder	Cast aluminum with adj. set screw	up to 3/8"	13.90
642600	S-50 Star Holder	Heavy stamped steel	3/8" to 1/2"	1.80

ADDITIONAL HOLDERS LISTED ON PAGE 60

scora  
ape

This Empire Brand Flag says "Thank You" in many languages. Perfect for Gift Baskets and Floral Displays the Thank You flag is mounted on a 10" ebonized staff. Offering is limited to 4" x 6" Size only.

Thank You- \$3.50 each

326012 \*

4" x 6" only





## MINIATURE FLAGS & SETS

### A Empire Brand U.S. Flags

Item No.	Flag Size	Staff Size	Mounted Each Plain	Item No.	Mounted Each Fringed
042600	4 x 6"	3/16 x 10"	\$1.50	043900	\$2.70
042700	8 x 12"	1/4 x 18"	2.60	044100	4.20
042800	12 x 18"	3/8 x 30"	4.20	044200	6.10
042900	16 x 24"	3/8 x 36"	6.70	044300	9.50
043100	24 x 36"	7/16 x 48"	14.20	044400	17.20

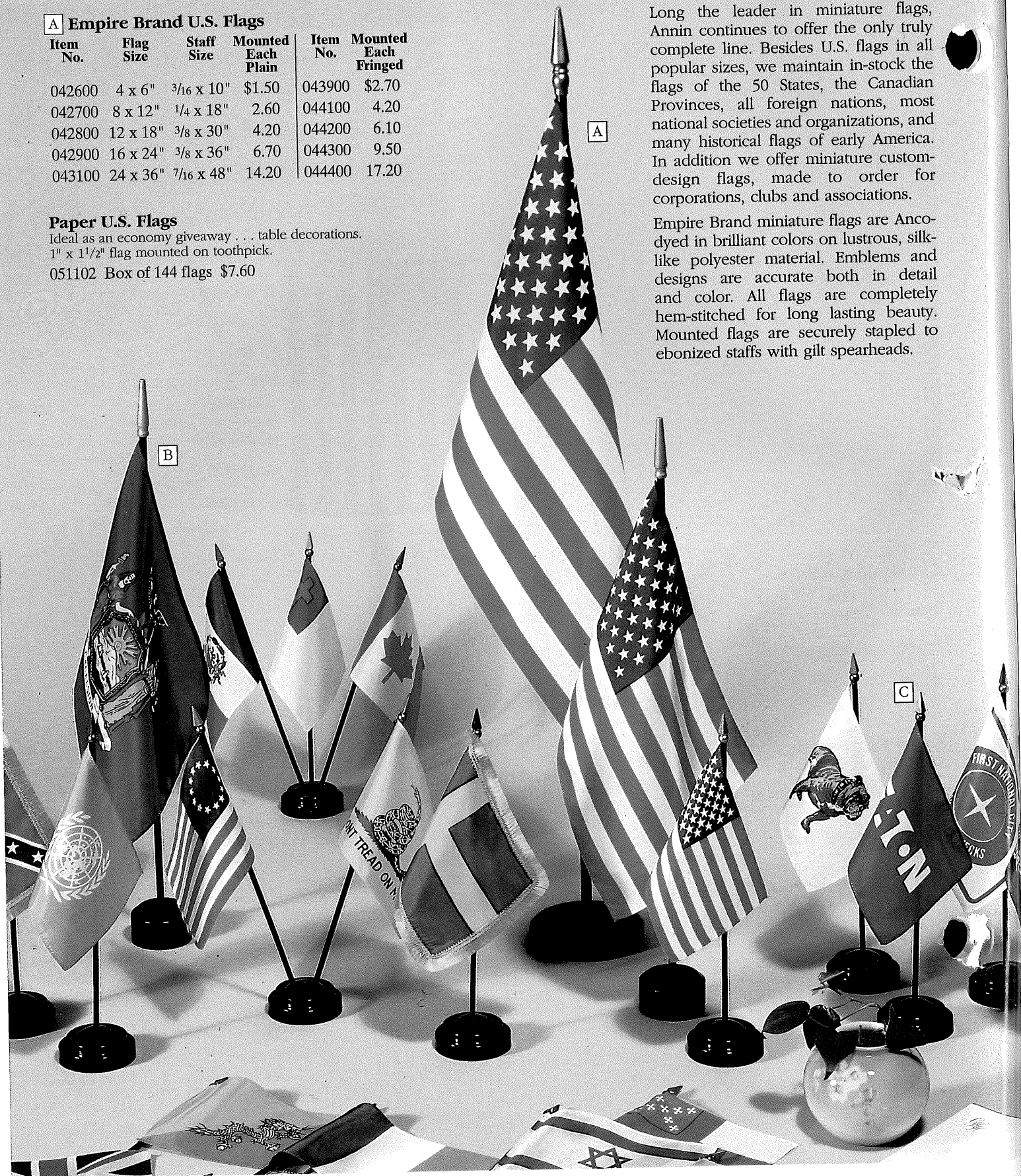
### Paper U.S. Flags

Ideal as an economy giveaway . . . table decorations.  
1" x 1 1/2" flag mounted on toothpick.

051102 Box of 144 flags \$7.60

Long the leader in miniature flags, Annin continues to offer the only truly complete line. Besides U.S. flags in all popular sizes, we maintain in-stock the flags of the 50 States, the Canadian Provinces, all foreign nations, most national societies and organizations, and many historical flags of early America. In addition we offer miniature custom-design flags, made to order for corporations, clubs and associations.

Empire Brand miniature flags are Anco-dyed in brilliant colors on lustrous, silk-like polyester material. Emblems and designs are accurate both in detail and color. All flags are completely hem-stitched for long lasting beauty. Mounted flags are securely stapled to ebonized staffs with gilt spearheads.







## B. State • Foreign • Historical • Religious

Individual 4x6" flags of the 50 states, four U.S. territories, most nations of the world, all Canadian Provinces and Territories, the United Nations Organization, more than 50 historical U.S. flags (including those listed on Page 11), as well as the Christian, Papal, Episcopal and Israel flags.

Available also in 8" x 12" are the 50 states, four U.S. territories, major world nations, United Nations, Betsy Ross, Bennington, Confederate, Christian, Papal, Episcopal and Israel flags.

Size	Mounted Each Plain
4 x 6"	\$3.50
8 x 12"	6.50

\*Complete sets of the 50 states, UN Member Nations and Organization of American States – also popular historical sets listed elsewhere on this page.

## C. Custom Design Flags

Any association or club emblem, company trademark, etc., can be accurately reproduced to make an attractive miniature flag. Ideal for corporate gifts, banquet souvenirs, conventions, etc. A sketch or reproduction of the emblem is required for quotation.

4 x 6" Empire Brand Mounted – Not Fringed\*

White Plus:	125-149	250-499	500-999	1,000 Ea.
1 color	\$6.80	\$4.70	\$3.20	\$2.70
2 colors	7.80	5.30	3.40	3.10
3 colors	9.20	6.40	4.70	4.10
4 colors	11.30	7.00	5.20	4.90

\*For gold fringe, specify and add \$.70 per flag.

## D. Flags of the 50 States Set

Empire Brand flags mounted on black staffs with gilt spearheads.

Item No.	Flag Size	Set of 50 Flags (base extra)	Wooden Base Each
153500	4x6"	\$85.00	\$48.50
153700	8x12"	260.00	48.50

## E. Organization of American States Set

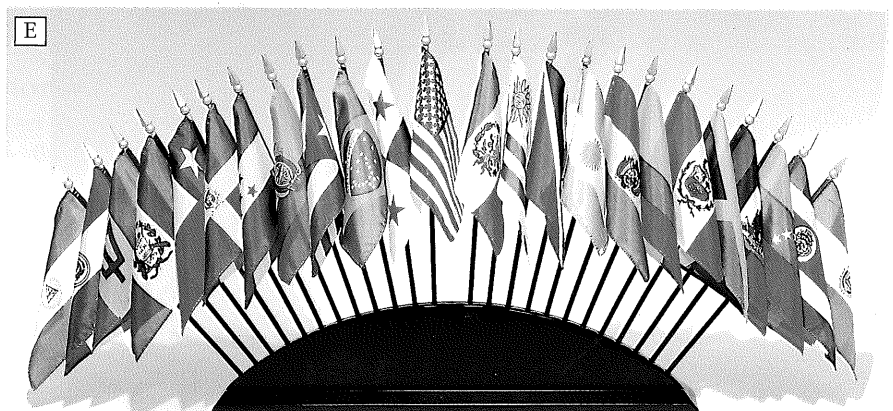
4" x 6" Empire Brand flags mounted on black staffs with gilt spearheads.

Antigua & Barbuda, Argentina, Bahamas, Barbados, Belize, Bolivia, Brazil, Canada, Chile, Colombia, Costa Rica, Cuba, Dominica, Dominican Republic, Ecuador, Grenada, Guatemala, Guyana, Haiti, Honduras, Jamaica, Mexico, Nicaragua, Panama, Paraguay, Peru, El Salvador, St. Kitts, St. Lucia, St. Vincent & The Grenadines, Suriname, Trinidad-Tobago, United States, Uruguay, Venezuela.

217000 Set of 35 Flags (base extra) \$59.50  
701400 Ebonized Wooden Base \$31.60 each



5 1/2" H x 25 1/2" L x 2 1/4" W

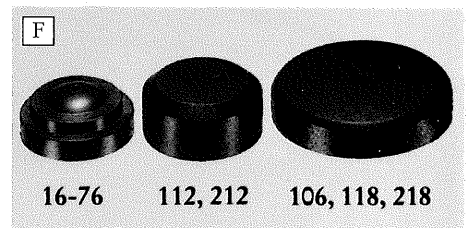


4" x 20 3/4" x 2 1/4"

## F. Miniature Flag Bases

Designs illustrated are representative of the many bases offered. Styles 106 through 218 are wood, with lustrous ebonized finish. Others listed are glossy, high-impact ebonized plastic.

Item No.	Style No.	Base Dia.	For Flag Size	No. of Flags	Each
700290	16	2 1/2"	4 x 6"	1	.80
700276	26	2 1/2"	4 x 6"	2	1.10
700277	36	2 1/2"	4 x 6"	3	1.10
700288	46	2 1/2"	4 x 6"	4	1.50
700278	56	2 1/2"	4 x 6"	5	1.50
700279	66	2 1/2"	4 x 6"	6	1.80
700280	76	2 1/2"	4 x 6"	7	1.80
700255	106	3 7/8"	4 x 6"	10	6.10
700284	112	2 1/8"	8 x 12"	1	2.10
700289	212	2 1/2"	8 x 12"	2	3.80
700282	118	4"	12 x 18"	1	5.20
700256	218	5 7/8"	12 x 18"	2	11.10



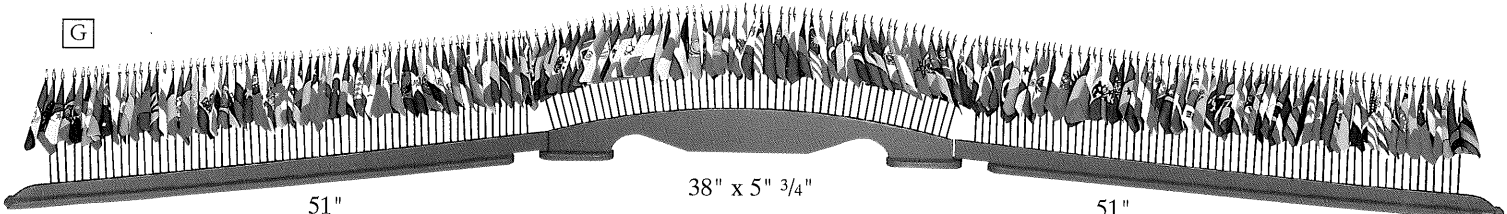
## G. Flags of the UN Member Nations Set

Empire Brand flags 4" x 6" mounted on black staffs with gilt spearheads.

217200 Set of 191 Flags (base extra) \$323.00

217203 Blue Wooden Base \$133.50 each

NOTE: Set price subject to change reflecting changes in UN membership.



51"

38" x 5" 3/4"

51"



## TABLE AND DESK SETS



### Presidential Set

THE ULTIMATE IN EVERY DETAIL. This impressive set consists of one 8 x 12" Colonial Nyl-Glo 100% nylon taffeta U.S. Flag with sewn stripes and embroidered stars, mounted on tapered 24-inch walnut finished staff with brass plated eagle ornament. Golden yellow fringe, cord and tassels. Fine polished walnut-finished base (*plate not included*).

Item # 046100 Complete set \$74.20

### Ambassador Set

Contains one 8x12" Empire Brand US flag, trimmed with gold fringe, cord & tassels, mounted on an 18 inch wooden staff with walnut finish and gold plated spearhead ornament. 5 inch square walnut-finish base features antique gold-plated eagle with a 5 inch wingspread.

### Envoy Set

One Empire Brand US flag with gold fringe, cord & tassels, mounted on a brass finish staff with a spearhead ornament. Mounted on a heavy non-tip matching base.



### Diplomat Set

One 4x6" Empire Brand US flag mounted on an ebonized staff with gilt spearhead and a black plastic base. Packed in a three-color box, suitable for mailing. Makes an ideal premium item.







LED S  
Outdo



Style A-12

One U.S. flag, base, eagle, boxed  
045152 - Set \$40.20



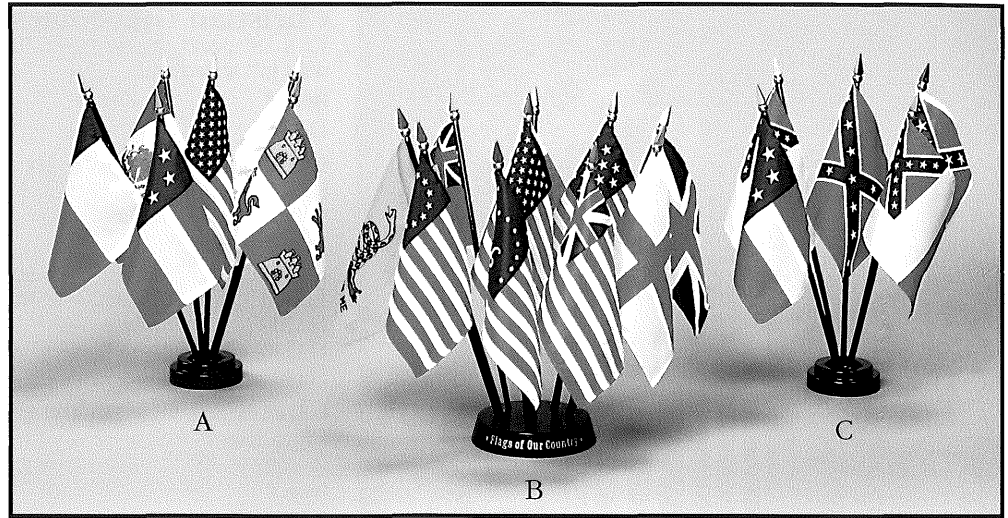
Style E-6

One U.S. flag, base, boxed  
045202 - Set \$13.20



Style D-16

One U.S. flag, base, boxed  
047300 - Doz. sets each \$3.30



### Historical Miniature Flag Sets

Each set is complete with 4 x 6" Empire Brand rayon flags mounted on 10" black plastic staffs with gilt spearheads, ebonized wood or black plastic base, and is individually boxed. Each makes an excellent teaching aid or historical display.

*Individual Flags and additional sets listed on Page 23.*

A. "Six Flags of Texas"

French, Spanish, Mexican, Texas, Stars and Bars, U.S.

**324450 6-flag set, Each \$12.60**

B. "Flags of Our Country"

Ten flags as depicted on page 18.

**324700 10-flag set, Each \$24.10**

C. "Flags of The Confederacy"

Stars and Bars, Stainless Banner, Third National, Naval Jack, Battle Flag

**324325 5-flag set, Each \$11.10**

*Colonial Series No. 1*

Continental, Gadsden, Betsy Ross, Bennington and Star-Spangled Banner

**324750 5-flag set, Each \$11.10**

*Colonial Series No. 2*

Taunton, Bunker Hill, Pine Tree, First Navy Jack, Serapis

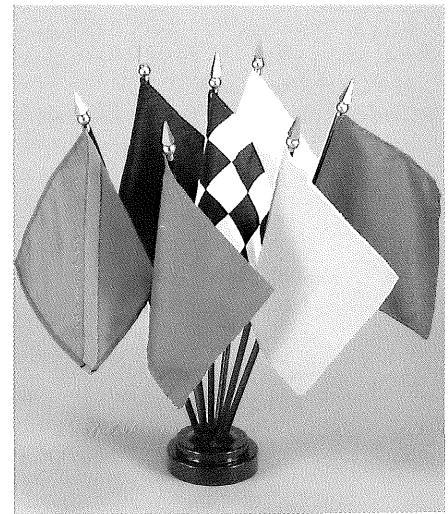
**324785 5-flag set, Each \$11.10**



### Miniature Armed Forces Set

4 x 6" Empire Brand flags of the Army, Navy, Air Force, Coast Guard, Marine Corps and United States, mounted on 10-inch black staffs with gilt spearheads, complete with black plastic base. Individually boxed

**324500 6-flag set, Each \$12.00**



### Official Auto Racing Flag Set

4" x 5" Empire Brand Auto Racing flags mounted on black staffs with gilt spearheads, black plastic base. Individually boxed.

**324475 7-flag set, Each \$16.20**





## CHRISTIAN FLAGS AND SETS



### Christian Gravemarker Flag

12 x 18" good quality fabric flag mounted on 5/16 x 30" plain wood dowel with gilt spearhead.

Item #	Each
111303	\$5.10

### Christian Empire Brand Flags

Silk-like material hemmed on four sides and securely stapled to an ebonized staff with gilt spearhead.

Item #	Size	Each
111100	4 x 6" on 3/16 X 10" Staff	\$3.50
111200	8 x 12" on 1/4 X 18" Staff	6.50
111300	12 x 18" on 3/8 X 30" Staff	8.90
111230	16 x 24" on 3/8 X 36" Staff	11.50
111403	24 x 36" on 7/16 X 48" Staff	18.80

*Note:*  
Class room  
Brackets Shown  
on Pages 21 & 60

### Christian Flags for Outdoor Display

100% Heavyweight Nyl-Glo finished with duck heading and brass grommets. Reinforced stitching on fly end.

Item #	Size	Each
091550	2 x 3 ft.	\$22.30
091600	3 x 5 ft.	30.40
091700	4 x 6 ft.	40.20
091800	5 x 8 ft.	61.40

### Indoor Colonial Nyl-Glo Christian Flags

A beautiful, heavyweight all-nylon taffeta with brilliant luster. Decorated with 2" Gold Bullion Fringe and finished with flannel lined pole heading and Velcro tabs.

Item #	Size	Each	Item #	Size	Each
091902	2 x 3 ft.	\$46.40	092207	4 1/3 x 5 1/2 ft	\$66.90
091900	3 x 5 ft.	50.20	092200	4 x 6 ft.	66.90

### Indoor Christian Flag Sets *See photo on following page.*

All Sets Feature Colonial Nyl-Glo Christian Flag as described above.

#### 35 CC Set

Item #	Flag Size	Pole	Ornament	Stand	Each
101100	3 x 5 ft	84 W	55 AA Cross	AD	\$192.80

#### 35 CC Set - No Stand

Item #	Flag Size	Pole	Ornament	Each
101110	3 x 5 ft	84 W	55 AA Cross	\$148.10

#### 35 VC Set

Item #	Flag Size	Pole	Ornament	Stand	Each
101150	3 x 5 ft	84 VS	8" Classic Cross	Commodore	\$163.30

#### 35 VC Set - No Stand

Item #	Flag Size	Pole	Ornament	Each
101155	3 x 5 ft	84 VS	8" Classic Cross	\$127.90

#### 46 CC Set

Item #	Flag Size	Pole	Ornament	Stand	Each
101200	4 x 6 ft	94 W	55 AA Cross	AD	\$235.60

#### 46 CC Set - No Stand

Item #	Flag Size	Pole	Ornament	Each
101210	4 x 6 ft	94 W	55 AA Cross	\$190.90

#### 46 VC Set

Item #	Flag Size	Pole	Ornament	Stand	Each
101235	4 x 6 ft	94 VS	8" Classic Cross	Commodore	\$173.20

#### 46 VC Set - No Stand

Item #	Flag Size	Pole	Ornament	Each
101240	4 x 6 ft	94 VS	8" Classic Cross	\$137.90

*For flags without Fringe, specify and deduct \$7.00 from 3x5 foot price or \$8.00 from 4x6 foot.*



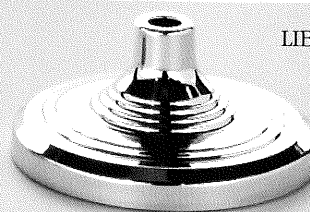
COMMODORE



ADMIRAL



FREEDOM



LIBERTY

### Floor Stands

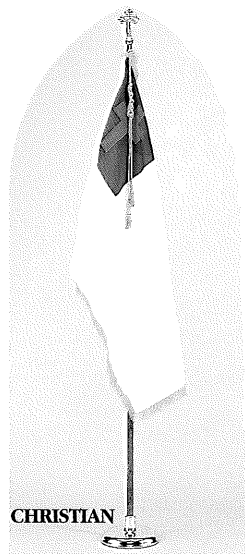
Item #	Description	Each	Item #	Description	Each
697449	AD with Sand	\$43.90	697461	Liberty with Sand	\$43.90
697453	AD Empty	42.50	697460	Liberty Empty	42.50
697448	Commodore w/ Sand	34.70	697485	Freedom Stand	34.70
697452	Commodore Empty	32.30	697480	Freedom Empty	32.30

*For Complete Line of Floor Stands See Page 58*

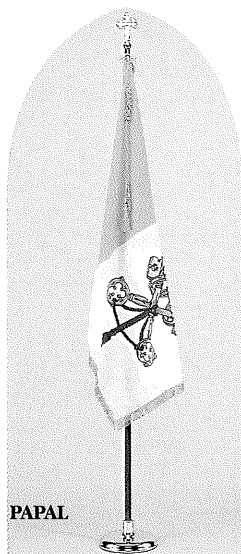


## RELIGIOUS FLAGS AND SETS

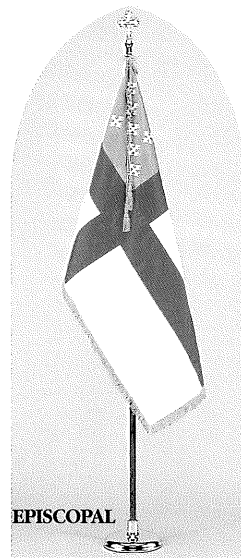
STIA  
Floor



CHRISTIAN



PAPAL



EPISCOPAL



ISRAEL

Listed on page 26

Annin Religious Flags are offered in both indoor and outdoor fabrics, assuring an appropriate choice for every use. Authentic designs are carefully reproduced in rich, brilliant colors. All flags individually boxed.

### Indoor Colonial Nyl-Glo:

A beautiful, heavyweight all-nylon taffeta with brilliant luster. Fringed and finished with flannel-lined pole heading and Velcro tabs.

### Flags For Outdoor Display:

100% heavyweight Nyl-Glo, finished with Duck Heading and strong brass grommets.

### Empire Brand Flags:

Silk-like material hemmed on 4 sides and securely stapled to an ebonized staff with gilt spearhead.

### Papal Empire Brand Flags

Item #	Size	Each
111500	4x6"	\$3.50
111600	8x12"	6.50

### Papal Flags for Outdoor Display

Item #	Size	Each
093150	2x3'	\$44.70
093200	3x5'	\$51.40
093300	4x6'	61.40
093400	5x8'	98.20

### Indoor Colonial Nyl-Glo

#### Papal Flags

Item #	Size	Each
093700	3x5'	\$64.30
093900	4x6'	75.40

### Episcopal Empire Brand Flags

Item #	Size	Each
111900	4x6"	\$3.50
112100	8x12"	6.50

### Episcopal Flags for Outdoor Display

Item #	Size	Each
094900	3x5'	\$51.10
095100	4x6'	64.30
095200	5x8'	99.30

### Indoor Colonial Nyl-Glo

#### Episcopal Flags

Item #	Size	Each
095300	3x5'	\$69.90
095500	4x6'	89.80

### Israel Empire Brand Flags

Item #	Size	Each
210071	4x6"	\$3.50
210707	8x12"	6.50

### Israel Flags for Outdoor Display

Item #	Size	Each
096100	3x5'	\$35.20
096200	4x6'	45.50
096250	5x8'	73.20

### Indoor Colonial Nyl-Glo

#### Israel Flags

Item #	Size	Each
096400	3x5'	\$56.70
096600	4x6'	71.80

### Complete Mounted Sets with Fringed Flags

Note: Sets with Floor Stand feature Admiral Style, weighted.

Note: Matching US Sets on Page 11

For flags without Fringe, specify and deduct \$7.00 from 3x5 foot price or \$8.00 from 4x6 foot.

Occo  
Drap

### Papal

Item #	Set Style	Flag & Pole Size	Matches US Set	Each
101700	35 CP	3x5/84 W Pole	35 XN	\$207.80
101710	35 CP-NS	Same as above without floor stand		163.60
101800	46 CP	4x6/94 W Pole	46 XN	240.60
101810	46 CP-NS	Same as above without floor stand		196.40

### Episcopal

Item #	Set Style	Flag & Pole Size	Matches US Set	Each
101900	35 CPE	3x5/84 W Pole	35 XN	\$212.90
101910	35 CPE-NS	Same as above without floor stand		168.90

### Episcopal - con'd.

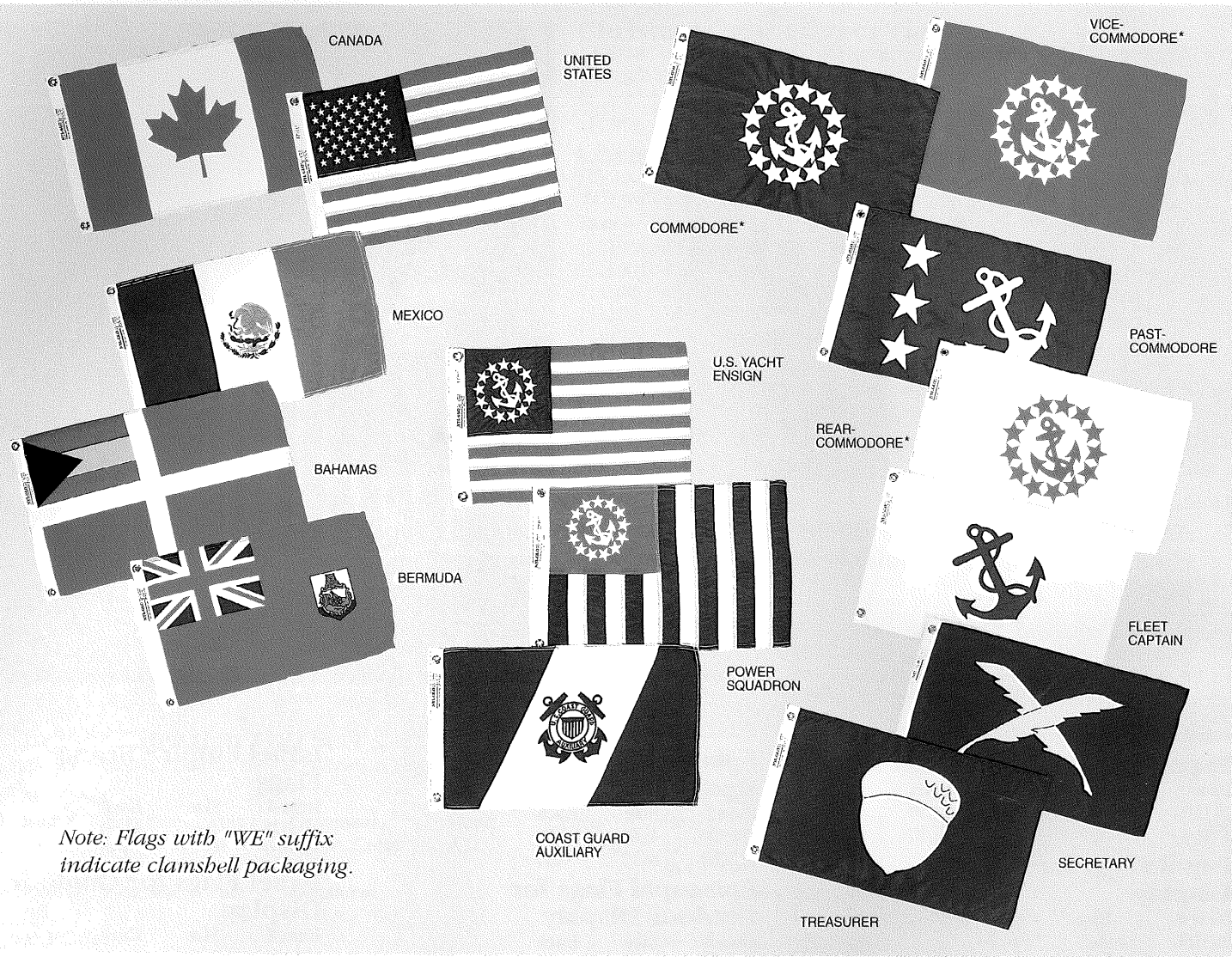
Item #	Set Style	Flag & Pole Size	Matches US Set	Each
102100	46 CPE	4x6/94 W Pole	46 XN	\$264.90
102110	46 CPE-NS	Same as above without floor stand		212.90

### Israel

Item #	Set Style	Flag & Pole Size	Matches US Set	Each
102400	35 CZ	3x5/84 W Pole	35 XN	\$212.50
102410	35 CZ-NS	Same as above without floor stand		167.80
102500	46 CZ	4x6/94 W Pole	46 XN	254.20
102510	46 CZ-NS	Same as above without floor stand		209.90



# MARINE FLAGS



Note: Flags with "WE" suffix indicate clamshell packaging.

## United States & Foreign Flags

Seaworthy Nyl-Glo flags in rich, durable colors, ideal for marine use. Finished with heavy white duck headings and strong brass grommets.

United States (Anco dyed)

Item #	Size	Each
002470	8 x 12"	\$8.70
002480	12 x 18"	10.30
002500	16 x 24"	13.20
002520	20 x 30"	18.70

United States (Embroidered Stars, Sewn Stripes)

Item #	Size	Each
002600WE	12 x 18"	\$18.90
002610WE	16 x 24"	20.50
002620WE	20 x 30"	23.70
002420WE	2 x 3'	26.80
002440WE	2 1/2 x 4'	33.70
002460WE	3 x 5'	38.50
002220WE	4 x 6'	53.40
002270	5 x 8'	79.50

Item #	Description	Size	Each
281200WE	Canada	12 x 18"	\$10.60
281475WE	Mexico	12 x 18"	12.20
281410WE	Bahamas (courtesy)	12 x 18"	10.60
281450WE	Bermuda	12 x 18"	15.80

## United States Yacht Ensigns

Sewn Ensigns

Sewn or embroidered stars and anchor; double-stitched stripes for added strength; heavy white duck heading and brass grommets.

Item #	Size	Each	Item #	Size	Each
251100WE	12 x 18"	\$15.40	251300WE	30 x 48"	67.40
251150WE	16 x 24"	18.80	251350WE	36 x 60"	70.90
251200WE	20 x 30"	22.90	251400	48 x 72"	92.10
251250WE	24 x 36"	26.60			

NOTE: 12 x 18" thru 24 x 36" feature embroidered fields.

## U.S. Power Squadron Flags

Manufactured and sold under license from the United States Power Squadron, and for use by members only. Sewn or embroidered stars and anchor; double-stitched stripes for added strength. Finished with heavy white duck heading and brass grommets.

Item #	Size	Each	Item #	Size	Each
252100WE	12 x 18"	\$15.20	252300WE	24 x 36"	30.60
252200WE	16 x 24"	18.40	252350WE	30 x 48"	67.40
252250WE	20 x 30"	22.90			

NOTE: 12 x 18" thru 24 x 36" feature embroidered fields.

## Coast Guard Auxiliary

Official Coast Guard Auxiliary Flag.

Item #	Size	Each
254340WE No. 3	15 x 24"	\$23.90
254350WE No. 4	12 x 19 1/2"	20.40

## Yacht Club Officers' Flags

Beautifully embroidered or sewn designs on lustrous, high tensile strength 100% heavyweight nylon.

Size 12 x 18" Each \$21.90

Item #	Description
251600WE	Commodore*
251650WE	Vice Commodore*
251700WE	Rear Commodore*
251750WE	Past Commodore
251800WE	Fleet Captain
251900WE	Secretary
251950WE	Treasurer

\*Embroidered design

OFFICERS FLAGS ALSO AVAILABLE IN 4X6" DESKTOP SIZE- \$3.50 EACH





# MARINE FLAGS

ED S  
tudo



## State Flags With Clamshell Packaging

### State and Territorial Flags

Many Mariners fly the official state flag of their home port as well as a "state courtesy" flag when visiting another state. In both instances, accuracy and durability are of the utmost importance.

Anin state and territorial flags are made to exacting specifications. Seals and designs are authentic and always in correct proportion to the flag's size.

Our Anco-Dye process reproduces the intricate state emblems with precision, accuracy and detail. Colors are brilliant and extremely long-lasting. All flags are made with SolarMax heavyweight nylon fabric and furnished with heavy duck headings and grommets.



- Reusable storage containers. Keeps flags clean and dry.
- Labeled containers make flag identification easy.

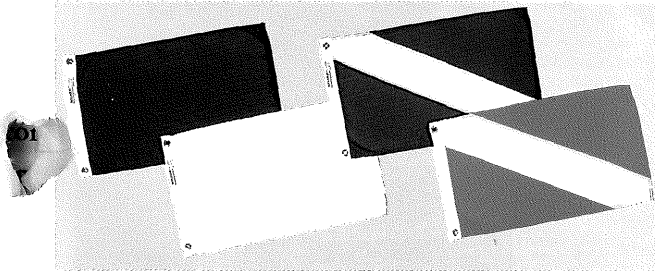
## FLAGS AND WHERE TO FLY THEM ON BOATS

Flag	When flown	Motorboat -bow & stern staffs only	Motorboat bow/stern staffs and signal mast	Motorboat two masts	Sailing yacht-one mast	Sailing yacht-two masts	Sailing yacht-more than two masts
U.S./Yacht/USPS ensign	8:00 A.M. to sundown	Aft	Aft	Aft	After peak	Aftermost peak	Aftermost peak
Club burgee	8:00 A.M. to sundown	Bow	Bow	Foremast	At the truck	At the foremost truck	At the foremost truck
Private signal	8:00 A.M. to sundown	Not flown	Masthead	Mainmast	When under way at the truck	At the aftermost truck	At the main truck
Flag officer's flag	Day and night	Not flown	In place of private signal	In place of private signal	Instead of burgee at truck	Instead of private signal	Instead of private signal
U.S. Jack	At anchor on Sun. & holidays 8:00 A.M. to sundown	Not flown	Not flown	Bow or jack staff	Not flown	Jack staff	Jack staff
Absent flag	Daylight-during absence of owner	Not flown	Starboard yardarm	Starboard main yardarm	Starboard spreader	Starboard main spreader	Starboard main spreader
Meal flag	Daylight-during meal hours when at anchor	Not flown	Starboard yardarm	Starboard main yardarm	Starboard spreader	Starboard main spreader	Starboard main
Guest flag	Daylight-when owner is absent but guests are on board	Not flown	Starboard yardarm	Starboard main yardarm	Starboard spreader	Starboard main spreader	Starboard main spreader
Bow pennant, Fish, Fun flag, Skin Diver flag	8:00 A.M. to sundown	Bow	Port yardarm	Port forward yardarm	Port spreader	Foremost Port spreader	Foremost Port spreader

An Anin exclusive, these reusable, clear plastic "clamshell" containers protect your flag from dirt and water. Containers are "stackable" for proper storage and labeled for quick, easy identification. They even float in case of accidental "overboards." **Each \$12.80**

*Note: Other State Flags on pages 15-17*

State	Size	Item#
Alabama	12x18"	140027WE
Arizona	12x18"	140248WE
Arkansas	12x18"	140348WE
California	12x18"	140506WE
Colorado	12x18"	140648WE
Connecticut	12x18"	140748WE
Dist. of Col.	12x18"	146448WE
Florida	12x18"	140947WE
Georgia	12x18"	141148WE
Hawaii	12x18"	141234WE
Idaho	12x18"	140129WE
Illinois	12x18"	141448WE
Indiana	12x18"	141605WE
Louisiana	12x18"	142148WE
Maine	12x18"	142248WE
Maryland	12x18"	142348WE
Massachusetts	12x18"	142448WE
Michigan	12x18"	142648WE
New Jersey	12x18"	143648WE
New York	12x18"	143848WE
North Carolina	12x18"	143948WE
Ohio	12x18"	144306WE
Oregon	12x18"	144448WE
Pennsylvania	12x18"	140132WE
Rhode Island	12x18"	144748WE
South Carolina	12x18"	144848WE
Texas	12x18"	145248WE
Virginia	12x18"	145647WE
Washington	12x18"	145748WE
Wisconsin	12x18"	145948WE



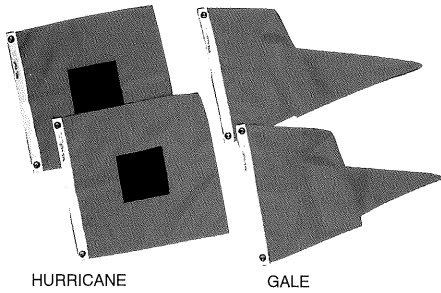
### ABSENT • MEAL • GUEST • SKIN DIVER FLAGS

(L-R) Owner's Absent Flag, Meal Flag, Guest's Flag, Skin Diver's Flag

Item #	Description	Size	Each
252600WE	Absent	12 x 18" Nyl-Glo	\$8.00
252650WE	Meal	12 x 18" Nyl-Glo	8.00
252550WE	Guest	12 x 18" Nyl-Glo	11.10
252700WE	Skin Diver	12 x 18" Nyl-Glo	11.10
252704WE	Skin Diver	*20 x 30" Nyl-Glo	19.80

\* Official Size





HURRICANE

GALE

## U.S. Storm Signals

Made of high tensile strength heavyweight nylon. Each set consists of 2 flags and 2 pennants.

254100 No. 1—Flags 18 x 18", Pennants 18 x 36" \$38.50 ea. set  
254150 No. 2—Flags 36 x 36", Pennants 36 x 72" \$60.80 ea. set

## Personal Bow Pennants

Perfect for boat, bar, den or rec room. Anco-dyed designs; finished with white canvas heading and brass grommets. Individually packed in polyethylene bags. 10" x 15" Nyl-Glo Each \$8.10



253630 Deal Me In



253610 Boat Safe, Boat Sober



253640 Sailboat



253620 Skier on Board



253450 COCKTAIL



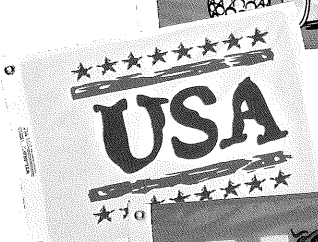
253800 PIRATE

## Fun Flags

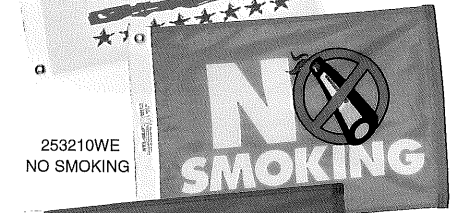
Ideal gift item! Colorful, Anco-dyed designs. Packaged in reuseable storage containers. All are 12 x 18 in. Each \$10.30



253160WE 19TH HOLE



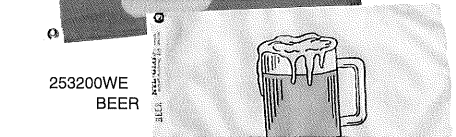
253230WE USA



253210WE NO SMOKING



253220WE COFFEE TIME



253200WE BEER



253105WE COCKTAIL



252800WE JOLLY ROGER



281155WE CONFEDERATE BATTLE

## RECOMMENDED YACHT FLAG SIZES

Length of Boat	POWERBOAT	
	Size of Private Signal & Club Signal	Size of Yacht Ensign
Under 20 feet	8" x 12"	12" x 18"
20 feet	10" x 15"	12" x 18"
25 feet	10" x 15"	16" x 24"
30 feet	12" x 18"	16" x 24"
35 feet	12" x 18"	24" x 26"
40 feet	14" x 21"	24" x 36"
45 feet	14" x 21"	24" x 36"
50 feet	16" x 24"	21/2' x 4'
55 feet	16" x 24"	21/2' x 4'
60 feet	20" x 30"	21/2' x 4'
70 feet	20" x 30"	3' x 5'
80 feet	24" x 36"	3' x 5'
90 feet	24" x 36"	4' x 6'
100 feet	30" x 48"	4' x 6'

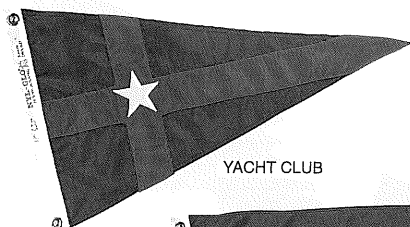
  

Length of Boat	SAILBOAT	
	Size of Private Signal & Club Signal	Size of Yacht Ensign
20 feet	10" x 15"	16" x 24"
25 feet	10" x 15"	16" x 24"
30 feet	12" x 18"	24" x 36"
35 feet	14" x 21"	24" x 36"
40 feet	14" x 21"	24" x 36"
45 feet	16" x 24"	21/2' x 4'
50 feet	20" x 30"	21/2' x 4'
60 feet	20" x 30"	21/2' x 4'
70 feet	24" x 36"	3' x 5'
80 feet	24" x 36"	3' x 5'
90 feet	30" x 48"	4' x 6'
100 feet	30" x 48"	4' x 6'

## Yacht Club Signals, Private Signals

More than one hundred years of experience guarantees a Signal of unsurpassed quality. Sewed and finished with white duck heading and brass grommets. When quantity and design permit, Annin's custom flag "Anco-dye" process will be used to create a most attractive flag at moderate cost.

Prices on request.



YACHT CLUB



PRIVATE SIGNAL

## All Fun Flags Packaged For Display





## International Code of Signals

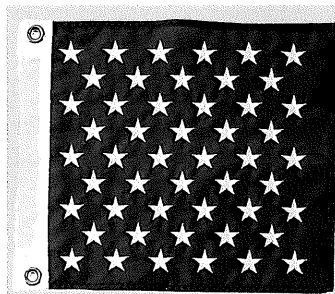
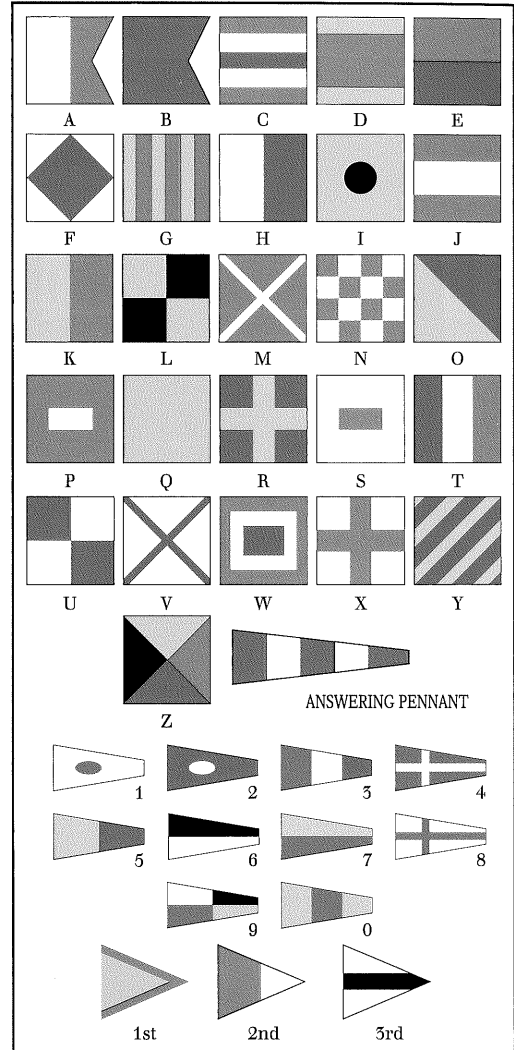
## International Code of Signals

Set of 40 flags with double-stitched seams. Finished with nylon rope distance lines, with ash toggles. Complete 40-flag set includes 26 Alphabet Flags, 11 Pennants, and 3 Substitutes, in handy nylon storage bag.

Item #	Nyl-Glo - Per Set	Complete Set	Individual Code Flags	
			Size	Each
256000	No. 0 - Flags, 1' x 1 1/4'; Pennants, 2/3' x 2'; Substitutes, 2/3' x 1 1/3'	\$530.00	0	\$26.50
256050	No. 2 - Flags, 1 1/2' x 2'; Pennants, 1 1/3' x 3'; Substitutes, 1' x 2'	682.00	2	27.10
256100	No. 3 - Flags, 2' x 2'; Pennants, 1 1/3' x 3'; Substitutes, 1 1/3' x 2 2/3'	750.00	3	28.30
256150	No. 7 - Flags, 3' x 3'; Pennants, 2' x 4 1/2'; Substitutes, 2' x 4'	910.00	7	29.20
256200	No. 10 - Flags, 4' x 4'; Pennants, 2 2/3' x 6'; Substitutes, 2 2/3' x 4'	1,250.00	10	39.80
256250	**No. 14 - Flags, 4' x 6'; Pennants, 2 2/3' x 9'; Substitutes, 2 2/3' x 5 1/4'	1,440.00	14	47.50

\*\*Size No. 14 supplied with snaphooks

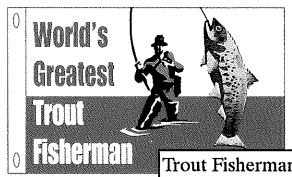
Specify Rope & Toggle or Heading & Grommets on Individual Flags



### US Union Jack

Embroidered Star Field on SolarMax Nyl-Glo fabric. The first style of US Naval flag, now flown only on Sundays and Holidays in port. It's a tradition that recalls the early days of sail. Please allow two weeks, each flag made to order.

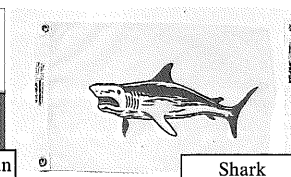
Item #	Size	Each
256315	13 x 15"	\$11.60
256320	17 x 20"	15.20
256322	20 x 26"	17.30



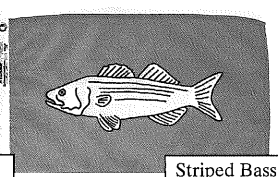
Trout Fisherman



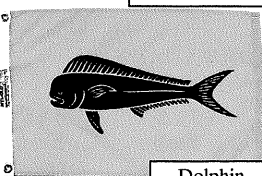
Bass Fisherman



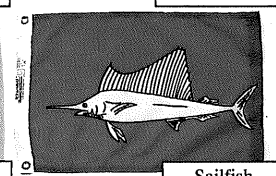
Shark



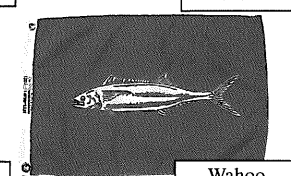
Striped Bass



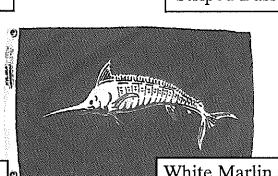
Dolphin



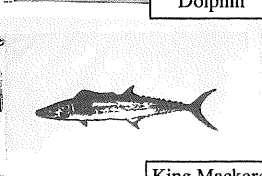
Sailfish



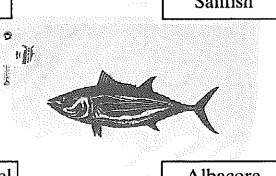
Wahoo



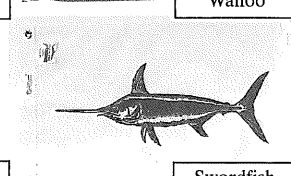
White Marlin



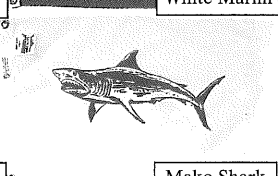
King Mackerel



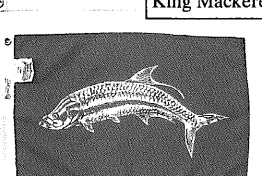
Albacore



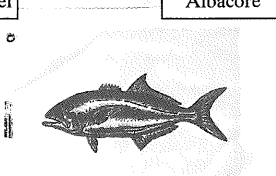
Swordfish



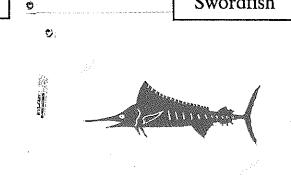
Mako Shark



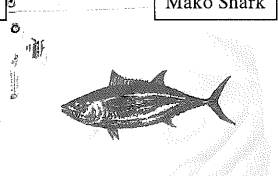
Tarpon



Bluefish



Marlin



Tuna

### Fish Flags

Ideal gift item! Colorful, Anco-dyed designs. Packaged in reusable storage containers.

All are 12x18 in. Each \$10.30

Item #	Description
281127WE	Mako Shark
281128WE	Dolphin
281115WE	Tuna
281110WE	Marlin
281112WE	White Marlin
281120WE	Bluefish
281125WE	Striped Bass
281126WE	Shark
281139WE	Wahoo
281135WE	King Mackerel
281136WE	Swordfish
281137WE	Albacore
281138WE	Tarpon
281105WE	Sailfish

### Sports Flags

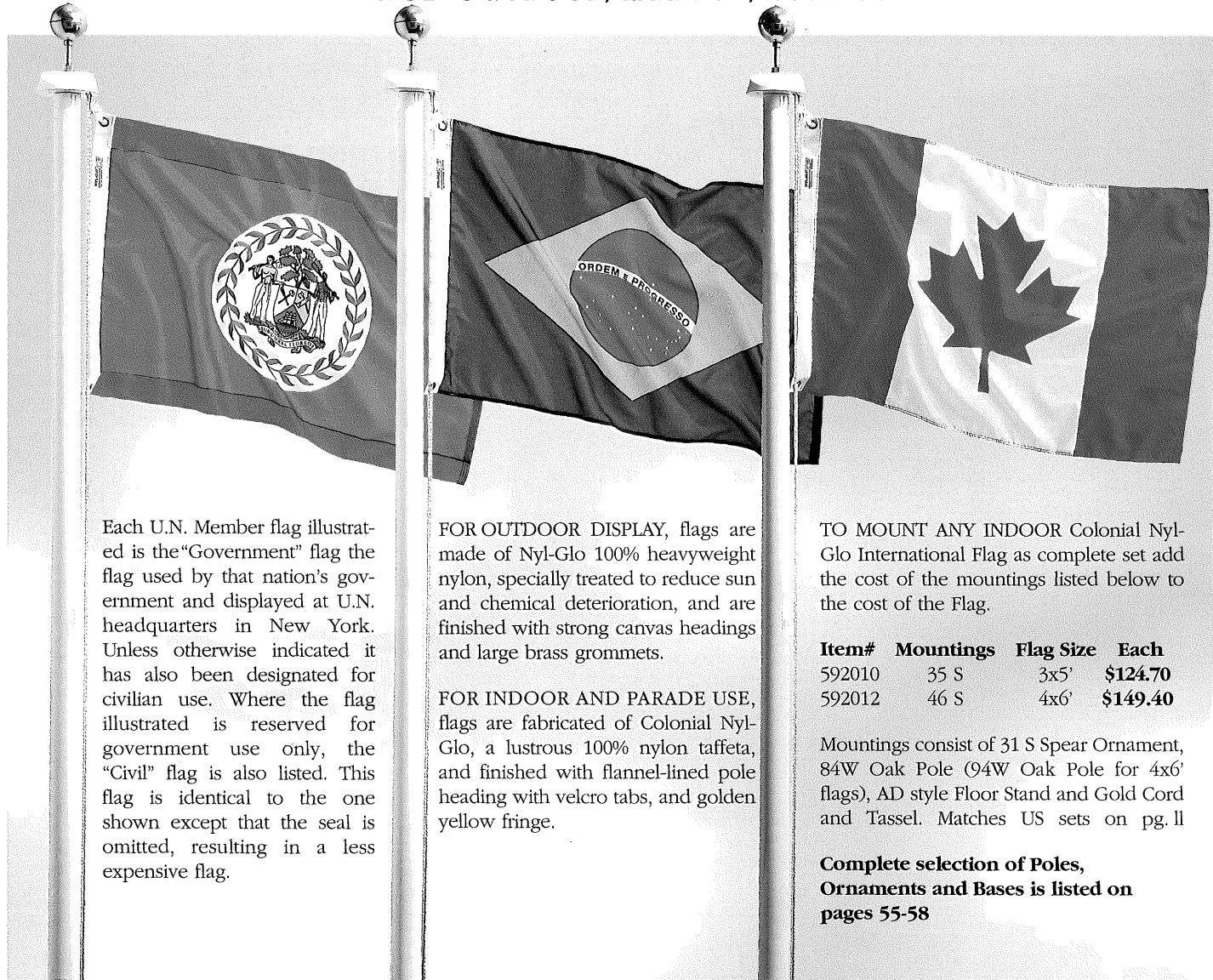
All are 12x18 in. Each \$10.30

Item #	Description
253190WE	World's Greatest Trout Fisherman
253180WE	World's Greatest Bass Fisherman





## FLAGS OF WORLD NATIONS For Outdoor/Indoor/Parade



Each U.N. Member flag illustrated is the "Government" flag the flag used by that nation's government and displayed at U.N. headquarters in New York. Unless otherwise indicated it has also been designated for civilian use. Where the flag illustrated is reserved for government use only, the "Civil" flag is also listed. This flag is identical to the one shown except that the seal is omitted, resulting in a less expensive flag.

FOR OUTDOOR DISPLAY, flags are made of Nyl-Glo 100% heavyweight nylon, specially treated to reduce sun and chemical deterioration, and are finished with strong canvas headings and large brass grommets.

FOR INDOOR AND PARADE USE, flags are fabricated of Colonial Nyl-Glo, a lustrous 100% nylon taffeta, and finished with flannel-lined pole heading with velcro tabs, and golden yellow fringe.

TO MOUNT ANY INDOOR Colonial Nyl-Glo International Flag as complete set add the cost of the mountings listed below to the cost of the Flag.

Item#	Mountings	Flag Size	Each
592010	35 S	3x5'	\$124.70
592012	46 S	4x6'	\$149.40

Mountings consist of 31 S Spear Ornament, 84W Oak Pole (94W Oak Pole for 4x6' flags), AD style Floor Stand and Gold Cord and Tassel. Matches US sets on pg. 11

**Complete selection of Poles, Ornaments and Bases is listed on pages 55-58**

Refer to illustrations, pages 33-38, for individual price class designations.

### OUTDOOR Nyl-Glo 100% Nylon

Price Classification	2 x 3' Each	3 x 5' Each	4 x 6' Each	5 x 8' Each
A	\$17.60	\$25.80	\$33.20	\$56.60
B	22.80	35.20	45.50	73.20
C	29.40	41.60	51.30	90.90
D	31.80	46.10	56.10	97.60
E	33.40	51.50	63.50	114.70
F	39.10	57.40	75.10	119.80
G	43.80	68.20	85.50	135.20
United States	26.80	38.50	53.40	79.50
Complete Set - 191 U.N. Member Nations	\$5,860.00	\$8,788.00	\$10,980.00	\$18,188.00
Complete Set - 35 O.A.S. Member Nations	1,113.00	1,670.00	2,127.00	3,524.00

### INDOOR/PARADE Colonial Nyl-Glo, Fringed

Price Classification	3 x 5' Each	4 x 6' Each
A	\$46.00	\$58.40
B	56.70	71.80
C	63.00	77.40
D	67.80	82.20
E	72.80	89.40
F	78.60	101.20
G	89.40	111.30
United States	65.50	99.10
Complete Set - 191 U.N. Member Nations	\$12,770.00	\$15,990.00
Complete Set - 35 O.A.S. Member Nations	2,352.00	2,930.00

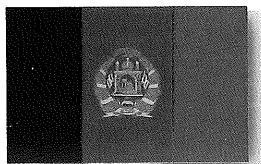
*For flags without fringe Specify and deduct \$7.00 from 3x5' price or \$8.00 from 4x6'.*

*\*Individual members listed and miniature O.A.S. sets, Page 23. Complete set prices include "Government" flags.*



# MEMBER NATIONS OF THE UNITED NATIONS

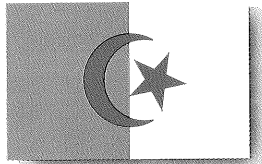
ED S  
tudor



AFGHANISTAN\*  
\*Not Stocked, Call for Prices



ALBANIA C



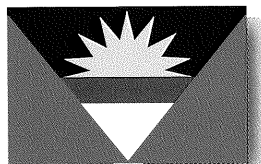
ALGERIA D



ANDORRA (A), G



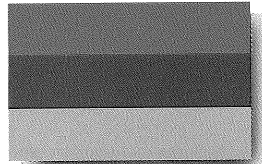
ANGOLA G



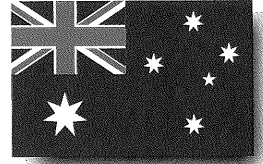
ANTIGUA & BARBUDA G



ARGENTINA (A), C



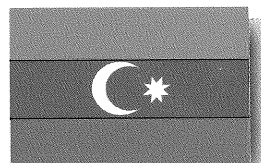
ARMENIA B



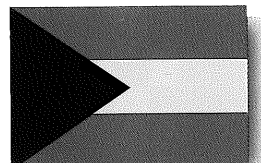
AUSTRALIA C



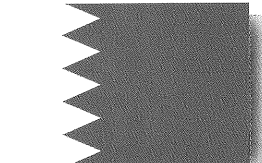
AUSTRIA A



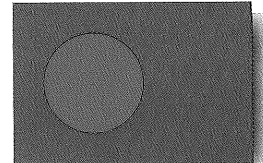
AZERBAIJAN F



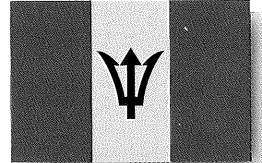
BAHAMAS C



BAHRAIN F



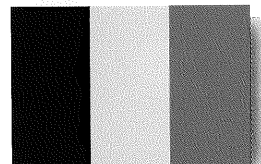
BANGLADESH D



BARBADOS F



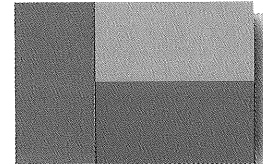
BELARUS G



BELGIUM A



BELIZE G



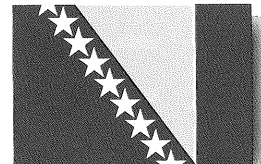
BENIN D



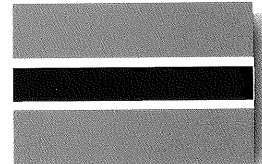
BHUTAN G



BOLIVIA (A), E



BOSNIA-HERZEGOVINA E



BOTSWANA B



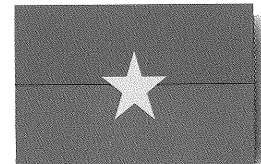
BRAZIL D



BRUNEI G



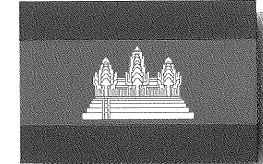
BULGARIA B



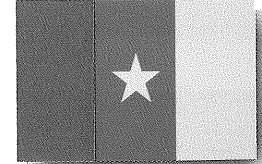
BURKINA FASO D



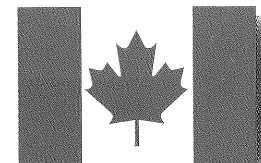
BURUNDI E



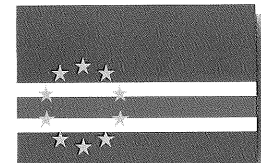
CAMBODIA G



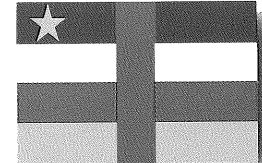
CAMEROON D



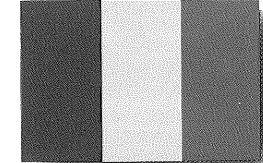
CANADA B



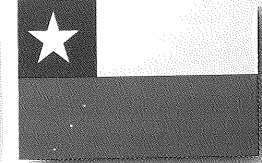
CAPE VERDE F



CENTRAL AFRICAN REP. E



CHAD B



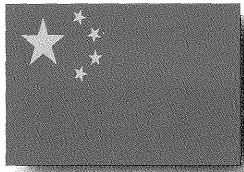
CHILE C

Price code in parenthesis applies to "Civil" Flag (without seal).

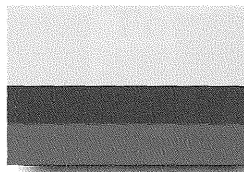




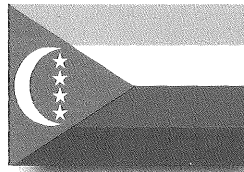
# MEMBER NATIONS OF THE UNITED NATIONS



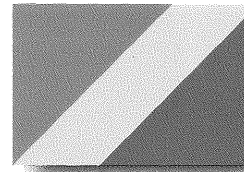
CHINA C



COLOMBIA A



COMOROS G



CONGO E



COSTA RICA (A), E



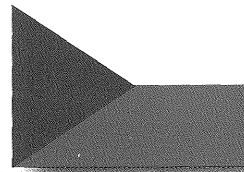
CROATIA G



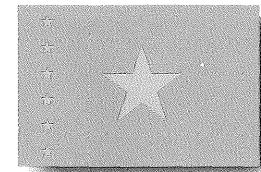
CUBA F



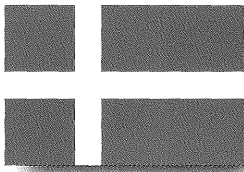
CYPRUS F



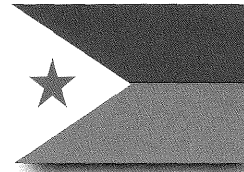
CZECH REPUBLIC C



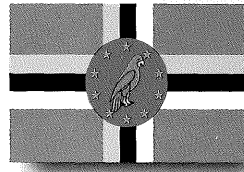
DEM. REPUBLIC OF CONGO D



DENMARK B



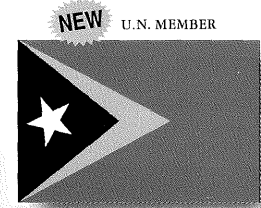
DJIBOUTI E



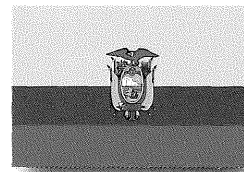
DOMINICA G



DOMINICAN REPUBLIC (D), E



EAST TIMOR E



ECUADOR (A), F



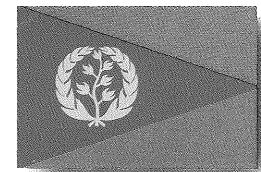
EGYPT D



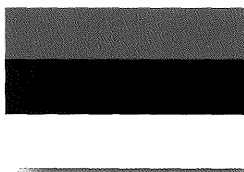
EL SALVADOR (A), F



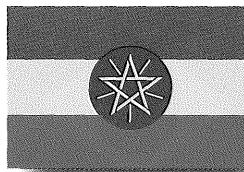
EQUATORIAL GUINEA (E), G



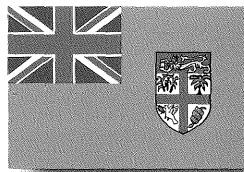
ERITREA F



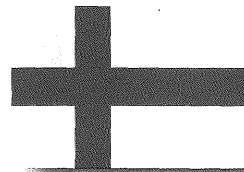
ESTONIA B



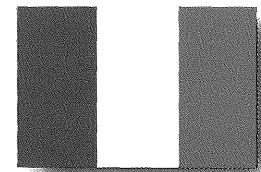
ETHIOPIA B



FIJI G



FINLAND B



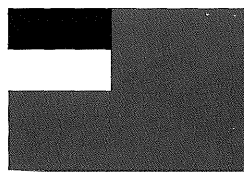
FRANCE A



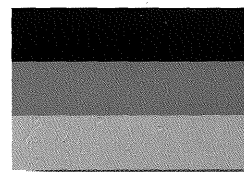
GABON A



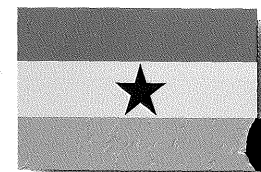
GAMBIA C



GEORGIA D



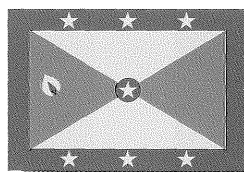
GERMANY A



GHANA E



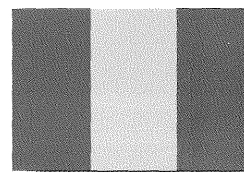
GREECE D



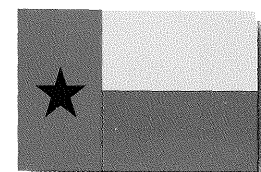
GRENADA G



GUATEMALA (A), E



GUINEA B

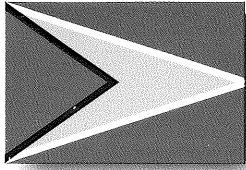


GUINEA-BISSAU D

Price code in parenthesis applies to "Civil"Flag (without seal).



# MEMBER NATIONS OF THE UNITED NATIONS



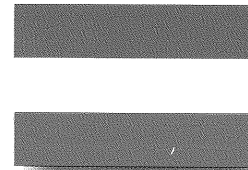
GUYANA G



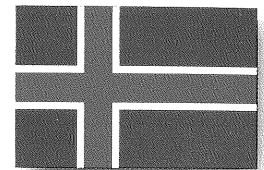
HAITI (A), F



HONDURAS D



HUNGARY A



ICELAND D



INDIA C



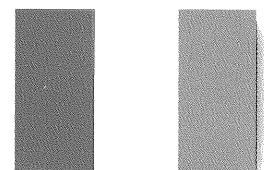
INDONESIA A



IRAN G



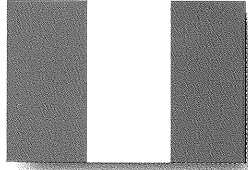
IRAQ G



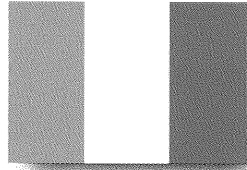
IRELAND A



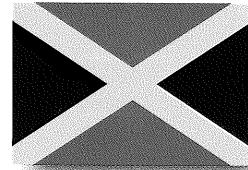
ISRAEL B



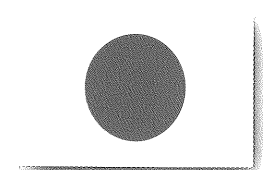
ITALY A



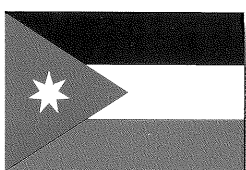
IVORY COAST (COTÉ DE IVORIE) B



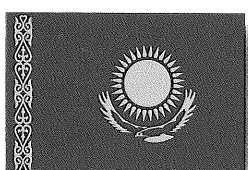
JAMAICA F



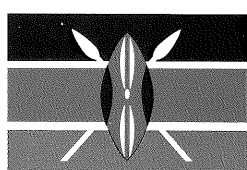
JAPAN D



JORDAN E



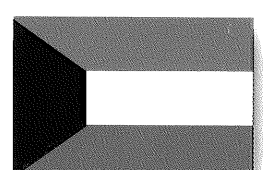
KAZAKHSTAN G



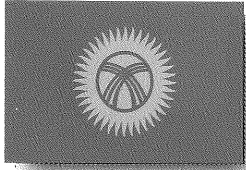
KENYA G



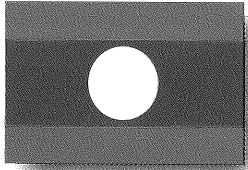
KIRIBATI G



KUWAIT E



KYRGHYZSTAN F



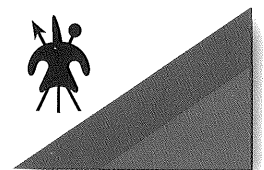
LAOS D



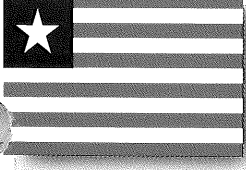
LATVIA B



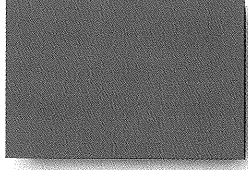
LEBANON E



LESOTHO G



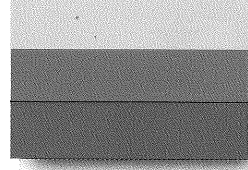
LIBERIA F



LIBYA A



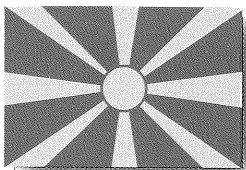
LIECHTENSTEIN G



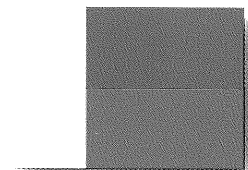
LITHUANIA B



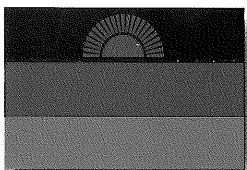
LUXEMBOURG A



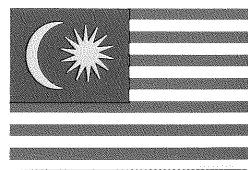
MACEDONIA E



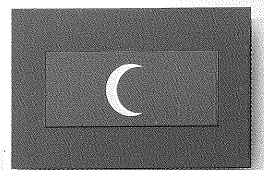
MADAGASCAR C



MALAWI F



MALAYSIA G



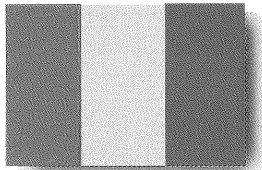
MALDIVES E

Price code in parenthesis applies to "Civil Flag (without seal).

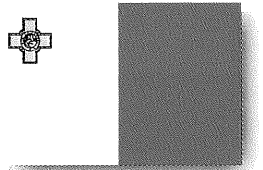




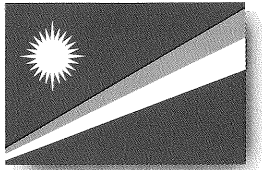
# MEMBER NATIONS OF THE UNITED NATIONS



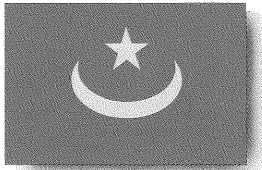
MALI B



MALTA G



MARSHALL ISLANDS G



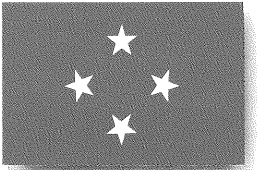
MAURITANIA F



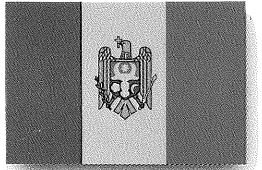
MAURITIUS B



MEXICO B



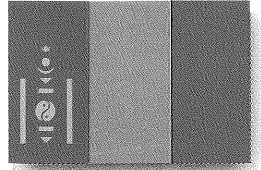
MICRONESIA E



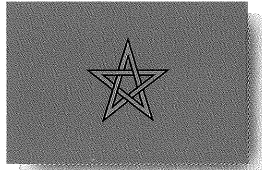
MOLDOVA G



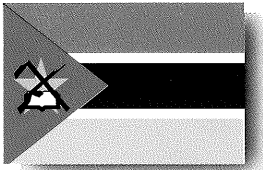
MONACO A



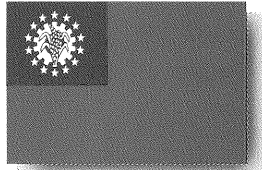
MONGOLIA D



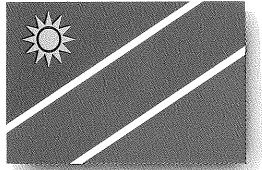
MOROCCO F



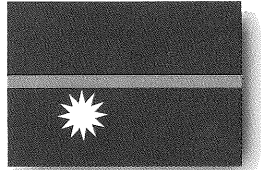
MOZAMBIQUE G



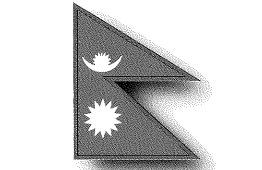
MYANMAR (BURMA) G



NAMIBIA G



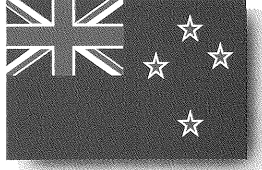
NAURU E



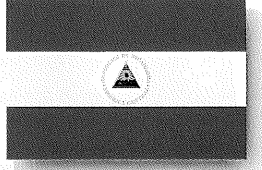
NEPAL G



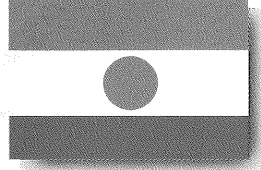
NETHERLANDS A



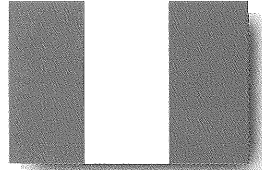
NEW ZEALAND C



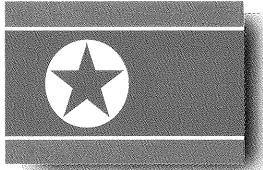
NICARAGUA (A), E



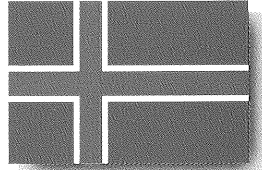
NIGER E



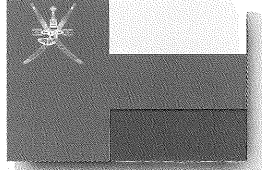
NIGERIA B



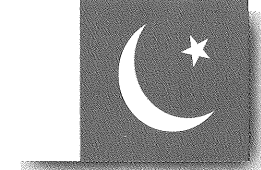
NORTH KOREA F



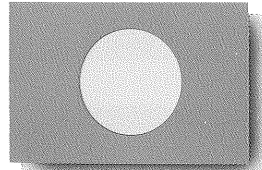
NORWAY B



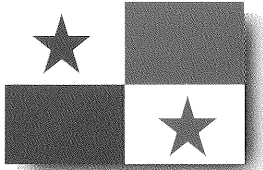
OMAN G



PAKISTAN E



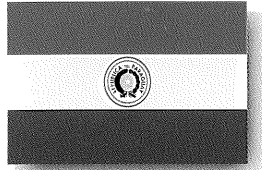
PALAU E



PANAMA E



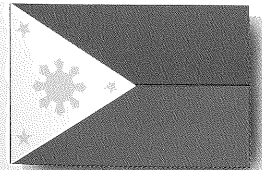
PAPUA-NEW GUINEA F



PARAGUAY G



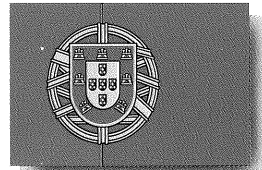
PERU (A), E



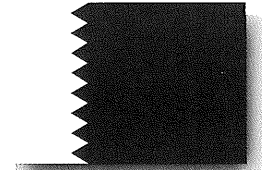
PHILIPPINES D



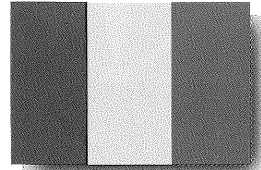
POLAND A



PORTUGAL E



QATAR F

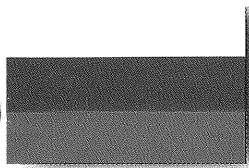


ROMANIA B

Price code in parenthesis applies to "Civil" Flag (without seal).



# MEMBER NATIONS OF THE UNITED NATIONS



RUSSIA A



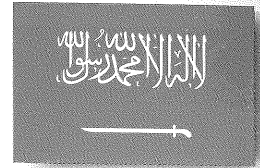
RWANDA F



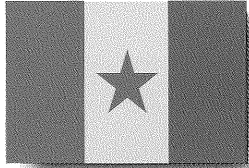
SAN MARINO (B), G



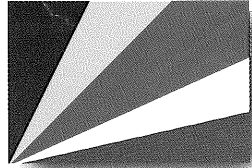
SAO TOME & PRINCIPE F



SAUDI ARABIA E



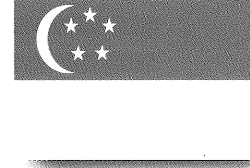
SENEGAL D



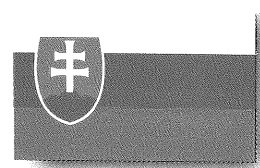
SEYCHELLES G



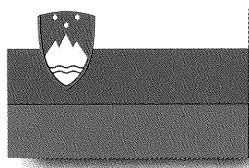
SIERRA LEONE B



SINGAPORE E



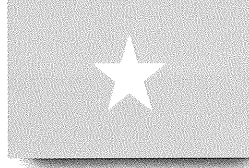
SLOVAK REPUBLIC G



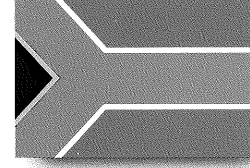
SLOVENIA G



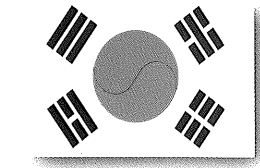
SOLOMON ISLANDS G



SOMALIA D



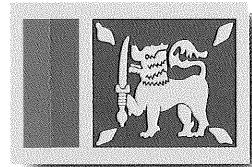
SOUTH AFRICA F



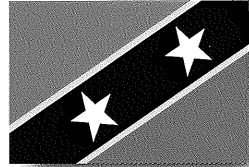
SOUTH KOREA C



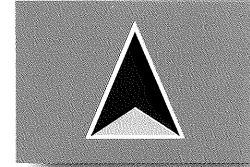
SPAIN (A), E



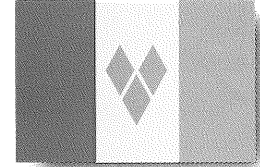
SRI LANKA G



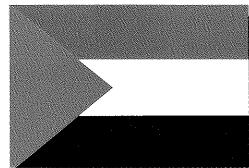
ST. KITTIS-NEVIS G



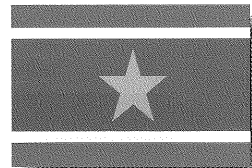
ST. LUCIA G



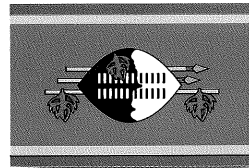
ST. VINCENT & GRENADINES E



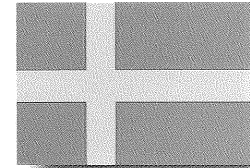
SUDAN E



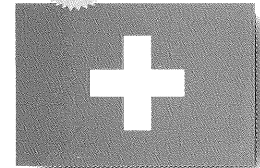
SURINAME F



SWAZILAND G



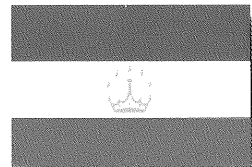
SWEDEN B



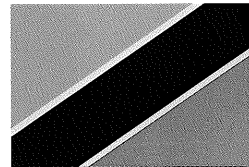
SWITZERLAND C



SYRIA C



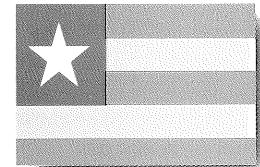
TAJIKISTAN F



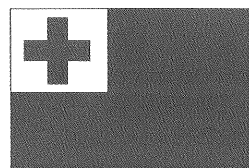
TANZANIA E



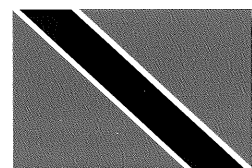
THAILAND B



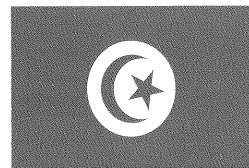
TOGO E



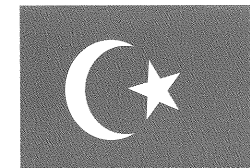
TONGA D



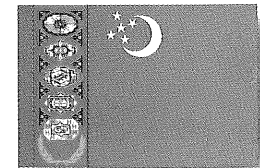
TRINIDAD & TOBAGO E



TUNISIA G



TURKEY E



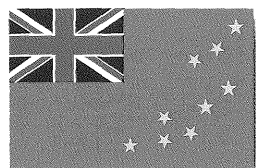
TURKMENISTAN G

Price code in paranthesis applies to "Civil"Flag (without seal).





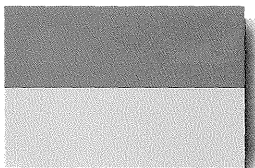
# MEMBER NATIONS OF THE UNITED NATIONS



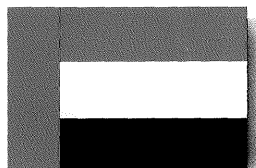
TUVALU D



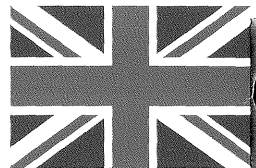
UGANDA G



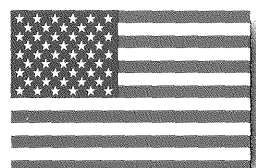
UKRAINE A



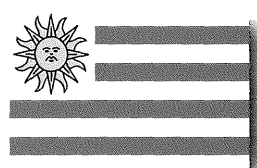
UNITED ARAB EMIRATES C



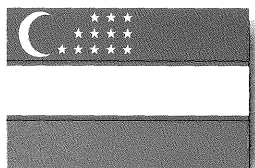
UNITED KINGDOM C



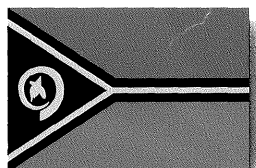
UNITED STATES



URUGUAY F



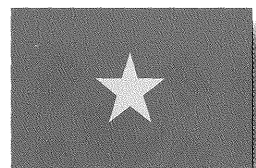
UZBEKISTAN G



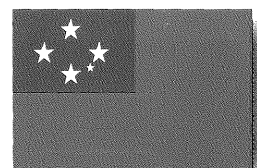
VANUATU G



VENEZUELA (C), G



VIETNAM D



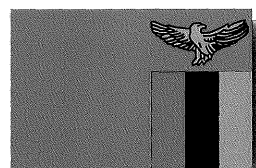
WESTERN SAMOA D



YEMEN B



YUGOSLAVIA A

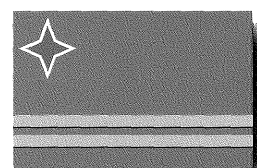


ZAMBIA G

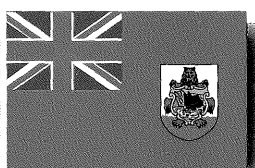


ZIMBABWE G

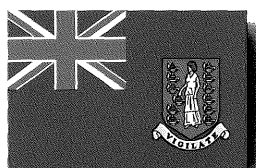
## OTHER POPULAR FLAGS



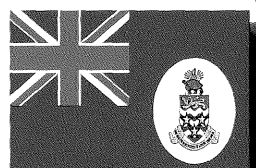
ARUBA G



BERMUDA G



BRITISH VIRGIN ISLANDS G



CAYMAN ISLANDS G



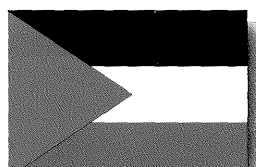
ERIN-GO-BRAGH\* (IRISH AMERICANS) D



EUROPEAN UNION\* E



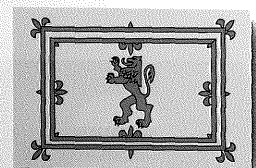
NETHERLANDS ANTILLES G



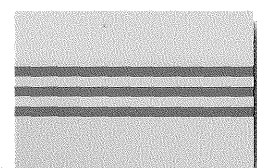
PALESTINE\* B



POLAND W/EAGLE\* C



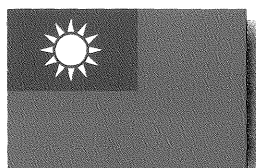
SCOTTISH RAMPANT LION C



SOUTH VIETNAM\* D



ST. ANDREWS CROSS\* (SCOTLAND) C



TAIWAN E



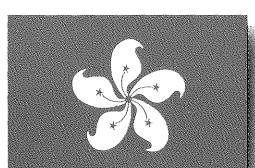
UNITED NATIONS



USSR (1955-1991)\* E



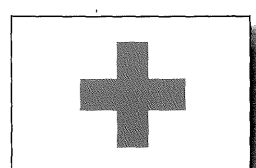
WALES D



XIANGGANG\* (Hong Kong) E



AFRO-AMERICAN\* A



RED CROSS C

\* Not stocked in all sizes. Check with Customer Service for availability and Price.

Price code in parenthesis applies to "Civil" Flag (without seal).

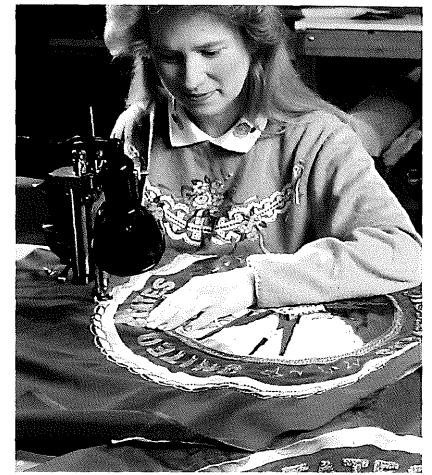
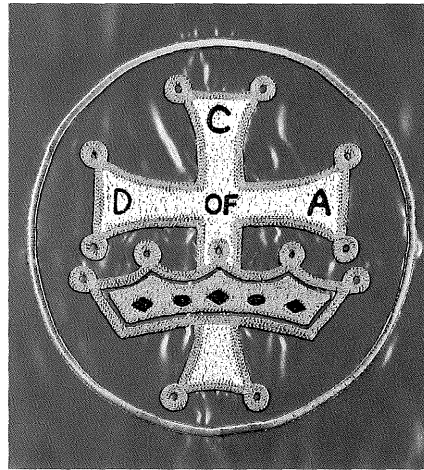
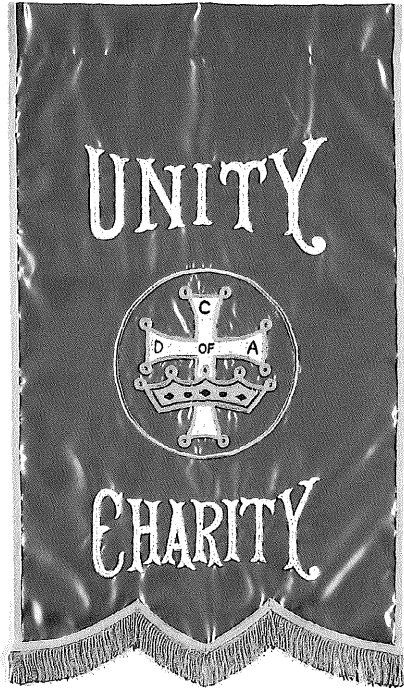


# CUSTOM DESIGNED FLAGS WITH ANCO EMBROIDERY

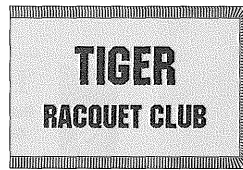
... Fine Art For Flags and Banners

## Unsurpassed Quality ....

Nothing equals the rich look and feel of embroidered satin or twill cloth. The hand-stitched designs add dimension and style to any motif. Since the minimum order is just one flag, this luxury symbol of your organization is very affordable. We are able to make any design you require into a richly embroidered tapestry that you will be proud to display.



Prices shown are for images produced from digital graphic files, vector formatted. Other types of artwork such as black and white composites, photographs or scanned e-mail artwork can be accepted with additional art charges. The art charges are billed at \$75.00 per hour and will be determined on a per order basis.



CLASS A  
Simple, one color background with letters only.



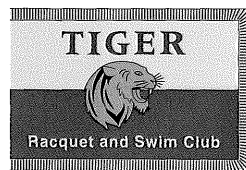
CLASS B  
Simple, one color background and silhouette design. Up to 24 letters, block fonts.



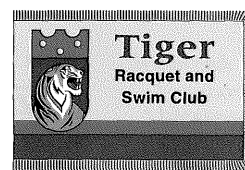
CLASS C  
One color background and silhouette with stitching detail. Up to 24 letters, block fonts.



CLASS D  
Two color background, multi-colored silhouette with stitching detail. Up to 24 letters.



CLASS E  
Multicolored silhouette with stitching detail. 2 color background. Stylized letters.



CLASS F  
Multicolored emblem, extensive detail and lettering.



CLASS G  
Multiple emblems, color and details, extensive lettering.

### Embroidered Pricing Guide

Embroidered Flags are Doubled Sided and Finished with lined Pole Hem and Fringe.

Please Submit Art for Firm Quote.

SIZE	A Emb.	B Emb.	C Emb.	D Emb.	E Emb.	F Emb.	G Emb.
2 x 3'	\$424.00	\$446.00	\$525.00	\$811.00	\$1181.00	\$1532.00	\$1874.00
3 x 5'	604.00	687.00	737.00	942.00	1319.00	1706.00	2145.00
4 x 6'	656.00	750.00	834.00	1040.00	1455.00	1870.00	2363.00



## CUSTOM APPLIQUED FLAGS AND BANNERS

### ...For Beautiful Indoor Flags and Banners

Custom applique flags and banners have dimensional lettering hand sewn onto Nyl-Glo or other fabric. Your design is then hand cut to the required shapes. The result is a rich dimensional look at a fraction of the cost of embroidery.

### ...Durable and Stylish for Outdoor use

Appliqued flags can also be flown outdoors. This is not possible with Embroidered or Fringed products. Outdoor flags are made from 100% DuPont SolarMax nylon, the most durable, weather resistant flag fabric in its price range. Sizes up to 6x10' are finished with duck heading and brass grommets. Larger sizes feature roped heading.



#### Applique Pricing Guide

Prices shown are for outdoor Single/Reverse Flags finished with Canvas Heading and Brass Grommets. **Please Submit Art for Firm Quote.**



CLASS A

Simple, one color background with letters only.



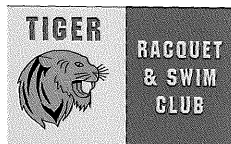
CLASS B

Simple, one color background and silhouette design. Up to 24 letters, block fonts.



CLASS C

One color background and silhouette with stitching detail. Up to 24 letters, block fonts.



CLASS D

Two color background, multi-colored silhouette with stitching detail. Up to 24 letters.



CLASS E

Multicolored silhouette with stitching detail. 2 color background. Stylized letters.



CLASS F

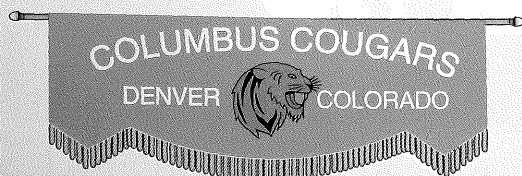
Multicolored emblem, extensive detail and lettering.



CLASS G

Multiple emblems, color and details, extensive lettering.

Prices shown are for images produced from digital graphic files, vector formatted. Other types of artwork such as black and white composites, photographs or scanned e-mail artwork can be accepted with additional art charges. The art charges are billed at \$75.00 per hour and will be determined on a per order basis.



SIZE	A	B	C	D	E	F	G
	Appl.	Appl.	Appl.	Appl.	Appl.	Appl.	Appl.
2 x 3'	\$121.70	\$197.80	\$294.30	\$357.30	\$614.80	\$794.40	\$929.80
3 x 5'	145.90	235.10	328.90	397.20	667.00	864.70	1011.00
4 x 6'	170.00	265.10	363.60	437.10	719.20	935.10	1052.00
5 x 8'	208.90	325.40	436.50	523.20	825.30	1067.40	1253.20
6 x 10'	256.10	394.10	439.20	653.70	1020.40	1286.00	1514.70
8 x 12'	342.20	497.40	716.20	868.60	1310.80	1660.70	1967.40
10 x 15'	466.10	715.90	933.50	1132.80	1686.30	2272.00	2838.30
12 x 18'	615.20	936.50	1214.60	1481.30	2187.60	3148.00	3950.10

#### Parade Lead Banners

The smart way to step out for any marching unit. All types, sizes and materials are available. Call us for details and pricing.





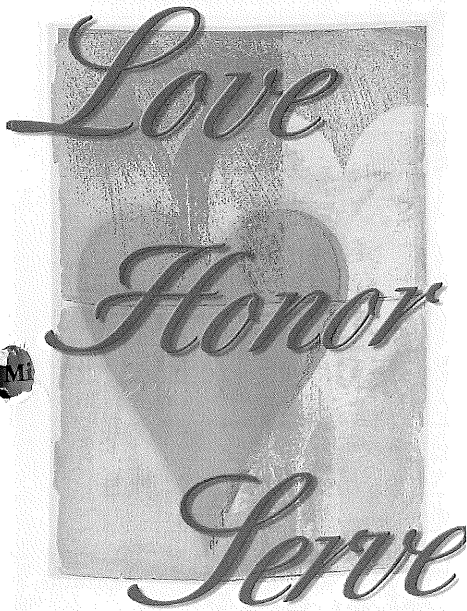
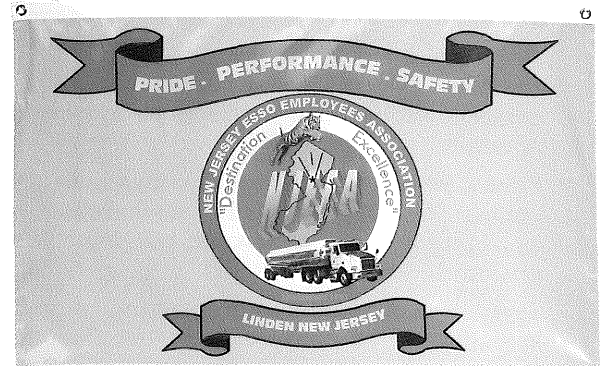
# Tru-Image Printing

SIA  
door

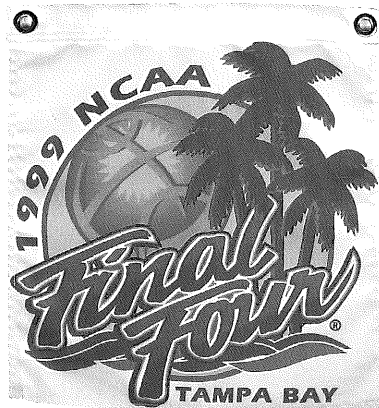
## Tru-Image Printing

The Tru-Image Print is a dye-sublimation process which combines state of the art digital technology with old world craftsmanship to produce clean, crisp, faithful reproductions of your most intricate designs

Our Tru-Image Print process mimics both the look and soft, supple feel of the Anco-Dye process but with lower minimum runs and greater capacity for detail.



The unique four-color process first prints the digitally created graphic image onto special thermal paper where it is then transferred via heat press to polyester fabric.



Size	Quantity				
	1 each	3+ min each	6+ min each	12+ min each	20+ min each
2 x 3'	N/A	\$107.00	\$95.00	\$88.00	\$79.00
2½ x 4'	N/A	\$158.00	\$147.00	\$132.00	\$127.00
3 x 5'	\$268.00	\$237.00	\$205.00	\$197.00	\$181.00
4 x 6'	\$429.00	\$353.00	\$315.00	\$303.00	\$290.00

Finishing includes hemmed edges and your choice of heading & grommets or open pole sleeve. For Pricing on alternate sizes, larger quantities or additional finishing specs contact your local distributor.

**Recommended for indoor use.**

Prices shown are for images produced from camera ready art received in the form of finished digital graphics file and color printout. Art charges are billed at \$100.00 per hour. Formatting information is on page 44.



## SCREEN PRINT PROCESSES

### Printex

Screen-Print Processing is the ideal method to make multiple units of custom design flags and banners. Annin's custom-made printed products are made using the latest technology and equipment. Our production capabilities allow us the utmost flexibility to provide our customers with a broad range of printed flag products on a wide variety of fabrics.

Printex produces exceptionally bright, well defined colors. This process is also an excellent choice to simulate 4-color process printing or where graduated, variable color, fade effects are desired.

Several screen printing processes and combinations are available to produce just the right effect for your specific application. Our experienced Custom Quote Representatives will be glad to help you choose the technique that is best for your flag needs.

#### NOTE:

Prices shown are for images produced from digital graphic files, vector formatted. Other types of artwork such as black and white composites, photographs or scanned e-mail artwork can be accepted with additional art charges. The art charges are billed at \$75.00 per hour and will be determined on a per order basis.



### Anco Dyed and Printex Sample Price Chart

#### 2 x 3' Nyl-Glo Single/Reverse Quantity Ordered

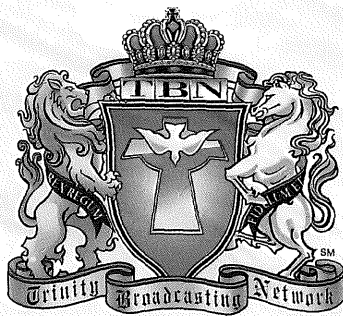
Number of colors	25+	50+	100+
1	\$26.50	\$21.00	\$18.10
2	\$32.80	\$26.10	\$22.50
3	\$38.70	\$31.30	\$26.90
4	\$44.80	\$36.40	\$31.10

In addition to the above prices there will be screen charges added in the amount of \$160 dollars for the 1st color and \$120 dollars for each additional color.

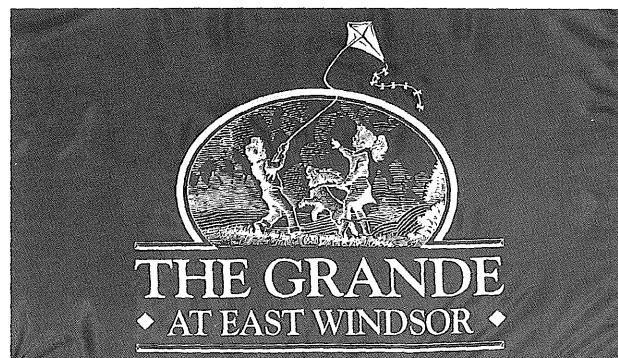
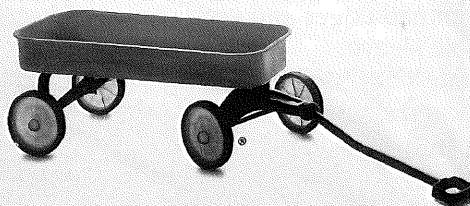
#### 3 x 5' Nyl-Glo Single/Reverse Quantity Ordered

Number of colors	12+	25+	50+	100+
1	\$55.30	\$42.00	\$39.30	\$33.60
2	\$67.10	\$49.80	\$45.00	\$37.80
3	\$78.60	\$56.50	\$50.60	\$42.30
4	\$90.20	\$64.30	\$55.90	\$46.70

In addition to the above prices there will be screen charges added in the amount of \$170 dollars for the 1st color and \$120 dollars for each additional color.

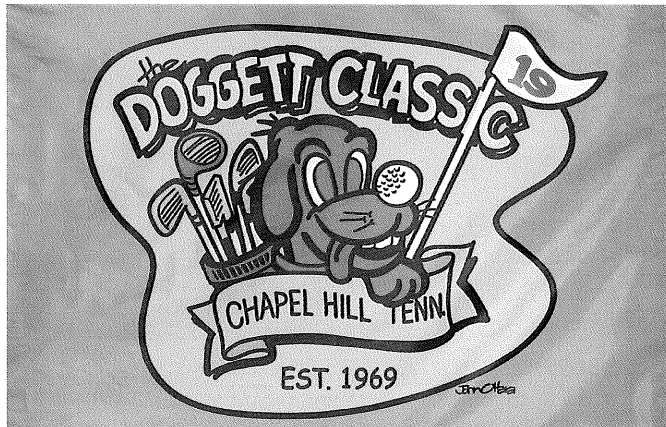
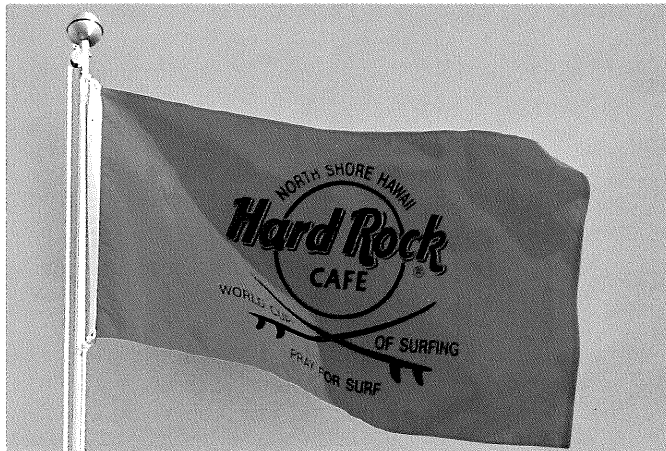


### AMERICA'S PROMISE THE ALLIANCE FOR YOUTH®





## SCREEN PRINT PROCESSES



### Anco Dyed and Printex Sample Price chart

4 x 6' Nyl-Glo Single/Reverse  
Quantity Ordered

Number of colors	12+	25+	50+	100+
1	\$69.80	\$52.30	\$50.90	\$45.20
2	\$81.20	\$60.50	\$58.40	\$49.20
3	\$92.90	\$68.70	\$66.00	\$57.80
4	\$104.40	\$77.10	\$73.50	\$64.30

In addition to the above prices there will be screen charges added in the amount of **\$220** dollars for the 1st color and **\$130** dollars for each additional color.

5 x 8' Nyl-Glo Single/Reverse  
Quantity Ordered

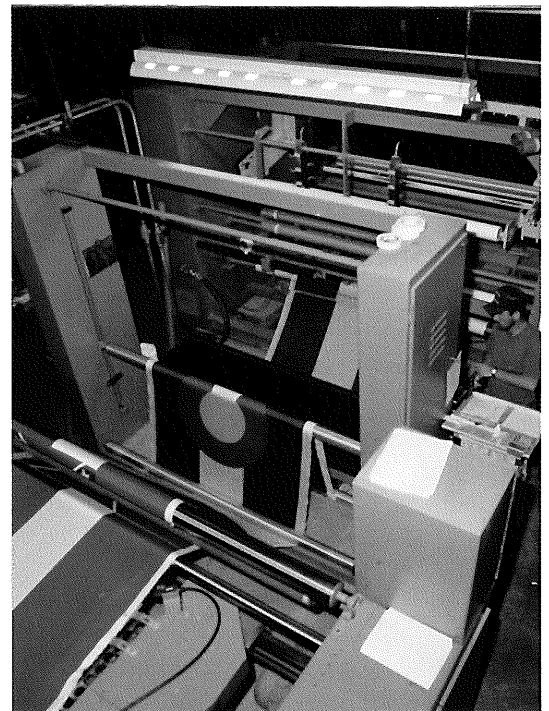
Number of colors	6+	12+	25+	50+	100+
1	\$169.60	\$103.90	\$89.10	\$81.70	\$70.60
2	\$191.80	\$117.10	\$98.70	\$90.60	\$90.60
3	\$212.60	\$130.70	\$108.20	\$99.20	\$85.50
4	\$236.20	\$143.80	\$117.60	\$108.10	\$93.10

In addition to the above prices there will be screen charges added in the amount of **\$290** dollars for the 1st color and **\$140** dollars for each additional color.

### Anco-Dyed

Annin will reproduce any design, simple or intricate and most colors you require onto 100% Solar-Max nylon flags. Our exclusive Anco-Dye process uses genuine screen-dyeing techniques to faithfully execute your designs on both sides of your flag or banner. This process features:

- Complete penetration of dye to the fabric's core, producing a rich, radiant appearance and extremely durable colors and designs.
- State-of-the-art, screen dyeing equipment and technology.
- Highly trained personnel in the most modern flag/banner screen dyeing facility in North America.
- Computer graphic designs and precise quality control inspections.
- Environmentally responsible care. All effluent conforms or exceeds Federal and State Regulations.
- All dyes and materials are specially formulated to be worker and environment friendly.
- Soft Supple Finish, never stiff or board-like.







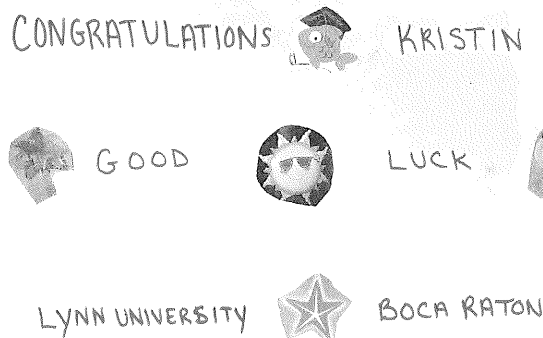
## TIPS FOR DESIGNING . . . CUSTOM FLAGS AND BANNERS



### *Ask yourself the right questions . . .*

Thinking about the potential end use for your banner or flag might just be the most important step in the design process. The answers you get will unlock the information you'll need to specify the proper materials, design techniques and more.

#### *Before*



Original artwork supplied by customer

### *Where do you plan to use this banner/flag?*

The answer to this question will:

- Tell you whether to select an indoor material or an outdoor material.
- Enable you to gauge at what distance the product will be viewed. This is crucial design information in terms of layout, size and style of both the lettering and graphic elements.
- Provide you with an indication as to how to finish this product. For example, duck heading and grommets are standard for outdoor flags and banners while a pole hem (or sleeve) is generally considered more appropriate for indoor use.
- Give an indication of fabric choice. Banners and flags that are moved frequently, like trade show banners for example would be better made from a machine washable fabric such as Nyl-Glo, since they are likely to get soiled quickly.

### *You May Need More Than One . . .*

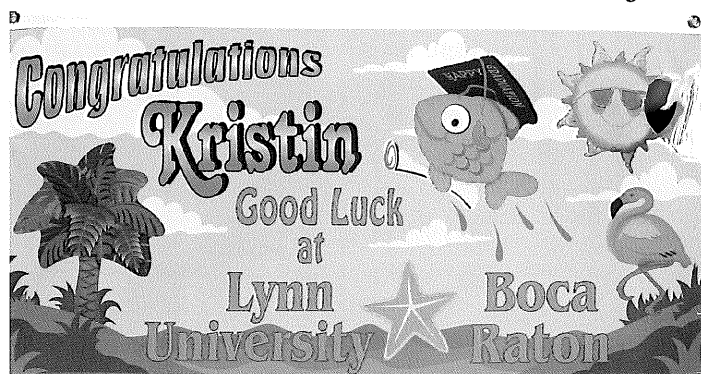
When exposed to the elements daily, even the strongest flag will eventually wear out. If your custom flag is continually on display you will most likely be using more than one in the course of a year and there is often a savings when buying in quantity.

### *Submitting Artwork . . .*

- All lead times quoted are based upon the receipt of order, original artwork, and color shade clarification.
- PMS Colors are used as a reference only. We cannot guarantee an exact match. A colored strike-off can be supplied at an additional cost.
- A hard copy of artwork supplied on a disc must be supplied with the disc. This printout and disc will be considered the main source of artwork for the project and will become the property of Annin & Co. unless a request to return the artwork is made at the time of purchase.
- Artwork submitted on disc should be formatted to IBM compatible systems, but Macintosh formats are acceptable. Supply vector formatted artwork in .EPS, .AI or DXF files.

*Quote/order form is in price list #28*

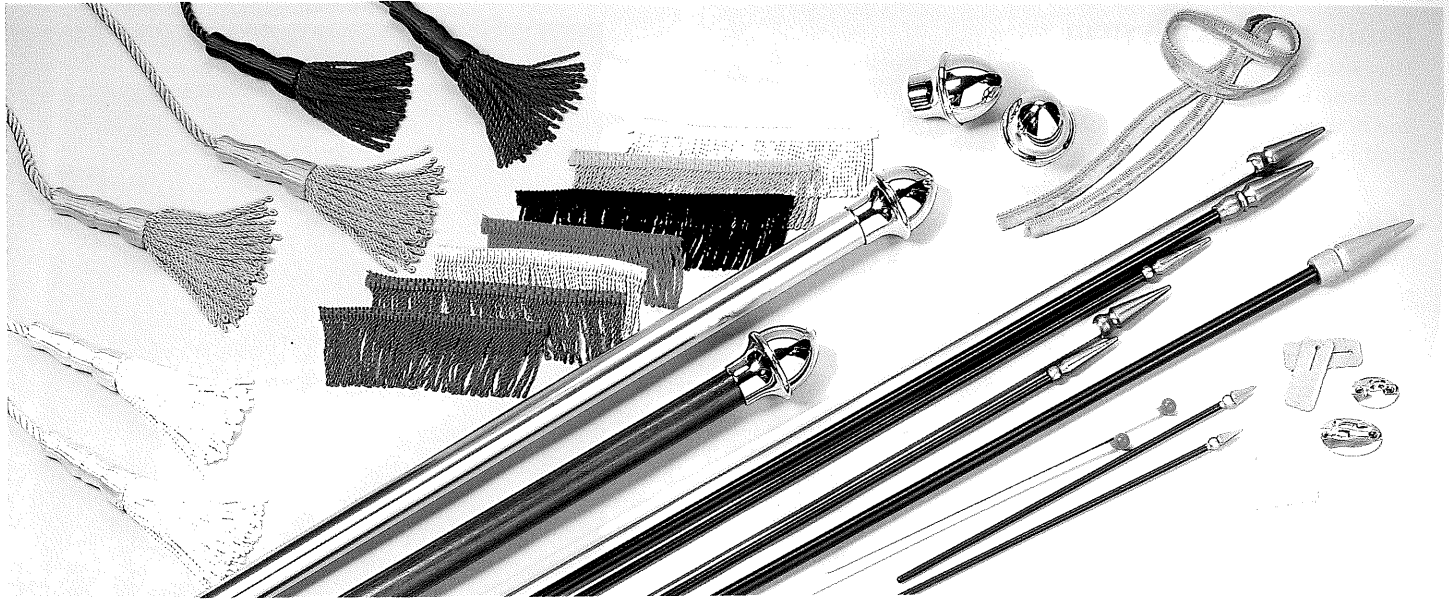
#### *After*



Finished banner after our art department modified design!  
NOTE: Art charges applied.



# ACCESSORIES FOR YOUR CUSTOM MADE PRODUCTS



## Cord & Tassels

Item #	Size	Each
612590	3" tassel, with 5' cord, Golden Yellow	\$11.60
612600	5" tassel, with 9' cord, Golden Yellow	14.80
612610	6" tassel, with 9' cord, Golden Yellow	19.40
612750	6" tassel, with 9' cord, White	19.10
612705	7" tassel, with 9' cord, Royal Blue	19.60

## Fringe by the Yard

Item #	Description	Per Yard
612500	2" Golden Yellow	\$3.40
611550	2" White	3.40
612400	2 1/2" Golden Yellow	5.40
612501	2" Black	3.90
612506	2" Purple	3.90
612507	2" Royal	3.90
612508	2" Red	3.90
612509	2" Silver	3.90

## Lead Banner Mountings

Item #	Description	Each
594651	Style LB-6 (f/6' banner)	\$59.40
594652	Style LB-8 (f/8' banner)	68.10

Mountings consist of 7' x 1" gold aluminum crossbar with Style 270 ends for 6' banner or 9' x 1 1/4" crossbar with Style 270 ends for 8' banner.

## Mountings for Custom Banners

Item #	Description	Each
590080	1" Oak Crossbar with Acorn Ends for Banners up to 4'.	\$34.80
594651	7'x1" Gold Aluminum Crossbar with Acorn Ends for Banners up to 6'.	59.40
594652	9' x 1 1/4" Gold Aluminum Crossbar with Acorn Ends for Banners up to 8'.	68.10

## Fringing

### Add Golden Yellow Fringe to Stock Flag

Item #	Flag Size	Each
611600	2x3'	\$8.60
611700	2 1/2 x 4'	9.60
611800	3x5	10.70
611900	4 1/3 x 5 1/2	12.80
612100	4 x 6	12.80
612200	5x8	16.70

## Brass Banner Hook & Eye

Item #	Description	Each
612588	For Connecting Crossbar to Vertical Pole	\$19.40

## For Miniature Custom Flags

### 1/2 Inch Gold Floss Fringe

Item #	Per Yard
900227	\$1.80

## Staffs

Item #	Size	Color	Each
547304	10 x 3/16"	Black with Gilt Spear	\$24
547310	10 x 3/16"	White with Red Ball	.28
541400	18 x 1/4"	Ebonized	.48
541800	24 x 5/16"	Whitewood	.48
541500	30 x 3/8"	Ebonized	.56
541600	36 x 3/8"	Ebonized	.90
541700	48 x 7/16"	Ebonized	1.50
542100	48 x 7/16"	Whitewood	1.20

## Gold Crossbar Ends for Banner Pole

602002	Style 270 plastic 2 1/2 x 1'	\$6.40 Each Pair
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## Tabs

Item #	Description	Each
902301	Velcro	\$.40
900217	Leather	.50

## Convert Outdoor Flag to Colonial Nyl-Glo

Flannel Lined Pole  
Sleeve with Velcro Tabs

Item #	Size	Each
810309	2 x 3	\$13.10
810310	2 1/2 x 4	13.60
810311	3 x 5	15.70
810312	4 x 6	18.90
810313	5 x 8	21.90

## Convert to Open Duck Sleeve

Sleeve Open at Both Ends, no Tabs. Price is for Conversion Only, does not include flag itself. Specify size of pole with which product will be used.

Item # 972009 is the Same for all Sizes.

Size	Each
12 x 18"	\$4.20
2 x 3'	7.40
3 x 5'	8.40
4 x 6'	9.50
5 x 8'	16.80

## Convert to Roped Heading

Used mainly outside the United States. The existing heading is replaced with canvas heading with rope sewn through. Price is for conversion only. Does not include the flag itself.

Item # 940079 is the Same for all Sizes.

Size	Each
3 x 5	\$14.70
4 x 6	\$16.80
5 x 8	\$20.10

## Convert Outdoor Flag to Banner

Unlined Open Sleeve with Tab. Specify size of pole with which this item will be used. Price is for Conversion only. Does not include Flag itself.

Item # 980010 is the Same for all Sizes.

Size	Each
12x18"	\$4.70
2x3	\$7.30
3x5	\$8.30
4x6	\$9.30
5x8	\$16.50



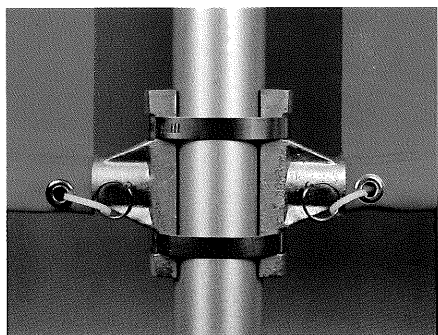
## BRACKETS FOR STREET BANNERS

### Banner Bracket System

This state-of-the-art system is designed to withstand the elements. The base is made from rust-free cast aluminum with fiberglass arms. The fiberglass arms will flex in strong winds, transferring some of the wind load off of the banners.

### Featuring....

- \* Cast Aluminum base that will not rust
- \* Unique base design will fit square, round or multi-sided utility poles
- \* Strong fiberglass arms will flex to reduce wind load from banner
- \* A one-degree cant engineered into the base to keep the banner tight.
- \* Stainless steel bands for easy installation.

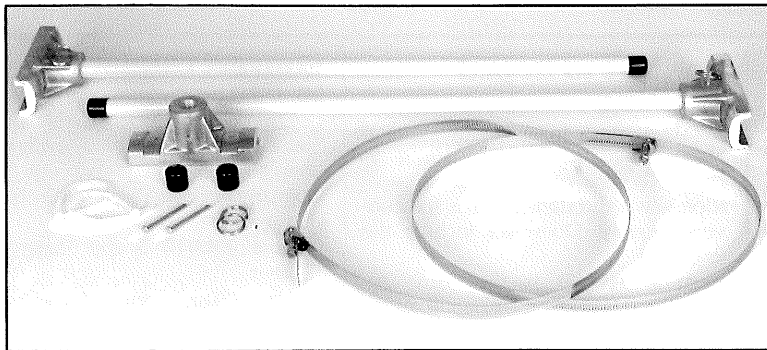


### Single Banner Set - Consists of:

	Item #	Length	Sugg. Retail
2 3/4" Fiberglass Poles with end caps	652575	24"	\$121.80
2 Single Aluminum Brackets	652580	30"	\$132.30
2 Pins with rings	652590	36"	\$136.50
2 Nylon tie wraps	652595	40"	\$157.50
4 40" Stainless steel bands			

### Double Banner Set - Consists of:

	Item #	Length	Sugg. Retail
4 3/4" Fiberglass Poles with end caps	652525	24"	\$199.50
2 Double Aluminum Brackets	652530	30"	\$219.50
4 Pins with rings	652535	36"	\$243.60
4 Nylon tie wraps			
4 40" Stainless steel bands			



### Double Banner Display - Side by Side



**Note: For your Custom-made Avenue/Street Banner, please contact our Custom-made Quotation Department.**

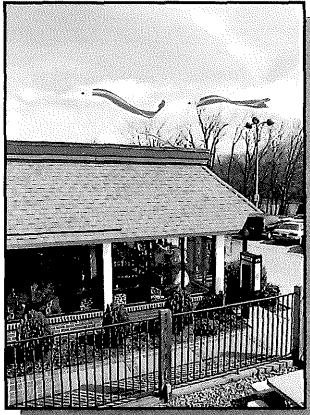


# COMMERCIAL DECORATIVE FLAGS

introducing

## The Wind Dancer<sup>®</sup>

These exciting high flying attention getters make a statement that gets noticed. Graceful and streamlined they fly aloft in the slightest breeze.



### The telescoping Wonder Pole

comes complete with 24" ground sleeve and easy to follow instructions. Sets up in seconds ready to display the Wind Dancer of your choice ( accepts 3/4" harness). Adjusts from 8' to 21' with sure lock fittings.

Item # 740200     \$107.00

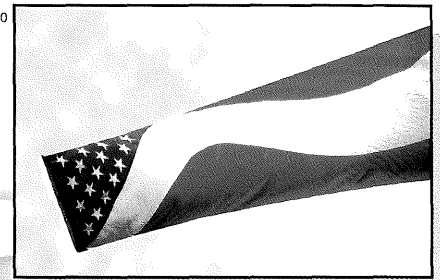


### With the new patented Wind Dancer Harness system

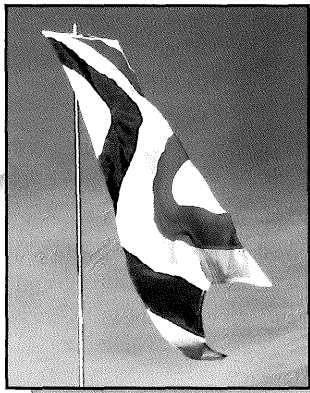
US Patent No. 5,701,840  
your Wind Dancer will never wrap around the pole or drape closed.

### With 3 Sizes and 8 Color Styles to choose from

We are sure to have the Wind Dancer just right for your application. Custom colors and designs can be supplied by special order. Contact your **Wind Dancer** retailer for price and availability.



Freedom



The Wave

Wind Dancers are available for immediate delivery in the color styles and sizes as shown below. **Prices Shown Below are Suggested Retail**

Size	Solid Colors Royal Blue, Yellow, Green, Red & Orange	The Wave Yellow & Royal Blue or Red & Green	Freedom- Stars & Stripes Design
2'x8'	\$37.50	\$45.30	\$45.30
2'x12'	\$43.00	\$56.30	\$56.30
2'x15'	\$51.90	\$61.80	\$61.80

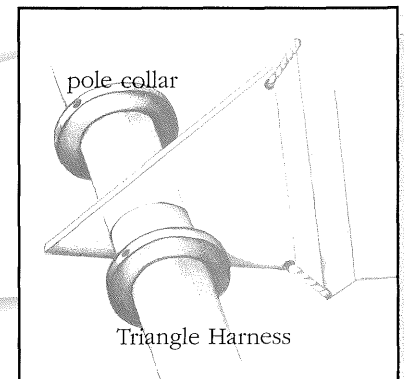
### One Harness Assembly is Required for Each Wind Dancer

Harness assembly includes pivotal harness plate, rope, cross bar, pole collars (2 each), allen wrench and easy to follow mounting instructions.

**No special tools required. Specify size of pole when ordering. Harnesses are available in 3/4", 1" or 2" size. If used with Wonder Pole specify 3/4" Harness.**

**Sugg. Retail \$34.30**

Assembly is not sold separately. Must be ordered in combination with Wind Dancer.



Triangle Harness





## GOLF/SPORT FLAGS



### Look Better! Wear Better! Stay Brighter!

These are superior quality flags, crafted of Nyl-Glo flag buntings, woven to superior quality specifications. All numerals are sewn to look better, wear better, and give the course a professional appearance. It is very important that you indicate size, colors and numerals with your order.

There are 9 flags to each set in the official 14 x 20" size: **Outgoing Flags** are numbered 1 to 9; **Incoming Flags** are numbered 10 to 18. Each flag is finished with duck heading, 3 metal grommets and 3 tie tapes. The fly ends are reinforced with strong nylon thread. Each set is neatly boxed.

### Golf Flags Nyl-Glo Sets of 9 Flags Size 14x20"

Item #	Style	Each Set
313100	1-9 ( <b>Outgoing</b> ) Red with White Numerals*	\$79.90
313150	10-18 ( <b>Incoming</b> ) White with Red Numerals*	100.00
313160	Plain ( <b>Solid Colors</b> ) No Numerals	44.60

\*Standard stock color combinations; other combinations are made to order at the same prices.

### Individual Flags (not in sets) Size 14x20"

Item #	Style	Each Flag
327100	1-9 ( <b>Outgoing</b> )	\$11.40
327105	10-18 ( <b>Incoming</b> )	13.70
327110	Plain ( <b>Solid Colors</b> ) No Numerals	6.70

**Note:** In order for us to serve you better, be sure to indicate size, colors and numerals carefully when you order.

### Direction Flags for Golf Courses

Annin Golf Flags are crafted of 100% Nyl-Glo woven to superior quality specifications, with 3 brass grommets and 3 strong tie tapes.

Item #	Style	Size	Each
327200	1	14x18"	\$12.50
327205	2	14x18"	8.30
327210	3	14x18"	12.30

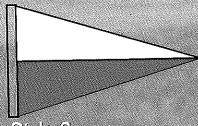
### Custom Design Nyl-Glo Screen-Printed Golf Flags

Prices available upon request. Please send copy of design, colors, quantity, etc. for quotation.

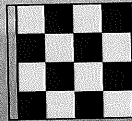
Minimum Custom Design Order: 36 Flags



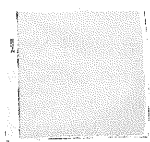
Style 1



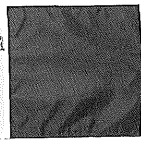
Style 2



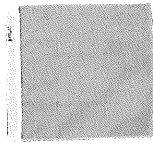
Style 3



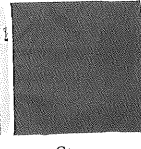
Last Lap



Start



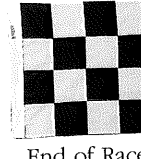
Caution



Stop



Go to Your Pit



End of Race



Move Over

### Racing Flag Set of 7 Nyl-Glo

Item #	Flag Size	Each Set
324490 (Pole Band)	24x24"	\$104.10
324491 (On 5/8x36" Dowels)	24x24"	104.10

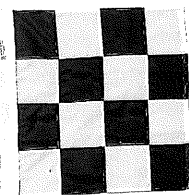
### Miniature Racing Flag Set 4x5" Size Empire Brand

Screen-printed. Mounted plain on 3/16x 10" black staff with gilt spear and 7 hole base. Illustrated on page 25.

Item #	Each
324475	\$16.20

### Black & White Checked Racing Flags Nyl-Glo

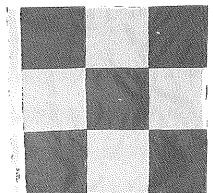
Item #	Flag Size	Each
324495 (Heading & Grommets)	24x24"	\$19.20
324496 (On 5/8 x 36" Dowel)	24x24"	19.20



### Airfield Vehicle Safety Flags 3x3' Size Nyl-Glo

Colors: orange and white checked pattern.

Item #	Finish	Style	Each
312850	Pole Band	Dyed	\$16.50





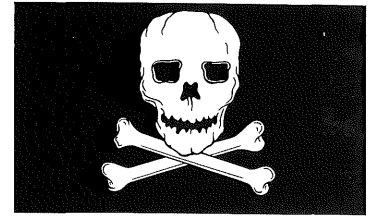
# CELEBRATION® FLAGS

For holidays, birthdays, anniversaries and good cheer throughout the year!

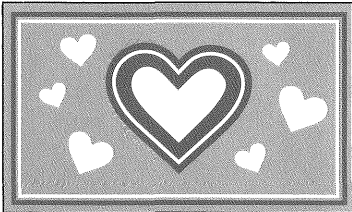
Make parties and holidays more festive – celebrate the joy of living with these 3 x 5 ft. silk-screened flags for home and business.

Anco-dyed in fast, brilliant colors on Nyl-Glo 100% Solarmax™ nylon and finished with white canvas headings and brass grommets.

- Jolly Roger flag also available in 12" x 18" – \$10.30 each and 2' x 3' – \$21.10
- Accessory Kit includes sturdy, 6' sectional aluminum pole, gilded wooden ball, halyard and steel holder for mounting on either vertical or horizontal surface. Style 22B Each \$10.30



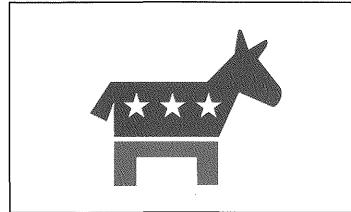
Jolly Roger – \$34.50 each 379375\*



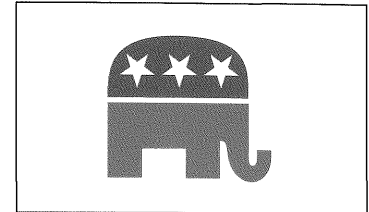
Hearts – \$38.80 each 379311



Give Thanks – \$38.80 each 379318



Democrat – \$38.80 each 379301\*



Republican – \$38.80 each 379302\*



It's a Girl – \$38.80 each (or It's a Boy) 501012\* 501005\*



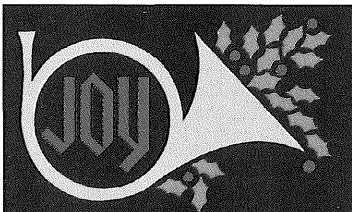
Easter Bunny – \$38.80 each 379319



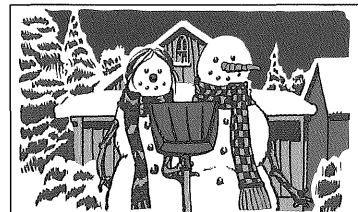
Seasons Greetings – \$38.80 each 379312



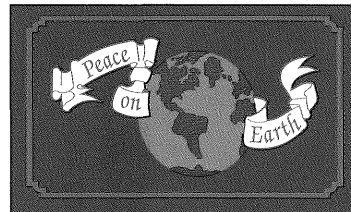
Cat In Window – \$38.80 each 379313



Joy/Horn – \$38.80 each 379362



American Snowmen – \$38.80 each 379316



Peace on Earth – \$38.80 each 379314\*



Falling Leaves – \$38.80 each 379321

\* Indicates availability in 4 x 6" size - \$3.50 Each

## SPORTS FLAGS

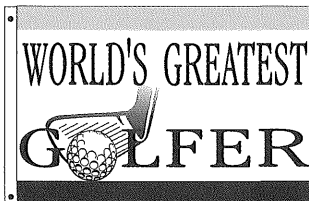
### 12x18" FUN SIZE

Great Novelty Gifts for Your Favorite Sportsman.

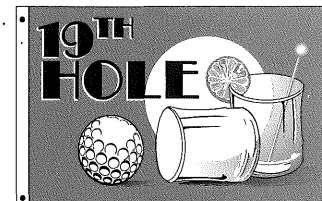
12x18" Nyl-Glo flags finished with duck heading and brass grommets. Suitable for either indoor or outdoor display.

Sugg Retail \$10.30 each

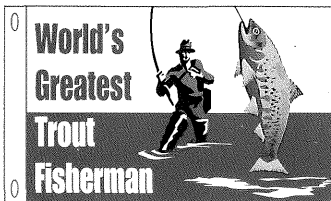
All Sports Flags Packaged for Display see photo on pg. 30



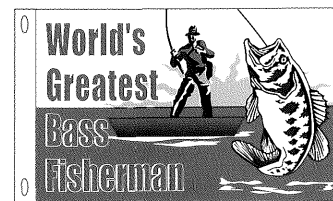
253170WE



253160WE



253190WE



253180WE



# STAR SPANGLED DECORATING



Additional Verona Brand flags sold on page 14

In a window box or on a table top Verona Brand flags are always right at home. Your choice of traditional Spearhead or Saf-T-Ball in a variety of sizes.



## Star Spangled Home Decorating Kit

Dress up your home for the patriotic holidays indoors or out with our new Patriotic Pack, Home Decorating Kit. Contains two small 18 x 36" fans, two large 3 x 6' fans, twelve 4 x 6" no fray Saf-T-Ball flags, twelve 8 x 12" no fray Spear-tip flags, twenty feet of bunting and a full color flyer with decorating ideas.

Item #	Description	Each
501560	27" x 10" Display Box	\$118.90

SPEARHEAD			
Item #	Flag Size	Staff	Each
041100	4 x 6"	3/16" x 10" Black	\$.66
041200	8 x 12"	5/16" x 24" White	1.30
041300	12 x 18"	5/16" x 30" White	2.20

SAF-T-BALL			
Item #	Flag Size	Staff	Each
041110	4 x 6"	3/16" x 10" White	\$.68
047910	8 x 12"	5/16" x 16" White	1.40
041450	12 x 18"	5/16" x 30" White	1.80



Small Fan

Just the right size for windows and doorways. Featuring sturdy canvas heading and brass grommets.

Item #	Description	Each
483125	1 1/2' x 3' Republic PFF-282	\$14.70



Transform your yard or garden with small fans and Verona Brand stick flags. Brackets sold on page 60.





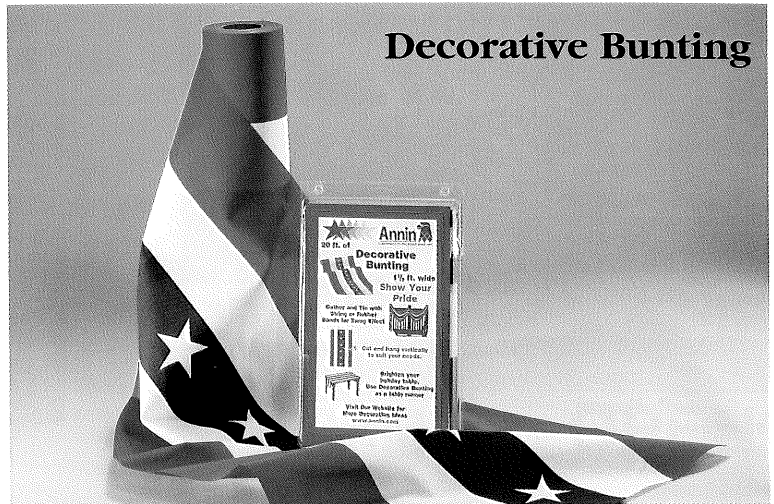
# STAR SPANGLED DECORATING

## NEW U.S. Flag Garland



<b>Item #</b>	<b>Description</b>	<b>Each</b>
041320	12' Length of 8 x 12" Flags	\$29.90

## Decorative Bunting



<b>Item #</b>	<b>Description</b>	<b>Each</b>
501550	1 1/2' x 20' Republic Bunting	\$23.90

## U.S. Flag Bunting 12 x 18" Pattern



<b>Item #</b>	<b>Description</b>	<b>Each</b>
501553	12" x 25' Republic Bunting U.S. Flag pattern - 12" x 18"	\$20.70

## U.S. Flag Bunting 4 x 6" Pattern



<b>Item #</b>	<b>Description</b>	<b>Each</b>
501551	4" x 21' Republic Bunting U.S. Flag pattern - 4 x 6"	\$10.30



This Patriotic doorway is framed with U.S. Flag Bunting in a 4 x 6" pattern.



## PATRIOTIC DECORATIONS



Fan Effect  
Using Two 85  
or P-85 Flats  
With Advertising Center

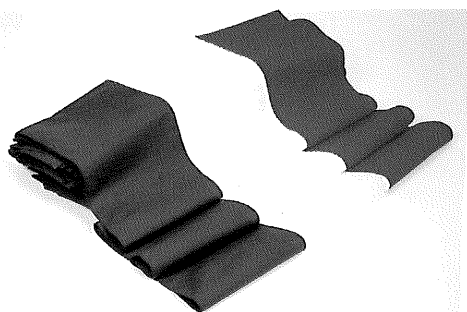
### Plated Half Fans

Ready for Hanging

Same as 3 x 5' Styles 85 and 282 but pre-pleated to 3 x 3'.

Use with any advertising center.

Reliance			Nyl-Glo		
Item #	Style	Each Pair	Item #	Style	Each Pair
482100	P-85	\$41.60	482105	PN-85	\$45.00
482150	P-282	42.00	482155	PN-282	45.60

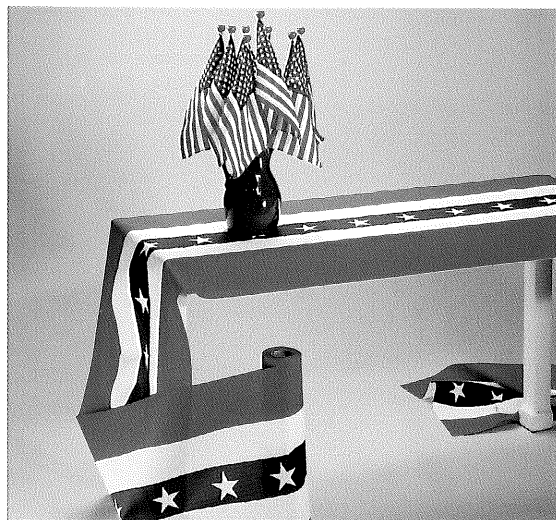


### Bunting

Reliance sheeting or Nyl-Glo - 36" width.

Is packaged in 60 yard bolts only. Polywear 30" width.

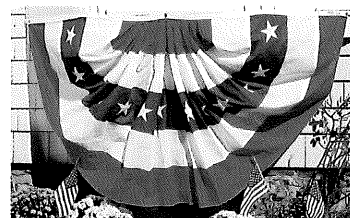
Item #	Style	Each
501510	D-83 3 Stripes Sewn-Reliance	\$368.00
502510	DN-83 3 Stripes Sewn-Nyl-Glo	398.50
501500	D-282 5 Stripes with Stars	
	Reliance Printed	368.20
502515	Polywear 30 yd. Bolt-Printed Stripes	141.50
502520	Polywear 60 yd. Bolt-Printed Stripes	260.00



### Smaller Width Bunting

Republic sheeting - 18" width. 60 yard bolt.  
8x12" Saf-T-Ball Flags sold on pages 14 and 50.

Item #	Description	Each
501552	5 Stripes with stars	\$132.00



Style PFF-282  
Pleated Full Fan

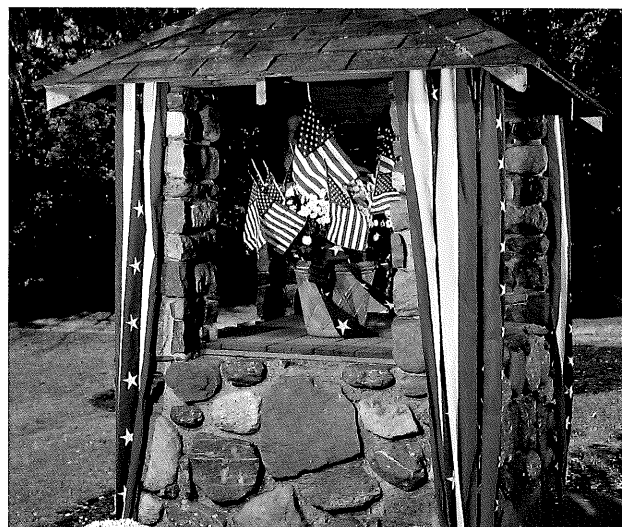
### Pleated Full Fans

Ready for Hanging

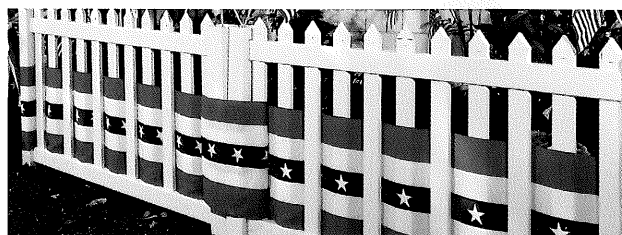
Style PFF-85 (Stripes Only)

Style PFF-282 (With Stars)

Item #	Size	Each	Item #	Size	Each
484800	Reliance 3 x 6'	\$38.60	483200	Republic 3 x 6'	\$38.80
971067	Nyl-glo 3 x 6'	42.25	483250	Nyl-glo 3 x 6'	42.60
484900	Reliance 4 x 8'	49.80	483300	Reliance 4 x 8'	58.80
484945	Nyl-glo 4 x 8'	63.80	483350	Nyl-glo 4 x 8'	63.20



Bunting may be cut to desired length, gathered and tied for swag effect.



Decorative Bunting dresses up an ordinary picket fence for a special occasion.





# COMMERCIAL DECORATIONS

## Advertising Centers

Attractive, colorful new designs: size 3' x 3' made of Reliance Cotton Sheeting, finished with white duck heading and two brass grommets. Printed on one side with durable fast colors. Packed 12 of one style to a bundle.

Each \$21.70

Custom designs priced upon application

(min. 100 pieces)



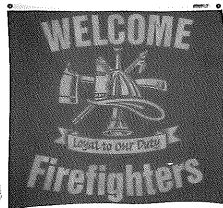
483500  
Style AC2



484600  
Style AC3



483600  
Style AC6



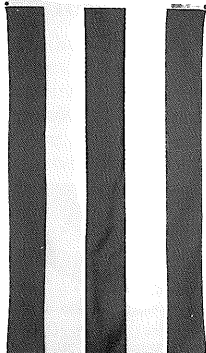
483801  
Style AC11



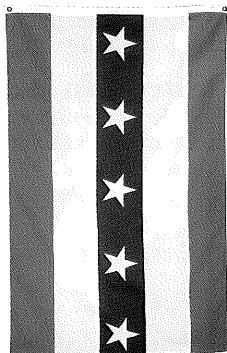
483900  
Style AC8



483850  
Welcome (Horse Rodeo)



Style 85-Stripes Only



Style 282 With Printed Stars

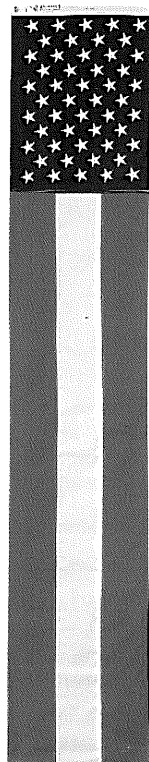
Reliance Item #	Size	Each
481700	3x5'	\$16.00
481800	4x6'	22.10

Nyl-Glo Item #	Size	Each
481600	3x5'	\$17.50

Reliance Item #	Size	Each
482200	3x5'	\$16.00
482300	4x6'	24.50

## Colonial Style Pulldowns

Item #	Size	Material	Each
482915	16" x 8'	Reliance	\$21.30
482920	16" x 8'	Nyl-Glo	25.40
482900	26" x 8'	Reliance	24.30
483100	26" x 12'	Reliance	35.60

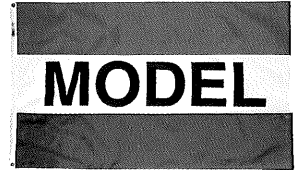


## Real Estate & Welcome Flags

These attention-getting designs are Anco-dyed in brilliant colors on heavyweight Nyl-Glo and finished with duck heading and brass grommets. Size 3 x 5'.



501060 RE-2 Nyl-Glo \$32.00



483503 RE-5 Nyl-Glo \$22.50



483501 WF-3 Nyl-Glo \$22.50



483502 RE-4 Nyl-Glo \$22.50

The Following Message Flags are available in 3x5 foot Det-Glo Polyester with heading and grommets. Red, white and blue with black letters on the white stripe.

Item #	Message	Item #	Message
502100	Open	502135	Now Renting
502105	Welcome	502140	Trucks
502110	Grand Opening	502145	Used Cars
502115	Sale	502150	Antiques
502120	Model	502155	Car Wash
502125	New Homes	502160	Open House
502130	Now Leasing		

Det-Glo Each \$21.20



Item # 502115 Message Sale

## 50 Star Pulldown

Printed stars and sewn stripes.

Reliance Item #	Size	Each
486200	20" x 8'	\$17.10
486205	20" x 10'	19.70
486210	20" x 12'	22.20

Nyl-Glo Item #	Size	Each
486100	20" x 8'	\$19.60
486105	20" x 10'	22.40
486110	20" x 12'	25.20

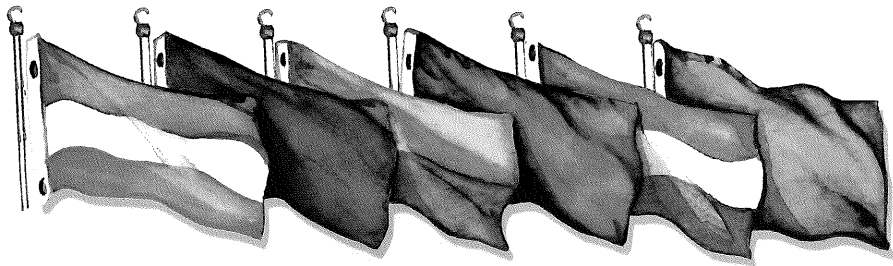




## COMMERCIAL DECORATIONS

### Action Flags

Eye-catching – multi-colored. Made of SolarMax Nyl-Glo 100% heavyweight nylon, sewn stripes, finished with duck heading and brass grommets. Manufacturer's choice of colors only!



Item #	Size	Each
501225	2 x 3'	\$10.30
501250	3 x 5'	19.30
501255	4 x 6'	31.50



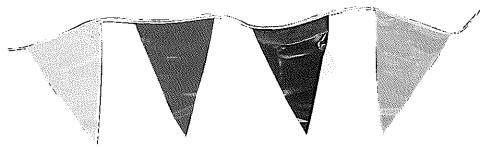
**SolarMax™**  
Only by DuPont

### Solid Color Flags

Made from top quality SolarMax 100% heavy-weight Nyl-Glo Fiber dyed for maximum color retention. Finished with duck heading, brass grommets and extra reinforcement stitching on the edges.

Item #	Size	Each
900462	2x3	\$9.80
900465	3x5	21.20
900468	4x6	27.40
901464	5x8	38.30

\* *Made to order - Allow 2 weeks*



### Multi Color Poly Pennant Strings

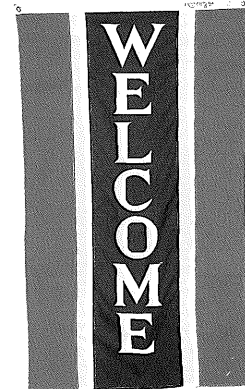
6 colors: Red, White, Blue, Orange, Yellow & Green

Item #	Size	Each
491200	30P	\$6.60
492500	50'P	10.00
491100	105P	17.60

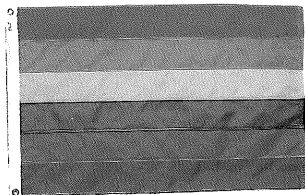
### Welcome Banner

Available in Reliance Cotton and Nyl-Glo. The "WELCOME" reads correctly on the front and reverse on the back. Size on both is 5x3 ft.

Item#	Material	Price
502170	Reliance	\$26.70
502165	Nyl-Glo	29.10



**Welcome Banner**  
Style 138



### Rainbow Flags

Show your respect for diversity .... Fly the Rainbow Flag, now available in a wide variety of sizes and styles.

### Empire Brand

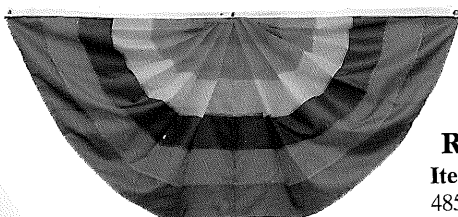
Item #	Size	Staff	Each
380110	4x6"	10" Black with Gilt Spear	\$3.50
380111	4x6"	10" White with Red Saf-T-Ball	3.50
380115*	8x12"	18" Black with Gold Spear Tip	6.50

\* *Not Stocked. Made To Order*  
*Call for Lead Time*

### Outdoor Nyl-Glo with Duck Heading and Brass Grommets

Item #	Size	Price	Item #	Size	Each
272410	12x18"	\$9.20	272413	3x5'	\$25.20
272411*	16x24"	13.70	272415*	4x6'	33.90
272414*	20x30"	16.00	272416*	5x8	69.30
272412	2x3'	20.30			

\* *Not Stocked. Made To Order*  
*Call for Lead Time*



### Rainbow Pleated Full Fan

Item #	Size	Price
485100	3x6' Nyl-Glo	\$50.80

### Pleated Fan Bunting

Made with your choice of Reliance Cotton Sheeting or Nyl-Glo Nylon. All styles feature printed centers and sewn stripes.

#### Style 37

Item #	Size	Material	Each
487200	3x9'	Reliance	\$64.50



Style 37

#### Style 38

Item #	Size	Material	Each
487205	3x9'	Reliance	\$64.50



Style 38

#### Style 135

Item #	Size	Material	Each
487210	3x9'	Reliance	\$54.10
487110	3x9'	Nyl-Glo	57.60

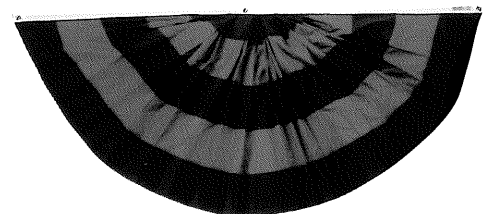


Style 135

### Nyl-Glo® Mourning Fan

Ready for Hanging

Item #	Size	Each
484975	3x6'	\$51.50







# FLAG AND BANNER POLES FOR INDOOR AND

# PARADE USE

## Highly Polished Oak Finish

Annin's wood poles have long enjoyed a reputation for unsurpassed excellence. Graceful in design, with a beautiful polished oak finish, all poles are two-piece with metal screw joint. (For Pole Ornaments, see following pages)

### POLE ONLY W/O ORNAMENT

Item #	Style	Length	Dia.	Each
551600	61W	6'	1"	\$34.50
551700	71W	7'	1"	39.10
551750	74W	7'	1 1/4"	46.60
551800	81W	8'	1"	40.50
551900	84W	8'	1 1/4"	47.30
552100	94W	9'	1 1/4"	54.10
552200	95W*	9'	1 3/8"	57.50
552300	125W*	12'	1 3/8"	58.50

\*For use with Style AAA stand only.

## Metal Joints and Ferrules for Banner Poles

Item #	Style	Each
614500	Screw joint (1" pole diam.)	\$20.60
614501	Screw joint (1 1/4" pole diam.)	19.20
614502	Screw joint (1 3/8" pole diam.)	23.90
614100	Ferrule (2" x 1") for all wooden banner poles	7.40

## Rich Anodized Aluminum

Engineered for maximum performance and beauty, Annin's parade poles offer truly outstanding quality at economy prices. The choice of America's leading color guards and marching bands, poles are two-piece, of strong aluminum tubing, with rich anodized finish in choice of gold or silver. Special features include tight-fitting invisible joints and shock-absorbing molded rubber base plug. Each pole is equipped with adjustable band for attaching flag and cord & tassels.

### POLE ONLY W/O ORNAMENT

Item #	Style	Pole Size	Each
555350	71G, gold	7' x 1"	\$51.30
555351	81G, gold	8' x 1"	53.20
555352	84G, gold	8' x 1 1/4"	62.20
555353	94G, gold	9' x 1 1/4"	66.90
555360	71S, silver	7' x 1"	53.20
555361	81S, silver	8' x 1"	54.40
555362	84S, silver	8' x 1 1/4"	63.20
555363	94S, silver	9' x 1 1/4"	65.90
555355	AG, gold	adjustable*	45.10

\*Adjusts from 5-9 ft. in length - butt diam. 1 1/4".

## Economical Wood-Grained Steel

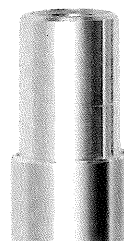
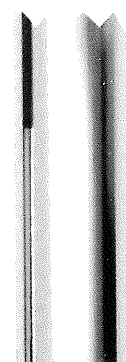
Excellent value and durability are handsomely presented in this new addition to the Annin line. Underlying the rich wood grain of its tough, high gloss, honey-pecan vinyl laminate is a core of strong steel tubing that won't bend or warp. The exclusive internal sleeve joint is precision-machined (not crimped) to form a secure-bayonet-type lock - yet the two pole sections can be joined or separated with complete ease when desired. A protective zinc plating on the sleeve joint surface prevents rust in this critical area, thereby providing added durability. Each pole is fitted with adjustable band for attaching flag and cord & tassels.

Item #	Style	Length	Dia.	Each
555410	84VS	8'	1 1/4"	\$34.90
555415	94VS	9'	1 1/4"	38.40

\* Use adapter 614525 with Dettra ornaments

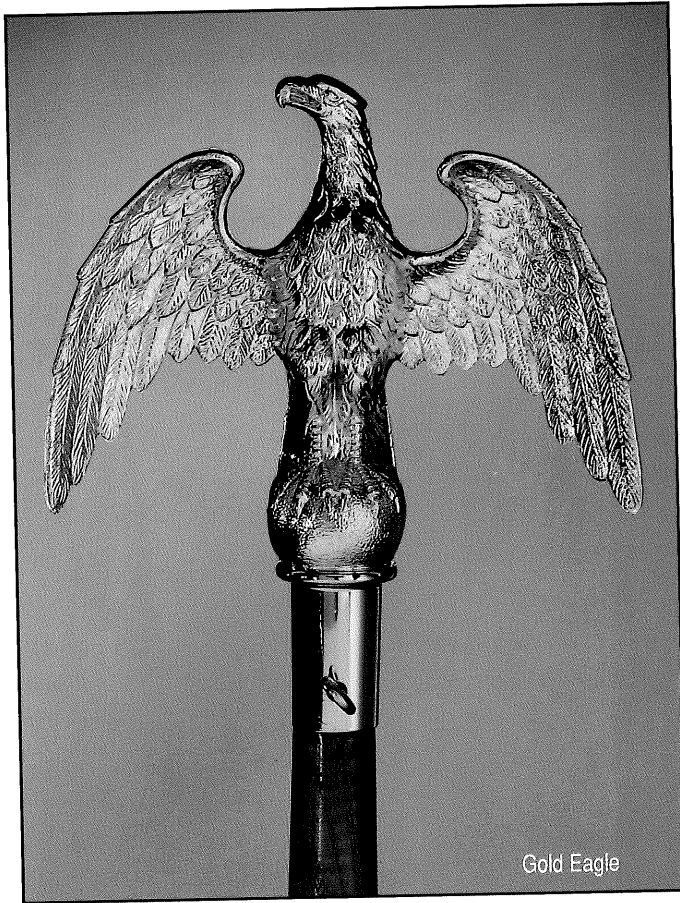


**FIRST CHOICE FOR  
VALUE • BEAUTY • DURABILITY**





## POLE ORNAMENTS



Gold Eagle

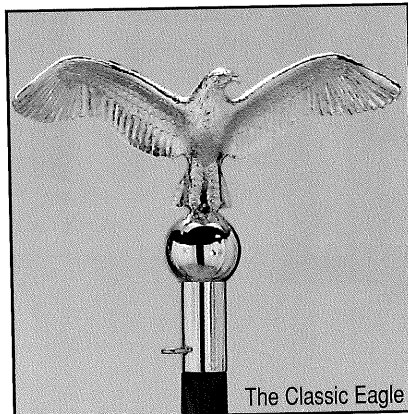
### Annin Gold Eagles

Authentic US eagle design, faithfully executed in ABS styrene. Antique gold-plated finish. Lightweight and extremely durable. As furnished with mounted sets.

Item #	Style	Size	Each
601631	7S	7"	\$19.90

Also available in bright, brass plated aluminum casting

Item #	Style	Size	Each
601676	5A	5"	\$25.10
601678	7A	7"	28.60
601680	11A	11"	66.60



The Classic Eagle

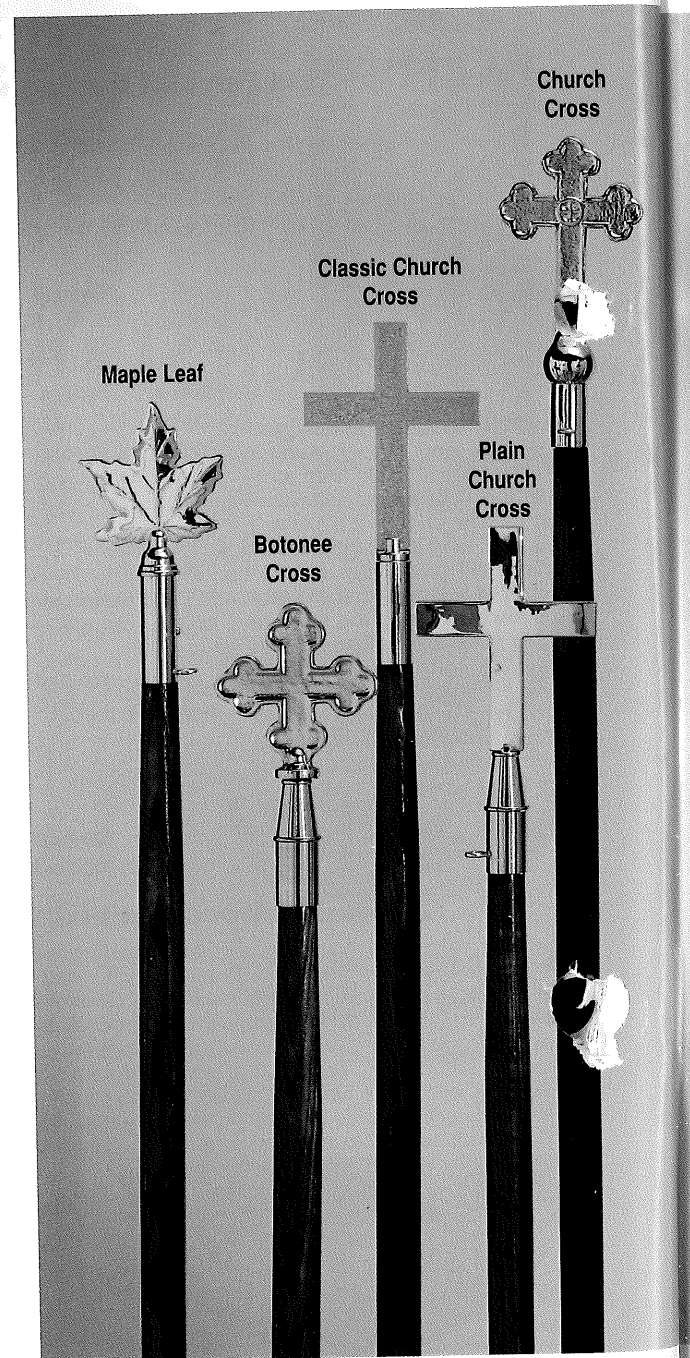
### Classic Eagle

Molded of solid rugged ABS plastic and vacuum metalized in a brilliant gold or chrome finish. Each Classic Eagle is equipped with its own removable ferrule and adapter.

Item #	Size	Finish	Each
601698	8½"	Golden	\$19.90
601699	8½"	Chrome	19.90

### Crosses

Item #	Style	Size/Finish	Each
601003	55AA	<b>Church Cross</b> Brass-plated alum., 9½" long	\$36.20
601004	83	<b>Botonee Cross</b> Solid brass, pol. & lacq., 7¾" long	72.30
601005	84	<b>Botonee Cross</b> Solid brass, pol. & lacq., 10¼" long	72.60
601006	56	<b>Plain Church Cross</b> Solid brass pol. & lacq., 9¼" long	50.90
601015	CC	<b>Classic Church Cross</b> Brilliant gold finished ABS plastic, 8" long	22.40
601016	AC	<b>Aluminum Catholic Cross</b> Jeweler's golden finish 9" long	\$49.10



Maple Leaf

Botonee Cross

Classic Church Cross

Plain Church Cross

Church Cross





## Organizational

- 601800 **Star of David #32**  
Solid brass, polished & lacq., 8<sup>3</sup>/<sub>4</sub>" long \$40.70
- 601807 **Battalion Lance #13B**  
Solid brass, polished & lacq., 9<sup>1</sup>/<sub>4</sub>" long 46.80
- 601803 **Guiding Star #27**  
Solid brass, polished & lacq., 7" long 41.10
- 601804 **Eastern Star #27A**  
Solid brass, polished & lacq., 7<sup>1</sup>/<sub>4</sub>" long 43.20
- 601900 **Maple Leaf #10A**  
Solid brass, polished & lacq., 8<sup>1</sup>/<sub>4</sub>" long 74.60

## Ball 3B

- 601673 Gold anodized aluminum, 3" diam.  
with brass ferrule. Overall length 6<sup>1</sup>/<sub>2</sub>". \$42.30

## Spears

### Fancy Spears

- 607280 31S- Gold vacuum-plated  
styrene plastic, 7<sup>3</sup>/<sub>4</sub>" long \$18.50
- 607353 31G- Brass-plated zinc-alum.  
alloy, 8" long 40.50

### Classic Universal 9" Spear

ABS with Brilliant Metalized Finish

- 607370 Gold Finish \$17.80
- 607371 Chrome Finish 17.80

### Staff 7" Spear

- 607380 Brass\* \$40.70
- 607382 Chrome\* 59.10

### Round Spears

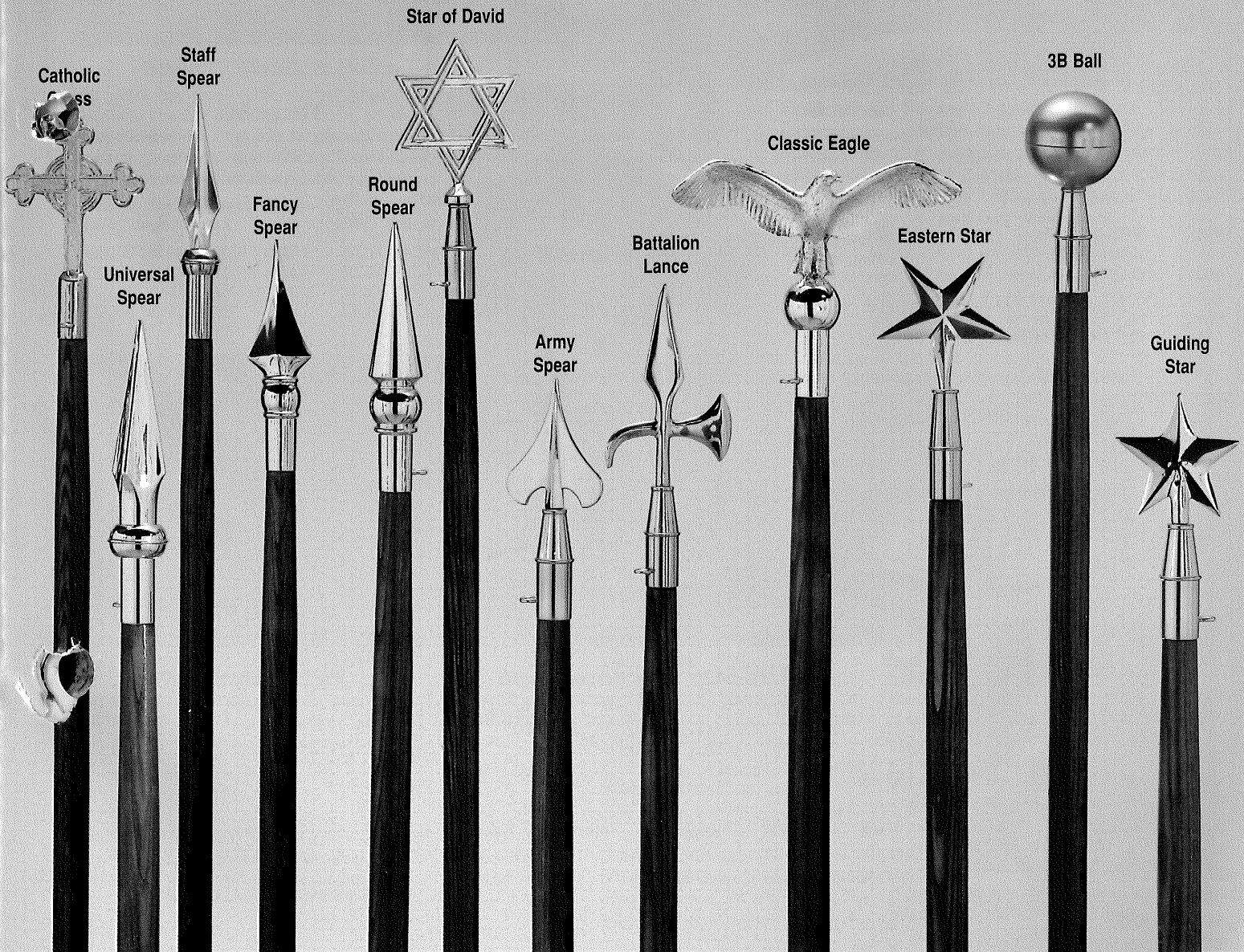
- Vacuum-plated styrene plastic, 8<sup>1</sup>/<sub>4</sub>" long
- 607281 85SG - Gold \$18.70
- 607282 85SC - Silver 18.70
- Plated zinc-alum. alloy, 8" long
- 607356 85G - Brass \$40.60
- 607355 85C - Chrome 45.40

### Army Spears

- Solid brass, polished and lacquered
- 607350 22B - Brass, 7" long \$42.50
- 607359 22C - Chrome, 7" long 57.80
- 607351 22L - Brass, 8<sup>1</sup>/<sub>4</sub>" long 49.50
- 607360 22LC - Chrome, 8<sup>1</sup>/<sub>4</sub>" long 63.50

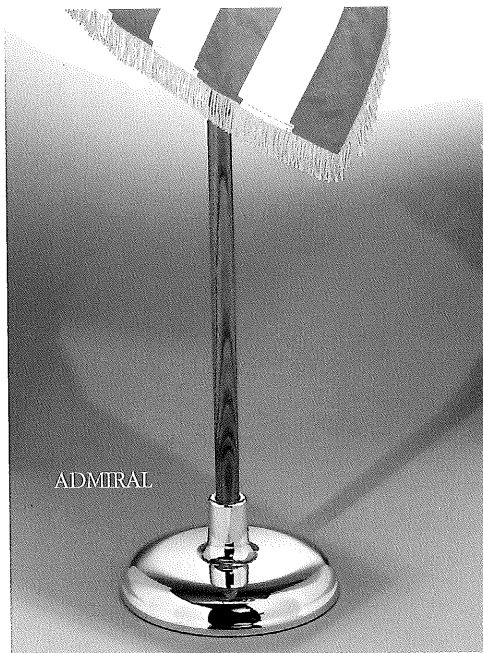
NOTE: All ornament lengths listed include ferrule.

\*NOTE: Not compatible with 1<sup>1</sup>/<sub>2</sub>" Aluminum Poles. Use adapter 614525 with WG steel poles.





## FLOOR STANDS



ADMIRAL

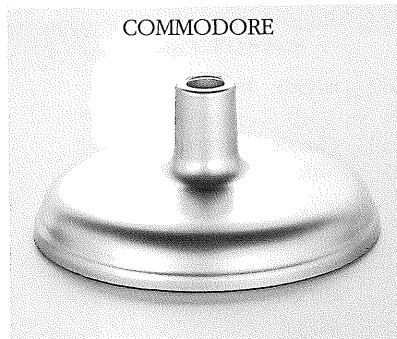
### Admiral®

The Admiral is our most popular floor stand, now expertly crafted in high-impact styrene material with weight added for maximum stability. Permanent, gold vacuum-plated finish gives rich, mirror-like appearance. Timeless, classic design makes this handsome accessory suitable for any decor.

Item #	Style	Bore Dia.	Base Dia.	Weight	Each
697449	AD	up to 1 1/4"	11 1/2"	10 lbs.	\$43.90
697453	AD-E**	up to 1 1/4"	11 1/2"	2 lbs.	42.50
697401	AM-G*	up to 1 1/4"	11 1/2"	18 lbs.	53.30
697420	AAA*	1 1/4" or 1 3/8"	11 1/2"	18 lbs.	65.50

\* Cast iron with gold anodized aluminum cover

\*\* Not weighted



COMMODORE

### Commodore®

Identical in design and weight to Admiral stand except with rich, permanent gilt finish in lieu of plating. An outstanding value!

Item #	Style	Bore Dia.	Base Dia.	Weight	Each
697448	C	1"-1 1/4"	11 1/2"	10 lbs.	\$34.70
697452	C-E*	1"-1 1/4"	11 1/2"	2 lbs.	32.30

\*Not weighted



ENSIGN

### Ensign®

Smaller, lighter version of Commodore model. An attractive, economical stand designed for smaller sets requiring less weight.

Item #	Style	Bore Dia.	Base Dia.	Weight	Each
697445	EN	3/4" or 1"	9 1/2"	5 lbs.	\$28.80
697450	EN-E*	3/4" or 1"	9 1/2"	1.5 lbs.	26.50

\*Not weighted



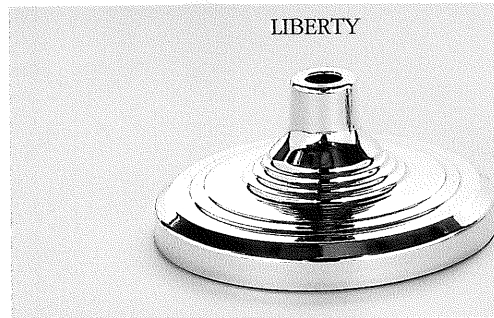
THREE-WAY

### Three-Way®

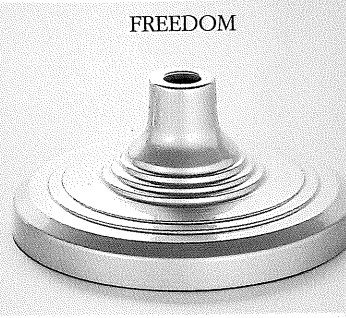
Create a dramatic display with this versatile stand designed to accommodate one, two or three poles. Cast iron base with gilt finish.

Item #	Style	Bore Dia.	Base Dia.	Weight	Each
697409	3W	1"-1 1/4"	12"	45 lbs.	\$161.00

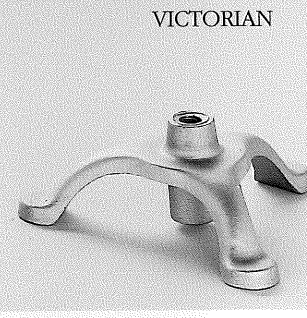
NOTE: All floor stands are furnished with removable sleeve inserts to accommodate smaller pole diameters. Now also includes 1 1/2" insert.



LIBERTY



FREEDOM



VICTORIAN

### Uni-Size Liberty Stand

Super strong ABS Plastic with bright vacuum-metalized finish. Each stand is provided with adapter sleeves to allow use with poles of 1", 1 1/32", or 1 1/4" diameters. No need to inventory various size stands. One stand now accommodates all the popular size poles.

Item #	Weight	Bore	Each
697461	8 lbs. (gold)	1 - 1 1/4"	\$43.90
697471	8 lbs. (chrome)	1 - 1 1/4"	43.90
697462	15 lbs. - King	1 - 1 1/4"	53.30*
697466	20 lbs. - Super	1 - 1 1/4"	65.50*
697460	Not Weighted (gold)	1 - 1 1/4"	42.50

\*Made to order - allow 2 weeks.

### Uni-Size Freedom Stand

Molded ABS Plastic with traditional gilt type finish. Same classic design and Uni-Size features as the "Liberty" stand.

Item #	Weight	Bore	Each
697485	8 lbs.	1 - 1 1/4"	\$34.70
697480	Not Weighted	1 - 1 1/4"	32.30

### Victorian Stand

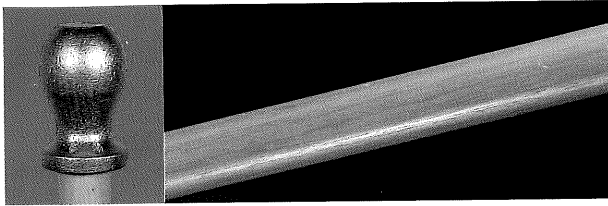
Durable cast iron with gilt finish. This former "Economy" stand has a longer neck which affords maximum support without set screws. Suggested for flag displays with poles up to 8'.

Item #	Weight	Bore	Each
697464	5 1/2 lbs.	1"	30.60





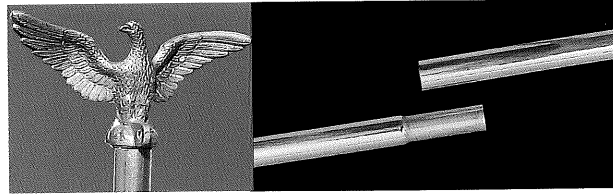
## SMALL OUTDOOR POLES AND ACCESSORIES



### Style B Wooden Poles

Smoothly-sanded hardwood poles, with two coats of clear lacquer, complete with gilt wooden ball or spear (please specify) and halyards.

Item #	Style	Length	Diam.	w/Ball Each	w/Spear Each
531300	B-5	5'	1"	\$8.80	\$11.20
531500	B-6	6'	1"	10.40	11.80
531700	B-8	8'	1"	14.20	16.30
554500	Ash	5'	1"	13.20	N/A

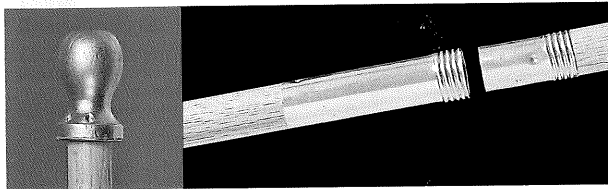


### Style D Aluminum Poles

Inexpensive aluminum poles as contained in the Annin Old Glory Sets.

Bright shiny finish – will not rust or warp. Complete with gold plastic eagle and halyard.

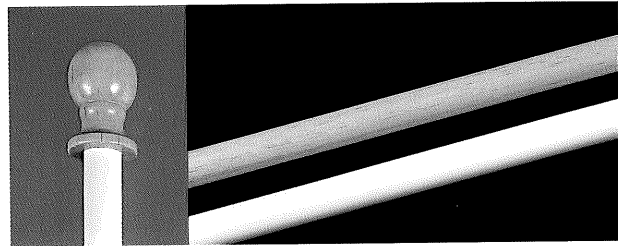
Item #	Style	Length	Diam.	Bottom Section	Each
532300	D-6	6'	3/4"		\$7.10
532400	D-8	8'	1"		15.80
532450	D-12	12'	7/8"		41.80



### Style C Wooden Poles *Two-piece*

All poles are two-piece, natural finish, varnished; and are furnished with halyards. Style C-6 and C-8 offer brass screw joints and choice of gilded wooden ball or spear (please specify). Styles C-8X, C-10 and C-12 have aluminum tube joint and are available with ball only.

Item #	Style	Length	Diam.	w/Ball Each	Item #	w/Spear Each
531900	C-6	6'	3/4"	\$15.90	531910	\$17.20
532100	C-8	8'	1"	17.10	532110	18.30
532120	C-8X	8'	1 1/8"	32.20		
532130	C-10	10'	1 1/8"	54.50		
532200	C-12	12'	1 1/8"	67.20		



### Banner Poles

Choice of varnished hardwood with natural finish or gleaming white fiberglass. All poles are one-piece and fitted with 2", clear-lacquered, wooden ball ornament.

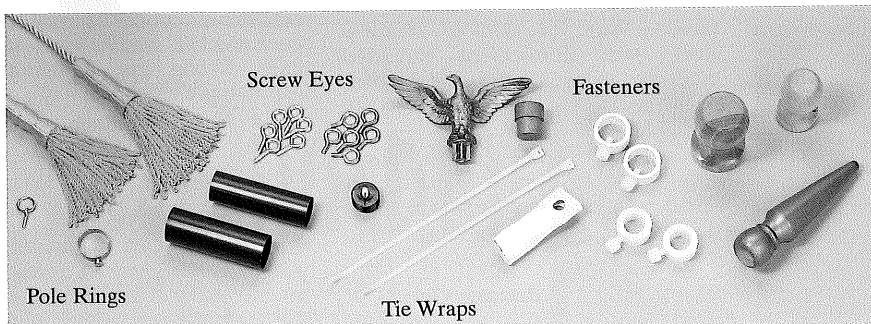
Item #	Style	Type	Length	Diam.	Each
531100	B5-VB	Hardwood	5'	1"	\$11.50
532125	B6-VB	Hardwood	6'	1"	11.80
532150	FG-5	Fiberglass	5'	1"	14.40
532175	FG-6	Fiberglass	6'	1"	15.70

### Snap Lock Aluminum Jointed Poles

Two-piece aluminum flag poles with slip joint locked together with push button snap lock. Wood ball ornament. Use screw eyes and tie wrap (bottom) listed on accessory page to attach flags. *Screw eyes and Tie Wraps Included.*

Item #	Length	Diameter	Each
555600	6'	1"	\$18.20
555700	7'	1"	19.80
555800	8'	1"	21.40

*Minimum order 6 poles of a size.*



### Golden Yellow Cord & Tassels

Item #	Size	Each
612590	3" 5'	\$11.60
612600	5" 9'	14.80
612610	6" 9'	19.40

### Accessories for Indoor Poles

Item #	Description	Each
607403	1" Gold Pole Ring	2.50
607400	1 1/4" Gold Pole Ring	3.90
900825	Screw Eye for Oak Pole	.30
907389	Screw Eye for Aluminum Pole	.30
614525	Adapter for Dettra Poles	2.50

*For screw joints and ferrules see page 55*

### Accessories for Outdoor Poles

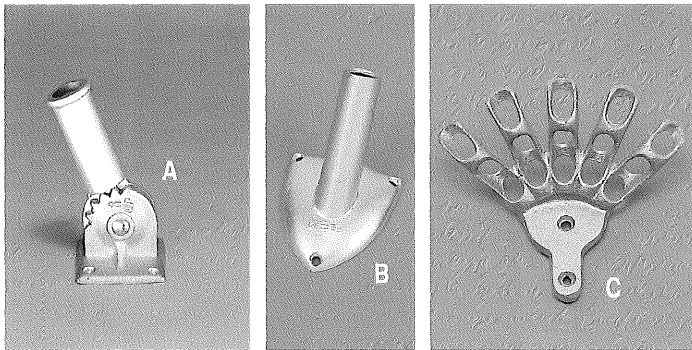
Item #	Description	Each
602040	Tie Wraps	\$3.30
607450	Inserts for Floor Stands	1.80
600002	C- 75 Balls, 3/4" bore, fits all B poles, 6' & 8' C poles	1.10
600003	C- 85 Balls, 1" bore, fits D-8 pole, C-8X, C-10 & C-12 poles.	2.20
607206	6 W Spear- Gilt- fits 3/4" Bore	2.30
601600	P 5 Eagle- Fits 3/4" D-6 Pole	1.10
607414	Adapter P-5 Eagle to D-8 Pole	.60
802725	Vinyl Snap Cover and Brass Snap	6.50
614535	Flag Fasteners 3/4"-Pair	2.80
614530	Flag Fasteners 1"-Pair	2.90



Item #	Description	Each
602035	Non furl Tube with Ties	\$12.80



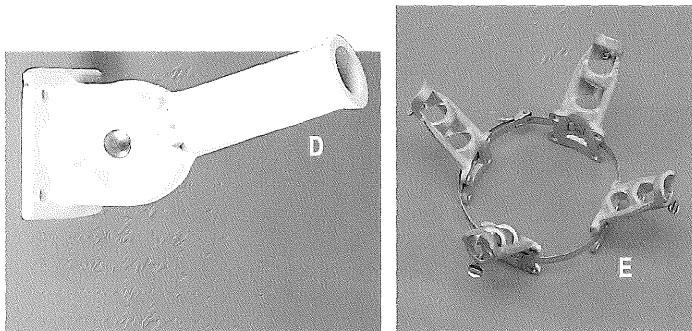
## HOLDERS AND BRACKETS



### A. AM-L Bracket

Cast Aluminum with adjusting set screw. Tube length is 3 1/4", for staff up to 1" diameter.

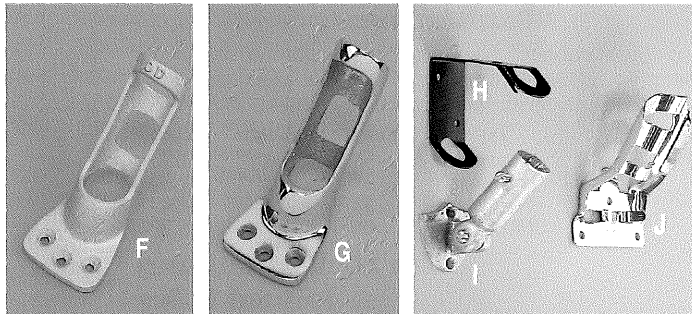
Item # Each  
652501 \$17.80



### B. "Dettra" Holder

A veritable gem in the Annin line-up of quality holders. Made especially for indoor wall displays of 16x24" and 24x36" flags. Beautiful jeweler's gold finish. Bore will accept 3/8" and 1/2" diameter staffs.

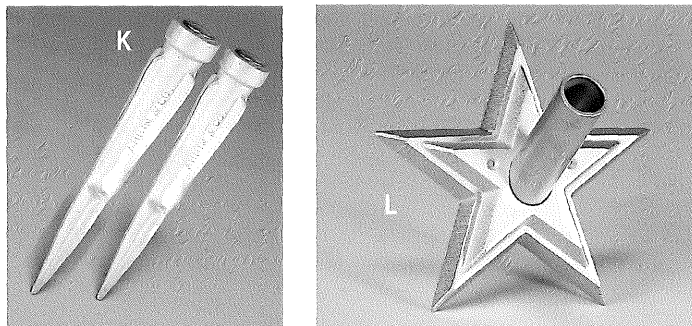
Item # Each  
645001 \$10.10



### C. "Spearhead" Flag Holders

Designed especially to hold 12x18" flags on 3/8" diameter staffs. Made of sturdy high tensile strength cast aluminum. For porch railing, window sill installations, or anywhere a group showing of flags is desired.

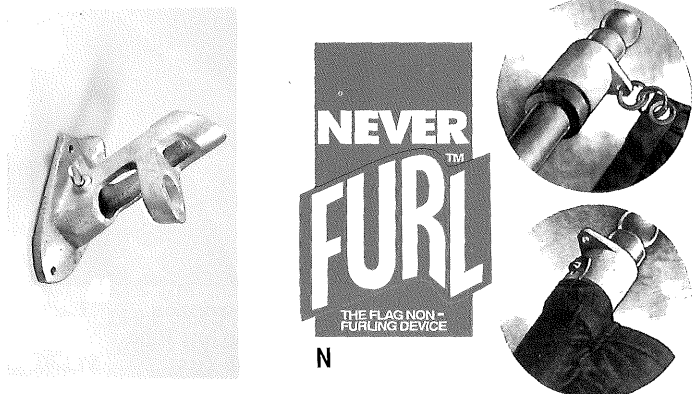
Item # Style Each  
645002 Holds 3 Flags \$6.00  
645003 Holds 5 Flags 7.50



### D. AML-W Bracket

Same as AM-L Bracket except with white enamel finish. Tube length is 3 3/4", for staff up to 1" diameter.

Item # Each  
652610 \$19.90



### E. Electric Way Holders

Bands—Made of durable stainless steel with convenient threaded tightening assembly. Adjustable for utility and street light poles up to 10" in diameter.

1" Brackets—Made of high tensile aluminum. Equipped with thumb screw which keeps flag staffs from slipping out. For use with flags up to 3x5' in size and poles up to 6' long.

Bands Only		Brackets Only (1")	
Item #	Each	Item #	Each
645004	\$10.10	652555	\$8.90

### F, G. "Style DD" Bracket

Holds flag pole at 45° angle from either horizontal or vertical surface.

#### (F) Cast Aluminum

Item #	Size	Finish	Each
652551	1/2"	Gold	\$3.70
652552	3/4"	Silver	4.00
652553	1"	Silver	4.90

#### (G) Solid Cast Bronze

Item #	Size	Each
652550	1"	\$35.50

### H. Classroom Holder

Steel, black enamel finish. For staff diameter 3/8" to 5/8".

Item # Each  
642605 \$2.50

### I. Hudson Holder

Cast aluminum with adjusting set screw. Tube length is 1 3/4", for staff diameter up to 5/8".

Item # Each  
642604 \$13.90

### J. Star Holders

Heavy Stamped Steel

Item #	Style	For Staff Diameter	Each
642600	S-50*	3/8" - 1/2"	\$1.80
642601	S-75	3/4" (w/cleat)	1.90
642602	S-100	1" (w/cleat)	3.70
642603	S-140**	1 3/8"	11.80

\*Graduated bore - can accommodate 3/8", 7/16" and 1/2" diameter staffs.

\*\*Cast iron with grey powder-coated finish.

### K. Lawn or Sidewalk Sockets

Cast aluminum with chrome steel plug.

Item #	Length	Bore Dia.	Each
647000	10"	3/8"	\$17.30
647001	10"	1"	17.30
647002	14"	1 1/8"	25.00

### L. Patriot Holder

A most attractive and functional way to display indoor flag sets in large halls, churches and auditoriums. Holds pole at 60° angle from wall. 1 1/4" I.D. with removable rubber insert to accommodate smaller diameter poles. Strong cast aluminum with rich gilt finish.

Item # Each  
642620 \$47.70

### M. 2 Way Bracket

This sturdy cast aluminum bracket is designed to accommodate either a flag or banner. The flag can be displayed at 45° angle and the banner at 90°.

Item # Size Each  
652260 1" \$15.50

### N. Never Furl - 2 Way Kit

One kit comes complete with 2 kinds of hardware so you can use with either flag or banner. Prevents wrapping & tangling. Patent protected. Fits 1" Pole (not included).

Item # Size Each  
594640 1" \$14.20



## DELUXE TAPERED FLAGPOLES

### Style AA3

#### 20-ft. Cone-Tapered Aluminum Pole

*Ideal for Industrial, School or Residential Use!*

Item #	Style	Weight	Each
745325	AA3	41 lbs.	\$577.50

A truly outstanding value! Comes in two sections, each 11' long which join to form a 20' (above ground) tapered aluminum pole with brushed finish. Supplied complete with gold anodized aluminum ball and all accessories. Pole tapers from 3" at butt to 2" at top. Packaged complete in corrugated carton. Easy to install.

### Style S – Steel Pole

A truly outstanding value! Galvanized steel pole with white powder coated finish. Easily erected and dismantled. Complete with gold vinyl ball ornament, aluminum pulley, cleat, halyard and ground socket. Directions for easy installation included.

Item #	Style	Ht.	No./Sec.	Butt Dia.	Top Dia.	Weight	Each
741100	18SP	18'	3	1 3/4"	1 1/2"	17 lbs.	92.10

**NEW  
STYLE  
PACKAGE**

### Patriot® Residential Aluminum Lawn Pole

A lightweight, maintenance-free aluminum pole designed for residential, business and light industrial use. The seamless anodized sections swedge together easily for rapid assembly and installation. Easily removed from ground sleeve for storage or relocation. Fully equipped with gold anodized ball, cast aluminum truck with nylon sheave, braided polypropylene halyard, nylon snaps, cast aluminum cleat and ground sleeve. New - 5 section pole on styles P-20 and P-20F.

Complete set (P-20F) includes 3 x 5' Nyl-Glo flag.

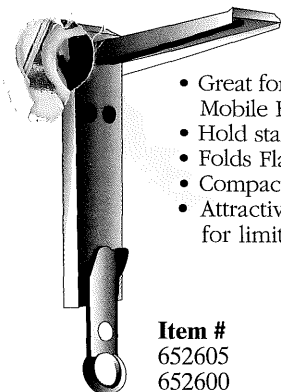
Item #	Style	Ht.	No./Sec.	Diam.	Wt. Lbs.	Each
742250	P-15*	15'	3	2"	14	\$136.60
742350	P-20*	20'	5	2"	17	168.20
742360	P-20F	20'	5	2"	19	193.00

\*P-15 & P-20 packaged in plain white cartons



## The Amazing POLE HOLDER

The newest most attractive solution for holding flags.

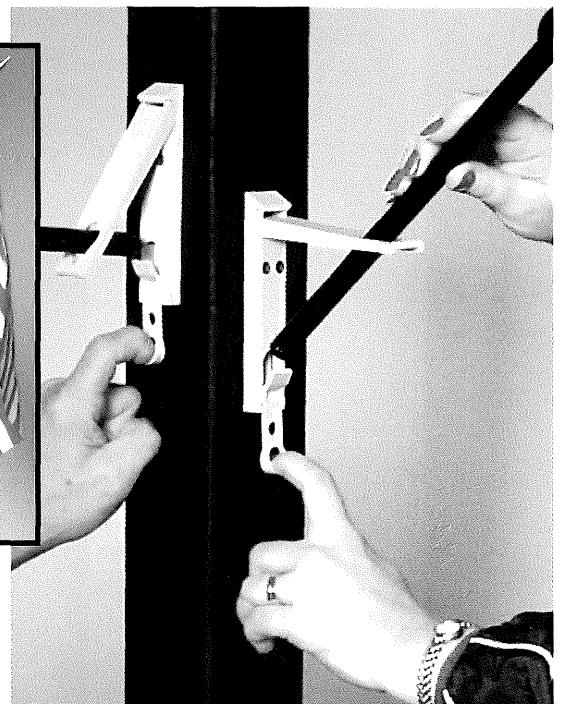


- Great for classrooms, Campers Mobile Homes & Balconies.
- Hold staff up to 5/8" Diameter
- Folds Flat when not in use
- Compact 6 1/2 x 1 1/4" Size.
- Attractive & Durable-Tested for limited outdoor use.

Item #	Color	Each
652605	Black	\$10.30
652600	Pale Gray	\$10.30



Three screws enclosed for easy installation Maximum load 15lb. on 12" pole







## ALUMINUM FLAGPOLES

*As a leader in the industry for over 150 years, Anin & Co. continues to offer a wide variety of aluminum flagpoles for virtually every application.*

### Large Outdoor Poles

#### Cone-Tapered Aluminum Flagpoles

- \* AD-20, AD-25 & AD-30 poles shipped with gold anodized ball, stationary truck, flash collar, polypropylene halyard, 2 nylon snaps, 9" cleat and plastic ground tube.
- \* All other Poles supplied with gold anodized ball, flash collar, polypropylene halyard, 2 bronze swivel snaps, 9" cleat, galvanized steel corrugated ground socket with attached lightning strike.
- \* Internal halyards may be added at extra cost. Check with your dealer.
- \* Constructed from 6063-T6 aluminum meeting ASTM B 241 specifications.
- \* Rich, natural satin finish.
- \* Includes all accessories for complete installation except flag.
- \* H models have increased butt diameter, taper and revolving truck.

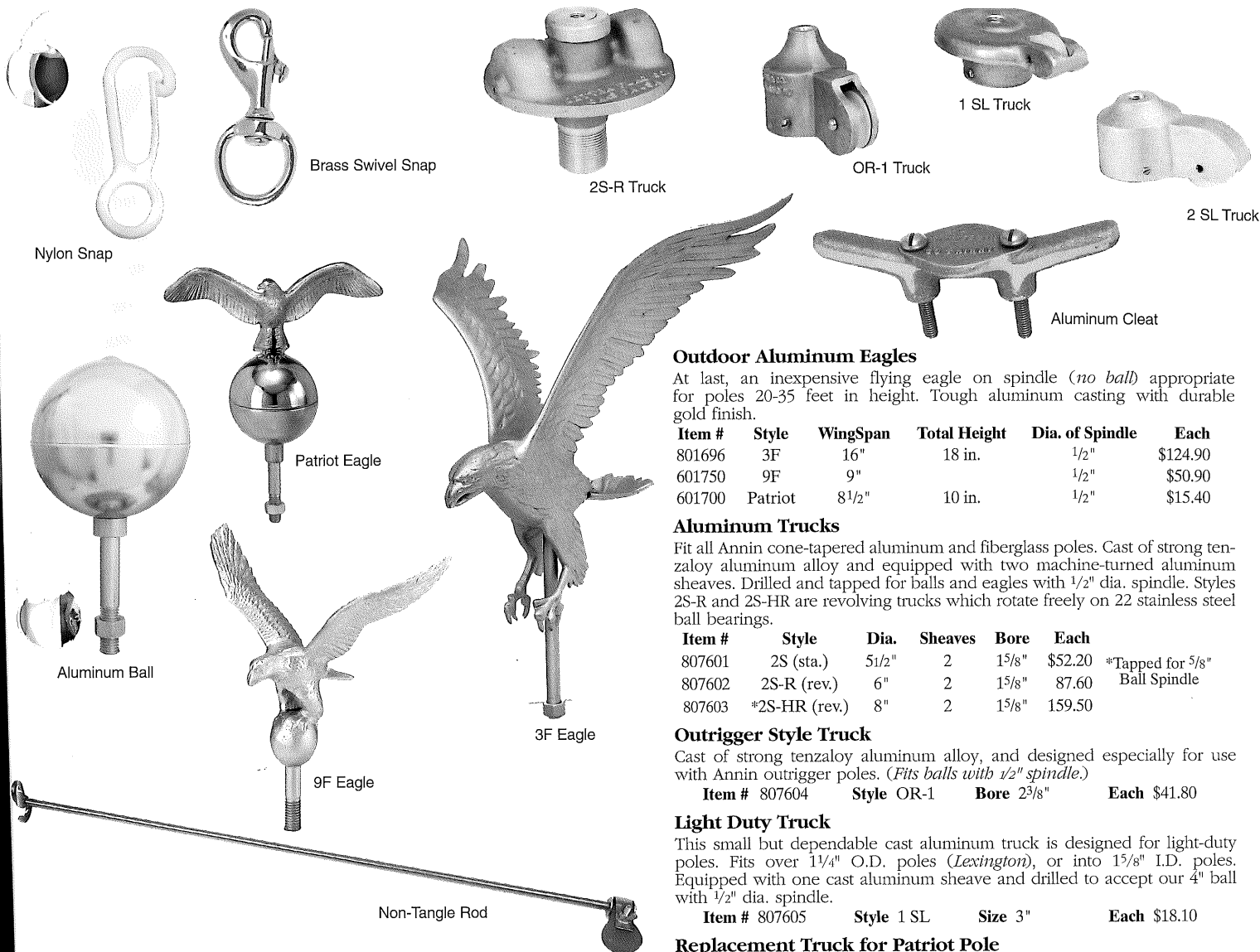
One or Two Halyard Item #	Style	Height Above Ground	Ground Socket Length	Butt. Dia.	Top Dia.	Ball Dia.	Wall Thickness	Gross Weight Lbs.	Each
743155	AD-20	20'	2'	3"	1 7/8"	3"	.125"	50	\$480.00
743150	ADH-20	20'	2'	4"	2 7/8"	4"	.125"	77	766.00
743255	AD-25	25'	2 1/2'	3"	1 7/8"	3"	.125"	66	552.00
746101	ADH-25	25'	2 1/2'	5"	3"	5"	.125"	134	1,068.00
743355	AD-30	30'	3'	4"	2 1/2"	5"	.125"	104	766.00
746201	ADH-30	30'	3'	5"	3"	5"	.125"	143	1,200.00
743450	AD-35	35'	3 1/2'	5"	3"	5"	.156"	242	1,384.00
746301	ADH-35	35'	3 1/2'	6"	3 1/2"	6"	.156"	261	1,807.00
746401	ADH-40	40'	4'	7"	3 1/2"	8"	.188"	317	3,160.00
743625	ADH-45	45'	4 1/2'	8"	4"	8"	.188-.156"	382	3,576.00
746601	ADH-60	60'	6'	10"	4"	10"	.188"	625	5,810.00
746701	ADH-70	70'	7'	10"	4"	12"	.312-.188"	1027	11,810.00
746801	ADH-80	80'	8'	12"	4"	12"	.375-.188"	1105	14,005.00



*Due to carrier limitations, commercial poles 25' and larger may be shipped in two sections.*



# OUTDOOR FLAGPOLE ACCESSORIES



Brass Swivel Snap

2S-R Truck

OR-1 Truck

1 SL Truck

2 SL Truck

Nylon Snap

Aluminum Cleat

Patriot Eagle

3F Eagle

9F Eagle

Aluminum Ball

Non-Tangle Rod

## Outdoor Aluminum Eagles

At last, an inexpensive flying eagle on spindle (*no ball*) appropriate for poles 20-35 feet in height. Tough aluminum casting with durable gold finish.

Item #	Style	WingSpan	Total Height	Dia. of Spindle	Each
801696	3F	16"	18 in.	1/2"	\$124.90
601750	9F	9"		1/2"	\$50.90
601700	Patriot	8 1/2"	10 in.	1/2"	\$15.40

## Aluminum Trucks

Fit all Annin cone-tapered aluminum and fiberglass poles. Cast of strong tenzalo alloy and equipped with two machine-turned aluminum sheaves. Drilled and tapped for balls and eagles with 1/2" dia. spindle. Styles 2S-R and 2S-HR are revolving trucks which rotate freely on 22 stainless steel ball bearings.

Item #	Style	Dia.	Sheaves	Bore	Each
807601	2S (sta.)	5 1/2"	2	1 5/8"	\$52.20
807602	2S-R (rev.)	6"	2	1 5/8"	87.60
807603	*2S-HR (rev.)	8"	2	1 5/8"	159.50

## Outrigger Style Truck

Cast of strong tenzalo alloy aluminum alloy, and designed especially for use with Annin outrigger poles. (*Fits balls with 1/2" spindle.*)

Item #	Style	Bore	Each
807604	OR-1	2 3/8"	\$41.80

## Light Duty Truck

This small but dependable cast aluminum truck is designed for light-duty poles. Fits over 1 1/4" O.D. poles (*Lexington*), or into 1 5/8" I.D. poles. Equipped with one cast aluminum sheave and drilled to accept our 4" ball with 1/2" dia. spindle.

Item #	Style	Size	Each
807605	1 SL	3"	\$18.10

## Replacement Truck for Patriot Pole

Single sheave, 2" inside diameter. Drilled to accept 1/2" diameter spindle.

Item #	Style	Dia.	Each
807606	2 SL	2"	\$17.50

## Aluminum and Nylon Cleats

Style A-9 cast of strong tenzalo alloy aluminum alloy - Styles N-6 and N-8 are molded nylon. (*white only*).

Item #	Style/Type	Size	Each
802572	A-9/aluminum	9"	18.80
802573	N-6/nylon	6"	7.70
Item #	Size	Rod Size	Each
800049	3"	1/2"	\$20.00
800053	4"	1/2"	\$28.60
800050	5"	1/2"	32.80
800051	6"	1/2"	39.40
800052	8"	1/2"	72.10
800057	10"	5/8"	138.80
Item #	Length	For Flag Size	Each
806800	2 1/2"	3 x 5' - 4 x 6'	\$49.60
806802	4'	5 x 8' - 6 x 10'	55.80
806806	7'	8 x 12 & larger	97.80

## Aluminum Balls

Heavy-gauge flush-seam aluminum ball with long lasting gold anodized finish. Mounted on heavy threaded aluminum spindle.

## Non-Tangle Rods

Prevents flag from wrapping around outrigger style poles. Stainless steel rod with vinyl clamps.

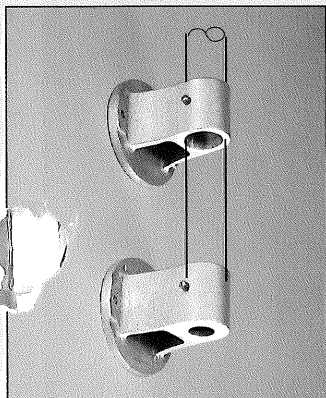
## Snap Hooks Brass - U.S. Govt. "Type 1" brass swivel snaps

802710 \$4.20 ea.

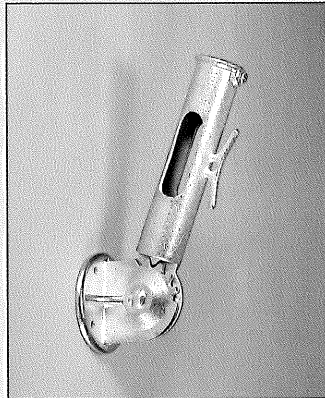
## Nylon - One-piece molded nylon. Quiet, non-marking. Defies the elements.

802720 \$1.50 ea.

**Nylon Halyards** 3/16" diameter per foot **\$.40** / 1/4" diameter per foot **\$.70**  
 5/16" diameter per foot **\$.50** / 3/8" diameter per foot **\$.80**  
 1/4" wire core Halyard per foot **\$1.30**



Style 215 Lexington Vertical Wall Mount



Style 15 Outrigger Mount

## Brackets Only - Fit 1 1/2" Diameter Pole

Item #	Bracket	Price
652505	Style 215	\$63.60
652502	Style 15	\$63.60





## FUTURA IV FIBERGLASS POLES



- *GRACEFUL DESIGN*
- *SUPERIOR STRENGTH*
- *MAINTENANCE-FREE*
- *CHOICE OF COLORS*
- *SIMPLE, LOW COST INSTALLATION*
- *CHOICE OF EXTERNAL OR INTERNAL HALYARD MODELS*
- *FULLY PROVEN IN THOUSANDS OF INSTALLATIONS*
- *YARDARMS AND GAFFS ARE AVAILABLE FOR EXTERNAL POLES. CALL FOR PRICE AND LEAD TIMES.*





**ONLY FUTURA IV FLAGPOLES OFFER THE ULTIMATE BLENDING OF CLASSIC DESIGN AND BEAUTY WITH ADVANCED STATE-OF-THE ART TECHNOLOGY**

NEVER BEFORE HAVE SO MANY D E L U X E FEATURES BEEN OFFERED IN A FLAG-POLE EXCEPT AT A SUBSTANTIAL PREMIUM - AND NEVER IN ATTRACTIVE FIBERGLASS AT ANY PRICE! BUT NOW WE ARE PLEASED TO OFFER PREMIUM QUALITY FIBERGLASS FLAGPOLES WITH ALL OF THE MOST WANTED FEATURES - INCLUDING INTERNAL HALYARDS FOR POLE SIZES 25-40 FT. - AT POPULAR PRICES!

**GRACEFUL DESIGN** - Futura IV Flagpoles display a slightly curved or convex profile which is most pleasing to the eye and which will considerably enhance any single or multiple pole installation. The upper half of the pole tapers at the rate of .150"/ft., the lower half at .050"/ft. The visual effect thus created closely resembles that of the classic Venetian entasis design.

**SUPERIOR STRENGTH** - The custom designed, unidirectional woven roving used in manufacture permits fabrication of more than 75% of the fiberglass vertically for maximum axial tensile strength (over 40,000 psi) and desired rigidity.

**MAINTENANCE FREE** - The exceptionally hard, glossy polyester surface resists soiling and scratching. Poles are completely rustproof and resistant to other corrosives.

\*NOTE: Due to Carrier limitations commercial poles 25' and larger may be shipped in two sections

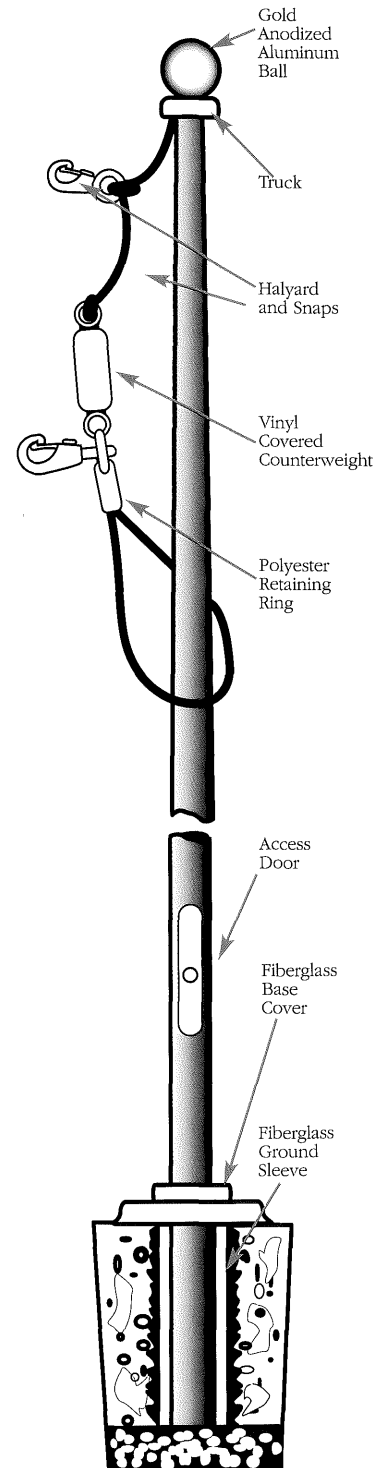
**CHOICE OF COLORS** - Futura IV poles are stocked in Colonial White and Metallic Bronze. They can also be furnished in any specified color, including other metallics, by special order.

**SIMPLE, LOW COST INSTALLATION** - Since Futura IV poles are lighter in weight than metal poles of comparable size, it costs less to deliver them to the site and generally less to install them. Poles up to 35 ft. can usually be erected by two men using simple tools. No grounding rods are required.

**OPTIONAL INTERNAL HALYARD SYSTEM** - Clean, quiet, trouble free, the Futura IV internal halyard system provides a strong deterrent to malicious damage and/or theft of flags and halyards. In addition the pole is aesthetically more appealing, unencumbered by flapping halyards, accompanying dirt and soil, and external cleats. It is a simple, low cost, manual system with no expensive winches or motors. Available in pole sizes 25 to 40 ft.

**ALL ACCESSORIES INCLUDED** - All Futura IV poles are supplied complete with fiberglass base cover\*, gold anodized aluminum ball with spindle, fiberglass truck, cleat, polyester halyard, snap-hooks, fiberglass ground sleeve and installation instructions. Poles with internal halyard systems include in addition: vinyl-covered counterweight, polyester wire core retaining ring and access door/lock assembly with keys.

**Futura IV Internal Halyard System**



**External Halyard Styles**

Item #	Style	Height Above Ground	Butt Diam.	Top Diam.	Recom. Flag Size	Gross Shipping Weight	Each
744950	FG-20 white	20'	4.0"	2.75"	3.5'	40 lbs.	555.00
744350	FG-25 Rwhite	25'	4.25"	2.75"	4x6'	51 lbs.	723.00
744400	FG-25 white	25'	6.0"	3.0"	4x6'	126 lbs.	1475.00
744600	FG-30 white	30'	6.50"	3.0"	5x8"	166 lbs.	1770.00
744800	FG-35 white	35'	7.0"	3.0"	6x10'	183 lbs.	2510.00
744910	FG-40 white	40'	7.0"	3.0"	6x10'	183 lbs.	2723.00
744960	FG-30 white	50'	10"	4.4"	8x12'	547 lbs.	6174.00

Larger Sizes, Colors Other than White, Yardarms, Gaffs and Special Accessories are available by special order. Please call your dealer for price and lead times.

**Internal Halyard Styles**

Item #	Style	Height Above Ground	Butt Diam.	Top Diam.	Recom. Flag Size	Gross Shipping Weight	Each
745350	FGI-25 white	25'	6.0"	3.0"	4x6'	101 lbs.	\$1729.00
745360	FGI-30 white	30'	6.5"	3.0"	5x8'	126 lbs.	2080.00
745370	FGI-35 white	35'	7.0"	3.0"	6x10'	166 lbs.	2722.00
745380	FGI-40 white	40'	7.0"	3.0"	6x10'	183 lbs.	2960.00

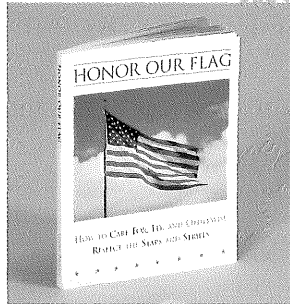


## NEW SPECIALTY ITEMS

### Honor Our Flag

This 4x5" book written by David Singleton contains Flag Etiquette information in a colorful easy-to-read format. A full 64 pages with 50 illustrations. Endorsed by the National Flag Foundation.

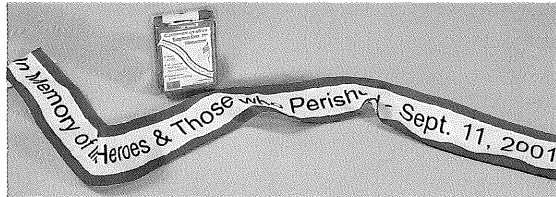
**Item #** Each  
990019 \$5.95



### American Flag Stationary

These stationary items are made by Paper House Productions from an actual photograph of an Annin Bulldog US flag. You can even see our label if you look close.

Item #	Description	Each
990075	Note cards. Blank inside	\$2.50
990100	Magnets	\$3.00
990065	Sticker Packs	\$2.25



### September 11th Commemorative Streamer

White Nyl-Glo with red border. Dark blue lettering reads correct on one side and reverse on the other. Finished with a reinforced grommet and packed in a clamshell with insert, suitable for display. Includes plastic tie for easy mounting. Can be used with indoor or outdoor US Flag Sets.

Item #	Description	Each
091101	40" x 3" Nyl-Glo	\$7.00



### Deluxe Commemorative Streamer

Navy Blue Satin-finish twill. Double-sided, White lettering reads correct on both sides. Finished with covered heading and reinforced grommet. Includes plastic tie for easy mounting. Can be used with indoor or outdoor US Flag Sets.

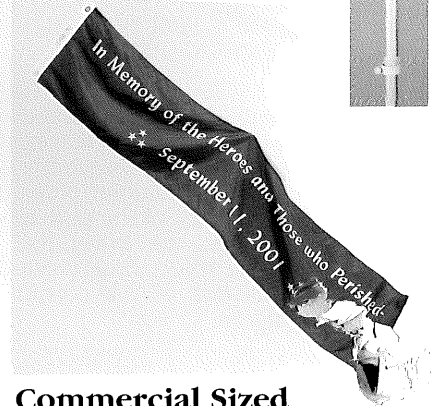
Item #	Description	Each
091102	46" x 3" Tackle Twill	\$29.90

### Tangle Free Spinning Pole

A full six feet long, this pole is available in either a brushed aluminum or white finish and is crowned with a gleaming gold ball. The top 40" of the pole rotates on ball bearings so the flag will always hang free. There is no need for an unfurling tube.

For the easiest and most versatile installation ever, this pole comes complete with two flag fasteners for flying a traditional flag and also with a snap and swivel ring for banner display. Fits 1" brackets.

Item #	Description	Each
555650	6' x 1" Aluminum pole	\$19.90



### Commercial Sized Commemorative Streamer

Dark Blue Nyl-Glo with white lettering reads correct one side and reverse on the other. Finished with White canvas heading and two brass grommets. Polybagged.

Item #	Description	Each
091100	60" x 12" Nyl-Glo	\$19.90

## DESCRIPTION OF MATERIALS

**Banner Satin-** Featuring a rich elegant shine, high-gloss Banner Satin is the custom fabric of choice for single sided banners of simple design. Can be finished in a variety of ways. For indoor use only. Quantities limited to short runs.

**Bulldog-** Heavyweight cotton spun from sturdy 2-ply carded yarns. Vat dyed in limited colors. Bulldog fabric is most often used today when recreating an authentic historical look and feel of a time gone by. *Replaces Defiance.*

**Colonial Nyl-Glo-** Made from 100% SolarMax nylon, these flags feature flannel lined pole headings, Velcro tabs and Golden Yellow fringe. Brilliant luster and fast colors make it ideal for moderately priced Indoor Display or Parade Flags.

**Det-Glo-** This 4 oz. Knit Polyester material has an open weave and a high sheen, which makes it an ideal material for custom Boat Flags and Avenue Banners. Strong and sturdy Det-Glo has a high-gloss look and resilient memory stretch.

**Empire Brand-** Lustrous silk-like Polyester, Empire brand Flags are Anco-dyed in brilliant colors from 4x6 inches up through 24x36 inches.

**Nyl-Glo-** Describes flags made of 100% SolarMax nylon for outdoor use. Featuring white Polyester Duck heading and brass grommets. Strong and durable, special parachute cloth treatment reduces sun and chemical deterioration.

**Premier-** 100% Polyester filament, all printed design. Sun-fast, bright durable colors. Premier is Annin's trade name for flags used in some home sets. Currently offered in US, Confederate Battle and State of Texas designs.

**Reliance-** Selected heavy cotton sheeting, dyed for Annin for maximum appearance values. An exceptional buy for the budget minded. Used mainly for US Flags and Decorations.

**Republic-** A blend of polyester/cotton having a "hand" similar to Reliance. All printed 3x5 ft. US pattern - used for home flag sets.

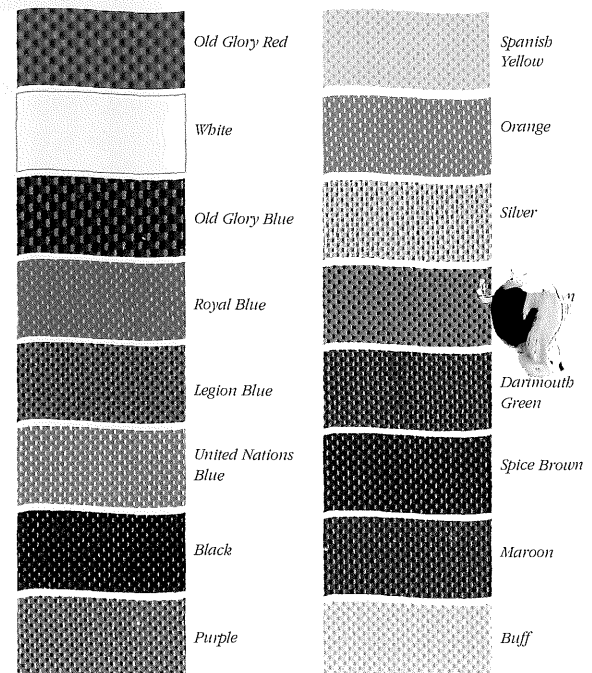
**Tackle Twill-** A heavyweight blend of 62% Rayon and 38% Cotton, its duplex finish (rich sheen on one side, matte on the other) makes it most appropriate for flags that will be viewed from one side only or for double construction flags.

**Tough-Tex-** 2 Ply, 100% woven, spun Polyester, this is the most durable flag material ever created. With the look of cotton, Tough-Tex material was designed for Annin and engineered especially for industrial, commercial or institutional use or wherever severe climactic conditions exist. Accept no imitations.

**Verona Brand-** The popular stick-flag material made of heavy cotton. Color fast US flags available in traditional spear tip or Saf-T-Ball style.

## COLORS

Colors shown are representative of the wide range normally available (primarily in nylon). Reproduction is as accurate as modern printing methods allow but actual fabric shades may vary slightly.







# September 11th Commemorative Tributes and Displays of Patriotism All Across America





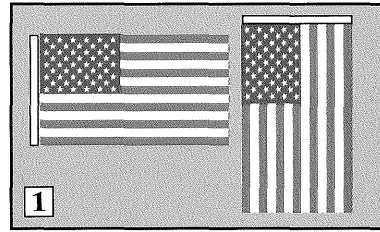


# EVERYDAY FLAG ETIQUETTE

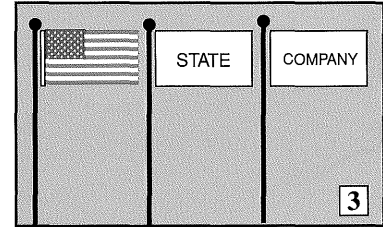
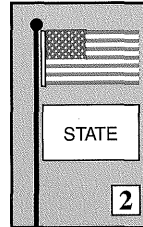
## General Display

It is the universal custom to display the flag only from sunrise to sunset on buildings and on stationary flagstuffs in the open. However, when a patriotic effect is desired, the flag may be displayed twenty-four hours a day if properly illuminated during the hours of darkness.

1. When displayed either horizontally or vertically against a wall, the union should be uppermost and to the flag's own right, that is, to the observer's left. When displayed in a window, the flag should be displayed in the same way, with the union or blue field to the left of the observer in the street.

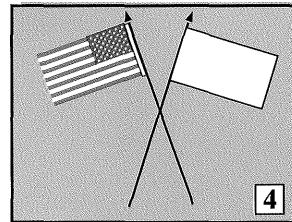


No other flag or pennant should be placed above, or, if on the same level, to the right of the flag of the United States of America, except during church services conducted by naval chaplains at sea . . . for personnel of the Navy . . . when the church pennant may be flown above the flag.



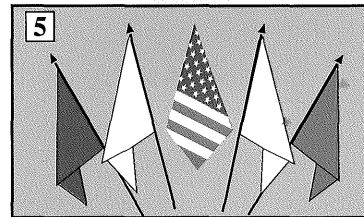
No person shall display the flag of the United Nations or any other national or international flag equal, above, or in a position of superior prominence or honor to, or in place of, the flag of the United States at any place within the United States or any Territory or possession thereof; Provided, that nothing in this section shall make unlawful the continuance of the practice heretofore followed of displaying the flag of the United Nations in a position of superior prominence or honor, and other national flags in positions of equal prominence or honor, with that of the flag of the United States at the headquarters of the United Nations.

2. When flags of States, cities, or localities, or pennants of societies are flown on the same halyard with the flag of the United States, the latter should always be at the peak.



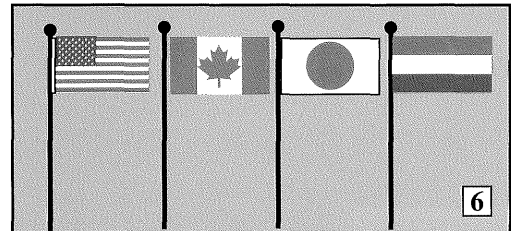
3. When the flags are flown from adjacent staffs, the flag of the United States should be hoisted first and lowered last. No such flag or pennant may be placed above the flag of the United States or to the United States flag's right.

4. The flag of the United States of America, when it is displayed with another flag against a wall from crossed staffs, should be on the right, the flag's own right, and its staff should be in front of the staff of the other flag.



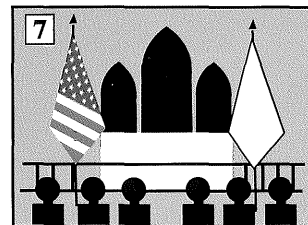
5. The flag of the United States of America should be at the center and at the highest point of the group when a number of flags of States or localities or pennants of societies are grouped and displayed from staffs.

6. When flags of two or more nations are displayed, they are to be flown from separate staffs of the same height. The flags should be of approximately equal size. International usage forbids the display of the flag of one nation above that of another nation in time of peace.



## Churches, Auditoriums

7. When used on a speaker's platform, the flag, if displayed flat, should be displayed above and behind the speaker. When displayed from a staff in a church or public auditorium, the flag of the United States of America should hold the position of superior prominence, in advance of the audience, and in the position of honor at the clergyman's or speaker's right as he faces the audience. Any other flag so displayed should be placed on the left of the clergyman or speaker or the right of the audience.



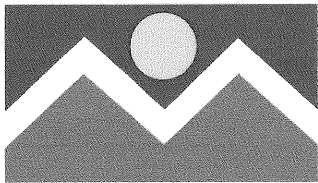
## Half-Staff

The flag, when flown at half-staff, should be first hoisted to the peak for an instant and then lowered to the half-staff position. The flag should be again raised to the peak before it is lowered for the day. On Memorial Day, the flag should be displayed at half-staff until noon only, then raised to the top of the staff. By order of the President, the flag shall be flown at half-staff upon the death of principal figures of the United States Government and the Governor of the State, territory or possession, as a mark of respect to their memory. In the event of the death of other officials or foreign dignitaries, the flag is to be displayed at half-staff according to Presidential instructions or orders, or in accordance with recognized customs or practices not inconsistent with law.

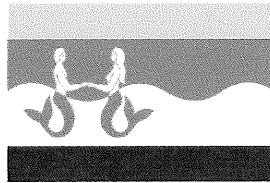
In the event of the death of a present or former official of the government of any State, territory or possession of the United States, the Governor of that State, territory or possession may proclaim that the National flag shall be flown at half-staff.

*NOTE: the U.S. flag should always be on its own right in relation to other flags on adjacent staffs - to the left of the observer - except when displayed as in #5.*

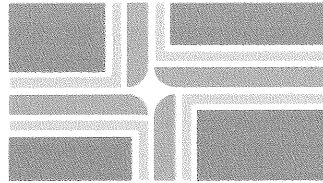
Excerpts From The Flag Code of The United States - Public Law 94-344, July 7, 1976



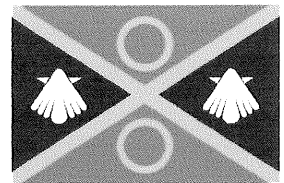
Denver, CO



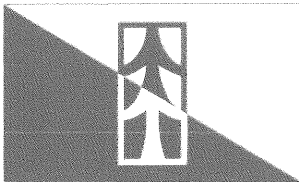
Dutch town



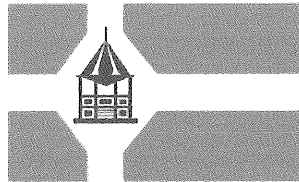
Portland, OR



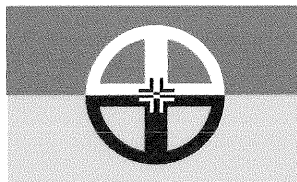
Grahamstown, South Africa



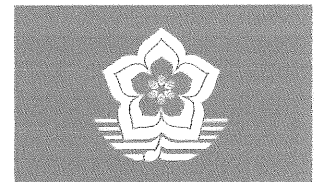
Portland, OR,  
Madia High School



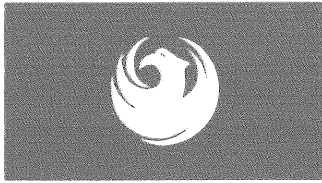
New Milford, CT



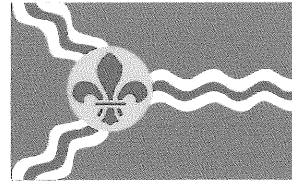
Healing Lodge  
(Native American Community)



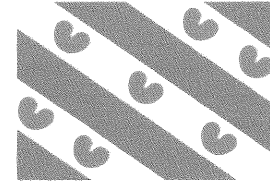
Harbin, China



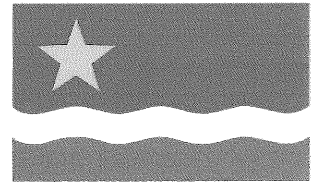
Phoenix, AZ



St. Louis, MO



Friesland Province  
The Netherlands



Minnesota, proposal

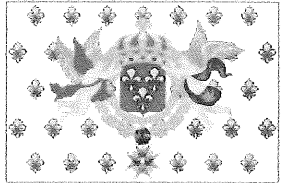
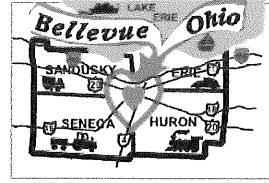
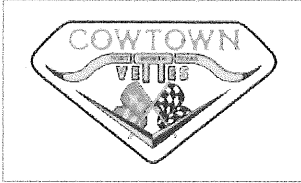
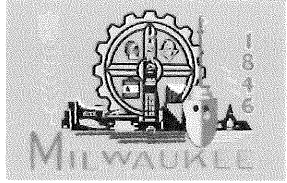
Danbury, CT



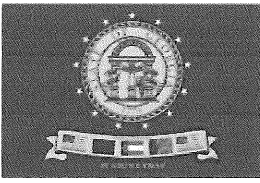
High School in CT



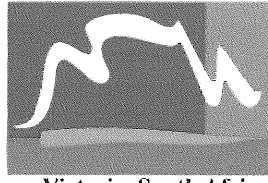
- 290
- 297
- 102
- 2935
- 711
- 368
- 356
- Black



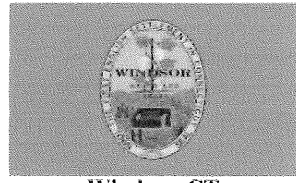
France, Royal flag



Georgia, old



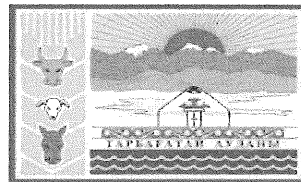
Victoria, South Africa  
(a 'designer' flag)



Windsor, CT



Vermont



Tarbagatay, Kazakhstan



Detroit, MI



## What is NAVA?

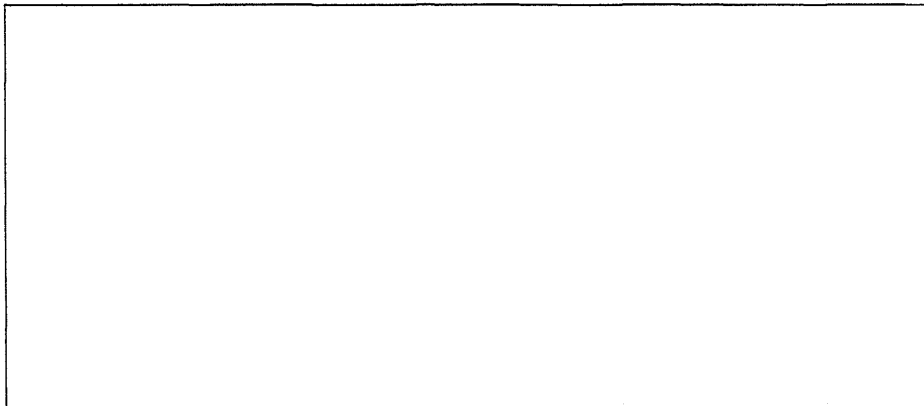
The North American Vexillological Association (NAVA) is dedicated to the study of flag history and symbolism. For more information about its activities, publications, and membership, visit its web site at [www.nava.org](http://www.nava.org) or write: NAVA, 1977 N. Olden Ave. Extension, PMB 225, Trenton, NJ 08618-2193, U.S.A.

This guide was created by **Ted Kaye**, managing editor of *RAVEN*, a Journal of Vexillology (published annually by NAVA).

Another resource to help with flag design, identification, and history: [www.fotw.net](http://www.fotw.net).

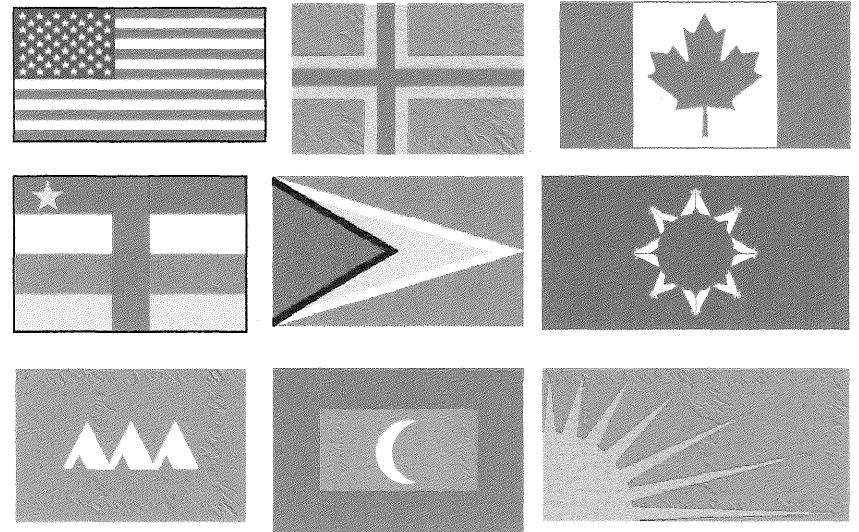
These principles of good flag design distill the wisdom of many people who have written on the subject, including: Philippe Bondurand, Frederick Brownell, William Crampton, Michael Faul, Jim Ferrigan, Richard Gideon, Kevin Harrington, Lee Herold, Ralph Kelly, Rich Kenny, David Martucci, Clay Moss, Peter Orenski, Whitney Smith, Steve Tyson, Henry Untermeyer, and Alfred Znamierowski.

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# GOOD FLAG, BAD FLAG

## HOW TO DESIGN A GREAT FLAG



Use **5 basic principles** to create an outstanding flag for your organization, city, tribe, company, family, neighborhood, or even country!

North American Vexillological Association  
*The Flag Experts of the United States and Canada*

Vexillology is the study of flags

# WHAT IS A FLAG?

A flag's purpose is to represent a place, organization, or person, generally on a rectangular piece of cloth, to be seen at a distance, often moving, and reproduced in quantity and in many sizes.

The 5 principles of good flag design will lead to a successful flag that accomplishes that purpose.

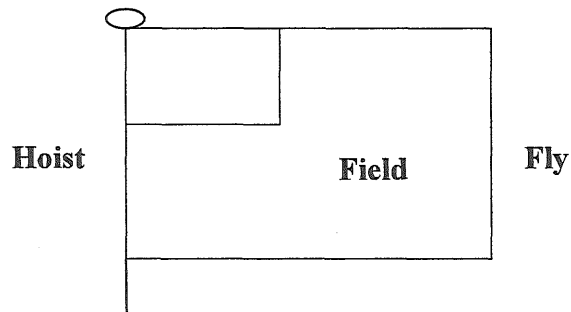
Flags began thousands of years ago, first used for military purposes on land and then as identifying signals at sea. They evolved to represent royal houses, then countries and other levels of government, businesses, military ranks and units, sport teams, and political parties.

Flags grew out of heraldry—the practice of designing coats of arms—and follow many of the same design principles. Following this guide will help any person or group produce a great flag.

A flag should be simple, readily made, and capable of being made up in bunting; it should be different from the flag of any other country, place or people; it should be significant; it should be readily distinguishable at a distance; the colors should be well contrasted and durable; and lastly, and not the least important point, it should be effective and handsome.

*-- National Flag Committee of the Confederate States of America, 1861*

Anatomy of a flag:



# THE 5 BASIC PRINCIPLES OF FLAG DESIGN

## 1. Keep It Simple

The flag should be so simple that a child can draw it from memory...

## 2. Use Meaningful Symbolism

The flag's images, colors, or patterns should relate to what it symbolizes...

## 3. Use 2–3 Basic Colors

Limit the number of colors on the flag to three, which contrast well and come from the standard color set...

## 4. No Lettering or Seals

Never use writing of any kind or an organization's seal...

## 5. Be Distinctive or Be Related

Avoid duplicating other flags, but use similarities to show connections...

# 1. KEEP IT SIMPLE

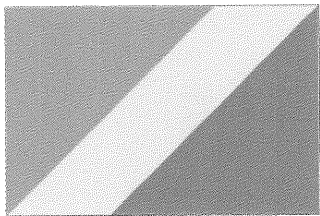
The flag should be so simple that a child can draw it from memory...

Flags flap. Flags drape. Flags must be seen from a distance. Under these circumstances, only simple designs make effective flags. Furthermore, complicated flags cost more to make, which often can limit how widely they are used.

Most poor designs have the elements of a great flag in them—simplify them by focusing on a single symbol, a few colors, large shapes, and no lettering. Avoid the temptation to include a symbol for everybody.

Ideally the design will be reversible or at least recognizable from either side. Don't put a different design on the back.

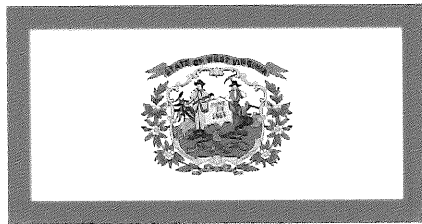
**GOOD**



*Congo*

With bold, contrasting colors, large shapes, and parallel lines, this flag is also easily recognized when reversed.

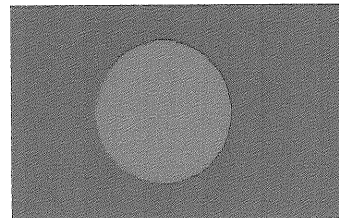
**BAD**



*West Virginia (USA)*

The seal itself is complex, the white background is boring, and the overall design differs from most other state flags only in its blue border.

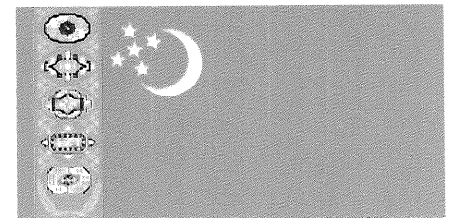
**GOOD**



*Bangladesh*

With two strong colors and a single symbol—the rising sun of independence (slightly offset to the hoist), this flag succeeds well.

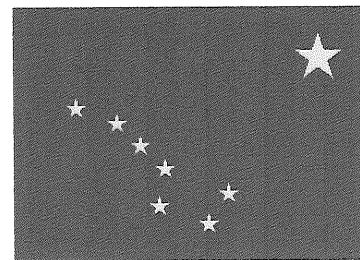
**BA**



*Turkmenistan*

This very complicated rug contains 5 traditional patterns! Better to leave it off and keep the moon and stars.

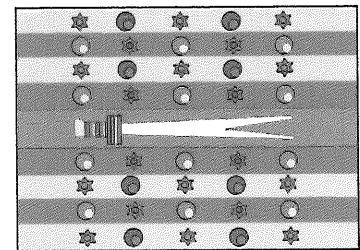
**GOOD**



*Alaska (USA)*

The stars, a standard U.S. symbol, form the “Big Dipper” constellation and the North Star, representing the northernmost U.S. state.

**BAD**



*Bey of Tunisia*

Replete with stars, crescents, and the Sword of Ali, this 19<sup>th</sup>-century design's overwhelming complexity defeats its purpose.



## 2. USE MEANINGFUL SYMBOLISM

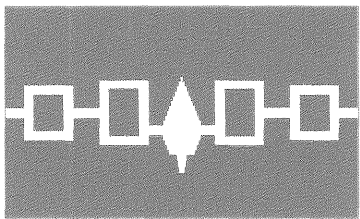
The flag's images, colors, or patterns should relate to what it symbolizes...

Symbolism can be in the form of the “charge” or main graphic element, in the colors used, or sometimes even in the shapes or layout of the parts of the flag.

Usually a single primary symbol is best—avoid those that are less likely to be representative or unique. Colors often carry meanings: Red for blood or sacrifice, White for purity, Blue for water or sky.

Diagonal stripes are often used by former colonies as an alternative to the generally horizontal and vertical stripes of European countries.

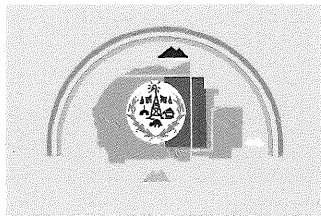
### GOOD



*Iroquois Confederacy (USA)*

“Hiawatha’s Belt”, a symbol for five tribes since before 1600, appears on the traditional blue of wampum shell beads.

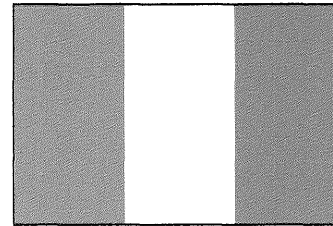
### BAD



*Navajo Nation (USA)*

Over 20 graphic elements overwhelm the viewer and none are large enough to be seen easily.

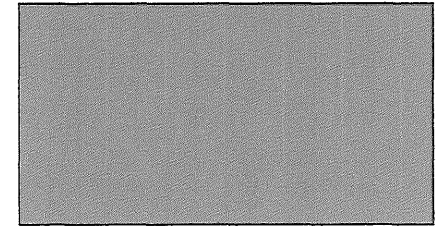
### GOOD



*Italy*

Based on the revolutionary flag of France, the vertical orientation of Italy’s stripes represented a challenge to the typical horizontal stripes of the ruling kingdoms of Europe.

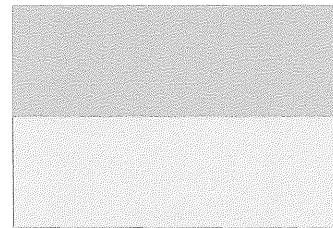
### BAD



*Libya*

Although Libya’s green field was chosen for its Islamic symbolism, a solid-color flag is too simple to represent a country, and is meaningless when depicted in grayscale.

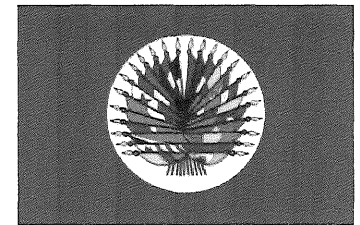
### GOOD



*Ukraine*

The light blue and yellow represent the sky over wheat fields—both the color and the direction of the stripes carry the meaning.

### BAD



*Organization of American States*

Believe it or not, this flag depicts the flags of all the member countries, and must be changed each time one joins, drops out, or changes its flag!

# 3. USE 2-3 BASIC COLORS

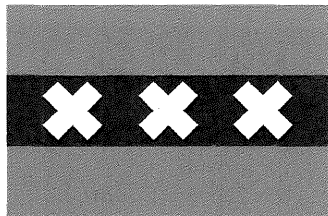
Limit the number of colors on the flag to three, which contrast well and come from the standard color set...

The basic flag colors are Red, Blue, Green, Black, Yellow, and White. They can range from dark to light. Occasionally other colors are also used, such as Purple, Gray, and Orange, but they are seldom needed in a good design.

Separate dark colors with a light color, and light colors with a dark color, to help them create effective contrast. A good flag should also reproduce well in "grayscale", that is, in black & white shades.

More than four colors are hard to distinguish and make the flag unnecessarily complicated and expensive. Flag fabric comes in a relatively limited number of colors—another reason to stick to the basics.

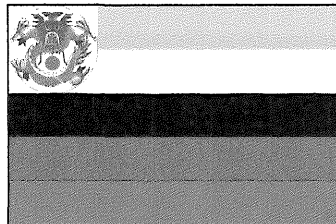
**GOOD**



*Amsterdam (Netherlands)*

These colors contrast well, even though the red and black are not separated by a light color.

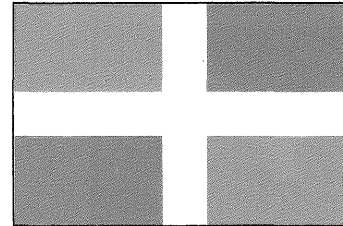
**BAD**



*Chinese Admiral (1882)*

Too many colors! At the least, the yellow and white should be separating the dark colors. While the dragon is in the position of honor, it is very hard to distinguish.

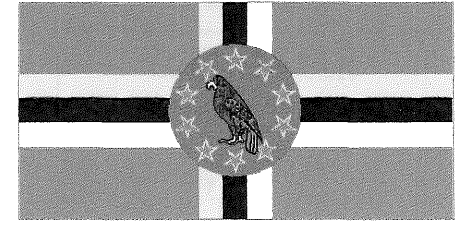
**GOOD**



*Dominican Republic*

These colors provide balance and contrast, leaving a white cross as "negative space" in the middle of the flag.

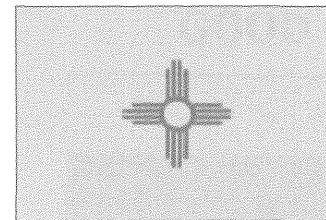
**BAD**



*Dominica*

By using ALL six basic flag colors, this flag creates unnecessary cost and complexity. Who can see the parrot's red and black eye?

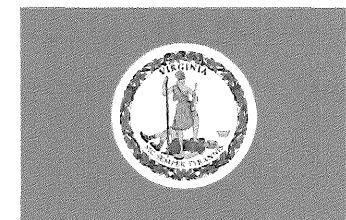
**GOOD**



*New Mexico (USA)*

Red and yellow recall the state's Spanish heritage, while the sun symbol comes from the Zia Indians. This design was voted the best U.S. state flag by NAVA members.

**BAD**



*Virginia (USA)*

Imagine, 18 different colors in the official flag specifications! Not only are they difficult to distinguish, but having that many colors drives up the manufacturing cost.

# 4. NO LETTERING OR SEALS

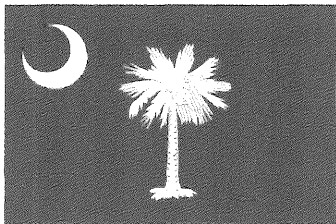
Never use writing of any kind or an organization's seal...

Words defeat the purpose: why not just write "U.S.A." on a flag? A flag is a *graphic* symbol. Lettering is nearly impossible to read from a distance, hard to sew, and difficult to reduce to lapel-pin size. Words are not reversible—this forces double- or triple-thickness fabric.

Don't confuse a flag with a banner, such as what is carried in front of a marching band in a parade, or draped behind a speaker's platform—such banners don't flap, they are seen from only one side, and they're usually seen closer-up.

Seals were designed for placement on paper to be read at close range. Very few are effective on flags—too detailed. Better to use some element from the seal as a symbol. Some logos work; most don't.

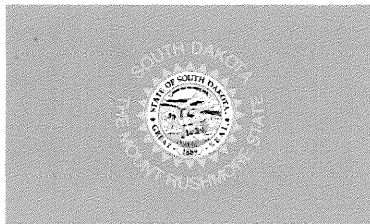
## GOOD



*South Carolina (USA)*

The palmetto tree represents "Palmetto State" far better than the state's seal could. The crescent moon is in the position of honor.

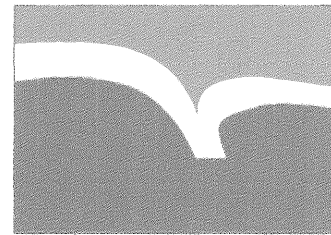
## BAD



*South Dakota (USA)*

This flag uses a seal AND lettering! The name of the state actually appears *twice*.

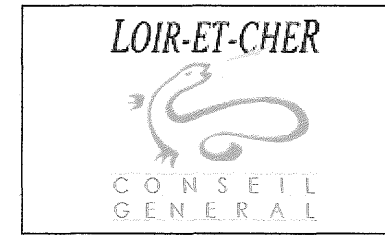
## GOOD



*Côtes d'Armor (France)*

Rather than the logo style frequently used by French departments and regions, Côtes d'Armor uses a stylized seagull in the shape of its coastline.

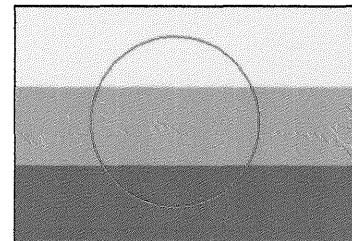
## BAD



*Loir-et-Cher (France)*

All those words, plus an indistinguishable gray shape... Better to have used the stylized dragon on a more interesting background color.

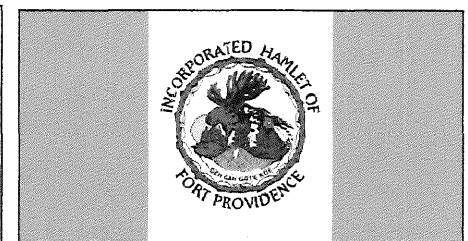
## GOOD



*Peguis Nation (Canada)*

The contrasting colors with a single central symbol represent this Indian nation far better than could any seal.

## BAD



*Fort Providence, NWT (Canada)*

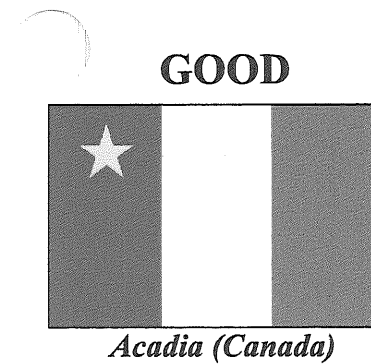
Despite the overall pattern recalling Canada, this flag (for an Indian community) stumbles with a virtually indistinguishable seal.

# 5. BE DISTINCTIVE OR BE RELATED

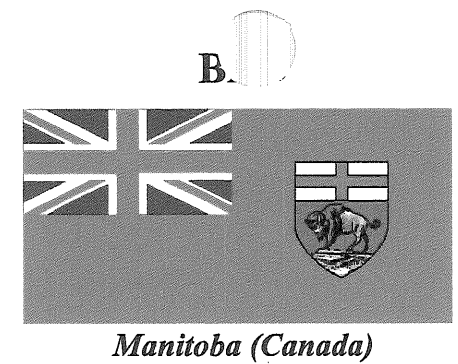
Avoid duplicating other flags, but use similarities to show connections...

This is perhaps the most difficult principle, but it is very important. Sometimes the good designs are already “taken”. However, a flag’s symbols, colors, and shapes can recall other flags—a powerful way to show heritage, solidarity, or connectedness. This requires knowledge of other flags.

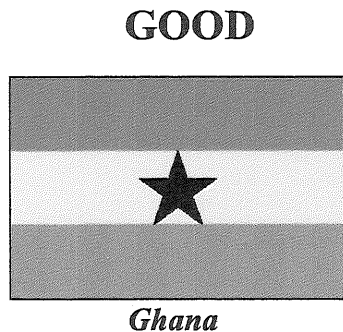
Often the best way to start the design process can be looking to one’s “roots” in flags—by country, tribe, or religion.



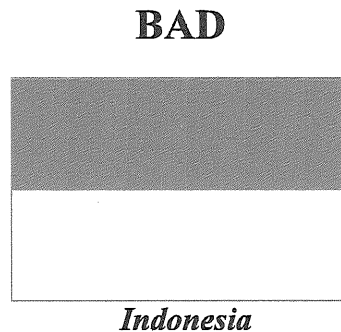
French-speaking Acadians in Canada place a yellow star for St. Mary, their national symbol and patron saint of mariners on the flag of France.



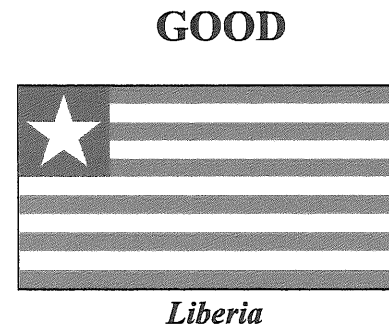
While the British “Red Ensign” signifies connectedness within the Commonwealth, the distinguishing feature is the small seal. Better to have used the bison as the main flag symbol.



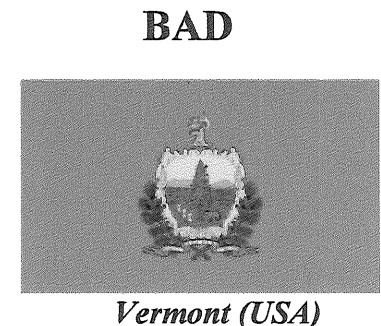
Using the same colors used by many countries in Africa, this flag shows a strong connection to its neighbors’ flags.



Except for its proportions, this flag is exactly the same as Monaco’s (which had it first), but there is no connection between the two countries. Upside-down it is the same as Poland or as Cantabria, Spain!



Founded by freed slaves from the U.S., Liberia reflects that heritage with a similar yet distinctive flag.



This flag is virtually indistinguishable from 20 other U.S. state flags, all with a seal on a blue field.

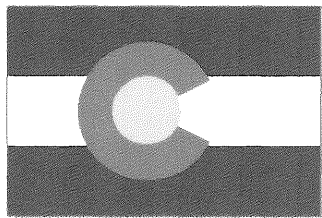
## OTHER CONSIDERATIONS

A rectangle is the standard flag shape. Keep the width-to-length proportions between 1:1.5 and 1:2. Canadian flags are usually 1:2; U.S. flags are usually 1:1.5 or 1:1.67. Square flags are unusual in North America. Abandon such rectangles only when meaningful.

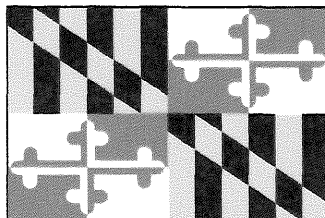
Flags wear. By retaining a rectangular shape and avoiding symbols at the fly end, a flag can be hemmed repeatedly and given a longer life.

The point of honor is the “canton” area—the upper-left corner. This corresponds to the part of the flag that is seen when it hangs limp from a flagpole. The center or left-of-center position is the most visible spot for a symbol when the flag is flying.

Consider the fabrication methods. Curved lines add to the cost of sewn flags. Holes or “negative space” hurt a flag’s fly-ability and wear-ability. “Swallow-tail” shapes fray more easily.



*Colorado (USA)*



*Maryland (USA)*

All rules have exceptions. Colorado’s “C” is a stunning graphic element. Maryland’s complicated heraldic quarters produce a memorable and distinctive flag. But depart from these five principles only with caution and purpose.

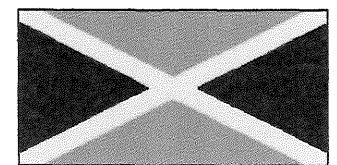
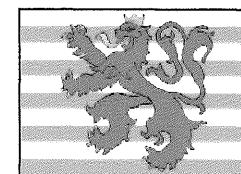
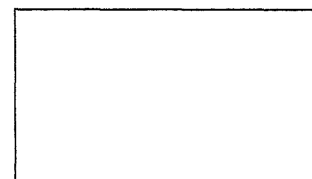
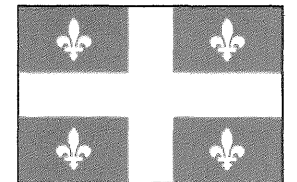
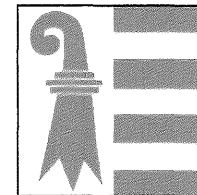
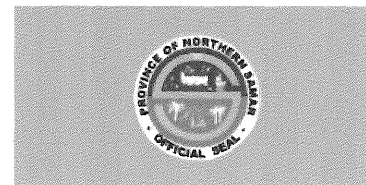
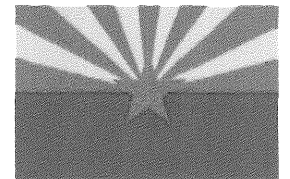
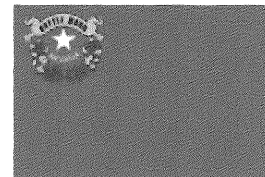
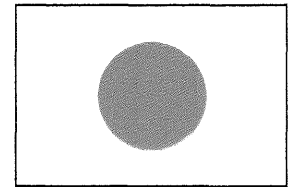
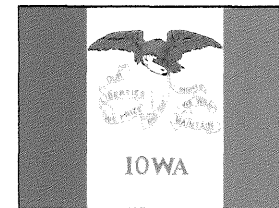
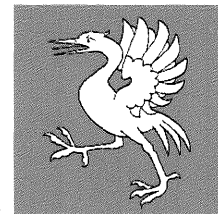
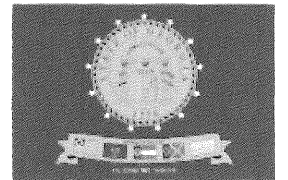
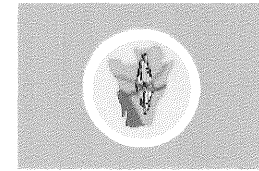
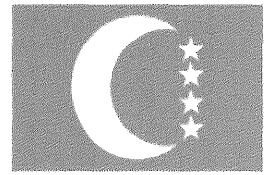
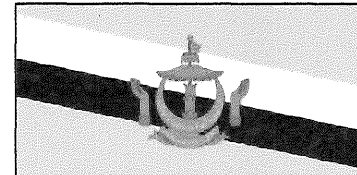
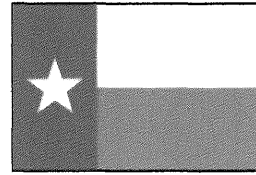
Don’t allow a committee to design a flag. Instead, empower individuals to design flags, and use a committee to select among them.

An old rule of heraldry has images of animals look toward the hoist.

**And most of all, design a flag that looks attractive and balanced to the viewer and to the place, organization, or person it represents!**

## TEST YOURSELF

Find the good flags and the bad flags:



Draw Your Flag!





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## For a Simpler Minnesota Flag

The purpose of a flag is to be a *visible* symbol of an *invisible* bond.

The original Minnesota flag was white. It was designed by Amelia Hyde Center in 1893. This flag was unique. The front was white, but the back was blue. So when it moved in the wind it would flash white and blue. It was lovely.

In 1957 the Legislature changed the flag. The cost of a two sided flag was prohibitive. The blue reverse became the background color and the white front was shrunk and encased in a large circle. In 1983 the State Seal was standardized and changed. This meant the State flag was changed as well. So it remains today.

I remember the original flag. It was elegant. On the original flag the great star pattern was expansive, shooting out from the Seal. The red ribbon entwining the Seal flowed gracefully below. This elegance and grace were eliminated in 1957.

But who cares if I like the flag.

What is important is how the people of Minnesota react to the flag. And this answer is bleak. All available evidence indicates that it is not a popular flag.

It is the United States that created the modern importance of flags. Before the American Revolution, flags were the property of monarchs. Commoners used the king's flag by permission, or by order. It did not belong to them.

Then in America, the flag became not the President's flag, not the government's flag, but the people's flag. The people's flag - a flag owned by each citizen. This idea has changed the use of flags worldwide. Now flags really do symbolize people and their ideals. And people have responded with a love for their flags.

Nothing better shows the power of flags than the tragedy of September 11th, 2001. Countless Americans reached for and embraced the US Flag, and within 2 days the entire stock of US flags in the entire country was sold out. People needed this symbol to touch, to see, to be reassured, to feel a connection with their neighbors. The US flag was the visible symbol of our invisible unity.

One of the greatest Minnesota emotional events was in 1987 when the Twins won the World Series. A statewide celebration broke out, spontaneous joy, cheers and crowds. Yet, there was a complete absence of the Minnesota flag. Why? It is a design that fails to reach and touch people. The Minnesota flag was not a visible symbol of our common joy.

There is little evidence in Minnesota that our flag has served us well. You can educate, advertise, and encourage people, but the current flag will never become popular and useful. It is expensive, too complex, and does not connect with the people. It will not work.

Flags that work are simple and meaningful. Our flag is not simple, not meaningful. I urge you to give us a flag we can use, an effective proud symbol of our great State of Minnesota.

# Minnesota Flag



Does it work?

*A flag is the visible symbol of the invisible bond of the people.*

- **Most citizens do not recognize & do not use the State Flag.**
- **The flag is pretty, but not effective.**
- **The problems can be fixed.**
- **Minnesota has already had three flags.**
- **If the flag works, it makes the State better.**

**Bonds us together, proud to be in Minnesota.  
Transcends differences in times of trouble.  
Great for tourism & promotion.**

**About flags (they're not just a pretty face):**

- Flags have work to do – create a citizen bond & bring us together.
- Flag effectiveness can be objectively measured.
- Design determines effectiveness. Design affects how people respond.
- Flag principles make the difference in design. Proven to work.

## What is wrong with the State Flag?

Too much on it, confusing, complicated, expensive.

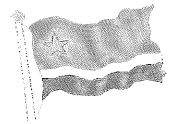
- No focus. No message.
- Not one symbol, a clutter of symbols.
- Too many colors. Expensive.
- Not distinct. Like half the other state flags.
- Appearance. Details lost when flying.



Minnesota flag websites= [www.heroldflags.com](http://www.heroldflags.com)  
[www.mnflag.tripod.com/bwg.html](http://www.mnflag.tripod.com/bwg.html)  
[www.welcometoamerica.us/flags-proposed-mn.html](http://www.welcometoamerica.us/flags-proposed-mn.html)  
[www.runestone.net/~ebacher/](http://www.runestone.net/~ebacher/)  
A look at the flag= [www.modernhumorist.com/mh/0106/guide03/](http://www.modernhumorist.com/mh/0106/guide03/)  
Flags of World= [www.fotw.us/flags/](http://www.fotw.us/flags/) NAVA= [www.nava.org](http://www.nava.org)  
Manitoba flag= [www.manitobaflag.ca/](http://www.manitobaflag.ca/)

## Flag Design Principles.

1. **Simplicity- Simple yet bold. A child can draw it.**
2. **Focus – Know what you want to say, say it well, no confusion.**
3. **Symbol-not words. An image, not a phrase. A picture symbol, not a sign.**
4. **Color – just 2 or 3. Proper separation & definition. Clarity.**
5. **Distinctness – Unique. Different from other flags. Memorable & proud.**
6. **Appearance – Flow well in the wind. Good large & small, and in print.**



These are the most common and important flag principles. There are other guidelines.

Flag principles by Dr. Peter Orenski, & Ted Kaye, Flag Research Center, North American Vexillological Assn, Flags Of The World

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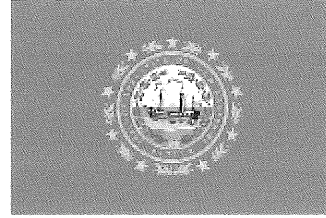
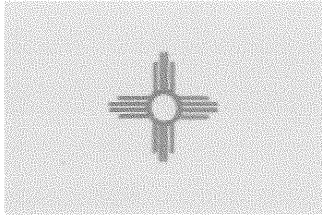
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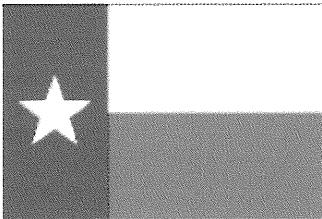
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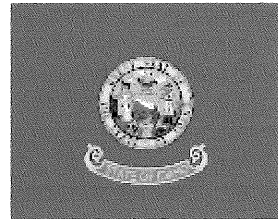
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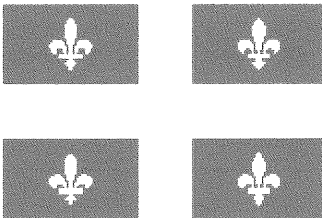
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64. Idaho



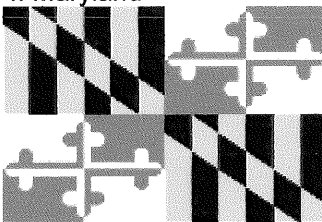
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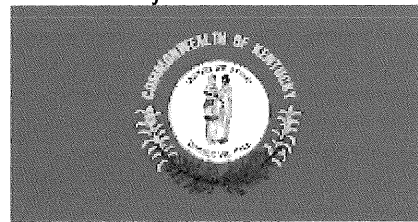
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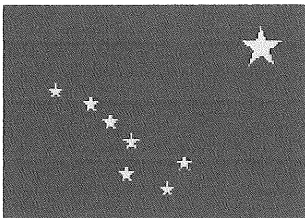
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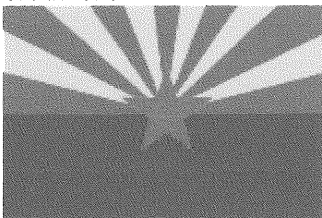
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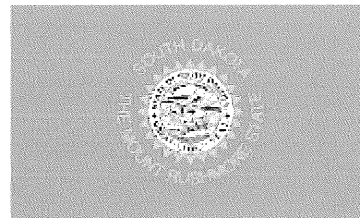
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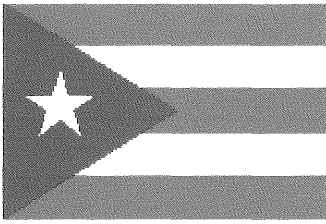


68. South Dakota

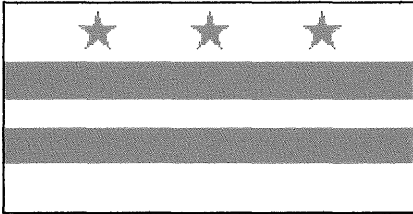


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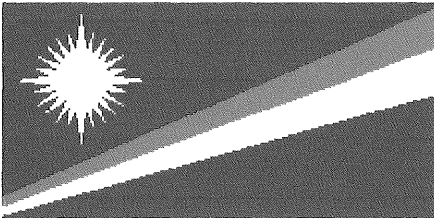
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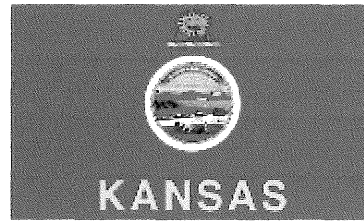
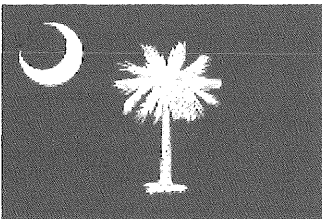
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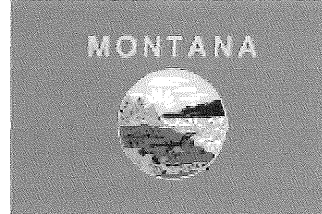
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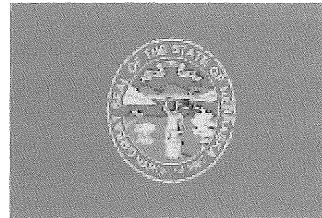
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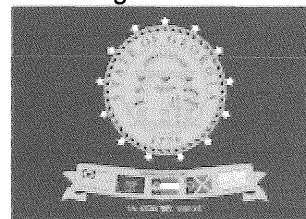
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1. Keep It Simple (The flag should be so simple that a child can draw it from memory...)
2. Use Meaningful Symbolism (The flag's images, colors, or patterns should relate to what it symbolizes...)
3. Use 2-3 Basic Colors (Limit the number of colors on the flag to three, which contrast well and come from the standard

color set...)

4. No Lettering or Seals (Never use writing of any kind or an organization's seal...)

5. Be Distinctive or Be Related (Avoid duplicating other flags, but use similarities to show connections...)

*Good Flag, Bad Flag* is downloadable free from the NAVA website: [www.nava.org](http://www.nava.org). It can help any organization, tribe, company, family, neighborhood, city, county, state, or even country design a great flag.

The survey, quite possibly the first of its kind conducted entirely over the Internet, lasted three-and-a-half months, and has contributed new insights into the public perception of flags and their design. Ted Kaye, editor of NAVA's scholarly journal and author of *Good Flag, Bad Flag*, conducted the survey; Dick Gideon, NAVA's webmaster, designed the survey page.

#### REPRESENTATIVE SURVEY COMMENTS

A flag should be the simplest possible design consistent with bearing a unique, easily distinguished identity...those with complex detail in their composition defeat the purpose of a flag.

The main purpose of a flag is identification. Yet half of the US's states have flags that to the untrained eye, or from a distance, look identical.

Simple flags, clear colors, not too busy. Shields on fields are bad.

... a flag which needs to indicate its significance by spelling out the state signified...is defeating the very purpose of a flag, that is, to signal "visually" without need of written signs.

A 'good' design for a flag, in my opinion, is one that can be identified at a glance (even in a stiff breeze!) and which is easy for, e.g., school students to sketch... everyone ought to be able to draw those flags that have significance for them.

All British colonial flags (e.g. Ontario) should go.

The blue-coloured flags remind me of the former Soviet republics' flags. (comment from Sweden)

Recognition, simplicity, color, and uniqueness make, in my opinion, a pleasing design.

... the new Georgia state flag certainly is a shame to any flag designer. What a mess!

The whole purpose of flags, I thought, was to distinguish one from another.

#### NAVA SURVEY SCORES [10 = high]

1	New Mexico	8.61
2	Texas	8.13
3	Quebec	8.04
4	Maryland	7.97
5	Alaska	7.96
6	Arizona	7.92
7	Puerto Rico	7.66
8	District of Columbia	7.48



9	Marshall Islands	7.19
10	South Carolina	7.16
11	Hawaii	7.15
12	Nova Scotia	7.06
13	California	7.00
14	Tennessee	6.98
15	Ohio	6.87
16	Colorado	6.83
17	Nunavut	6.72
18	New Brunswick	6.68
19	F. S. Micronesia	6.45
20	Labrador	6.45
21	Prince Edward Island	6.30
22	Mississippi	6.30
23	Wyoming	6.28
24	British Columbia	6.28
25	Newfoundland	6.24
26	Saskatchewan	6.22
27	American Samoa	6.16
28	Rhode Island	6.12
29	Alabama	6.06
30	Northwest Territories	5.89
31	Yukon	5.86
32	Indiana	5.77
33	North Carolina	5.34
34	Florida	5.17
35	Alberta	5.00
36	Louisiana	4.98
37	Virgin Islands	4.94
38	Massachusetts	4.78
39	Oklahoma	4.78
40	Guam	4.77
41	N. Mariana Islands	4.73
42	Iowa	4.72
43	Ontario	4.64
44	Manitoba	4.60
45	Arkansas	4.59
46	New Jersey	4.57
47	Washington	4.53
48	Missouri	4.50
49	Illinois	4.38
50	Connecticut	4.32
51	West Virginia	4.16
52	Delaware	4.08
53	New York	3.93
54	Virginia	3.93
55	Nevada	3.88
56	North Dakota	3.69

57	Pennsylvania	3.69
58	Utah	3.47
59	Michigan	3.46
60	Maine	3.39
61	Vermont	3.37
62	Oregon	3.30
63	New Hampshire	3.18
64	Idaho	3.17
65	Wisconsin	3.16
66	Kentucky	3.16
67	Minnesota	3.13
68	South Dakota	3.12
69	Kansas	3.01
70	Montana	3.00
71	Nebraska	2.98
72	Georgia	2.36

COUNTRIES REPRESENTED

- |                |                |
|----------------|----------------|
| Argentina      | Israel         |
| Austria        | Italy          |
| Belgium        | Latvia         |
| Canada         | New Zealand    |
| Czech Republic | Norway         |
| Denmark        | Portugal       |
| Finland        | Spain          |
| France         | Sweden         |
| Germany        | United Kingdom |
| Hungary        | United States  |



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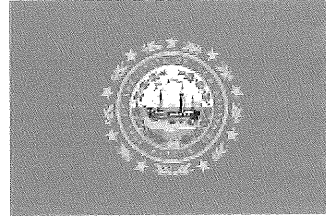
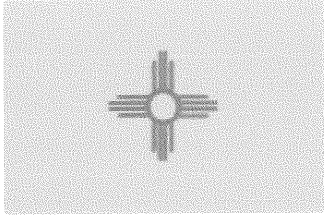
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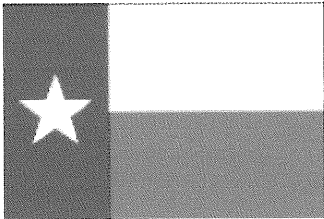
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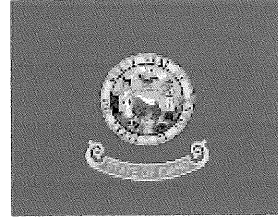
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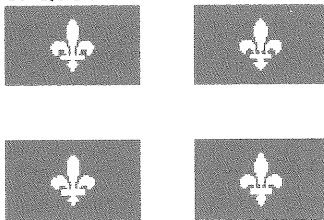
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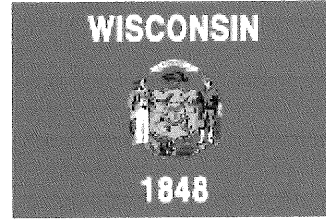
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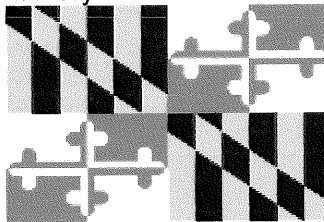
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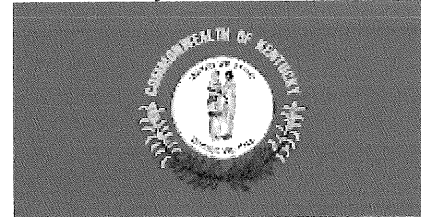
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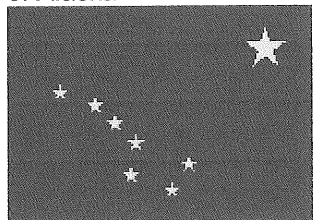
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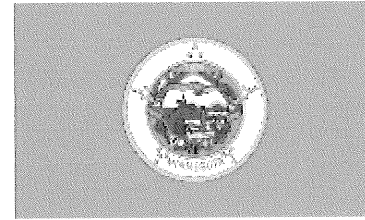
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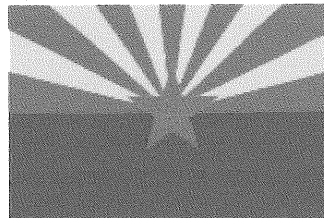
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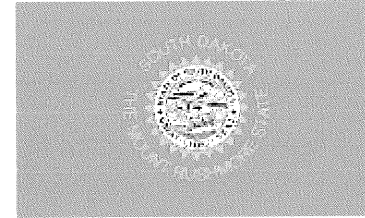
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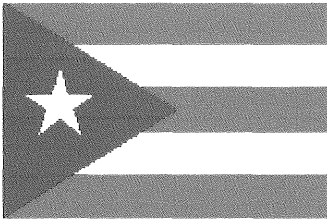


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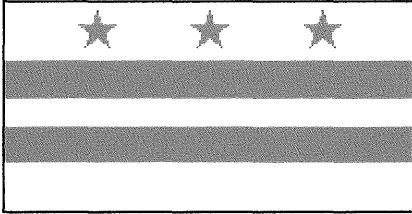


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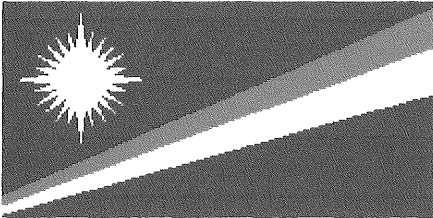
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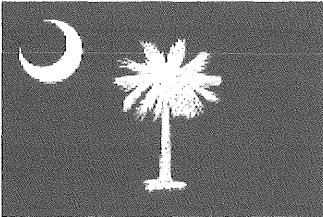
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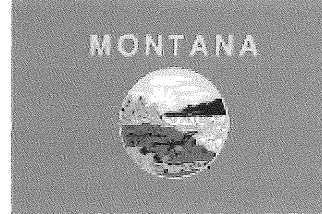
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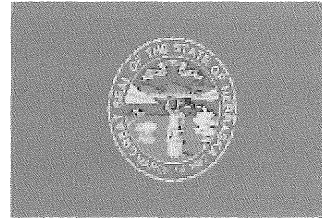
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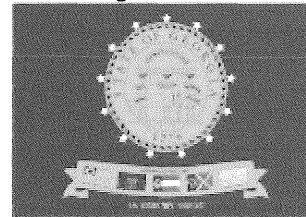
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1. Keep It Simple (The flag should be so simple that a child can draw it from memory...)
2. Use Meaningful Symbolism (The flag's images, colors, or patterns should relate to what it symbolizes...)
3. Use 2-3 Basic Colors (Limit the number of colors on the flag to three, which contrast well and come from the standard

color set...)

4. No Lettering or Seals (Never use writing of any kind or an organization's seal...)

5. Be Distinctive or Be Related (Avoid duplicating other flags, but use similarities to show connections...)

*Good Flag, Bad Flag* is downloadable free from the NAVA website: [www.nava.org](http://www.nava.org). It can help any organization, tribe, company, family, neighborhood, city, county, state, or even country design a great flag.

The survey, quite possibly the first of its kind conducted entirely over the Internet, lasted three-and-a-half months, and has contributed new insights into the public perception of flags and their design. Ted Kaye, editor of NAVA's scholarly journal and author of *Good Flag, Bad Flag*, conducted the survey; Dick Gideon, NAVA's webmaster, designed the survey page.

#### REPRESENTATIVE SURVEY COMMENTS

A flag should be the simplest possible design consistent with bearing a unique, easily distinguished identity...those with complex detail in their composition defeat the purpose of a flag.

The main purpose of a flag is identification. Yet half of the US's states have flags that to the untrained eye, or from a distance, look identical.

Simple flags, clear colors, not too busy. Shields on fields are bad.

... a flag which needs to indicate its significance by spelling out the state signified...is defeating the very purpose of a flag, that is, to signal "visually" without need of written signs.

A 'good' design for a flag, in my opinion, is one that can be identified at a glance (even in a stiff breeze!) and which is easy for, e.g., school students to sketch... everyone ought to be able to draw those flags that have significance for them.

All British colonial flags (e.g. Ontario) should go.

The blue-coloured flags remind me of the former Soviet republics' flags. (comment from Sweden)

Recognition, simplicity, color, and uniqueness make, in my opinion, a pleasing design.

... the new Georgia state flag certainly is a shame to any flag designer. What a mess!

The whole purpose of flags, I thought, was to distinguish one from another.

#### NAVA SURVEY SCORES [10 = high]

1	New Mexico	8.61
2	Texas	8.13
3	Quebec	8.04
4	Maryland	7.97
5	Alaska	7.96
6	Arizona	7.92
7	Puerto Rico	7.66
8	District of Columbia	7.48



9	Marshall Islands	7.19
10	South Carolina	7.16
11	Hawaii	7.15
12	Nova Scotia	7.06
13	California	7.00
14	Tennessee	6.98
15	Ohio	6.87
16	Colorado	6.83
17	Nunavut	6.72
18	New Brunswick	6.68
19	F. S. Micronesia	6.45
20	Labrador	6.45
21	Prince Edward Island	6.30
22	Mississippi	6.30
23	Wyoming	6.28
24	British Columbia	6.28
25	Newfoundland	6.24
26	Saskatchewan	6.22
27	American Samoa	6.16
28	Rhode Island	6.12
29	Alabama	6.06
30	Northwest Territories	5.89
31	Yukon	5.86
32	Indiana	5.77
33	North Carolina	5.34
34	Florida	5.17
35	Alberta	5.00
36	Louisiana	4.98
37	Virgin Islands	4.94
38	Massachusetts	4.78
39	Oklahoma	4.78
40	Guam	4.77
41	N. Mariana Islands	4.73
42	Iowa	4.72
43	Ontario	4.64
44	Manitoba	4.60
45	Arkansas	4.59
46	New Jersey	4.57
47	Washington	4.53
48	Missouri	4.50
49	Illinois	4.38
50	Connecticut	4.32
51	West Virginia	4.16
52	Delaware	4.08
53	New York	3.93
54	Virginia	3.93
55	Nevada	3.88
56	North Dakota	3.69

57	Pennsylvania	3.69
58	Utah	3.47
59	Michigan	3.46
60	Maine	3.39
61	Vermont	3.37
62	Oregon	3.30
63	New Hampshire	3.18
64	Idaho	3.17
65	Wisconsin	3.16
66	Kentucky	3.16
67	Minnesota	3.13
68	South Dakota	3.12
69	Kansas	3.01
70	Montana	3.00
71	Nebraska	2.98
72	Georgia	2.36

COUNTRIES REPRESENTED

- |                |                |
|----------------|----------------|
| Argentina      | Israel         |
| Austria        | Italy          |
| Belgium        | Latvia         |
| Canada         | New Zealand    |
| Czech Republic | Norway         |
| Denmark        | Portugal       |
| Finland        | Spain          |
| France         | Sweden         |
| Germany        | United Kingdom |
| Hungary        | United States  |



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**Senate**  

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**State of Minnesota**

**S.F. No. 2660 - City of Minneapolis and the Park and  
Recreation Board**

**Author:** Senator Linda Higgins

**Prepared by:** Daniel P. McGowan, Senate Counsel (651/296-4397)



**Date:** March 14, 2006

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The proposed special legislation authorizes the Minneapolis Park and Recreation Board and the Minneapolis City Council to jointly exercise the authority under the Municipal Planning Act to impose a dedication fee on new housing units in the city of Minneapolis for public parks, playgrounds, recreational facilities, wetlands or open space. The dedication fee would be imposed by an ordinance jointly enacted by the two bodies and would be limited to \$3,000 per new housing unit. At the option of the city and the park board, the ordinance could exclude senior housing and affordable housing from the dedication fee.

DPM:mvm

Senator Higgins introduced-

S.F. No. 2660: Referred to the Committee on State and Local Government Operations.

A bill for an act relating to local government; permitting the Minneapolis Park and Recreation Board and the Minneapolis City Council to impose a park dedication fee on new housing units.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **DEDICATION FEE.**

The Minneapolis Park and Recreation Board and the Minneapolis City Council may jointly exercise the powers conferred under Minnesota Statutes, section 462.358, with respect to imposing a dedication fee on new housing units in the city, wherever located, for public parks, playgrounds, recreational facilities, wetlands, or open space. The dedication fee must be imposed by an ordinance jointly enacted by the park board and the city council. The park dedication fee may not exceed \$3,000 per new housing unit. The ordinance may exclude senior housing and affordable housing from paying the fee. The provisions of Minnesota Statutes, section 462.358, subdivisions 2b, paragraph (b), and 2c, apply to the imposition, application, and use of the dedication fee.

Sec. 2. **EFFECTIVE DATE.**

Section 1 is effective upon compliance by the Minneapolis Parks and Recreation Board and the Minneapolis City Council with Minnesota Statutes, section 645.021.

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops.

S.F. No. 2660

Resolution

Re-referred (from another committee)

**Amendments:**

Pg 1, line 12 delete "The park dedication fee may not exceed \$ 3,000 per new housing unit."

Pg 1 line 9, after to insert "requiring that a reasonable portion of land be dedicated to the public or"

Line 10 after ~~The insert~~ 11, after dedication insert "of land or"

Line 13 after fee insert, "or the dedication of land or"

Line 15 after dedication insert, "of land or the dedication"

**Committee recommendation:**

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on

**No recommendation:** And when so amended the bill be

(re-referred to the Committee on \_\_\_\_\_)

OR  (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.3 **S.F. No. 2660:** A bill for an act relating to local government; permitting the  
Minneapolis Park and Recreation Board and the Minneapolis City Council to impose a  
park dedication fee on new housing units.

1.6 Reports the same back with the recommendation that the bill be amended as follows:

1.7 Page 1, line 9, after "to" insert "requiring that a reasonable portion of land be  
1.8 dedicated to the public or"

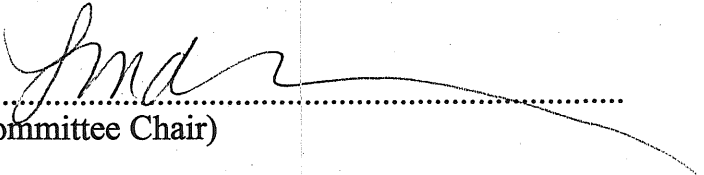
1.9 Page 1, line 11, before "dedication" insert "dedication of land or"

1.10 Page 1, line 12, delete "The park dedication fee may not exceed \$3,000 per new  
1.11 housing unit."

1.12 Page 1, line 13, before the period, insert "or the dedication of land"

1.13 Page 1, line 15, after "dedication" insert "of land or the dedication"

And when so amended the bill do pass. Amendments adopted. Report adopted.

1.15   
1.16 (Committee Chair)

1.17 March 27, 2006 .....  
1.18 (Date of Committee recommendation)



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# Senate

State of Minnesota

## **S.F. No. 3404 - Legislative Training Forums; Budget Bills; Conference Committee Procedures; Governor-Elect Expenses**

**Author:** Senator Sheila Kiscaden

**Prepared by:** Thomas S. Bottern, Senate Counsel (651/296-3810) *TSB*

**Date:** March 27, 2006

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**Section 1. LEGISLATIVE TRAINING FORUMS.** directs the Legislative Coordinating Commission to oversee two legislative training forums in January and February of each year, that will provide an oversight of Minnesota issues and allow invited executive branch officials and legislators to form cooperative solutions. Allows the LCC to accept donations from foundations, corporations, and individuals for the cost of the forums but prohibits registered lobbyists or principals from making those donations.

**Section 2. SCHEDULE FOR CONSIDERATION OF LEGISLATION.**

**Subdivision 1. Agency bill.** requires executive departments to deliver proposed legislation to the Revisor of Statutes by November 1 in the year before the regular session when the agency will seek passage of the legislation. Provides exemptions for the Governor's budget proposals, other initiatives of the Governor, and for bills that meet the exceptions to Minnesota Statutes, section 3C.035, which requires agencies to submit proposed legislation to the Revisor by November 1. These exceptions include emergency requests, and requests that could not have been reasonably foreseen before November 1, or other reasonable justification for delay.

**Subdivision 2. Resolution for structure of budget bills.** requires the legislature to adopt a concurrent resolution by January 15 of each odd-numbered year to designate major budget bills for that session.

**Subdivision 3. Deadline resolution.** requires the legislature to adopt a concurrent resolution by January 31 of each odd-numbered year to establish committee deadlines.

**Subdivision 4. State of the state.** requests the Governor to submit the state of the state address in January of each odd-numbered year and within the first ten days after the session begins in even-numbered years.

**Subdivision 5. Executive submission of budget bills.** directs the Governor to submit all bills necessary to implement the operating budget within one week after the date specified in law for submission of the operating budget to the legislature.

**Subdivision 6. Price of government resolution.** directs the legislature to adopt a price of government resolution by March 15 of each odd-numbered year.

**Subdivision 7. Individual budget resolutions.** directs the House of Representatives and the Senate to each adopt a budget resolution by April 1 of each odd-numbered year that establishes overall expenditure targets and separate targets for each major budget bill.

**Section 3. CONTENTS OF BUDGET BILLS.** specifies that bills containing appropriations may contain only:

(1) appropriations and their related implementing language, including report requirements; and

(2) proposed changes to existing law directly related and necessary to implement appropriations in the bill. Exempts the Omnibus Tax Bill from this requirement to the extent necessary to raise revenue and determine the mix of revenue sources.

Paragraph (c) limits conference committee reports on appropriation bills to subject matter contained in either the House or Senate versions of the bill. Where a conference committee compromise changes an item in a bill substantially and in a major way different from what has been proposed in either the House or Senate bill, requires the conference committee to delay its final action for at least 12 hours and allow for input from affected parties before the final vote.

Paragraph (d) requires the legislature to adopt joint rules to implement this section and makes them the exclusive remedy for any violation of this section.

**Section 4. EXPENSES OF GOVERNOR-ELECT.** makes a statutory appropriation from the general fund to the Commissioner of Appropriation to provide assistance to a new Governor before the new Governor takes office. Sets the appropriation at an unspecified percentage of the amount appropriated for the office of the Governor in the fiscal year when the new Governor is elected. Requires the Commissioner of Administration to provide office space to the Governor-elect and for any employees hired with the funds appropriated in this section.

**Section 5. APPROPRIATION.** appropriates \$30,000 from the general fund to the Legislative Coordinating Commission in fiscal year 2007 for the legislative forums required by section 1 of this bill.

TSB:rdr

Senators Kiscaden, Michel, Rest, Higgins and Frederickson introduced—  
S.F. No. 3404: Referred to the Committee on State and Local Government Operations.

A bill for an act

relating to state government; requiring the Legislative Coordinating Commission to oversee legislative training forums; establishing a schedule for consideration of legislation; limiting the content of budget bills; specifying conference committee procedures; appropriating money for expenses of a governor-elect, and for 2007 legislative forums; proposing coding for new law in Minnesota Statutes, chapters 3; 4.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [3.051] LEGISLATIVE TRAINING FORUMS.

(a) The Legislative Coordinating Commission shall oversee two legislative training forums each year. The commission shall:

(1) create an annual gathering of legislators to be held within the first two weeks of January each year, and one other legislative training forum each February;

(2) select speakers, including nonpartisan legislative or executive staff, who will provide an oversight of the issues affecting Minnesota, including demographic, environmental, sociological, and economic perspectives on Minnesota, background on key policy issues the legislature is expected to address that year, and training to improve legislative skills in running effective meetings and other issues;

(3) invite current executive branch officials in order to provide opportunities for legislators and invited executive branch officials to interact and work to form cooperative solutions to Minnesota issues, problems, and challenges.

(b) The joint rules of the house of representatives and senate must prohibit any official gathering of legislators that might conflict with the legislative forums provided for in this section.

2.1 (c) The Legislative Coordinating Commission may select a partner or partners from  
2.2 Minnesota's institutions of higher education and nonprofit communities, and if such a  
2.3 choice is made, must give all interested institutions an opportunity to submit a proposal to  
2.4 run the training, schedule activities, and create meeting agendas. The commission may  
2.5 accept donations from foundations, corporations, and individuals to defray costs of the  
2.6 forums, and shall publish those donations on the legislature's Web site. No registered  
2.7 lobbyist or principal shall contribute for this purpose. Donations received are appropriated  
2.8 to the Legislative Coordinating Commission for purposes of this section.

2.9 **Sec. 2. [3.052] SCHEDULE FOR CONSIDERATION OF LEGISLATION.**

2.10 Subdivision 1. Agency bills. An executive department or agency intending to urge  
2.11 the legislature to adopt a bill shall deliver the bill to the revisor of statutes by November 1  
2.12 before the regular session at which adoption will be urged. This deadline does not apply:  
2.13 (1) to bills necessary to implement the governor's budget proposals; (2) to other bills that  
2.14 are initiatives of the governor, as opposed to administrative initiatives of a department or  
2.15 agency; or (3) as otherwise provided in section 3C.035.

2.16 Subd. 2. Resolution for structure of budget bills. By January 15 of each  
2.17 odd-numbered year, the legislature must adopt a concurrent resolution designating the  
2.18 major budget bills to be considered that legislation session, and allocating all state  
2.19 programs and budget accounts for consideration in one of the major budget bills.

2.20 Subd. 3. Deadline resolution. By January 31 of each odd-numbered year, the  
2.21 legislature must adopt a concurrent resolution establishing deadlines for committee  
2.22 consideration of policy and budget bills.

2.23 Subd. 4. State of the State. The governor is encouraged to submit a State of the  
2.24 State address in January of each odd-numbered year and within the first ten days after the  
2.25 start of the legislative session in an even-numbered year. Before or during this address, the  
2.26 governor is encouraged to announce major legislative policy initiatives that the governor  
2.27 intends to promote that year.

2.28 Subd. 5. Executive submission of budget bills. The governor must submit bills  
2.29 necessary to implement the governor's operating budget to the legislature within one  
2.30 week after the date specified in section 16A.11 for the governor to submit the detailed  
2.31 operating budget to the legislature. The bills must be provided to the speaker of the house  
2.32 of representatives and the majority leader of the senate in a manner ready for formal  
2.33 introduction and final consideration.

3.1           Subd. 6. Price of government resolution. By March 15 of each odd-numbered  
 3.2 year, the legislature must adopt the price of government resolution required by section  
 3.3 16A.102, subdivision 2.

3.4           Subd. 7. Individual budget resolutions. By April 1 of each odd-numbered year,  
 3.5 the house of representatives and the senate must each adopt a budget resolution that  
 3.6 applies to that house. Each house's resolution must establish overall expenditure targets  
 3.7 for the upcoming biennium, and separate expenditure targets for each major budget bill  
 3.8 designated in the concurrent resolution adopted under subdivision 2.

3.9           Sec. 3. [3.053] CONTENTS OF BUDGET BILLS.

3.10           (a) A bill containing one or more items of appropriation may contain only the  
 3.11 following language:

3.12           (1) appropriations of money from the state treasury, and related language specifying  
 3.13 the purpose of the appropriations, placing conditions on expenditure of the appropriations,  
 3.14 or requiring reporting on topics related to expenditure of the appropriations; and

3.15           (2) proposed new law or proposed changes in existing law that are directly related to  
 3.16 and are necessary to implement the appropriations in the bill.

3.17           (b) Paragraph (a) does not apply to one bill each regular annual legislative session  
 3.18 designated by concurrent resolution as the omnibus tax bill. This bill must contain only  
 3.19 items described in paragraph (a) and language necessary to raise revenue for state and  
 3.20 local government, and to determine the mix and rates of revenue sources.

3.21           (c) A conference committee report on a bill containing one or more items of  
 3.22 appropriation may contain only subject matter contained in the house or senate versions  
 3.23 of the bill for which the conference committee was appointed. If a compromise  
 3.24 proposal emerges in conference committee that would change a policy or program or its  
 3.25 administration in a manner substantially and in a major way different from that proposed  
 3.26 in either the house or senate bill, the conference committee must delay final action for  
 3.27 at least 12 hours and then allow for input from persons impacted by the change before  
 3.28 the final vote.

3.29           (d) The legislature must adopt joint rules to implement and enforce this section.  
 3.30 Remedies provided by these joint rules are exclusive. No court or administrative agency  
 3.31 has jurisdiction to enforce an alleged violation of this section, to invalidate any provision  
 3.32 of law because of a violation of this section, or to otherwise interpret this section.

3           Sec. 4. [4.51] EXPENSES OF GOVERNOR-ELECT.



4.1 This section applies after a state general election in which a person who is not the  
4.2 current governor is elected to take office as the next governor. There is appropriated from  
4.3 the general fund to the commissioner of administration an amount equal to ... percent  
4.4 of the amount appropriated for operation of the Office of the Governor and Lieutenant  
4.5 Governor for the current fiscal year. The commissioner of administration must make this  
4.6 amount available to the governor-elect to immediately hire staff and provide other support  
4.7 to the governor-elect before he or she takes office. The commissioner must provide office  
4.8 space for the governor-elect and for any employees the governor-elect hires with funds  
4.9 appropriated in this section.

4.10 **Sec. 5. APPROPRIATION.**

4.11 \$30,000 is appropriated from the general fund to the Legislative Coordinating  
4.12 Commission in fiscal year 2007 for the legislative forums in January and February of 2007.

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State & Local Gov ops

S.F. No. 3404

Resolution

Re-referred (from another committee)

**Amendments:**

pg 7 line 14, after including insert, "executive or"  
delete "or executive"

**Committee recommendation:**

And when so amended the bill do pass.

And when so amended the bill do pass and be placed on the Consent Calendar.

And when so amended the bill do pass and be re-referred to the Committee on

Rules

**No recommendation:** And when so amended the bill be  
 (re-referred to the Committee on \_\_\_\_\_)

OR  (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.3 **S.F. No. 3404:** A bill for an act relating to state government; requiring the  
1.5 Legislative Coordinating Commission to oversee legislative training forums; establishing  
1.6 a schedule for consideration of legislation; limiting the content of budget bills; specifying  
1.7 conference committee procedures; appropriating money for expenses of a governor-elect,  
1.8 and for 2007 legislative forums; proposing coding for new law in Minnesota Statutes,  
1.8 chapters 3; 4.

1.9 Reports the same back with the recommendation that the bill be amended as follows:

1.10 Page 1, line 14, after "including" insert "executive or" and delete "or executive"

1.11 And when so amended the bill do pass and be re-referred to the Committee on Rules  
1.12 and Administration. Amendments adopted. Report adopted.

1.13 .....  
1.14 (Committee Chair)

1.15 March 27, 2006 .....  
1.16 (Date of Committee recommendation)

Senators Kiscaden, Michel, Rest, Higgins and Frederickson introduced—  
S.F. No. 3403: Referred to the Committee on State and Local Government Operations.

A bill for an act  
relating to state government; requiring the Legislative Coordinating Commission  
to oversee legislative training forums; appropriating money for 2007 legislative  
forums; proposing coding for new law in Minnesota Statutes, chapter 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. [3.051] LEGISLATIVE TRAINING FORUMS.

(a) The Legislative Coordinating Commission shall oversee two legislative training  
forums each year. The commission shall:

(1) create an annual gathering of legislators to be held within the first two weeks of  
January each year, and one other legislative training forum each February;

(2) select speakers, including nonpartisan legislative or executive staff, who  
will provide an oversight of the issues affecting Minnesota, including demographic,  
environmental, sociological, and economic perspectives on Minnesota, background on  
key policy issues the legislature is expected to address that year, and training to improve  
legislative skills in running effective meetings and other issues;

(3) invite current executive branch officials in order to provide opportunities for  
legislators and invited executive branch officials to interact and work to form cooperative  
solutions to Minnesota issues, problems, and challenges.

(b) The joint rules of the house of representatives and senate must prohibit any  
official gathering of legislators that might conflict with the legislative forums provided  
for in this section.

(c) The Legislative Coordinating Commission may select a partner or partners from  
Minnesota's institutions of higher education and nonprofit communities, and if such a  
choice is made, must give all interested institutions an opportunity to submit a proposal to

2.1 run the training, schedule activities, and create meeting agendas. The commission may  
2.2 accept donations from foundations, corporations, and individuals to defray costs of the  
2.3 forums, and shall publish those donations on the legislature's Web site. No registered  
2.4 lobbyist or principal shall contribute for this purpose. Donations received are appropriated  
2.5 to the Legislative Coordinating Commission for purposes of this section.

2.6 Sec. 2. APPROPRIATION.

2.7 \$30,000 is appropriated from the general fund to the Legislative Coordinating  
2.8 Commission in fiscal year 2007 for the legislative forums in January and February of 2007.

# COMMITTEE REPORT - WITH AMENDMENTS

Committee on State and Local Gov ops

S .F. No. 3403

- Resolution
- Re-referred (from another committee)

**Amendments:**

pg 1, delete lines 1.19- 1.21  
 pg 1, line 11 ~~delete~~ after including insert,  
 "executive or" & delete "or executive"

**Committee recommendation:**

- And when so amended the bill do pass.
- And when so amended the bill do pass and be placed on the Consent Calendar.
- And when so amended the bill do pass and be re-referred to the Committee on Finance

**No recommendation:** And when so amended the bill be  
 (re-referred to the Committee on \_\_\_\_\_)  
 OR  (reported to the Senate).

\_\_\_\_\_ (date of committee recommendation)



1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was referred**

1.3 **S.F. No. 3403:** A bill for an act relating to state government; requiring the  
1.4 Legislative Coordinating Commission to oversee legislative training forums; appropriating  
1.5 money for 2007 legislative forums; proposing coding for new law in Minnesota Statutes,  
1.6 chapter 3.

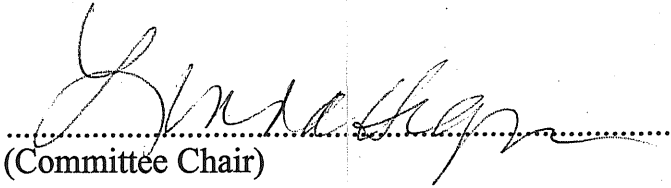
1.7 Reports the same back with the recommendation that the bill be amended as follows:

1.8 Page 1, line 11, after "including" insert "executive or" and delete "or executive"

1.9 Page 1, delete lines 19 to 21

1.10 Page 1, line 22, delete "(c)" and insert "(b)"

1.11 And when so amended the bill do pass and be re-referred to the Committee on  
1.12 Finance. Amendments adopted. Report adopted.

1.13   
.....  
(Committee Chair)

1.15 March 27, 2006 .....  
1.16 (Date of Committee recommendation)

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# Senate

State of Minnesota

## **S.F. No. 979 - Healthy Minnesotans Biomonitoring Program**

**Author:** Senator Becky Lourey

**Prepared by:** Katie Cavanor, Senate Counsel (651/296-3801)

**Date:** March 22, 2006

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**S.F. No. 979** establishes the healthy Minnesotans biomonitoring program to provide voluntary and confidential community-based monitoring to identify toxic chemicals that may be present in the environment.

**Section 1 (144.995)** creates the healthy biomonitoring program.

**Subdivision 1** states that this act may be cited as the healthy Minnesotans biomonitoring program.

**Subdivision 2** defines the following terms: "biomonitoring," "biospecimen," "commissioner," "panel," and "toxic chemical."

**Subdivision 3, paragraph (a)**, requires the Commissioner of Health to establish the healthy biomonitoring program. States that the program shall provide community-based biomonitoring on a voluntary and confidential basis by utilizing biospecimens to identify toxic chemicals in the environment.

**Paragraph (b)** states that initially the program shall examine breast milk in three economically, racially, and geographically diverse communities and identify any toxic chemical that is present in the breast milk. The commissioner shall expand the program by examining other biospecimens in additional communities as funds become available.

**Paragraph (c)** states that when a toxic chemical is detected in a participant, the commissioner, in consultation with the Commissioners of Agriculture, Natural Resources,

and the Pollution Control Agency, and other entities, must examine the possible presence of the toxic chemical in the surrounding environment and possible routes of exposure, and must develop recommendations to reduce or minimize possible contamination or exposure to the toxic chemical.

**Subdivision 4, paragraph (a)**, states that participation in the program is voluntary. Participants shall be evaluated for the presence of toxic chemicals. Participants will also receive consultation, health care referrals, follow-up counseling, and offered educational materials.

**Paragraph (b)** states that the individual results of the participants are confidential and are not to be made public without the written and informed consent of the individual.

**Subdivision 5, paragraph (a)**, requires the commissioner to develop:

- (1) model protocols or guidelines that address the science and practice of biomonitoring to be utilized;
- (2) guidelines for ensuring confidentiality, informed consent, follow-up counseling and support, and communicating findings;
- (3) educational and outreach materials for dissemination to participants and communities;
- (4) a training program for health care providers, educators, and other program administrators; and
- (5) a designation process for state and private laboratories that are qualified to analyze biospecimens and report findings.

**Paragraph (b)** authorizes the commissioner to enter into contractual agreements with health clinics, community-based organizations, or experts to perform any of the activities described under this subdivision.

**Section 2 (144.996)** establishes a healthy Minnesotans biomonitoring program advisory panel.

**Subdivision 1** creates the advisory panel consisting of two committees, the scientific committee and the community representative committee.

**Subdivision 2** describes the membership of each of the committees.

**Subdivision 3** describes the duties of each committee.

**Subdivision 4** creates immunity for members of the panel.

**Section 3** establishes the toxic chemicals that are to be included within the scope of the program.

**Subdivision 1** requires the commissioner to identify and list the toxic chemicals that are to be included. States that to be included on the list, the following criteria must be met:

- (1) the chemical must be recommended for inclusion by the scientific committee;
- (2) the scientific, peer-reviewed data from studies have demonstrated the chemical is known or strongly suspected to negatively impact human health by contributing to an increase in serious illness or mortality;
- (3) Minnesotans are exposed to the chemical; and
- (4) the chemical is listed as a toxic chemical on either a state or federal list.

**Subdivision 2** requires the commissioner to prioritize the toxic chemicals according to the threat the chemical poses to public health. The commissioner shall initially implement the biomonitoring activities with regard to the top 20 toxic chemicals that present the greatest public health risk and add additional chemicals in order of priority to the extent funds are available.

**Section 4 (144.998)** creates a healthy Minnesotans biomonitoring program account in the state government special revenue fund and states that all funds appropriated are to be deposited in this account. The commissioner is required to seek funding from federal and private sources.

**Section 5 (144.999)** requires the commissioner to submit a report to the Legislature by January 15, 2008, summarizing the initial activities of the program. Thereafter, the commissioner is required to submit biennial reports describing the effectiveness of the program. The report shall be made available to local public health departments and the general public in a summary format. The report shall be available through the Department's Web site.

KC:ph

1.1 A bill for an act  
 1.3 relating to health; establishing a healthy biomonitoring program; requiring  
 1.4 reports; appropriating money; proposing coding for new law in Minnesota  
 Statutes, chapter 144.

1.5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.6 Section 1. [144.995] HEALTHY MINNESOTANS BIOMONITORING  
 1.7 PROGRAM.

1.8 Subdivision 1. Citation. Sections 144.995 to 144.999 may be cited as the healthy  
 1.9 Minnesotans biomonitoring program.

1.10 Subd. 2. Definitions. (a) For purposes of sections 144.995 to 144.999, the following  
 1.11 definitions apply.

1.12 (b) "Biomonitoring" means the process by which the presence and concentration  
 1.13 of toxic chemicals and their metabolites are identified within a biospecimen as a means  
 1.14 to assess the accumulation of pollutants in a human body.

1.15 (c) "Biospecimen" means a sample of human blood, hair, urine, breast milk, body  
 1.16 fat, or other body tissue or any other biophysical substance that is reasonably available as  
 1.17 a medium to measure the presence and concentration of toxic chemicals.

1.18 (d) "Commissioner" means the commissioner of health.

1.19 (e) "Panel" means the Healthy Minnesotans Biomonitoring Program Advisory Panel  
 1.20 established under section 144.996.

1.21 (f) "Toxic chemical" means a chemical:

1.22 (1) for which data provided by scientific, peer-reviewed animal, cell, or human  
 1.23 studies have demonstrated the chemical is known or strongly suspected to negatively  
 1.24 impact human health by contributing to an increase in serious illness or mortality; and

2.1 (2) that has been identified according to section 144.997.

2.2 Subd. 3. **Establishment; duties.** (a) The commissioner shall establish the healthy  
2.3 Minnesotans biomonitoring program. The program shall provide community-based  
2.4 biomonitoring on a strictly voluntary and confidential basis by utilizing biospecimens, as  
2.5 appropriate, to identify toxic chemicals that may be present in the environment.

2.6 (b) Initially, to the extent that funds are available, the program shall examine breast  
2.7 milk in three economically, racially, and geographically diverse communities and identify  
2.8 any toxic chemical that is present in the breast milk. The commissioner shall expand  
2.9 the program, to the extent that funds are available, by examining other biospecimens in  
2.10 additional communities.

2.11 (c) When a toxic chemical is detected in a program participant, the commissioner, in  
2.12 consultation with the commissioners of agriculture, natural resources, and the Pollution  
2.13 Control Agency, and other public or private entities, as appropriate, shall examine the  
2.14 possible presence of the toxic chemical in the surrounding environment and possible  
2.15 routes of exposure and disease outcomes and shall develop recommendations to reduce or  
2.16 minimize possible contamination or exposure to the toxic chemical.

2.17 Subd. 4. **Participation.** (a) Participation in the biomonitoring program is voluntary.  
2.18 All participants shall be evaluated for the presence of toxic chemicals as a component of  
2.19 the biomonitoring process. Participants shall receive consultation, health care referrals,  
2.20 and follow-up counseling and shall be offered educational materials, including, but not  
2.21 limited to, information regarding possible routes of exposure, ways to reduce exposure,  
2.22 and the availability of state and local resources.

2.23 (b) Data collected under the biomonitoring program are health data for purposes of  
2.24 section 13.3805 and shall not be made public without the written and informed consent of  
2.25 the individual to whom it pertains.

2.26 Subd. 5. **Program guidelines.** (a) The commissioner, in consultation with the  
2.27 panel, shall develop:

2.28 (1) model protocols or program guidelines that address the science and practice of  
2.29 biomonitoring to be utilized and procedures for changing those protocols to incorporate  
2.30 new and more accurate or efficient technologies as they become available. The model  
2.31 protocols shall be developed utilizing a peer review process in a manner that is  
2.32 participatory and community-based in design, implementation, and evaluation;

2.33 (2) guidelines for ensuring confidentiality; informed consent; follow-up counseling  
2.34 and support; and communicating findings to participants, communities, and the general  
2.35 public;



3.1 (3) educational and outreach materials that are culturally appropriate for  
 3.2 dissemination to program participants and communities. Priority shall be given to the  
 3.3 development of materials specifically designed to ensure that parents are informed about  
 3.4 all of the benefits of breastfeeding so that the program does not result in an unjustified fear  
 3.5 of toxins in breast milk, which might inadvertently lead parents to avoid breastfeeding.  
 3.6 The materials shall communicate relevant scientific findings; data on the accumulation of  
 3.7 pollutants; possible routes of exposure; population-based health effects and toxicity; the  
 3.8 benefits of linking the accumulation of pollutants to community health; and the required  
 3.9 responses by local, state, and other governmental entities in regulating toxicant exposures;

3.10 (4) a training program that is culturally sensitive specifically for health care  
 3.11 providers, health educators, and other program administrators; and

3.12 (5) a designation process for state and private laboratories that are qualified to  
 3.13 analyze biospecimens and report the findings.

3.14 (b) The commissioner may enter into contractual agreements with health clinics,  
 3.15 community-based organizations, or experts in a particular field to perform any of the  
 3.16 activities described under this subdivision.

3.17 **Sec. 2. [144.996] HEALTHY MINNESOTANS BIOMONITORING PROGRAM**  
 3.18 **ADVISORY PANEL.**

3.19 Subdivision 1. **Creation.** (a) The commissioner shall establish the Healthy  
 3.20 Minnesotans Biomonitoring Program Advisory Panel. The panel shall be composed of  
 3.21 two committees, the scientific committee and the community representative committee,  
 3.22 with a membership of eight voting members on each committee. The community  
 3.23 representative committee shall also include nonvoting members appointed according  
 3.24 to subdivision 2, paragraph (d).

3.25 (b) The commissioner shall appoint, from the panel's membership, the chair of each  
 3.26 of the committees, who shall also serve as cochairs of the panel.

3.27 (c) The panel shall meet as often as it deems necessary but at a minimum on a  
 3.28 quarterly basis.

3.29 (d) Members of the panel and the committees shall serve without compensation but  
 3.30 shall be reimbursed for travel and other necessary expenses incurred through performance  
 3.31 of their duties under sections 144.995 to 144.997.

3.32 Subd. 2. **Membership.** (a) Eight of the voting members shall be appointed by  
 3.33 the commissioner, four of the voting members shall be appointed under the rules of the  
 3.34 senate, and four of the voting members shall be appointed under the rules of the house of  
 3.35 representatives. Nonvoting members shall be appointed by the commissioner according

4.1 to paragraph (d). All members shall be appointed to the panel by July 1, 2006. Each  
4.2 voting member shall be appointed for a three-year term. All appointments made by the  
4.3 commissioner shall be approved by the governor.

4.4 (b) The scientific committee shall be composed of eight members with background  
4.5 or training in interpreting biomonitoring studies or in related fields or science, including,  
4.6 but not limited to, the fields of health tracking, social science, laboratory science,  
4.7 occupational health, industrial hygiene, toxicology, epidemiology, environmental health,  
4.8 environmental hazards, and public health.

4.9 (c) The community representative committee shall be composed of eight members  
4.10 from the following nongovernmental organizations:

- 4.11 (1) one member from a breast cancer awareness organization;  
4.12 (2) one member from an organization with a focus on environmental health;  
4.13 (3) one member from an organization with a focus on environmental justice;  
4.14 (4) one member from an organization with a focus on child environmental health;  
4.15 (5) one member from an organization promoting breastfeeding;  
4.16 (6) one member from a labor organization;  
4.17 (7) one member from private industry with a verifiable and consistent commitment  
4.18 to sustainable core business practices that reduce environmental toxins; and  
4.19 (8) one member from a public health organization.

4.20 (d) The commissioner shall appoint the following additional nonvoting members to  
4.21 the community representative committee:

- 4.22 (1) one representative from the Maternal and Child Health Division of the  
4.23 Department of Health; and  
4.24 (2) one member from each participating community.

4.25 Members appointed under this paragraph may be reappointed at any time and are not  
4.26 subject to the three-year term.

4.27 Subd. 3. Committee duties. (a) The scientific committee shall make  
4.28 recommendations to the panel on:

- 4.29 (1) chemicals that should be added to or deleted from the list of chemicals identified  
4.30 under section 144.997;  
4.31 (2) priorities for biomonitoring in Minnesota;  
4.32 (3) the adequacy and appropriate interpretation of biomonitoring investigations  
4.33 carried out under the program; and  
4.34 (4) collecting and analyzing data, including the tracking of diseases for which there  
4.35 is scientific evidence of an environmental etiology.

- 5.1 (b) The community representative committee shall make recommendations to the  
 5.2 panel on:
- 5.4 (1) study sites or communities for the program;
  - 5.5 (2) identifying possible community partners;
  - 5.6 (3) training programs and educational and outreach materials; and
  - 5.7 (4) dissemination of findings to biomonitoring program participants and to the  
general public.

5.8 **Sec. 3. [144.997] TOXIC CHEMICALS.**

5.9 Subdivision 1. Identification. The commissioner shall identify and list toxic  
 5.10 chemicals that shall be included within the scope of the healthy Minnesotans biomonitoring  
 5.11 program. To be included on the list, all of the following criteria must be met:

- 5.12 (1) the chemical is recommended for inclusion by the scientific committee under  
 5.13 section 144.996;
- 5.14 (2) the scientific, peer-reviewed data from animal, cell, or human studies have  
 5.15 demonstrated the chemical is known or strongly suspected to negatively impact human  
 5.16 health by contributing to an increase in serious illness or mortality;
- 5.17 (3) Minnesotans are exposed to the chemical; and
- 5.18 (4) the chemical is listed as a toxic chemical on either a state or federal list.

5.19 Subd. 2. Implementation. (a) The commissioner shall prioritize the toxic chemicals  
 5.20 under subdivision 1 according to the threat the chemicals pose to public health.

5.21 (b) The commissioner shall initially implement the biomonitoring activities of the  
 5.22 program with regard to the 20 toxic chemicals that present the greatest public health risk.

5.23 (c) The commissioner shall add additional chemicals in order of priority to the  
 5.24 extent funds are available.

5.25 **Sec. 4. [144.998] BIOMONITORING FISCAL PROVISIONS.**

5.26 Subdivision 1. Creation of account. A healthy Minnesotans biomonitoring program  
 5.27 account is established in the state government special revenue fund. The account consists  
 5.28 of money appropriated by the legislature and any other funds identified for use by the  
 5.29 healthy Minnesotans biomonitoring program. All interest earned on money deposited into  
 5.30 the account shall be retained in the account. Money in the account is appropriated to the  
 5.31 commissioner for the purpose of implementing the healthy Minnesotan biomonitoring  
 5.32 program.

5.34 Subd. 2. Other funding. The commissioner shall seek funding from federal and  
private sources.

6.1       Sec. 5. [144.999] BIOMONITORING REPORTS.

6.2             (a) By January 15, 2008, the commissioner shall submit a report to the legislature  
6.3 summarizing the initial activities of the healthy Minnesotans biomonitoring program,  
6.4 including a program description, the methodology used, and the initial outcomes.

6.5             (b) Thereafter, the commissioner shall prepare a biennial report describing the  
6.6 effectiveness of the program, including analysis of the health and environmental exposure  
6.7 data collected to adequately monitor the activities under section 144.995. The report shall  
6.8 be made available to local public health departments and the general public in a summary  
6.9 format that protects the confidentiality of program participants. The commissioner shall  
6.10 disseminate the report via the Department of Health's Web site.

# COMMITTEE REPORT - NO AMENDMENTS

Committee on State & Local Gov ops

9 . F. No. 979

Resolution

Re-referred (from another committee)

**Committee recommendation:**

do pass.

do pass and be placed on the Consent Calendar.

do pass and be re-referred to the Committee on

Health

**No recommendation:**

(be re-referred to the Committee on Finance Health Budget )

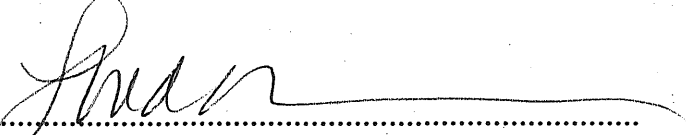
OR  (be reported to the Senate) .

\_\_\_\_\_ (date of committee recommendation)

1.1 **Senator Higgins from the Committee on State and Local Government**  
1.2 **Operations, to which was re-referred**

1.5 **S.F. No. 979:** A bill for an act relating to health; establishing a healthy  
biomonitoring program; requiring reports; appropriating money; proposing coding for  
new law in Minnesota Statutes, chapter 144.

1.6 Reports the same back with the recommendation that the bill be re-referred to the  
1.7 Committee on Finance without recommendation. Report adopted.

1.8   
1.9 .....  
(Committee Chair)

1.10 March 27, 2006 .....  
1.11 (Date of Committee recommendation)