

## STATE OF MINNESOTA

## SEVENTY-SECOND SESSION - 1981

## FIFTY-SIXTH DAY

SAINT PAUL, MINNESOTA, SATURDAY, MAY 16, 1981

The House of Representatives convened at 11:00 a.m. and was called to order by Harry A. Sieben, Jr., Speaker of the House.

Prayer was offered by Pastor Hans Rognstad, Norwegian Memorial Church, Minneapolis, Minnesota.

The roll was called and the following members were present:

Aasness	Esau	Kalis	Nysether	Sherman
Ainley	Evans	Kelly	O'Connor	Sherwood
Anderson, B.	Ewald	Knickerbocker	Ogren	Sieben, M.
Anderson, G.	Fjoslien	Kostohryz	Olsen	Simoneau
Anderson, I.	Forsythe	Kvam	Onnen	Skoglund
Anderson, R.	Friedrich	Laidig	Osthoff	Stadum
Battaglia	Greenfield	Lehto	Otis	Staten
Begich	Gruenes	Lemen	Peterson, B.	Stowell
Berkelman	Gustafson	Levi	Peterson, D.	Stumpf
Blatz	Halberg	Long	Piepho	Sviggun
Brandl	Hanson	Ludeman	Pogemiller	Swanson
Brinkman	Harens	Luknic	Redalen	Tomlinson
Byrne	Hauge	Mann	Reding	Valan
Carlson, D.	Haukoos	Marsh	Rees	Valento
Carlson, L.	Heap	McCarron	Reif	Vanasek
Clark, J.	Heinitz	McDonald	Rice	Vellenga
Clark, K.	Himle	McEachern	Rodriguez, C.	Voss
Clawson	Hoberg	Mehrkens	Rodriguez, F.	Weaver
Dahlvang	Hokanson	Metzen	Rose	Welch
Dean	Hokr	Minne	Rothenberg	Welker
Dempsey	Jacobs	Munger	Samuelson	Wenzel
Den Ouden	Jennings	Murphy	Sarna	Wieser
Drew	Johnson, C.	Nelsen, B.	Schafer	Wigley
Eken	Johnson, D.	Nelson, K.	Schoenfeld	Wynia
Elioff	Jude	Niehaus	Schreiber	Zubay
Ellingson	Kahn	Norton	Searles	Spkr. Sieben, H.
Erickson	Kaley	Novak	Shea	

A quorum was present.

The Chief Clerk proceeded to read the Journal of the preceding day. Clawson moved that further reading of the Journal be dispensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

## REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 546 and 802 and S. F. No. 140 have been placed in the members' files.

S. F. No. 140 and H. F. No. 1305, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

## SUSPENSION OF RULES

Munger moved that the rules be so far suspended that S. F. No. 140 be substituted for H. F. No. 1305 and that the House File be indefinitely postponed. The motion prevailed.

## SECOND READING OF SENATE BILLS

S. F. No. 140 was read for the second time.

INTRODUCTION AND FIRST READING  
OF HOUSE BILLS

The following House Files were introduced:

Pogemiller, Norton, Rose, Lehto and Greenfield introduced:

H. F. No. 1508, A bill for an act relating to occupations and professions; providing for the licensing of burglar alarm contractors; requiring the commissioner of public safety to promulgate rules establishing performance and maintenance standards for burglar alarms; prescribing penalties; appropriating money; amending Minnesota Statutes 1980, Section 326.338, Subdivision 3; proposing new law coded in Minnesota Statutes, Chapter 326.

The bill was read for the first time and referred to the Committee on Governmental Operations.

Reif and Carlson, D., introduced:

H. F. No. 1509, A bill for an act relating to agriculture; prohibiting the trafficking in skunks; setting a penalty; proposing new law coded in Minnesota Statutes, Chapter 145.

The bill was read for the first time and referred to the Committee on Agriculture.

Sarna; Sieben, H.; Anderson, R.; Evans and Anderson, I., introduced:

H. F. No. 1510, A bill for an act relating to outdoor recreation; creating the citizen's advisory sportsmen's council on Minnesota's outdoor recreational resources; prescribing its powers and duties; providing for a surcharge on fish and game licenses to fund the council; appropriating money; repealing Minnesota Statutes 1980, Section 86A.10.

The bill was read for the first time and referred to the Committee on Commerce and Economic Development.

Ludeman introduced:

H. F. No. 1511, A bill for an act relating to public employment labor relations; extending the trade union democracy act to public employee organizations; clarifying the definition of "employer"; providing supervisory and confidential employees, principals, and assistant principals with meet and confer rights rather than collective bargaining rights; authorizing bargaining over union security arrangements and grievance procedures; limiting mandatory arbitration to situations in which a strike threatens public health, welfare, or safety; modifying bargaining unit requirements; clarifying situations where area bargaining is authorized; removing the fee limitation for contract arbitrators; requiring written opinions from contract arbitrators and publication thereof; extending final offer arbitration where provided; removing certain political disabilities of mediators and public employees; amending Minnesota Statutes 1980, Sections 179.18; 179.19; 179.20; 179.21; 179.23; 179.24; 176.63, Subdivisions 4, 7, 9, and 18; 179.64, Subdivision 1; 179.65, Subdivisions 2, 3, 6, and by adding a subdivision; 179.66, Subdivision 4; 179.68, Subdivision 2; 179.69, Subdivisions 1, 3, and 3a; 179.70, Subdivision 1; 179.71, Subdivisions 2, 3, 4, and 5; 179.72, Subdivisions 3, 5, 6, 7b, 9, and 10; 179.73, Subdivisions 1 and 2; 179.74, Subdivision 4; 179.741, Subdivisions 1, 2, 3, and 4; 204A.18, Subdivision 3; 471.705, by adding a subdivision; Laws 1979, Chapter 332, Article I, Section 116, as amended; and proposing new law coded in Minnesota Statutes, Chapter 179; repealing Minnesota Statutes 1980, Sections 179.03; 179.22; 179.63, Subdivisions 9a, 11, and 19; 179.742; 179.743; and 179.76.

The bill was read for the first time and referred to the Committee on Labor-Management Relations.

Osthoff, Wynia, Reif, Berkelman and Peterson, D., introduced:

H. F. No. 1512, A bill for an act relating to health; directing the commissioner of health to establish certain regional screening programs related to the use of diethylstilbestrol; proposing new law coded in Minnesota Statutes, Chapter 145.

The bill was read for the first time and referred to the Committee on Health and Welfare.

Peterson, B.; Himle; Peterson, D.; Hokr and Clark, K., introduced:

H. F. No. 1513, A bill for an act relating to housing; increasing per diem compensation for attendance of commissioners at meetings of certain housing authorities; amending Minnesota Statutes 1980, Section 462.441.

The bill was read for the first time and referred to the Committee on General Legislation and Veterans Affairs.

Peterson, B.; Munger; Ludeman; Vanasek and Lemen introduced:

H. F. No. 1514, A bill for an act relating to publicly owned lands; directing the commissioner of natural resources to take certain actions and make recommendations intended to stabilize the acreage of publicly owned lands within the state; amending Minnesota Statutes 1980, Section 84.027, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Johnson, C., and Zubay introduced:

H. F. No. 1515, A bill for an act relating to education; establishing area task forces and a statewide council on the condition and future of post-secondary education; providing for a long range comprehensive planning process; requiring institutional, area, and statewide reports; appropriating money; proposing new law coded in Minnesota Statutes, Chapter 136A.

The bill was read for the first time and referred to the Committee on Education.

Onnen introduced:

H. F. No. 1516, A bill for an act relating to marriage; providing for nonceremonial marriage; amending Minnesota Statutes 1980, Section 517.01.

The bill was read for the first time and referred to the Committee on Judiciary.

Stumpf, Eken, Nysether and Munger introduced:

H. F. No. 1517, A bill for an act relating to natural resources; changing and clarifying administrative provisions regarding watershed districts; increasing per diem for district managers; stating procedures for adopting rules by managers; requiring revision of certain plans every ten years; allowing cash bonds; permitting use of a map to show an assessment area; clarifying emergency procedures; amending Minnesota Statutes 1980, Sections 105.71, Subdivision 1a, and by adding subdivisions; 106.271; 106.471, Subdivision 1; 112.35, Subdivision 19, and by adding a subdivision; 112.37, Subdivision 1; 112.39, Subdivision 1; 112.42, Subdivisions 5 and 6; 112.43, Subdivisions 1, 3, and by adding a subdivision; 112.46; 112.47; 112.48, Subdivisions 1, 2, and 4; 112.49, Subdivisions 1 and 7; 112.58; 112.61, Subdivision 3; 112.62, Subdivision 1; 112.64; 112.65, Subdivision 2; and 112.801, Subdivision 8.

The bill was read for the first time and referred to the Committee on Environment and Natural Resources.

Kelly, Long, Lemen, Gustafson and Vanasek introduced:

H. F. No. 1518, A bill for an act relating to crimes; elevating the positions of certain substances in the Schedules of Controlled Substances; increasing penalties for prohibited acts relating to certain controlled substances; amending Minnesota Statutes 1980, Sections 152.02, Subdivisions 2 and 3; 152.12, Subdivision 2; and 152.15, Subdivisions 1, 2 and 4.

The bill was read for the first time and referred to the Committee on Criminal Justice.

Harens introduced:

H. F. No. 1519, A bill for an act relating to elections; proposing an amendment to the Minnesota Constitution, Article IV, Section 4; changing the terms of legislators and permitting petitions for elections; providing for implementation of petitions for elections; proposing new law coded as Minnesota Statutes, Chapter 3C.

The bill was read for the first time and referred to the Committee on Reapportionment and Elections.

## HOUSE ADVISORIES

The following House Advisories were introduced:

Peterson, D.; Rees; Osthoff; Stumpf and Kostohryz introduced:

H. A. No. 38, A proposal to study current laws relating to the manufactured housing industry.

The advisory was referred to the Committee on General Legislation and Veterans Affairs.

Harens and Sviggum introduced:

H. A. No. 39, A proposal for general legislation on mobile home shelters.

The advisory was referred to the Committee on General Legislation and Veterans Affairs.

Wenzel introduced:

H. A. No. 40, A proposal to study natural gas pricing practices.

The advisory was referred to the Committee on Regulated Industries.

Evans; Rice; Murphy; Anderson, R., and Eken introduced:

H. A. No. 41, A proposal to study the sources of high unemployment in west central Minnesota.

The advisory was referred to the Committee on Labor-Management Relations.

Zubay, Kaley, Hokanson, Shea and Sviggum introduced:

H. A. No. 42, A proposal to examine sequence and methodology of state hospital closures.

The advisory was referred to the Committee on Health and Welfare.

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 2, A bill for an act relating to crimes; establishing mandatory minimum terms of imprisonment for use of a dangerous weapon or possession of a firearm; increasing the penalty for intentional and unintentional homicides committed while committing certain felonies; amending Minnesota Statutes 1980, Sections 609.11, Subdivision 1, and by adding subdivisions; 609.135, Subdivision 1; 609.185; 609.19; 609.195; 609.20; repealing Minnesota Statutes 1980, Section 609.11, Subdivision 3.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1421, A bill for an act relating to the organization and operation of state government; appropriating money for education and related purposes, including the department of education, higher education coordinating board, state universities, community colleges, and the university of Minnesota and its hospitals, with certain conditions; amending Minnesota Statutes 1980, Sections 15.38; 123.742, by adding a subdivision; 123.743; 136A.121, Subdivisions 4 and 5; and 144A.61, Subdivision 3; repealing Minnesota Statutes 1980, Section 123.939.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 157, A bill for an act relating to public welfare; providing that every birth to a minor shall be reported within three working days to the commissioner of public welfare; amending Minnesota Statutes 1980, Section 257.33.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 586, A bill for an act relating to crimes; authorizing courts to order certain persons to participate in counseling in domestic abuse cases; creating the crime of intrafamilial sexual abuse; amending Minnesota Statutes 1980, Sections 518B.01, Subdivision 6; 595.02; 609.348; 609.35; 626.556, Subdivision 2; and 629.341, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 609.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 396, A bill for an act relating to the military; requiring the adjutant general to furnish an American flag upon request of the person disposing of the remains of a deceased person who served six years or more in the Minnesota national guard; proposing new law coded in Minnesota Statutes, Chapter 192.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House Files, herewith returned:

H. F. No. 986, A bill for an act relating to financial institutions; savings associations; increasing the loan term of direct reduction loans; providing for the organization, operation, conversion, merger, reorganization, consolidation, and dissolution of mutual and capital stock associations; granting the commissioner certain supervisory powers; providing certain examination and reporting requirements; authorizing the issuance and sale of capital certificates; authorizing the payment of dividends on capital stock; authorizing the issuance of certain accounts to married persons or minors as sole owners thereof; defining



terms; prescribing penalties; amending Minnesota Statutes 1980, Sections 51A.02, Subdivisions 2 and 4, and by adding subdivisions; 51A.03; 51A.04; 51A.07; 51A.08; 51A.09; 51A.10; 51A.11; 51A.12; 51A.13; 51A.15, Subdivision 7; 51A.19, Subdivision 1, and by adding subdivisions; 51A.20; 51A.21, Subdivision 5, and by adding subdivisions; 51A.22; 51A.50; 51A.52; 51A.53; proposing new law coded in Minnesota Statutes, Chapter 51A; repealing Minnesota Statutes 1980, Sections 51A.06, Subdivisions 1 and 2; and 51A.49.

H. F. No. 1160, A bill for an act relating to commerce; exempting certain real estate brokers and salespersons from the licensing requirements for mobile home manufacturers and dealers; setting a penalty; amending Minnesota Statutes 1980, Sections 82.34, Subdivision 7; and 327.55, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 493, A bill for an act relating to energy; authorizing the Minnesota energy agency to administer a program of loans to municipalities for establishing and improving district heating systems; authorizing the issuance of state bonds pursuant to Article XI of the Minnesota constitution; appropriating money; amending Minnesota Statutes 1980, Sections 412.321, Subdivision 1; 412.351; 412.361, Subdivision 3; 429.021, Subdivision 1; and 474.02, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapters 16, 116H, 216B, 465, and 475.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned:

H. F. No. 900, A bill for an act relating to open space and recreation; authorizing the issuance of state bonds and expenditure of the proceeds for the acquisition and betterment of regional recreation open space lands by the metropolitan council and metropolitan area local governmental units and for the acquisition and betterment of state parks, trails, forest, fish and wildlife management, scientific and natural areas, water accesses, wild, scenic and recreational rivers, and canoe and boating routes by the commissioner of natural resources; changing the terms of certain grants administered by the state planning agency; appropriating money; amending Minnesota Statutes 1980, Section

4.36, Subdivision 2; repealing Laws 1979, Chapter 301, Section 6, Subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 353, A bill for an act relating to agriculture; protecting agricultural operations from nuisance suits under certain circumstances; proposing new law coded in Minnesota Statutes, Chapter 561.

PATRICK E. FLAHAVEN, Secretary of the Senate

Schoenfeld moved that the House refuse to concur in the Senate amendments to H. F. No. 353, that the Speaker appoint a Conference Committee of 5 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two Houses. The motion prevailed.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 3, A bill for an act relating to community social services; defining groups of persons for whom counties are responsible; establishing certain funding levels; clarifying sections of the community social services act; amending Minnesota Statutes 1980, Sections 245.64; 245.66; 245.84, Subdivisions 2 and 5; 252.21; 252.24, Subdivisions 1, 3 and 4; 252.27, Subdivisions 1 and 2; 254A.03, Subdivision 1; 254A.05, Subdivision 1; 254A.07, Subdivision 2; 254A.08, Subdivision 1; 256E.03, Subdivision 2; 256E.04, Subdivision 1; 256E.05, Subdivisions 2 and 3; 256E.06, Subdivisions 1, 2, 4, and 5; 256E.07, Subdivision 2; 256E.08, Subdivisions 1, 7 and 9; 256E.09, Subdivisions 1, 3, and by adding a subdivision; 256E.10; and 256E.12, Subdivision 3; repealing Minnesota Statutes 1980, Sections 245.67; 245.68; 245.72; 252.26; 256E.06, Subdivision 11; and 261.27.

PATRICK E. FLAHAVEN, Secretary of the Senate

McCarron moved that the House refuse to concur in the Senate amendments to H. F. No. 3, that the Speaker appoint a Con-

ference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate to confer on the disagreeing votes of the two Houses. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 937, A bill for an act relating to insurance; prohibiting the issuance or renewal of certain health policies or plans which exclude or limit coverage on DES related conditions; proposing new law coded in Minnesota Statutes, Chapter 62A.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Messrs. Petty, Frank and Mrs. Kronebusch.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Wynia moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 937. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 179, A bill for an act relating to economic development; regulating business loans to Indians; amending Minnesota Statutes 1980, Section 362.40, Subdivisions 2, 8, 9, 11, 12, 14, and by adding a subdivision; repealing Minnesota Statutes 1980, Section 362.40, Subdivisions 4, 5, and 10.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Messrs. Chmielewski, Lessard and Belanger.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Ainley moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 179. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 1154, A bill for an act relating to state land; authorizing the conveyance of certain state lands in Pine county to the Amherst H. Wilder Foundation.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Messrs. Chmielewski, Rued and Lessard.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Carlson, D., moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 1154. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 368, A bill for an act relating to housing; requiring municipal housing plans to incorporate policies to minimize displacement and encourage citizen participation; encouraging the use of bond proceeds for housing for persons and families of low income; providing that multifamily housing loans may be used to acquire structures for conversion to cooperative ownership; amending Minnesota Statutes 1980, Sections 462C.03, Subdivisions 1 and 2; and 462C.05, Subdivision 1.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Ms. Berglin, Messrs. Humphrey and Belanger.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Clark, K., moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 368. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 31, A bill for an act relating to transportation; restricting the powers of the commissioner of transportation with respect to a certain trunk highway within the city of St. Paul; proposing new law coded in Minnesota Statutes, Chapter 161.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Messrs. Dieterich, Stumpf and Belanger.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Wynia moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 31. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 769, A bill for an act relating to transportation; establishing a rail bank account; providing for the deposit of money in the rail bank account and specifying the purposes for which it may be expended; limiting the means by which the commissioner may acquire certain abandoned railroad right-of-way; appropriating money; amending Minnesota Statutes 1980, Sections 222.49; 222.50, Subdivision 7; 222.63, Subdivision 2, and by adding a subdivision; and Laws 1980, Chapter 610, Section 1.

The Senate has appointed as such committee Messrs. Penny, Stern and Pillsbury.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1474, A bill for an act relating to public improvements; authorizing the acquisition and betterment of public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state bonds; appropriating money; proposing new law coded in Minnesota Statutes, Chapter 121.

The Senate has appointed as such committee Messrs. Nelson, Penny, Willet, Keefe and Stumpf.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate accedes to the request of the House for the appointment of a Conference Committee on the amendments adopted by the Senate to the following House File:

H. F. No. 1475, A bill for an act relating to public improvements; authorizing the acquisition and betterment of public land and buildings and other public improvements of a capital nature with certain conditions; authorizing issuance of state bonds; appropriating money; amending Minnesota Statutes 1980, Section 116.18, Subdivisions 1 and 4.

The Senate has appointed as such committee Messrs. Luther, Willet, Menning, Purfeerst and Ashbach.

Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 1143, A bill for an act relating to taxation; income; property tax refund; adopting federal income tax limitations on the deduction of interest; authorizing the commissioner to provide a short form income tax return; clarifying the computation of the low income alternative tax; providing for the computation of net operating loss; allowing for disclosures of information between the department of economic security and the commissioner of revenue regarding unemployment compensation; allowing for disclosures of information between the commissioner of revenue and the commissioner of public welfare; allowing the commissioner to obtain information required on returns by court action; allowing the commissioner to designate the places returns may be filed; conforming information return requirements to the federal requirements; requiring certain statements to be furnished to subjects of information returns; providing that payment of taxes of a decedent shall be made by successors in the absence of a personal representative; adopting the federal requirements for withholding and reporting on tips; clarifying the liability of employers in regard to withholding tax returns; conforming information requirements of withholding statements to federal law; allowing notification of an employer by the department that a withholding certificate is invalid; providing for verification of withholding exemptions and appeal by the claimant; allowing certain spouses to file a joint property tax return claim; conforming estimated tax requirements with federal law; altering the computation of the corporate estimated tax; conforming tax exempt provisions with federal law; altering filing requirements for corporations; allowing the commissioner to adjust the computation of federal adjusted gross income in certain circumstances; specifying or increasing interest rates on certain delinquent taxes and penalties; abolishing an election relating to the lump sum distribution tax; providing penalties; providing the computation of basis; providing for the liability of taxes due on a combined return; amending Minnesota Statutes 1980, Sections 10A.31, Subdivision 1; 15.1691, Subdivision 2; 268.12, Subdivision 12; 290.05; 290.06, Subdivision 3d; 290.067, Subdivision 2; 290.09, Subdivision 3; 290.095, Subdivisions 1, 9, and by adding a subdivision; 290.14; 290.37, Subdivision 1; 290.39, Subdivisions 1, 2, and by adding a subdivision; 290.41, Subdivision 2, and by adding subdivisions; 290.42; 290.43; 290.44; 290.46; 290.53, Subdivisions 3 and 3a; 290.61; 290.92, Subdivisions 1, 2a, 7, 15, and by adding subdivisions; 290.93, Subdivisions 1, 3 and 10; 290.931, Subdivision 1; 290.934, Subdivisions 4 and 5; 290A.03, Subdivision 8; 290A.07; 290A.08; 290A.11, Subdivisions 2 and 4; repealing Minnesota Statutes 1980, Section 290.032, Subdivision 4.

PATRICK E. FLAHAVEN, Secretary of the Senate

Wynia moved that the House refuse to concur in the Senate amendments to H. F. No. 1143, that the Speaker appoint a Conference Committee of 3 members of the House, and that the House requests that a like committee be appointed by the Senate

to confer on the disagreeing votes of the two Houses. The motion prevailed.

Mr. Speaker :

I hereby announce the passage by the Senate of the following Senate File, herewith transmitted :

S. F. No. 810.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### FIRST READING OF SENATE BILLS

S. F. No. 810, A bill for an act relating to pollution; authorizing water pollution control fund grants for certain wastewater treatment projects; amending Minnesota Statutes 1980, Section 116.18, Subdivision 1.

The bill was read for the first time and referred to the Committee on Appropriations.

#### ANNOUNCEMENTS BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 1154:

Carlson, D.; Murphy and Lehto.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 353:

Schoenfeld, Jude, Shea, Kalis and Erickson.

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 3:

McCarron, Samuelson and Kaley.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 31:

Hanson, Kelly and Harens.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 937:



Wynia, Swanson and Valan.

The Speaker announced the appointment of the following members of the House to a Conference Committee on S. F. No. 179:

Ainley, Osthoff and Sherwood.

The Speaker announced the appointment of the following members of the House to the Conference Committee on S. F. No. 368:

Clark, K.; Schreiber and Staten.

There being no objection the order of business reverted to Reports of Standing Committees.

### REPORTS OF STANDING COMMITTEES

Anderson, I., from the Committee on Taxes to which was referred:

H. F. No. 301, A bill for an act relating to taxation; income; providing a deduction for certain funeral expenses of a spouse or dependent; amending Minnesota Statutes 1980, Section 290.09, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### *"ARTICLE I*

Section 1. Minnesota Statutes 1980, Section 297.02, Subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, (NINE) 11.5 mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, (18) 23 mills on each such cigarette.

Sec. 2. Minnesota Statutes 1980, Section 297.13, Subdivision 1, is amended to read:

## 297.13 [REVENUE, DISPOSAL.]

Subdivision 1. [CIGARETTE TAX APPORTIONMENT ACCOUNT.] Notwithstanding any other provisions of law, (FIVE AND ONE-HALF) *four and three-tenths* percent of the revenues received from taxes, penalties and interest under sections 297.01 to 297.13 shall be deposited by the commissioner of revenue in the general fund and credited to a special account to be known as the "natural resources account," which is hereby created. Expenditures shall be made from said account only as may be authorized by law to carry out the provisions of this act and in conformance with the provisions of chapter 16. (FIVE AND ONE-HALF) *four and three-tenths* percent shall be deposited in the general fund and credited to the "natural resources acceleration" account for the purposes provided in Laws 1969, Chapter 879, Section 4. The balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner in the general fund and credited to the general fund.

Sec. 3. Minnesota Statutes 1980, Section 297.22, Subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:

(1) On cigarettes weighing not more than three pounds per thousand, (NINE) *11.5* mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, (18) *23* mills on each such cigarette.

Sec. 4. Minnesota Statutes 1980, Section 297.32, Subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of (20) *27* percent of the wholesale sales price of such tobacco products except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.02, subdivision 1, clause (1), subject to the discount provided in section 297.35, subdivision 1. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 5. Minnesota Statutes 1980, Section 297.32, Subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such consumers, at the rate of (20) 27 percent of the cost of such tobacco products, except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.22, subdivision 1, clause (1).

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. Not more than 50 cigars;
2. Not more than 10 oz. snuff or snuff powder;
3. Not more than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 6. Minnesota Statutes 1980, Section 297A.25, Subdivision 1, is amended to read:

Subdivision 1. The following are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44:

(a) The gross receipts from the sale of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, *but does not include the following:*

- (i) *chewing gum and candy products;*
- (ii) *carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and noneffervescent bottled water sold in individual containers of one gallon or more in size;*

(b) The gross receipts from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and pros-

thetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein;

(c) The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing;

(d) The gross receipts from the sale of tangible personal property (i) which, without intermediate use, is shipped or transported outside Minnesota and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); or (ii) which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(e) The gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of which is outside the state to Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(f) The gross receipts from the sale of and storage, use or consumption of petroleum products upon which a tax has been imposed under the provisions of chapter 296, whether or not any part of said tax may be subsequently refunded;

(g) The gross receipts from the sale of clothing and wearing apparel except the following:

(i) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars.

(ii) Articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value,

but only if such value is more than three times the value of the next most valuable component material.

(iii) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this act shall not apply to lotion, oil, powder, or other article intended to be used or applied only in the case of babies.

(iv) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salesmen's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

(h) The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein;

(i) The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property (except as provided in section 297A.14) which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication. For purposes of this subsection, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by Minnesota Statutes 1965, Section 331.02, and any supplements or enclosures with or part of said newspaper; and

the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such news-gathering or publishing activities by them, including the sale of advertising. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt;

(j) The gross receipts from all sales of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities or a state and its agencies, instrumentalities and political subdivisions;

(k) The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale;

(l) The gross receipts from sales of rolling stock and the storage, use or other consumption of such property by railroads, freight line companies, sleeping car companies and express companies taxed on the gross earnings basis in lieu of ad valorem taxes. For purposes of this clause "rolling stock" is defined as the portable or moving apparatus and machinery of any such company which moves on the road, and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars and parts necessary for the repair and maintenance of such rolling stock.

(m) The gross receipts from sales of airflight equipment and the storage, use or other consumption of such property by airline companies taxed under the provisions of sections 270.071 to 270.079. For purposes of this clause, "airflight equipment" includes airplanes and parts necessary for the repair and maintenance of such airflight equipment, and flight simulators.

(n) The gross receipts from the sale of telephone central office telephone equipment used in furnishing intrastate and interstate telephone service to the public.

(o) The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the material of which primarily is added to and becomes a part of the material being processed.

(p) The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious or educational purposes if the property purchased is to be used in the performance of charitable, religious or educational functions, or any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders;

(q) The gross receipts from the sale of caskets and burial vaults;

(r) The gross receipts from the sale of cigarettes.

(s) The gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 United States Code, Section 1901, as amended.

(t) The gross receipts from the sale to the licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654, if the aircraft is resold while the permit is in effect.

(u) The gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 United States Code, Sections 801 to 805, as amended. This exemption shall not be effective at time of sale of the materials to contractors, sub-contractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in Title 38 United States Code, Chapter 21, as amended. The commissioner shall provide by regulation for the refund of taxes paid on sales exempt in accordance with this paragraph.

(v) The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade school to students who are regularly enrolled at such institutions. For purposes of this clause a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a private school is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. Business and trade schools shall mean such schools licensed pursuant to section 141.25.

(w) The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside the state of Minnesota.

(x) The gross receipt from the sale of residential heating fuels in the following manner:

(i) all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

(y) The gross receipts from the sale or use of tickets or admissions to the premises of or events sponsored by an association, corporation or other group of persons which provides an opportunity for citizens of the state to participate in the creation, performance or appreciation of the arts and which qualifies as a tax-exempt organization within the meaning of section 290.05, subdivision 1, clause (i).

(z) The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans, provided that:

(i) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code as amended through December 31, 1978; and

(ii) the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.

Sec. 7. Minnesota Statutes 1980, Section 340.47, Subdivision 1, is amended to read:

Subdivision 1. [ON INTOXICATING LIQUORS.] There shall be levied and collected on all intoxicating liquors manu-



factured, imported, sold or in possession of any person in this state, except as herein provided by sections 340.50 and 340.601, and except the natural fermentation of fruit juices in the home for family use the following excise tax:

(1) On all table wine containing 14 percent or less of alcohol by volume, the sum of (27) 32 cents per gallon;

(2) On all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of (79) 92 cents per gallon;

(3) On all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of (\$1.58) \$1.84 per gallon;

(4) On all wines containing more than 24 percent of alcohol by volume, the sum of (\$3.08) \$3.60 per gallon;

(5) On all natural and artificial sparkling wines containing alcohol, the sum of (\$1.50) \$1.74 per gallon;

(6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of (\$4.39) \$5.10 per gallon, but not including ethyl alcohol; provided, that in computing the tax on any package of spirits a proportional tax at a like rate on all fractional parts of a gallon shall be paid except that all fractional parts of a gallon less than 1/16 shall be taxed at the same rate as shall be taxed for 1/16 of a gallon; provided, however, that the contents of miniatures containing two fluid ounces or less shall be taxed (12) 14 cents.

Sec. 8. Minnesota Statutes 1980, Section 340.47, Subdivision 1a, is amended to read:

Subd. 1a. [METRIC CONTAINERS.] In lieu of the tax imposed by subdivision 1, there shall be levied and collected on all intoxicating liquors manufactured, imported, sold or in possession of any person in this state when packaged in containers where the net contents is stated in metric units of measure, except as herein provided by sections 340.50 and 340.601, and except the natural fermentation of fruit juices in the home for family use the following excise tax:

(1) On all table wine containing 14 percent or less of alcohol by volume, the sum of (SEVEN) *eight* cents per liter;

(2) On all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of (21) 24 cents per liter;

(3) On all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of (42) 49 cents per liter;

(4) On all wines containing more than 24 percent of alcohol by volume, the sum of (81) 94 cents per liter;

(5) On all natural and artificial sparkling wines containing alcohol, the sum of (40) 47 cents per liter;

(6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of (\$1.16) \$1.35 per liter, but not including ethyl alcohol; provided, that in computing the tax on any package of intoxicating liquors where the net contents is stated in metric units of measure, a proportional tax at a like rate on all fractional or multiple parts of a liter shall be paid, provided, however, that the contents of miniatures containing 50 milliliters or less shall be taxed (12) 14 cents.

Sec. 9. Minnesota Statutes 1980, Section 340.47, Subdivision 2, is amended to read:

Subd. 2. [ON FERMENTED MALT BEVERAGES.] An excise tax is hereby assessed, imposed, and levied upon the sale, either directly or indirectly of fermented malt beverages other than for shipment in interstate or foreign commerce. Such tax shall not be imposed or collected upon fermented malt beverages given away by a brewery for consumption only upon the brewery premises, for which no charge of any kind is made or collected; nor shall fermented malt liquors distributed to brewery employees for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. Such tax shall be levied and collected at the rate of (\$2) \$2.32 per barrel of 31 gallons, containing not more than 3.2 percent of alcohol by weight, and a tax of (\$4) \$4.64 per barrel of 31 gallons containing more than 3.2 percent of alcohol by weight, and at a proportional rate for fractional parts thereof. All the receipts from these taxes shall be paid into the general fund by the commissioner of revenue. Any brewer producing and selling within this state fermented malt beverages shall receive a credit of \$2 per barrel on the first 75,000 barrels, regardless of alcohol content.

Sec. 10. [EFFECTIVE DATE.]

*Sections 1 to 5 and 7 to 9 are effective the day following final enactment. Section 6 is effective for sales made after June 30, 1981.*

Delete the title and insert:

"A bill for an act relating to taxation, increasing the rate of the tax on cigarettes, little cigars, tobacco products, and alcoholic beverages, imposing the sales tax on candy and soft drinks; amending Minnesota Statutes 1980, Sections 297.02, Subdivision 1; 297.13, Subdivision 1; 297.22, Subdivision 1; 297.32, Subdivisions 1 and 2; 297A.25, Subdivision 1; 340.47, Subdivisions 1, 11a, and 2."

With the recommendation that when so amended the bill be re-referred to the Committee on Appropriations.

The report was adopted.

Eken moved that the House recess subject to the call of the Chair. The motion prevailed.

#### RECESS

#### RECONVENED

The House reconvened and was called to order by the Speaker.

#### REPORTS OF STANDING COMMITTEES, Continued

Anderson, I., from the Committee on Taxes to which was referred:

H. F. No. 16, A bill for an act relating to taxation; income tax; providing a credit to certain employed students; amending Minnesota Statutes 1980, Section 290.06, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 16A.15, Subdivision 1, is amended to read:

Subdivision 1. [REDUCTION.] In case the commissioner of finance shall discover at any time that the probable receipts from taxes or other sources for any appropriation, fund, or item will be less than was anticipated, and that consequently the amount available for the remainder of the (TERM OF THE APPROPRIATION OR FOR ANY ALLOTMENT PERIOD) *bien-nium* will be less than the amount estimated or allotted therefor, he shall, with the approval of the governor, and after notice to the agency concerned, reduce the amount allotted or to be allotted so as to prevent a deficit. In like manner he shall request reduction of the amount allotted or to be allotted to any agency by the amount of any saving which can be effected upon previous spending plans through a reduction in prices or other cause.

Sec. 2. Minnesota Statutes 1980, Section 16A.15, Subdivision 3, is amended to read:

Subd. 3. [PAYMENT WITHIN ALLOTMENT AND ENCUMBRANCE; EXCEPTIONS.] No payment shall be made without prior obligation. No obligation shall be incurred against any (FUND,) allotment (,) or appropriation unless the commissioner of finance shall first certify that there is a sufficient unencumbered balance in such (FUND,) allotment (,) or appropriation to meet the same. Every expenditure or obligation authorized or incurred in violation of the provisions of this chapter shall be presumed invalid and shall be ineligible for payment until its validity is established as hereinafter provided. Every payment made in violation of the provisions of this chapter shall be deemed illegal, and every official authorizing or making such payment, or taking part therein, and every person receiving such payment, or any part thereof, shall be jointly and severally liable to the state for the full amount so paid or received. If any appointive officer or employee of the state shall knowingly incur any obligation or shall authorize or make any expenditure in violation of the provisions of this chapter or take part therein, it shall be grounds for his removal by the officer appointing him, and, if the appointing officer be other than the governor and shall fail to remove such officer or employee, the governor may exercise such power of removal, after giving notice of the charges and opportunity for hearing thereon to the accused officer or employee and to the officer appointing him. Claims presented against existing appropriations without prior allotment or encumbrance may, upon investigation, review, and approval by the commissioner of finance be determined valid where the services, materials, and supplies for which payment is claimed have been actually rendered or furnished to the state in good faith without collusion and without intent to defraud. Thereafter the commissioner of finance may draw his warrant in payment of such claims in the same manner in which other claims, properly allotted and encumbered prior to inception thereof, are paid.

Subject to approval by the commissioner of finance and pursuant to increases authorized by section 16.07, subdivision 1, the payment amount for materials and supplies may exceed the obligation amount.

Sec. 3. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to the organization and operation of state government; authorizing the commissioner of finance to reduce the allotment to an agency to prevent a deficit during

the biennium; amending Minnesota Statutes 1980, Section 16A.15, Subdivisions 1 and 3."

With the recommendation that when so amended the bill pass.

The report was adopted.

Anderson, I., from the Committee on Taxes to which was referred:

H. F. No. 1263, A bill for an act relating to state government; clarifying fee adjustments and minimum deposits with the state treasurer; facilitating the general fund's receipt of amounts from canceled warrants; modifying provisions relative to the state's issuance of certificates of indebtedness; appropriating money for the payment of certificates, interest thereon and other expenses; authorizing a state property tax under certain conditions; amending Minnesota Statutes 1980, Sections 16A.128 and 16A.275; proposing new law coded in Minnesota Statutes, Chapter 16; repealing Minnesota Statutes 1980, Sections 16A.67; 16A.75 to 16A.754; 268.15, Subdivision 4; 352.04, Subdivision 10; 352B.061; and 354.61.

Reported the same back with the following amendment:

Page 4, line 19, delete "*five*" and insert "*four*"

Amend the title

Page 1, line 12, delete "16" and insert "16A"

With the recommendation that when so amended the bill pass.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 16 and 1263 were read for the second time.

## MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1434, A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and for other agencies with certain conditions; amending Minnesota Statutes 1980, Sections 12.14; 43.491, Subdivision 2; 46.131, Subdivision 3; 161.242, Subdivision 4; 169.451; 173.25; 174.255, by adding a subdivision; 216B.62, Subdivision 3, and by adding a subdivision; 237.295,

Subdivision 2, and by adding a subdivision; 239.10; 239.52; 326.241, Subdivision 3; 326.244, Subdivision 2; 340.11, Subdivision 14; 340.113, Subdivision 2; 340.119, Subdivision 3; 340.-402; 340.493, Subdivision 2; 340.62; 360.021, Subdivisions 1 and 2; 360.305, by adding subdivisions; 388.14; 388.19, Subdivision 1; and 414.051; proposing new law coded in Minnesota Statutes, Chapter 138.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1443, A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government with certain conditions; providing for the transfer of certain moneys in the state treasury; authorizing land acquisition in certain cases; fixing and limiting the amount of fees to be collected in certain cases; amending Minnesota Statutes 1980, Sections 3.005, Subdivision 3; 3.304, by adding a subdivision; 4.16, by adding subdivisions; 5.08, Subdivision 2; 9.061, Subdivision 5; 11A.20, Subdivision 3; 16A.123; 17.59, by adding a subdivision; 17A.04, Subdivision 5; 17B.15, Subdivision 1; 18.51, Subdivision 2; 18.52, Subdivision 5; 18.54, Subdivision 1; 19.19, Subdivisions 1 and 2; 19.20, Subdivision 4; 27.041, Subdivision 2; 28A.08; 32.075; 32.59; 43.46, Subdivisions 2 and 3; 85.05, Subdivisions 1 and 2; 85.22, Subdivision 2a; 97.49, Subdivision 1; 98.46, Subdivisions 2, 2a, 3, 4, 5, 5a, 6, 7, 8, 9, 9a, 10, 11, 12, 14, 15, 16, 17, 18, 19 and by adding a subdivision; 98.47, Subdivision 1; 98.50, Subdivision 5; 99.28, Subdivision 5; 100.273, Subdivision 7; 100.35, Subdivisions 1 and 5; 101.44; 116C.69, Subdivisions 2 and 2a; 139.16; 139.17; 139.18; 139.19; 176.131, Subdivision 10; 176.183, Subdivision 2; 179.71, Subdivision 2; 179.72, Subdivision 3; 223.03; 223.12, Subdivision 1; 231.16; 232.02, Subdivisions 1, 2, and 3; 233.08; 270.66; 271.02; 284.28, Subdivision 8; 290.431; 299A.03, Subdivisions 1, 8 and 13; 322A.16; 322A.71; 352F.04; 354.43, Subdivision 3; 362.10; 362.12, Subdivisions 1a and 2; 362.121; 362.125; 362.13; 480.0595; 546.27; 638.08; and 648.39; Laws 1976, Chapter 337, Section 1, Subdivisions 2, as amended, 3, and 4, as amended; Laws 1978, Chapter 510, Sections 2 and 5; proposing new law coded in Minnesota Statutes, Chapters 85; 116H; 270; 299A; and 362; repealing Minnesota Statutes 1980, Sections 7.07; 16A.75; 16A.751; 16A.752; 16A.753; 16A.754; 168B.11; 299A.03, Subdivisions 1, 2, 3, 5, 6, 7, 9, 10, 11 and 14; 362.07; 362.08; 362.09; 362.11; 362.12, Subdivisions 3 and 4;

362.23; 362.45, Subdivision 2; 363.073, Subdivisions 1 and 2; 473.56, Subdivision 15; 648.45; 648.46; Laws 1976, Chapter 337, Section 4, as amended; and Laws 1978, Chapter 510, Section 10.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1190, A bill for an act relating to counties; providing that the compensation of members of the St. Louis county board of commissioners be set pursuant to general law; providing for a seven-member board of commissioners in certain counties; amending Minnesota Statutes 1980, Section 375.055, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 375; repealing Laws 1965, Chapter 843.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 515, A bill for an act relating to coroners; eliminating the requirement of filing a certificate of no inquest; amending Minnesota Statutes 1980, Section 390.17.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Reif moved that the House concur in the Senate amendments to H. F. No. 515 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 515, A bill for an act relating to judicial proceedings; eliminating the requirement of filing a certificate of no inquest; prescribing the duties of court referees; continuing

and abolishing certain referee positions; amending Minnesota Statutes 1980, Sections 260.031, Subdivision 1; 390.17; 484.70, Subdivision 1 and by adding subdivisions; and 525.10; repealing Minnesota Statutes 1980, Sections 484.67; and 484.70, Subdivisions 2, 3, 4 and 5.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Ainley	Ewald	Knickerbocker	O'Connor	Simoneau
Anderson, B.	Fjoslien	Kostohryz	Ogren	Skoglund
Anderson, G.	Forsythe	Kvam	Osthoff	Stadum
Anderson, I.	Friedrich	Laidig	Otis	Staben
Anderson, R.	Greenfield	Lehto	Peterson, D.	Stowell
Battaglia	Gruenes	Lemen	Piepho	Stumpf
Begich	Gustafson	Levi	Pogemiller	Sviggun
Berkelman	Halberg	Long	Redalen	Swanson
Blatz	Hanson	Ludeman	Reding	Tomlinson
Brandl	Harens	Luknic	Rees	Valan
Byrne	Hauge	Mann	Reif	Valento
Carlson, D.	Haukoos	Marsh	Rice	Vanasek
Carlson, L.	Heap	McCarron	Rodriguez, C.	Vellenga
Clark, J.	Heinitz	McDonald	Rodriguez, F.	Voss
Clark, K.	Himle	McEachern	Rose	Weaver
Clawson	Hokanson	Mehrkens	Rothenberg	Welch
Dahlvang	Hokr	Metzen	Samuelson	Welker
Dempsey	Jacobs	Minne	Sarna	Wenzel
Den Ouden	Jennings	Munger	Schafer	Wieser
Drew	Johnson, C.	Murphy	Schoenfeld	Wigley
Eken	Johnson, D.	Nelsen, B.	Schreiber	Wynia
Elioff	Jude	Nelson, K.	Searles	Zubay
Ellingson	Kahn	Niehaus	Shea	Spkr. Sieben, H.
Erickson	Kaley	Norton	Sherman	
Esau	Kalis	Novak	Sherwood	
Evans	Kelly	Nysether	Sieben, M.	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 826, A bill for an act relating to health; proposing a population-based, statewide cancer and birth defects surveillance system; designing a system and pilot test.

PATRICK E. FLAHAVEN, Secretary of the Senate



## CONCURRENCE AND REPASSAGE

Clark, K., moved that the House concur in the Senate amendments to H. F. No. 826 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 826, A bill for an act relating to health; proposing a population-based, statewide cancer and birth defects surveillance system; designing a system and pilot test.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 95 yeas and 27 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Evans	Knickerbocker	O'Connor	Sherman
Anderson, I.	Ewald	Kvam	Ogren	Sieben, M.
Anderson, R.	Fjoslien	Laidig	Osthoff	Simoneau
Battaglia	Forsythe	Lehto	Otis	Skoglund
Begich	Greenfield	Levi	Peterson, D.	Staten
Berkelman	Gruenes	Long	Piepho	Stumpf
Blatz	Gustafson	Luknic	Pogemiller	Swanson
Brandl	Halberg	Mann	Reding	Tomlinson
Byrne	Hanson	Marsh	Rice	Valan
Carlson, L.	Hauge	McCarron	Rodriguez, C.	Vanasek
Clark, J.	Heap	McEachern	Rodriguez, F.	Vellenga
Clark, K.	Himle	Mehrkens	Rose	Voss
Clawson	Hokanson	Metzen	Rothenberg	Weaver
Dahlvang	Jacobs	Minne	Samuelson	Welch
Dempsey	Johnson, C.	Munger	Sarna	Wenzel
Drew	Johnson, D.	Murphy	Schoenfeld	Wieser
Eken	Jude	Nelson, K.	Schreiber	Wigley
Elioff	Kahn	Norton	Searles	Wynia
Ellingson	Kelly	Novak	Shea	Spkr. Sieben, H.

Those who voted in the negative were:

Aasness	Haukoos	Lemen	Redalen	Valento
Ainley	Heinritz	Ludeman	Rees	Welker
Carlson, D.	Hokr	McDonald	Schafer	Zubay
Den Ouden	Jennings	Nelsen, B.	Stadum	
Esau	Kaley	Niehaus	Stowell	
Friedrich	Kalis	Nysether	Swigum	

The bill was repassed, as amended by the Senate, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate refuses to concur in the House amendment to:

S. F. No. 818, A bill for an act relating to game and fish; increasing the amount set aside from any increased deer license

fees for deer habitat improvement; restricting the taking of bear to adult bear; amending Minnesota Statutes 1980, Sections 97.49, Subdivision 1a; and 100.27, Subdivision 2.

And the Senate respectfully requests that a Conference Committee be appointed thereon. The Senate has appointed as such committee Messrs. Peterson, C. C.; Lessard and Engler.

Said Senate File is herewith transmitted to the House with the request that the House appoint a like committee.

PATRICK E. FLAHAVEN, Secretary of the Senate

Reding moved that the House accede to the request of the Senate and that the Speaker appoint a Conference Committee of 3 members of the House to meet with a like committee appointed by the Senate on the disagreeing votes of the two Houses on S. F. No. 818. The motion prevailed.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 690.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONFERENCE COMMITTEE REPORT ON S. F. NO. 690

A bill for an act relating to retirement; contributions and benefits of judges and survivors under the uniform retirement and survivors' annuities law; amending Minnesota Statutes 1980, Section 490.124, Subdivisions 9 and 12.

May 13, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 690, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 690 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 490.124, Subdivision 9, is amended to read:

Subd. 9. [SURVIVORS' ANNUITY.] Upon the death of a judge prior to retirement, *or upon the death of a person who has qualified for an annuity but who ceases to be a judge prior to retirement and has not received a refund of contributions pursuant to subdivision 12*, his surviving spouse or, if there be no surviving spouse, his dependent children, shall receive an annuity, payable monthly, equal to 60 percent of the normal retirement annuity which would have been payable to the judge *or former judge* had the date of his death been the normal retirement date, provided that the surviving spouse or dependent children shall receive an annuity of not less than 25 percent of the judge's *or former judge's* final average compensation.

If a judge, whose surviving spouse was not entitled to survivors benefits provided solely for judges under statutes in effect prior to January 1, 1974, shall have died prior to retirement on or after May 23, 1973 and before January 1, 1974, his surviving spouse and dependent children, if any, shall be entitled to survivors benefits as provided hereunder as if such judge had died on January 1, 1974.

Sec. 2. Minnesota Statutes 1980, Section 490.124, Subdivision 12, is amended to read:

Subd. 12. [REFUND.] Any person who ceases to be a judge but who does not qualify for a retirement annuity or other benefit under section 490.121 shall be entitled to a refund in an amount equal to all his contributions to the judges' retirement fund plus interest computed to the first day of the month in which the refund is processed based on fiscal year balances at the rate of five percent per annum compounded annually. (THE SURVIVING SPOUSE, OR IF THERE IS NO SURVIVING SPOUSE, THEN THE ESTATE, OF ANY PERSON WHO HAS CEASED TO BE A JUDGE AND HAS DIED PRIOR TO RECEIVING A RETIREMENT ANNUITY OR OTHER RETIREMENT BENEFITS SHALL BE ENTITLED TO RECEIVE A REFUND IN AN AMOUNT EQUAL TO ALL THE CONTRIBUTIONS MADE BY THE PERSON TO THE JUDGES RETIREMENT FUND PLUS INTEREST COMPUTED TO THE DATE OF DEATH AT THE RATE OF FIVE PERCENT PER ANNUM COMPOUNDED ANNUALLY.)

Sec. 3. [PUBLIC EMPLOYEES POLICE AND FIRE FUND; CLARIFICATION OF COVERAGE FOR CERTAIN PERSONS.]

*Any person who was deemed to be an employee serving on less than a full time basis as a firefighter within the meaning of Minnesota Statutes, Section 353.64, Subdivisions 1 and 3 pursuant to Laws 1980, Chapter 341, Section 7, and who has any period of prior service with the person's current employer as a full time employee of the public works department and who has as part of the person's duties as an employee the secondary responsibility of providing service as a firefighter shall be deemed eligible for pension coverage by the public employees police and fire fund for that prior service. Any contributions made by the person or on behalf of the person to the public employees retirement association for any period of this prior service shall be transferred to the public employees police and fire fund. If the amount of those contributions were less than those required pursuant to Minnesota Statutes, Section 353.65, Subdivisions 2 and 3, the person shall be entitled on or prior to July 1, 1983 to pay the difference between the amount of employee and employer and employer additional contributions which were actually made and the amount of employee and employer contributions required pursuant to Minnesota Statutes, Section 353.65, Subdivisions 2 and 3, on the actual salary amounts paid, plus interest at the rate of six percent per annum compounded annually from the date payment otherwise would have been made as a regular contribution to the date payment is made. If full required contributions are not transferred or paid subsequent with interest, the person's service credit in the public employees police and fire fund shall be prorated accordingly.*

#### **Sec. 4. [SURVIVOR BENEFITS FOR SURVIVORS OF CERTAIN DECEASED TEACHERS.]**

*Notwithstanding any provision of law to the contrary, any deceased basic member of the teachers retirement association who was born on June 6, 1927, and who died on December 16, 1980, shall be deemed to have completed 30 years of allowable service and to have filed a valid election of a joint and survivor annuity, and the surviving spouse of the deceased member shall be entitled to the second portion of a joint and survivor annuity pursuant to Minnesota Statutes, Section 354.46, Subdivision 2, in lieu of any other survivor benefit which the surviving spouse may be entitled to receive. The survivor annuity pursuant to this section shall accrue on the first day of the month next following the effective date of this section.*

#### **Sec. 5. [RETROACTIVE EFFECT OF CERTAIN PROVISIONS.]**

*Notwithstanding any law to the contrary, the provisions of Minnesota Statutes, Section 352.85, Subdivision 1, shall apply to any former employee of the department of military affairs who has retired from the Minnesota state retirement system subsequent to January 1, 1978 but prior to the effective date of Laws 1980, Chapter 607, Article XV, Section 22. The retirement*

*annuity payable to any person to whom this section applies shall be recomputed in accordance with the provisions of Minnesota Statutes, Section 352.85, Subdivision 1, and the recomputed retirement annuity shall accrue on the first day of the month next following the effective date of this section and shall be payable as soon as practicable thereafter.*

**Sec. 6. [RETROACTIVE EFFECT OF CERTAIN PROVISIONS.]**

*Sections 1 and 2 shall apply retroactively to any person living on the effective date of this section who ceased to be a judge prior to retirement and who has not received a refund pursuant to Minnesota Statutes, Section 490.124, Subdivision 12.*

**Sec. 7. [EFFECTIVE DATE.]**

*Sections 1, 2 and 6 are effective on July 1, 1981. Sections 3, 4 and 5 are effective on the day following final enactment."*

Delete the title and insert:

**"A bill for an act relating to retirement; providing survivor benefit coverage for certain former judges on deferred status; clarifying retirement coverage for certain members of the public employees police and fire fund; providing survivor benefits for survivors of certain deceased teachers; providing for retroactive effect of a special retirement program for the military affairs department; amending Minnesota Statutes 1980, Section 490.124, Subdivisions 9 and 12."**

We request adoption of this report and repassage of the bill.

Senate Conferees: COLLIN C. PETERSON, ALLAN H. SPEAR and DENNIS R. FREDERICKSON.

House Conferees: LEO J. REDING, JOHN J. SARNA and JOHN R. KALEY.

Reding moved that the report of the Conference Committee on S. F. No. 690 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 690, A bill for an act relating to retirement; contributions and benefits of judges and survivors under the uniform retirement and survivors' annuities law; amending Minnesota Statutes 1980, Section 490.124, Subdivisions 9 and 12.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Ewald	Kelly	Nysether	Sherman
Ainley	Fjoslien	Knickerbocker	O'Connor	Sherwood
Anderson, G.	Forsythe	Kostohryz	Ogren	Sieben, M.
Anderson, I.	Friedrich	Kvam	Olsen	Simoneau
Anderson, R.	Greenfield	Laidig	Onnen	Skoglund
Battaglia	Gruenes	Lehto	Osthoff	Stadum
Begich	Gustafson	Lemen	Otis	Staten
Berkelman	Halberg	Levi	Peterson, B.	Stowell
Blatz	Hanson	Long	Peterson, D.	Sviggum
Brandl	Harens	Ludeman	Piepho	Swanson
Brinkman	Hauge	Luknic	Pogemiller	Valan
Byrne	Haukoos	Mann	Redalen	Valento
Carlson, D.	Heap	Marsh	Reding	Vanasek
Carlson, L.	Heinitz	McCarron	Rees	Vellenga
Clark, J.	Himle	McDonald	Reif	Voss
Clawson	Hoberg	McEachern	Rice	Weaver
Dahlvang	Hokanson	Mehrkens	Rodriguez, C.	Welker
Dempsey	Hokr	Metzen	Rodriguez, F.	Wenzel
Den Ouden	Jacobs	Minne	Rose	Wieser
Drew	Jennings	Munger	Rothenberg	Wigley
Eken	Johnson, C.	Murphy	Samuelson	Wynia
Elioff	Johnson, D.	Nelsen, B.	Sarna	Zubay
Ellingson	Jude	Nelson, K.	Schafer	Spkr. Sieben, H.
Erickson	Kahn	Niehaus	Schoenfeld	
Esau	Kaley	Norton	Schreiber	
Evans	Kalis	Novak	Searles	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 445.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONFERENCE COMMITTEE REPORT ON S. F. NO. 445

A bill for an act relating to courts; providing service periods on Hennepin and Ramsey County district courts, juvenile divisions or family division; authorizing appointment of district court judges to hear cases arising under the juvenile court or family court act for terms up to four years; amending Minnesota Statutes 1980, Sections 260.019, Subdivision 3; 484.64, Subdivision 1; and 484.65, Subdivisions 1 and 6.

May 13, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 445, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 445 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Laws 1974, Chapter 435, Section 3.12, is amended to read:

Sec. 3.12. [COURT HOUSE AND CITY HALL.] (a)  
[COURT HOUSE AND CITY HALL (COMMITTEE) ADMINISTRATION.]

(1) *Notwithstanding the provisions of Minnesota Statutes, Chapter 374, the Saint Paul city hall and Ramsey county court house building (IS IN CHARGE OF A JOINT COMMITTEE OF SEVEN MEMBERS APPOINTED AS FOLLOWS):*

((A) THE MAYOR OF THE CITY OF SAINT PAUL IS EX-OFFICIO A MEMBER OF AND THE CHAIRMAN OF THE COMMITTEE;)

((B) THREE MEMBERS OF THE COMMITTEE ARE APPOINTED ANNUALLY BY THE PRESIDENT OF THE SAINT PAUL CITY COUNCIL FROM THE MEMBERS OF THE COUNCIL, AND THREE MEMBERS ARE APPOINTED ANNUALLY BY THE CHAIRMAN OF THE BOARD OF COUNTY COMMISSIONERS FROM THE MEMBERS OF THE BOARD.)

((2) THE COMMITTEE HAS ENTIRE CHARGE OF THE BUILDING AND MAY APPOINT THE JANITOR, CUSTODIAN AND OTHER EMPLOYEES THAT IT CONSIDERS NECESSARY FOR THE PROPER CARE AND MANAGEMENT OF THE BUILDING AND AT THE COMPENSATION THAT THE COMMITTEE DETERMINES.)

((3) THE EXPENSE OF KEEPING THE BUILDING IN REPAIR AND THE NECESSARY EXPENSE OF HEATING AND MAINTAINING IT SHALL BE PAID EQUALLY BY THE CITY AND COUNTY; ONE-HALF THEREOF OUT OF

THE TREASURY OF THE CITY, AND ONE-HALF OUT OF THE TREASURY OF THE COUNTY) shall be administered and operated by the Ramsey county board of commissioners. The board shall set terms and conditions for the occupancy of the building by the city of Saint Paul, provided that Saint Paul shall be entitled to continued occupancy of the areas which it occupied as of January 1, 1981, unless both parties otherwise agree. The city of Saint Paul shall pay rent to Ramsey county in an amount equal to its proportional square foot exclusive usage or occupancy of the building, multiplied by the total expenses of maintaining, heating and operating the building. No later than April 1 of each year, the board of county commissioners shall determine the proportional square foot usage or occupancy of the city and county, respectively, and shall notify the city council of its rent, based upon the projected expenses for maintaining, heating and operating the building in the next year. Costs of improvements to exclusive space shall be borne by the occupant. Costs of improvements to nonexclusive space shall be shared and apportioned in the same manner as the annual rental payments. The rent shall be payable in equal monthly installments, and any shortfall or overpayment of rent, based upon actual expenses shall be paid by the city or refunded by the county by March 1 of the succeeding year.

(b) [SATURDAY CLOSING.] (1) [AUTHORITY.] Ramsey county and the city of Saint Paul may jointly, by resolution adopted by both the board of commissioners and the city council, close the building containing the principal offices of the city and the county, known as the city hall and court house, on Saturday.

(2) [EFFECT OF CLOSING.] An act authorized, required or permitted by law or contract to be performed at or in the city hall and court house on Saturday may be performed on the next succeeding regular business day and no liability or loss of rights on the part of any person shall result from the closing.

(3) [OPEN, ADDITIONAL HOURS.] The city hall and court house may be kept open for the transaction of business on the next business day following each Saturday until 9:00 p.m.

(c) [ROOMS FOR LAW LIBRARY.] In Ramsey county, the (COURT HOUSE AND CITY HALL COMMITTEE) board of county commissioners may provide rooms in the court house and city hall for the use of a law library and the (COMMITTEE) board may install its library therein by purchase, leasing or securing it from an individual or association upon the terms and conditions that to it is for the interest of the people.

Sec. 2. Minnesota Statutes 1980, Section 260.019, Subdivision 3, is amended to read:

Subd. 3. The chief judge shall (NOT) designate any judge to hear cases arising under sections 260.011 to 260.301 as his



principal or exclusive assignment for *no* more than (THREE) *six* years out of any (SIX) 12 year period.

Sec. 3. Minnesota Statutes 1980, Section 484.65, Subdivision 1, is amended to read:

Subdivision 1. In the fourth judicial district, a family court division of the district court is hereby created to be presided over by a district court judge appointed by the chief judge of the judicial district to serve for a term not exceeding (TWO) *six* years. The judge appointed to this office shall be designated as the district court judge, family court division. No judge may be appointed to serve consecutive terms as the district court judge, family court division.

Sec. 4. [REPEALER.]

*Laws 1980, Chapter 612, Section 5, is repealed.*

Sec. 5. [EFFECTIVE DATE.]

*Sections 1 and 4 are effective for the county fiscal year beginning January 1, 1982 after the filing of local approval certificates pursuant to Minnesota Statutes, Section 645.021, Subdivision 3, by both the city council of the city of St. Paul and the board of county commissioners of Ramsey county.*

*Sections 2 and 3 shall become effective the day after final enactment and be applicable to incumbent juvenile court and family court judges."*

Delete the title in its entirety and insert:

"A bill for an act relating to local government; changing responsibilities for the administration of the Ramsey county court house and Saint Paul city hall building; authorizing appointment of district court judges to hear cases arising under the juvenile court act for terms up to six years; lengthening the term of the presiding judge of Hennepin County family court division; amending Minnesota Statutes 1980, Sections 260.19, Subdivision 3; 484.65, Subdivision 1; Laws 1974, Chapter 435, Section 3.12; and repealing Laws 1980, Chapter 612, Section 5."

We request adoption of this report and repassage of the bill.

Senate Conferees: ROBERT J. TENNESSEN, JACK DAVIES and PETER P. STUMPF.

House Conferees: KATHLEEN A. BLATZ, JAMES I. RICE and RANDY C. KELLY.

Blatz moved that the report of the Conference Committee on S. F. No. 445 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 445, A bill for an act relating to courts; providing service periods on Hennepin and Ramsey County district courts, juvenile divisions or family division; authorizing appointment of district court judges to hear cases arising under the juvenile court or family court act for terms up to four years; amending Minnesota Statutes 1980, Sections 260.019, Subdivision 3; 484.64, Subdivision 1; and 484.65, Subdivisions 1 and 6.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 123 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Aasness	Esau	Kalis	Nysether	Sherman
Ainley	Evans	Kelly	Ogren	Sherwood
Anderson, B.	Ewald	Knickerbocker	Olsen	Sieben, M.
Anderson, G.	Fjoslien	Kostohryz	Onnen	Simoneau
Anderson, I.	Forsythe	Kvam	Osthoff	Skoglund
Anderson, R.	Friedrich	Lehto	Otis	Stadum
Battaglia	Gruenes	Lemen	Peterson, B.	Staten
Begich	Gustafson	Levi	Peterson, D.	Stowell
Berkelman	Halberg	Long	Piepho	Sviggum
Blatz	Hanson	Ludeman	Pogemiller	Swanson
Brandl	Harens	Luknic	Redalen	Valan
Brinkman	Hauge	Mann	Reding	Valento
Carlson, D.	Haukoos	Marsh	Rees	Vanasek
Carlson, L.	Heap	McCarron	Reif	Vellenga
Clark, K.	Heinitz	McDonald	Rice	Voss
Clawson	Himle	McEachern	Rodriguez, C.	Weaver
Dahlvang	Hoberg	Mehrkens	Rodriguez, F.	Welch
Dean	Hokanson	Metzen	Rose	Welker
Dempsey	Hokr	Minne	Rothenberg	Wenzel
Den Ouden	Jacobs	Munger	Samuelson	Wieser
Drew	Jennings	Murphy	Sarna	Wigley
Eken	Johnson, C.	Nelsen, B.	Schafer	Zubay
Elioff	Johnson, D.	Nelson, K.	Schoenfeld	Spkr. Sieben, H.
Ellingson	Jude	Niehaus	Schreiber	
Erickson	Kaley	Novak	Searles	

Those who voted in the negative were:

Byrne	Greenfield	Kahn	Norton	Wynia
Clark, J.				

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 1212.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 1212

A bill for an act relating to municipalities; discontinuance of unprofitable municipal liquor stores; restricting expenditure of public funds for liquor store operation; publication of operating statement; amending Minnesota Statutes 1980, Section 340.353, by adding a subdivision; proposing new law coded in Minnesota Statutes, Chapters 426 and 471.

May 15, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 1212, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments, and that S. F. No. 1212 be further amended as follows:

Page 2, delete lines 10 and 11 and insert *"liquor store unless the city council has first held a public hearing on the proposed transfer. Exceptions to the provisions of this section shall include funds for capital improvements, bonding costs and construction and repairs which can be amortized and paid from funds generated by the operation of the liquor store."*

Page 2, line 14, after *"publish"* insert *"a balance sheet using generally accepted accounting procedures and"*

Amend the title as follows:

Page 1, line 5, after *"statement"* insert *"and balance sheet"*

We request adoption of this report and repassage of the bill.

Senate Conferees: CHARLES R. DAVIS, JAMES C. PEHLER and RANDOLPH W. PETERSON.

House Conferees: JOHN T. CLAWSON, PAUL A. OGREN and WILLIAM D. DEAN.

Clawson moved that the report of the Conference Committee on S. F. No. 1212 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 1212, A bill for an act relating to municipalities; discontinuance of unprofitable municipal liquor stores; restricting expenditure of public funds for liquor store operation; publication of operating statement; amending Minnesota Statutes 1980, Section 340.353, by adding a subdivision; proposing new law coded in Minnesota Statutes, Chapters 426 and 471.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 106 yeas and 17 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Forsythe	Kvam	Onnen	Stadum
Anderson, G.	Greenfield	Laidig	Osthoff	Stowell
Anderson, I.	Gruenes	Lemen	Otis	Stumpf
Anderson, R.	Gustafson	Levi	Peterson, B.	Swanson
Battaglia	Halberg	Long	Peterson, D.	Tomlinson
Begich	Hanson	Luknic	Pogemiller	Valan
Berkelman	Hauge	Mann	Reding	Valento
Brandl	Heap	Marsh	Rees	Vanasek
Brinkman	Heinitz	McCarron	Reif	Vellenga
Byrne	Himle	McDonald	Rice	Voss
Carlson, L.	Hoberg	McEachern	Rodriguez, F.	Weaver
Clark, J.	Hokanson	Metzen	Rose	Welch
Clawson	Hokr	Minne	Samuelson	Wenzel
Dahlvang	Jacobs	Munger	Sarna	Wieser
Den Ouden	Johnson, C.	Murphy	Schoenfeld	Wigley
Drew	Johnson, D.	Nelsen, B.	Schreiber	Wynia
Eken	Jude	Nelson, K.	Searles	Zubay
Elioff	Kahn	Norton	Shea	Spkr. Sieben, H.
Ellingson	Kaley	Novak	Sherman	
Erickson	Kelly	O'Connor	Sieben, M.	
Evans	Knickerbocker	Ogren	Simoneau	
Fjoslien	Kostohryz	Olsen	Skoglund	

Those who voted in the negative were:

Aasness	Haukoos	Ludeman	Piepho	Welker
Ainley	Jennings	Mehrkins	Rodriguez, C.	
Dempsey	Kalis	Niehaus	Schafer	
Friedrich	Lehto	Nysether	Sviggun	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 660.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 660

A bill for an act relating to counties; providing correct references to certain civil service procedures; amending Minnesota Statutes 1980, Sections 375.58, Subdivision 3; and 375.62.

May 12, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 660, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 660 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 238.08, Subdivision 5, is amended to read:

Subd. 5. Municipalities may by ordinance or resolution create a joint cable communications commission under section 471.59, to which each member municipality may delegate authority vested in the municipality by statute or charter to prepare, adopt, grant, administer, and enforce a cable communications franchise, and establish rates thereunder. The adoption, granting, administration and enforcement of a cable communications franchise, and the establishment of rates thereunder by a joint cable communications commission, pursuant to this subdivision is deemed to comply with procedural requirements of a statute or charter for the adoption, granting, administration and enforcement of a franchise, and establishment of rates. *A member of the commission may, by ordinance adopted in the manner provided by section 412.191, subdivision 4, adopt by reference the joint cable communication franchise in the manner provided by section 471.62.* The members and governing body of the joint commission shall consist of two representatives appointed by each municipality, at least one of whom

shall be a member of the council of that municipality and the other a qualified voter residing within that municipality.

Sec. 2. Minnesota Statutes 1980, Section 375.58, Subdivision 3, is amended to read:

Subd. 3. At the option of the county board, the following positions may be excluded from the jurisdiction of the county personnel department:

(a) Any or all positions subject to merit systems established pursuant to sections 12.22, subdivision 3, 144.071, 387.31 to 387.45, and (393.07, SUBDIVISION 5) 256.012;

(b) Positions designated as temporary or seasonal;

(c) Positions held by special deputies and volunteers serving without pay;

(d) Positions held by students in training.

Sec. 3. Minnesota Statutes 1980, Section 375.62, is amended to read:

**375.62 [CIVIL SERVICE AND MERIT SYSTEM RELATIONSHIPS.]**

Unless a county board has elected to exclude any or all positions otherwise subject to merit systems established pursuant to sections 12.22, subdivision 3, 144.071, 387.31 to 387.45, and (393.07, SUBDIVISION 5) 256.012, from the jurisdiction of the personnel department, the provisions of sections 12.22, subdivision 3, 144.071, 387.31 to 387.45, and (393.07, SUBDIVISION 5) 256.012 and any rules and regulations promulgated pursuant to those sections shall be superseded insofar as they are inconsistent; provided that no positions subject to merit systems established pursuant to sections 12.22, subdivision 3; 144.071; and (393.07, SUBDIVISION 5) 256.012, shall be removed from existing merit system coverage and placed under a personnel department established pursuant to sections 375.56 to 375.71, until that personnel department is certified (BY THE UNITED STATES CIVIL SERVICE COMMISSION AS MEETING THE OPERATING STANDARDS OF A MERIT SYSTEM) *in accordance with the United States office of personnel management's standards for a merit system of personnel administration.* Nothing in section 387.43, shall be construed to prohibit the inclusion of sheriff's department personnel in a personnel system established pursuant to sections 375.56 to 375.69.

Sec. 4. [EFFECTIVE DATE.]

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

Delete the title and insert:

"A bill for an act relating to local government; providing for adoption of certain joint cable franchises; providing correct references to certain civil service procedures; amending Minnesota Statutes 1980, Sections 238.08, Subdivision 5; 375.58, Subdivision 3; and 375.62."

We request adoption of this report and repassage of the bill.

Senate Conferees: ROBERT J. SCHMITZ, EARL W. RENNEKE and ERIC D. PETTY.

House Conferees: TOM REES, LYNDON R. CARLSON and DOROTHY I. HOKR.

Rees moved that the report of the Conference Committee on S. F. No. 660 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 660, A bill for an act relating to counties; providing correct references to certain civil service procedures; amending Minnesota Statutes 1980, Sections 375.58, Subdivision 3; and 375.62.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There was 122 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Aasness	Eken	Hokr	Marsh	Piepho
Ainley	Elloff	Jacobs	McDonald	Pogemiller
Anderson, B.	Ellingson	Jennings	McEachern	Reding
Anderson, G.	Erickson	Johnson, C.	Metzen	Rees
Anderson, I.	Esau	Johnson, D.	Minne	Reif
Anderson, R.	Evans	Jude	Munger	Rice
Battaglia	Fjoslien	Kahn	Murphy	Rodriguez, C.
Begich	Forsythe	Kaley	Nelsen, B.	Rodriguez, F.
Berkelman	Friedrich	Kalis	Nelson, K.	Rose
Blatz	Greenfield	Kelly	Niehaus	Rothenberg
Brandl	Gruenes	Knickerbocker	Norton	Sarna
Brinkman	Gustafson	Kostohryz	Novak	Schoenfeld
Byrne	Halberg	Kvam	Nysether	Searles
Carlson, L.	Hanson	Laidig	O'Connor	Shea
Clark, J.	Harens	Lehto	Ogren	Sherman
Clawson	Hauge	Lemen	Olsen	Sieben, M.
Dahlvang	Haukoos	Levi	Onnen	Simoneau
Dean	Heap	Long	Osthoff	Skoglund
Dempsey	Heinitz	Ludeman	Otis	Stadum
Den Ouden	Hoberg	Luknic	Peterson, B.	Staten
Drew	Hokanson	Mann	Peterson, D.	Stowell

Stumpf	Valan	Voss	Wieser	Spkr. Sieben, H.
Sviggum	Valento	Weaver	Wigley	
Swanson	Vanasek	Welch	Wynia	
Tomlinson	Vellenga	Wenzel	Zubay	

Those who voted in the negative were:

Schafer            Welker

The bill was repassed, as amended by Conference, and its title agreed to.

There being no objection the order of business reverted to Reports of Standing Committees.

### REPORTS OF STANDING COMMITTEES

Sieben, M., from the Committee on Appropriations to which was referred:

H. F. No. 301, A bill for an act relating to taxation; income; providing a deduction for certain funeral expenses of a spouse or dependent; amending Minnesota Statutes 1980, Section 290.09, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

#### *"ARTICLE I*

Section 1. Minnesota Statutes 1980, Section 297.02, Subdivision 1, is amended to read:

Subdivision 1. [RATES.] A tax is hereby imposed upon the sale of cigarettes in this state or having cigarettes in possession in this state with intent to sell and upon any person engaged in business as a distributor thereof, at the following rates, subject to the discount provided in section 297.03:

(1) On cigarettes weighing not more than three pounds per thousand, (NINE) 11.5 mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, (18) 23 mills on each such cigarette.

Sec. 2. Minnesota Statutes 1980, Section 297.13, Subdivision 1, is amended to read:

Subdivision 1. [CIGARETTE TAX APPORTIONMENT ACCOUNT.] Notwithstanding any other provisions of law,



(FIVE AND ONE-HALF) *four and three-tenths* percent of the revenues received from taxes, penalties and interest under sections 297.01 to 297.13 shall be deposited by the commissioner of revenue in the general fund and credited to a special account to be known as the "natural resources account," which is hereby created. Expenditures shall be made from said account only as may be authorized by law to carry out the provisions of this act and in conformance with the provisions of chapter 16. (FIVE AND ONE-HALF) *four and three-tenths* percent shall be deposited in the general fund and credited to the "natural resources acceleration" account for the purposes provided in Laws 1969, Chapter 879, Section 4. The balance of the revenues derived from taxes, penalties, and interest under sections 297.01 to 297.13 and from license fees and miscellaneous sources of revenue shall be deposited by the commissioner in the general fund and credited to the general fund.

Sec. 3. Minnesota Statutes 1980, Section 297.22, Subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon the use or storage by consumers of cigarettes in this state, and upon such consumers, at the following rates:

(1) On cigarettes weighing not more than three pounds per thousand, (NINE) *11.5* mills on each such cigarette;

(2) On cigarettes weighing more than three pounds per thousand, (18) *23* mills on each such cigarette.

Sec. 4. Minnesota Statutes 1980, Section 297.32, Subdivision 1, is amended to read:

Subdivision 1. A tax is hereby imposed upon all tobacco products in this state and upon any person engaged in business as a distributor thereof, at the rate of (20) *27* percent of the wholesale sales price of such tobacco products except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.02, subdivision 1, clause (1), subject to the discount provided in section 297.35, subdivision 1. Such tax shall be imposed at the time the distributor (1) brings, or causes to be brought, into this state from without the state tobacco products for sale; (2) makes, manufactures, or fabricates tobacco products in this state for sale in this state; or (3) ships or transports tobacco products to retailers in this state, to be sold by those retailers.

Sec. 5. Minnesota Statutes 1980, Section 297.32, Subdivision 2, is amended to read:

Subd. 2. A tax is hereby imposed upon the use or storage by consumers of tobacco products in this state, and upon such con-

sumers, at the rate of (20) 27 percent of the cost of such tobacco products, except little cigars as defined in section 297.31, subdivision 2, clause (b). Little cigars shall be subject to the same rate of tax imposed on cigarettes in section 297.22, subdivision 1, clause (1).

The tax imposed by this subdivision shall not apply if the tax imposed by subdivision 1 on such tobacco products has been paid.

This tax shall not apply to the use or storage of tobacco products in quantities of:

1. Not more than 50 cigars;
2. Not more than 10 oz. snuff or snuff powder;
3. Not more than 1 lb. smoking or chewing tobacco or other tobacco products not specifically mentioned herein, in the possession of any one consumer.

Sec. 6. Minnesota Statutes 1980, Section 297A.25, Subdivision 1, is amended to read:

Subdivision 1. The following are specifically exempted from the taxes imposed by sections 297A.01 to 297A.44:

(a) The gross receipts from the sale of food products including but not limited to cereal and cereal products, butter, cheese, milk and milk products, oleomargarine, meat and meat products, fish and fish products, eggs and egg products, vegetables and vegetable products, fruit and fruit products, spices and salt, sugar and sugar products, coffee and coffee substitutes, tea, cocoa and cocoa products, *but does not include the following:*

(i) *chewing gum and candy products;*

(ii) *carbonated beverages, beverages commonly referred to as soft drinks containing less than 15 percent fruit juice, or bottled water other than noncarbonated and noneffervescent bottled water sold in individual containers of one gallon or more in size;*

(b) The gross receipts from the sale of prescribed drugs and medicine intended for use, internal or external, in the cure, mitigation, treatment or prevention of illness or disease in human beings and products consumed by humans for the preservation of health, including prescription glasses, therapeutic and prosthetic devices, but not including cosmetics or toilet articles notwithstanding the presence of medicinal ingredients therein;

(c) The gross receipts from the sale of and the storage, use or other consumption in Minnesota of tangible personal property, tickets, or admissions, electricity, gas, or local exchange telephone service, which under the Constitution or laws of the United States or under the Constitution of Minnesota, the state of Minnesota is prohibited from taxing;

(d) The gross receipts from the sale of tangible personal property (i) which, without intermediate use, is shipped or transported outside Minnesota and thereafter used in a trade or business or is stored, processed, fabricated or manufactured into, attached to or incorporated into other tangible personal property transported or shipped outside Minnesota and thereafter used in a trade or business outside Minnesota, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce (storage shall not constitute intermediate use); or (ii) which the seller delivers to a common carrier for delivery outside Minnesota, places in the United States mail or parcel post directed to the purchaser outside Minnesota, or delivers to the purchaser outside Minnesota by means of the seller's own delivery vehicles, and which is not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(e) The gross receipts from the sale of packing materials used to pack and ship household goods, the ultimate destination of which is outside the state of Minnesota and which are not thereafter returned to a point within Minnesota, except in the course of interstate commerce;

(f) The gross receipts from the sale of and storage, use or consumption of petroleum products upon which a tax has been imposed under the provisions of chapter 296, whether or not any part of said tax may be subsequently refunded;

(g) The gross receipts from the sale of clothing and wearing apparel except the following:

(i) all articles commonly or commercially known as jewelry, whether real or imitation; pearls, precious and semi-precious stones, and imitations thereof; articles made of, or ornamented, mounted or fitted with precious metals or imitations thereof; watches; clocks; cases and movements for watches and clocks; gold, gold-plated, silver, or sterling flatware or hollow ware and silver-plated hollow ware; opera glasses; lorgnettes; marine glasses; field glasses and binoculars.

(ii) articles made of fur on the hide or pelt, and articles of which such fur is the component material or chief value, but only if such value is more than three times the value of the next most valuable component material.

(iii) perfume, essences, extracts, toilet waters, cosmetics, petroleum jellies, hair oils, pomades, hair dressings, hair restoratives, hair dyes, aromatic cachous and toilet powders. The tax imposed by this act shall not apply to lotion, oil, powder, or other article intended to be used or applied only in the case of babies.

(iv) trunks, valises, traveling bags, suitcases, satchels, overnight bags, hat boxes for use by travelers, beach bags, bathing suit bags, brief cases made of leather or imitation leather, salesmen's sample and display cases, purses, handbags, pocketbooks, wallets, billfolds, card, pass, and key cases and toilet cases.

(h) The gross receipts from the sale of and the storage, use, or consumption of all materials, including chemicals, fuels, petroleum products, lubricants, packaging materials, including returnable containers used in packaging food and beverage products, feeds, seeds, fertilizers, electricity, gas and steam, used or consumed in agricultural or industrial production of personal property intended to be sold ultimately at retail, whether or not the item so used becomes an ingredient or constituent part of the property produced. Such production shall include, but is not limited to, research, development, design or production of any tangible personal property, manufacturing, processing (other than by restaurants and consumers) of agricultural products whether vegetable or animal, commercial fishing, refining, smelting, reducing, brewing, distilling, printing, mining, quarrying, lumbering, generating electricity and the production of road building materials. Such production shall not include painting, cleaning, repairing or similar processing of property except as part of the original manufacturing process. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures, used in such production and fuel, electricity, gas or steam used for space heating or lighting, are not included within this exemption; however, accessory tools, equipment and other short lived items, which are separate detachable units used in producing a direct effect upon the product, where such items have an ordinary useful life of less than 12 months, are included within the exemption provided herein;

(i) The gross receipts from the sale of and storage, use or other consumption in Minnesota of tangible personal property (except as provided in section 297A.14) which is used or consumed in producing any publication regularly issued at average intervals not exceeding three months, and any such publication. For purposes of this subsection, "publication" as used herein shall include, without limiting the foregoing, a legal newspaper as defined by Minnesota Statutes 1965, Section 331.02, and any supplements or enclosures with or part of said newspaper; and the gross receipts of any advertising contained therein or therewith shall be exempt. For this purpose, advertising in any such publication shall be deemed to be a service and not tangible

personal property, and persons or their agents who publish or sell such newspapers shall be deemed to be engaging in a service with respect to gross receipts realized from such newsgathering or publishing activities by them, including the sale of advertising. Machinery, equipment, implements, tools, accessories, appliances, contrivances, furniture and fixtures used in such publication and fuel, electricity, gas or steam used for space heating or lighting, are not exempt;

(j) The gross receipts from all sales of tangible personal property to, and all storage, use or consumption of such property by, the United States and its agencies and instrumentalities or a state and its agencies, instrumentalities and political subdivisions;

(k) The gross receipts from the isolated or occasional sale of tangible personal property in Minnesota not made in the normal course of business of selling that kind of property, and the storage, use, or consumption of property acquired as a result of such a sale;

(l) The gross receipts from sales of rolling stock and the storage, use or other consumption of such property by railroads, freight line companies, sleeping car companies and express companies taxed on the gross earnings basis in lieu of ad valorem taxes. For purposes of this clause "rolling stock" is defined as the portable or moving apparatus and machinery of any such company which moves on the road, and includes, but is not limited to, engines, cars, tenders, coaches, sleeping cars and parts necessary for the repair and maintenance of such rolling stock.

(m) The gross receipts from sales of airflight equipment and the storage, use or other consumption of such property by airline companies taxed under the provisions of sections 270.071 to 270.079. For purposes of this clause, "airflight equipment" includes airplanes and parts necessary for the repair and maintenance of such airflight equipment, and flight simulators.

(n) The gross receipts from the sale of telephone central office telephone equipment used in furnishing intrastate and interstate telephone service to the public.

(o) The gross receipts from the sale of and the storage, use or other consumption by persons taxed under the in lieu provisions of chapter 298, of mill liners, grinding rods and grinding balls which are substantially consumed in the production of taconite, the material of which primarily is added to and becomes a part of the material being processed.

(p) The gross receipts from the sale of tangible personal property to, and the storage, use or other consumption of such property by, any corporation, society, association, foundation, or

institution organized and operated exclusively for charitable, religious or educational purposes if the property purchased is to be used in the performance of charitable, religious or educational functions, or any senior citizen group or association of groups that in general limits membership to persons age 55 or older and is organized and operated exclusively for pleasure, recreation and other nonprofit purposes, no part of the net earnings of which inures to the benefit of any private shareholders;

(q) The gross receipts from the sale of caskets and burial vaults;

(r) The gross receipts from the sale of cigarettes.

(s) The gross receipts from the sale of an automobile or other conveyance if the purchaser is assisted by a grant from the United States in accordance with 38 United States Code, Section 1901, as amended.

(t) The gross receipts from the sale to the licensed aircraft dealer of an aircraft for which a commercial use permit has been issued pursuant to section 360.654, if the aircraft is resold while the permit is in effect.

(u) The gross receipts from the sale of building materials to be used in the construction or remodeling of a residence when the construction or remodeling is financed in whole or in part by the United States in accordance with 38 United States Code, Sections 801 to 805, as amended. This exemption shall not be effective at time of sale of the materials to contractors, subcontractors, builders or owners, but shall be applicable only upon a claim for refund to the commissioner of revenue filed by recipients of the benefits provided in Title 38 United States Code, Chapter 21, as amended. The commissioner shall provide by regulation for the refund of taxes paid on sales exempt in accordance with this paragraph.

(v) The gross receipts from the sale of textbooks which are prescribed for use in conjunction with a course of study in a public or private school, college, university and business or trade school to students who are regularly enrolled at such institutions. For purposes of this clause a "public school" is defined as one that furnishes course of study, enrollment and staff that meets standards of the state board of education and a private school is one which under the standards of the state board of education, provides an education substantially equivalent to that furnished at a public school. Business and trade schools shall mean such schools licensed pursuant to section 141.25.

(w) The gross receipts from the sale of and the storage of material designed to advertise and promote the sale of merchandise or services, which material is purchased and stored for

the purpose of subsequently shipping or otherwise transferring outside the state by the purchaser for use thereafter solely outside the state of Minnesota.

(x) The gross receipt from the sale of residential heating fuels in the following manner:

(i) all fuel oil, coal, wood, steam, propane gas, and L.P. gas sold to residential customers for residential use;

(ii) natural gas sold for residential use to customers who are metered and billed as residential users and who use natural gas for their primary source of residential heat, for the billing months of November, December, January, February, March and April;

(iii) electricity sold for residential use to customers who are metered and billed as residential users and who use electricity for their primary source of residential heat, for the billing months of November, December, January, February, March and April.

(y) The gross receipts from the sale or use of tickets or admissions to the premises of or events sponsored by an association, corporation or other group of persons which provides an opportunity for citizens of the state to participate in the creation, performance or appreciation of the arts and which qualifies as a tax-exempt organization within the meaning of section 290.05, subdivision 1, clause (i).

(z) The gross receipts from either the sales to or the storage, use or consumption of tangible personal property by an organization of military service veterans or an auxiliary unit of an organization of military service veterans, provided that:

(i) the organization or auxiliary unit is organized within the state of Minnesota and is exempt from federal taxation pursuant to section 501(c), clause (19), of the Internal Revenue Code as amended through December 31, 1978; and

(ii) the tangible personal property which is sold to or stored, used or consumed by the organization or auxiliary unit is for charitable, civic, educational, or nonprofit uses and not for social, recreational, pleasure or profit uses.

Sec. 7. Minnesota Statutes 1980, Section 340.47, Subdivision 1, is amended to read:

Subdivision 1. [ON INTOXICATING LIQUORS.] There shall be levied and collected on all intoxicating liquors manufactured, imported, sold or in possession of any person in this state,

except as herein provided by sections 340.50 and 340.601, and except the natural fermentation of fruit juices in the home for family use the following excise tax:

(1) On all table wine containing 14 percent or less of alcohol by volume, the sum of (27) 32 cents per gallon;

(2) On all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of (79) 92 cents per gallon;

(3) On all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of (\$1.58) \$1.84 per gallon;

(4) On all wines containing more than 24 percent of alcohol by volume, the sum of (\$3.08) \$3.60 per gallon;

(5) On all natural and artificial sparkling wines containing alcohol, the sum of (\$1.50) \$1.74 per gallon;

(6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of (\$4.39) \$5.10 per gallon, but not including ethyl alcohol; provided, that in computing the tax on any package of spirits a proportional tax at a like rate on all fractional parts of a gallon shall be paid except that all fractional parts of a gallon less than 1/16 shall be taxed at the same rate as shall be taxed for 1/16 of a gallon; provided, however, that the contents of miniatures containing two fluid ounces or less shall be taxed (12) 14 cents.

Sec. 8. Minnesota Statutes 1980, Section 340.47, Subdivision 1a, is amended to read:

Subd. 1a. [METRIC CONTAINERS.] In lieu of the tax imposed by subdivision 1, there shall be levied and collected on all intoxicating liquors manufactured, imported, sold or in possession of any person in this state when packaged in containers where the net contents is stated in metric units of measure, except as herein provided by sections 340.50 and 340.601, and except the natural fermentation of fruit juices in the home for family use the following excise tax:

(1) On all table wine containing 14 percent or less of alcohol by volume, the sum of (SEVEN) eight cents per liter;

(2) On all wines containing more than 14 percent and not exceeding 21 percent of alcohol by volume, the sum of (21) 24 cents per liter;



(3) On all wines containing more than 21 percent and not exceeding 24 percent of alcohol by volume, the sum of (42) 49 cents per liter;

(4) On all wines containing more than 24 percent of alcohol by volume, the sum of (81) 94 cents per liter;

(5) On all natural and artificial sparkling wines containing alcohol, the sum of (40) 47 cents per liter;

(6) On all other distilled spirituous liquors, liqueurs, cordials, and liquors designated as specialties regardless of alcoholic content, the sum of (\$1.16) \$1.35 per liter, but not including ethyl alcohol; provided, that in computing the tax on any package of intoxicating liquors where the net contents is stated in metric units of measure, a proportional tax at a like rate on all fractional or multiple parts of a liter shall be paid, provided, however, that the contents of miniatures containing 50 milliliters or less shall be taxed (12) 14 cents.

Sec. 9. Minnesota Statutes 1980, Section 340.47, Subdivision 2, is amended to read:

Subd. 2. [ON FERMENTED MALT BEVERAGES.] An excise tax is hereby assessed, imposed, and levied upon the sale, either directly or indirectly of fermented malt beverages other than for shipment in interstate or foreign commerce. Such tax shall not be imposed or collected upon fermented malt beverages given away by a brewery for consumption only upon the brewery premises, for which no charge of any kind is made or collected; nor shall fermented malt liquors distributed to brewery employees for consumption only upon the brewery premises pursuant to a contract of employment be subject to such tax. Such tax shall be levied and collected at the rate of (\$2) \$2.32 per barrel of 31 gallons, containing not more than 3.2 percent of alcohol by weight, and a tax of (\$4) \$4.64 per barrel of 31 gallons containing more than 3.2 percent of alcohol by weight, and at a proportional rate for fractional parts thereof. All the receipts from these taxes shall be paid into the general fund by the commissioner of revenue. Any brewer producing and selling within this state fermented malt beverages shall receive a credit of \$2 per barrel on the first 75,000 barrels, regardless of alcohol content.

Sec. 10. [EFFECTIVE DATE.]

*Sections 1 to 5 and 7 to 9 are effective the day following final enactment. Section 6 is effective for sales made after June 30, 1981.*

## ARTICLE II

## APPROPRIATIONS

## Section 1. [STATE GOVERNMENT: APPROPRIATIONS.]

The sums set forth in the columns designated "APPROPRIATIONS" are appropriated from the general fund, or any other fund designated, to the agencies and for the purposes specified in the following sections of this article, to be available for the fiscal years indicated for each purpose. The figures "1982", and "1983", wherever used in this article, mean that the appropriation or appropriations listed thereunder are available for the year ending June 30, 1982, or June 30, 1983, respectively.

## SUMMARY BY FUND

	1982	1983	TOTAL
General .....	\$38,694,520	\$59,192,400	\$97,886,920

APPROPRIATIONS  
Available for the Year  
Ending June 30

	1982	1983
	\$	\$

## Sec. 2. EDUCATION AIDS

Subdivision 1. Foundation Aid ..... 16,100,000 19,715,500

The appropriation for the first year is for aid for fiscal year 1982 payable in fiscal year 1982. The appropriation for the second year includes \$1,800,000 for aid for fiscal year 1982 payable in fiscal year 1983, and \$17,917,500 for aid for fiscal year 1983 payable in fiscal year 1983. These amounts are added to the amounts appropriated for foundation aid in the law enacted at the 1981 regular session styled as House File No. 70.

Subd. 2. Summer School..... 162,000

This appropriation is for 1982 summer school programs and shall be added to the amount appropriated for 1982 summer school programs in the law enacted

	1982	1983
\$	\$	

at the 1981 regular session styled as  
House File No. 70

Subd. 3. Special Education Aid . . . .	6,509,520	7,399,900
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The appropriation for the first year is for aid for fiscal year 1982 payable in fiscal year 1982. The appropriation for the second year includes \$723,280 for aid for fiscal year 1982 payable in fiscal year 1983, and \$6,676,620 for aid for fiscal year 1983 payable in fiscal year 1983. These appropriations are added to the amounts appropriated for special education aid in the law enacted at the 1981 regular session styled as House File No. 70.

Sec. 3. HIGHER EDUCATION COORDINATING BOARD . . . . .	5,435,000	3,565,000
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\$3,685,000 the first year and \$1,815,000 the second year is for scholarships and grants-in-aid, and \$1,750,000 the first year and \$1,750,000 the second year is for private college contracts.

#### Sec. 4. PUBLIC WELFARE

Medical Assistance for Nursing Home Residents and Others . . . . .	10,650,000	28,350,000
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This appropriation shall be added to the amounts appropriated for medical assistance in the law enacted at the 1981 regular session styled as House File No. 1446, Section 2, Subdivision 4, and is for the purpose of providing for reserved bed days for residents of long term care facilities; paying for restorative and maintenance therapy; increasing the amount of liquid assets that the spouse of a person residing in a nursing home may retain; establishing a drug formulary; increasing the amount of money available in fiscal year 1983 for paying the costs of care of elderly residents of nursing homes; changing the base year for vendor reimbursements from the

	1982	1983
\$	\$	

50th percentile of 1978 usual and customary fees to the 50th percentile of 1980 usual and customary fees; and changing the percentage increase on limits for payments to medical assistance vendors from 8 percent in the first year to 10 percent in each year of the biennium.

If the appropriation for either year is insufficient, the appropriation for the other year is available for it.

Sec. 5. A law enacted at the 1981 regular session styled as House File No. 70, as added in Article I, Section 21, Subdivision 1, is amended to read:

Sec. 21. [124.2122.] [BASIC FOUNDATION AID.]

Subdivision 1. [FORMULA ALLOWANCE.] "Foundation aid formula allowance" or "formula allowance" means the amount of revenue per pupil unit used in the computation of foundation aid for a particular school year and in the computation of permissible levies for use in that school year. The formula allowance shall be (\$1,318) \$1,338 for 1980 payable 1981 levies and for foundation aid for the 1981-1982 school year. The formula allowance shall be (\$1,400) \$1,422 for 1981 payable 1982 levies and for foundation aid for the 1982-1983 school year.

Sec. 6. Minnesota Statutes 1980, Section 124.32, Subdivision 1, as amended by a law enacted at the 1981 regular session styled as House File No. 70, Article III, Section 11, is amended to read:

Subdivision 1. ((A) FOR THE 1981-1982 AND 1982-1983 SCHOOL YEARS,) The state shall pay to any district for the employment in its educational program for handicapped children (65) 70 percent of the salary of essential personnel for the normal school year for each full time person employed, or a prorata amount for a part time person or a person employed for a limited time, whether the essential personnel are employed by a district alone or jointly with another district.

((B) BEGINNING IN THE 1983-1984 SCHOOL YEAR AND EACH YEAR THEREAFTER, THE STATE SHALL PAY TO ANY DISTRICT FOR THE EMPLOYMENT IN ITS EDUCATIONAL PROGRAM FOR HANDICAPPED CHILDREN 70 PERCENT OF THE SALARY OF ESSENTIAL PERSONNEL FOR THE NORMAL SCHOOL YEAR FOR EACH FULL TIME PERSON EMPLOYED, OR A PRO RATA

AMOUNT FOR A PART TIME PERSON OR A PERSON EMPLOYED FOR A LIMITED TIME, WHETHER THE ESSENTIAL PERSONNEL ARE EMPLOYED BY A DISTRICT ALONE OR JOINTLY WITH ANOTHER DISTRICT.)

Sec. 7. Minnesota Statutes 1980, Section 256B.02, Subdivision 8, as amended by a law enacted at the 1981 regular session styled as House File No. 1446, Article II, Section 26, is amended to read:

Subd. 8. "Medical assistance" or "medical care" means payment of part or all of the cost of the following care and services for eligible individuals whose income and resources are insufficient to meet all of such cost:

(1) Inpatient hospital services.

(2) Skilled nursing home services and services of intermediate care facilities. (PAYMENT SHALL BE MADE ONLY FOR DAYS ON WHICH THE ELIGIBLE INDIVIDUAL IS IN THE NURSING HOME OR FACILITY.)

(3) Physicians' services.

(4) Outpatient hospital or clinic services.

(5) Home health care services.

(6) Private duty nursing services.

(7) (NO PAYMENTS SHALL BE MADE PURSUANT TO THIS CHAPTER DIRECTLY TO PHYSICAL THERAPISTS, OCCUPATIONAL THERAPISTS, SPEECH PATHOLOGISTS AND AUDIOLOGISTS. PRESCRIBED RESTORATIVE THERAPY AND SPECIALIZED MAINTENANCE THERAPY WHICH MUST BE PROVIDED BY PHYSICAL THERAPISTS, OCCUPATIONAL THERAPISTS, SPEECH PATHOLOGISTS AND AUDIOLOGISTS IN A NURSING HOME, BOARDING CARE HOME OR SUPERVISED LIVING FACILITY SHALL BE INCLUDED IN THE PER DIEM RATE OF THE FACILITY. SPECIALIZED MAINTENANCE THERAPY WHICH MUST BE PROVIDED BY A THERAPIST SHALL NOT INCLUDE AMBULATION, PASSIVE RANGE OF MOTION, TRANSFER AND ACTIVITIES OF DAILY LIVING, AND TEACHING AND FOLLOW-UP WHICH ARE CONSIDERED NURSING CARE SERVICES. PAYMENTS TO MEDICARE-CERTIFIED REHABILITATION AGENCIES SHALL BE LIMITED TO PAYMENTS FOR PHYSICIAN SERVICES AND PRESCRIBED RESTORATIVE THERAPY PROVIDED BY PHYSICAL THERAPISTS, OCCUPATIONAL THERAPISTS, SPEECH PATHOLOGISTS AND AUDIOLOGISTS) *Physical therapy and related services.*

- (8) Dental services, excluding cast metal restorations.
- (9) Laboratory and x-ray services.

(10) The following if prescribed by a licensed practitioner: drugs, eyeglasses, dentures, and prosthetic devices. (THE COMMISSIONER SHALL PRESCRIBE A DRUG FORMULARY. PAYMENTS FOR PRESCRIBED DRUGS SHALL BE LIMITED AS FOLLOWS, UNLESS PRIOR AUTHORIZATION FOR EXCEPTIONS IS RECEIVED FROM THE COMMISSIONER: (A) ONE PRESCRIPTION PER MAINTENANCE DRUG PER MONTH; AND (B) THREE PRESCRIPTIONS PER MONTH PER RECIPIENT. "DRUG FORMULARY" MEANS THE LIST OF DRUGS APPROVED BY THE COMMISSIONER UPON THE ADVICE OF THE DRUG FORMULARY COMMITTEE THAT ARE REIMBURSABLE UNDER THE STATE MEDICAL ASSISTANCE PROGRAM. PROMULGATION AND PUBLICATION OF THE FORMULARY SHALL BE EXEMPT FROM THE REQUIREMENTS OF CHAPTER 15. THE FORMULARY SHALL NOT INCLUDE: (A) DRUGS LACKING FDA APPROVAL FOR SAFETY AND EFFICACY; (B) OVER-THE-COUNTER DRUGS, EXCEPT FOR ANTACIDS, ACETAMINOPHEN, FAMILY PLANNING PRODUCTS, ASPIRIN, INSULIN, PRENATAL VITAMINS, AND VITAMINS FOR CHILDREN UNDER AGE 7; (C) NUTRITIONAL PRODUCTS; (D) ANORECTICS; AND (E) DRUGS FOR WHICH MEDICAL VALUE HAS NOT BEEN ESTABLISHED. THE DRUG FORMULARY COMMITTEE SHALL REVIEW ALL DRUGS AND ADVISE THE COMMISSIONER AS TO THEIR INCLUSION OR EXCLUSION FROM THE DRUG FORMULARY. THE FORMULARY COMMITTEE SHALL BE COMPRISED OF ONE REPRESENTATIVE EACH OF: THE UNIVERSITY OF MINNESOTA'S SCHOOL OF DENTISTRY, SCHOOL OF MEDICINE AND COLLEGE OF PHARMACY; THE MINNESOTA MEDICAL ASSOCIATION; THE MINNESOTA STATE PHARMACEUTICAL ASSOCIATION; THE DEPARTMENT OF HEALTH, AND THE DEPARTMENT OF PUBLIC WELFARE. THE COMMISSIONER OR HIS AGENT SHALL SERVE AS SECRETARY TO THE COMMITTEE.) *The commissioner shall designate a formulary committee which shall advise the commissioner on the names of drugs for which payment shall not be made, recommend a system for reimbursing providers on a set fee or charge basis rather than the present system, and develop methods encouraging use of generic drugs when they are less expensive and equally effective as trademark drugs. The formulary committee shall consist of nine members, four of whom shall be physicians who are not employed by the department of public welfare, and a majority of whose practice is for persons paying privately or through health insurance, three of whom shall be pharmacists who are not employed by the department of public welfare, and a majority of whose practice is for persons paying privately or through health insurance, a consumer representative, and a nursing home representative. Committee members shall serve two*

*year terms and shall serve without compensation. Promulgation of the formulary shall be consistent with the requirements of section 15.0412, subdivision 5.*

(11) Diagnostic, screening, and preventive services.

(12) Health care pre-payment plan premiums and insurance premiums if paid directly to a vendor and supplementary medical insurance benefits under Title XVIII of the Social Security Act.

(13) Abortion services, but only if one of the following conditions is met:

(a) The abortion is a medical necessity. "Medical necessity" means (1) the signed written statement of two physicians indicating the abortion is medically necessary to prevent the death of the mother, and (2) the patient has given her consent to the abortion in writing unless the patient is physically or legally incapable of providing informed consent to the procedure, in which case consent will be given as otherwise provided by law;

(b) The pregnancy is the result of criminal sexual conduct as defined in section 609.342, clauses (c), (d), (e)(i), and (f), and the incident is reported within 48 hours after the incident occurs to a valid law enforcement agency for investigation, unless the victim is physically unable to report the criminal sexual conduct, in which case the report shall be made within 48 hours after the victim becomes physically able to report the criminal sexual conduct; or

(c) The pregnancy is the result of incest, but only if the incident and relative are reported to a valid law enforcement agency for investigation prior to the abortion.

(14) Transportation costs incurred solely for obtaining emergency medical care or transportation costs incurred by non-ambulatory persons in obtaining emergency or non-emergency medical care when paid directly to an ambulance company, common carrier, or other recognized providers of transportation services. For the purpose of this clause, a person who is incapable of transport by taxicab or bus shall be considered to be non-ambulatory.

(15) To the extent authorized by rule of the state agency, costs of bus or taxicab transportation incurred by any ambulatory eligible person for obtaining non-emergency medical care.

(16) Any other medical or remedial care licensed and recognized under state law unless otherwise prohibited by law.

Sec. 8. Minnesota Statutes 1980, Section 256B.03, as amended by a law enacted in the 1981 regular session styled as House File No. 1446, Article II, Section 27, is amended to read:

**256B.03 [PAYMENTS TO VENDORS.]**

Subdivision 1. [GENERAL LIMIT.] All payments for medical assistance hereunder must be made to the vendor.

Subd. 2. [LIMIT ON ANNUAL INCREASE TO LONG-TERM CARE PROVIDERS.] Notwithstanding the provisions of sections 256B.42 to 256B.48, *a law enacted in the 1981 regular session styled as House File No. 1446, Article II, Section 2,* and rules promulgated under those sections, rates paid to a skilled nursing facility or an intermediate care facility, including boarding care facilities and supervised living facilities, except state owned and operated facilities, for (THE FIRST) rate (YEAR) *years* beginning during the biennium ending June 30, 1983, shall not exceed by more than (EIGHT) *ten* percent the final rate allowed to the facility for the preceding rate year.

Notwithstanding provisions of Minnesota Statutes, Section 256B.45, Subdivision 1, the commissioner shall not increase the percentage for investment allowances.

Sec. 9. Minnesota Statutes 1980, Section 256B.06, Subdivision 1, as amended by a law enacted at the 1981 regular session styled as House File No. 1446, Article II, Section 28, is amended to read:

Subdivision 1. Medical assistance may be paid for any person:

(1) Who is eligible for or receiving public assistance under the aid to families with dependent children program; or

(2) Who is eligible for or receiving supplemental security income for the aged, blind and disabled; or

(3) Who except for the amount of income or resources would qualify for supplemental security income for the aged, blind and disabled, or aid to families with dependent children and is in need of medical assistance; or

(4) Who is under 21 years of age and in need of medical care that neither he nor his relatives responsible under sections 256B.01 to 256B.26 are financially able to provide; or

(5) Who is residing in a hospital for treatment of mental disease or tuberculosis and is 65 years of age or older and



without means sufficient to pay the per capita hospital charge; and

(6) Who resides in Minnesota, or, if absent from the state, is deemed to be a resident of Minnesota in accordance with the regulations of the state agency; and

(7) Who alone, or together with his spouse, does not own real property other than the homestead. For the purposes of this section, "homestead" means the house owned and occupied by the applicant as his dwelling place, together with the land upon which it is situated and an area no greater than two contiguous lots in a platted or laid out city or town or the smallest parcel allowed under applicable zoning regulations in unplatted land. Real estate not used as a home may not be retained unless it produces net income applicable to the family's needs or the family is making a continuing effort to sell it at a fair and reasonable price or unless sale of the real estate would net an insignificant amount of income applicable to the family's needs, or unless the commissioner determines that sale of the real estate would cause undue hardship; and

(8) Who individually does not own more than \$2,000 in cash or liquid assets, or if a member of a household with two family members (husband and wife, or parent and child), does not own more than \$4,000 in cash or liquid assets, plus \$200 for each additional legal dependent (*, EXCEPT THAT*). *When only one spouse resides, or will reside after applying for medical assistance, in a nursing home, or is receiving or will receive alternative care under the alternative care grants program in a county with preadmission screening under section 256B.091, the cash or liquid asset amount for two family members is \$10,000.* The value of the following shall not be included:

(a) the homestead, and (b) one motor vehicle licensed pursuant to Minnesota Statutes, Chapter 168 and defined as: (1) passenger automobile, (2) station wagon, (3) motorcycle, (4) motorized bicycle or (5) truck of the weight found in categories A to E, of section 168.013, Subdivision 1e; and

(9) Who has or anticipates receiving an annual income not in excess of \$2,600 for a single person, or \$3,250 for two family members (husband and wife, parent and child, or two siblings), plus \$625 for each additional legal dependent, or who has income in excess of these maxima and in the month of application, or during the three months prior to the month of application, incurs expenses for medical care that total more than one-half of the annual excess income in accordance with the regulations of the state agency. In computing income to determine eligibility of persons who are not residents of long term care facilities, the commissioner shall disregard increases in income of social security or supplementary security income recipients due solely to increases required by sections 215(i) and 1617 of the social

security act, and shall disregard income of disabled persons that is also disregarded in determining eligibility for supplemental aid under section 256D.37, subdivision 1, unless prohibited by federal law or regulation. If prohibited, the commissioner shall first seek a waiver. In excess income cases, eligibility shall be limited to a period of six months beginning with the first of the month in which these medical obligations are first incurred; and

(10) Who has continuing monthly expenses for medical care that are more than the amount of his excess income, computed on a monthly basis, in which case eligibility may be established before the total income obligation referred to in the preceding paragraph is incurred, and medical assistance payments may be made to cover the monthly unmet medical need. In licensed nursing home and state hospital cases, income over and above that required for justified needs, determined pursuant to a schedule of contributions established by the commissioner of public welfare, is to be applied to the cost of institutional care. The commissioner of public welfare may establish a schedule of contributions to be made by the spouse of a nursing home resident to the cost of care and shall seek a waiver from federal regulations which establish the amount required to be contributed by either spouse when one spouse is a nursing home resident; and

(11) Who has applied or agrees to apply all proceeds received or receivable by him or his spouse from automobile accident coverage and private health care coverage to the costs of medical care for himself, his spouse, and children. The state agency may require from any applicant or recipient of medical assistance the assignment of any rights accruing under private health care coverage. Any rights or amounts so assigned shall be applied against the cost of medical care paid for under this chapter. Any assignment shall not be effective as to benefits paid or provided under automobile accident coverage and private health care coverage prior to receipt of the assignment by the person or organization providing the benefits.

Sec. 10. Minnesota Statutes 1980, Section 256B.08, is amended to read:

**256B.08 [APPLICATION.]**

An applicant for medical assistance hereunder, or a person acting in his behalf, shall file his application with a county agency in such manner and form as shall be prescribed by the state agency. *When a married applicant resides in a nursing home or applies for medical assistance for nursing home services, the county agency shall consider an application on behalf of the applicant's spouse only upon specific request of the applicant or upon specific request of the spouse and separate filing of an application.*

Sec. 11. A law enacted at the 1981 regular session styled as House File No. 1446, Article II, Section 2, Subdivision 1, is amended to read:

Subdivision 1. *Notwithstanding the provisions of a law enacted at the 1981 regular session styled as House File No. 1446, Article II, Section 2, Subdivision 2, Clause (c) all payments for vendors of medical care under (MEDICAL ASSISTANCE AND) general assistance medical care shall be (LIMITED TO) based upon this standard: the 50th percentile of usual and customary fees based upon medical assistance billings during calendar year 1978. All payments for vendors of medical care under medical assistance shall be limited to the 50th percentile of usual and customary fees based upon billings during calendar year 1980 for physician services, dental care, vision care, podiatric services, chiropractic care, physical therapy, occupational therapy, speech pathologists, audiologists, mental health centers, psychologists, public health clinics, and independent laboratory and x-ray services.*

Sec. 12. [BUDGET REVIEW CONTINUED.]

*The policy of the 72nd legislature shall be to continue to review the 1982-83 state budget during the interim between the 1981 and 1982 sessions in order to find cost savings to further reduce expenditures in the biennium budget.*

Sec. 13. [EFFECTIVE DATE; EFFECT.]

*Section 5 is effective only if the amounts appropriated in section 2, subdivision 1 of this article are available to the department of education to pay school districts the increased aid amounts required by section 5 of this article. Section 6 of this article is effective only if the amounts appropriated in section 2, subdivision 3 of this article are available to the department of education to pay school districts the increased aid amounts required by section 6 of this article. If sections 5 and 6 of this article become effective, they shall supersede Article I, Section 21, Subdivision 1, and Article III, Section 11, respectively of the law enacted at the 1981 regular session styled as House File No. 70."*

Delete the title and insert:

*"A bill for an act relating to taxation; increasing the rate of the tax on cigarettes, little cigars, tobacco products, and alcoholic beverages; imposing the sales tax on candy and soft drinks; supplementing appropriations for the expenses of state government with certain conditions; amending Minnesota Statutes 1980, Sections 124.32, Subdivision 1, as amended; 256B.02, Subdivision 8, as amended; 256B.03, as amended; 256B.06, Subdivision 1, as amended; 256B.08; 297.02, Subdivision 1; 297.13, Subdivision 1; 297.22, Subdivision 1; 297.32, Subdivisions 1*

and 2; 297A.25, Subdivision 1; 340.47, Subdivisions 1, 1a, and 2; amending laws enacted at the 1981 regular session styled as H. F. No. 70, Article I, Section 21, Subdivision 1; and H. F. No. 1446, Article II, Section 2, Subdivision 1."

With the recommendation that when so amended the bill pass.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. No. 301 was read for the second time.

The following conference committee reports were received:

### CONFERENCE COMMITTEE REPORT ON H. F. NO. 407

A bill for an act relating to insurance; modifying the definition of a covered claim for purposes of the state's insurance guaranty association act; amending Minnesota Statutes 1980, Section 60C.09, Subdivision 1.

May 14, 1981

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jack Davies  
President of the Senate

We, the undersigned conferees for H. F. No. 407, report that we have agreed upon the items in dispute and recommend as follows:

The Senate recede from its amendment and that H. F. No. 407 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 60C.03, is amended by adding a subdivision to read:

*Subd. 8. "Insolvent insurer" means an insurer licensed to transact insurance in this state, either at the time the policy was issued, or when the insured event occurred, and against whom an order of liquidation with a finding of insolvency has been entered after the effective date of this section by a court of competent jurisdiction, in the insurer's state of domicile or of this state, under the provisions of Minnesota Statutes, Chapter 60B, and which order of liquidation has not been stayed or been the subject of a writ of supersedeas or other comparable order.*

Sec. 2. Minnesota Statutes 1980, Section 60C.09, Subdivision 1, is amended to read:

Subdivision 1. [DEFINITION.] A covered claim is any unpaid claim, including one for unearned premium, which:

(a) Arises out of *and is within the coverage of* an insurance policy issued by a member insurer *if such insurer becomes an insolvent insurer after the effective date of this section*;

(b) Arises out of a class of business which is not excepted from the scope of Laws 1971, Chapter 145 by section 60C.02; *and*

((C) HAS BEEN APPROVED IN THE LIQUIDATION OF THE INSURER ISSUING THE POLICY, CARRIED OUT UNDER CHAPTER 60B OR UNDER SIMILAR LAWS OF ANOTHER STATE OR COUNTRY; AND)

((D)) (c) Is made by:

(i) A policyholder, or an insured beneficiary under a policy, who, at the time of the insured event, was a resident of this state; or

(ii) A person designated in the policy as having an insurable interest in or related to property situated in this state at the time of the insured event; or

(iii) An obligee or creditor under any surety bond, who, at the time of default by the principal debtor or obligor, was a resident of this state; or

(iv) A third party claimant under a liability policy or surety bond, if: (a) the insured or the third party claimant was a resident of this state at the time of the insured event; (b) the claim is for bodily or personal injuries suffered in this state by a person who when he suffered the injuries was a resident of this state; or (c) the claim is for damages to real property situated in this state at the time of damage; or

(v) A direct or indirect assignee of a person who except for the assignment might have claimed under (i), (ii) or (iii).

Sec. 3. Minnesota Statutes 1980, Section 60C.10, Subdivision 3, is amended to read:

Subd. 3. If the board finds that a claim for which the claimant has requested payment out of the fund is not a covered claim or the board reduces the amount of or rejects the (AWARD UNDER SUBDIVISION 2) *claim*, the board shall notify the claimant in writing of his rights under section 60C.12.

## Sec. 4. [REPEALER.]

*Minnesota Statutes 1980, Section 60C.10, Subdivision 2, is repealed."*

Delete the title and insert:

"A bill for an act relating to insurance; modifying the definition of a covered claim for purposes of the state's insurance guaranty association act; defining an insolvent insurer; amending Minnesota Statutes 1980, Sections 60C.03, by adding a subdivision; 60C.09, Subdivision 1; and 60C.10, Subdivision 3; repealing Minnesota Statutes 1980, Section 60C.10, Subdivision 2."

We request adoption of this report and repassage of the bill.

House Conferees: ANN WYNIA, ROBERT L. ELLINGSON and JOHN R. KALEY.

Senate Conferees: IRVING M. STERN, OTTO T. BANG, JR. and JACK DAVIES.

Wynia moved that the report of the Conference Committee on H. F. No. 407 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 407, A bill for an act relating to insurance; modifying the definition of a covered claim for purposes of the state's insurance guaranty association act; amending Minnesota Statutes 1980, Section 60C.09, Subdivision 1.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Carlson, L.	Fjoslien	Hokanson	Laidig
Ainley	Clark, J.	Forsythe	Hokr	Lehto
Anderson, B.	Clawson	Friedrich	Jacobs	Lemen
Anderson, G.	Dahlvang	Greenfield	Jennings	Levi
Anderson, I.	Dean	Gruenes	Johnson, C.	Long
Anderson, R.	Dempsey	Gustafson	Johnson, D.	Ludeman
Battaglia	Den Ouden	Halberg	Jude	Luknic
Begich	Drew	Hanson	Kahn	Mann
Berkelman	Eken	Hauge	Kaley	Marsh
Blatz	Elioff	Haukoos	Kalis	McCarron
Brandl	Ellingson	Heap	Kelly	McDonald
Brinkman	Erickson	Heinitz	Knickerbocker	McEachern
Byrne	Esau	Himle	Kostohryz	Metzen
Carlson, D.	Evans	Hoberg	Kvam	Minne

Munger	Otis	Rose	Staten	Welch
Murphy	Peterson, B.	Rothenberg	Stowell	Welker
Nelsen, B.	Peterson, D.	Samuelson	Stumpf	Wenzel
Nelson, K.	Piepho	Sarna	Sviggum	Wieser
Niehaus	Pogemiller	Schafer	Swanson	Wigley
Norton	Redalen	Schoenfeld	Tomlinson	Wynia
Novak	Reding	Searles	Valan	Zubay
Nysether	Rees	Shea	Valento	Spkr. Sieben, H.
Ogren	Reif	Sieben, M.	Vanasek	
Olsen	Rice	Simoneau	Vellenga	
Onnen	Rodriguez, C.	Skoglund	Voss	
Osthoff	Rodriguez, F.	Stadum	Weaver	

The bill was repassed, as amended by Conference, and its title agreed to.

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 691

A bill for an act relating to court reporting; permitting the use of electronic recording equipment in certain district court proceedings; amending Minnesota Statutes 1980, Sections 486.02 and 486.03; and proposing new law coded in Minnesota Statutes, Chapter 484.

May 14, 1981

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jack Davies  
President of the Senate

We, the undersigned conferees for H. F. No. 691, report that we have agreed upon the items in dispute and recommend as follows:

The Senate recede from its amendment and that H. F. No. 691 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [484.72] [ELECTRONIC RECORDING OF COURT PROCEEDINGS.]

*Subdivision 1. [AUTHORIZATION.] Except as provided in subdivision 4, electronic recording equipment may be used to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings, the court may, in its discretion, require a competent stenographer who meets minimum qualifications promulgated by the supreme court, to make a complete stenographic record of the proceedings.*

*Subd. 2. [APPOINTMENT OF OPERATOR, COSTS AND PAYMENT.] The court shall have the authority to appoint a*

*person or persons to operate and monitor electronic recording equipment. The person or persons may be paid on a salary basis, on a contract basis, or such other basis as the court deems appropriate.*

**Subd. 3. [SPECIFICATION FOR ELECTRONIC RECORDING EQUIPMENT; QUALIFICATIONS FOR OPERATOR.]** *For the purpose of this section the state court administrator shall promulgate specifications for acceptable electronic recording equipment used to record court proceedings and minimum qualifications for the persons who operate and monitor the equipment.*

**Subd. 4. [LIMITATIONS ON USE OF ELECTRONIC RECORDING EQUIPMENT.]** *A competent stenographer who meets minimum qualifications promulgated by the supreme court, shall make a complete stenographic record of the following court proceedings:*

*(1) Felony and gross misdemeanor offenses, except arraignments and first appearance in district court as specified in rule 8 of the rules of criminal procedure.*

*(2) District court jury trials.*

*(3) Contested district court trials and fact-finding hearings. Where required by statute or court rule, electronic recording equipment may be used in addition to the services of a competent stenographer.*

**Subd. 5. [MALFUNCTION OF ELECTRONIC RECORDING.]** *If, when electronic recording equipment is used, a malfunction occurs in the recording process so that the recording is incomplete, the court may declare a mistrial if the malfunction is discovered during the trial. If the malfunction is discovered in the course of preparing a transcript after a verdict has been entered, the court may grant a new trial upon motion of any party.*

**Sec. 2.** Minnesota Statutes 1980, Section 486.02, is amended to read:

**486.02 [STENOGRAPHIC RECORD.]**

**(SUCH REPORTER)** *Except as provided in section 1, a competent stenographer who meets minimum qualifications promulgated by the supreme court, shall make a complete stenographic record of all testimony given and all proceedings had before the judge upon the trial of issues of fact, with or without a jury, or before any referee appointed by such judge. In so doing he shall take down all questions in the exact language thereof, and all answers thereto precisely as given by the witness or by*



the sworn interpreter. He shall also record, verbatim, all objections made, and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all motions, orders, and admissions made and the charge to the jury. When directed so to do by the judge, he shall make a like record of any other matter or proceeding, and shall read to such judge or referee any record made by him, or transcribe the same, without charge, for any purpose in furtherance of justice.

Sec. 3. Minnesota Statutes 1980, Section 486.03, is amended to read:

**486.03 [FURNISH TRANSCRIPT; FILE RECORD.]**

As soon as the trial is ended the reporter or operator of electronic recording equipment shall file his stenographic report, or tape recording, thereof with the clerk, or elsewhere, if the judge shall so direct; and, upon request of any person interested and payment or tender of his fees therefor, he shall furnish a transcript of such record in the words and figures represented by the characters used in making the same and for that purpose he may take and retain such record so long as may be necessary, when it shall be returned to the files.

Sec. 4. Minnesota Statutes 1980, Section 484.545, Subdivision 2, is amended to read:

Subd. 2. (THE JUDGES, BY ORDER FILED WITH THE COUNTY AUDITORS ON OR BEFORE THE FIRST MONDAY IN AUGUST, 1975, AND ANNUALLY ON OR BEFORE THE FIRST MONDAY IN JANUARY THEREAFTER SHALL FIX AND ESTABLISH THE SALARY OF EACH LAW CLERK NOT TO EXCEED \$15,000 PER YEAR WITHOUT THE APPROVAL OF THE COUNTY BOARD OF EACH OF THE COUNTIES INVOLVED, AND SHALL APPORTION THE TOTAL SALARIES PAID AMONG THE SEVERAL COUNTIES TO WHICH THE JUDGES ARE ASSIGNED, ACCORDING TO THE POPULATION OF EACH COUNTY.) *Notwithstanding any law to the contrary, in all judicial districts, except the fourth judicial district, a salary range for law clerks shall be established annually by the judicial district administrator with the approval of a majority of judges of the district. The salary for each law clerk shall be set within that range annually by the district administrator after consultation with the chief judge.*

*Nothing herein shall change the manner by which law clerk salaries are paid, the proportions among the various counties of a judicial district by which the funds are allocated or any statutory provision related to law clerk compensation other than the manner of setting salary. Each county shall be required by the order to pay a specified amount thereof in monthly installments which shall be such proportion of the whole salaries as the popu-*

lation of the county is to the total population of the counties to which the judge is assigned as determined by the last census.

Sec. 5. Minnesota Statutes 1980, Section 484.545, is amended by adding a subdivision to read:

*Subd. 4. All law clerks in every judicial district, shall serve without tenure at the pleasure of the appointing judge or judges.*

Sec. 6. [EFFECTIVE DATE.]

*Section 1, subdivisions 3 and 4 are effective the day after final enactment. Section 1, subdivisions 1, 2 and 5, and sections 2 and 3 are effective upon promulgation of the specifications and qualifications as provided in section 1, subdivision 3."*

Delete the title and insert:

"A bill for an act relating to courts; permitting the use of electronic recording equipment in certain district court proceedings; permitting all judicial districts except Hennepin county to set salaries of law clerks; clarifying that all law clerks are unclassified employees and without tenure; amending Minnesota Statutes 1980, Sections 484.545, Subdivision 2, and by adding a subdivision; 486.02 and 486.03; and proposing new law coded in Minnesota Statutes, Chapter 484."

We request adoption of this report and repassage of the bill.

House Conferees: KENNETH P. ZUBAY, TAD JUDE and RICHARD M. O'CONNOR.

Senate Conferees: NANCY BRATAAS, GENE MERRIAM and BOB LESSARD.

Zubay moved that the report of the Conference Committee on H. F. No. 691 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 691, A bill for an act relating to court reporting; permitting the use of electronic recording equipment in certain district court proceedings; amending Minnesota Statutes 1980, Sections 486.02 and 486.03; and proposing new law coded in Minnesota Statutes, Chapter 484.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 124 yeas and 4 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Kelly	Nysether	Sherman
Ainley	Fjoslien	Knickerbocker	O'Connor	Sieben, M.
Anderson, B.	Forsythe	Kostohryz	Ogren	Skoglund
Anderson, G.	Friedrich	Kvam	Olsen	Stadum
Anderson, I.	Greenfield	Laidig	Onnen	Staten
Battaglia	Gruenes	Lehto	Osthoff	Stowell
Begich	Halberg	Lemen	Otis	Stumpf
Berkelman	Hanson	Levi	Peterson, B.	Sviggum
Blatz	Harens	Long	Peterson, D.	Swanson
Brandl	Hauge	Ludeman	Piepho	Tomlinson
Brinkman	Haukoos	Luknic	Pogemiller	Valan
Byrne	Heap	Mann	Redalen	Valento
Carlson, D.	Heinitz	Marsh	Reding	Vanasek
Carlson, L.	Himle	McDonald	Rees	Vellenga
Clark, J.	Hoberg	McEachern	Reif	Voss
Clawson	Hokanson	Mehrrens	Rice	Weaver
Dahlvang	Hokr	Metzen	Rodriguez, F.	Welch
Dean	Jacobs	Minne	Rose	Welker
Dempsey	Jennings	Munger	Rothenberg	Wenzel
Den Ouden	Johnson, C.	Murphy	Samuelson	Wieser
Drew	Johnson, D.	Nelsen, B.	Sarna	Wigley
Elioff	Jude	Nelson, K.	Schafer	Wynia
Ellingson	Kahn	Niehaus	Schoenfeld	Zubay
Erickson	Kaley	Norton	Searles	Spkr. Sieben, H.
Esau	Kalis	Novak	Shea	

Those who voted in the negative were:

Gustafson      McCarron      Rodriguez, C.      Simoneau

The bill was repassed, as amended by Conference, and its title agreed to.

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 936

A bill for an act relating to natural resources; raising limitations on values of state timber which may be sold at public auction or informal sale; providing for special auction sales and changing certain other provisions relating to the sale and removal of state timber; sale of stumpage; amending Minnesota Statutes 1980, Sections 90.031, Subdivision 4; 90.101, Subdivision 1; 90.151, Subdivisions 11 and 13; 90.173; 90.181, Subdivision 2; 90.191, Subdivision 1; 282.04, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 90.

May 13, 1981

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jack Davies  
President of the Senate

We, the undersigned conferees for H. F. No. 936, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H. F. No. 936 be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 90.031, Subdivision 4, is amended to read:

Subd. 4. The executive council may formulate and establish, from time to time, (SUCH) rules (AND REGULATIONS AS) it deems advisable for the transaction of timber business of the state, *including approval of the sale of timber on any tract in a lot exceeding \$20,000 when the sale is in the best interests of the state, and may abrogate, modify, or suspend* (SUCH) rules (AND REGULATIONS) at its pleasure.

Sec. 2. Minnesota Statutes 1980, Section 90.041, is amended by adding a subdivision to read:

*Subd. 4. In May of each year, the commissioner shall hold a public meeting in each forest area to inform the public of the manner in which the cutting list for that area for the next fiscal year is proposed to be allocated between informal, intermediate and regular auction sales. The public shall be afforded an opportunity to provide written and oral comments concerning the proposed allocation.*

Sec. 3. Minnesota Statutes 1980, Section 90.101, Subdivision 1, is amended to read:

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding (\$7,500) \$20,000 in appraised value and may determine the number of sections or fractional sections of land to be covered by any one permit issued to the purchaser of timber on state lands, or in any one contract or other instrument relating thereto. No timber shall be sold, except to the highest bidder at public auction, and the minimum price shall be the appraised value as fixed by the report of the state appraiser. All sales shall be held in the county in which the tract is located and no sale shall be held in more than one location on any one day.

Sec. 4. [90.121] [INTERMEDIATE AUCTION SALES; MAXIMUM LOTS OF \$7,000.]

*The commissioner may sell the timber on any tract of state land in lots not exceeding \$7,000 in appraised value, in the same manner as timber sold at public auction under section 90.101, and related laws, subject to the following special exceptions and limitations:*

(1) sales shall be at the forest office or other public facility most accessible to potential bidders or close to where the tract is located;

(2) the commissioner's list describing the tract, quantity of timber, and appraised price shall be compiled not less than 30 days before the date of sale and a copy of the list posted not less than 30 days before the date of the sale;

(3) notice of the sale shall be published once, not less than one week before the date of the sale;

(4) no bidder may be awarded more than 25 percent of the total tracts offered at the first round of bidding unless fewer than four tracts are offered, in which case not more than one tract shall be awarded to one bidder. Any tract not sold shall be available for a period of 90 days for purchase by persons eligible under this section at the appraised value;

(5) the bond or deposit required pursuant to section 90.161 or 90.173 shall be given or deposited before any cutting begins or not later than nine months after the date of sale, whichever is earlier;

(6) in lieu of the placing of the marks M I N on cut products as prescribed under section 90.151, subdivision 2, all landings of cut products shall be legibly marked with the name of the permit holder and the assigned permit number;

(7) no person may hold more than four permits issued under this section and no sale may be made to a person holding four permits which are still in effect or to a person having more than 20 employees;

(8) the permit may not exceed one year in duration;

(9) if the purchaser for good and sufficient reason is unable to cut the timber within the one year permit period, the commissioner may grant one extension for a period of up to one year from the date of expiration of the original permit without interest, and one additional extension of one year with interest;

(10) if all cut timber, equipment, and buildings, are not removed at the end of any 120 day extension period which the commissioner may grant for removal, the commissioner may grant a second period of time not to exceed 120 days for the removal of cut timber, equipment, and buildings upon receipt of a request by the permit holder for hardship reasons only.

The auction sale procedure set forth in this section constitutes an additional alternative timber sale procedure available to the commissioner and is not intended to replace other authority

*possessed by the commissioner to sell timber in lots of \$7,000 or less.*

Sec. 5. Minnesota Statutes 1980, Section 90.151, Subdivision 11, is amended to read:

Subd. 11. Except as authorized under section 90.191, any permit (FAILING) *which fails to conform to the requirements of this section or, in the case of a permit issued under section 4, which fails to conform to the requirements of section 4,* shall be void (ON ITS FACE).

Sec. 6. Minnesota Statutes 1980, Section 90.151, Subdivision 13, is amended to read:

Subd. 13. The commissioner may grant extensions of timber permits and contracts (, WHETHER ISSUED BEFORE OR AFTER JULY 1, 1967,) for (SUCH) periods as the commissioner deems advisable, provided that (1) for permits issued on or after May 15, 1975 the total of (SUCH) *the* extensions shall not exceed three years from the date of the expiration of the original permit, and (2) for permits issued prior to May 15, 1975 the total of (SUCH) *the* extensions and the original permit term shall not exceed ten years from date of issuance of the permit. All extensions granted pursuant to this subdivision shall be subject to all the provisions of this chapter. The commissioner shall include in each extension a condition that the purchaser shall pay to the state interest at the rate of (SIX) *eight* percent of the unpaid purchase price for each year of (SUCH) extension or portion thereof to the date of the seasonal scale report of products cut as computed on the sale price of the timber cut, or if not cut, upon the official estimate thereof; however, the purchaser is not required to pay interest totaling \$1 or less.

Sec. 7. Minnesota Statutes 1980, Section 90.161, Subdivision 1, is amended to read:

Subdivision 1. Except as otherwise provided by law the purchaser of any state timber, before any timber permit to him shall become effective for any purpose, shall within 90 days from the date of purchase give a good and valid bond to the state of Minnesota equal to the value of all timber covered or to be covered by the permit, as shown by the sale price bid therefor and the appraisal report thereof as to quantity, *less the amount of any payment pursuant to section 90.14,* which bond shall be conditioned upon the faithful performance by the purchaser and his successors in interest of all the terms and conditions of the permit and all requirements of law in respect to such sales; and the bond shall be approved in writing by the commissioner and filed for record in his office.

Sec. 8. Minnesota Statutes 1980, Section 90.173, is amended to read:

**90.173 [PURCHASER'S OR ASSIGNEE'S CASH DEPOSIT IN LIEU OF BOND.]**

In lieu of filing the bond required by section 90.161 or 90.171, as security for the issuance or assignment of a timber permit the person required to file (SUCH) the bond may deposit with the state treasurer cash, a certified check, (OR) a cashier's check, a postal, bank, or express money order, assignable bonds or notes of the United States, or an assignment of a bank savings account or investment certificate or an irrevocable bank letter of credit, in the same amount as would be required for a bond. If securities listed in this section are deposited, the par value of the securities shall be not less than the amount required for the timber sale bond, and the person required to file the timber sale bond shall submit an agreement authorizing the commissioner to sell or otherwise take possession of the security in the event of default under the timber sale. All of the conditions of the timber sale bond shall equally apply to (SUCH) the deposit with the state treasurer. In the event of a default the state may take from (SUCH) the deposit the sum of money to which it is entitled; the remainder, if any, shall be returned to the person making (SUCH) the deposit and shall bear interest at the rate determined pursuant to section 549.09 if not returned within 30 days from the date of the default. (SUCH) Sums of money as may be required by the state treasurer to carry out the terms and provisions of this section are (HEREBY) appropriated from the general fund to the state treasurer for (SUCH) these purposes. When cash is deposited for a bond, it shall be applied to the amount due when a statement is prepared and transmitted to the permit holder pursuant to section 90.181. Any balance due to the state shall be shown on the statement and shall be paid as provided in section 90.181. Any amount of the deposit in excess of the amount determined to be due pursuant to section 90.181 shall be returned to the permit holder when a final statement is transmitted pursuant to that section. All or part of a cash bond may be withheld from application to an amount due on a non-final statement if it appears that the total amount due on the permit will exceed the bid price.

Sec. 9. Minnesota Statutes 1980, Section 90.181, Subdivision 2, is amended to read:

Subd. 2. [DEFERRED PAYMENTS.] If the amount of the statement is not paid within 30 days of the date thereof, it shall bear interest at the rate (OF SIX PERCENT PER ANNUM FROM DATE) determined pursuant to section 549.09, except that the purchaser shall not be required to pay (SUCH) interest that totals \$1 or less. If the amount is not paid within 60 days, the commissioner shall place the account in the hands of the attorney general who shall proceed to collect the same. When deemed in the best interests of the state, the commissioner shall

(DEEM IT FOR THE BEST INTEREST OF THE STATE HE SHALL) take possession of the timber for which (SUCH) *an* amount is due wherever it may be found and sell the same informally or at public auction after giving (SUCH NOTICE AS HE DEEMS) reasonable *notice*. The proceeds of (SUCH) *the* sale shall be applied, first, to the payment of the expenses of seizure and sale; and, second, to the payment of the amount due for (SUCH) *the* timber, with interest; and the surplus, if any, shall belong to the state; and, in case a sufficient amount is not realized to pay (SUCH) *these* amounts in full, the balance shall be collected by the attorney general. Neither payment of (SUCH) *the* amount, nor the recovery of judgment therefor, nor satisfaction of (SUCH) *the* judgment, nor the seizure and sale of (SUCH) timber, shall release the sureties on any bond given pursuant to this chapter, or preclude the state from afterwards claiming that (SUCH) *the* timber was cut or removed contrary to law and recovering damages for the trespass thereby committed, or from prosecuting the offender criminally.

Sec. 10. Minnesota Statutes 1980, Section 90.191, Subdivision 1, is amended to to read:

Subdivision 1. The commissioner may sell the timber on any tract of state land in lots not exceeding (\$1,500) \$3,000 in appraised value, without formalities but for not less than the full appraised value thereof, to any (INDIVIDUAL) *person*. No sale shall be made under this section to any person holding two permits issued hereunder which are still in effect; *except that (1) a partnership as defined in chapter 323, which may include spouses but which shall provide evidence that a partnership exists, may be holding two permits for each of not more than three partners who are actively engaged in the business of logging or who are the spouses of persons who are actively engaged in the business of logging with that partnership; and (2) a corporation, a majority of whose shares and voting power are owned by natural persons related to each other within the fourth degree of kindred according to the rules of the civil law or their spouses or estates, may be holding two permits for each of not more than three shareholders who are actively engaged in the business of logging or who are the spouses of persons who are actively engaged in the business of logging with that corporation.*

Sec. 11. [EXTENSION OF CERTAIN TIMBER PERMITS.]

*The commissioner of natural resources may extend for an additional period of not to exceed one year any timber permit issued pursuant to Minnesota Statutes, Section 90.191, which expires during 1981. This extension shall be in addition to any extension previously granted pursuant to section 90.191; shall be made without additional charge, and shall otherwise be subject to the requirements of section 90.191.*



Sec. 12. Minnesota Statutes 1980, Section 282.04, Subdivision 1, as amended to read:

Subdivision 1. [TIMBER SOLD FOR CASH.] The county auditor may sell dead, down and mature timber upon any tract that may be approved by the natural resources commissioner. Such sale of timber products shall be made for cash at not less than the appraised value determined by the county board to the highest bidder after not less than one week's published notice in an official paper within the county. Any timber offered at such public sale and not sold may thereafter be sold at private sale by the county auditor at not less than the appraised value thereof, until such time as the county board may withdraw such timber from sale. The appraised value of the timber and the forestry practices to be followed in the cutting of said timber shall be approved by the commissioner of natural resources. Payment of the full sale price of all timber sold on tax-forfeited lands shall be made in cash at the time of the timber sale. The county board may require final settlement on the basis of a scale of cut products. Any parcels of land from which timber is to be sold by scale of cut products shall be so designated in the published notice of sale above mentioned, in which case the notice shall contain a description of such parcels, a statement of the estimated quantity of each species of timber thereon and the appraised price of each specie of timber for 1,000 feet, per cord or per piece, as the case may be. In such cases any bids offered over and above the appraised prices shall by percentage, the percent bid to be added to the appraised price of each of the different species of timber advertised on the land. The purchaser of timber from such parcels shall pay in cash at the time of sale at the rate bid for all of the timber shown in the notice of sale as estimated to be standing on the land, and in addition shall pay at the same rate for any additional amounts which the final scale shows to have been cut or was available for cutting on the land at the time of sale under the terms of such sale. Where the final scale of cut products shows that less timber was cut or was available for cutting under terms of such sale than was originally paid for, the excess payment shall be refunded from the forfeited tax sale fund upon the claim of the purchaser, to be audited and allowed by the county board as in case of other claims against the county. No timber, except hardwood pulpwood, may be removed from such parcels of land or other designated landings until scaled by a person or persons designated by the county board and approved by the commissioner of natural resources. Landings other than the parcel of land from which timber is cut may be designated for scaling by the county board by written agreement with the purchaser of the timber. The county board may, by written agreement with the purchaser and with a consumer designated by him when the timber is sold by the county auditor, and with the approval of the commissioner of natural resources, accept the consumer's scale of cut products delivered at the consumer's landing. No timber shall be removed until fully paid for in cash. Small amounts of green standing, dead, down,

dying, insect infected or diseased timber not exceeding (\$1,500) \$3,000 in appraised valuation may be sold for not less than the full appraised value at private sale to individual persons without first publishing notice of sale or calling for bids, provided that in case of such sale involving a total appraised value of more than \$200 the sale shall be made subject to final settlement on the basis of a scale of cut products in the manner above provided and not more than two such sales, directly or indirectly to any individual shall be in effect at one time. As directed by the county board, the county auditor may lease tax-forfeited land to individuals, corporations or organized subdivisions of the state at public or private vendue, and at such prices and under such terms as the county board may prescribe, for use as cottage and camp sites and for agricultural purposes and for the purpose of taking and removing of hay, stumpage, sand, gravel, clay, rock, marl, and black dirt therefrom, and for garden sites and other temporary uses provided that no leases shall be for a period to exceed ten years; provided, further that any leases involving a consideration of more than \$300 per year, except to an organized subdivision of the state shall first be offered at public sale in the manner provided herein for sale of timber. Upon the sale of any such leased land, it shall remain subject to the lease for not to exceed one year from the beginning of the term of the lease. Any rent paid by the lessee for the portion of the term cut off by such cancellation shall be refunded from the forfeited tax sale fund upon the claim of the lessee, to be audited and allowed by the county board as in case of other claims against the county. The county auditor, with the approval of the county board is authorized to grant permits, licenses, and leases to tax-forfeited lands for the depositing of stripping, lean ores, tailings, or waste products from mines or ore milling plants, upon such conditions and for such consideration and for such period of time, not exceeding 15 years, as the county board may determine; said permits, licenses, or leases to be subject to approval by the commissioner of natural resources. Any person who removes any timber from tax-forfeited land before said timber has been scaled and fully paid for as provided in this subdivision is guilty of a misdemeanor. The county auditor may, with the approval of the county board and the commissioner of natural resources, and without first offering at public sale, grant leases, for a term not exceeding 25 years, for the removal of peat from tax-forfeited land upon such terms and conditions as the county board may prescribe.

Provided, however, that no lease for the removal of peat shall be made by the county auditor pursuant to this section without first holding a public hearing on his intention to lease. One printed notice in a legal newspaper in the county at least ten days before the hearing, and posted notice in the courthouse at least 20 days before the hearing shall be given of the hearing.

*Notwithstanding any contrary provision in section 2, in 1981 the meetings required by that section shall be held not later than July 1, 1981.*

Sec. 14. [EFFECTIVE DATE.]

*Sections 2, 11 and 13 are effective the day following final enactment. The remaining sections of this act are effective August 1, 1981."*

Delete the title and insert:

"A bill for an act relating to natural resources; raising limitations on values of state timber which may be sold at public auction or informal sale; providing for intermediate auction sales and changing certain other provisions relating to the sale and removal of state timber; sale of stumpage; permitting extension of certain timber permits; amending Minnesota Statutes 1980, Sections 90.031, Subdivision 4; 90.041, by adding a subdivision; 90.101, Subdivision 1; 90.151, Subdivisions 11 and 13; 90.161, Subdivision 1; 90.173; 90.181, Subdivision 2; 90.191, Subdivision 1; 282.04, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 90."

We request adoption of this report and repassage of the bill.

House Conferees: ARLENE I. LEHTO, WILLARD M. MUNGER and MYRON E. NYSETH.

Senate Conferees: MARV HANSON, BOB LESSARD and GERALD L. WILLET.

Lehto moved that the report of the Conference Committee on H. F. No. 936 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 936, A bill for an act relating to natural resources; raising limitations on values of state timber which may be sold at public auction or informal sale; providing for special auction sales and changing certain other provisions relating to the sale and removal of state timber; sale of stumpage; amending Minnesota Statutes 1980, Sections 90.031, Subdivision 4; 90.101, Subdivision 1; 90.151, Subdivisions 11 and 13; 90.173; 90.181, Subdivision 2; 90.191, Subdivision 1; 282.04, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 90.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Erickson	Kalis	Nysether	Sieben, M.
Ainley	Esau	Kelly	Ogren	Simoneau
Anderson, B.	Evans	Kostohryz	Olsen	Skoglund
Anderson, G.	Fjoslien	Kvam	Onnen	Stadum
Anderson, I.	Forsythe	Laidig	Osthoff	Staten
Anderson, R.	Friedrich	Lehto	Otis	Stowell
Battaglia	Greenfield	Lemen	Peterson, B.	Stumpf
Begich	Gruenes	Levi	Peterson, D.	Sviggum
Berkelman	Gustafson	Long	Piepho	Swanson
Blatz	Hanson	Ludeman	Pogemiller	Tomlinson
Brandl	Harens	Luknic	Redalen	Valan
Brinkman	Hauge	Mann	Reding	Valento
Byrne	Haukoos	Marsh	Rees	Vanasek
Carlson, D.	Heap	McCarron	Reif	Vellenga
Carlson, L.	Heinitz	McDonald	Rice	Voss
Clark, J.	Himle	McEachern	Rodriguez, C.	Weaver
Clark, K.	Hoberg	Mehrkens	Rodriguez, F.	Welch
Clawson	Hokanson	Metzen	Rose	Welker
Dahlvang	Hokr	Minne	Rothenberg	Wenzel
Dean	Jacobs	Munger	Samuelson	Wieser
Dempsey	Jennings	Murphy	Sarna	Wigley
Den Ouden	Johnson, C.	Nelsen, B.	Schafer	Wynia
Drew	Johnson, D.	Nelson, K.	Schoenfeld	Zubay
Eken	Jude	Niehaus	Searles	Spkr. Sieben, H.
Elioff	Kahn	Norton	Shea	
Ellingson	Kaley	Novak	Sherman	

The bill was repassed, as amended by Conference, and its title agreed to.

#### CONFERENCE COMMITTEE REPORT ON H. F. NO. 487

A bill for an act relating to the capitol area architectural and planning board; providing for disposition of tax-forfeited property within the capitol area; amending Minnesota Statutes 1980, Section 15.50, Subdivision 6.

May 15, 1981

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

The Honorable Jack Davies  
President of the Senate

We, the undersigned conferees for H. F. No. 487, report that we have agreed upon the items in dispute and recommend as follows:

The Senate recede from its amendment and that H. F. No. 487 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Laws 1974, Chapter 435, Section 3.02, Subdivision 2, as amended by Laws 1978, Chapter 745, Section 1, is amended to read:

Subd. 2. [APPOINTMENT OF CIVIL SERVICE COMMISSION, TERMS.]

(a) The board of county commissioners of Ramsey county shall by majority vote, appoint three persons as the first members of a civil service commission to serve for terms of two, four and six years. *On or before August 1, 1981, the board shall appoint two additional members to serve on the civil service commission, making a total of five commission members. One new member shall serve for a term of five years and the other for three.* As the term of each commissioner expires, the board of county commissioners shall fill the vacancy for a term of six years.

(b) No person may act as a member of the civil service commission while holding a public office, or while holding office in a political party *above the state legislative district level*, nor for two years after having held this kind of public or political office.

(c) Each member of the commission must be a resident of the county.

(d) The board of county commissioners shall fill a vacancy occurring within a term for the unexpired portion of the term.

(e) Each commissioner shall hold office until his successor has been appointed and has qualified.

(f) The commission shall organize by electing one of its members as chairman and one as secretary. The commission shall hold regular meetings at least once a month and may hold the additional meetings that may be necessary to discharge the duties of the commission. Twenty-four hours notice of special meetings shall be given members.

Sec. 2. Laws 1974, Chapter 435, Section 3.02, Subdivision 6, as amended by Laws 1978, Chapter 745, Section 1, Laws 1979, Chapter 313, Section 2, and Laws 1981, Chapter 52, Section 1, is amended to read:

Subd. 6. [CLASSIFICATION OF SERVICE.]

(a) [DEFINITION OF COVERAGE.] The officers and employees of Ramsey County and of a county or joint county and city agency, board, commission or committee supported in whole or in part by taxation upon the taxable property of the county, or appointed by the judges of the district court or pro-

bate court for the county, or by a board or agency composed of representatives of the county and a city in the county and employees employed in hospitals, preventoria, county nursing homes, and the welfare department are divided into the unclassified and classified service.

(b) [UNCLASSIFIED SERVICE.] The unclassified service comprises:

(1) An officer elected by popular vote or a person appointed to fill a vacancy in such an office.

(2) The head or principal administrative officer of a separate department or agency created by law, the director of the welfare department.

(3) A chief deputy or principal assistant for each elected public official and for the county engineer and veterans' service officer.

(4) Each doctor, intern, student nurse and intern dietician employed by the county or a county agency.

(5) Each member of the teaching staff, supervisor and principal in the employ of the county, actually engaged in teaching or the supervision of teaching.

(6) A member of a board or commission appointed by the county, or the county and the city, or acting in an advisory capacity.

(7) A weed inspector, election judge, election clerk or other employee employed by the county for a limited period of time.

(8) A special police officer or special deputy sheriff serving without pay.

(9) A judge, court administrator, court reporter, receiver, referee, examiner or assistant examiner of titles, public defender, arbiter, juror, clerk of probate court or a person appointed by the district or probate courts to make or conduct a special inquiry of a judicial and temporary character.

(10) The director of court services and three principal assistants or division supervisors.

(11) The employees of the municipal court of Ramsey County and the judicial district administrator's office.

(12) The principal administrative officer of the detention and corrections department, his first assistant, the superin-

tendent of each departmental facility and his first assistant or chief deputy.

(13) The chief executive officer of St. Paul-Ramsey Hospital and seven principal assistants.

(14) The executive secretary or the principal administrative officer of the county and seven principal assistants, appointed and terminated by the executive secretary or the principal administrative officer, except that until January 1, 1980 such appointments and terms shall be submitted to the Ramsey County government study commission. Such consideration shall be advisory only.

(15) The Ramsey County Sheriff, his chief deputy, (TWO) *three* principal assistants and a personal secretary.

(16) The Ramsey County attorney, his first assistant, one principal assistant, and a personal secretary.

(c) [CLASSIFIED SERVICE.] (1) The classified service includes all other offices or employments in the county and county agencies, and all officers and employees not expressly placed in the unclassified service.

(2) Each employee in the classified service is placed in a graded division except an employee whose position is in a certified bargaining unit as defined under the public employment labor relations act and an employee in an ungraded division established by the county board. The ungraded division, if one is established, includes each employee in a construction trade who is engaged in the work of repair, alteration or construction of buildings for which trade there is a generally established and recognized scale of wages inside the county.

(3) (A) The superintendent and assistant superintendent of the Ramsey County nursing home are in the classified service.

(B) The provisions of Minnesota Statutes, Section 393.07, Subdivision 5, are hereby superseded insofar as they may be inconsistent with this section.

Sec. 3. Laws 1974, Chapter 435, Section 3.11, is amended to read:

Sec. 3.11. [ABSTRACT CLERK.]

((A)) *Subdivision 1.* [TERM.] In Ramsey county an abstract clerk shall be elected at the general election for county officers and his term of office is for four years and until his successor is elected and qualified.

((B)) *Subd. 2.* [DUTIES.] ((1)) The abstract clerk of Ramsey county has the sole and exclusive power, and it is his official duty to make out all official abstracts of title affecting real property inside the county, as an official thereof, and the register of deeds shall have no power or authority in the premises whatsoever.

((2)) The duties of the Ramsey county abstract clerk do not impair the power of any private person, company or corporation to make out abstracts of title as provided by the general laws of this state.

((C)) *Subd. 3.* [DUTIES AND FEES.] ((1) (A)) The records and indices in the office of county abstract clerk are public records, open to inspection, but only to the extent in this (SUBSECTION) *section* provided.

((B)) *Subd. 4.* Each record, index, abstract, copy, plat, bookkeeping record, or paper of any type whatsoever, prepared in the office, is the property of the county for the use of the county abstract clerk and his successors in office, and, at the end of the term of an abstract clerk, shall be turned over to his successor in office.

((C)) *Subd. 5.* The county abstract clerk shall permit, without fee and within reasonable business hours as not to interfere with the conduct of the work of the office, and under supervision to assure the safety of the records, inspection of the tract index as hereinafter defined, by a party interested in the ownership of a particular parcel of land, or his agent or attorney. There is no right on the part of anyone to make general or indiscriminate searches of the records or to copy a part thereof to make abstracts of title or abstract books or in any manner to deprive the abstract clerk of the fees provided by law for his official duties.

((D)) *Subd. 6.* Whoever destroys, attempts to destroy, deface, or alter any record in the office of the county abstract clerk is guilty of a gross misdemeanor.

((2) (A)) *Subd. 7.* The county abstract clerk shall maintain, current as of 8 o'clock a.m. each business day, abstract indices to the land of the county, including a tract and miscellaneous system of indices, correctly indexing each instrument filed of record in the office of the register of deeds in the county which in any manner affects the title to real property inside the county. He shall maintain currently correct as of each day, indices to all judgments in any court which are a lien on real property inside the county and all federal tax liens. He shall maintain the other and further abstract records and indices that the board of county commissioners of the county directs.



((B)) *Subd. 8.* The county abstract clerk shall furnish, within ten days, upon demand of anyone and proffer of his fees, a complete, true and perfect abstract of title to a parcel of land in the county.

((C)) *Subd. 9.* The county abstract clerk shall, without fee and within reasonable hours as not to interfere with the conduct of his office and under reasonable supervision to assure the safety of the public records, permit the use of records in the office by duly authorized representatives of other state, county, municipal or federal governmental agencies for public purposes.

((D)) *Subd. 10.* The county abstract clerk shall furnish to anyone, within 48 hours of demand, and without fee, an oral report of the apparent ownership and apparent unsatisfied encumbrance as to a parcel of land inside the county, but he shall not be responsible under the bond herein required, for the correctness of a report furnished without fee.

((E)) *Subd. 11.* The county abstract clerk shall not be required, without demand and proffer of fees as herein set forth, to furnish a report of personal judgments in a court against a person, firm or corporation.

((F)) *Subd. 12.* The county abstract clerk and his deputies and employees shall not be permitted to practice law, or demand or receive a fee for an opinion as to the condition of the title to a parcel of real estate, save as to reports of the apparent record ownership, nor to prepare or execute papers incident to the transfer of title to real property or in any manner act as advisor or counsellor at law or as agent for the sale of real property or in any manner assume the function of lawyer, real estate broker or advisor.

((G)) *Subd. 13.* The county abstract clerk may appoint a deputy county abstract clerk to act in his stead and behalf, and for whose acts the county abstract clerk is responsible.

((3)) *Subd. 14.* The board of county commissioners in Ramsey county shall appoint each year a committee to inspect the records and the conduct of the office of the county abstract clerk, the committee to consist of an accountant representing the office of the county auditor, a representative of the county attorney's office and one member of the board, each of whom will serve without further compensation than provided by law for their respective positions. The committee shall inspect the records of the office of county abstract clerk at least once each year and report to the board of county commissioners on the fees collected, the public service rendered, the condition of the public records therein contained and the general conduct of the office. *The committee shall before January 1, 1982 complete a comprehensive audit of the records of the office of the abstract clerk*

for calendar years 1980 and 1981. The county abstract clerk shall permit the committee to inspect each record of whatsoever nature having to do with his conduct of the office upon demand at any time.

((4)) *Subd. 15.* The county abstract clerk (MAY) shall charge, collect and retain for (HIS OWN) the use of the county, fees for his services (TO) which shall be set by the county board. (IF THE COUNTY BOARD DOES NOT SET THE FEES TO BE CHARGED, THE COUNTY ABSTRACT CLERK MAY SET THE FEES) The county board shall also set the compensation of the abstract clerk, the deputy and employees and appropriately incorporate them into the Ramsey county civil service system.

((5)) *Subd. 16.* Before the county abstract clerk enters upon his duties, he shall give bond to the county, at county expense, in the penal sum of \$5,000, to be approved by the county board, conditioned that he will faithfully discharge the duties of his office, and shall give bond to the public, in the penal sum of \$10,000, at his own expense, to be approved by the county board, conditioned that he shall pay all damages suffered by anyone through any error deficiency in any abstract of title or registered property report issued by his office.

((6)) *Subd. 17.* The board of county commissioners of Ramsey county shall fill each vacancy in the office of county abstract clerk, for whatever cause, by appointment. The person so appointed shall give the bond and take the oath required by law, and shall hold for the remainder of the unexpired term, and until his successor qualifies.

*Subd. 18.* The office of county abstract clerk is an agency of Ramsey county for the purposes of the Ramsey county civil service statute and the public employment labor relations act and for all other purposes provided by law.

Sec. 4. Laws 1980, Chapter 612, Section 3, is amended to read:

Sec. 3. [SAINT PAUL AND MINNEAPOLIS, (CITY) CITIES OF; EMPLOYMENT OF UNIVERSITY OR COLLEGE STUDENTS.]

Notwithstanding any contrary provisions of the Saint Paul city charter and the Minneapolis city charter or, a statute, including the veterans preference act, or a civil service rule or regulation, the governing body or any board or commission of the city of Saint Paul and the city of Minneapolis having authority to hire employees may employ university, college, or professional school students pursuant to an intern or other training program (RELATED TO THEIR ACADEMIC ENDEAVORS)

when the program is sponsored or substantially financed by the state or the United States or by a philanthropic foundation or organization. Persons hired under a program shall be in the unclassified service of the city and serve at the pleasure of the body employing them. No full time appointment under this section shall exceed one year. Persons employed under this section shall be excluded from the provisions of Minnesota Statutes, Sections 268.03 to 268.24.

Sec. 5. Minnesota Statutes 1980, Section 15.50, Subdivision 6, is amended to read:

Subd. 6. (a) The city of Saint Paul shall have the power to convey without compensation therefor to the state any property owned by it within the boundaries of the capitol area pursuant to the plan adopted by the board; and the state shall have the authority to transfer to the city of Saint Paul without compensation any property acquired by it for the purposes of Laws 1969, Chapter 1150, which lies within the street lines of the streets to be established as a part of the city's portion of said plan.

(b) The tax-forfeited lands which are held by the state in trust for the several taxing subdivisions of the state and which are within the boundaries of the capitol area as fixed by the plan recommended to the governor by the governor's advisory committee or by the plan adopted by the board as provided in Laws 1969, Chapter 1150, shall not, *except as provided in this subdivision*, be subject to sale or repurchase under any act, now in effect or hereafter enacted unless it shall be expressly provided in such act that the provisions of Laws 1969, Chapter 1150, shall be superseded, modified or repealed.

*The following procedure shall be used with respect to the tax-forfeited lands within the boundaries of the capitol area:*

(1) *When the state gains custody of the tax-forfeited lands in the capitol area which are to be held in trust for taxing subdivisions of the state, the Ramsey county board of commissioners shall compile a list of these lands after the fee ownership has been recorded in the county recorder's office and submit the list to the board. The list shall include a property description of the tax-forfeited parcel and a listing of the buildings or structures thereon.*

(2) *Within 90 calendar days after receipt of the Ramsey county board of commissioners' list, the board, at its discretion, may: (i) direct the commissioner of revenue to release the tax-forfeited parcel from the trust for the taxing subdivision of the state, which action shall vest unencumbered title to the property in the name of the state; or (ii) authorize the parcel to be disposed of pursuant to chapter 282, provided that the parcel*

*be thereafter utilized in accord with a portion or all of the standards, policies or guidelines in the board's comprehensive use plan.*

*(3) If the board fails to act within the prescribed 90-day period, the tax-forfeited parcel's disposition shall be governed by chapter 282.*

*(4) Unless and until the commissioner of revenue releases a tax-forfeited parcel from the trust for the taxing subdivision and during the aforementioned 90-day waiting period, the Ramsey county board of commissioners is authorized to maintain the parcel to minimize risks to persons and property contiguous to the parcel. If the parcel is conveyed from the trust to the state, the commissioner of administration shall assume these maintenance responsibilities.*

*(d) The commissioner of revenue shall (HAVE POWER), upon application by the board (TO), release any lands referred to in clause (b) from the trust in favor of the taxing subdivisions of the state. Upon the execution of such release, the commissioner shall certify the fact of such release to the county auditor of Ramsey county. The forms of such release and certificate shall be prescribed by the attorney general.*

*(e) Neither any member of the board, nor any person employed or retained by the board shall have any financial interest, direct or indirect, in any business enterprise or activity, or in the construction or maintenance of facilities for such enterprise or activity, within the capitol area for which approval of the board is in any way required by law. Any person violating the provisions of this paragraph shall be guilty of a gross misdemeanor.*

Sec. 6. Minnesota Statutes 1980, Section 140.21, is amended to read:

#### 140.21 [LIBRARY FEE.]

*Subdivision 1. The clerk of the district court of the second judicial district and the clerk of the probate court of the second judicial district shall collect a law library fee from each plaintiff and person commencing a civil action in district court or commencing a proceeding in probate court, at the time of the filing of the first paper and in the manner in which other fees are collected and in addition thereto, and shall collect a law library fee from each defendant and each other adverse or intervening party, when his appearance is entered in the action or when the first paper on his part is filed.*

*Subd. 2. The law library trustees shall, with the approval of the Ramsey county board of commissioners, set the amount of the library fee.*

Subd. 3. The law library fee is a cost in the action and taxable as such, and is to be allotted for the support of the library.

Sec. 7. Minnesota Statutes 1980, Section 488A.20, Subdivision 4, is amended to read:

Subd. 4. [DISPOSITION OF FINES, FEES AND OTHER MONEYS; ACCOUNTS.] (a) Except as otherwise provided herein and except as otherwise provided by law, the administrator shall pay to the Ramsey county treasurer all fines and penalties collected by him, all fees collected by him for services of himself, all sums forfeited to the court as hereinafter provided, and all other moneys received by the administrator.

(b) The administrator of court shall for each fine or penalty, provide the county treasurer with the name of the municipality or other subdivision of government where the offense was committed and the total amount of the fines or penalties collected for each such municipality or other subdivision of government.

(c) The state of Minnesota and any governmental subdivision within the jurisdictional area of the municipal court herein established may present cases for hearing before said municipal court. In the event (THAT) the court takes jurisdiction of a prosecution for the violation of a statute or ordinance by the state or a governmental subdivision other than a city or town in Ramsey county, all fines, penalties and forfeitures collected shall be paid over to the county treasurer except where a different disposition is provided by law, and the following fees shall be taxed to the state or governmental subdivision other than a city or town within Ramsey County which would be entitled to payment of the fines, forfeitures or penalties in any case, and shall be paid to the administrator of the court for disposing of the matter. The administrator shall deduct the fees from any fine collected for the state of Minnesota or a governmental subdivision other than a city or town within Ramsey County and transmit the balance in accordance with the law, and the deduction of the total of the fees each month from the total of all the fines collected is hereby expressly made an appropriation of funds for payment of the fees:

(1) In all cases where the defendant is brought into court and pleads guilty and is sentenced, or the matter is otherwise disposed of without a trial . . . . . \$5

(2) In arraignments where the defendant waives a preliminary examination . . . . . \$10

(3) *In all other cases where the defendant stands trial or has a preliminary examination by the court.....\$15*

(4) *The court shall have the authority to waive the collection of fees in any particular case.*

(d) At the beginning of the first day of any month, the amount in the hands of the administrator which is owing to any municipality or county shall not exceed \$5,000.

(e) On or before the last day of each month, the county treasurer shall pay over to the treasurer of each municipality or subdivision of government in Ramsey county one-half of all fines or penalties collected during the previous month from those imposed for offenses committed within such municipality or subdivision of government in violation of a statute, an ordinance, charter provision, rule or regulation of a city. All other fines and forfeitures and all fees and costs collected by the county municipal court shall be paid to the treasurer of Ramsey county who shall dispense the same as provided by law.

(f) Amounts represented by checks issued by the administrator or received by the administrator which have not cleared by the end of the month may be shown on the monthly account as having been paid or received, subject to adjustment on later monthly accounts.

(g) The administrator may receive negotiable instruments in payment of fines, penalties, fees, or other obligations as conditional payments, and is not held accountable therefor but if collection in cash is made and then only to the extent of the net collection after deduction of the necessary expense of collection.

Sec. 8. Minnesota Statutes 1980, Section 488A.23, Subdivision 6, is amended to read:

Subd. 6. [EXEMPTIONS FROM FEES; NO TRIAL FEES.] No filing fees, trial fees or fees for other services are payable by the (STATE,) county (OR CITY).

Sec. 9. Minnesota Statutes 1980, Section 488A.30, Subdivision 1, is amended to read:

Subdivision 1. [JUDGES.] (a) The judges of the municipal court shall serve as judges of the conciliation court for such periods and in such rotation as the judges may determine. While so serving they shall act and be known as conciliation judges.

(b) The municipal judge who conducts the conciliation court hearing shall act upon any applications to vacate a judg-

ment or an order for judgment whatever the grounds may be and shall sign the certificate upon a removed cause, but any other municipal judge may act upon such an application or sign such a certificate in the event that the judge who conducted the hearing has not previously denied the application and cannot act upon the application promptly or sign the certificate due to expiration of his term, death, disability, absence from the courthouse or any other cause.

(c) A majority of the judges of the municipal court may appoint attorneys to act as referees in conciliation court. A majority of the judges of the municipal court shall establish qualifications for the office, specify the duties and length of service of such referees (, AND). *The board of Ramsey county commissioners is authorized to fix the compensation (NOT TO) of such referees. The compensation shall not exceed (\$50) \$75 per day or any part thereof. This compensation is payable out of the county treasury at the same time and in the same manner as salaries of the judges of conciliation court.*

Sec. 10. Minnesota Statutes 1980, Section 488A.31, Subdivision 1, is amended to read:

Subdivision 1. [FILING FEE.] An action is commenced against each defendant when the complaint is filed with the administrator of conciliation court and a filing fee (OF \$3) *set by the board of Ramsey County commissioners* is paid to the administrator or the prescribed affidavit in lieu of filing fee is filed. *No filing fee is payable by the county.*

Sec. 11. Minnesota Statutes 1980, Section 488A.31, Subdivision 5, is amended to read:

Subd. 5. [COUNTERCLAIM.] (a) The defendant may interpose as a counterclaim any claim within the jurisdiction of the court which he has against the plaintiff whether or not arising out of the transaction or occurrence which is the subject matter of the plaintiff's claim.

(b) The counterclaim shall be interposed by filing with the administrator a brief statement of the amount, date of accrual and nature of the counterclaim, verified by the defendant, his attorney or agent, and paying (A FILING FEE OF \$3) *the filing fee set by the board of Ramsey County commissioners* to the administrator. The administrator shall draw up the counterclaim on request. *No filing fee is payable by the county.*

(c) The administrator shall note the filing of the counterclaim on the original claim, promptly notify the plaintiff by mail of the filing and set the counterclaim for hearing on the same date as the original claim.

(d) The counterclaim shall be filed not less than five days before the date set for court hearing. The judge, in his discretion, may thereafter allow the filing of a written or oral counterclaim before or after hearing the merits of the claim and counterclaim. The judge, in his discretion, may require the payment of absolute or conditional costs up to (\$25) \$50 by the defendant to the plaintiff as a condition of allowing late filing in the event that a continuance is requested by the plaintiff and is granted because of such late filing.

(e) If the defendant has a counterclaim which exceeds the jurisdiction of the court and the defendant files an affidavit by himself, his attorney or agent with the administrator not less than five days before the date set for court hearing showing that he has filed with the administrator of a specified other court of competent jurisdiction a complaint seeking recovery from the plaintiff on the counterclaim and stating the nature and amount thereof, the administrator shall strike the action from the calendar and so advise the plaintiff by mail. If the plaintiff not less than 30 days nor more than three years after the filing of such an affidavit shall file an affidavit showing that he has not been served with a summons in the other action or that the other action has been finally determined, the administrator shall again set the cause for court hearing and summon the defendant in the same manner as for the initial hearing and the court shall proceed to hear and determine plaintiff's claim. If no such counter-affidavit is filed by plaintiff within three years, his original claim is dismissed without prejudice without any further action by the administrator or any judge. Prior to the expiration of this three year period the plaintiff's original claim may be dismissed by plaintiff or by court order at a hearing upon motion of the defendant.

Sec. 12. Minnesota Statutes 1980, Section 488A.33, Subdivision 5, is amended to read:

Subd. 5. [VACATION OF ORDER FOR JUDGMENT WITHIN (TEN) 20 DAYS.] When a default judgment or a judgment of dismissal on the merits has been ordered for failure to appear, the judge, within (TEN) 20 days after notice thereof was mailed, may vacate the order for judgment ex parte and grant a new hearing, if the defaulting party shows lack of notice, mistake, inadvertence, or excusable neglect as the cause of his failure to appear. Absolute or conditional costs not exceeding (\$25) \$50 to the other party may be ordered as a prerequisite to that relief. The administrator shall notify the other party by mail of the new hearing date.

Sec. 13. Minnesota Statutes 1980, Section 488A.33, Subdivision 8, is amended to read:

Subd. 8. [VACATION OF JUDGMENT AFTER (TEN) 20 DAYS.] When a defendant shows that he did not receive a sum-



mons before the hearing within sufficient time to permit a defense and that he did not receive notice of the order for default judgment within sufficient time to permit him to make application for relief within (TEN) 20 days or shows other good cause, a judge may vacate a default judgment after notice to the plaintiff and grant a new hearing on the merits with or without payment of absolute or conditional costs. The administrator shall notify the parties by mail of the new hearing date.

Sec. 14. Minnesota Statutes 1980, Section 488A.34, Subdivision 2, is amended to read:

Subd. 2. [PROCEDURE FOR REMOVAL OF CAUSE.] No cause shall be so removed unless all the following acts are performed by the aggrieved party within (TEN) 20 days after the date the administrator mailed to him notice of the order for judgment:

(a) Serve on the opposing party or his attorney a demand for removal of the cause to the municipal court for trial de novo stating whether trial by a jury of six persons or by the court without a jury is demanded. Service shall be made upon a party in accordance with the provisions for personal service of a summons in the municipal court or shall be made upon the party's attorney in accordance with the provisions for service of a notice of motion upon an attorney in the municipal court. The demand shall show the office address of the attorney for each party and the residence address of each party who does not have an attorney.

(b) File with the administrator of conciliation court the original demand for removal and proof of service thereof. If the opposing party or his attorney cannot be found and service of the demand be made within the (TEN-DAY) 20 day period, the aggrieved party may file with the administrator within the (TEN-DAY) 20 day period the original and a copy of the demand, together with an affidavit by himself or his attorney showing that due and diligent search has been made and that the opposing party or his attorney cannot be found and the filing of this affidavit shall serve in lieu of making service and filing proof of service. When such an affidavit is filed, the administrator shall mail the copy of the demand to the opposing party at his last known address.

(c) File with the administrator of conciliation court an affidavit by the aggrieved party or his attorney stating that the removal is made in good faith and not for the purpose of delay.

(d) Pay to the administrator of conciliation court (\$6) *the fee set by the board of Ramsey County commissioners* when the demand is for trial by court, plus \$6 additional when the demand is for trial by a jury of six. *The above fee is not payable by the county.*

## Sec. 15. [EFFECTIVE DATES.]

(a) *Sections 1 and 5 are effective the day following final enactment.*

(b) *Section 2 is effective the day after compliance with Minnesota Statutes, Section 645.021, Subdivision 3 by the governing body of Ramsey County.*

(c) *Pursuant to Minnesota Statutes, Section 645.023, Subdivision 1, Section 3 is effective January 1, 1982 without local approval.*

(d) *Section 4 is effective the day after compliance with Minnesota Statutes, Section 645.021, Subdivision 3 by the governing body of the city of Minneapolis."*

Delete the title and insert:

"A bill for an act relating to state and local government; providing for the appointment of additional members to the Ramsey County civil service commission; establishing an additional principal assistant position in the unclassified service for the Ramsey County Sheriff's Office; designating the office of county abstract clerk as an agency of Ramsey County; regulating the clerk's salary; providing for the employment of university or college students in the city of Minneapolis; providing for the disposition of tax-forfeited property within the capitol area; authorizing the clerk of probate court in the second district to collect a certain library fee; requiring fees to be taxed to the state and certain other government subdivisions in certain criminal prosecutions; requiring the state and the city of St. Paul to pay fees in civil actions; providing for compensation for Ramsey County conciliation court referees; amending Minnesota Statutes 1980, Sections 15.50, Subdivision 6; 140.21; 488A.20, Subdivision 4; 488A.23, Subdivision 6; 488A.30, Subdivision 1; 488A.31, Subdivisions 1 and 5; 488A.33, Subdivisions 5 and 8; 488A.34, Subdivision 2; Laws 1980, Chapter 612, Section 3; Laws 1974, Chapter 435, Sections 3.02, Subdivisions 2 and 6, as amended; and 3.11."

We request adoption of this report and repassage of the bill.

House Conferees: THOMAS J. HARENS, RICHARD J. KOSTOHRZY and JOHN DREW.

Senate Conferees: PETER P. STUMPF, GERALD L. WILLET and TIMOTHY J. PENNY.

Rose moved that the House refuse to adopt the Conference Committee report on H. F. No. 487, and that the bill be returned to the Conference Committee.

A roll call was requested and properly seconded.

The question was taken on the Rose motion and the roll was called. There were 57 yeas and 63 nays as follows:

Those who voted in the affirmative were:

Aasness	Forsythe	Lehto	Otis	Sviggum
Ainley	Friedrich	Ludeman	Peterson, B.	Valento
Brandl	Gruenes	Mann	Piepho	Vellenga
Brinkman	Halberg	McCarron	Reding	Voss
Clark, J.	Hauge	Munger	Rodriguez, C.	Welker
Dempsey	Hoberg	Nelsen, B.	Rose	Wieser
Den Ouden	Hokr	Nelson, K.	Rothenberg	Wigley
Erickson	Johnson, D.	Niehaus	Samuelson	Wynia
Esau	Kahn	Norton	Schafer	Zubay
Evans	Knickerbocker	O'Connor	Sherman	
Ewald	Kvam	Olsen	Simoneau	
Fjoslien	Laidig	Onnen	Stowell	

Those who voted in the negative were:

Anderson, B.	Dean	Jude	Nysether	Sieben, M.
Anderson, G.	Drew	Kalis	Ogren	Skoglund
Anderson, I.	Eken	Kelly	Osthoff	Stadum
Anderson, R.	Elioff	Long	Peterson, D.	Stumpf
Battaglia	Ellingson	Luknic	Pogemiller	Swanson
Begich	Greenfield	Marsh	Redalen	Tomlinson
Berkelman	Gustafson	McDonald	Rees	Valan
Blatz	Harens	McEachern	Rice	Vanasek
Byrne	Heap	Mehrkens	Rodriguez, F.	Welch
Carlson, D.	Heinitz	Metzen	Sarna	Wenzel
Carlson, L.	Hokanson	Minne	Schoenfeld	Spkr. Sieben, H.
Clawson	Jacobs	Murphy	Searles	
Dahlvang	Johnson, C.	Novak	Shea	

The motion did not prevail.

Harens moved that the report of the Conference Committee on H. F. No. 487 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 487, A bill for an act relating to the capitol area architectural and planning board; providing for disposition of tax-forfeited property within the capitol area; amending Minnesota Statutes 1980, Section 15.50, Subdivision 6.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 100 yeas and 20 nays as follows:

Those who voted in the affirmative were:

Aasness	Anderson, G.	Battaglia	Blatz	Byrne
Ainley	Anderson, I.	Begich	Brandl	Carlson, D.
Anderson, B.	Anderson, R.	Berkelman	Brinkman	Carlson, L.

Clark, J.	Hanson	Long	Ogren	Stadum
Clawson	Harens	Ludeman	Olsen	Staten
Dahlvang	Hauge	Luknic	Osthoff	Stowell
Dean	Heap	Mann	Otis	Stumpf
Drew	Heinitz	Marsh	Peterson, D.	Sviggum
Eken	Hoberg	McEachern	Pogemiller	Swanson
Elioff	Hokanson	Mehrkens	Redalen	Tomlinson
Ellingson	Hokr	Metzen	Rees	Valan
Erickson	Jacobs	Minne	Rice	Vanasek
Evans	Johnson, C.	Munger	Rodriguez, F.	Vellenga
Ewald	Jude	Murphy	Sarna	Voss
Fjoslien	Kahn	Nelsen, B.	Schoenfeld	Wenzel
Forsythe	Kalis	Nelson, K.	Searles	Wieser
Friedrich	Kelly	Niehaus	Shea	Wigley
Greenfield	Knickerbocker	Novak	Sherman	Wynia
Gruenes	Kostohryz	Nysether	Sieben, M.	Zubay
Gustafson	Lehto	O'Connor	Skoglund	Spkr. Sieben, H.

Those who voted in the negative were :

Dempsey	Laidig	Onnen	Rodriguez, C.	Schafer
Den Ouden	Lemen	Peterson, B.	Rose	Simoneau
Esau	McCarron	Piepho	Rothenberg	Valento
Johnson, D.	Norton	Reding	Samuelson	Welker

The bill was repassed, as amended by Conference, and its title agreed to.

Eken moved that the House recess subject to the call of the Chair. The motion prevailed.

#### RECESS

#### RECONVENED

The House reconvened and was called to order by the Speaker.

Hanson was excused from 6:30 until 8:00 p.m.

#### ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 1143:

Brandl, Begich and Dempsey.

There being no objection the order of business reverted to Messages from the Senate.

#### MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 70, A bill for an act relating to education; providing for aids to education, aids to libraries, tax levies and the distribution of tax revenues; granting certain duties and powers to school boards, school districts, the state board of education, and the state board for vocational education; replacing AVTI capital expenditure aid with AVTI equipment aid and AVTI repair and betterment aid; requiring a property accounting system for AVTI's; providing a new aid and levy authorization for certain capital expenditures; providing for certain alternative projects; modifying certain provisions relating to teacher mobility and early retirement programs; providing for the transfer of proceeds from the sale or exchange of buildings to the capital expenditure fund under certain circumstances; decreasing the state's obligation and changing eligibility standards for the maximum effort school aid program; appropriating money; amending Minnesota Statutes 1980, Sections 3.9278, Subdivision 1; 3.9279, Subdivisions 10 and 12; 116H.126, Subdivisions 2, 4 and 5; 120.03, by adding a subdivision; 120.0751, Subdivision 5; 120.17, Subdivisions 3b, 4, 5a, 6, 7, 9 and by adding a subdivision; 120.78, Subdivision 1; 121.90; 121.902, by adding a subdivision; 121.904, Subdivision 7 and by adding a subdivision; 121.906, Subdivisions 2 and 3; 121.912, Subdivision 1; 121.917, Subdivision 4; 121.931, Subdivision 6; 121.934, Subdivision 7; 121.935, Subdivisions 2 and 6; 121.936, Subdivisions 2 and 3 and by adding a subdivision; 121.937, Subdivision 1; 121.938, Subdivision 2; 122.22, Subdivisions 3, 4, 5, 8, 9, 11, 13, 14, and 20, and by adding a subdivision; 122.531, Subdivisions 1, 2, 3a, 5, and 6; 123.35, Subdivision 15; 123.36, Subdivision 13; 123.39, Subdivision 1; 123.702, Subdivision 1; 123.703, Subdivision 3; 123.705; 123.937; 124.01, Subdivision 1; 124.11, Subdivisions 1, 2a, 2b, 2c, 4, 5, and by adding a subdivision; 124.14, Subdivisions 2, 3, and 4, and by adding a subdivision; 124.17, Subdivisions 1, 2, 2c and by adding a subdivision; 124.20; 124.212, Subdivision 1, and by adding a subdivision; 124.213; 124.214, Subdivision 2; 124.223; 124.225, Subdivisions 1, 1a, 3, 4a, 6, 7a, 8a, 8b, 9, 11, and 11a; 124.245, Subdivisions 1 and 2, and by adding subdivisions; 124.247, Subdivision 3; 124.26, Subdivisions 1, 4 and by adding subdivisions; 124.271, Subdivisions 2, 4, 5 and by adding subdivisions; 124.32, Subdivisions 1, 1a, 1b, 5, 6, 9 and by adding a subdivision; 124.38, Subdivision 7; 124.39, Subdivision 5; 124.40, Subdivision 2; 124.41; 124.42, Subdivisions 1 and 2; 124.43, Subdivisions 1, 2, 3, 4 and 5; 124.474; 124.476; 124.561, Subdivisions 2a, 3a and by adding subdivisions; 124.562, by adding a subdivision; 124.5621, Subdivisions 2, 5, 6 and 12; 124.5622, Subdivisions 3, 4 and 5; 124.5623, Subdivisions 3, 4 and 5; 124.5624; 124.565, Subdivisions 3, 4, 6 and 7; 124.572, Subdivisions 3 and 8, and by adding subdivisions; 124.573, Subdivisions 2, 3a, 5 and by adding a subdivision; 124.574, Subdivisions 2, 4 and 8; 124.646, Subdi-

vision 1; 125.60, Subdivisions 2a and 7; 125.611, Subdivisions 1, 3, 5, 8, 9 and 10; 126.262, Subdivision 8; 126.54, Subdivision 1; 134.35, Subdivision 1; 134.351, Subdivision 5 and by adding subdivisions; 134.36; 275.125, Subdivisions 1, 2a, 2c, 6b, 6c, 7a, 8, 9, 11a, 19 and 20, and by adding subdivisions; 298.28, Subdivision 1; 354.094, Subdivisions 1, 2 and 3, and by adding a subdivision; 354.66, Subdivision 9; 354A.091, Subdivisions 1, 2 and 3, and by adding a subdivision; 354A.094, Subdivision 9; 375.335, Subdivision 4 and by adding subdivisions; Laws 1967, Chapter 822, Section 1, as amended; Laws 1973, Chapter 683, Section 26, Subdivision 1, and by adding subdivisions; proposing new law coded in Minnesota Statutes, Chapters 3, 120, 121 and 124; repealing Minnesota Statutes 1980, Sections 116H.126, Subdivisions 1 and 7; 120.06, Subdivision 2; 120.17, Subdivision 3c; 120.78, Subdivision 2; 121.13; 121.49, Subdivision 2; 121.495, Subdivision 6; 122.22, Subdivisions 10, 12, 15 and 16; 122.531, Subdivision 7; 123.40, Subdivision 5; 124.01, Subdivisions 2, 3 and 4; 124.212, Subdivisions 2, 4, 5, 5a, 6c, 7c, 7d, 8a, 9, 9a, 9b, 20, 20a and 21; 124.225, Subdivisions 2, 4, 5, 7 and 8; 124.26, Subdivision 3; 124.247, Subdivision 5; 124.271, Subdivision 1a; 124.561, Subdivision 4; 124.562, Subdivisions 3 and 4; 124.566; 124.571; 126.263; 126.268, Subdivision 1; 126.52, Subdivision 12; 275.125, Subdivisions 2b, 7b, and 14."

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

**Mr. Speaker:**

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 1446, A bill for an act relating to the organization and operation of state government; appropriating money for welfare, corrections, health, and other purposes with certain conditions; providing appropriations for the departments of public welfare, economic security, corrections, health, sentencing guidelines, corrections ombudsman, and health related boards; amending Minnesota Statutes 1980, Sections 16.851, by adding a subdivision; 144A.08, by adding a subdivision; 145.913, by adding a subdivision; 145.914, Subdivision 2; 241.021, by adding subdivisions; 241.13; 241.69, Subdivision 4; 245.0313; 245.765, Subdivision 1; 245.802, by adding a subdivision; 245.812, by adding a subdivision; 246.151; 246.54; 254A.03, by adding a subdivision; 256.73, Subdivision 2; 256.76, Subdivision 1; 256.87; 256.872; 256.873; 256.875; 256.877; 256B.02, Subdivision 8; 256B.03; 256B.06, Subdivision 1; 256B.091, by adding a subdivision; 256B.15; 256B.17; 256D.01, Subdivision 1; 256D.02, Subdivisions 4 and 8; 256D.03, Subdivision 2; 256D.04; 256D.05,

Subdivision 1; 256D.06, Subdivision 2, and by adding subdivisions; 256D.14; 357.021, Subdivision 2, and by adding a subdivision; 393.07, Subdivision 10; 401.04; 401.12; 517.08, Subdivision 1b, and by adding a subdivision; 518.54, by adding subdivisions; 518.551; 518.611; 518.64, Subdivision 1 and by adding a subdivision; proposing new law coded in Minnesota Statutes, Chapters 144; 145; 241; 245; 256D; 257 and 609; repealing Minnesota Statutes 1980, Sections 256.87, Subdivision 3; 256D.02, Subdivisions 9 and 10; and 256D.11."

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 487, A bill for an act relating to state and local government; providing for the appointment of additional members to the Ramsey County civil service commission; establishing an additional principal assistant position in the unclassified service for the Ramsey County Sheriff's Office; designating the office of the county abstract clerk as an agency of Ramsey County; regulating the clerk's salary; providing for the employment of university or college students in the city of Minneapolis; providing for the disposition of tax-forfeited property within the capitol area; authorizing the clerk of probate court in the second district to collect a certain library fee; requiring fees to be taxed to the state and certain other government subdivisions in certain criminal prosecutions; requiring the state and the city of St. Paul to pay fees in civil actions; providing for compensation for Ramsey County conciliation court referees; amending Minnesota Statutes 1980, Sections 15.50, Subdivision 6; 140.21; 488A.20, Subdivision 4; 488A.23, Subdivision 6; 488A.30, Subdivision 1; 488A.31, Subdivisions 1 and 5; 488A.33, Subdivisions 5 and 8; 488A.34, Subdivision 2; Laws 1980, Chapter 612, Section 3; Laws 1974, Chapter 435, Sections 3.02, Subdivisions 2 and 6, as amended; and 3.11."

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 936, A bill for an act relating to natural resources; raising limitations on values of state timber which may be sold at public auction or informal sale; providing for special auction sales and changing certain other provisions relating to the sale and removal of state timber; sale of stumpage; amending Minnesota Statutes 1980, Sections 90.031, Subdivision 4; 90.101, Subdivision 1; 90.151, Subdivisions 11 and 13; 90.173; 90.181, Subdivision 2; 90.191, Subdivision 1; 282.04, Subdivision 1; proposing new law coded in Minnesota Statutes, Chapter 90.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 407, A bill for an act relating to insurance; modifying the definition of a covered claim for purposes of the state's insurance guaranty association act; defining an insolvent insurer; amending Minnesota Statutes 1980, Sections 60C.03, by adding a subdivision; 60C.09, Subdivision 1; and 60C.10, Subdivision 3; repealing Minnesota Statutes 1980, Section 60C.10, Subdivision 2."

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

H. F. No. 691, A bill for an act relating to courts; permitting the use of electronic recording equipment in certain district court proceedings; permitting all judicial districts except Hennepin county to set salaries of law clerks; clarifying that all law clerks are unclassified employees and without tenure; amending Minnesota Statutes 1980, Sections 484.545, Subdivision 2, and by adding a subdivision; 486.02 and 486.03; and proposing new law coded in Minnesota Statutes, Chapter 484."

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate



Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 359.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said House File is herewith returned to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 359

A bill for an act relating to workers' compensation; expressing the intent of the legislature with respect to chapter 176; transferring compensation judges from the workers' compensation division to a separate division within the office of administrative hearings; making the workers' compensation court of appeals a separate and independent agency with appellate review powers; providing for a discount assumption with respect to calculating reserves for claims of insurance companies; authorizing the commissioner of insurance to initiate a rate hearing; permitting benefit payment amounts to be rounded to whole dollars; clarifying certain provisions with respect to the Minnesota workers' compensation reinsurance association; redefining the maximum reinsurance liability limitation as a prefunded limit; providing for a survey of closed compensation claims and an examination of insurer reserving practices; removing the exemption of political subdivisions from the definitions of insurer and insurance in chapter 79; providing for the design and implementation of an improved records and information system in the department of labor and industry; providing for the addition of rehabilitation and computer support personnel in the department of labor and industry; permitting the commissioner of labor and industry to negotiate with his counterparts in other states in jurisdictional disputes; establishing a preponderance of the evidence standard in factual determinations under chapter 176; granting subrogation rights to the special compensation fund in third party actions; providing for lump sum permanent partial disability payments on return to work and weekly payments if an employee could but does not return to work; limiting attorneys' fees to only disputed portions of claims; providing a procedure for settlement offers by any litigant in a disputed claim proceeding; requiring claimants' attorneys to provide their clients with written information regarding fees under chapter 176; providing a penalty for attorneys who violate the fee provisions of chapter 176; providing a ten year limitation on death benefits to dependents; providing rehabilitation opportunities for dependent surviving spouses; requiring the commissioner of labor and industry to adopt disability degree schedules; prohibiting combined workers' com-

compensation and government survivor benefits from exceeding the limit provided in chapter 176; providing a new formula for determining assessments against employers and insurers for the special compensation fund; providing for payment of attorneys' fees in disputes over supplementary benefits; requiring the commissioner of labor and industry to utilize a medical fee schedule; requiring the commissioner to review the quality of care and other aspects of medical delivery under workers' compensation; establishing a medical panel to resolve disputes over medical disability; providing for payment of wage replacement or disability payments by a group insurer under appropriate provisions pending resolution of liability dispute over compensability; providing for early payment of benefits and a penalty for delay; requiring benefit payments to be made by immediately negotiable instrument; providing that notices of discontinuance of benefit payments be sent directly to claimant by insurer; providing that division legal assistance employees be transferred to the attorney general; delaying first benefit adjustment under chapter 176 for 52 weeks from date of injury; mandating an insurance rate reduction by an amount reflecting cost savings due to benefit and administrative changes; providing penalties; appropriating money; amending Minnesota Statutes 1980, Sections 10A.01, Subdivision 18; 15.052, Subdivisions 1, 2, 3, 4, and 5; 15A.083, by adding a subdivision; 43.064; 60A.15, Subdivision 1; 60C.04; 60C.09, Subdivision 2; 79.01, Subdivisions 2 and 3; 79.071, Subdivision 1, and by adding subdivisions; 79.34, Subdivisions 1 and 2; 79.35; 79.36; 175.007; 175.11, Subdivision 1; 175.14; 175.17; 176.021, Subdivisions 1 and 3, and by adding subdivisions; 176.041, by adding a subdivision; 176.061, Subdivisions 1, 3, 4, 5, 6 and 7; 176.081, Subdivisions 1, 2, 3, 4, and 6, and by adding subdivisions; 176.101, Subdivision 3; 176.102, by adding a subdivision; 176.105, Subdivision 1; 176.111, Subdivisions 6, 7, 8, 10 and 21, and by adding a subdivision; 176.131, Subdivision 10; 176.132, Subdivision 2; 176.133; 176.136; 176.161, Subdivision 1; 176.181, Subdivisions 2 and 3, and by adding a subdivision; 176.191; 176.221; 176.225, by adding a subdivision; 176.231, Subdivisions 2 and 7; 176.241, Subdivisions 1, 2 and 3; 176.261; 176.291; 176.301, Subdivision 1; 176.305; 176.311; 176.331; 176.341, Subdivision 1; 176.351; 176.371; 176.381; 176.391; 176.401; 176.411, Subdivisions 1 and 2; 176.421, Subdivisions 1, 4, 5, 6 and 7; 176.431, Subdivision 1; 176.441, Subdivision 1; 176.461; 176.471, Subdivisions 3, 5, 6 and 8; 176.491; 176.511, Subdivision 1; 176.521, Subdivisions 1 and 2; 176.531, Subdivision 3; 176.645; and 179.74, Subdivision 4; proposing new law coded as Minnesota Statutes, Chapter 175A; and proposing new law coded in Minnesota Statutes, Chapters 79 and 176; repealing Minnesota Statutes 1980, Sections 79.071, Subdivisions 1, 2, 3, 4, 5, 6, and 7; 79.072; 79.073; 79.074, Subdivision 1; 79.075 to 79.09; 79.11 to 79.21; 79.22, Subdivision 1; 79.221 to 79.33; 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2; reenacting Laws 1980, Chapter 556, Section 12.

May 16, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 359, report that we have agreed upon the items in dispute and recommend as follows:

The Senate concur in the House amendments and that S. F. No. 359 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 10A.01, Subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) Member of the legislature;
- (b) Constitutional officer in the executive branch and his chief administrative deputy;
- (c) Member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;
- (d) Commissioner, deputy commissioner or assistant commissioner of any state department as designated pursuant to section 15.01;
- (e) Individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;
- (f) Executive director of the state board of investment;
- (g) Executive director of the Indian affairs intertribal board;
- (h) Commissioner of the iron range resources and rehabilitation board;
- (i) Director of mediation services;

- (j) Deputy of any official listed in clauses (e) to (i) ;
- (k) Judge of *the workers' compensation court of appeals* ;
- (l) Hearing examiner or *compensation judge* in the state office of administrative hearings or *hearing examiner in the department of economic security* ;
- (m) Solicitor general or deputy, assistant or special assistant attorney general ;
- (n) Individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of senate research, senate counsel, or house research ; or
- (o) Member or chief administrative officer of the metropolitan council, metropolitan transit commission, metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission.

Sec. 2. Minnesota Statutes 1980, Section 15.052, Subdivision 1, is amended to read :

Subdivision 1. A state office of administrative hearings is created. The office shall be under the direction of a chief hearing examiner, who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. The chief hearing examiner shall appoint additional hearing examiners and *compensation judges* to serve in his office as necessary to fulfill the duties prescribed in this section. All hearing examiners and *compensation judges* shall be in the classified service except that the chief hearing examiner shall be in the unclassified service, but may be removed from his position only for cause. (ADDITIONALLY,) All hearing examiners shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner. *All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.*

Sec. 3. Minnesota Statutes 1980, Section 15.052, Subdivision 2, is amended to read :

Subd. 2. When regularly appointed hearing examiners or *compensation judges* are not available, the chief hearing examiner may contract with qualified individuals to serve as hearing

examiners or compensation judges. Such temporary hearing examiners or compensation judges shall not be employees of the state.

Sec. 4. Minnesota Statutes 1980, Section 15.052, Subdivision 3, is amended to read:

Subd. 3. All hearings of state agencies required to be conducted under this chapter shall be conducted by a hearing examiner assigned by the chief hearing examiner. *All hearings required to be conducted under chapter 176 shall be conducted by a compensation judge assigned by the chief hearing examiner.* In assigning hearing examiners or compensation judges to conduct such hearings, the chief hearing examiner shall attempt to utilize personnel having expertise in the subject to be dealt with in the hearing. Only hearing examiners learned in the law shall be assigned to contested case hearings. *Only compensation judges shall be assigned to workers' compensation matters.* It shall be the duty of the hearing examiner to: (1) advise an agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests; (2) conduct only hearings for which proper notice has been given; (3) see to it that all hearings are conducted in a fair and impartial manner ( ; AND (4)). *Except in the case of workers' compensation hearings involving claims for compensation it shall also be the duty of the chief hearing examiner to make a report on each proposed agency action in which the hearing examiner functioned in an official capacity, stating his findings of fact and his conclusions and recommendations, taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant substantive and procedural requirements of law or rule, and (iii) in rulemaking proceedings, demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.*

Sec. 5. Minnesota Statutes 1980, Section 15.052, Subdivision 4, is amended to read:

Subd. 4. The chief hearing examiner shall (PROMULGATE) *adopt* rules to govern the procedural conduct of all hearings, relating to both rule adoption, amendment, suspension or repeal hearings (AND), contested case hearings, *and workers' compensation hearings.* *Temporary rule-making authority is granted to the chief hearing examiner for the purpose of implementing sections 2 to 6, 103 to 122, 127 to 135, and 141.* (SUCH) The procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural

rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief hearing examiner to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of section 15.0412, subdivisions 4 to 4f. Upon his own initiative or upon written request of an interested party, the chief hearing examiner may issue a subpoena for the attendance of a witness or the production of (SUCH) books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 6. Minnesota Statutes 1980, Section 15.052, Subdivision 5, is amended to read:

Subd. 5. The office of administrative hearings may maintain a court reporter system and in addition to or in lieu thereof may contract with non-governmental sources for court reporter services. The court reporters may additionally be utilized as the chief hearing examiner directs. Unless the chief hearing examiner determines that the use of a court reporter is more appropriate, an audio magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter or under chapter 176. *In cases arising under chapter 176, the chief hearing examiner, in consultation with the compensation judge, shall decide the method of recording.*

Court reporters serving in the court reporter system of the office of administrative hearings shall be in the classified service. Notwithstanding the provisions of section 15.17, subdivision 4, copies of transcriptions of hearings conducted pursuant to this section may be obtained only through the office of administrative hearings.

Sec. 7. Minnesota Statutes 1980, Section 15A.083, is amended by adding a subdivision to read:

*Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] Salaries of judges of the workers' compensation court of appeals shall be 90 percent of the salary for district judges as provided in subdivision 1. Salaries of compensation judges shall be 75 percent of the salary of district court judges as provided in subdivision 1.*

Sec. 8. Minnesota Statutes 1980, Section 43.064, is amended to read:

**43.064 [OTHER SALARIES SET BY COMMISSIONER OF EMPLOYEE RELATIONS.]**

Notwithstanding any other law to the contrary, compensation for all unclassified positions in the executive branch not enumerated in the listing described in section 15A.081, shall be

established by the commissioner except for the following: (1) positions listed in section 299D.03; (2) employees in the office of the governor whose salaries shall be determined by the governor; (3) employees in the office of the attorney general; (4) employees of the state board of investment; (5) positions in the state university system, the community college system, and in the higher education coordinating board whose primary duties consist of instructing and counseling students, directing academic programs of schools, divisions or departments of colleges and community colleges, or conducting research on academic subjects, or conducting academic support programs; and the positions of state university and community college presidents. Individual salaries for positions enumerated in clauses (3), (4), and (5) and for classified hearing examiners in the office of administrative hearings shall be determined by the attorney general, the state board of investment, the state university board, the state board for community colleges, the higher education coordinating board, and the chief hearing examiner, respectively, within the limits of salary plans which shall have been approved by the commissioner before becoming effective.

No provision of any subsequent law relating to salaries of state employees shall be construed as inconsistent with this section unless it is expressly provided in the subsequent act that the provisions of this section shall not be applicable or shall be superseded, amended, or repealed.

Sec. 9. Minnesota Statutes 1980, Section 79.01, Subdivision 2, is amended to read:

Subd. 2. [INSURER.] The word "insurer" means any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state (. FOR PURPOSES OF THIS SUBDIVISION "INSURER" DOES NOT INCLUDE) *and includes* a political subdivision providing self insurance or establishing a pool under section 471.981, subdivision 3.

Sec. 10. Minnesota Statutes 1980, Section 79.01, Subdivision 3, is amended to read:

Subd. 3. [INSURANCE.] The word "insurance" means workers' compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability for compensation, as provided in section 176.181 (.) *and includes* a program of self insurance, self insurance revolving fund or pool established under section 471.981 (IS NOT INSURANCE FOR PURPOSES OF THIS SUBDIVISION).

Sec. 11. Minnesota Statutes 1980, Section 79.071, is amended by adding a subdivision to read:

*Subd. 1a. If the legislature enacts amendments to the workers' compensation laws of this state which indicate a reduction*

*in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may, in his discretion, order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of sections 79.071 and 79.072, notwithstanding section 79.076.*

**Sec. 12. Minnesota Statutes 1980, Section 79.071, is amended by adding subdivisions to read:**

*Subd. 8. When an insurer's estimate of amounts required to be reserved is based in any part on the operation of section 176.645, any assumption as to reserves required due to the operation of section 176.645, shall, for the purposes of determining rates, be offset by an assumption that the amount initially reserved shall be invested and yield a return equal to the annual percentage increase in the statewide average weekly wage. With respect to other reserved amounts, the commissioner shall, in determining rates, cause those rates to fully reflect the investment earnings of insurers which arise from revenues derived from the sale of workers' compensation insurance, either by use of a discount rate of no less than six percent in determining the reserves necessary for all claims, or by the use of an alternative methodology which the commissioner finds is more appropriate. Insurers shall provide the commissioner with any information which he deems necessary to arrive at the determination required by this subdivision.*

*Subd. 9. In no case shall more than one insurer reserve amounts in anticipation of losses on a single claim, nor shall an insurer reserve amounts in anticipation of losses which are the responsibility of the reinsurance association.*

*Subd. 10. No modification by an insurer or the association of an experience rating plan, an experience rating plan formula or an experience rating factor is effective unless approved by the commissioner of insurance.*

**Sec. 13. Minnesota Statutes 1980, Section 79.25, is amended to read:**

**79.25 [(ASSOCIATION) COMMISSIONER TO FIX PREMIUM RATES.]**

**(SUBDIVISION 1.)** When any rejected risk is called to its attention and it appears that the risk is in good faith entitled to coverage the (ASSOCIATION) commissioner of insurance shall fix the initial premium therefor and may fix an additional charge to compensate the agent of record for his services and,



upon its payment, the (ASSOCIATION) commissioner of insurance shall enter into a service contract with one or more qualified (DESIGNATE A MEMBER) members of the association, or qualified group self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2) (a), whose duty it shall be to issue a policy, or a group self-insurance administration contract, containing the usual and customary provisions found in such policies or contracts therefor, but for which undertaking all members of the association shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by that member bears to the total compensation insurance written in this state during the preceding year by all the members of the association. The assigned risk plan shall be treated as a group self-insurer member of the reinsurance association for the purposes of sections 79.34 to 79.40 and shall be deemed to have selected the higher retention limit provided in section 79.34, subdivision 2. A qualified member or group self-insurance administrator shall possess sufficient financial, professional, administrative and personnel resources to serve the policies or self-insurance contracts contemplated in the service contract.

Subd. 2. An insurer that issues a policy pursuant to this section shall not receive an expense allowance that exceeds the expense allowance approved by the commissioner for other insurers.

**Sec. 14. [79.251] [ADMINISTRATION OF ASSIGNED RISK PLAN.]**

**Subdivision 1. [ASSIGNED RISK PLAN REVIEW BOARD.]** (1) An assigned risk plan review board is created for the purposes of review of the operation of sections 79.24 to 79.27. The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of five members to be appointed by the commissioner of insurance. Two members shall be insureds holding policies issued pursuant to section 79.25. Two members shall be members of the association. The commissioner shall be the fifth member and shall vote.

Initial appointments shall be made by September 1, 1981 and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members other than the commissioner shall be as provided in section 15.059.

(3) The assigned risk review board shall audit the reserves established by insurers (a) for individual cases arising under policies issued under section 79.25 and (b) for the total book of business issued under section 79.25.

(4) *The assigned risk review board shall monitor the operations of sections 79.24 to 79.27 and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections.*

(5) *All members of the association issuing policies under 79.25 shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies issued under section 79.25 for the purpose of defraying the costs of the assigned risk review board.*

*Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies issued pursuant to section 79.25 whose premium is less than the amount necessary to qualify for experience rating and to the insurers issuing those policies. The plan shall provide a maximum merit payment equal to ten percent of earned premium. The actual payment may vary with insured's loss experience.*

Sec. 15. Minnesota Statutes 1980, Section 79.26, is amended to read:

79.26 [(ASSOCIATION) COMMISSIONER TO ADOPT RULES.]

*The (ASSOCIATION SHALL) commissioner of insurance may make and adopt such rules as may be necessary to carry this law into effect (, SUBJECT TO AN APPEAL TO THE COMMISSIONER AS IN ALL OTHER CASES). Temporary rule-making authority is granted.*

Sec. 16. Minnesota Statutes 1980, Section 79.27, is amended to read:

79.27 [APPLICATION.]

*As a prerequisite to the transaction of workers' compensation insurance in this state every insurance carrier shall file with the commissioner of insurance written authority permitting the (ASSOCIATION) commissioner of insurance to act in its behalf, as provided in sections 79.24 to 79.27.*

Sec. 17. Minnesota Statutes 1980, Section 79.34, Subdivision 1, is amended to read:

*Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.42 or any*

amendments thereto, sections 79.34 to 79.42 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; *provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association.* Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; *provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association.* The reinsurance association shall not be deemed a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association shall not be subject to chapter 15. The reinsurance association shall be exempt from taxation under the laws of this state and all property owned by the association shall be exempt from taxation. The reinsurance association shall not be obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 18. Minnesota Statutes 1980, Section 79.34, Subdivision 2, is amended to read:

Subd. 2. The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of \$300,000 or \$100,000 retention limit, at the option of the member. In case of occupational disease causing disablement on and after October 1, 1979, each person suffering such disablement shall be considered to be involved in a separate loss occurrence. (EACH) *The lesser retention limit shall be increased to the nearest \$10,000, on January 1, (1981) 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the greater retention limit shall be increased by the amount necessary to re-*

tain a \$200,000 difference between the two retention limits. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in excess of the higher retention limit in effect at the time the loss was incurred. Each member is liable for payment of its ultimate loss and shall be entitled to indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

A member that chooses the higher retention limit shall retain the liability for all losses below the higher retention limit itself and shall not transfer the liability to any other entity or reinsure or otherwise contract for reimbursement or indemnification for losses below its retention limit, except in the following cases: (a) when the reinsurance or contract is with another member which, directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with the member; (b) when the reinsurance or contract provides for reimbursement or indemnification of a member if and only if the total of all claims which the member pays or incurs, but which are not reimbursable or subject to indemnification by the reinsurance association for a given period of time, exceeds a dollar value or percentage of premium written or earned and stated in the reinsurance agreement or contract; (c) when the reinsurance or contract is a pooling arrangement with other insurers where liability of the member to pay claims pursuant to chapter 176 is incidental to participation in the pool and not as a result of providing workers' compensation insurance to employers on a direct basis under chapter 176; (OR (D) ANY OTHER REINSURANCE OR CONTRACT APPROVED BY THE COMMISSIONER UPON HIS DETERMINATION THAT THE REINSURANCE OR CONTRACT IS NOT INCONSISTENT WITH THE BASES FOR EXCEPTION PROVIDED UNDER CLAUSES (A), (B) AND (C) ABOVE) (d) when the reinsurance or contract is limited to all the claims of a specific insured of a member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the insured of the member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the insured of a member is not inconsistent with the bases

*of exception provided under clauses (a), (b) and (c) above; or (e) when the reinsurance or contract is limited to all claims of a specific self-insurer member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the self-insurer member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the self-insurer member are not inconsistent with the bases for exception provided under clauses (a), (b) and (c) above.*

*Whenever it appears to the commissioner that any member that chooses the higher retention limit has participated in the transfer of liability to any other entity or reinsured or otherwise contracted for reimbursement or indemnification of losses below its retention limit in a manner inconsistent with the bases for exception provided under clauses (a), (b), (c), (d), and (e), the commissioner may, after giving notice and an opportunity to be heard, order the member to pay to the state of Minnesota an amount not to exceed twice the difference between the reinsurance premium for the higher and lower retention limit applicable to the member for each year in which the prohibited reinsurance or contract was in effect. Any member subject to this penalty provision shall continue to be bound by its selection of the higher retention limit for purposes of membership in the reinsurance association.*

Sec. 19. Minnesota Statutes 1980, Section 79.35, is amended to read:

#### 79.35 [DUTIES; RESPONSIBILITIES; POWERS.]

The reinsurance association shall do the following on behalf of its members:

(a) Assume 100 percent of the liability as provided in section 79.34;

(b) Establish procedures by which members shall promptly report to the reinsurance association each claim which, on the basis of the injury sustained, may reasonably be anticipated to involve liability to the reinsurance association if the member is held liable under chapter 176. Solely for the purpose of reporting claims, the member shall in all instances consider itself legally liable for the injury. The member shall advise the reinsurance association of subsequent developments likely to materially affect the interest of the reinsurance association in the claim;

(c) Maintain relevant loss and expense data relative to all liabilities of the reinsurance association and require each member to furnish statistics in connection with liabilities of the reinsurance association at the times and in the form and detail as may be required by the plan of operation;

(d) Calculate and charge to members a total premium sufficient to cover the expected liability which the reinsurance association will incur in excess of the higher retention limit but less than (\$500,000) *the prefunded limit*, together with incurred or estimated to be incurred operating and administrative expenses *for the period to which this premium applies* and actual claim payments *to be made by members, during the period to which this premium applies*, for claims in excess of (\$500,000 **FOR THE PERIOD TO WHICH THIS PREMIUM IS APPLICABLE**) *the prefunded limit in effect at the time the loss was incurred. The prefunded limit shall be \$2,500,000 on and after October 1, 1979, provided that the prefunded limit shall be increased on January 1, 1983 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest \$100,000, as determined in accordance with section 176.011, subdivision 20.* Each member shall be charged a proportion of the total premium in an amount equal to its proportion of the total standard earned premium of all members during the period to which the reinsurance association premium will apply, as determined by the commissioner. Each member exercising the lower retention option shall also be charged a premium established by the board as sufficient to cover incurred or estimated to be incurred claims for the liability the reinsurance association is likely to incur between the lower and higher retention limits for the period to which the premium applies. Each (**MEMBER'S PREMIUM**) *member shall (INCLUDE AN AMOUNT)* *also be charged a premium determined by the board to equitably distribute excess or deficient premiums from previous periods including any excess or deficient premiums resulting from a retroactive change in the prefunded limit.* An equitable basis for determining standard earned premium for self-insurers shall be established by the commissioner. The premiums charged to members shall not be unfairly discriminatory as defined in section 79.074. All premiums shall be approved by the commissioner;

(e) Require and accept the payment of premiums from members of the reinsurance association;

(f) Receive and distribute all sums required by the operation of the reinsurance association;

(g) Establish procedures for reviewing claims procedures and practices of members of the reinsurance association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the reinsurance association, the reinsurance association may undertake, or may contract with another person, including another member, to adjust or assist in the adjustment of claims which create a potential liability to the association and may charge the cost of the adjustment to the member; and

(h) Provide each member of the reinsurance association with an annual report of the operations of the reinsurance association in a form the board of directors may specify.

Sec. 20. Minnesota Statutes 1980, Section 79.36, is amended to read:

**79.36 [ADDITIONAL POWERS.]**

In addition to the powers granted in section 79.35, the reinsurance association may do the following:

(a) Sue and be sued. A judgment against the reinsurance association shall not create any direct liability against the individual members of the reinsurance association. The reinsurance association shall provide in the plan of operation for the indemnification, to the extent provided in the plan of operation, of the members, members of the board of directors of the reinsurance association, and officers, employees and other persons lawfully acting on behalf of the reinsurance association;

(b) Reinsure all or any portion of its potential liability, including potential liability in excess of (\$500,000) *the prefunded limit*, with reinsurers licensed to transact insurance in this state or otherwise approved by the commissioner;

(c) Provide for appropriate housing, equipment, and personnel as may be necessary to assure the efficient operation of the reinsurance association;

(d) Contract for goods and services, including but not limited to independent claims management, actuarial, investment, and legal services from others within or without this state to assure the efficient operation of the reinsurance association;

(e) Adopt operating rules, consistent with the plan of operation, for the administration of the reinsurance association, enforce those operating rules, and delegate authority as necessary to assure the proper administration and operation of the reinsurance association;

(f) Intervene in or prosecute at any time, including but not limited to intervention or prosecution as subrogee to the member's rights in a third party action, any proceeding under this chapter or chapter 176 in which liability of the reinsurance association may, in the opinion of the board of directors of the reinsurance association or its designee, be established, or the reinsurance association affected in any other way;

(g) The net proceeds derived from intervention or prosecution of any subrogation interest, or other recovery, shall first be used to reimburse the reinsurance association for amounts

paid or payable pursuant to this chapter, together with any expenses of recovery, including attorney's fees, and any excess shall be paid to the member or other person entitled thereto, as determined by the board of directors of the reinsurance association, unless otherwise ordered by a court.

(h) Hear and determine complaints of a company or other interested party concerning the operation of the reinsurance association; and

(i) Perform other acts not specifically enumerated in this section which are necessary or proper to accomplish the purposes of the reinsurance association and which are not inconsistent with sections 79.34 to 79.42 or the plan of operation.

#### Sec. 21. [79.50.] [PURPOSES.]

*The purposes of chapter 79 are to:*

(a) *Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;*

(b) *Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;*

(c) *Prohibit price fixing agreements and anticompetitive behavior by insurers;*

(d) *Promote price competition and provide rates that are responsive to competitive market conditions;*

(e) *Provide a means of establishment of proper rates if competition is not effective;*

(f) *Define the function and scope of activities of data service organizations;*

(g) *Provide for an orderly transition from regulated rates to competitive market conditions; and*

(h) *Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.*

#### Sec. 22. [79.51] [RULES.]

*Subdivision 1. [ADOPTION; WHEN.] The commissioner shall adopt rules to implement provisions of chapter 79. The rules shall be finally adopted after May 1, 1982. By January 15, 1982, the commissioner shall provide the legislature a descrip-*



*tion and explanation of the intent and anticipated effect of the rules on the various factors of the rating system.*

**Subd. 2. [TRANSITION PERIOD; RULES GOVERN.]** *Insurance rates from July 1, 1983, to December 31, 1985, shall be determined in accordance with rules adopted by the commissioner. The rules shall require (1) that a hearing be held pursuant to the provisions of section 79.071 to consider any petition requesting modification of rates and (2) that following the hearing the commissioner shall adopt a schedule of rates.*

**Subd. 3. [RULES; SUBJECT MATTER.]** (a) *The commissioner in issuing rules shall consider:*

(1) *Data reporting requirements, including types of data reported, such as loss and expense data;*

(2) *Experience rating plans;*

(3) *Retrospective rating plans;*

(4) *General expenses and related expense provisions;*

(5) *Minimum premiums;*

(6) *Classification systems and assignment of risks to classifications;*

(7) *Loss development and trend factors;*

(8) *The workers' compensation reinsurance association;*

(9) *Restrictions, prohibitions, and requirements with respect to the activities of the workers' compensation insurers rating association of Minnesota during the period from July 1, 1983 to January 1, 1986;*

(10) *Requiring substantial compliance with the rules mandated by this section as a condition of workers' compensation carrier licensure;*

(11) *Imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;*

(12) *The rules contained in the workers' compensation rating manual adopted by the workers' compensation insurers rating association; and*

(13) *Any other factors that the commissioner deems relevant to achieve the purposes of chapter 79.*

(b) *The rules shall provide for the following:*

(1) *Competition in workers' compensation insurance rates in such a way that the advantages of competition are introduced with a minimum of employer hardship during the transition period;*

(2) *Adequate safeguards against excessive or discriminatory rates in workers' compensation during the transition period;*

(3) *Encouragement of workers' compensation insurance rates which are as low as reasonably necessary, but shall make provision against inadequate rates, insolvencies and unpaid benefits;*

(4) *Assurances that employers are not unfairly relegated to the assigned risk pool;*

(5) *Requiring all appropriate data and other information from insurers for the purpose of issuing rules and making legislative recommendations pursuant to this section; and*

(6) *Preserving a framework for risk classification, data collection, and other appropriate joint insurer services where these will not impede the introduction of competition in premium rates.*

(c) *The rules shall expire on January 1, 1986.*

Subd. 4. [ADVISORY COMMITTEE.] *The commissioner shall appoint an advisory committee which shall offer recommendations regarding rulemaking under this section. The advisory committee shall include representatives of insurers, employers, and employees.*

## Sec. 23. [79.52] [DEFINITIONS.]

Subdivision 1. [GENERALLY.] *The following words or phrases shall have the meanings ascribed to them for the purposes of chapter 79, unless the context clearly indicates that a different meaning is intended.*

Subd. 2. [MARKET.] *"Market" means any reasonable grouping or classification of employers.*

Subd. 3. [DATA SERVICE ORGANIZATION.] *"Data service organization" means any entity which has ten or more members or is controlled directly or indirectly by ten or more insurers and is engaged in collecting data for use in insurance ratemaking or other activities permitted by chapter 79. Affiliated members or insurers shall be counted as a single unit for the*

*purpose of this definition. The workers' compensation insurers rating association of Minnesota shall be considered a data service organization.*

**Subd. 4. [CLASSIFICATION PLAN; CLASSIFICATION.]** *"Classification plan" or "classification" means the plan, system, or arrangement for rating insurance policyholders.*

**Subd. 5. [RATES.]** *"Rates" means the cost of insurance per exposure base unit.*

**Subd. 6. [BASE PREMIUM.]** *"Base premium" means the amount of premium which an employer would pay for insurance derived by applying rates to an exposure base prior to the application of any merit rating or discount factors.*

**Subd. 7. [PREMIUM.]** *"Premium" means the price charged to an insured for insurance for a specified period of time, regardless of the timing of actual payments.*

**Subd. 8. [DISCOUNT FACTOR.]** *"Discount factor" means any factor which is applied to the base premium and which is based upon insurer expenses or other factors not related to the risk of loss.*

**Subd. 9. [MERIT RATING.]** *"Merit rating" means a system or form of rating by which base premium is modified on the basis of loss experience or other factors which are reasonably related to loss or risk of loss and which may be reasonably affected by the action or activities of the insured. The sensitivity of a merit rating system to loss experience may vary by the size of risk. Merit rating shall include both prospective and retrospective methods for modifying base premium.*

**Subd. 10. [LOSS DEVELOPMENT FACTORS.]** *"Loss development factors" means factors applied to recorded incurred losses to estimate the amount of ultimate loss payments that will have been made for losses during the applicable period, when all claims are paid.*

**Subd. 11. [TREND OR TRENDING.]** *"Trend" or "trending" means any procedure employing data for the purpose of projecting or forecasting the future value of that data or other data, or the factors resulting from such a procedure.*

**Subd. 12. [INTERESTED PARTY.]** *"Interested party" means any person, or association acting on behalf of its members, directly affected by a change in the schedule of rates and includes the staff of the insurance division.*

*Subd. 13. [INSURER.] "Insurer" means any insurer licensed to transact the business of workers' compensation insurance in this state.*

*Subd. 14. [INSURANCE.] "Insurance" means workers' compensation insurance.*

*Subd. 15. [RATING PLAN.] "Rating plan" means every manual, and every other rule including discount factors and merit rating necessary for the calculation of an insured's premium from an insurer's rates. An insurer may choose to adopt for use the rating plan of the data service organization in which it maintains membership.*

**Sec. 24. [79.53] [PREMIUM CALCULATION.]**

*Each insurer shall establish premiums to be paid by an employer according to its filed rates and rating plan as follows:*

*Rates shall be applied to an exposure base to yield a base premium which may be further modified by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.*

**Sec. 25. [79.54] [COMPETITIVE MARKET PRESUMPTION.]**

*A competitive market is presumed to exist until the commissioner, after a hearing on the record, determines that a reasonable degree of competition does not exist and issues an order to that effect. The order shall include the conditions and procedures under which a determination of insufficient competition shall expire.*

**Sec. 26. [79.55] [STANDARDS FOR RATES.]**

*Subdivision 1. [GENERAL STANDARDS.] Premiums shall not be excessive, inadequate, or unfairly discriminatory.*

*Subd. 2. [EXCESSIVENESS.] No premium is excessive in a competitive market. In the absence of a competitive market, premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.*

*Subd. 3. [INADEQUACY.] Premiums are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business,*

*they are clearly insufficient to sustain projected losses and expenses of the insurer and (a) if their continued use could lead to an insolvent situation for the insurer; or (b) if their use destroys or lessens competition or is likely to destroy or lessen competition.*

*Subd. 4. [UNFAIR DISCRIMINATION.] Premiums are unfairly discriminatory if differentials for insureds fail to reasonably reflect the differences in expected losses and expenses to the insurer attributable to the insureds. Rates are not unfairly discriminatory solely because different premiums result for insureds with like loss exposures but different expense factors, or like expense factors but different loss exposures, provided that rates reflect the differences with reasonable accuracy.*

**Sec. 27. [79.56] [FILING RATES AND RATING INFORMATION.]**

*Subdivision 1. [AFTER EFFECTIVE DATE.] Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, within 15 days after their effective dates. An insurer need not file a rating plan if it uses a rating plan filed by a data service organization. If an insurer uses a rating plan of a data service organization but deviates from it, then all deviations must be filed by the insurer.*

*Subd. 2. [BEFORE EFFECTIVE DATE.] The commissioner may order an insurer to file rates at least 30 days before the effective date of the rates (a) if the commissioner determines, based upon reasonable evidence, that an order is appropriate because of the insurer's financial condition or (b) due to a prior finding of unfairly discriminatory rating practices; or (c) due to a prior finding of inadequate rates. The order may require that supplementary rate and supporting information be included in a filing.*

*Subd. 3. [PENALTIES.] Any insurer using a rate or a rating plan which has not been filed shall be subject to a fine of up to \$100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to \$500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law.*

*Subd. 4. [PUBLIC INSPECTION.] All filings shall be open to public inspection during normal business hours at the offices of the insurance division.*

**Sec. 28. [79.57.] [FILING RATES; NONCOMPETITIVE MARKET.]**

*Upon making a determination that a market is not competitive, the commissioner shall require rates for use in that market to be filed 30 days prior to their effective date. The filing shall include, in a form prescribed by the commissioner, an explanation of the rates and any data supporting the use of the rates which are not on file with a data service organization.*

*The commissioner may issue an order for a hearing at any time prior to the effective date of the rates and the rates shall not become effective until the commissioner has ruled on the rates following the hearing.*

*The commissioner may disapprove the rates subsequent to their effective date, except that rates so disapproved shall remain effective until the commissioner issues an order following a hearing.*

**Sec. 29. [79.58] [DISAPPROVAL OF RATES OR RATING PLANS.]**

*Subdivision 1. [RATES.] A rate filed by an insurer may be disapproved by the commissioner subsequent to its effective date. Following a disapproval and prior to a refiling the insurer shall use the rates as reasonably established by the commissioner.*

*The commissioner shall disapprove a rate if, after a hearing on the record, he finds that:*

*(a) The premium is inadequate or unfairly discriminatory; or*

*(b) A competitive market for workers' compensation does not exist and rates are excessive; or*

*(c) The insurer failed to comply with filing requirements.*

*A rehearing shall be held within 30 days of any disapproval under this section at the request of the insurer whose rates are disapproved.*

*Subd. 2. [RATING PLANS.] The commissioner may disapprove a rating plan of a data service organization if, after a hearing, the commissioner finds that it is unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.*

**Sec. 30. [79.59] [INSURERS AND DATA SERVICE ORGANIZATIONS; PROHIBITED ACTIVITIES.]**

*Subdivision 1. [MONOPOLIZATION.] No insurer or data service organization shall attempt to monopolize or combine or conspire with any other person to monopolize the business of insurance.*

*Subd. 2. [AGREEMENT PROHIBITED.] No insurer shall agree with any other insurer or with a data service organization to adhere to or to use any rate, rating plan, rating schedule, rating rule, or underwriting rule except as specifically authorized by chapter 79 or for the purpose of creating experience modifications for employers with employees in more than one state.*

*Subd. 3. [TRADE RESTRAINT.] No insurer or data service organization shall make an agreement with any other insurer, data service organization, or other person which has the purpose or the effect of restraining trade or of substantially lessening competition.*

*Subd. 4. [EXCEPTIONS.] The fact that insurers writing not more than 25 percent of the workers' compensation premiums in Minnesota use the same rates, rating plans, rating schedules, rating rules, underwriting rules, or similar materials shall not alone constitute a violation of subdivisions 1 or 2.*

*Two or more insurers under common ownership or operating under common management or control may act in concert between or among themselves with respect to matters authorized under chapter 79 as if they constituted a single insurer, provided that the rating plan of such insurers shall be considered to be a single plan for the purposes of determining unfair discrimination.*

*Subd. 5. [ADDITIONAL PROHIBITION.] In addition to other prohibitions contained in this chapter, no data service organization shall:*

*(a) Refuse to supply any service for which it is licensed or any data, except for data identifiable to an individual insurer, to any insurer authorized to do business in this state which offers to pay the usual compensation for the service or data;*

*(b) Require the purchase of any specific service as a condition to obtaining any other services sought;*

*(c) Participate in the development or distribution of rates, rating plans, or rating rules except as specifically authorized by this chapter or by rules adopted pursuant to this chapter; or*

*(d) Refuse membership to any licensed insurer.*

**Sec. 31. [79.60] [INSURERS; REQUIRED AND PERMITTED ACTIVITY.]**

*Subdivision 1. [REQUIRED ACTIVITY.] Each insurer shall perform the following activities:*

*(a) Maintain membership in and report loss experience data to a licensed data service organization in accordance with the statistical plan and rules of the organization as approved by the commissioner;*

*(b) Establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;*

*(c) Provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and*

*(d) Keep a record of the premiums and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.*

*Subd. 2. [PERMITTED ACTIVITY.] In addition to any other activities not prohibited by chapter 79, insurers may:*

*(a) Through licensed data service organizations, individually, or with insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses;*

*(b) Develop and use classification plans and rates based upon any reasonable factors; and*

*(c) Develop rules for the assignment of risks to classifications.*

**Sec. 32. [79.61] [DATA SERVICE ORGANIZATIONS; REQUIRED AND PERMITTED ACTIVITY.]**

*Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:*

*(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;*



(b) *Establish requirements for data reporting and monitoring methods to maintain a high quality data base;*

(c) *Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:*

(i) *development factors and alternative derivations;*

(ii) *trend factors and alternative derivations and applications;*

(iii) *pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and*

(iv) *an evaluation of the effects of changes in law on loss data.*

*The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;*

(d) *Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;*

(e) *Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;*

(f) *Provide loss data specific to an insured to the insured at a reasonable cost;*

(g) *Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; and*

(h) *Assess its members for operating expenses on a fair and equitable basis.*

*Subd. 2. [PERMITTED ACTIVITY.] In addition to any other activities not prohibited by chapter 79, any data service organization may:*

*(a) Collect and analyze data in order to investigate, identify, and classify information relating to causes or prevention of losses;*

*(b) Make inspections for the sole purpose of reporting and maintaining data quality;*

*(c) Contract with another data service organization to fulfill any of the above requirements; and*

*(d) Prepare and file with the commissioner a rating plan for use by any of its members, provided that no member may be required to use any part of the plan.*

**Sec. 33. [79.62] [DATA SERVICE ORGANIZATIONS; LICENSING, EXAMINATION.]**

*Subdivision 1. [LICENSE REQUIRED.] No data service organization shall provide any service and no insurer shall use the services of a data service organization unless the organization is licensed by the commissioner.*

*Subd. 2. [PROCEDURE; APPLICATION.] A data service organization shall apply for a license in a form and manner prescribed by the commissioner. The application of a data service organization shall include:*

*(a) A copy of its constitution, articles of incorporation, by-laws, and other rules pertaining to the conduct of its business;*

*(b) A plan and narrative describing how it will perform the activities required by section 32;*

*(c) A statement showing its technical qualifications; and*

*(d) Any other information that the commissioner may reasonably require.*

*Subd. 3. [ISSUANCE.] The commissioner, upon finding that the applicant organization is qualified to provide the services required and proposed, or has contracted with a licensed data service organization to purchase these services which are required by chapter 79 but are not provided directly by the applicant, and that all requirements of law are met, shall issue a license. Licenses shall remain in effect until the licensee withdraws from business or until the license is suspended or revoked.*

*Subd. 4. [SUSPENSION; REVOCATION.] The commissioner may, after a hearing on the record, revoke or suspend the license of a data service organization if he finds that the organization is not in compliance with the requirements of chapter 79 or rules issued thereunder.*

*Subd. 5. [LICENSEE EXAMINATION.] The commissioner may examine any licensed data service organization to determine whether its activities and practices comply with law. The cost of the examination shall be paid by the examined organization.*

**Sec. 34. [79.63] [ASSIGNED RISK PLAN.]**

*Subdivision 1. [ADMINISTRATION.] The commissioner shall appoint a licensed data service organization to administer the assigned risk plan. The appointed data service organization shall submit to the commissioner for approval a plan and rules for administering the assigned risk plan, including a method or formula by which the organization is to be paid for administrative services.*

*Subd. 2. [REJECTION; NOTICE.] An insurer that refuses to write insurance for an applicant shall furnish the applicant a written notice of refusal and shall file a copy of the notice of refusal with the data service organization appointed pursuant to subdivision 1. Servicing insurers designated pursuant to subdivision 3 shall accept and insure any applicant for workers' compensation insurance assigned pursuant to subdivision 3.*

*Subd. 3. [ASSIGNMENT.] An insurer or insurers shall be designated by the data service organization appointed pursuant to subdivision 1 to issue a policy of workers' compensation insurance to an applicant which has been refused insurance. A policy shall contain the usual and customary provisions of workers' compensation insurance policies, but for which undertaking all insurers doing workers' compensation business in this state shall be reinsurers among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by each insurer bears to the total compensation insurance written in this state during that calendar year by all insurers.*

*An insurer that issues a policy pursuant to this section shall receive an expense allowance which shall be adequate for services rendered, as approved by the commissioner.*

*Subd. 4. [PENALTY.] The commissioner may revoke the license of an insurer or agent for refusing or failing to provide an applicant with written refusal pursuant to subdivision 2 or for any other violation of this section or of the approved rules of a data service organization.*

*Subd. 5. [ASSIGNED RISK RATES.] Insureds served by the workers' compensation insurance assigned risk plan shall be charged premiums based upon a rating plan, rates, and a merit rating plan adopted by the commissioner by rule. This rating plan shall include a feature by which rates shall vary in relation to the number or proportion of insureds in the assigned risk plan in the preceding calendar year. This relationship shall be such that assigned risk rates shall vary upward as the number or proportion of insureds in the assigned risk plan decreases and downward as the number or proportion increases. Assigned risk premiums shall not be lower than the rates generally charged by insurers for the business.*

Sec. 35. Minnesota Statutes 1980, Section 60C.04, is amended to read:

**60C.04 [CREATION.]**

All insurers subject to the provisions of Laws 1971, Chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be divided into (FOUR) *five* separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3) the fidelity and surety bond account (AND), (4) the account for all other insurance to which Laws 1971, Chapter 145 applies, and (5) *the workers' compensation insurance account.*

Sec. 36. Minnesota Statutes 1980, Section 60C.09, Subdivision 2, is amended to read:

*Subd. 2. [LIMITATION OF AMOUNT.] Payment of a covered claim is limited to the amount by which the allowance on any claim exceeds \$100 and is less than \$300,000. The limitation on the amount of payment for a covered claim does not apply to claims for workers' compensation insurance. In no event is the association obligated to the policyholder or claimant in an amount in excess of the obligation of the insurer under the policy from which the claim arises.*

Sec. 37. Minnesota Statutes 1980, Section 79.071, Subdivision 1, is amended to read:

Subdivision 1. The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written *until Janu-*

ary 1, 1986. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates. The commissioner may include the expense of a reasonable charge for the services of an agent of record, for the service of rejected risks as set forth in sections 79.24 to 79.27.

Sec. 38. Minnesota Statutes 1980, Section 175.007, is amended to read:

**175.007 [ADVISORY COUNCIL ON WORKERS' COMPENSATION; CREATION.]**

Subdivision 1. The commissioner (OF LABOR AND INDUSTRY) shall appoint (, AFTER CONSULTATION WITH THE JUDGES OF THE WORKERS' COMPENSATION COURT OF APPEALS,) an advisory council on workers' compensation, which shall consist of five representatives of employers and five representatives of employees and three members representing the general public. *The council may consult with the judges of the workers' compensation court of appeals (SHALL BE NONVOTING MEMBERS OF THE ADVISORY COUNCIL).* The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 2. The advisory council shall study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. *The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division.*

Sec. 39. Minnesota Statutes 1980, Section 175.11, Subdivision 1, is amended to read:

Subdivision 1. The workers' compensation division (AND THE WORKERS' COMPENSATION COURT OF APPEALS) shall (EACH) have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words, "Workers' Compensation Division of Minnesota" (OR "WORKERS' COMPENSATION COURT OF APPEALS OF MINNESOTA" RESPECTIVELY), as the division (OR WORKERS'

COMPENSATION COURT OF APPEALS) may prescribe. The courts of this state shall take judicial notice of such seal (AND OF THE SIGNATURES OF THE JUDGES OF THE WORKERS' COMPENSATION COURT OF APPEALS); and in all cases copies of orders, proceedings, or records of the division (OR WORKERS' COMPENSATION COURT OF APPEALS), certified by (A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS UNDER HIS SEAL) *the commissioner*, shall be received in evidence, with the same force and effect given to the originals.

Sec. 40. Minnesota Statutes 1980, Section 175.14, is amended to read:

175.14 [TRAVELING EXPENSES.]

The (WORKERS' COMPENSATION JUDGES OF THE COURT OF APPEALS AND THE) commissioner (OF LABOR AND INDUSTRY) and the officers, assistants, and employees of the (WORKERS' COMPENSATION COURT OF APPEALS AND) department shall be paid out of the state treasury their actual and necessary expenses while traveling on the business of the (WORKERS' COMPENSATION COURT OF APPEALS OR) department. Vouchers for such expenses shall be itemized and sworn to by the persons incurring the expense, and be subject to the approval of (THE WORKERS' COMPENSATION COURT OF APPEALS OR) the commissioner of labor and industry.

Sec. 41. Minnesota Statutes 1980, Section 175.17, is amended to read:

175.17 [POWERS AND DUTIES, (WORKERS' COMPENSATION COURT OF APPEALS, AND) COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY.]

(1) (THE WORKERS' COMPENSATION COURT OF APPEALS SHALL PRINCIPALLY EXERCISE APPELLATE JURISDICTION UNDER THE LAWS RELATING TO WORKERS' COMPENSATION AND THE LAWS GOVERNING EMPLOYEES OF THE STATE, A COUNTY, OR OTHER GOVERNMENTAL SUBDIVISION WHO CONTRACT TUBERCULOSIS;)

((2)) The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall administer the laws relating to workers' compensation and the laws governing employees of the state, a county, or other governmental subdivisions who contract tuberculosis;

((3)) (2) The (WORKERS' COMPENSATION COURT OF APPEALS AND THE) commissioner (OF THE DEPART-

MENT OF LABOR AND INDUSTRY) shall (JOINTLY PRESCRIBE) *adopt* reasonable and proper rules (AND REGULATIONS) governing rules of practice before the workers' compensation division in (NONAPPELLATE) matters *which are not before a compensation judge;*

((4)) (4) THE WORKERS' COMPENSATION COURT OF APPEALS SHALL PRESCRIBE RULES OF PRACTICE BEFORE IT IN APPELLATE MATTERS;)

((5)) (3) The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall collect, collate, and publish statistical and other information relating to work under (ITS) *the department's* jurisdiction and make public reports in his judgment necessary, including such other reports as may be required by law;

((6)) (4) The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall establish and maintain branch offices as needed for the conduct of the affairs of the workers' compensation division.

Sec. 42. [175A.01] [CREATION.]

*Subdivision 1. [MEMBERSHIP, APPOINTMENT, QUALIFICATIONS.] The workers' compensation court of appeals as previously constituted is reconstituted as an independent agency in the executive branch.*

*The workers' compensation court of appeals shall consist of five judges each serving in the unclassified service. The five judges shall be learned in the law. Each judge of the workers' compensation court of appeals shall be appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall expire on the first Monday in January of the year in which they expire. The terms of the judges shall be staggered. The judges of the workers' compensation court of appeals as now created shall be the judges of the workers' compensation court of appeals until the expiration of the terms for which they have been appointed and qualified. They shall be selected on the basis of their experience with and knowledge of workers' compensation and the workers' compensation laws of Minnesota. The judges of the workers' compensation court of appeals shall be subject to the provisions of the Minnesota Constitution, Article VI, Section 6, the jurisdiction of the commission on judicial standards, as provided in sections 490.15 and 490.16, and the provisions of the code of judicial conduct.*

*Subd. 2. [JURISDICTION.] The workers' compensation court of appeals shall have statewide jurisdiction. Except for*

*an appeal to the supreme court or any other appeal allowed under this subdivision, the workers' compensation court of appeals shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the workers' compensation laws of the state in those cases that have been appealed to the workers' compensation court of appeals and in any case that has been transferred by the district court to the workers' compensation court of appeals. The workers' compensation court of appeals shall have no jurisdiction in any case that does not arise under the workers' compensation laws of the state or in any criminal case, provided that the workers' compensation court of appeals shall exercise appellate jurisdiction under the laws governing employees of the state, a county, or other governmental subdivision who contract tuberculosis and under chapter 352E.*

*Subd. 3. [OATH.] Each judge of the workers' compensation court of appeals before entering upon the duties of his office, shall take the oath prescribed by law.*

**Sec. 43. [175A.02] [OFFICERS.]**

*The judges of the workers' compensation court of appeals shall choose a chief judge from among their number. The chief judge shall appoint one of the judges to serve as the administrator, who shall be custodian of the court's files and records and shall coordinate and make hearing assignments. The judge who is appointed the administrator may delegate the duties of administrator to an employee chosen to be the assistant administrator. The clerk of district court in each county shall be the clerk of the workers' compensation court of appeals in that county. Filing fees and library fees deposited with the clerk of district court in his capacity as clerk of the workers' compensation court of appeals and in cases originally commenced in district court and transferred to the workers' compensation court of appeals shall be retained by the clerk of district court. The workers' compensation court of appeals clerk in each county shall be subject to the supervision of the administrator in workers' compensation court of appeals matters.*

**Sec. 44. [175A.03] [POLITICAL NONPARTICIPATION.]**

*Every judge of the workers' compensation court of appeals and every officer or employee of the workers' compensation court of appeals who by solicitation or otherwise exerts his influence, directly or indirectly, to induce other officers or employees of the state to adopt his political views, or to favor any particular person or candidate for office, or to contribute funds for campaign or political purposes, shall be removed from his office or position by the authority appointing him.*

**Sec. 45. [175A.04] [OFFICE.]**



*The workers' compensation court of appeals shall maintain its main office within the Minneapolis-St. Paul metropolitan area and be provided by the commissioner of administration with suitable rooms and necessary furniture. The offices of the workers' compensation court of appeals and the department of labor and industry shall be in separate buildings. The court may hold sessions at any other place in the state when their convenience and that of the parties interested so requires.*

**Sec. 46. [175A.05] [QUORUM.]**

*A majority of the judges of the workers' compensation court of appeals shall constitute a quorum for the exercise of the powers conferred and the duties imposed on the workers' compensation court of appeals and all appeals shall be heard by at least three of the five judges. A vacancy shall not impair the ability of the remaining judges of the workers' compensation court of appeals to exercise all the powers and perform all of the duties of the workers' compensation court of appeals.*

**Sec. 47. [175A.06] [SESSIONS TO BE PUBLIC.]**

*The hearings of the workers' compensation court of appeals shall be open to the public and may be adjourned from time to time. All the proceedings of the court shall be shown on its records, which shall be public records.*

**Sec. 48. [175A.07] [POWERS.]**

*Subdivision 1. [PROCESS; PROCEDURES.] The workers' compensation court of appeals shall keep such record of all its proceedings as it deems appropriate and shall issue necessary processes, writs, warrants, and notices which the workers' compensation court of appeals is required or authorized to issue. Notices and other documents required to be served or filed on the workers' compensation court of appeals shall be served on the administrator of the court or his delegate.*

*Subd. 2. [PERSONNEL.] The judges of the workers' compensation court of appeals shall appoint in the manner provided by law all personnel required by the workers' compensation court of appeals. The commissioner of administration shall provide the court with necessary additional staff and administrative services, and the court shall reimburse the commissioner for the cost of these services.*

*Subd. 3. [POWER TO REVIEW.] The workers' compensation court of appeals shall have the powers of review provided in chapter 176.*

*Subd. 4. [RULES.] The workers' compensation court of appeals shall prescribe rules of practice before it in appellate matters.*

## Sec. 49. [175A.08] [SEAL.]

*The workers' compensation court of appeals shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words, "Workers' Compensation Court of Appeals of Minnesota" as the court of appeals may prescribe. The courts of this state shall take judicial notice of such seal and of the signatures of the judges of the workers' compensation court of appeals; and in all cases copies of orders, proceedings, or records of the workers' compensation court of appeals, certified by a judge of the workers' compensation court of appeals under its seal, shall be received in evidence, with the same force and effect given to the originals.*

## Sec. 50. [175A.09] [TRAVEL EXPENSES.]

*The workers' compensation judges of the court of appeals and the officers, assistants, and employees of the workers' compensation court of appeals shall be paid out of the state treasury their actual and necessary expenses while traveling on the business of the workers' compensation court of appeals. Vouchers for such expenses shall be itemized and sworn to by the persons incurring the expense, and be subject to the approval of the workers' compensation court of appeals.*

## Sec. 51. [175A.10] [APPEALS AND REVIEWS.]

*Unless an appeal is taken to the district court, the right of appeal provided in chapter 176 shall be the exclusive remedy for reviewing the actions of the commissioner, the workers' compensation division or a compensation judge in a matter arising under chapter 176. On any appeal taken by an employee or an employer or insurer to the workers' compensation court of appeals, or the supreme court, the decision of the workers' compensation court of appeals, or the decision of the supreme court on its review, as the case may be, shall be final and conclusive as to all parties to the proceedings as to all matters at issue determined by a decision. In all cases the decision of the workers' compensation court of appeals on appeal, or of the supreme court on review, as the case may be, shall stand in lieu of the order of the commissioner or the division or the compensation judge from whom the appeal was taken.*

## Sec. 52. [176.001] [INTENT OF THE LEGISLATURE.]

*It is the intent of the legislature that chapter 176 be interpreted so as to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of chapter 176.*

Sec. 53. Minnesota Statutes 1980, Section 176.011, Subdivision 6, is amended to read:

Subd. 6. (1) "Court of appeals" means the workers' compensation court of appeals of Minnesota.

(2) "Division" means the workers' compensation division of the department of labor and industry.

(3) "Department" means the department of labor and industry.

(4) "Commissioner", unless the context clearly indicates otherwise, means the commissioner of labor and industry.

Sec. 54. Minnesota Statutes 1980, Section 176.011, Subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire; and includes the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, policeman, firefighter, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in and about the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;

(4) a county assessor;

(5) an elected or appointed official of the state, or of any county, city, town, school district or governmental subdivision therein but an officer of a political subdivision elected or appointed for a regular term of office or to complete the unexpired portion of any such regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation except an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (c), nor shall it include an executive officer of a closely held corporation who is referred to in section 176.012;

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of public welfare and state institutions under the commissioner of corrections similar to those of officers and employees of these institutions, and whose services have been accepted or contracted for by the commissioner of public welfare or the commissioner of corrections as authorized by law, shall be employees within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision thereof, shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services where the services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(11) a member of the military forces, as defined in section 190.05, while in "active service" or "on duty" as defined in section 190.05, when the service or duty is ordered by state authority. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earnings, the trier of fact shall consider the member's earnings as a member of the military forces;

(12) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services

as a volunteer, pursuant to chapter 138, shall be an employee. The daily wage of the worker, for the purposes of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(13) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota school for the deaf or the Minnesota braille and sight-saving school, and whose services have been accepted or contracted for by the state board of education, as authorized by law, shall be an employee within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(14) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law, is an employee within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

*(15) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of public welfare for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose.*

In the event it is difficult to determine the daily wage as (HEREIN) provided in this subdivision, then the trier of fact may determine the wage upon which the compensation is payable.

**Sec. 55. Minnesota Statutes 1980, Section 176.021, Subdivision 1, is amended to read:**

**Subdivision 1. [LIABILITY FOR COMPENSATION.]** Except as excluded by this chapter all employers and employees are subject to the provisions of this chapter.

Every (SUCH) employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of his employee arising out of and in the course of employment without regard

to the question of negligence (, UNLESS). *The burden of proof of these facts is upon the employee.*

*If the injury was intentionally self-inflicted or (WHEN) the intoxication of the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of (SUCH) these facts is upon the employer.*

Sec. 56. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

*Subd. 1a. [BURDEN OF PROOF.] All disputed issues of fact arising under chapter 176 shall be determined by a preponderance of the evidence. Preponderance of the evidence means evidence produced in substantiation of a fact which, when weighed against the evidence opposing the fact, has more convincing force and greater probability of truth.*

*Questions of law arising under chapter 176 shall be determined in accordance with the rules of construction generally applied to all other civil matters.*

Sec. 57. Minnesota Statutes 1980, Section 176.021, Subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of (THE) compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except (THOSE OF) for medical, burial, and other non-periodic benefits, payments shall be made as nearly as (MAY BE) possible at the intervals when the wage was payable (;), provided, however, that payments for permanent partial disability (IN CASES IN WHICH RETURN TO WORK OCCURS PRIOR TO FOUR WEEKS FROM THE DATE OF INJURY SHALL BE MADE BY LUMP SUM PAYMENT,) *shall be governed by subdivision 3a (AND THE PROVISIONS OF SECTION 176.165 SHALL NOT APPLY, WITHOUT THE NECESSITY OF ANY AGREEMENT, OR ORDER OF THE DIVISION, UPON CESSATION OF PAYMENTS FOR TEMPORARY TOTAL DISABILITY AND UPON THE EMPLOYEE'S RETURN TO WORK. IN CASES IN WHICH RETURN TO WORK DOES NOT OCCUR PRIOR TO FOUR WEEKS AFTER INJURY, PAYMENTS FOR PERMANENT PARTIAL DISABILITY SHALL BE MADE ACCORDING TO THE FOLLOWING SCHEDULE: 25 PERCENT OF THE AMOUNT DUE AFTER FOUR WEEKS FROM THE DATE OF INJURY, 25 PERCENT AFTER EIGHT WEEKS, 25 PERCENT AFTER 12 WEEKS AND 25 PERCENT AFTER 16 WEEKS, PROVIDED THAT ANY AND ALL PAYMENTS REMAINING SHALL BE PAID UPON THE CESSATION OF PAYMENTS FOR TEMPORARY TOTAL DISABILITY AND UP-*

ON THE EMPLOYEE'S RETURN TO WORK). If doubt exists (AT THAT TIME) as to the eventual permanent partial disability, payment, *pursuant to subdivision 3a*, shall be then made *when due* for the minimum permanent partial disability ascertainable (IN LUMP SUM), and further (LUMP SUM) payment shall be made upon any later ascertainment of greater permanent partial disability. At the time of (THE) *any* tender of the lump sum payment, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. Compensation for permanent partial disability is payable (CONCURRENTLY AND) in addition to compensation for temporary total disability and temporary partial disability (AS SET FORTH IN) *pursuant to section 176.101, subdivisions 1 and 2, (AND) as provided in subdivision 3a. Compensation for permanent partial disability is payable concurrently and in addition to compensation for permanent total disability (AS DEFINED IN) pursuant to section 176.101, subdivision 5 (; AND SUCH), as provided in subdivision 3a. Compensation for permanent partial disability shall (NOT) be (DEFERRED) withheld pending completion of payment for temporary total and temporary partial disability but shall not be withheld pending payment of compensation for (OR) permanent total disability, and no credit shall be taken for payment of permanent partial disability against liability for temporary total or permanent total disability. Liability on the part of an employer or his insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and shall be payable accordingly, subject to subdivision 3a. Permanent partial disability is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to subdivision 3a. The right to receive temporary total, temporary partial, permanent partial or permanent total disability payments shall vest in the injured employee or his dependents under this chapter or, if none, in his legal heirs at the time the disability can be ascertained and the right shall not be abrogated by the employee's death prior to the making of the payment.*

Sec. 58. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

*Subd. 3a. [PERMANENT PARTIAL BENEFITS, PAYMENT.] Payments for permanent partial disability as provided in section 176.101, subdivision 3, shall be made in the following manner:*

(a) *If the employee returns to work, payment shall be made by lump sum;*

(b) *If temporary total payments have ceased, but the employee has not returned to work, payment shall be made at the same intervals as temporary total payments were made;*

(c) *If temporary total disability payments cease because the employee is receiving payments for permanent total disability or because the employee is retiring or has retired from the work force, then payment shall be made by lump sum;*

(d) *If the employee completes a rehabilitation plan pursuant to section 176.102, but the employer does not furnish the employee with work he can do in his permanently partially disabled condition, and the employee is unable to procure such work with another employer, then payment shall be made by lump sum.*

Sec. 59. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

*Subd. 8. [AMOUNTS ADJUSTED.] Amounts of compensation payable by an employer or his insurer under this chapter may be rounded to the nearest dollar amount. An employer or insurer who elects to make such adjustments shall do so for all compensation payments under this chapter.*

Sec. 60. Minnesota Statutes 1980, Section 176.041, is amended by adding a subdivision to read:

*Subd. 6. [COMMISSIONER OF LABOR AND INDUSTRY; ADDITIONAL POWERS.] Whenever an employee is covered by subdivision 2, 3 or 4, the commissioner may enter into agreements with the appropriate agencies of other states for the purpose of resolving conflicts of jurisdiction or disputes concerning workers' compensation coverage. An agreement entered into pursuant to this subdivision may be appealed in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals or the district court.*

Sec. 61. Minnesota Statutes 1980, Section 176.061, Subdivision 1, is amended to read:

*Subdivision 1. [ELECTION OF REMEDIES.] Where an injury or death for which (COMPENSATION IS) benefits are payable occurs under circumstances which create a legal liability for damages on the part of a party other than the employer and at the time of such injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or his dependents, in case of death, may proceed either at law against that party to recover damages or against the*



employer for (COMPENSATION) *benefits*, but not against both.

Sec. 62. Minnesota Statutes 1980, Section 176.061, Subdivision 3, is amended to read:

Subd. 3. [ELECTION TO RECEIVE (COMPENSATION) *BENEFITS FROM EMPLOYER; SUBROGATION.*] If the employee or his dependents elect to receive (COMPENSATION) *benefits from the employer, or the special compensation fund, (SUCH) the employer, or the special compensation fund,* is subrogated to the right of the employee or his dependents to recover damages against the other party. The employer, *or the attorney general on behalf of the special compensation fund,* may bring legal proceedings against such party and recover the aggregate amount of (COMPENSATION) *benefits payable (BY HIM) to or on behalf of the employee or his dependents, together with (THE) costs, disbursements, and reasonable attorney's fees of the action.*

If an action as provided in this chapter prosecuted by the employee, the employer, or (BOTH JOINTLY) *the attorney general on behalf of the special compensation fund,* against the third person, results in judgment against the third person, or settlement by the third person, the employer shall have no liability to reimburse or hold the third person harmless on the judgment or settlement in absence of a written agreement to do so executed prior to the injury.

Sec. 63. Minnesota Statutes 1980, Section 176.061, Subdivision 4, is amended to read:

Subd. 4. [APPLICATION OF SUBDIVISIONS 1, 2, AND 3.] The provisions of subdivisions 1, 2, and 3 apply only where the employer liable for (COMPENSATION) *benefits* and the other party legally liable for damages are insured or self-insured and engaged, in the due course of business *in, (a) (IN) furtherance of a common enterprise, or (b) in the accomplishment of the same or related purposes in (OPERATION) operations* on the premises where the injury was received at the time thereof.

Sec. 64. Minnesota Statutes 1980, Section 176.061, Subdivision 5, is amended to read:

Subd. 5. [CUMULATIVE REMEDIES.] Where an injury or death for which (COMPENSATION IS) *benefits are payable* is caused under circumstances which create a legal liability for damages on the part of a party other than the employer, that party being then insured or self-insured in accordance with this chapter, and the provisions of subdivisions 1, 2, 3, and 4 do not apply, or the party other than the employer is not then insured or self-insured as provided by this chapter, legal pro-

ceedings may be taken by the employee or his dependents in accordance with clause (a), or by his employer, *or by the attorney general on behalf of the special compensation fund*, in accordance with clause (b), against the other party to recover damages, notwithstanding the payment by the employer, *or the special compensation fund* or (HIS) *their* liability to pay (COMPENSATION) *benefits*.

(a) If an action against the other party is brought by the injured employee or his dependents and a judgment is obtained and paid or settlement is made with the other party, the employer *or the special compensation fund* may deduct from the (COMPENSATION) *benefits* payable (BY HIM) the amount actually received by the employee or dependents *or paid on their behalf* in accordance with subdivision 6. If the action is not diligently prosecuted or if the court deems it advisable in order to protect the interests of the employer, *or the special compensation fund*, upon application the court may grant the employer, *or the special compensation fund*, the right to intervene in any such action for the prosecution thereof. If the injured employee or his dependents (AGREE TO RECEIVE COMPENSATION) *or any party on their behalf receives benefits* from the employer, *or the special compensation fund*, or institute proceedings to recover the same or accept from the employer, *or the special compensation fund*, any payment on account of the (COMPENSATION) *benefits*, the employer, *or the special compensation fund*, is subrogated to the rights of the employee or his dependents. This employer, *or the attorney general on behalf of the special compensation fund*, may maintain an action or continue an action already instituted. This action may be maintained in the name of the employee or the names of the dependents, or in the name of the employer *or in the name of the attorney general on behalf of the special compensation fund* against such other party for the recovery of damages. If the action is not diligently prosecuted by the employer, *or the attorney general on behalf of the special compensation fund*, or the court deems it advisable in order to protect the interest of the employee, the court, upon application, may grant to the employee or his dependents the right to intervene in the action for the prosecution thereof. The proceeds of such action or settlement thereof shall be paid in accordance with subdivision 6.

(b) If an employer, being then insured, sustains damages due to a change in workers' compensation insurance premiums, whether by a failure to achieve a decrease or by a retroactive or prospective increase, as a result of the injury or death of his employee which was caused under circumstances which created a legal liability for damages on the part of a party other than the employer, the employer, notwithstanding other remedies provided, may maintain an action against the other party for recovery of such premiums. This cause of action may be brought either by joining in an action described in clause (a) or by a separate action. Damages recovered under this clause shall be

for the benefit of the employer and the provisions of subdivision 6 shall not be applicable to such damages.

(c) The third party is not liable to any person other than the employee or his dependents, or his employer, *or the special compensation fund*, for any damages resulting from the injury or death.

A co-employee working for the same employer is not liable for a personal injury incurred by another employee unless the injury resulted from the gross negligence of the co-employee or was intentionally inflicted by the co-employee.

Sec. 65. Minnesota Statutes 1980, Section 176.061, Subdivision 6, is amended to read:

Subd. 6. [COSTS, ATTORNEY FEES, EXPENSES.] The proceeds of all actions for damages or settlement thereof under this section; except for damages received under subdivision 5, clause (b) received by the injured employee or his dependents or by the employer, *or the special compensation fund*, as provided by subdivision 5, shall be divided as follows:

(a) After deducting the reasonable cost of collection, including but not limited to attorneys fees and burial expense in excess of the statutory liability, then

(b) One-third of the remainder shall in any event be paid to the injured employee or his dependents, without being subject to any right of subrogation.

(c) Out of the balance remaining, the employer, *or the special compensation fund*, shall be reimbursed in an amount equal to all (COMPENSATION) *benefits* paid under this chapter to *or on behalf of* the employee or his dependents by the employer, *or special compensation fund*, less the product of the costs deducted under clause (a) divided by the total proceeds received by the employee or his dependents from the other party multiplied by all (COMPENSATION) *benefits* paid by the employer, *or the special compensation fund*, to the employee or his dependents.

(d) Any balance remaining shall be paid to the employee or his dependents, and shall be a credit to employer, *and the special compensation fund*, for any (COMPENSATION) *benefits* which employer is obligated to pay, but has not paid, and for any (COMPENSATION) *benefits* that such employer shall be obligated to make in the future.

There shall be no reimbursement or credit to *the employer, or the special compensation fund*, for interest or penalties.

Sec. 66. Minnesota Statutes 1980, Section 176.061, Subdivision 7, is amended to read:

Subd. 7. [MEDICAL TREATMENT.] The liability of an employer, *or the special compensation fund*, for medical treatment under this chapter shall not be affected by the fact that his employee was injured through the fault or negligence of a third party, against whom the employee may have a cause of action which may be sued under this chapter, but the employer, *or the attorney general on behalf of the special compensation fund*, shall have a separate additional cause of action against such third party to recover any amounts paid (BY HIM) for medical treatment under this section resulting from the negligence of such third party. This separate cause of action of the employer, *or the attorney general on behalf of the special compensation fund*, may be asserted in a separate action brought by the employer, *or the attorney general on behalf of the special compensation fund*, against such third party or in the action commenced by the employee or the employer, *or the attorney general on behalf of the special compensation fund*, under this chapter, but in the latter case the cause of action shall be separately stated, the amount awarded thereon shall be separately set out in the verdict, and the amount recovered by suit or otherwise as reimbursement for medical expenses shall be for the benefit of the employer, *or the special compensation fund*, to the extent that the employer, *or the special compensation fund*, has paid or will be required to pay for medical treatment of the injured employee and shall not affect the amount of periodic compensation to be paid.

Sec. 67. Minnesota Statutes 1980, Section 176.081, Subdivision 1, is amended to read:

Subdivision 1. No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this chapter is an enforceable lien against the compensation or is valid or binding in any other respect unless approved in writing by the *division*, (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY,) *a compensation judge, a judge of the district court, or the workers' compensation court of appeals*, if the claim arises out of a proceeding for compensation under this chapter, or by the judge presiding at the trial in an action for damages, or by a judge of the district court in a settlement of a claim for damages without trial. *The division, a compensation judge, a judge of the district court or the workers' compensation court of appeals shall in matters before (HIM) them, including settlement proceedings, have authority to approve a fee of up to 25 percent of the first \$4,000 of compensation awarded to the employee and up to 20 percent of the next (\$20,000) \$27,500 of compensation awarded to employee. (THE WORKERS' COMPENSATION COURT OF AP-*

PEALS JUDGE SHALL HAVE AUTHORITY ONLY TO APPROVE FEES IN SETTLEMENTS UPON APPEAL BEFORE THEM UP TO 25 PERCENT OF THE FIRST \$4,000 OF COMPENSATION AWARDED TO THE EMPLOYEE AND UP TO 20 PERCENT OF THE NEXT \$20,000 OF COMPENSATION AWARDED TO THE EMPLOYEE.) If the employer or his insurer or the defendant is given written notice of such claims for legal services or disbursements, the same shall be a lien against the amount paid or payable as compensation, subject to determination of the amount and approval provided by this chapter. *Provided, however, that in no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims.*

Sec. 68. Minnesota Statutes 1980, Section 176.081, Subdivision 2, is amended to read:

Subd. 2. Any application for attorney fees in excess of the amount (WHICH A COMPENSATION JUDGE OR THE WORKERS' COMPENSATION COURT OF APPEALS MAY AUTHORIZE) *authorized in subdivision 1* shall be made to the (COMMISSIONER OF LABOR AND INDUSTRY) *workers' compensation court of appeals*. The application shall set forth the fee requested and the basis for such request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of such hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 69. Minnesota Statutes 1980, Section 176.081, Subdivision 3, is amended to read:

Subd. 3. An employee who is dissatisfied with his attorney fees, may file an application for review by the (COMMISSIONER OF LABOR AND INDUSTRY) *workers' compensation court of appeals*. Such application shall state the basis for the need of review and whether or not a hearing is requested. A copy of such application shall be served upon the attorney for the employee by the (COMMISSIONER) *court administrator* and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. The attorney for the employee shall be served with a notice of the hearing. The (COMMISSIONER OF LABOR AND INDUSTRY) *workers' compensation court of appeals* shall have the authority to raise the question of the issue of the attorney fees at any time upon (HIS) *its* own motion and shall have continuing jurisdiction over attorney fees.

Sec. 70. Minnesota Statutes 1980, Section 176.081, Subdivision 4, is amended to read:

Subd. 4. The review of a determination by the commissioner (OF LABOR AND INDUSTRY) or the workers' compensation court of appeals shall be only by supreme court by certiorari upon the ground that it is arbitrary and unwarranted by the evidence. There shall be no review under sections 176.421 and 176.442.

Sec. 71. Minnesota Statutes 1980, Section 176.081, Subdivision 6, is amended to read:

Subd. 6. The (COMMISSIONER OF LABOR AND INDUSTRY) workers' compensation court of appeals may (PRESCRIBE) adopt reasonable and proper rules (AND REGULATIONS) to effect (HIS AND THE DIVISION'S) its obligations under this section (WITHOUT REGARD TO THE JOINT PRESCRIPTION REQUIRED UNDER SECTION 175.17, SUBDIVISION 3).

Sec. 72. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

Subd. 7a. *At any time prior to one day before a matter is to be heard, a party litigating a claim made pursuant to this chapter may serve upon the adverse party a reasonable offer of settlement of the claim, with provision for costs and disbursements then accrued. If before the hearing the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with the proof of service thereof, and thereupon judgment shall be entered.*

*If an offer by an employer or insurer is not accepted by the employee, it shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine attorney's fees. Notwithstanding the provisions of subdivision 7, if the judgment finally obtained by the employee is less favorable than the offer, the employer shall not be liable for any part of the attorney's fees awarded pursuant to this section.*

*If an offer by an employee is not accepted by the employer or insurer, it shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine attorney's fees. Notwithstanding the provisions of subdivision 7, if the judgment finally obtained by the employee is at least as favorable as the offer, the employer shall pay an additional 25 percent, over the amount provided in subdivision 7, of that portion of the attorney's fee which has been awarded pursuant to this section that is in excess of \$250.*

*The fact that an offer is made but not accepted does not preclude a subsequent offer.*

Sec. 73. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

*Subd. 9. An attorney who is hired by an employee to provide legal services with respect to a claim for compensation made pursuant to this chapter shall prepare a retainer agreement in which the provisions of this section are specifically set out and provide a copy of this agreement to the employee. The retainer agreement shall provide a space for the signature of the employee. A signed agreement shall raise a conclusive presumption that the employee has read and understands the statutory fee provisions. No fee shall be awarded pursuant to this section in the absence of a signed retainer agreement.*

Sec. 74. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

*Subd. 10. An attorney who knowingly violates any of the provisions of this chapter with respect to authorized fees for legal services in connection with any demand made or suit or proceeding brought under the provisions of this chapter is guilty of a gross misdemeanor.*

Sec. 75. Minnesota Statutes 1980, Section 176.101, Subdivision 3, is amended to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] For permanent partial disability compensation shall be that named in the following schedule, subject to a maximum compensation equal to the statewide weekly wage:

(1) For the loss of a thumb, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 65 weeks;

(2) For the loss of a first finger, commonly called index finger, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 40 weeks;

(3) For the loss of a second finger, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 35 weeks;

(4) For the loss of a third finger, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 25 weeks;

(5) For the loss of a fourth finger, commonly called the little finger, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 20 weeks;

(6) The loss of the first phalange of the thumb or of any finger, is considered equal to the loss of one-half of the thumb or finger and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the thumb or finger;

(7) The loss of one and one-half or more phalanges is considered equal to the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(8) For the loss of a great toe,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 35 weeks;

(9) For the loss of a toe other than a great toe,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 15 weeks;

(10) The loss of the first phalange of any toe is considered equal to the loss of one-half of the toe, and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the toe;

(11) The loss of one and one-half or more phalanges is considered equal to the loss of the entire toe;

(12) For the loss of a hand, not including the wrist movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(13) For the loss of a hand, including wrist movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;

(14) For the loss of an arm,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 270 weeks;

(15) Amputation of the arm below the elbow is considered the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it is considered the loss of an arm;

(16) For the loss of a foot, not including ankle movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 140 weeks;

(17) For the loss of a foot, including ankle movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 165 weeks;

(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;



(20) Amputation of a leg below the knee is considered as equal to the loss of a foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member, otherwise it is considered as equal to the loss of a leg;

(21) For the loss of an eye,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 160 weeks;

(22) For the complete permanent loss of hearing in one ear,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 85 weeks;

(23) For the complete permanent loss of hearing in both ears,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 170 weeks;

(24) For the loss of an eye and a leg,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(25) For the loss of an eye and an arm,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(26) For the loss of an eye and a hand,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 450 weeks;

(27) For the loss of an eye and a foot,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 400 weeks;

(28) For the loss of two arms, other than at the shoulder,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(29) For the loss of two hands,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(31) For the loss of two feet,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(32) For the loss of one arm and the other hand,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(33) For the loss of one hand and one foot,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(34) For the loss of one leg and the other foot,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(35) For the loss of one leg and one hand, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(36) For the loss of one arm and one foot, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(37) For the loss of one arm and one leg, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(38) For loss of the voice mechanism, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(39) For head injuries, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury for the proportion of 500 weeks which is represented by its percentage of the permanent partial disability to the entire body as is determined from competent testimony at a hearing before a compensation judge (, THE COMMISSIONER,) or *as determined by the workers' compensation court of appeals in cases on appeal*;

(40) For permanent partial disability resulting from injury to any internal organ until such time as the commissioner of labor and industry shall promulgate a schedule of internal organs and thereafter for internal organs covered by the schedule of internal organs established by the commissioner (OF LABOR AND INDUSTRY), 66  $\frac{2}{3}$  percent of the daily wage at time of injury for that proportion of 500 weeks, not to exceed 500 weeks, as determined by the commissioner (OF LABOR AND INDUSTRY), which is the proportionate amount of permanent partial disability caused to the entire body by the injury as is determined from competent testimony at a hearing before a compensation judge (, THE COMMISSIONER,) or the workers' compensation court of appeals;

(41) For disfigurement or scarring not resulting from the loss of a member or other injury specifically compensated, affecting the employability or advancement opportunity of the injured person in the employment in which he was injured or other employment for which the employee is then qualified or for which the employee has become qualified, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during the period the parties agree to or the compensation judge or the workers' compensation court of appeals in cases on appeal determines, not exceeding 90 weeks;

(42) For permanent partial disability resulting from injury to the back, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge, the commissioner, or the workers' compensation court of appeals;

(43) When an employee sustains concurrent injuries resulting in concurrent disabilities he shall receive compensation only for the injury which entitled him to the largest amount of compensation, but this does not affect liability for disfigurement affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subdivision 5;

(44) In all cases of permanent partial disability it is considered that the permanent loss of the use of a member is equivalent to and draws the same compensation as the loss of that member, but the compensation in and by this schedule provided shall be in lieu of all other compensation in these cases, except as otherwise provided by this section;

In the event a worker has been awarded or is entitled to receive compensation for loss of use of a member under any workers' compensation law, and thereafter sustains loss of the member under circumstances entitling him to compensation therefor under this subdivision, the amount of compensation awarded, or that he is entitled to receive, for the loss of use, is to be deducted from the compensation due under the schedules of this section for the loss of the member, provided, that the amount of compensation due for the loss of the member caused by the subsequent accident is in no case less than 25 percent of the compensation payable under the schedule of this section for the loss of the member;

(45) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

(46) In cases of permanent partial disability caused by simultaneous injury to two or more members, the applicable schedules in this subdivision shall be increased by 15 percent. This clause shall not apply when the injuries are compensated under paragraphs 22 to 37 inclusive, of this subdivision. In cases of partial disability due to injury to both eyes resulting in less than total loss of vision in one or both eyes compensation shall be paid at the prescribed rate during that part of 450 weeks which the extent of the combined injury to both eyes bears to the complete loss of industrial vision;

(47) The commissioner (OF LABOR AND INDUSTRY WITH THE WORKERS' COMPENSATION COURT OF APPEALS) may make or revise rules for the determination of the extent of the impairment of the industrial use of one or both eyes taking into account all primary coordinate factors of vision. These rules shall be made or revised after consultation with ex-

perts on industrial vision and after public notice to and hearing of interested parties;

(48) For permanent partial disability resulting from injury to the body as a whole due to burns, 66 2/3 percent of the daily wage at the time of injury, for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge (, THE COMMISSIONER,) or as determined by the workers' compensation court of appeals in cases on appeal, the compensation to be paid in addition to the compensation as employee would otherwise be entitled to for loss of use of a member in accordance with this section;

(49) In all cases of permanent partial disability not enumerated in this schedule the compensation shall be 66 2/3 percent of the difference between the daily wage of the worker at the time of the injury and the daily wage he is able to earn in his partially disabled condition, subject to a maximum equal to the statewide average weekly wage, and continue during disability, not to exceed 350 weeks; and if the employer does not furnish the worker with work which he can do in his permanently partially disabled condition and he is unable to secure such work with another employer after a reasonably diligent effort, the employee shall be paid at his or her maximum rate of compensation for total disability.

Sec. 76. Minnesota Statutes 1980, Section 176.102, is amended by adding a subdivision to read:

*Subd. 1a. [SURVIVING SPOUSE.] Upon the request of a qualified dependent surviving spouse, rehabilitation services shall be provided through the rehabilitation services section of the workers' compensation division. For the purposes of this subdivision a qualified dependent surviving spouse is a dependent surviving spouse, as determined under section 176.111, who is in need of rehabilitation assistance to become self-supporting. A spouse who is provided rehabilitation services under this subdivision is not entitled to compensation under subdivision 11.*

Sec. 77. Minnesota Statutes 1980, Section 176.105, Subdivision 1, is amended to read:

Subdivision 1. The commissioner of labor and industry (MAY) shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries.

Sec. 78. Minnesota Statutes 1980, Section 176.111, Subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] (a) If the deceased employee leaves a dependent surviving spouse and

no dependent child, there shall be paid to the (DEPENDENT SURVIVING) spouse (50 PERCENT OF THE DAILY WAGE AT THE TIME OF THE INJURY OF THE DECEASED), at the option of the spouse, either:

(1) A lump sum settlement equal to ten full years of compensation at 50 percent of the daily wage at the time of the injury of the deceased, computed without regard to section 176.645; or

(2) Weekly workers' compensation benefits at 50 percent of the daily wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

(b) A dependent surviving spouse who has not accepted a lump sum settlement pursuant to clause (a) (1) and who remarries shall receive the lesser of either:

(1) A lump sum settlement equal to two full years of compensation at 50 percent of the daily wage at the time of the injury of the deceased, computed without regard to section 176.645; or

(2) The remaining weekly workers' compensation benefits pursuant to clause (a) (2) at 50 percent of the daily wage, including adjustments as provided in section 176.645.

Sec. 79. Minnesota Statutes 1980, Section 176.111, Subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] (a) If the deceased employee (LEAVE) leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of (SUCH) the spouse and child 60 percent of the daily wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse, at the option of the spouse, either:

(1) A lump sum settlement equal to ten full years of compensation at a rate which is  $16 \frac{2}{3}$  percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, computed without regard to section 176.645; or

(2) Weekly benefits at a rate which is  $16 \frac{2}{3}$  percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, including adjustments as provided in section 176.645.

(b) A surviving spouse who remarries shall receive:

(1) *Compensation, for the benefit of the dependent child, according to the allocation provided in subdivision 10, until the child is no longer a dependent as defined in subdivision 1; and*

(2) *A lump sum settlement, for the benefit of the surviving spouse, equal to two full years of weekly benefits in an amount which equals the difference between the benefit otherwise payable under clause (a) and the amount payable to the dependent child pursuant to clause (b) (1).*

Sec. 80. Minnesota Statutes 1980, Section 176.111, Subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] (a) If the deceased employee (LEAVE) leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of (SUCH) the spouse and (SUCH) children 66 2/3 percent of the daily wage at the time of the injury of the deceased until the youngest dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid, at the option of the spouse, either:

(1) *A lump sum settlement equal to ten full years of compensation at a rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the last surviving child was a dependent, computed without regard to section 176.645; or*

(2) *Weekly benefits at a rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, adjusted according to section 176.645.*

(b) *A surviving spouse who remarries shall receive compensation, for the benefit of the children, allocated according to subdivision 10, until the youngest dependent child is no longer dependent as defined in subdivision 1 and, for the benefit of the surviving spouse, a lump sum settlement equal to two full years of weekly benefits in an amount which equals the difference between the benefit otherwise payable pursuant to clause (a) and the amount payable to the dependent children allocated according to subdivision 10, computed without regard to section 176.645.*

Sec. 81. Minnesota Statutes 1980, Section 176.111, is amended by adding a subdivision to read:

Subd. 8a. [LAST WEEKLY BENEFIT PAYMENT.] For the purposes of subdivisions 7 and 8, "last weekly workers' compensation benefit payment" means the workers' compensation benefit which would have been payable without the application of subdivision 21.

Sec. 82. Minnesota Statutes 1980, Section 176.111, Subdivision 10, is amended to read:

Subd. 10. [ALLOCATION OF COMPENSATION.] In all cases where compensation is payable to the surviving spouse for the benefit of the surviving spouse and dependent children, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), compensation judge, or workers' compensation court of appeals or *district court* in cases upon appeal (MAY) shall determine what portion of the compensation (SHALL BE APPLIED) applies for the benefit of (ANY SUCH CHILD) dependent children and may order (THE SAME) that portion paid to a guardian. *This subdivision shall not be construed to increase the combined total of weekly government survivor benefits and workers' compensation beyond the limitation established in section 176.111, subdivision 21.*

Sec. 83. Minnesota Statutes 1980, Section 176.111, Subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the weekly wage being earned by the deceased employee at the time of the injury causing his death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

*For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's insurance benefits received pursuant to 42 U.S.C., 402 (g), are benefits under a government survivor program.*

Sec. 84. Minnesota Statutes 1980, Section 176.131, Subdivision 10, is amended to read:

Subd. 10. The special compensation fund is created for the purposes provided in this chapter in the following manner:

(1) In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to monetary benefits of dependency compensation, the employer shall pay to the commissioner (OF LABOR AND INDUSTRY) the sum of \$5,000 for the benefit of the special compensation fund; in every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to at least \$5,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner (OF LABOR AND INDUSTRY) for the benefit of the special compensation fund the difference between the amounts actually paid for the dependency benefits and \$5,000; but in no event shall the employer pay the commissioner (OF LABOR AND INDUSTRY) less than \$1,000;

(2) When an employee suffers a personal injury which results in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability or death and which entitles him or *his* dependents to compensation under sections 176.101 or 176.111, the employer shall, in addition to compensation provided therein, pay to the commissioner (OF LABOR AND INDUSTRY) for the benefit of the special compensation fund a lump sum without interest deduction equal to (SEVEN) a percent of the total compensation (,) *determined as provided in this subdivision* as soon as the amount payable for the particular injury is determined, or arrived at by agreement of the parties, and the amount is approved by the commissioner (OF LABOR AND INDUSTRY).

The provisions of clauses (1) and (2) shall apply to all workers' compensation payments, exclusive of medical costs, paid under sections 176.101 and 176.111 for all injuries or death occurring on or after June 1, 1971.

Personal injuries that occurred prior to June 1, 1971 shall be assessed at the rate in effect on the date of occurrence.

(THE SEVEN PERCENT OF THE TOTAL COMPENSATION REQUIRED TO BE PAID BY THE EMPLOYER TO THE COMMISSIONER OF LABOR AND INDUSTRY FOR THE BENEFIT OF THE SPECIAL COMPENSATION FUND AS PROVIDED IN CLAUSE (2) OF THIS SUBDIVISION SHALL REMAIN FIXED AT SAID SEVEN PERCENT FOR THE PERIOD FROM JUNE 1, 1971, TO JUNE 1, 1972. EFFECTIVE JUNE 1, 1972, THROUGH JUNE 1, 1975, AND THEREAFTER ON JANUARY 1, BEGINNING IN 1976, THE RATE SHALL BE ADJUSTED ON THE FOLLOWING BASIS: IF THE BALANCE IN THE SPECIAL COMPENSATION FUND AS OF APRIL 30 IN ANY YEAR THROUGH 1975 AND AS OF SEPTEMBER 30, 1975, AND EACH SEPTEMBER 30 THEREAFTER, IS BELOW \$1,000,000, THE



RATE OF PAYMENT SHALL BE INCREASED BY TWO PERCENT OVER THE THEN PREVAILING RATE. IF THE BALANCE IS AT LEAST \$1,000,000 BUT BELOW \$1,500,000, THE RATE WILL BE INCREASED BY ONE PERCENT. IF THE BALANCE IS AT LEAST \$1,500,000 BUT BELOW \$2,000,000, THERE SHALL BE NO CHANGE. IF THE BALANCE IS AT LEAST \$2,000,000 BUT LESS THAN \$2,500,000, THE RATE SHALL BE DECREASED BY ONE PERCENT. IF THE BALANCE IS AT LEAST \$2,500,000, THE RATE SHALL BE DECREASED BY TWO PERCENT. IF THE BALANCE IS \$3,000,000 OR MORE THE COMMISSIONER OF LABOR AND INDUSTRY SHALL WITHIN 30 DAYS DETERMINE THE PERCENT OF DECREASE, WHICH SHALL BE NOT LESS THAN TWO PERCENT NOR MORE THAN FIVE PERCENT.)

*In determining the percentage of the total compensation required to be paid by the employer to the commissioner for the benefit of the special compensation fund as provided in clause (2) beginning September 30, 1981 and each September 30 thereafter, the commissioner shall use the following schedule:*

<i>Balance in the Fund</i>	<i>Permissible Range of Rate Adjustment</i>
<i>Less than \$2,000,000</i>	<i>+1 percent to +7 percent</i>
<i>At least \$2,000,000 but less than \$3,000,000</i>	<i>0 percent to +6 percent</i>
<i>At least \$3,000,000 but less than \$4,000,000</i>	<i>-2 percent to +4 percent</i>
<i>At least \$4,000,000 but less than \$5,000,000</i>	<i>-5 percent to +3 percent</i>
<i>At least \$5,000,000 but less than \$6,000,000</i>	<i>-6 percent to +2 percent</i>
<i>\$6,000,000 or more</i>	<i>-7 percent to +2 percent</i>

*In determining the actual adjustment, the commissioner shall take into account his estimate of the likely amount of expenditures to be made from the fund in the next calendar year.*

Sums paid to the commissioner (OF LABOR AND INDUSTRY) pursuant to the provisions hereof, shall be deposited with the state treasurer for the benefit of the special compensation fund and be used to pay the benefits provided by this chapter. All money heretofore arising from the provisions of this section or similar law shall be transferred to this special compensation fund. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund.

The state treasurer shall be the custodian of this special fund and the workers' compensation division (AND), *compensation judges*, the workers' compensation court of appeals or *district court* in cases before (IT) *them* shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of clause (1) and dependency later is shown, or if deposit is or has been made pursuant to either clause (1) or (2) by mistake or inadvertence, or under circumstances that justice requires a refund thereof, the state treasurer is authorized to refund the deposit under order of the workers' compensation division (OR), *a compensation judge*, the workers' compensation court of appeals or *a district court*. There is appropriated to the persons entitled to the refunds from the fund an amount sufficient to make the refund and payment.

Costs within the department (OF LABOR AND INDUSTRY) for the accounting, *investigation* and legal procedures necessary for the administration of the programs financed by the special compensation fund shall (BE PAID FROM THE MONEYS BIENNIALY APPROPRIATED TO THE DEPARTMENT AND NOT FROM THE SPECIAL COMPENSATION FUND) *come from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the fund shall be approved through the regular budget and appropriations process.*

Sec. 85. Minnesota Statutes 1980, Section 176.132, Subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or subdivision 4, and 65 percent of the statewide average weekly wage as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. *Attorney's fees shall*

*be allowed in settlements of claims for supplementary benefits in accordance with this chapter.*

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which he is eligible under other governmental disability programs due to the provisions of 42 U.S.C. 424a (d), this reduction shall not apply.

Sec. 86. Minnesota Statutes 1980, Section 176.133, is amended to read:

**176.133 [ATTORNEYS FEES, SUPPLEMENTARY BENEFITS.]**

(NO ATTORNEYS) *Attorney's fees (SHALL) may be (PERMITTED OR) approved by a compensation judge or by the workers' compensation court of appeals from the supplementary workers' compensation benefits provided by section 176.132 (, OR AMENDMENTS THERETO, UNLESS) if the case (SOLELY) involves the obtaining of supplementary workers' compensation benefits. When such fees are allowed an amount equal to 25 percent of that portion of the fee which is in excess of \$250 shall be added to the employee's benefit as provided in section 176.081 rather than deducted as a portion thereof. The fees shall be (SUBJECT) determined according to (THE LIMITATIONS CONTAINED IN) section 176.081.*

Sec. 87. Minnesota Statutes 1980, Section 176.136, is amended to read:

**176.136 [MEDICAL FEE REVIEW.]**

The commissioner of (LABOR AND INDUSTRY) *insurance shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner of insurance shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner of insurance shall limit the charges allowable for medical,*

chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, to the 75th percentile of usual and customary fees or charges based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees. If the commissioner of insurance, a compensation judge, the workers' compensation court of appeals or a district court determines that the charge for a health service or medical service is excessive, (HE MAY LIMIT) no payment (TO) in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter; however, the commissioner of insurance shall by rule establish procedures allowing for a provider to appeal such determination. The commissioner (MAY) of insurance shall contract with a review organization as defined in section 145.61 (IN MAKING ANY DETERMINATIONS AS TO WHETHER OR NOT A CHARGE IS EXCESSIVE) for the purposes listed in section 145.61, subdivision 5, and report to the legislature by January 15, 1983 and thereafter on January 15 of every odd-numbered year, regarding the delivery of medical and health care services, including rehabilitation services, under the workers' compensation laws of this state.

The commissioner of insurance shall also conduct a study of the qualifications and background of rehabilitation consultants and vendors providing services under section 176.102 for the purpose of determining whether there are adequate professional standards provided, including safeguards to protect against conflicts of interest.

The commissioner of insurance shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 15.0412, subdivision 4, and any amendments, the temporary rules adopted by the commissioner of insurance pursuant to this subdivision may be extended for an additional 180 days if the procedures for adoption of a rule pursuant to section 15.0412, subdivisions 4 to 4g, or 4h, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

## Sec. 88. [176.1361] [TESTIMONY OF PROVIDERS.]

*When a compensation judge or the workers' compensation court of appeals has reason to believe that a medical or other provider of treatment services has submitted false testimony or a false report in any proceeding under this chapter, the compensation judge or the workers' compensation court of appeals shall refer the matter to an appropriate licensing body or other professional certifying organization for review and recommendations. Based upon their recommendation, the commissioner may bar the provider from making an appearance, and disallow the admission into evidence of written reports of the provider, in any proceeding under this chapter for a period not to exceed one year in the first instance and three years in the second instance, and may permanently bar the provider from appearance and his reports from admission in evidence thereafter.*

## Sec. 89. [176.152] [PERMANENT PARTIAL DISABILITY PANEL.]

*Subdivision 1. [BINDING OPINION; PERMANENT PARTIAL DISABILITY DISPUTES.] Prior to a hearing before a compensation judge at which a significant issue of the extent of permanent partial disability is to be determined a permanent partial disability panel shall be constituted to render a determination on the dispute subject to the limitation in subdivisions 7 and 8.*

*Subd. 2. [PANEL LIST.] The administrator of the workers' compensation court of appeals shall compile and maintain a list of names of physicians, podiatrists, chiropractors and other health care providers qualified to determine the extent of permanent partial disability. Names may be added to the list and removed at any time by the administrator of the workers' compensation court of appeals. In maintaining the list the administrator of the workers' compensation court of appeals shall to the maximum extent possible select persons from varying geographical areas of the state.*

*Subd. 3. [PANEL SELECTION.] When a panel is required to be constituted by subdivision 1 the administrator of the workers' compensation court of appeals shall furnish the employer and employee parties to the dispute a list of seven appropriate health care providers from which the parties shall alternatively strike names until only three remain who shall constitute the panel. If both parties agree, the dispute may be decided by a single health care provider. If the parties are unable to agree on who shall strike the first name, priority shall be decided by a flip of the coin.*

*Subd. 4. [REPORT; CONCLUSION.] The compensation judge, or the chief hearing examiner in cases in which a com-*

compensation judge has not yet been assigned, shall propound specific written questions to the panel at the time they are notified of their selection. The questions shall be framed in such a manner that answers to them shall resolve the dispute as to the extent of permanent partial disability. The panel's report shall be binding upon any compensation judge before whom a hearing may be held subsequent to the panel's report, but may be reviewed by the workers' compensation court of appeals or supreme court, only if the report is found to be arbitrary, capricious or based on fraud, in which case the workers' compensation court of appeals or supreme court shall remand the matter to a compensation judge for the seating of a new panel.

**Subd. 5. [EXAM; REPORT.]** At least one member of the panel shall personally examine the employee within 30 days of the panel's selection. After reviewing the examination report and all other available pertinent information the panel shall report its conclusions to the compensation judge within 45 days after their selection. The compensation judge may extend the time limit for good cause. The report of the panel shall include the examination report and a record of any other evidence or information considered by the panel.

**Subd. 6. [COSTS; PAYMENT.]** Any physician, podiatrist, chiropractor or other health care provider who agrees to serve on a panel constituted pursuant to this section shall be deemed to agree that any dispute concerning his fees for serving on the panel shall be decided by the compensation judge hearing the case. The judge's decision shall be binding on the health care provider. A consent form to this effect shall be provided for the signature of the health care provider. No fee shall be approved which is excessive under the standards issued pursuant to section 87 for similar services. The employer shall pay all the panel members' fees, unless the employee has proceeded in bad faith, in which case the employee may be ordered to pay the fees.

**Subd. 7. [PILOT PROJECT; REPORT TO LEGISLATURE AND GOVERNOR.]** The administrator of the workers' compensation court of appeals shall establish the permanent partial disability panel provided for in this section on a pilot basis in three counties of his choice, including at least one rural county. The administrator of the workers' compensation court of appeals shall report to the legislature and governor by January 1, 1983, on the number of cases reviewed, the number of health care providers participating, the number of cases settled prior to any hearing before a compensation judge, the cost of the program and his recommendations concerning the panel.

**Subd. 8. [LIMITATION.]** This section shall operate in lieu of section 176.155, subdivision 2, in the counties in which the medical panel is established pursuant to subdivision 7.

Sec. 90. Minnesota Statutes 1980, Section 176.161, subdivision 1, is amended to read:

Subdivision 1. [RESIDING OUTSIDE THE UNITED STATES.] In case a deceased employee for whose injury or death compensation is payable leaves surviving him an alien dependent residing outside the United States the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall direct the payment of all compensation due the dependent to be made to the duly accredited consular officer of the country of which the beneficiary is a citizen residing within the state, or to his designated representative residing within the state; or, if the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) believes that the interests of the dependent will be better served and at any time prior to the final settlement the dependent files with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) a power of attorney designating any other suitable person residing in this state to act as attorney in fact in such proceedings, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may appoint such person. If it appears necessary to institute proceedings to enforce payment of compensation due the dependent, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may permit the consular officer to institute these proceedings. If during the pendency of these proceedings, such power of attorney is filed by the alien dependent, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall then determine whether such attorney in fact be substituted to represent such dependent or if the consular officer or his representative continue therein. The person so appointed may carry on proceedings to settle all claims for compensation and receive for distribution to such dependent all compensation arising under this chapter. The settlement and distribution of the funds shall be made only on the written order of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). The person so appointed shall furnish a bond satisfactory to the (WORKERS' COMPENSATION COURT OF APPEALS) *commissioner*, conditioned upon the proper application of the money received by him. Before the bond is discharged, the person so appointed shall file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) a verified account of his receipts and disbursements of such compensation.

Sec. 91. Minnesota Statutes 1980, Section 176.181, Subdivision 2, is amended to read:

Subd. 2. [COMPULSORY INSURANCE; SELF-INSURERS.] (1) Every employer, except the state and its municipal subdivisions, liable under this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of insurance exempting the employer from insuring his liability for compen-

sation and permitting him to self-insure the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 15. The commissioner of insurance shall also adopt, pursuant to clause (2) (c), rules permitting two or more employers, *whether or not they are* in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of insurance, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of his operations which may be determined by the commissioner of insurance to be a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation shall make application to the commissioner of insurance, showing his financial ability to pay the compensation, whereupon by written order the commissioner of insurance may make an exemption as he deems proper. The commissioner of insurance may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of insurance may revoke his order granting an exemption, in which event the employer shall immediately insure his liability. As a condition for the granting of an exemption the commissioner of insurance may require the employer to furnish security the commissioner of insurance considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of insurance shall deposit it with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to the self-insurer, the commissioner of insurance may by written order to the state treasurer require him to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of insurance and awards made against any such self-insurer by the commissioner of insurance shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of insurance and approved by the commissioner of finance out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of insurance, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.



(2)(a) No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed to do so by the commissioner of insurance. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license shall be granted only when the commissioner of insurance is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of insurance may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two year period.

(b) To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of insurance.

(c) To carry out the purposes of this subdivision, the commissioner of insurance may promulgate administrative rules, including emergency rules, pursuant to sections 15.0411 to 15.052. These rules may:

(i) establish reporting requirements for administrators of group self-insurance plans;

(ii) establish standards and guidelines to assure the adequacy of the financing and administration of group self-insurance plans;

(iii) establish bonding requirements or other provisions assuring the financial integrity of entities administering group self-insurance plans;

(iv) establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;

(v) establish standards or guidelines governing the formation, operation, administration and dissolution of self-insurance plans; and

(vi) establish other reasonable requirements to further the purposes of this subdivision.

Sec. 92. Minnesota Statutes 1980, Section 176.181, Subdivision 3, is amended to read:

Subd. 3. [FAILURE TO INSURE, PENALTY.] Any employer who fails to comply with the provisions of subdivision 2

to secure payment of compensation is liable to the state of Minnesota for a penalty of (\$50) \$100, if the number of uninsured employees in his employment is less than five and for a penalty of (\$200) \$400 if the number of such uninsured employees in his employment is five or more. *If the commissioner determines that the failure to comply with the provisions of subdivision 2 was willful and deliberate, the employer shall be liable to the state of Minnesota for a penalty of \$500, if the number of uninsured employees in his employment is less than five, and for a penalty of \$2,000 if the number of his uninsured employees is five or more.* If the employer continues his non-compliance, he is liable for five times the lawful premium for compensation insurance for such employer for the period he fails to comply with such provisions, commencing ten days after notice has been served upon him by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify the fact thereof to the attorney general. Upon receipt of such certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of his duty, the attorney general, upon request of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), may proceed against the employer in any court having jurisdiction for an order restraining him from having any person in his employment at any time when he is not complying with the provisions of subdivision 2.

Sec. 93. Minnesota Statutes 1980, Section 176.181, is amended by adding a subdivision to read:

*Subd. 6. No employer shall be required to provide financial statements certified by an "independent certified public accountant" or "certified public accountant" as a condition of approval for group self-insurance.*

Sec. 94. [176.182] [BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.]

*Every state or local licensing agency shall withhold the issuance of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.*

*Neither the state nor any governmental subdivision thereof shall enter into any contract before receiving from all other contracting parties acceptable evidence of compliance with the*

*workers' compensation insurance coverage requirement of section 176.181, subdivision 2.*

Sec. 95. Minnesota Statutes 1980, Section 176.191, is amended to read:

**176.191 [DISPUTE BETWEEN TWO OR MORE EMPLOYERS OR INSURERS REGARDING LIABILITY.]**

Subdivision 1. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner (OF LABOR AND INDUSTRY), compensation judge, or workers' compensation court of appeals upon appeal (MAY) *shall direct, unless action is taken under subdivision 2, that one or more of the employers or insurers make payment of the benefits pending a determination of liability.*

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate of (FIVE) 12 percent a year. The claimant (MAY) *shall also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.*

An order directing payment of benefits pending a determination of liability may not be used as evidence before a compensation judge, the workers' compensation court of appeals, or court in which the dispute is pending.

Subd. 2. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner (OF LABOR AND INDUSTRY MAY) *shall authorize, unless action is taken under subdivision 1, the special compensation fund established in section 176.131 to make payment of the benefits pending a determination of liability.*

The personal injury for which the commissioner (MAY) *shall order compensation from the special fund is not limited by section 176.131, subdivision 8.*

When liability has been determined, the party held liable for benefits shall be ordered to reimburse the special compensation fund for payments made, including interest at the rate of 12 percent a year.

Subd. 3. If a dispute exists as to whether an employee's injury is compensable under this chapter and the employee is otherwise covered by an insurer pursuant to chapters 62A, 62C and 62D, that insurer shall pay any medical costs incurred by the employee for the injury *and shall make any disability payments otherwise payable by that insurer in the absence of or in addition to workers' compensation liability.* If the injury is subsequently determined to be compensable pursuant to this chapter, the workers' compensation insurer shall be ordered to

reimburse the insurer that made the payments for all (MEDICAL) payments made *under this subdivision* by the insurer (FOR THE INJURY), including interest at a rate of 12 percent a year.

*Subd. 4. If the employee's medical expenses for a personal injury are paid pursuant to any program administered by the commissioner of public welfare, or he receives subsistence or other payments pursuant to such a program, and it is subsequently determined that the injury is compensable pursuant to this chapter, the workers' compensation insurer shall reimburse the commissioner of public welfare for the (MEDICAL EXPENSES PAID AND ATTRIBUTABLE TO THE PERSONAL INJURY) payments made, including interest at a rate of 12 percent a year.*

*Amounts paid to an injured employee pursuant to such a program and attributable to the personal injury shall be deducted from any settlement or award of compensation or benefits under this chapter. The insurer shall attempt, with due diligence, to ascertain whether payments have been made to an injured employee pursuant to such a program prior to any settlement or issuance of a binding award and shall notify the commissioner when such payments have been made.*

Sec. 96. Minnesota Statutes 1980, Section 176.221, is amended to read:

**176.221 [PAYMENT OF COMPENSATION AND TREATMENT CHARGES, COMMENCEMENT.]**

**Subdivision 1. [(DENIAL OF LIABILITY, REQUEST FOR EXTENSION OF TIME) COMMENCEMENT OF PAYMENT.] (WITHIN 30 DAYS FROM THE DATE OF NOTICE TO OR KNOWLEDGE BY THE EMPLOYER OF AN INJURY COMPENSABLE UNDER THE CHAPTER, AND UNLESS WITHIN THAT 30 DAY PERIOD THE EMPLOYER OR THE INSURER FILES WITH THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY A DENIAL OF LIABILITY OR A REQUEST FOR AN EXTENSION OF TIME WITHIN WHICH TO DETERMINE LIABILITY, THE PERSON RESPONSIBLE FOR PAYMENT OF COMPENSATION, CHARGES FOR TREATMENT UNDER SECTION 176.135 OR RETRAINING EXPENSES UNDER 176.102, SUBDIVISION 9 SHALL BEGIN PAYMENT OF COMPENSATION OR CHARGES FOR TREATMENT.)** *Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of compensation due pursuant to section 176.101, subdivision 1, shall commence. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer may have on any claim or incident either with respect to the compensability of the claim under chapter 176 or the amount of the compensation due.*

*Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. When the employer determines that the disability is not a result of a personal injury, payment of compensation may be discontinued upon notice of discontinuance pursuant to section 176.241. Upon the determination, payments made may be recovered by the employer if the commissioner finds that the employee's claims of work related disability was not made in good faith.*

**Subd. 2. [GRANT OF EXTENSION.]** Upon application made within (THE) 30 (DAY PERIOD REFERRED TO IN SUBDIVISION 1) days after the date on which the first payment was due, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may grant an extension of time within which to determine liability. The extension shall not exceed 30 days.

**Subd. 3. [PAYMENTS TO SPECIAL COMPENSATION FUND.]** Where an employer or insurer fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9, or to file a denial of liability, or to request an extension of time within (THE) 30 (DAY PERIOD REFERRED TO IN SUBDIVISION 1) days after the date on which the first payment was due, he shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled because of the injury. In addition, each day subsequent to the end of the (30 DAY) period and until a compensation payment is made to the injured employee, the person responsible for payment of compensation shall pay to the special compensation fund an amount equal to the total compensation to which the injured employee is entitled.

**Subd. 4. [FAILURE TO MAKE PAYMENTS AFTER EXTENSION.]** Where an employer or insurer has been granted an extension of time within which to determine liability and fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 or to file a denial of liability within such extended period, he shall make the payments provided in subdivision 3.

**Subd. 5. [DOUBLE PAYMENTS TO SPECIAL COMPENSATION FUND.]** Where an employer or insurer has failed to make the payments required by subdivision 3 or subdivision 4 within (60) 30 days from the end of the (30 DAY) period or the extended period, the division may require him to pay to the special compensation fund, each day subsequent to the end of the period and until a compensation payment is made to the injured employee, a sum equal to double the total amount of compensation to which the employee is entitled because of the injury. In addition, the person responsible for compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 shall pay to the special compensation fund

an amount equal to the total amount of compensation to which the employee is entitled.

Subd. 6. [ASSESSMENT OF PENALTIES.] The division shall assess the penalty payments provided for by subdivisions 3 to 5, and any increase in benefit payments provided by section 176.225, subdivision 5, against either the employer or the insurer depending upon to whom the delay is attributable in making payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9. The insurer is not liable for a penalty payment assessed against the employer.

Subd. 7. [INTEREST.] Any payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent per annum from the due date to the date the payment is made.

Subd. 8. [METHOD AND TIMELINESS OF PAYMENT.] *Payment of compensation under this chapter shall be by immediately payable negotiable instrument, or if by any other method, arrangements shall be available to provide for the immediate negotiability of the payment instrument.*

*All payment of compensation shall be made within 14 days of an appropriate order by the division, unless the order is to be appealed, or where a different time period is provided by this chapter.*

Sec. 97. Minnesota Statutes 1980, Section 176.225, is amended by adding a subdivision to read:

Subd. 5. [PENALTY.] *Where the employer is guilty of inexcusable delay in making payments, the payments which are found to be delayed shall be increased by 10 percent. Withholding amounts unquestionably due because the injured employee refuses to execute a release of his right to claim further benefits will be regarded as inexcusable delay in the making of compensation payments. If any sum ordered by the department to be paid is not paid when due, and no appeal of the order is made, the sum shall bear interest at the rate of 12 percent per annum. Any penalties paid pursuant to this section shall not be considered as a loss or expense item for purposes of a petition for a rate increase made pursuant to chapter 79.*

Sec. 98. Minnesota Statutes 1980, Section 176.231, Subdivision 2, is amended to read:

Subd. 2. [INITIAL REPORT, WRITTEN REPORT.] *Where subdivision 1 requires an injury to be reported within 48 hours, the employer may make his initial report by telephone,*

telegraph, or personal notice, and file a written report of the injury within seven days from its occurrence or within such time as the commissioner of labor and industry designates. All written reports of injuries required by subdivision 1 *shall include the date of injury, amounts of payments made, if any, and the date of the first payment. The reports shall be in quadruplicate on a form designed by the commissioner, with two copies to the commissioner and one to the insurer.*

*If an insurer or self insurer repeatedly fails to pay benefits within three days of the due date, pursuant to section 176.221, the insurer or self insurer shall be ordered by the commissioner to explain, in person, the failure to pay benefits due in a reasonable time. If prompt payments are not thereafter made, the commissioner shall refer the insurer or self insurer to the commissioner of insurance for action pursuant to section 176.225, subdivision 4.*

Sec. 99. Minnesota Statutes 1980, Section 176.231, Subdivision 7, is amended to read:

Subd. 7. [MEDICAL REPORTS.] If requested by the division (OR BY), a compensation judge, the workers' compensation court of appeals, or any member or employee thereof an employer, insurer, or employee shall file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) the original or a verified copy of any medical report in his possession which bears upon the case and shall also file a verified copy of the same report with the agency or individual who made the request.

Sec. 100. Minnesota Statutes 1980, Section 176.241, Subdivision 1, is amended to read:

Subdivision 1. [NECESSITY FOR NOTICE AND SHOWING; CONTENTS.] Where an employee claims that the right to compensation continues. (OR REFUSES TO SIGN OR OBJECTS TO SIGNING A FINAL RECEIPT FOR COMPENSATION,) the employer may not discontinue payment of compensation until he provides the (DIVISION) employee with notice in writing of his intention to do so, together with a statement of facts clearly indicating the reasons for the discontinuance. A copy of the notice shall be provided to the division by the employer.

The notice to the employee and the copy to the division shall state the date of intended discontinuance (,) and the reason for the action (, AND THE FACT THAT THE EMPLOYEE OBJECTS TO THE DISCONTINUANCE). The notice to the employee and the copy to the division shall be accompanied by a statement of facts in support of the discontinuance of compensation payments and whatever medical reports are in the pos-

session of the employer bearing on the physical condition of the employee at the time of the proposed discontinuance.

Sec. 101. Minnesota Statutes 1980, Section 176.241, Subdivision 2, is amended to read:

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except where the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) orders otherwise, until the *copy of the notice and reports* have been filed with the division, the liability of the employer to make payments of compensation continues.

When the division has received a *copy of the notice of discontinuance*, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended pending an investigation, hearing, and determination of the matter by the division as provided in the following subdivisions.

Sec. 102. Minnesota Statutes 1980, Section 176.241, Subdivision 3, is amended to read:

Subd. 3. [COPY OF NOTICE TO EMPLOYEE, INVESTIGATION, HEARING.] (WHEN THE DIVISION HAS RECEIVED A NOTICE OF DISCONTINUANCE, IT SHALL IMMEDIATELY SEND THE EMPLOYEE A COPY OF THE NOTICE AND SUPPORTING DOCUMENTS WHICH HAVE BEEN SUBMITTED IN CONJUNCTION WITH THE NOTICE.) *When the employer has reason to believe compensation may be terminated within the requirements of this chapter, notice shall be given to the employee informing the employee of his right to object to the discontinuance and providing instructions as to how to contact the employer or insurer regarding the discontinuance and the procedures related to initiation of a claim.* The commissioner (OF LABOR AND INDUSTRY) shall make an investigation to determine whether the right to compensation has terminated. If it appears from the investigation that the right to compensation may not have terminated, the commissioner (OF LABOR AND INDUSTRY) shall (SCHEDULE) *refer the matter to the chief hearing examiner in order that a hearing before a compensation judge may be scheduled, to determine the right of the employee, or his dependent, to further compensation.*

The hearing shall be held within a reasonable time after the division has received the notice of discontinuance. The (COMMISSIONER OF LABOR AND INDUSTRY) *compensation judge* shall give eight days notice of the hearing to interested parties.

Sec. 103. [176.262] [APPOINTMENT OF COMPENSATION JUDGES; LIMITATION.]



*No attorney acting pursuant to section 176.261 shall be hired or appointed as a compensation judge for a period of two years following termination of service with the division.*

Sec. 104. Minnesota Statutes 1980, Section 176.291, is amended to read:

176.291 [DISPUTES AND DEFAULTS; PROCEDURE.]

Where there is a dispute as to a question of law or fact in connection with a claim for compensation, or where there has been a default in the payment of compensation for a period of ten days, a party may present a verified petition to the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) stating the matter in dispute or the fact of default.

The petition shall also state:

- (1) names and residence of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) facts which the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY AND WORKERS' COMPENSATION COURT OF APPEALS) by rule requires; and,
- (6) such other facts as are necessary for the information of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY AND), *a compensation judge or the workers' compensation court of appeals.*

Sec. 105. Minnesota Statutes 1980, Section 176.301, Subdivision 1, is amended to read:

Subdivision 1. [TRIAL BY COURT; REFERENCE TO COMMISSIONER (OF THE DEPARTMENT OF LABOR AND INDUSTRY).] When issue has been joined in the district court action, the court may try the action itself without a jury, or refer the matter to the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY TO BE ASSIGNED FOR HEARING). In the latter case, *the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge (OR THE WORKERS' COMPENSATION COURT OF APPEALS UPON APPEAL SHALL HEAR THE CASE IN THE MANNER IN WHICH IT HEARS CASES ORIGINALLY).* The (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY SHALL REPORT THE FINDINGS AND

DECISION OF THE) compensation judge (, OR THE WORKERS' COMPENSATION COURT OF APPEALS) *shall report his findings and decisions* to the district court. The court may approve or disapprove such decision in the same manner as it approves or disapproves the report of a referee. The court shall enter judgment upon such decision.

Sec. 106. Minnesota Statutes 1980, Section 176.305, is amended to read:

**176.305 [PETITIONS FILED WITH THE WORKERS' COMPENSATION DIVISION.]**

Subdivision 1. [HEARINGS ON PETITIONS.] *The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service.* When any petition has been filed with the workers' compensation division, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall, (PURSUANT TO HIS GENERAL RULES OR THOSE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR SPECIAL ORDER) *within ten days, (DIRECT THAT) refer the matter presented by the petition to a settlement judge. The settlement judge shall schedule a settlement conference if appropriate within 60 days. If a settlement conference is not appropriate, or if such a conference or conferences do not result in progress toward a settlement, the settlement judge shall certify the matter for a hearing before a compensation judge and shall refer the matter to the chief hearing examiner to be heard by a compensation judge (OR PRESENTED TO THE WORKERS' COMPENSATION COURT OF APPEALS IF IT IS A MATTER WITHIN ITS JURISDICTION. THE DIVISION SHALL HEAR PETITIONS TO COMMUTE FURTHER COMPENSATION).*

Subd. 2. [(SERVICE OF) COPY OF PETITION.] (WITHIN TEN DAYS AFTER A PETITION HAS BEEN FILED, THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY SHALL SERVE UPON EACH ADVERSE PARTY A COPY OF THE PETITION AND A NOTICE STATING WHETHER THE HEARING WILL BE HELD BEFORE A COMPENSATION JUDGE OR THAT THE PETITION HAS BEEN REFERRED TO THE WORKERS' COMPENSATION COURT OF APPEALS.) The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall deliver the original petition and (COPIES OF THE NOTICE WHICH HAVE BEEN SERVED) *answer, after certification for a hearing before a compensation judge by a settlement judge, to the office of administrative hearings for assignment to a compensation judge (OR THE WORKERS' COMPENSATION COURT OF APPEALS DEPENDING UPON WHO WILL HEAR THE MATTER).*

Subd. 3. [TESTIMONY.] (UNLESS THE WORKERS' COMPENSATION COURT OF APPEALS ORDERS DIFFERENTLY, TESTIMONY TAKEN BEFORE A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR COMPENSATION JUDGE IS CONSIDERED AS THOUGH TAKEN BEFORE THE WORKERS' COMPENSATION COURT OF APPEALS.) Where the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* has substituted a compensation judge originally assigned to hear a matter, the testimony taken before the substitute compensation judge shall be considered as though taken before the judge before whom it was originally assigned.

Sec 107. [176.306] [SCHEDULED HEARINGS.]

*Subdivision 1. [CHIEF HEARING EXAMINER.] The chief hearing examiner shall schedule workers' compensation hearings on as regular a schedule as may be practicable in no fewer than six widely separated locations throughout the state, including at least four locations outside of the seven county metropolitan area and Duluth, for the purpose of providing a convenient forum for parties to a compensation hearing and shall maintain a permanent office in Duluth staffed by at least one compensation judge.*

*Subd. 2. [DISTRICT ADMINISTRATORS; CLERKS OF COURT.] The judicial district administrators or the clerks of court of the county or district courts nearest to the locations selected by the chief hearing examiner pursuant to subdivision 3 shall provide suitable hearing rooms at the times and places agreed upon for the purpose of conducting workers' compensation hearings.*

Sec. 108. Minnesota Statutes 1980, Section 176.311, is amended to read:

176.311 [REASSIGNMENT OF PETITION FOR HEARING.]

Where a petition is heard before a compensation judge, at any time before an award or order has been made in such proceeding, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* may reassign the petition for hearing before another compensation judge.

Sec. 109. Minnesota Statutes 1980, Section 176.321, Subdivision 1, is amended to read:

*Subdivision 1. [FILING, SERVICE.] Within (TEN) twenty days after he has been served with a copy of the petition, an adverse party may file a verified answer to the petition. When*

he files the answer, the party shall also serve a copy on the petitioner or his attorney.

Within five days after he has been served with a copy of the answer, the petitioner may file a verified reply admitting or denying new matter set forth in the answer.

Sec. 110. Minnesota Statutes 1980, Section 176.321, Subdivision 3, is amended to read:

Subd. 3. [EXTENSION OF TIME IN WHICH TO FILE ANSWER.] Upon showing of cause, the commissioner of the department of labor and industry may extend the time in which to file an answer or reply for not more than 30 additional days. *The time to file an answer or reply may also be extended upon agreement of the petitioner. If an answer is not filed and there has been no extension by order of the commissioner or by agreement, the failure to file an answer shall be treated as a default.*

Sec. 111. Minnesota Statutes 1980, Section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT.]

Where an adverse party has failed to file and serve an answer, if the petitioner presents proof of such fact, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR) compensation judge shall enter whatever award or order to which petitioner is entitled on the basis of the facts alleged in the petition, but the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR) compensation judge may require proof of (ANY) *an* alleged fact. If the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) requires such proof, he shall *request the chief hearing examiner* to assign the matter to a compensation judge to summarily hear and determine the same and to promptly make an award or order.

Where in such a default case the petition does not state facts sufficient to support an award, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR) compensation judge shall give the petitioner or his attorney written notice of (SUCH FACT) *this deficiency*. The petitioner may thereupon file another petition as in the case of an original petition.

Sec. 112. Minnesota Statutes 1980, Section 176.341, Subdivision 1, is amended to read:

Subdivision 1. [TIME.] When the reply has been filed or the time has expired in which to file a reply (.) the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUS-

TRY) *chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held (NOT LESS THAN TEN DAYS FROM THE TIME THE REPLY IS FILED OR THE EXPIRATION OF THE TIME IN WHICH THE REPLY COULD HAVE BEEN FILED OR AS SOON THEREAFTER AS THE PARTIES CAN BE HEARD) as soon as practicable and at a time and place determined by the chief hearing examiner to be the most convenient for the parties, keeping in mind the intent of chapter 176 as expressed in section 52 and the requirements of section 107.*

Sec. 113. Minnesota Statutes 1980, Section 176.351, is amended to read:

176.351 [TESTIMONIAL POWERS.]

Subdivision 1. [OATHS.] The compensation judge to whom a petition has been assigned for hearing shall administer an oath to each witness. (THE WORKERS' COMPENSATION COURT OF APPEALS SHALL ALSO ADMINISTER AN OATH TO EACH WITNESS APPEARING BEFORE IT.) The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may also administer an oath when required in the performance of his duties.

Subd. 2. [SUBPOENAS.] Upon his (OR ITS) own initiative, or upon written request of an interested party, (THE WORKERS' COMPENSATION COURT OF APPEALS, OR) the commissioner or compensation judge before whom a hearing is held may issue a subpoena for the attendance of a witness or the production of such books, papers, records and documents as are material in the cause and are designated in the subpoena. The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material in the cause pending and are designated in the subpoena.

Subd. 3. [ADVANCEMENT OF FEES AND COSTS.] The person who applies for issuance of a subpoena shall advance the required service and witness fees. The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall pay for the attendance of witnesses who are subpoenaed by him (, OR THE WORKERS' COMPENSATION COURT OF APPEALS, OR A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS, OR). *The chief hearing examiner shall pay for the attendance of witnesses who are subpoenaed by a compensation judge.* The fees are the same as the service and witness fees in civil actions in district court.

Subd. 4. [PROCEEDINGS AS FOR CONTEMPT OF COURT.] Where a person does not comply with an order or subpoena, the commissioner (OF THE DEPARTMENT OF

LABOR AND INDUSTRY, THE WORKERS' COMPENSATION COURT OF APPEALS,) or the commissioner or compensation judge concerned, may apply to the district court in the county in which the petition is pending for issuance of an order compelling obedience. Upon such an application, the district court shall compel obedience to the order or subpoena by attachment proceedings as for contempt in the case of disobedience of a similar order or subpoena issued by the district court.

Sec. 114. Minnesota Statutes 1980, Section 176.371, is amended to read:

**176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]**

The (WORKERS' COMPENSATION COURT OF APPEALS, OR A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge to whom a petition has been assigned for hearing, shall hear all competent evidence produced at the hearing, and, as soon after the hearing as possible, make (SUCH) findings of fact, conclusions of law, and award or disallowance of compensation or other order as the pleadings, evidence, (AND) this chapter *and rule* require.

Sec. 115. Minnesota Statutes 1980, Section 176.381, is amended to read:

**176.381 [REFERENCE OF QUESTIONS OF FACT.]**

Subdivision 1. [HEARING BEFORE WORKERS' COMPENSATION COURT OF APPEALS.] In the hearing of any matter before the workers' compensation court of appeals, the *chief judge of the workers' compensation court of appeals* may refer any question of fact to (A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) *the chief hearing examiner for assignment to a compensation judge* either to hear evidence and report it to the workers' compensation court of appeals or to hear evidence and make findings of fact and report them to the workers' compensation court of appeals. The workers' compensation court of appeals shall notify the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) of any matter referred to (A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) a compensation judge under this subdivision.

Subd. 2. [HEARING BEFORE COMPENSATION JUDGE.] In the hearing of any petition before a compensation judge, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* may refer any question of

fact to another compensation judge to hear evidence and report it to the original compensation judge.

Sec. 116. Minnesota Statutes 1980, Section 176.391, is amended to read:

176.391 [INVESTIGATIONS.]

Subdivision 1. [POWER TO MAKE.] Before, during, or after any hearing, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) *or a compensation judge (, OR WORKERS' COMPENSATION COURT OF APPEALS, IF THE MATTER IS BEFORE IT,)* may make an independent investigation of the facts alleged in the petition or answer.

Subd. 2. [APPOINTMENT OF PHYSICIANS, SURGEONS, AND OTHER EXPERTS.] The (WORKERS' COMPENSATION COURT OF APPEALS, OR A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge assigned to a matter, or the commissioner (OF LABOR AND INDUSTRY), may appoint one or more neutral physicians or surgeons from the list established by the commissioner to examine the injury of the employee and report thereon *except as provided otherwise pursuant to section 88*. Where necessary to determine the facts, the services of other experts may also be employed.

Subd. 3. [REPORTS.] The report of a physician, surgeon, or other expert shall be filed with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) *and the compensation judge assigned to the matter if any*. The report shall be made a part of the record of the case and be open to inspection as such.

Subd. 4. [COMPENSATION.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) *or compensation judge (, OR WORKERS' COMPENSATION COURT OF APPEALS, AS THE CASE MAY BE,)* shall fix the compensation of a physician, surgeon, or other expert whose services are employed under this chapter. This compensation shall be paid initially out of the funds appropriated for the maintenance of the workers' compensation division, but shall be taxed as costs to either party, or both, or otherwise, as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) *or compensation judge (, OR THE WORKERS' COMPENSATION COURT OF APPEALS)* directs.

Where a sum which has been taxed to a party has not been paid, it may be collected in the same manner as are costs generally.

Sec. 117. Minnesota Statutes 1980, Section 176.401, is amended to read:

176.401 [HEARINGS PUBLIC.]

All hearings before (THE WORKERS' COMPENSATION COURT OF APPEALS, A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS, OR) a compensation judge are public.

Sec. 118. Minnesota Statutes 1980, Section 176.411, Subdivision 1, is amended to read:

Subdivision 1. [CONDUCT OF HEARINGS AND INVESTIGATIONS.] Except as otherwise provided by this chapter, when (THE WORKERS' COMPENSATION COURT OF APPEALS, A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) a compensation judge makes an investigation or conducts a hearing, (IT OR HE) *the compensation judge* is bound neither by the common law or statutory rules of evidence nor by technical or formal rules of pleading or procedure. The investigation or hearing shall be conducted in a manner to ascertain the substantial rights of the parties.

Findings of fact shall be based upon competent evidence only *and shall comport with section 176.021.*

Sec. 119. Minnesota Statutes 1980, Section 176.411, Subdivision 2, is amended to read:

Subd. 2. [DEPOSITIONS.] Except where (THE WORKERS' COMPENSATION COURT OF APPEALS, A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS, OR) a compensation judge orders otherwise, depositions may be taken in the manner which the law provides for depositions in civil actions in district court.

Sec. 120. Minnesota Statutes 1980, Section 176.421, Subdivision 1, is amended to read:

Subdivision 1. [TIME FOR TAKING; GROUNDS.] When a petition has been heard before a (JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge, within 30 days after a party in interest has been served with notice of an award or disallowance of compensation, or other order affecting the merits of the case, he may appeal to the workers' compensation court of appeals on any of the following grounds:

- (1) The order does not conform with this chapter; or



(2) The (JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge committed an error of law; or

(3) The findings of fact and order were unwarranted by the evidence; or

(4) The findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 121. Minnesota Statutes 1980, Section 176.421, Subdivision 4, is amended to read:

Subd. 4. [SERVICE AND FILING OF NOTICE; COST OF TRANSCRIPT.] Within the 30 day period for taking an appeal, the appellant shall:

(1) Serve a copy of the notice of appeal on each adverse party;

(2) File the original notice, with proof of service by admission or affidavit, with the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner*;

(3) In order to defray the cost of the transcript of the proceedings appealed from, pay to the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* the sum of \$10 or so much of that sum as is necessary to present the question raised on the appeal.

The appellant is liable for the cost of the transcript in excess of \$10, but is entitled to a refund of any part of that sum not used to pay the cost of the transcript.

Upon a showing of cause, the (COMMISSIONER) *chief hearing examiner* (OF THE DEPARTMENT OF LABOR AND INDUSTRY) may direct that a transcript be prepared without expense to the appellant, *in which case the cost of the transcript shall be paid by the office of administrative hearings.*

Sec. 122. Minnesota Statutes 1980, Section 176.421, Subdivision 5, is amended to read:

Subd. 5. [TRANSCRIPT.] When the notice of appeal has been filed with the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* and the transcription fee has been paid, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *chief hearing examiner* shall immediately prepare a typewritten transcript of the proceedings. The official reporter or other person

*designated by the chief hearing examiner who transcribes the proceedings shall certify to their correctness.*

Sec. 123. Minnesota Statutes 1980, Section 176.421, Subdivision 6, is amended to read:

Subd. 6. [POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.] On an appeal taken under this section, the workers' compensation court of appeals may:

(1) disregard the findings of fact which the (JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge has made;

(2) examine the (TESTIMONY AND HEAR OTHER EVIDENCE) *record*;

(3) substitute for the findings of fact made by the (JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS OR) compensation judge such findings as the total evidence requires; and,

(4) make (SUCH) *an* award or disallowance of compensation or other order as the facts and findings require.

Sec. 124. Minnesota Statutes 1980, Section 176.421, Subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall make a complete record of all proceedings before himself (, THE WORKERS' COMPENSATION COURT OF APPEALS, A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS, OR COMPENSATION JUDGE). The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall provide a stenographer to make a record of the proceedings *before him*.

The (STENOGRAPHER) *commissioner* shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge (, THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *and* shall fix the amount of this charge.

Sec. 125. Minnesota Statutes 1980, Section 176.431, Subdivision 1, is amended to read:

Subdivision 1. [HEARING.] Where an appeal has been taken to the workers' compensation court of appeals under this chapter on the ground that the compensation judge has made an error of law, the workers' compensation court of appeals shall

grant a hearing, based on the record before the compensation judge, with an opportunity for oral argument. The (COMMISSIONER) chief hearing examiner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall notify the workers' compensation court of appeals promptly of the taking of any appeal.

The workers' compensation court of appeals shall fix a time and place for the hearing (,) and (NOTIFY THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY WHO) shall give each party in interest at least five days written notice.

Sec. 126. Minnesota Statutes 1980, Section 176.441, Subdivision 1, is amended to read:

Subdivision 1. [DISPOSITION BY WORKERS' COMPENSATION COURT OF APPEALS.] Where an appeal has been taken to the workers' compensation court of appeals under this chapter, on either the ground that the findings or order or both were unwarranted by the evidence, or were procured by fraud, coercion, or other improper conduct of a party, the workers' compensation court of appeals may:

(1) grant a hearing (DE NOVO) based on the record before the compensation judge; or,

(2) (ASSIGN) remand the petition for a *de novo* hearing or a rehearing (,) and notify the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY, WHO SHALL SET) chief hearing examiner, who shall assign, the *de novo* hearing or the rehearing before a compensation judge; or,

(3) sustain, reverse, or modify the order appealed from.

Sec. 127. Minnesota Statutes 1980, Section 176.461, is amended to read:

#### 176.461 [SETTING ASIDE AWARD.]

Except where a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or where as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five days after written notice to all interested parties, may set the award aside and grant a new hearing (BEFORE ITSELF OR) and refer the matter for a determination on its merits to the chief hearing examiner for assignment to a compensation judge, who shall make such findings of fact, conclusions of law, and award or disallowance of compensation or other order as the pleadings and the evidence produced and the provisions of this chapter shall require.

Sec. 128. Minnesota Statutes 1980, Section 176.471, Subdivision 3, is amended to read:

Subd. 3. [SERVICE OF WRIT AND BOND; FILING FEE.] To effect a review upon certiorari, the party shall serve a writ of certiorari and a bond upon the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator of the workers' compensation court of appeals* within the 30 day period referred to in subdivision 1. The party shall also at this time pay to the (SECRETARY OF THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator* the fee prescribed by rule 103.01 of the rules of civil appellate procedure which shall be disposed of in the manner provided by that rule.

Sec. 129. Minnesota Statutes 1980, Section 176.471, Subdivision 5, is amended to read:

Subd. 5. [BOND.] The bond required by subdivision 3 shall be executed in such amount and with such sureties as the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *workers' compensation court of appeals* directs and approves. The bond shall be conditioned to pay the cost of the review.

Sec. 130. Minnesota Statutes 1980, Section 176.471, Subdivision 6, is amended to read:

Subd. 6. [TRANSMITTAL OF FEE AND RETURN.] When the writ of certiorari has been served upon the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator of the workers' compensation court of appeals*, the bond has been filed, and the filing fee has been paid, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator* shall immediately transmit to the clerk of the supreme court that filing fee and the return to the writ of certiorari and bond.

Sec. 131. Minnesota Statutes 1980, Section 176.471, Subdivision 8, is amended to read:

Subd. 8. [RETURN OF PROCEEDINGS TRANSMITTED TO COURT.] Within 30 days after the writ of certiorari, bond, and filing fee have been filed with the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator of the workers' compensation court of appeals*, the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator* shall transmit to the clerk of the supreme court a true and complete return of the proceedings of the workers' compensation court of appeals under review, or such part of those proceedings as is necessary to allow the supreme court to review properly the questions presented.

The (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *workers' compensation court of appeals* shall certify the return of the proceedings under (HIS) *its* seal. The petitioner or relator shall pay to the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) *administrator of the workers' compensation court of appeals* the reasonable expense of preparing the return.

Sec. 132. Minnesota Statutes 1980, Section 176.491, is amended to read:

176.491 [STAY OF PROCEEDINGS PENDING DISPOSITION OF CASE.]

Where a writ of certiorari has been perfected under this chapter, it stays all proceedings for the enforcement of the order being reviewed until the case has been finally disposed of either in the supreme court or, where the cause has been remanded (TO THE WORKERS' COMPENSATION DIVISION) for a new hearing *before a compensation judge* or further proceedings (,) before the workers' compensation court of appeals (OR COMPENSATION JUDGE).

Sec. 133. Minnesota Statutes 1980, Section 176.511, Subdivision 1, is amended to read:

Subdivision 1. [PARTIES NOT AWARDED COSTS.] Except as provided otherwise by this chapter and specifically by this section, in (HEARINGS) *appeals* before the workers' compensation court of appeals (, OR A JUDGE OF THE WORKERS' COMPENSATION COURT OF APPEALS,) or *hearings before a compensation judge*, costs shall not be awarded to either party.

Sec. 134. Minnesota Statutes 1980, Section 176.521, Subdivision 1, is amended to read:

Subdivision 1. [VALIDITY.] An agreement between an employee or his dependent and the employer or insurer to settle any claim, which is not upon appeal before the workers' compensation court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties, and intervenors in the matter, and the division *or a compensation judge* has approved the settlement and made an award thereon. If the matter is upon appeal before the workers' compensation court of appeals *or district court*, the workers' compensation court of appeals *or district court* is the approving body.

Sec. 135. Minnesota Statutes 1980, Section 176.521, Subdivision 2, is amended to read:

Subd. 2. [APPROVAL.] Settlements shall be approved only where the terms conform with this chapter.

The division, a compensation judge, and the workers' compensation court of appeals shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or his dependent and the employer or insurer and intervenors in the matter are represented by an attorney shall be presumed to be reasonable, fair, and in conformity with this chapter.

Sec. 136. Minnesota Statutes 1980, Section 176.531, Subdivision 3, is amended to read:

Subd. 3. [PROMPT PAYMENT.] *It is the intent of this section (SHALL BE LIBERALLY CONSTRUED TO INSURE THE) that there be prompt payment of compensation.*

Sec. 137. Minnesota Statutes 1980, Section 176.645, is amended to read:

#### 176.645 [ADJUSTMENT OF BENEFITS.]

*Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2 and 4, and section 176.111, subdivision 5, the (AMOUNT) total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, (1976) 1981, and (EACH OCTOBER 1) thereafter on the anniversary of the date of the employee's injury the (AMOUNT) total benefits due shall be adjusted by multiplying the (AMOUNT) total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, (21 MONTHS PRIOR) of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, (NINE MONTHS PRIOR) of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, 1977 or thereafter under this section shall exceed six percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be six percent.*

*Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 shall be deferred until the first anniversary of the date of the injury.*

Sec. 138. Minnesota Statutes 1980, Section 179.74, Subdivision 4, is amended to read:

Subd. 4. The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in section 179.741, subdivision 1, in the manner prescribed by sections 179.61 to 179.76. The appropriate units provided for in section 179.741 shall be the only appropriate units for executive branch state employees. The positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with the provisions of section 43.326 and so designated in the official state compensation schedules, all unclassified positions in the state university system and the community college system defined as managerial by their respective boards, all positions of physician employees compensated pursuant to section 43.126, the positions of all unclassified employees appointed by the governor, lieutenant governor, secretary of state, attorney general, treasurer and auditor, all positions in the bureau of mediation services and the public employment relations board, all hearing examiner and compensation judge positions in the office of administrative hearings, and the positions of all confidential employees shall be excluded from any appropriate unit. The governor may upon the unanimous written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

Sec. 139. [REENACTMENT.]

*Subdivision 1. Laws 1980, Chapter 556, Sections 6 to 13, are reenacted.*

*Subd. 2. All acts authorized by and complying with Laws 1980, Chapter 556, Sections 6 to 13, are legal and valid.*

Sec. 140. [TRANSITION AND VALIDATION; WORKERS' COMPENSATION COURT OF APPEALS.]

*Subdivision 1. [PURPOSE.] It is the purpose and intent of the legislature to constitute the workers' compensation court of appeals as an independent agency of the state and this act is not intended to affect any substantive rights beyond the extent necessary to accomplish said purpose. Any rules, decisions or other actions under chapter 175 and chapter 176 prior to the effective date of this section shall continue in full force and effect*

*unless this act expressly provides otherwise. Matters currently before the workers' compensation court of appeals shall not be affected by the provisions of this act.*

*Subd. 2. [PERSONNEL.] All personnel appointed by the commissioner of labor and industry to perform full time duties for the workers' compensation court of appeals are transferred to the workers' compensation court of appeals. The transfer shall not affect any other term or condition of the transferred employee's employment.*

**Sec. 141. [TRANSITION; COMPENSATION JUDGES.]**

*Subdivision 1. [PURPOSE.] It is the purpose and intent of this act to transfer the compensation judges, except for the three settlement judges and their support staff, but including other hearing reporters, and other judicial support staff in the workers' compensation division of the department of labor and industry, to the office of administrative hearings as a separate unit in order to provide for a completely objective hearing process with regard to workers' compensation matters. The offices of the transferred compensation judges shall be physically located in a building separate from the offices of the department of labor and industry.*

*Notwithstanding the provisions of any law to the contrary, the provisions of this act shall not be construed to require that hearings in workers' compensation matters be subject to the contested case procedures of sections 15.041 to 15.052. Any provision of chapter 176 which would conflict with the provisions of this act with regard to the hearing procedures to be followed in workers' compensation matters are subordinate to the provisions of this act.*

*Subd. 2. [PERSONNEL, EQUIPMENT.] All personnel appointed by the commissioner to perform full time duties as compensation judges, hearing reporters or in support of the functions of the compensation judges, except for the settlement judge or judges, their hearing reporters and support staff, are transferred to the office of administrative hearings. No employee transferred pursuant to this section shall suffer a diminution of total compensation by reason of such transfer.*

*All equipment and supplies used solely by the transferred personnel in the performance of their duties are transferred to the office of administrative hearings.*

*Subd. 3. [COOPERATION.] Beginning on the effective date of this act, the commissioner, the commissioner of administration and the chief hearing examiner shall cooperate in assuring a smooth transfer of the compensation judges and related personnel and equipment and supplies as provided in this act.*



Subd. 4. [EFFECTIVE DATE.] *The transfers required under this section are effective on July 1, 1981. The physical relocation of the offices of the compensation judges shall be accomplished by no later than January 1, 1982.*

#### Sec. 142. [RATE REDUCTION.]

Subdivision 1. [AMOUNT.] *Within 15 days following the date of final enactment the commissioner of insurance shall make a final determination as to the impact of the provisions of this act on the schedule of rates which will be in effect on June 2, 1981. The commissioner shall then issue an order, pursuant to the authority granted in section 11, reducing the schedule of rates and making other necessary changes to that schedule to reflect the actual savings which will result from this act. The reduction shall be equal to or greater than the sum of the following factors:*

(a) *a reduction of 20.9 percent as a reflection of the impact of section 12;*

(b) *a reduction of 15 percent as a reflection of the impact of changes in the benefits payable pursuant to chapter 176 and in the administration and operation of the Minnesota workers' compensation system provided by this act.*

Subd. 2. [EXCEPTION.] *The commissioner may reduce any of the changes in the schedule of rates required in subdivision 1, clause (a), if he finds that a previous rate order issued pursuant to section 79.071 has already incorporated the required reductions.*

#### Sec. 143. [SEVERABILITY.]

*If any provision of this act is found to be unconstitutional and void, the remaining provisions of the act shall remain valid, unless the court finds the valid provisions of the act are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.*

#### Sec. 144. [APPROPRIATIONS.]

Subdivision 1. *The sum of \$150,000 is appropriated from the general fund to the legislative coordinating commission for the purpose of conducting, in cooperation with the commissioner of insurance, a thorough study of the flow of all premium dollars paid to workers' compensation insurers in the state of*

*Minnesota, including a closed compensation claim survey and an examination of insurer reserving practices, and the studies required under section 87. A report shall be made to the legislature by January 15, 1982.*

*Subd. 2. There is appropriated to the workers' compensation court of appeals for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1982	1983
\$15,970	\$15,970

*Subd. 3. There is appropriated from the general fund to the commissioner of labor and industry for the fiscal year indicated for the purpose of hiring six additional support personnel and ancillary expenses needed in conjunction with the departmental improvements provided in section 96; and for the purpose of hiring four additional rehabilitation personnel.*

1982	1983
\$246,200	\$246,200

*Additional approved complement—6*

*Subd. 4. The sum of \$5,000 is appropriated from the general fund to the workers' compensation court of appeals for the purpose of conducting the study provided for in section 89, subdivision 7.*

*Subd. 5. [UNEXPENDED AND TRANSFERRED FUNDS.] Any appropriation to the department of labor and industry for the purposes of any of its functions, powers, or duties which are transferred by this act to the workers' compensation court of appeals or the office of administrative hearings is hereby transferred to the workers' compensation court of appeals or the office of administrative hearings, allocated to each agency or department in appropriate amounts as determined by the commissioner of finance. When the functions, powers and duties that are affected by this act are the responsibility of the department of labor and industry and another department or agency, the commissioner of finance shall allocate any appropriation to the department or agency between the department of labor and industry and the other departments or agencies affected, as may be appropriate.*

*The unexpended balance of any appropriation to the department of labor and industry for the purposes of any of its functions, powers, or duties which are transferred by this act to the workers' compensation court of appeals or the office of administrative hearings are hereby transferred to the workers' compen-*

sation court of appeals and the office of administrative hearings, allocated to each agency or department in appropriate amounts as determined by the commissioner of finance. When the functions, powers and duties that are affected by this act are the responsibility of the department of labor and industry and another department or agency, the commissioner of finance shall allocate any unexpended appropriation to the department or agency between the department of labor and industry and the other departments or agencies affected, as may be appropriate.

Subd. 6. There is appropriated from the general fund to the commissioner of insurance for the fiscal year indicated for the purpose of hiring two additional personnel to assist in the discharge of his responsibilities under sections 9 to 37, 87, 142, and 144:

1982	1983
\$51,300	\$49,100

*Additional approved complement—2.*

Subd. 7. The following sums are appropriated from the general fund in the fiscal years indicated for the purposes of implementing the computerization of the records and information system of the department of labor and industry. The appropriations in this section shall be expended with the approval of the governor after consultation with the legislative advisory commission pursuant to section 3.30. The commissioner of insurance in consultation with the commissioners of labor and industry and of administration, shall propose a plan for implementation of this computerization no later than August 1, 1981. The commissioner of insurance shall consider use of the system evaluation and development methodology developed by the commissioner of administration pursuant to section 16.955, but this project is not subject to the requirements of that section. The installation and operation of computer equipment shall commence by October 1, 1981 and be completed by January 1, 1981.

1982	1983
\$450,000	\$100,000

Subd. 8. There is appropriated from the general fund to the chief hearing examiner for the fiscal years indicated the following sums for the purpose of funding the salary increase for compensation judges provided in section 7:

1982	1983
\$68,970	\$68,970

*Subd. 9. The sum of \$90,000 is appropriated from the general fund to the chief hearing examiner for the purposes of section 141.*

**Sec. 145. [REPEALER.]**

*Minnesota Statutes 1980, Sections 79.071, Subdivision 1; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15; 79.16; 79.17; 79.171; 79.18; 79.19; 79.20; 79.21; 79.22, Subdivision 1; 79.221; 79.23; 79.24; 79.25; 79.26; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33 are repealed effective July 1, 1983. Minnesota Statutes 1980, Sections 79.071, Subdivisions 2, 3, 4, 5, 6, and 7; 79.072; and 79.073 are repealed effective January 1, 1986. Minnesota Statutes 1980, Sections 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2, are repealed.*

**Sec. 146. [EFFECTIVE DATE.]**

*Sections 11, 21, 22, 23, 35, 36, 37, 38, 53, 54, 141, and 142 are effective the day following final enactment. Sections 1 to 8, 12, 39 to 52, 55 to 95, 99 to 138, 140, and 143 to 145 are effective July 1, 1981. Sections 96 to 98 are effective October 1, 1981. Sections 9, 10, and 13 to 20 are effective January 1, 1982. Sections 24 to 34 are effective July 1, 1983. Section 139 is effective retroactively to April 12, 1980."*

**Delete the title and insert:**

**"A bill for an act relating to workers' compensation; expressing the intent of the legislature with respect to chapter 176; providing for transition to competitive workers' compensation insurance rates; transferring compensation judges from the workers' compensation division to a separate division within the office of administrative hearings; making the workers' compensation court of appeals a separate and independent agency with appellate review powers; providing for a discount assumption with respect to calculating reserves for claims of insurance companies; authorizing the commissioner of insurance to initiate a rate hearing; transferring responsibility for the assigned risk plan to the commissioner of insurance; creating an assigned risk plan review board; permitting benefit payment transferring certain provisions with respect to the Minnesota workers' compensation reinsurance association; redefining the maximum reinsurance liability limitation as a prefunded limit; modifying filing procedures; providing for a survey of closed compensation claims and an examination of insurer reserving practices; removing the exemption of political subdivisions from the definitions of insurer and insurance in chapter 79; providing for the design and implementation of an improved records and information system in the department of labor and industry; providing for the addition of rehabilitation and computer support personnel in the department of labor and industry; permitting**

the commissioner of labor and industry to negotiate with his counterparts in other states in jurisdictional disputes; establishing a preponderance of the evidence standard in factual determinations under chapter 176; granting subrogation rights to the special compensation fund in third party actions; providing for lump sum permanent partial disability payments on return to work and weekly payments if an employee could but does not return to work; limiting attorneys' fees to only disputed portions of claims; providing a procedure for settlement offers by any litigant in a disputed claim proceeding; defining employee in certain situations; requiring claimants' attorneys to provide their clients with written information regarding fees under chapter 176; providing a penalty for attorneys who violate the fee provisions of chapter 176; providing a ten year limitation on death benefits to dependents; providing rehabilitation opportunities for dependent surviving spouses; requiring the commissioner of labor and industry to adopt disability degree schedules; prohibiting combined workers' compensation and government survivor benefits from exceeding the limit provided in chapter 176; providing a new formula for determining assessments against employers and insurers for the special compensation fund; providing for payment of attorneys' fees in disputes over supplementary benefits; requiring the commissioner of insurance to develop a medical fee schedule; requiring the commissioner to review the quality of care and other aspects of medical delivery under workers' compensation; establishing a pilot medical panel to resolve disputes over medical disability; providing for payment of wage replacement or disability payments by a group insurer under appropriate provisions pending resolution of liability dispute over compensability; providing for early payment of benefits and a penalty for delay; providing for an offset against welfare payments; requiring benefit payments to be made by immediately negotiable instrument; providing that notices of discontinuance of benefit payments be sent directly to claimant by insurer; delaying first benefit adjustment under chapter 176; mandating an insurance rate reduction by an amount reflecting cost savings due to benefit and administrative changes; providing penalties; changing procedures; creating and abolishing duties; appropriating money; amending Minnesota Statutes 1980, Sections 10A.01, Subdivision 18; 15.052, Subdivisions 1, 2, 3, 4 and 5; 15A.083, by adding a subdivision; 43.064; 60C.04; 60C.09, Subdivision 2; 79.01, Subdivisions 2 and 3; 79.071, Subdivision 1 and by adding subdivisions; 79.25; 79.26; 79.27; 79.34, Subdivisions 1 and 2; 79.35; 79.36; 175.007; 175.11, Subdivision 1; 175.14; 175.17; 176.011, Subdivisions 6 and 9; 176.021, Subdivisions 1 and 3, and by adding subdivisions; 176.041, by adding a subdivision; 176.061, Subdivisions 1, 3, 4, 5, 6 and 7; 176.081, Subdivisions 1, 2, 3, 4, 6, and by adding subdivisions; 176.101, Subdivision 3; 176.102, by adding a subdivision; 176.105, Subdivision 1; 176.111, Subdivisions 6, 7, 8, 10 and 21, and by adding a subdivision; 176.131, Subdivision 10; 176.132, Subdivision 2; 176.133; 176.136; 176.161, Subdivision 1; 176.181, Subdivisions 2 and 3, and by adding a subdivision; 176.191; 176.221; 176.225, by adding a subdivi-

sion; 176.231, Subdivisions 2 and 7; 176.241, Subdivisions 1, 2 and 3; 176.291; 176.301, Subdivision 1; 176.305; 176.311; 176.321, Subdivisions 1 and 3; 176.331; 176.341, Subdivision 1; 176.351; 176.371; 176.381; 176.391; 176.401; 176.411, Subdivisions 1 and 2; 176.421, Subdivisions 1, 4, 5, 6 and 7; 176.431, Subdivision 1; 176.441, Subdivision 1; 176.461; 176.471, Subdivisions 3, 5, 6 and 8; 176.491; 176.511, Subdivision 1; 176.521, Subdivisions 1 and 2; 176.531, Subdivision 3; 176.645; and 179-74, Subdivision 4; reenacting Laws 1980, Chapter 556, Sections 6 to 13; proposing new law coded as Minnesota Statutes, Chapter 175A; and proposing new law coded in Minnesota Statutes, Chapters 79 and 176; repealing Minnesota Statutes 1980, Sections 79.071, Subdivisions 1, 2, 3, 4, 5, 6, and 7; 79.072; 79.073; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15; 79.16; 79.17; 79.171; 79.18; 79.19; 79.20; 79.21; 79.22, Subdivision 1; 79.221; 79.23; 79.24; 79.25; 79.26; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; 79.33; 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2."

We request adoption of this report and repassage of the bill.

Senate Conferees: COLLIN C. PETERSON, FLORIAN CHMIELEWSKI, DONALD M. MOE, TOM A. NELSON and DUANE D. BENSON.

House Conferees: WAYNE A. SIMONEAU, JAMES I. RICE, JOSEPH R. BEGICH and FRED C. NORTON.

#### CALL OF THE HOUSE

On the motion of Simoneau and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, R.	Fjoslien	Kelly	Onnen	Sherman
Battaglia	Forsythe	Kostohryz	Osthoff	Sherwood
Begich	Friedrich	Laidig	Otis	Simoneau
Blatz	Greenfield	Lehto	Peterson, B.	Skoglund
Brandl	Gruenes	Lemen	Piepho	Stadum
Byrne	Gustafson	Levi	Pogemiller	Staten
Carlson, D.	Halberg	Long	Redalen	Stowell
Clark, J.	Harens	Ludeman	Reding	Stumpf
Clark, K.	Hauge	Luknic	Rees	Sviggum
Clawson	Haukoos	Marsh	Reif	Swanson
Dahlvang	Heap	McCarron	Rice	Vanasek
Dean	Heinitz	McDonald	Rodriguez, C.	Vellenga
Dempsey	Himle	Mehrkens	Rodriguez, F.	Weaver
Den Ouden	Hoberg	Munger	Rose	Welker
Drew	Hokr	Murphy	Rothenberg	Wenzel
Eken	Jacobs	Nelsen, B.	Samuelson	Wieser
Elioff	Jennings	Niehaus	Sarna	Wigley
Ellingson	Johnson, D.	Nysether	Schafer	Wynia
Erickson	Jude	O'Connor	Schreiber	Zubay
Esau	Kaley	Ogren	Searles	Spkr. Sieben, H.
Ewald	Kalis	Olsen	Shea	

Simoneau moved that further proceedings of the roll call be dispensed with and that the Sergeant at Arms be instructed to bring in the absentees. The motion prevailed and it was so ordered.

Simoneau moved that the report of the Conference Committee on S. F. No. 359 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 359, A bill for an act relating to workers' compensation; expressing the intent of the legislature with respect to chapter 176; transferring compensation judges from the workers' compensation division to a separate division within the office of administrative hearings; making the workers' compensation court of appeals a separate and independent agency with appellate review powers; providing for a discount assumption with respect to calculating reserves for claims of insurance companies; authorizing the commissioner of insurance to initiate a rate hearing; permitting benefit payment amounts to be rounded to whole dollars; clarifying certain provisions with respect to the Minnesota workers' compensation reinsurance association; redefining the maximum reinsurance liability limitation as a pre-funded limit; providing for a survey of closed compensation claims and an examination of insurer reserving practices; removing the exemption of political subdivisions from the definitions of insurer and insurance in chapter 79; providing for the design and implementation of an improved records and information system in the department of labor and industry; providing for the addition of rehabilitation and computer support personnel in the department of labor and industry; permitting the commissioner of labor and industry to negotiate with his counterparts in other states in jurisdictional disputes; establishing a preponderance of the evidence standard in factual determinations under chapter 176; granting subrogation rights to the special compensation fund in third party actions; providing for lump sum permanent partial disability payments on return to work and weekly payments if an employee could but does not return to work; limiting attorneys' fees to only disputed portions of claims; providing a procedure for settlement offers by any litigant in a disputed claim proceeding; requiring claimants' attorneys to provide their clients with written information regarding fees under chapter 176; providing a penalty for attorneys who violate the fee provisions of chapter 176; providing a ten year limitation on death benefits to dependents; providing rehabilitation opportunities for dependent surviving spouses; requiring the commissioner of labor and industry to adopt disability degree schedules; prohibiting combined workers' compensation and government survivor benefits from exceeding the limit provided in chapter 176; providing a new formula for determining assessments against employers and insurers for the special compensation fund; providing for payment of attorneys' fees in disputes over supplementary benefits; requiring the commissioner of labor and industry to utilize a medical fee schedule;

requiring the commissioner to review the quality of care and other aspects of medical delivery under workers' compensation; establishing a medical panel to resolve disputes over medical disability; providing for payment of wage replacement or disability payments by a group insurer under appropriate provisions pending resolution of liability dispute over compensability; providing for early payment of benefits and a penalty for delay; requiring benefit payments to be made by immediately negotiable instrument; providing that notices of discontinuance of benefit payments be sent directly to claimant by insurer; providing that division legal assistance employees be transferred to the attorney general; delaying first benefit adjustment under chapter 176 for 52 weeks from date of injury; mandating an insurance rate reduction by an amount reflecting cost savings due to benefit and administrative changes; providing penalties; appropriating money; amending Minnesota Statutes 1980, Sections 10A.01, Subdivision 18; 15.052, Subdivisions 1, 2, 3, 4, and 5; 15A.083, by adding a subdivision; 43.064; 60A.15, Subdivision 1; 60C.04; 60C.09, Subdivision 2; 79.01, Subdivisions 2 and 3; 79.071, Subdivision 1, and by adding subdivisions; 79.34, Subdivisions 1 and 2; 79.35; 79.36; 175.007; 175.11, Subdivision 1; 175.14; 175.17; 176.021, Subdivisions 1 and 3, and by adding subdivisions; 176.041, by adding a subdivision; 176.061, Subdivisions 1, 3, 4, 5, 6 and 7; 176.081, Subdivisions 1, 2, 3, 4, and 6, and by adding subdivisions; 176.101, Subdivision 3; 176.102, by adding a subdivision; 176.105, Subdivision 1; 176.111, Subdivisions 6, 7, 8, 10 and 21, and by adding a subdivision; 176.131, Subdivision 10; 176.132, Subdivision 2; 176.133; 176.136; 176.161, Subdivision 1; 176.181, Subdivisions 2 and 3, and by adding a subdivision; 176.191; 176.221; 176.225, by adding a subdivision; 176.231, Subdivisions 2 and 7; 176.241, Subdivisions 1, 2 and 3; 176.261; 176.291; 176.301, Subdivision 1; 176.305; 176.311; 176.331; 176.341, Subdivision 1; 176.351; 176.371; 176.381; 176.391; 176.401; 176.411, Subdivisions 1 and 2; 176.421, Subdivisions 1, 4, 5, 6 and 7; 176.431, Subdivision 1; 176.441, Subdivision 1; 176.461; 176.471, Subdivisions 3, 5, 6 and 8; 176.491; 176.511, Subdivision 1; 176.521, Subdivisions 1 and 2; 176.531, Subdivision 3; 176.645; and 179.74, Subdivision 4; proposing new law coded as Minnesota Statutes, Chapter 175A; and proposing new law coded in Minnesota Statutes, Chapters 79 and 176; repealing Minnesota Statutes 1980, Sections 79.071, Subdivisions 1, 2, 3, 4, 5, 6, and 7; 79.072; 79.073; 79.074, Subdivision 1; 79.075 to 79.09; 79.11 to 79.21; 79.22, Subdivision 1; 79.221 to 79.33; 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2; reenacting Laws 1980, Chapter 556, Section 12.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.



Simoneau moved that those not voting be excused from voting. The motion prevailed.

There were 91 yeas and 39 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Elioff	Kelly	Novak	Sherman
Anderson, G.	Ellingson	Knickerbocker	Nysether	Sieben, M.
Anderson, I.	Evans	Kostohryz	O'Connor	Simoneau
Anderson, R.	Ewald	Laidig	Ogren	Skoglund
Battaglia	Greenfield	Lehto	Onnen	Staten
Begich	Gruenes	Long	Osthoff	Stumpf
Berkelman	Gustafson	Luknic	Otis	Swanson
Blatz	Halberg	Mann	Peterson, D.	Vanasek
Brandl	Hanson	Marsh	Pogemiller	Vellenga
Byrne	Harens	McCarron	Redalen	Voss
Carlson, D.	Hauge	McEachern	Reding	Weaver
Carlson, L.	Hoberg	Mehrkens	Rice	Welch
Clark, J.	Hokanson	Metzen	Rodriguez, C.	Wenzel
Clark, K.	Jacobs	Minne	Rodriguez, F.	Wynia
Clawson	Johnson, C.	Munger	Rose	Spkr. Sieben, H.
Dahlvang	Johnson, D.	Murphy	Samuelson	
Dempsey	Jude	Nelson, K.	Sarna	
Drew	Kahn	Niehaus	Schoenfeld	
Eken	Kalis	Norton	Shea	

Those who voted in the negative were:

Aasness	Friedrich	Lemen	Rees	Stowell
Ainley	Haukoos	Levi	Reif	Sviggum
Dean	Heinitz	Ludeman	Rothenberg	Valento
Den Ouden	Himle	McDonald	Schafer	Welker
Erickson	Hokr	Nelsen, B.	Schreiber	Wieser
Esau	Jennings	Olsen	Searles	Wigley
Fjoslien	Kaley	Peterson, B.	Sherwood	Zubay
Forsythe	Kvam	Piepho	Stadum	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 964.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONFERENCE COMMITTEE REPORT ON S. F. NO. 964

A bill for an act relating to human rights; requiring certain state contractors to have affirmative action plans approved by

the commissioner of human rights; amending Minnesota Statutes 1980, Section 363.073; proposing new law coded in Minnesota Statutes, Chapter 363.

May 16, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 964, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate accede to the House amendments.

We request adoption of this report and repassage of the bill.

Senate Conferees: LINDA BERGLIN, DONALD M. MOE and DENNIS R. FREDERICKSON.

House Conferees: RANDY W. STATEN, PAUL A. OGREN and KAREN CLARK.

Staten moved that the report of the Conference Committee on S. F. No. 964 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 964, A bill for an act relating to human rights; requiring certain state contractors to have affirmative action plans approved by the commissioner of human rights; amending Minnesota Statutes 1980, Section 363.073; proposing new law coded in Minnesota Statutes, Chapter 363.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 97 yeas and 26 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Anderson, I.	Battaglia	Berkelman	Brandl
Anderson, G.	Anderson, R.	Begich	Blatz	Byrne

Carlson, D.	Halberg	Lehto	Peterson, D.	Skoglund
Carlson, L.	Harens	Lemen	Pogemiller	Staten
Clark, J.	Hauge	Levi	Reding	Stumpf
Clark, K.	Heinitz	Long	Rees	Swanson
Clawson	Himle	Mann	Reif	Tomlinson
Dahlvang	Hokanson	McCarron	Rice	Valan
Dean	Hokr	McEachern	Rodriguez, C.	Vanasek
Drew	Jacobs	Metzen	Rodriguez, F.	Vellenga
Eken	Johnson, C.	Minne	Rose	Voss
Elioff	Johnson, D.	Munger	Rothenberg	Weaver
Ellingson	Jude	Murphy	Samuelson	Welch
Evans	Kahn	Nelson, K.	Sarna	Wenzel
Ewald	Kalis	Norton	Schoenfeld	Wigley
Fjoslien	Kelly	Novak	Searles	Wynia
Forsythe	Knickerbocker	Ogren	Shea	Spkr. Sieben, H.
Greenfield	Kostohryz	Olsen	Sherman	
Gruenes	Kvam	Otis	Sieben, M.	
Gustafson	Laidig	Peterson, B.	Simoneau	

Those who voted in the negative were:

Aasness	Friedrich	Mehrkens	Schafer	Wieser
Ainley	Hoberg	Niehaus	Stadum	Zubay
Dempsey	Jennings	Nysether	Stowell	
Den Ouden	Ludeman	Onnen	Sviggum	
Erickson	Marsh	Piepho	Valento	
Esau	McDonald	Redalen	Welker	

The bill was repassed, as amended by Conference, and its title agreed to.

#### CALL OF THE HOUSE LIFTED

Vanasek moved that the call of the House be dispensed with. The motion prevailed and it was so ordered.

The Speaker called Wynia to the Chair.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 886.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONFERENCE COMMITTEE REPORT ON S. F. NO. 886

A bill for an act relating to health; prohibiting disciplinary action against a physician who administers demethyl sulfoxide under certain conditions; regulating the sale of dimethyl sul-

foxide; proposing new law coded in Minnesota Statutes, Chapters 147 and 151.

May 15, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 886, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments and that S. F. No. 886 be further amended as follows:

Page 1, delete lines 14 to 24

Page 1, line 25, before "The" insert "Subd. 2. [WRITTEN RELEASE.]"

Page 2, line 3, delete "4" and insert "3"

Page 2, line 11, after "pharmacy," insert "or not licensed to practice medicine by the board of medical examiners pursuant to sections 147.01 to 147.33,"

Page 3, after line 10, insert:

"Sec. 4. [SUNSET PROVISION.]

*Sections 1 and 2 are repealed effective June 30, 1983."*

Amend the title as follows:

Page 1, line 2, delete "prohibiting disciplinary action" and insert "requiring a written disclosure and labeling information regarding dimethyl sulfoxide;"

Page 1, delete line 3

Page 1, line 4, delete "under certain conditions;"

We request adoption of this report and repassage of the bill.

Senate Conferees: IRVING M. STERN, DUANE D. BENSON and RONALD R. DICKLICH.

House Conferees: KAREN CLARK, RICHARD J. WELCH and STEVE A. SVIGGUM.

Clark, K., moved that the report of the Conference Committee on S. F. No. 886 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 886, A bill for an act relating to health; prohibiting disciplinary action against a physician who administers dimethyl sulfoxide under certain conditions; regulating the sale of dimethyl sulfoxide; proposing new law coded in Minnesota Statutes, Chapters 147 and 151.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 126 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Aasness	Erickson	Knickerbocker	Olsen	Simoneau
Ainley	Esau	Kostohryz	Onnen	Skoglund
Anderson, B.	Evans	Kvam	Osthoff	Stadum
Anderson, G.	Ewald	Laidig	Otis	Staten
Anderson, I.	Fjoslien	Lehto	Peterson, B.	Stumpf
Anderson, R.	Forsythe	Lemen	Peterson, D.	Sviggum
Battaglia	Greenfield	Levi	Piepho	Swanson
Begich	Gruenes	Long	Pogemiller	Tomlinson
Berkelman	Gustafson	Ludeman	Redalen	Valan
Blatz	Halberg	Luknic	Reding	Valento
Brandl	Harens	Mann	Rees	Vanasek
Brinkman	Hauge	Marsh	Reif	Vellenga
Byrne	Haukoos	McCarron	Rice	Voss
Carlson, D.	Heinitz	McDonald	Rodriguez, C.	Weaver
Carlson, L.	Himle	McEachern	Rodriguez, F.	Welch
Clark, J.	Hoberg	Mehrkins	Rose	Welker
Clark, K.	Hokanson	Minne	Rothenberg	Wenzel
Clawson	Hokr	Munger	Samuelson	Wieser
Dahlvang	Jacobs	Murphy	Sarna	Wigley
Dean	Jennings	Nelsen, B.	Schafer	Wynia
Dempsey	Johnson, C.	Nelson, K.	Schoenfeld	Zubay
Den Ouden	Johnson, D.	Niehaus	Schreiber	Spkr. Sieben, H.
Drew	Jude	Norton	Searles	
Eken	Kaley	Novak	Sherman	
Elioff	Kalis	Nysether	Sherwood	
Ellingson	Kelly	Ogren	Sieben, M.	

Those who voted in the negative were:

Kahn

The bill was repassed, as amended by Conference, and its title agreed to.

The Speaker resumed the Chair.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 400.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 400

A bill for an act relating to peace officers; changing the designation of part-time officers and reserve officers; removing the hours of work limitation for certain part-time peace officers; permitting reserve peace officers to carry firearms in emergencies; providing for two members to the peace officers standards and training board from among elected city officials; authorizing the board to provide for training for certain part-time peace officers; authorizing the board to obtain criminal history data; amending Minnesota Statutes 1980, Sections 214.10, Subdivision 7; 626.84; 626.841; 626.843, Subdivision 1; 626.845, Subdivision 1; 626.846, Subdivisions 1 and 2; 626.8461; 626.8462; 626.8463; 626.8464; 626.8465, Subdivisions 1 and 2; 626.851, Subdivision 1; and 626.852.

May 15, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 400, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate accede to the House amendments.

We request adoption of this report and repassage of the bill.

Senate Conferees: MYRTON O. WEGENER, WAYNE OLHOFT and GLEN TAYLOR.

House Conferees: ARLENE I. LEHTO, DAVID M. JENNINGS and ROBERT E. VANASEK.

Lehto moved that the report of the Conference Committee on S. F. No. 400 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 400, A bill for an act relating to peace officers, changing the designation of part-time officers and reserve of-

ficers; removing the hours of work limitation for certain part-time peace officers; permitting reserve peace officers to carry firearms in emergencies; providing for two members to the peace officers standards and training board from among elected city officials; authorizing the board to provide for training for certain part-time peace officers; authorizing the board to obtain criminal history data; amending Minnesota Statutes 1980, Sections 214.10, Subdivision 7; 626.84; 626.841; 626.843, Subdivision 1; 626.845, Subdivision 1; 626.846, Subdivisions 1 and 2; 626.8461; 626.8462; 626.8463; 626.8464; 626.8465, Subdivisions 1 and 2; 626.851, Subdivision 1; and 626.852.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Erickson	Knickerbocker	Ogren	Sieben, M.
Ainley	Esau	Kostohryz	Olsen	Simoneau
Anderson, B.	Evans	Kvam	Onnen	Skoglund
Anderson, G.	Ewald	Laidig	Osthoff	Stadum
Anderson, I.	Fjoslien	Lehto	Otis	Staten
Anderson, R.	Forsythe	Lemen	Peterson, B.	Stowell
Battaglia	Greenfield	Levi	Peterson, D.	Stumpf
Begich	Gruenes	Long	Piepho	Sviggum
Berkelman	Gustafson	Ludeman	Pogemiller	Swanson
Blatz	Halberg	Luknic	Redalen	Tomlinson
Brandl	Harens	Mann	Reding	Valan
Brinkman	Hauge	Marsh	Rees	Valento
Byrne	Haukoos	McCarron	Rice	Vanasek
Carlson, D.	Heinitz	McDonald	Rodriguez, C.	Vellenga
Carlson, L.	Himle	McEachern	Rodriguez, F.	Voss
Clark, J.	Hoberg	Mehrkens	Rose	Weaver
Clark, K.	Hokanson	Metzen	Rothenberg	Welch
Clawson	Jacobs	Minne	Samuelson	Welker
Dahlvang	Jennings	Munger	Sarna	Wenzel
Dean	Johnson, C.	Murphy	Schafer	Wieser
Dempsey	Johnson, D.	Nelsen, B.	Schoenfeld	Wigley
Den Ouden	Jude	Nelson, K.	Schreiber	Wynia
Drew	Kahn	Niehaus	Searles	Zubay
Eken	Kaley	Norton	Shea	Spkr. Sieben, H.
Elioff	Kalis	Novak	Sherman	
Ellingson	Kelly	Nysether	Sherwood	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce that the Senate has concurred in and adopted the report of the Conference Committee on:

S. F. No. 338.

The Senate has repassed said bill in accordance with the recommendation and report of the Conference Committee. Said Senate File is herewith transmitted to the House.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONFERENCE COMMITTEE REPORT ON S. F. NO. 338

A bill for an act relating to public employment; eliminating certain part time adult vocational education instructors from the definition of public employee; amending Minnesota Statutes 1980, Section 179.63, Subdivision 7.

May 15, 1981

The Honorable Jack Davies  
President of the Senate

The Honorable Harry A. Sieben, Jr.  
Speaker of the House of Representatives

We, the undersigned conferees for S. F. No. 338, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S. F. No. 338 be further amended as follows:

Page 1, after line 7, insert:

"Section 1. Minnesota Statutes 1980, Section 177.25, Subdivision 1, is amended to read:

Subdivision 1. No employer shall employ any of his employees for a workweek longer than 48 hours, unless such employee receives compensation for his employment in excess of 48 hours in a workweek at a rate of not less than one and one-half times the regular rate at which he is employed; (1) provided, however, that an employer if it is the State of Minnesota or a political subdivision may grant time off at the rate of one and one-half hours for each hour worked in excess of 48 hours in any week in lieu of monetary compensation; and, (2) provided, however, that no employer shall be deemed to have violated the overtime pay provisions of this section by employing any employees for a workweek in excess of that specified in this section without paying the compensation for overtime employment prescribed herein (a) if (SUCH) *the* employee is (SO) employed under an agreement meeting the requirement of section 7 (b) (2) of the Fair Labor Standards Act of 1938, as amended, or (b) *if the employee is employed as a sugarbeet hand laborer on a piece rate basis, provided that the regular rate of pay received per hour of work pursuant to applicable rules exceeds the ap-*



*plicable wage provided in section 179.24, subdivision 1, by at least 40 cents."*

Renumber the sections

Page 2, line 23, delete "This act" and insert "Section 1 is effective the day following final enactment, except that the portion of clause (2) (b) relating to the regular rate of pay received per hour of work by a sugarbeet hand laborer shall only be effective until December 31, 1981. Section 2"

Further, amend the title:

Page 1, line 2, delete "public" and after the semicolon insert "regulating certain hours of work and rates of pay;"

Page 1, line 5, delete "Section" and insert "Sections 177.25, Subdivision 1; and"

We request adoption of this report and repassage of the bill.

Senate Conferees: TOM A. NELSON, CHARLES A. BERG and GERRY SIKORSKI.

House Conferees: LEO J. REDING and FRANK J. RODRIGUEZ, SR.

Reding moved that the report of the Conference Committee on S. F. No. 338 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

S. F. No. 338, A bill for an act relating to public employment; eliminating certain part time adult vocational education instructors from the definition of public employee; amending Minnesota Statutes 1980, Section 179.63, Subdivision 7.

The bill was read for the third time, as amended by Conference, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Brandl	Dempsey	Fjoslien	Heinitz
Ainley	Brinkman	Den Ouden	Forsythe	Himle
Anderson, B.	Byrne	Drew	Friedrich	Hoberg
Anderson, G.	Carlson, D.	Eken	Greenfield	Hokanson
Anderson, I.	Carlson, L.	Elioff	Gruenes	Hokr
Anderson, R.	Clark, J.	Ellingson	Gustafson	Jacobs
Battaglia	Clark, K.	Erickson	Halberg	Jennings
Begich	Clawson	Esau	Harens	Johnson, C.
Berkelman	Dahlyang	Evans	Hauge	Johnson, D.
Blatz	Dean	Ewald	Haukoos	Jude

Kahn	McDonald	Onnen	Samuelson	Swanson
Kaley	McEachern	Osthoff	Schafer	Tomlinson
Kalis	Mehrkens	Otis	Schoenfeld	Valan
Kelly	Metzen	Peterson, B.	Schreiber	Valento
Knickerbocker	Minne	Peterson, D.	Searles	Vanasek
Kostohryz	Munger	Piepho	Shea	Vellenga
Kvam	Murphy	Pogemiller	Sherman	Weaver
Laidig	Nelsen, B.	Redalen	Sherwood	Welch
Lehto	Nelson, K.	Reding	Sieben, M.	Welker
Lemen	Niehaus	Rees	Simoneau	Wenzel
Levi	Norton	Reif	Skoglund	Wieser
Long	Novak	Rice	Stadum	Wigley
Ludeman	Nysether	Rodriguez, C.	Staten	Wynia
Luknic	O'Connor	Rodriguez, F.	Stowell	Zubay
Mann	Ogren	Rose	Stumpf	Spkr. Sieben, H.
Marsh	Olsen	Rothenberg	Sviggun	

The bill was repassed, as amended by Conference, and its title agreed to.

Mr. Speaker:

I hereby announce the passage by the Senate of the following House File, herewith returned, as amended by the Senate, in which amendment the concurrence of the House is respectfully requested:

H. F. No. 1051, A bill for an act relating to health; changing the claim limitations on cost of removing nuisances; authorizing the commissioner of health to issue orders concerning well water quality; clarifying the commissioner's authority over water wells and exploratory boring to include repairs and abandonment; establishing a moratorium on certain uranium drilling; changing the penalties for violations; amending Minnesota Statutes 1980, Sections 145.22; 156A.02, Subdivisions 1, 2, and 3; 156A.03, Subdivisions 1 and 2; 156A.05; 156A.07, Subdivisions 1 and 4; and 156A.08.

PATRICK E. FLAHAVEN, Secretary of the Senate

#### CONCURRENCE AND REPASSAGE

Welch moved that the House concur in the Senate amendments to H. F. No. 1051 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1051, A bill for an act relating to health; changing the claim limitations on cost of removing nuisances; authorizing the commissioner of health to issue orders concerning well water quality; requiring a report to the legislature on groundwater thermal exchange; clarifying the commissioner's authority over water wells and exploratory boring to include repairs and abandonment; changing the penalties for violations; imposing a moratorium on certain uranium drilling; amending Minnesota Statutes 1980, Sections 145.22; 156A.02, Subdivisions 1, 2, and 3; 156A.03, Subdivisions 1 and 2; 156A.05; 156A.07, Subdivisions 1 and 4; 156A.071, Subdivision 7; and 156A.08; proposing new law coded in Minnesota Statutes, Chapter 156A.

The bill was read for the third time, as amended by the Senate, and placed upon its repassage.

The question was taken on the repassage of the bill and the roll was called. There were 111 yeas and 9 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Gustafson	Levi	Otis	Skoglund
Anderson, G.	Halberg	Long	Peterson, B.	Stadum
Battaglia	Hauge	Luknic	Peterson, D.	Staten
Begich	Haukoos	Mann	Piepho	Stumpf
Berkelman	Heap	McCarron	Pogemiller	Svigum
Blatz	Heinitz	McDonald	Redalen	Swanson
Brandl	Himle	McEachern	Reding	Tomlinson
Brinkman	Hoberg	Mehrkens	Rees	Valento
Byrne	Hokanson	Metzen	Reif	Vanasek
Carlson, L.	Hokr	Minne	Rice	Vellenga
Clark, J.	Jacobs	Munger	Rodriguez, C.	Weaver
Clark, K.	Jennings	Murphy	Rodriguez, F.	Welch
Clawson	Johnson, C.	Nelsen, B.	Rose	Welker
Dahlvang	Johnson, D.	Nelson, K.	Rothenberg	Wenzel
Dempsey	Jude	Niehaus	Sarna	Wieser
Eken	Kahn	Norton	Schafer	Wigley
Elioff	Kaley	Novak	Schoenfeld	Wynia
Ellingson	Kelly	Nysether	Searles	Zubay
Erickson	Knickerbocker	O'Connor	Shea	Spkr. Sieben, H.
Ewald	Kvam	Ogren	Sherman	
Fjoslien	Laidig	Olsen	Sherwood	
Greenfield	Lehto	Onnen	Sieben, M.	
Gruenes	Lemen	Osthoff	Simoneau	

Those who voted in the negative were:

Anderson, R.	Den Ouden	Forsythe	Marsh	Stowell
Carlson, D.	Evans	Kalis	Schreiber	

The bill was repassed, as amended by the Senate, and its title agreed to.

## MOTIONS AND RESOLUTIONS

Olsen moved that her name be stricken as an author on H. F. No. 301. The motion prevailed.

Onnen moved that the name of Lehto be added as an author on H. F. No. 1516. The motion prevailed.

Eken introduced:

House Concurrent Resolution No. 5, A house concurrent resolution relating to adjournment of the Senate and House of Representatives until 1982.

The resolution was referred to the Committee on Rules and Legislative Administration.

Eken moved that the House recess subject to the call of the Chair. The motion prevailed.

# RECESS

# RECONVENED

The House reconvened and was called to order by the Speaker.

Byrne was excused at 7:15 p.m. for the remainder of today's session.

# REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Eken, from the Committee on Rules and Legislative Administration, pursuant to Rule 1.9, designated the following bills as a Special Order to be acted upon immediately preceding Special Orders pending for today, Saturday, May 16, 1981:

S. F. Nos. 574, 278, 975, 568, 537, 885, 476, 1265, 1084, and 393 and H. F. No. 802.

# SPECIAL ORDERS

S. F. No. 574, A bill for an act relating to judicial procedures; changing certain provisions relating to guardianship and conservatorship; amending Minnesota Statutes 1980, Sections 525.539, Subdivision 3, and by adding a subdivision; 525.54; 525.541; 525.542; 525.543; 525.55; 525.551; 525.5515; 525.56, Subdivisions 3 and 4; 525.58; 525.591, Subdivisions 2 and 3; 525.618, Subdivision 1; 525.6185; 525.619; 525.6192; 525.6196; 525.6198; 525.62; 525.67; 525.69; and 525.703; proposing new law coded in Minnesota Statutes, Chapter 525; repealing Minnesota Statutes 1980, Section 525.504.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Aasness	Blatz	Dean	Ewald	Haukoos
Ainley	Brandl	Dempsey	Fjoslien	Heap
Anderson, B.	Brinkman	Den Ouden	Forsythe	Heinitz
Anderson, G.	Carlson, D.	Drew	Friedrich	Himle
Anderson, I.	Carlson, L.	Elioff	Greenfield	Hoberg
Anderson, R.	Clark, J.	Ellingson	Gruenes	Hokanson
Battaglia	Clark, K.	Erickson	Gustafson	Hokr
Begich	Clawson	Esau	Halberg	Jacobs
Berkelman	Dahlvang	Evans	Hauge	Jennings

Johnson, C.	Luknic	Nysether	Rodriguez, C.	Stumpf
Johnson, D.	Mann	O'Connor	Rodriguez, F.	Sviggum
Jude	Marsh	Ogren	Rose	Swanson
Kahn	McCarron	Olsen	Rothenberg	Tomlinson
Kaley	McDonald	Onnen	Samuelson	Valan
Kalis	McEachern	Osthoff	Sarna	Valento
Kelly	Mehrkena	Otis	Schafer	Vanasek
Knickerbocker	Metzen	Peterson, B.	Schoenfeld	Vellenga
Kostohryz	Minne	Peterson, D.	Schreiber	Weaver
Kvam	Munger	Piepho	Searles	Welch
Laidig	Murphy	Pogemiller	Shea	Wenzel
Lehto	Nelsen, B.	Redalen	Sherman	Wieser
Lemen	Nelson, K.	Reding	Sherwood	Wigley
Levi	Niehaus	Rees	Sieben, M.	Wynia
Long	Norton	Reif	Skoglund	Zubay
Ludeman	Novak	Rice	Stowell	Spkr. Sieben, H.

The bill was passed and its title agreed to.

S. F. No. 278, A bill for an act relating to transportation; extending the life of the joint commuter rail study commission and the deadline for its report; amending Laws 1980, Chapter 607, Article XIII, Section 2, Subdivisions 3 and 5.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 115 yeas and 5 nays as follows:

Those who voted in the affirmative were:

Aasness	Esau	Kelly	Norton	Schoenfeld
Ainley	Evans	Knickerbocker	Novak	Schreiber
Anderson, B.	Ewald	Kostohryz	Nysether	Searles
Anderson, G.	Fjoslien	Kvam	Ogren	Shea
Anderson, I.	Forsythe	Laidig	Olsen	Sherman
Anderson, R.	Greenfield	Lehto	Onnen	Sherwood
Battaglia	Gruenes	Lemen	Osthoff	Sieben, M.
Begich	Gustafson	Levi	Otis	Skoglund
Berkelman	Halberg	Long	Peterson, B.	Stumpf
Blatz	Hauge	Luknic	Peterson, D.	Swanson
Brandl	Haukoos	Mann	Piepho	Tomlinson
Brinkman	Heap	Marsh	Pogemiller	Valan
Carlson, L.	Heinitz	McCarron	Reding	Valento
Clark, J.	Himle	McDonald	Rees	Vanasek
Clark, K.	Hoberg	McEachern	Reif	Weaver
Clawson	Hokanson	Mehrkena	Rice	Welch
Dahlvang	Jacobs	Metzen	Rodriguez, C.	Welker
Dean	Jennings	Minne	Rodriguez, F.	Wenzel
Dempsey	Johnson, C.	Munger	Rose	Wieser
Drew	Johnson, D.	Murphy	Rothenberg	Wigley
Eloff	Jude	Nelsen, B.	Samuelson	Wynia
Ellingson	Kaley	Nelson, K.	Sarna	Zubay
Erickson	Kalis	Niehaus	Schafer	Spkr. Sieben, H.

Those who voted in the negative were:

Den Ouden	Friedrich	Kahn	Ludeman	Sviggum
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The bill was passed and its title agreed to.

The Speaker called Wynia to the Chair.

S. F. No. 975 was reported to the House.

Voss moved to amend S. F. No. 975, as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1980, Section 47.20, Subdivision 1, is amended to read:

Subdivision 1. Pursuant to (SUCH) rules (AS) the commissioner of banks finds to be necessary and proper, if any, banks, savings banks, mutual savings banks, building and loan associations, and savings and loan associations organized under the laws of this state or the United States, trust companies, trust companies acting as fiduciaries, and other banking institutions subject to the supervision of the commissioner of banks, and mortgagees or lenders approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the farmers home administration, are authorized:

(1) To make (SUCH) loans and advances of credit and purchases of obligations representing loans and advances of credit (AS) *which* are insured or guaranteed by the secretary of housing and urban development pursuant to the national housing act, as amended, or the administrator of veterans affairs pursuant to the servicemen's readjustment act of 1944, as amended, or the administrator of the farmers home administration pursuant to the consolidated farm and rural development act, Pub. L. 87-128, as amended, and to obtain (SUCH) *the* insurance or guarantees;

(2) To make (SUCH) loans secured by mortgages on real property *and loans secured by a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation* which the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration has insured or guaranteed or made a commitment to insure or guarantee, and to obtain (SUCH) *the* insurance or guarantees.

Sec. 2. Minnesota Statutes 1980, Section 47.20, Subdivision 2, is amended to read:

Subd. 2. For the purposes of this section the terms defined in this subdivision have the meanings given them:

(1) "Actual closing costs" mean reasonable charges for or sums paid for the following, whether or not retained by the mortgagee or lender:

(a) Any insurance premiums including but not limited to premiums for title insurance, fire and extended coverage insurance, flood insurance, and private mortgage insurance, but excluding any charges or sums retained by the mortgagee or lender as self-insured retention.

(b) Abstracting, title examination and search, and examination of public records.

(c) The preparation and recording of any or all documents required by law or custom for closing a conventional or cooperative apartment loan.

(d) Appraisal and survey of real property securing a conventional loan or real property owned by a cooperative apartment corporation of which a share or shares of stock or a membership certificate or certificates are to secure a cooperative apartment loan.

(e) A single service charge, which includes any consideration, not otherwise specified herein as an "actual closing cost" paid by the borrower and received and retained by the lender for or related to the acquisition, making, refinancing or modification of a conventional or cooperative apartment loan, and also includes any consideration received by the lender for making a borrower's interest rate commitment or for making a borrower's loan commitment, whether or not an actual loan follows the commitment. The term service charge does not include forward commitment fees. The service charge shall not exceed one percent of the original bona fide principal amount of the conventional or cooperative apartment loan, except that in the case of a construction loan, the service charge shall not exceed two percent of the original bona fide principal amount of the loan. That portion of the service charge imposed because the loan is a construction loan shall be itemized and a copy of the itemization furnished the borrower. A lender shall not collect from a borrower the additional one percent service charge permitted for a construction loan if it does not perform the service for which the charge

is imposed or if third parties perform and charge the borrower for the service for which the lender has imposed the charge.

(f) Charges and fees necessary for or related to the transfer of real or personal property securing a conventional or cooperative apartment loan or the closing of a conventional or cooperative apartment loan paid by the borrower and received by any party other than the lender.

(2) "Contract for deed" means an executory contract for the conveyance of real estate, the original principal amount of which is less than \$100,000. A commitment for a contract for deed shall include an executed purchase agreement or earnest money contract wherein the seller agrees to finance any part or all of the purchase price by a contract for deed.

(3) "Conventional loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a mortgage upon real property containing one or more residential units or upon which at the time the loan is made it is intended that one or more residential units are to be constructed, and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration. The term mortgage does not include contracts for deed or installment land contracts.

(4) "Cooperative apartment loan" means a loan or advance of credit, other than a loan or advance of credit made by a credit union or made pursuant to section 334.011, to a noncorporate borrower in an original principal amount of less than \$100,000, secured by a security interest on a share or shares of stock or a membership certificate or certificates issued to a stockholder or member by a cooperative apartment corporation, which may be accompanied by an assignment by way of security of the borrower's interest in the proprietary lease or occupancy agreement in property issued by the cooperative apartment corporation and which is not insured or guaranteed by the secretary of housing and urban development, by the administrator of veterans affairs, or by the administrator of the farmers home administration.

(5) "Cooperative apartment corporation" means a corporation or association organized under sections 308.05 to 308.18 or chapter 317, the shareholders or members of which are entitled, solely by reason of their ownership of stock or membership certificates in the corporation or association, to occupy one or more residential units in a building owned or leased by the corporation or association.



((4)) (6) "Forward commitment fee" means a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of residential units, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make conventional loans to two or more credit worthy purchasers, including future purchasers, of apartments as defined in section 515.02 to be created out of existing structures pursuant to the Minnesota condominium act, or a fee or other consideration paid to a lender for the purpose of securing a binding forward commitment by or through the lender to make cooperative apartment loans to two or more credit worthy purchasers, including future purchasers, of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation; provided, that the forward commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

((5)) (7) "Borrower's interest rate commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees that, if a conventional or cooperative apartment loan is made following issuance of and pursuant to the commitment, the conventional or cooperative apartment loan shall be made at a rate of interest not in excess of the rate of interest agreed to in the commitment, provided that the rate of interest agreed to in the commitment is not in excess of the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower.

((6)) (8) "Borrower's loan commitment" means a binding commitment made by a lender to a borrower wherein the lender agrees to make a conventional or cooperative apartment loan pursuant to the provisions, including the interest rate, of the commitment, provided that the commitment rate of interest does not exceed the maximum lawful rate of interest effective as of the date the commitment is issued and the commitment when issued and agreed to shall constitute a legally binding obligation on the part of the mortgagee or lender to make a conventional or cooperative apartment loan within a specified time period in the future at a rate of interest not exceeding the maximum lawful rate of interest effective as of the date the commitment is issued by the lender to the borrower; provided that a lender who issues a borrower's loan commitment pursuant to the provisions of a forward commitment is authorized to issue the borrower's loan commitment at a rate of interest not to exceed the maximum lawful rate of interest effective as of the date the forward commitment is issued by the lender.

((7)) (9) "Finance charge" means the total cost of a conventional or cooperative apartment loan including extensions

or grant of credit regardless of the characterization of the same and includes interest, finders fees, and other charges levied by a lender directly or indirectly against the person obtaining the conventional or cooperative apartment loan or against a seller of real property securing a conventional loan or a seller of a share or shares of stock or a membership certificate or certificates in a cooperative apartment corporation securing a cooperative apartment loan, or any other party to the transaction except any actual closing costs and any forward commitment fee. The finance charges plus the actual closing costs and any forward commitment fee, charged by a lender shall include all charges made by a lender other than the principal of the conventional or cooperative apartment loan.

((8)) (10) "Lender" means any person making a conventional or cooperative apartment loan, or any person arranging financing for a conventional or cooperative apartment loan. The term also includes the holder or assignee at any time of a conventional or cooperative apartment loan.

((9)) (11) "Loan yield" means the annual rate of return obtained by a lender over the term of a conventional or cooperative apartment loan and shall be computed as the annual percentage rate as computed in accordance with sections 226.5 (b), (c) and (d) of Regulation Z, 12 C.F.R. section 226, but using the definition of finance charge provided for in this subdivision.

((10)) (12) "Monthly index of long term United States government bond yields" means the monthly unweighted average of the daily unweighted average of the closing bid yield quotations in the over the counter market for all outstanding United States treasury bond issues, based on available statistics, which are either maturing or callable in ten years or more. This index is expressed in terms of percentage interest per annum.

((11)) (13) "Monthly index of the federal national mortgage association auction yields" means the gross weighted average yield of accepted offers in the second free market system conventional home mortgage auction held by the federal national mortgage association in a month.

((12)) (14) "Person" means an individual, corporation, business trust, partnership or association or any other legal entity.

((13)) (15) "Residential unit" means any structure used principally for residential purposes or any portion thereof, and includes a unit in a townhouse or planned unit development, a condominium apartment, a non-owner occupied residence, and any other type of residence regardless of whether (SUCH) the unit is used as a principal residence, secondary residence, vacation residence or residence of some other denomination.

((14)) (16) "Vendor" means any person or persons who agree to sell real estate and finance any part or all of the purchase price by a contract for deed. The term also includes the holder or assignee at any time of the vendor's interest in a contract for deed.

Sec. 3. Minnesota Statutes 1980, Section 47.20, Subdivision 3, is amended to read:

Subd. 3. Notwithstanding the provisions of section 334.01, lenders are authorized to make conventional *or cooperative apartment* loans and purchases of obligations representing conventional *or cooperative apartment* loans pursuant to (SUCH) rules (AS) the commissioner of banks finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4 or 4a. Contract for deed vendors are authorized to charge interest on contracts for deed at an interest rate not in excess of the maximum lawful interest rate prescribed in subdivision 4 or 4a.

Sec. 4. Minnesota Statutes 1980, Section 47.20, Subdivision 4, is amended to read:

Subd. 4. No conventional *or cooperative apartment* loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which is based upon the monthly index of long term United States government bond yields as compiled by the United States treasury department and published by the department in the monthly treasury bulletin. The maximum lawful interest rate shall be computed as follows:

(1) The maximum lawful rate of interest for a conventional *or cooperative apartment* loan or contract for deed made or contracted for during any calendar month is equal to the monthly index of long term United States government bond yields for the second preceding calendar month plus an additional two percent per annum rounded off to the nearest quarter of one percent per annum or rounded off to the highest quarter of one percent per annum if equidistant.

(2) On or before the 20th day of each month the commissioner of banking shall determine, based on available statistics, the monthly index of long term United States government bond yields for the preceding calendar month and shall determine the maximum lawful rate of interest for conventional *or cooperative apartment* loans or contracts for deed for the next succeeding month, as defined in clause (1) and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey County on or before the 20th day of each month and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of the next succeeding month.

(3) A contract rate within the maximum lawful interest rate applicable to a conventional *or cooperative apartment* loan or contract for deed at the time the loan is made shall be the maximum lawful interest rate for the term of the conventional *or cooperative apartment* loan or contract for deed.

(4) Contracts for deed executed pursuant to a commitment for a contract for deed, or conventional *or cooperative apartment* loans made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a commitment for conventional *or cooperative apartment* loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, which commitment provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time the contract for deed or conventional *or cooperative apartment* loan is actually executed or made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued. The refinancing of (a) an existing conventional *or cooperative apartment* loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional *or cooperative apartment* loan is deemed to be a new conventional *or cooperative apartment* loan for purposes of determining the maximum lawful rate of interest under this subdivision. A borrower's interest rate commitment or a borrower's loan commitment is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one. A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or his authorized agent.

(5) A contract for deed executed pursuant to a commitment for a contract for deed, or a loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a forward commitment for conventional *or cooperative apartment* loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, issued on or before July 31, 1983 at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision expires July 31, 1983.

Sec. 5. Minnesota Statutes 1980, Section 47.20, Subdivision 4a, is amended to read:

Subd. 4a. No conventional *or cooperative apartment* loan or contract for deed shall be made at a rate of interest or loan yield in excess of a maximum lawful interest rate which shall be based upon the monthly index of the federal national mortgage association auction yields as compiled by the federal national mortgage association. The maximum lawful interest rate shall be computed as follows:

(1) The maximum lawful rate of interest for a conventional *or cooperative apartment* loan or contract for deed made or contracted for during any calendar month is equal to the monthly index of the federal national mortgage association auction yields for the first preceding calendar month rounded off to the next highest quarter of one percent per annum.

(2) On or before the last day of each month the commissioner of banking shall determine, based on available statistics, the monthly index of the federal national mortgage association auction yields for that calendar month and shall determine the maximum lawful rate of interest for conventional *or cooperative apartment* loans or contracts for deed for the next succeeding month, as defined in clause (1) and shall cause the maximum lawful rate of interest to be published in a legal newspaper in Ramsey County on or before the first day of each month or as soon thereafter as practicable and in the state register on or before the last day of each month; the maximum lawful rate of interest to be effective on the first day of that month. If a federal national mortgage association free market system conventional home mortgage auction is not held in any month, the maximum lawful rate of interest determined by the commissioner of banks pursuant to the last auction is the maximum lawful rate of interest through the last day of the month in which the next auction is held.

(3) A contract rate within the maximum lawful interest rate applicable to a conventional *or cooperative apartment* loan or contract for deed at the time the loan is made is the maximum lawful interest rate for the term of the conventional *or cooperative apartment* loan or contract for deed.

(4) Contracts for deed executed pursuant to a commitment for a contract for deed, or conventional *or cooperative apartment* loans made pursuant to a borrower's interest rate commitment or made pursuant to a borrower's loan commitment, or made pursuant to a commitment for conventional *or cooperative apartment* loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a for-

ward commitment, which commitment provides for consummation within some future time following the issuance of the commitment may be consummated pursuant to the provisions, including the interest rate, of the commitment notwithstanding the fact that the maximum lawful rate of interest at the time the contract for deed or conventional or *cooperative apartment* loan is actually executed or made is less than the commitment rate of interest, provided the commitment rate of interest does not exceed the maximum lawful interest rate in effect on the date the commitment was issued. The refinancing of (a) an existing conventional or *cooperative apartment* loan, (b) a loan insured or guaranteed by the secretary of housing and urban development, the administrator of veterans affairs, or the administrator of the farmers home administration, or (c) a contract for deed by making a conventional or *cooperative apartment* loan is deemed to be a new conventional or *cooperative apartment* loan for purposes of determining the maximum lawful rate of interest under this subdivision. A borrower's interest rate commitment or a borrower's loan commitment is deemed to be issued on the date the commitment is hand delivered by the lender to, or mailed to the borrower. A forward commitment is deemed to be issued on the date the forward commitment is hand delivered by the lender to, or mailed to the person paying the forward commitment fee to the lender, or to any one of them if there should be more than one. A commitment for a contract for deed is deemed to be issued on the date the commitment is initially executed by the contract for deed vendor or his authorized agent.

(5) A contract for deed executed pursuant to a commitment for a contract for deed, or a loan made pursuant to a borrower's interest rate commitment, or made pursuant to a borrower's loan commitment, or made pursuant to a forward commitment for conventional or *cooperative apartment* loans made upon payment of a forward commitment fee including a borrower's loan commitment issued pursuant to a forward commitment, issued on or before November 30, 1982, at a rate of interest not in excess of the rate of interest authorized by this subdivision at the time the commitment was made continues to be enforceable in accordance with its terms until the indebtedness is fully satisfied.

(6) This subdivision supersedes subdivision 4 from May 31, 1979 until November 30, 1982.

(7) This subdivision expires November 30, 1982.

Sec. 6. Minnesota Statutes 1980, Section 47.20, Subdivision 7, is amended to read:

Subd. 7. (1) No conventional loan made on or after the effective date of Laws 1977, Chapter 350 and prior to May 31, 1979 shall contain a provision requiring or permitting the imposition,

directly or indirectly, of any discount points, whether or not actually denominated at discount points, on any person. Conventional or cooperative apartment loans made on or after May 31, 1979 may contain provisions permitting discount points, if the loan does not provide a loan yield in excess of that permitted by subdivision 4 or 4a. The loan yield is computed using the amount resulting when the discount points are included in the finance charge.

(2) Forward commitment fees are not discount points within the meaning of this subdivision.

(3) No charges, fees, or sums permitted by this section which are paid to and received by a lender may be increased for purposes of evading compliance with this subdivision.

Sec. 7. Minnesota Statutes 1980, Section 47.20, Subdivision 13a, is amended to read:

Subd. 13a. Any contract for deed or cooperative apartment loan, having an interest rate in excess of the maximum lawful interest rate provided for in subdivision 4 or 4a as applicable is usurious. No contract for deed or cooperative apartment loan is unenforceable solely because the interest rate thereon is usurious. Persons who have paid usurious interest may recover an amount not to exceed five times the usurious portion of the interest paid under the contract for deed or cooperative apartment loan plus attorneys' fees from the person to whom the interest has been paid. The penalty provisions of chapter 334, do not apply to usurious contracts for deed or cooperative apartment loans.

Sec. 8. Minnesota Statutes 1980, Section 47.201, is amended to read:

**47.201 [GRADUATED PAYMENT MORTGAGES AND COOPERATIVE APARTMENT LOANS.]**

Subdivision 1. [DEFINITIONS.] For the purposes of this section, the terms defined in this subdivision shall have the meanings given them:

(1) "Financial institution" means a state bank or trust company, a national banking association, a state or federally chartered savings and loan association, a mortgage bank or mutual savings bank.

(2) "Graduated payment home loan" means a conventional or cooperative apartment loan made pursuant to section 47.20 and subject to the provisions therein, whereunder initial periodic repayments are lower than those under the standard conventional or cooperative apartment loan having equal period-

ic repayments, and gradually rise to be a predetermined point after which they remain constant.

Subd. 2. [AUTHORIZATION.] Notwithstanding the provisions of sections 334.01, subdivision 1, and 51A.37, subdivision 3, clause (d), any financial institution is authorized to make graduated payment home loans and purchases representing graduated payment home loans pursuant to such rules as the commissioner of banks finds to be necessary and proper, if any, at an interest rate not in excess of the maximum lawful interest rate prescribed in section 47.20, subdivision 4. Notwithstanding the provisions of section 334.01, subdivision 1, where initial repayments of a graduated payment home loan are less than the total accrued outstanding interest, the excess accrued and unpaid interest may be added to the outstanding loan balance on which interest accrues at the contracted rate.

Subd. 3. [GRADUATED PAYMENTS.] A (MORTGAGE) *graduated payment home loan* may provide that periodic repayments of principal and interest on (VARIABLE) *graduated payment home loans* may increase in amounts not exceeding the following:

- (a) 7.5 percent annually during a period of five years or less;
- (b) 6.5 percent annually during a period of six years;
- (c) 5.5 percent annually during a period of seven years;
- (d) 4.5 percent annually during a period of eight years;
- (e) 3.5 percent annually during a period of nine years; and
- (f) 3 percent annually during a period of ten years.

No (MORTGAGE) *graduated payment home loan* may provide for principal and interest increases after its first ten years. The increases in payments of principal and interest provided in clauses (a) to (f) are independent and one graduation period may not be used in conjunction with another period.

Subd. 4. [CHANGES RESTRICTED.] Payments of principal and interest may not be changed more than once a year. The first change may not occur until one year after the date of the first payment under the (MORTGAGE) *graduated payment home loan*.

Subd. 5. [CONVERSION RIGHTS.] Borrowers taking a (MORTGAGE WITH GRADUATED PAYMENTS) *graduated payment home loan* shall have the right to convert, at a time chosen by the borrower, to a standard nongraduated payment (MORTGAGE) *conventional loan or cooperative apartment loan*.



No assessment or penalties shall be made if the borrower chooses to convert at the interest rate and outstanding principal of the graduated payment (MORTGAGE) *home loan*.

Subd. 6. [DISCLOSURE.] Each prospective borrower shall receive materials explaining in reasonably simple terms the graduated payment (MORTGAGE) *home loan* offered and a comparable standard (MORTGAGE) *conventional loan or cooperative apartment loan* instrument with a fixed interest rate and level payments. The material shall include:

(a) A comparison of the terms of the graduated payment (MORTGAGE) *home loan* and a standard (MORTGAGE) *conventional loan or cooperative apartment loan*;

(b) Payment schedules for both types of instruments and the total payment in dollars over the full term of the loan;

(c) A description of the conversion option; and

(d) A prominent statement that borrowers have the option to elect a standard (MORTGAGE) *conventional loan or cooperative apartment loan* instrument.

Subd. 7. [SAVINGS AND LOAN ASSOCIATIONS; FIRST LIEN.] Capitalization of interest resulting from any negative amortization of a graduated payment home loan made by a savings and loan association shall not change the status of the mortgage as a first lien against the property securing the loan pursuant to section 51A.38, subdivision 5. The capitalization of interest in a negative amortization shall not be considered as a loan or debt separate from the graduated payment mortgage contracted for at the time of loan origination.

#### Sec. 9. [REPEALER.]

*Minnesota Statutes 1980, Section 47.203, is repealed.*

#### Sec. 10. [EFFECTIVE DATE.]

*Sections 1 to 9 are effective the day following final enactment."*

Delete the title and insert:

"A bill for an act relating to financial institutions; authorizing the making and purchasing of cooperative apartment loans; prescribing certain requirements and conditions applicable to these loans; redefining the term "graduated payment home loan" to include cooperative apartment loans; eliminating the state override of the federal usury preemption on certain loans; amending Minnesota Statutes 1980, Sections 47.20, Subdivisions

1, 2, 3, 4, 4a, 7, and 13a; and 47.201; repealing Minnesota Statutes 1980, Section 47.203."

The motion prevailed and the amendment was adopted.

Voss and Wynia moved to amend S. F. No. 975, as amended, as follows:

Page 7, strike lines 1 to 7

Renumber the remaining clauses accordingly

Page 7, line 36, strike "4 or"

Page 8, line 3, strike "4 or"

Page 8, strike lines 4 to 36

Page 9, strike lines 1 to 36

Page 10, strike lines 1 to 12

Page 10, line 13, delete "5" and insert "4"

Page 10, line 34, strike the comma

Page 12, strike lines 24 to 26

Page 12, line 27, delete "6" and insert "5"

Page 13, line 1, strike "4 or"

Page 13, after line 8, insert:

"Sec. 6. Minnesota Statutes 1980, Section 47.20, Subdivision 13, is amended to read:

Subd. 13. Any conventional loan having an interest rate or loan yield in excess of the maximum lawful interest rate provided for in subdivision (4 OR) 4a (AS APPLICABLE) shall be usurious and subject to the same penalties as a loan made in violation of section 334.01. Any lender intentionally violating any other provision of this section shall be fined not more than \$100 for each offense."

Page 13, line 13, strike "4 or"

Page 13, line 13, strike "as applicable"

Page 14, line 12, strike "4" and insert "4a"

Page 15, after line 33, insert:

"Sec. 9. Minnesota Statutes 1980, Section 47.203 is amended to read:

**47.203 [FEDERAL PREEMPTION OVERRIDE.]**

The provisions of Pub. L. (96-211) 96-221, Title V, Part A, Section 501(a)(1), do not apply with respect to a loan, mortgage, credit sale or advance made in this state after (DECEMBER 31, 1981) *the effective date of this section*, nor with respect to a loan, mortgage, credit sale or advance secured by real property located in this state and made after (DECEMBER 31, 1981) *the effective date of this section*.

**Sec. 10. [47.204] [TEMPORARY REMOVAL OF MORTGAGE USURY LIMITS.]**

*Subdivision 1. [NO USURY LIMITS.] Notwithstanding any law to the contrary, no limitation on the rate or amount of interest, discount points, finance charges or other charges shall apply to a loan, mortgage, credit sale or advance which would have been exempt from the laws of this state pursuant to Pub. L. 96-221, Title V, Part A, Section 501, as amended as of the effective date of this section, but for section 47.203 and which is made in this state after the effective date of this section and before August 1, 1984.*

*Subd. 2. [ENFORCEABLE THROUGHOUT TERM.] If the rate or amount of interest, discount points, finance charges, or other charges are permitted by this section at the time the loan, mortgage, credit sale or advance is made, the rate or amount of interest, discount points, finance charges or other charges are permitted throughout the original term of the agreement and any extension agreed upon by the borrower and the lender or their respective successors in interest.*

Sec. 11. Minnesota Statutes 1980, Section 47.21 is amended to read:

**47.21 [LAWS PRESCRIBING TYPE OF SECURITY NOT TO APPLY.]**

No other law in this state prescribing the nature, amount or form of security or requiring security upon which loans or advances of credit may be made, or prescribing or limiting interest rates upon loans or advances of credit, or prescribing or limiting the period for which loans or advances of credit may be made, shall be deemed to apply to loans, advances of credit or purchases made pursuant to section 47.20, subdivisions 1, 3 and (4) 4a.

(1) Such institutions may invest in notes or bonds secured by mortgage or trust deed insured pursuant to section 47.20, subdivision 1, clause (2), and in securities issued by national mortgage associations;

(2) The notes, bonds and other securities herein made eligible for investment may be used wherever, by statute, collateral is required as security for the deposit of public or other funds; or deposits are required to be made with any public official or department; or an investment of capital or surplus, or a reserve or other fund, is required to be maintained consisting of designated securities."

Page 15, line 34, delete "9" and insert "12"

Page 15, line 35, delete "47.203" and insert "47.20, Subdivision 4"

Page 15, line 36, delete "10" and insert "13"

Page 16, line 1, delete "9" and insert "12"

Further, amend the title as follows:

Page 1, line 10, delete "4,"

Page 1, line 10, after "7," insert "13,"

Page 1, line 10, after the first semicolon delete "and"

Page 1, line 10, before "repealing" insert "47.203; and 47.21; proposing new law coded in Minnesota Statutes, Chapter 47;"

Page 1, line 11, delete "47.203" and insert "47.20, Subdivision 4"

The motion prevailed and the amendment was adopted.

Voss moved to amend S. F. No. 975, as amended, as follows:

Page 12, before line 27, insert:

"Sec. 5. Minnesota Statutes 1980, Section 47.20 is amended by adding a subdivision to read:

*Subd. 4b. Notwithstanding any other provision of this chapter including section 10, with respect to any conventional loan pursuant to which the mortgagee or lender shall receive any share of future appreciation of the mortgaged property, the following limitations shall apply:*

(1) *The share of future appreciation of the mortgaged property which the lender or mortgagee may receive shall be limited to the proportionate amount produced by dividing the lesser of the acquisition cost or fair market value of the mortgaged property at the time the conventional loan is made into the original principal amount of the conventional loan; provided that in no event shall the annual rate of return obtained by the lender or mortgagee over the term of the conventional loan exceed the maximum lawful interest rate prescribed in subdivision 4a.*

(2) *The lender or mortgagee shall not receive any share of future appreciation of the mortgaged property except upon sale or transfer of the mortgaged property or any interest therein, whether by lease, deed, contract for deed or otherwise, whether for consideration or by gift or in the event of death, or otherwise, and whether voluntarily, involuntarily, or by operation of law, provided that if the mortgagor or mortgagors own the mortgaged property as co-tenants, the transfer of the mortgaged property or any interest therein from one of such co-tenants to another co-tenant, whether by reason of death or otherwise, shall not be considered a sale or transfer, and a taking by eminent domain shall not be considered a sale or transfer unless it is a total taking for which payment is made for the full value of the mortgaged property, and a casualty loss shall not be considered a sale or transfer unless the proceeds of any insurance claim made in connection with such casualty loss are applied to prepay the principal of the conventional loan.*

(3) *Before the loan is made, the lender shall disclose to the mortgagor or mortgagors the terms and conditions upon which the lender or mortgagee shall receive any share of future appreciation of the mortgaged property.*

*The commissioner may from time to time make, amend and rescind rules, forms and orders necessary to carry out the provisions of this subdivision. The provisions of this subdivision shall not apply to loans made pursuant to the program authorized by Laws 1981, Chapter 97."*

Renumber the remaining sections accordingly.

The motion prevailed and the amendment was adopted.

The Speaker resumed the Chair.

Voss moved to amend S. F. No. 975, as amended, as follows:

Page 1, after line 6, insert:

"Section 1. Minnesota Statutes 1980, Section 47.20, as amended by Laws 1981, Chapter 137, Section 6, is amended to read:

Subd. 6a. If the purpose of a conventional loan, or loan made pursuant to the authority granted in subdivision 1, clause (3) or (4), is to enable a borrower to purchase a one to four family dwelling for his or her primary residence, the lender shall consent to the subsequent transfer of the real estate and shall release the existing borrower from all obligations under the loan instruments, if the transferee (1) meets the standards of credit worthiness normally used by persons in the business of making conventional loans, including but not limited to the ability of the transferee to make the loan payments and satisfactorily maintain the real estate used as collateral, (2) executes an agreement in writing with the lender whereby the transferee assumes the obligations of the existing borrower under the loan instruments, and (3) executes an agreement in writing to pay interest on the remaining obligation at a new interest rate (WHICH WILL BE) *not to exceed* the (BANK'S) *lender's* current market rate of interest on similar loans at the time of the transfer, (BUT WHICH WILL BE NO GREATER THAN) the most recently published monthly index of the federal national mortgage association auction yields as compiled by the federal national mortgage association *or the existing interest rate provided for by the terms of the note, whichever is greater*. Any such agreement shall not affect the priority, validity or enforceability of any loan instrument."

Renumber the remaining sections

Page 1, line 10, delete "*Section 1 is*" and insert "*Sections 1 and 2 are*"

Amend the title as follows:

Page 1, line 3, after "loans;" insert "providing for the determination of interest rates on certain mortgage instruments; amending Minnesota Statutes 1980, Section 47.20, Subdivision 6a, as amended;"

The motion prevailed and the amendment was adopted.

Welch was excused while in conference committee.

S. F. No. 975, A bill for an act relating to commerce; eliminating the state override of the federal usury preemption on certain loans; repealing Minnesota Statutes 1980, Section 47.203.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 84 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Johnson, C.	Niehaus	Sherman
Ainley	Ewald	Jude	Norton	Sherwood
Anderson, G.	Fjoslien	Kahn	O'Connor	Sieben, M.
Anderson, R.	Forsythe	Kaley	Ogren	Stowell
Battaglia	Friedrich	Kostohryz	Otis	Sviggum
Begich	Gruenes	Laidig	Peterson, B.	Swanson
Berkelman	Hanson	Lehto	Peterson, D.	Valan
Blatz	Harens	Lemen	Piepho	Valento
Brandl	Hauge	Levi	Reding	Vanasek
Carlson, L.	Haukoos	Ludeman	Reif	Vellenga
Clark, J.	Heap	Luknic	Rodriguez, F.	Voss
Dempsey	Heinitz	Mann	Rothenberg	Wieser
Den Ouden	Himle	Mehrkens	Sarna	Wigley
Drew	Hoberg	Metzen	Schafer	Wynia
Elioff	Hokanson	Minne	Schoenfeld	Zubay
Ellingson	Jacobs	Munger	Schreiber	Spkr. Sieben, H.
Esau	Jennings	Murphy	Searles	

Those who voted in the negative were:

Clark, K.	Kelly	Nelson, K.	Rodriguez, C.	Stumpf
Clawson	Kvam	Olsen	Shea	Tomlinson
Greenfield	Long	Onnen	Simoneau	Weaver
Halberg	Marsh	Osthoff	Skoglund	Wenzel
Hokr	McDonald	Rice	Staten	

The bill was passed, as amended, and its title agreed to.

The Speaker called Wynia to the Chair.

S. F. No. 568 was reported to the House.

There being no objection S. F. No. 568 was continued one day.

S. F. No. 537 was reported to the House.

Mehrkens moved to amend S. F. No. 537, the unofficial engrossment, as follows:

Page 3, line 30, delete "*or 40 authorizations for*"

Page 3, delete lines 31 to 36

Page 4, delete lines 1 to 3

Page 4, line 4, delete "*height*"

Page 4, delete "Section 3"

Renumber the sections as required by this amendment

Amend the title as follows:

Page 1, line 4, delete "directing the"

Page 1, delete line 5

Page 1, line 6, delete "studies"

Page 1, line 9, delete "and by adding a subdivision;"

The motion prevailed and the amendment was adopted.

Osthoff moved to amend S. F. No. 537, the unofficial engrossment, as amended, as follows:

Page 4, reinstate lines 18 to 36

Page 5, reinstate lines 1 to 5

A roll call was requested and properly seconded.

The question was taken on the amendment and the roll was called. There were 36 yeas and 79 nays as follows:

Those who voted in the affirmative were:

Anderson, I.	Jude	Nelson, K.	Rees	Vanasek
Berkelman	Kahn	Norton	Rice	Vellenga
Dean	Kelly	O'Connor	Rodriguez, C.	Wenzel
Greenfield	Kostohryz	Ogren	Rose	Wynia
Gustafson	Lehto	Onnen	Samuelson	
Himle	Long	Osthoff	Sarna	
Hokanson	McCarron	Peterson, D.	Staten	
Jacobs	Minne	Reding	Swanson	

Those who voted in the negative were:

Aasness	Erickson	Jennings	Metzen	Searles
Ainley	Esau	Johnson, C.	Munger	Sherman
Anderson, B.	Evans	Johnson, D.	Murphy	Sherwood
Anderson, R.	Ewald	Kaley	Nelsen, B.	Sieben, M.
Battaglia	Fjoslien	Kalis	Niehaus	Skoglund
Begich	Forsythe	Knickerbocker	Nysether	Stadum
Blatz	Friedrich	Laidig	Olsen	Stowell
Brandl	Gruenes	Lemen	Peterson, B.	Sviggum
Carlson, D.	Halberg	Levi	Piepho	Valan
Carlson, L.	Harens	Ludeman	Pogemiller	Valento
Clark, J.	Hauge	Luknic	Redalen	Weaver
Dahlvang	Haukoos	Mann	Reif	Welker
Dempsey	Heap	Marsh	Rodriguez, F.	Wieser
Den Ouden	Heinitz	McDonald	Rothenberg	Wigley
Drew	Hoberg	McEachern	Schafer	Zubay
Ellingson	Hokr	Mehrkens	Schreiber	

The motion did not prevail and the amendment was not adopted.

S. F. No. 537, A bill for an act relating to highway traffic regulations; increasing the length of certain vehicles; establish-



ing permit fees for certain oversize vehicles; directing the commissioner of transportation to conduct certain studies; clarifying the operation of certain combination vehicles; amending Minnesota Statutes 1980, Sections 169.81, Subdivision 3; 169.86, Subdivision 5, and by adding a subdivision; and 169.861.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 120 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Kalis	Norton	Schoenfeld
Ainley	Ewald	Kelly	Novak	Schreiber
Anderson, B.	Fjoslien	Knickerbocker	Nysether	Searles
Anderson, G.	Forsythe	Kostohryz	O'Connor	Sherman
Anderson, I.	Friedrich	Kvam	Ogren	Sherwood
Anderson, R.	Greenfield	Laidig	Olsen	Sieben, M.
Battaglia	Gruenes	Lemen	Onnen	Skoglund
Begich	Gustafson	Levi	Otis	Stadum
Berkelman	Halberg	Long	Peterson, B.	Stowell
Blatz	Harens	Ludeman	Peterson, D.	Stumpf
Brandl	Hauge	Luknic	Piepho	Sviggum
Brinkman	Haukoos	Mann	Pogemiller	Swanson
Carlson, D.	Heap	Marsh	Redalen	Valan
Carlson, L.	Heinitz	McCarron	Reding	Valento
Clark, J.	Himle	McDonald	Rees	Vellenga
Clawson	Hoberg	McEachern	Reif	Weaver
Dahlvang	Hokanson	Mehrkens	Rice	Welch
Dean	Hokr	Metzen	Rodriguez, C.	Welker
Dempsey	Jacobs	Minne	Rodriguez, F.	Wenzel
Den Ouden	Jennings	Munger	Rose	Wieser
Drew	Johnson, C.	Murphy	Rothenberg	Wigley
Ellingson	Johnson, D.	Nelsen, B.	Samuelson	Wynia
Erickson	Jude	Nelson, K.	Sarna	Zubay
Esau	Kaley	Niehaus	Schafer	Spkr. Sieben, H.

Those who voted in the negative were:

Lehto                      Osthoff                      Staten

The bill was passed, as amended, and its title agreed to.

S. F. No. 885 was reported to the House.

Schreiber moved that S. F. No. 885 be re-referred to the Committee on Local and Urban Affairs.

A roll call was requested and properly seconded.

The question was taken on the Schreiber motion and the roll was called. There were 71 yeas and 49 nays as follows:

Those who voted in the affirmative were:

Aasness	Ewald	Kaley	Niehaus	Stadum
Ainley	Fjoslien	Knickerbocker	Nysether	Swiggum
Battaglia	Forsythe	Kvam	Olsen	Swanson
Begich	Friedrich	Laidig	Onnen	Valan
Blatz	Gruenes	Lemen	Osthoff	Valento
Carlson, D.	Halberg	Levi	Peterson, B.	Voss
Carlson, L.	Haukoos	Ludeman	Piepho	Weaver
Dahlvang	Heap	Marsh	Redalen	Welker
Dean	Heinitz	McCarron	Reif	Wieser
Dempsey	Himle	McDonald	Rose	Wigley
Den Ouden	Hoberg	Mehrken	Schafer	Zubay
Drew	Hokanson	Metzen	Schreiber	
Elioff	Hokr	Minne	Searles	
Esau	Jennings	Murphy	Sherman	
Evans	Johnson, D.	Nelsen, B.	Sherwood	

Those who voted in the negative were:

Anderson, B.	Gustafson	Long	Peterson, D.	Skoglund
Anderson, G.	Harens	Mann	Pogemiller	Staten
Anderson, R.	Jacobs	McEachern	Rees	Stumpf
Berkelman	Johnson, C.	Munger	Rice	Tomlinson
Brandl	Jude	Nelson, K.	Rodriguez, C.	Vanasek
Clark, J.	Kahn	Norton	Rodriguez, F.	Welch
Clark, K.	Kalis	Novak	Schoenfeld	Wenzel
Eken	Kelly	O'Connor	Shea	Wynia
Ellingson	Kostohryz	Ogren	Sieben, M.	Spkr. Sieben, H.
Greenfield	Lehto	Otis	Simoneau	

The motion prevailed and S. F. No. 885 was re-referred to the Committee on Local and Urban Affairs.

There being no objection the order of business reverted to Reports of Standing Committees.

## REPORTS OF STANDING COMMITTEES

Eken from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 1454, A bill for an act relating to legislative enactments; providing for the correction of miscellaneous oversights, inconsistencies, ambiguities, unintended results and errors of a noncontroversial nature; amending H. F. No. 332, Sections 11, Subdivision 4; and 15, Subdivision 1.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Eken from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 990, A bill for an act memorializing the President and Congress to adopt legislation requiring a health hazard notice be required on all bottles of alcoholic beverage.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

## SECOND READING OF HOUSE BILLS

H. F. Nos. 1454 and 990 were read for the second time.

### SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Laidig moved that the rule therein be suspended and an urgency be declared so that H. F. No. 990 be given its third reading and be placed upon its final passage. The motion prevailed.

Laidig moved that the rules of the House be so far suspended that H. F. No. 990 be given its third reading and be placed upon its final passage. The motion prevailed.

H. F. No. 990, A resolution memorializing the President and Congress to adopt legislation requiring a health hazard notice be required on all bottles of alcoholic beverage.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 113 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Kahn	Munger	Rodriguez, C.
Anderson, G.	Ewald	Kaley	Murphy	Rodriguez, F.
Anderson, I.	Fjoslien	Kalis	Nelsen, B.	Rose
Battaglia	Forsythe	Kelly	Nelson, K.	Rothenberg
Begich	Friedrich	Knickerbocker	Niehaus	Samuelson
Berkelman	Gruenes	Kostohryz	Norton	Sarna
Blatz	Halberg	Kvam	Novak	Schafer
Brandl	Hanson	Laidig	Nysether	Schoenfeld
Carlson, L.	Harens	Lehto	Ogren	Schreiber
Clark, J.	Hauge	Lemen	Olsen	Searles
Clark, K.	Haukoos	Levi	Onnen	Shea
Clawson	Heap	Long	Osthoff	Sherman
Dahlvang	Heinitz	Luknic	Otis	Sherwood
Dean	Himle	Mann	Peterson, B.	Sieben, M.
Dempsey	Hoberg	Marsh	Peterson, D.	Simoneau
Den Ouden	Hokanson	McCarron	Pogemiller	Skoglund
Drew	Jacobs	McDonald	Reding	Staten
Eken	Johnson, C.	McEachern	Rees	Stowell
Elioff	Johnson, D.	Metzen	Reif	Stumpf
Ellingson	Jude	Minne	Rice	Sviggun

Swanson  
Tomlinson  
Valan

Valento  
Vanasek  
Vellenga

Voss  
Weaver  
Wenzel

Wigley  
Wynia  
Zubay

Spkr. Sieben, H.

Those who voted in the negative were:

O'Connor

Piepho

Wieser

The bill was passed and its title agreed to.

REPORT FROM THE COMMITTEE ON RULES AND  
LEGISLATIVE ADMINISTRATION

Eken, from the Committee on Rules and Legislative Administration pursuant to Rule 1.9 designated the following bill as a Special Order to be acted upon immediately following H. F. No. 802 pending on Special Orders for today, Saturday, May 16, 1981:

H. F. No. 1454

SPECIAL ORDERS, Continued

S. F. No. 476 was reported to the House.

Peterson, B., moved to amend S. F. No. 476, the unofficial engrossment, as follows:

Page 3, line 3, delete *"Any person fleeing a peace"* and insert *"If a peace officer is acting in the lawful discharge of an official duty, a person fleeing the peace officer by means of a motor vehicle or motorcycle is liable for all bodily injury and property damage suffered by any other person, except another person fleeing from a peace officer, arising out of the operation or use of a pursuing peace officer's vehicle, unless the peace officer is not exercising reasonable care."*

Page 3, delete lines 4 to 12

Page 3, line 30, strike *"motorized"* insert *"motor"*

Page 4, line 1, strike *"motorized"* insert *"motor"*

The motion prevailed and the amendment was adopted.

Kelly moved to amend S. F. No. 476, the unofficial engrossment, as amended, as follows:

Page 2, after line 21, insert:

*"Subd. 2. [CONTENTS OF WORKSHEET.] The supreme court shall promulgate rules uniformly applicable to all district courts for the form and contents of sentencing worksheets. These rules shall be promulgated by and effective on January 2, 1982."*

Page 4, after line 17, insert:

*"Section 1 is effective January 2, 1982 and applies to all felony sentencing proceedings commenced on or after that date."*

The motion prevailed and the amendment was adopted.

S. F. No. 476, A bill for an act relating to crimes; providing the court with discretion to require a presentence investigation in the case of felony convictions; requiring a presentence sentencing worksheet for a defendant convicted of a felony; amending Minnesota Statutes 1980, Section 609.115, Subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 121 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Aasness	Ewald	Kelly	Ogren	Skoglund
Ainley	Fjoslien	Kostohryz	Olsen	Stadum
Anderson, B.	Forsythe	Kvam	Onnen	Staten
Anderson, G.	Friedrich	Laidig	Osthoff	Stowell
Anderson, I.	Greenfield	Lehto	Otis	Stumpf
Anderson, R.	Gruenes	Lemen	Peterson, B.	Swiggum
Battaglia	Gustafson	Levi	Peterson, D.	Swanson
Begich	Hanson	Ludeman	Piepho	Tomlinson
Berkelman	Harens	Luknic	Pogemiller	Valan
Blatz	Hauge	Mann	Reding	Valento
Brandl	Haukoos	Marsh	Rees	Vanasek
Carlson, L.	Heap	McDonald	Reif	Vellenga
Clark, J.	Heinitz	McEachern	Rodriguez, F.	Voss
Clark, K.	Himle	Mehrkens	Rose	Weaver
Clawson	Hoberg	Metzen	Rothenberg	Welker
Dahlvang	Hokanson	Minne	Sarna	Wenzel
Dean	Hokr	Munger	Schafer	Wieser
Den Ouden	Jacobs	Murphy	Schoenfeld	Wigley
Drew	Jennings	Nelsen, B.	Schreiber	Wynia
Eken	Johnson, C.	Nelson, K.	Searles	Zubay
Elhoff	Johnson, D.	Niehaus	Shea	Spkr. Sieben, H.
Ellingson	Jude	Norton	Sherman	
Erickson	Kahn	Novak	Sherwood	
Esau	Kaley	Nysether	Sieben, M.	
Evans	Kalis	O'Connor	Simoneau	

Those who voted in the negative were:

McCarron      Rice

The bill was passed, as amended, and its title was agreed to.

S. F. No. 1265, A bill for an act relating to the Ramsey-Washington Metro watershed district; permitting deferral of special assessments in certain cases of hardship.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 123 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Knickerbocker	O'Connor	Sieben, M.
Ainley	Ewald	Kostohryz	Ogren	Simoneau
Anderson, B.	Fjoslien	Kvam	Onnen	Skoglund
Anderson, G.	Forsythe	Laidig	Osthoff	Stadum
Anderson, I.	Friedrich	Lehto	Otis	Staten
Anderson, R.	Greenfield	Lemen	Peterson, B.	Stowell
Battaglia	Gruenes	Levi	Peterson, D.	Stumpf
Begich	Gustafson	Long	Piepho	Sviggum
Berkelman	Halberg	Ludeman	Pogemiller	Swanson
Blatz	Hanson	Luknic	Redalen	Tomlinson
Brandl	Hauge	Mann	Reding	Valan
Brinkman	Haukoos	Marsh	Rees	Valento
Carlson, D.	Heap	McCarron	Reif	Vanasek
Carlson, L.	Heinitz	McDonald	Rice	Vellenga
Clark, J.	Himle	McEachern	Rodriguez, F.	Voss
Clark, K.	Hoberg	Mehrkens	Rose	Weaver
Clawson	Hokanson	Metzen	Rothenberg	Welker
Dahlvang	Hokr	Minne	Samuelson	Wenzel
Dean	Jennings	Munger	Sarna	Wieser
Dempsey	Johnson, D.	Murphy	Schafer	Wigley
Den Ouden	Jude	Nelsen, B.	Schoenfeld	Wynia
Drew	Kahn	Nelson, K.	Searles	Zubay
Eken	Kaley	Niehaus	Shea	Spkr. Sieben, H.
Ellingson	Kalis	Novak	Sherman	
Esau	Kelly	Nysether	Sherwood	

Those who voted in the negative were:

Olsen                      Schreiber

The bill was passed and its title agreed to.

S. F. No. 1084 was reported to the House.

Dahlvang moved to amend S. F. No. 1084, as follows:

Page 1, line 22, after "food" insert "*, provided that the licensee establishment is in conformance with the Minnesota Clean Indoor Air Act*"

The motion prevailed and the amendment was adopted.

Sherwood moved that S. F. No. 1084, as amended, be referred to the Committee on Local and Urban Affairs.

A roll call was requested and properly seconded.

The question was taken on the Sherwood motion and the roll was called. There were 45 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Aasness	Friedrich	Kalis	Nysether	Sherman
Anderson, R.	Gruenes	Kostohryz	Onnen	Sherwood
Carlson, D.	Halberg	Kvam	Osthoff	Stadum
Carlson, L.	Hanson	Laidig	Redalen	Sviggum
Den Ouden	Harens	Lehto	Reding	Swanson
Erickson	Hokr	Lemen	Rodriguez, C.	Vellenga
Esau	Johnson, D.	Ludeman	Rothenberg	Voss
Fjoslien	Kahn	Nelsen, B.	Schoenfeld	Welker
Forsythe	Kaley	Niehaus	Schreiber	Wigley

## Those who voted in the negative were:

Anderson, B.	Ellingson	Kelly	O'Connor	Shea
Anderson, I.	Evans	Knickerbocker	Ogren	Sieben, M.
Battaglia	Ewald	Levi	Olsen	Simoneau
Begich	Greenfield	Long	Otis	Skoglund
Berkelman	Gustafson	Mann	Peterson, B.	Staten
Blatz	Hauge	Marsh	Peterson, D.	Stowell
Brandl	Haukoos	McCarron	Piepho	Vanasek
Clark, J.	Heap	McDonald	Rees	Weaver
Clark, K.	Heinitz	McEachern	Reif	Welch
Clawson	Himle	Mehrkens	Rice	Wenzel
Dahlvang	Hoberg	Metzen	Rodriguez, F.	Wieser
Dean	Hokanson	Minne	Rose	Wynia
Dempsey	Jacobs	Murphy	Samuelson	Zubay
Drew	Jennings	Nelson, K.	Sarna	Spkr. Sieben, H.
Eken	Johnson, C.	Norton	Schafer	
Elioff	Jude	Novak	Searles	

The motion did not prevail.

S. F. No. 1084, A bill for an act relating to intoxicating liquor; hours for Sunday sale; amending Minnesota Statutes 1980, Section 340.14, Subdivision 5.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 70 yeas and 57 nays as follows:

## Those who voted in the affirmative were:

Ainley	Eken	Johnson, C.	Nelson, K.	Samuelson
Anderson, B.	Elioff	Kahn	Norton	Sarna
Anderson, I.	Ellingson	Knickerbocker	Novak	Searles
Anderson, R.	Evans	Levi	O'Connor	Sieben, M.
Battaglia	Ewald	Long	Ogren	Simoneau
Begich	Greenfield	Mann	Otis	Stadum
Berkelman	Gustafson	Marsh	Peterson, B.	Staten
Blatz	Hauge	McCarron	Peterson, D.	Stumpf
Brandl	Heap	McDonald	Piepho	Stowell
Clark, J.	Heinitz	McEachern	Pogemiller	Valento
Clark, K.	Himle	Mehrkens	Rees	Wenzel
Dahlvang	Hokr	Metzen	Reif	Wynia
Dean	Jacobs	Minne	Rice	Zubay
Dempsey	Jennings	Murphy	Rodriguez, F.	Spkr. Sieben, H.

## Those who voted in the negative were:

Aasness	Halberg	Kvam	Reding	Valan
Carlson, D.	Hanson	Laidig	Rodriguez, C.	Vanasek
Carlson, L.	Harens	Lehto	Rose	Vellenga
Clawson	Haukoos	Lemen	Rothenberg	Voss
Den Ouden	Hoberg	Ludeman	Schafer	Weaver
Drew	Hokanson	Munger	Schoenfeld	Welch
Erickson	Johnson, D.	Nelsen, B.	Shea	Welker
Esau	Jude	Niehaus	Sherman	Wieser
Fjoslien	Kaley	Nysether	Sherwood	Wigley
Forsythe	Kalis	Onnen	Skoglund	
Friedrich	Kelly	Osthoff	Sviggum	
Gruenes	Kostohryz	Redalen	Swanson	

The bill was passed, as amended, and its title agreed to.

S. F. No. 393, A bill for an act relating to taxation; providing that property owned by certain senior citizens' groups be exempt from taxation; amending Minnesota Statutes 1980, Section 272.02, Subdivision 1.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 119 yeas and 6 nays as follows:

Those who voted in the affirmative were:

Aasness	Evans	Kelly	Nysether	Shea
Anderson, B.	Ewald	Knickerbocker	O'Connor	Sherman
Anderson, I.	Fjoslien	Kostohryz	Ogren	Sieben, M.
Anderson, R.	Forsythe	Kvam	Olsen	Simoneau
Battaglia	Greenfield	Laidig	Onnen	Skoglund
Begich	Gruenes	Lehto	Osthoff	Stadum
Berkelman	Gustafson	Levi	Otis	Staten
Blatz	Halberg	Long	Peterson, B.	Stowell
Brandl	Hanson	Luknic	Peterson, D.	Stumpf
Brinkman	Harens	Mann	Piepho	Sviggum
Carlson, D.	Hauge	Marsh	Pogemiller	Swanson
Carlson, L.	Heap	McCarron	Redalen	Tomlinson
Clark, J.	Heinitz	McDonald	Reding	Valento
Clark, K.	Himle	McEachern	Rees	Vellenga
Clawson	Hoberg	Mehrkens	Reif	Voss
Dahlvang	Hokanson	Metzen	Rice	Weaver
Dean	Jacobs	Minne	Rodriguez, C.	Welch
Dempsey	Jennings	Munger	Rodriguez, F.	Wenzel
Den Ouden	Johnson, C.	Murphy	Rose	Wieser
Drew	Johnson, D.	Nelsen, B.	Rothenberg	Wigley
Eken	Jude	Nelson, K.	Samuelson	Wynia
Elioff	Kahn	Niehaus	Sarna	Zubay
Ellingson	Kaley	Norton	Schoenfeld	Spkr. Sieben, H.
Erickson	Kalis	Novak	Searles	

Those who voted in the negative were:

Ainley	Lemen	Ludeman	Schafer	Welker
Haukoos				

The bill was passed and its title agreed to.

Eken moved that the remaining bills on Special Orders for today be continued for one day. The motion prevailed.

#### ADJOURNMENT

Eken moved that when the House adjourns today it adjourn until 9:00 a.m., Monday, May 18, 1981. The motion prevailed.

Eken moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 9:00 a.m., Monday, May 18, 1981.

EDWARD A. BURDICK, Chief Clerk, House of Representatives