

STATE OF MINNESOTA

SEVENTY-THIRD SESSION - 1983

FORTY-SIXTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, MAY 4, 1983

The House of Representatives convened at 2:00 p.m. and was called to order by Harry A. Sieben, Jr., Speaker of the House.

Prayer was offered by Lynn Anne Silva, Senior Seminarian at Luther, Northwestern Seminary, St. Paul, Minnesota.

The roll was called and the following members were present:

Anderson, B.	Evans	Kostohryz	Pauly	Skoglund
Anderson, G.	Findlay	Krueger	Peterson	Solberg
Anderson, R.	Fjoslien	Kvam	Piepho	Sparby
Battaglia	Forsythe	Larsen	Piper	Stadum
Beard	Frerichs	Levi	Price	Staten
Begich	Graba	Long	Quinn	Sviggum
Bennett	Greenfield	Ludeman	Quist	Swanson
Bergstrom	Gruenes	Mann	Redalen	Thiede
Berkelman	Gustafson	Marsh	Reif	Tomlinson
Bishop	Gutknecht	McDonald	Rice	Tunheim
Blatz	Halberg	McEachern	Riveness	Uphus
Brinkman	Haukoos	McKasy	Rodosovich	Valan
Burger	Heap	Metzen	Rodriguez, C.	Valento
Carlson, D.	Heinitz	Minne	Rodriguez, F.	Vanasek
Carlson, L.	Himle	Munger	Rose	Voss
Clark, J.	Hoberg	Murphy	St. Onge	Waltman
Clark, K.	Hoffman	Nelson, D.	Sarna	Welch
Clawson	Hokr	Nelson, K.	Schafer	Welker
Cohen	Jacobs	Neuenschwander	Scheid	Welle
Coleman	Jennings	Norton	Schoenfeld	Wenzel
Dempsey	Jensen	O'Connor	Schreiber	Wigley
DenOuden	Johnson	Ogren	Seaberg	Wynia
Dimler	Kahn	Olsen	Segal	Zaffke
Eken	Kalis	Omamn	Shaver	Speaker Sieben
Elioff	Kelly	Onnen	Shea	
Ellingson	Knickerbocker	Osthoff	Sherman	
Erickson	Knuth	Otis	Simoneau	

A quorum was present.

Vellenga was excused until 2:30 p.m. Brandl was excused until 5:10 p.m.

The Chief Clerk proceeded to read the Journal of the preceding day. Kvam 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

S. F. No. 463 and H. F. No. 520, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Cohen moved that S. F. No. 463 be substituted for H. F. No. 520 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 932 and H. F. No. 763, which had been referred to the Chief Clerk for comparison, were examined and found to be identical.

Ellingson moved that S. F. No. 932 be substituted for H. F. No. 763 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1168 and H. F. No. 1027, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Ellingson moved that the rules be so far suspended that S. F. No. 1168 be substituted for H. F. No. 1027 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1165 and H. F. No. 886, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Schreiber moved that the rules be so far suspended that S. F. No. 1165 be substituted for H. F. No. 886 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 742 and H. F. No. 655, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Clawson moved that the rules be so far suspended that S. F. No. 742 be substituted for H. F. No. 655 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 769 and H. F. No. 790, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Ellingson moved that the rules be so far suspended that S. F. No. 769 be substituted for H. F. No. 790 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 892 and H. F. No. 1033, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Berkelman moved that the rules be so far suspended that S. F. No. 892 be substituted for H. F. No. 1033 and that the House File be indefinitely postponed. The motion prevailed.

PETITIONS AND COMMUNICATIONS

The following communications were received:

STATE OF MINNESOTA
OFFICE OF THE GOVERNOR
SAINT PAUL 55155

May 3, 1983

The Honorable Harry A. Sieben, Jr.
Speaker of the House
276 State Office Building
St. Paul, Minnesota 55155

Dear Speaker Sieben:

I have the honor to inform you that I received, approved, signed and deposited in the Office of the Secretary of State the following House Files:

H. F. No. 516, relating to the City of Montevideo; giving it certain powers of a statutory city.

H. F. No. 838, relating to transportation; conforming with federal requirements allowing a state authority to exercise jurisdiction over intrastate transportation provided by rail carrier.

Sincerely,

RUDY PERPICH
Governor

STATE OF MINNESOTA
OFFICE OF THE SECRETARY OF STATE
ST. PAUL 55155

May 3, 1983

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

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1983 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

<i>S.F. No.</i>	<i>H.F. No.</i>	<i>Session Laws Chapter No.</i>	<i>Date Approved 1983</i>	<i>Date Filed 1983</i>
115		76	May 3	May 3
	838	77	May 3	May 3
	516	78	May 3	May 3

Sincerely,

JOAN ANDERSON GROWE
Secretary of State

REPORTS OF STANDING COMMITTEES

Anderson, G., from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 648, A bill for an act relating to housing; prohibiting certain rent control ordinances in cities, counties, and towns; proposing new law coded in Minnesota Statutes, chapter 471.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rice from the Committee on Appropriations to which was referred:

S. F. No. 372, A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

Rice from the Committee on Appropriations to which was referred:

S. F. No. 1198, A bill for an act relating to state government; providing for deficiencies in appropriations for the expenses of state government with certain conditions; appropriating money.

Reported the same back with the recommendation that the bill pass.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. No. 648 was read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 463, 932, 1168, 1165, 742, 769, 892, 372 and 1198 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Clark, J.; Greenfield and Onnen introduced:

H. F. No. 1276, A bill for an act relating to public welfare; providing for local level coordination of chemical dependency, mental retardation, and mental health services through area councils; transferring money; amending Minnesota Statutes 1982, sections 245.61; 245.63; 245.66; 245.69, subdivision 1; 245.711, subdivision 1; 245.713, subdivision 1; 245.716, subdivision 2; 245.73, subdivision 1; 252.27, subdivision 2; 256E.03, subdivision 2; 256E.06, subdivision 2; 256E.09, subdivision 3; and 256E.12, subdivisions 1 and 3; proposing new law coded as Minnesota Statutes, chapter 245A; repealing Minnesota Statutes 1982, sections 245.64; 245.711, subdivision 2; 245.712, subdivision 1; 245.713, subdivisions 2 and 3; 245.716, subdivisions 1 and 3; and 256E.08, subdivision 9.

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

Heap, Knickerbocker, Hokr and Shaver introduced:

H. F. No. 1277, A bill for an act relating to taxation; income; adopting federal income tax treatment of certain retirement plans; amending Minnesota Statutes 1982, section 290.01, subdivisions 20a, as amended and 20b, as amended.

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

Heap, Heinitz, Olsen and Himle introduced:

H. F. No. 1278, A bill for an act relating to taxation; income; providing a separate rate schedule for income from an S corporation; amending Minnesota Statutes 1982, section 290.06, subdivision 2c.

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

Levi; Clark, J.; Kelly; Forsythe and Vanasek introduced:

H. F. No. 1279, A bill for an act relating to crimes; providing for the admissibility of certain sexual abuse victims' statements as evidence; defining the crime of indecent liberties; increasing the age limits of minor victims in the definitions of criminal sexual conduct offenses; clarifying responsibility for payment of costs of medical examinations of criminal sexual conduct or intrafamilial sexual abuse victims; amending Minnesota Statutes 1982, sections 595.02; 609.342; 609.343; 609.344; 609.345; 609.346; and 609.35; proposing new law coded in Minnesota Statutes, chapter 609.

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

Munger; Mann; Carlson, D.; Battaglia and Erickson introduced:

H. F. No. 1280, A bill for an act relating to transportation; establishing a railroad passenger service study commission to study the feasibility and potential of expanded railroad passenger service within the state.

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

MESSAGES FROM THE SENATE

The following messages were received from the Senate:

Mr. Speaker:

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

H. F. No. 194, A bill for an act relating to labor; creating an exemption from state minimum wage for certain live-in child care county employees; amending Minnesota Statutes 1982, section 177.23, subdivision 7.

H. F. No. 403, A bill for an act relating to taxation; providing a special levy for operating costs of a county jail; amending Minnesota Statutes 1982, section 275.50, subdivision 5.

H. F. No. 758, A bill for an act relating to mining; extending the time period within which certain idle open pit mines must be fenced; amending Minnesota Statutes 1982, section 180.03, subdivision 2.

H. F. No. 1101, A bill for an act relating to natural resources; authorizing the commissioner to sell to or exchange surplus tree planting stock with other states and the federal government under certain circumstances; amending Minnesota Statutes 1982, section 89.36, 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 Files, herewith returned:

H. F. No. 490, A bill for an act relating to public welfare; setting standards for determining the county of financial responsibility for purposes of medical assistance, community social services, and supplemental aid; amending Minnesota Statutes 1982, sections 256B.02, subdivisions 2 and 3; 256D.37, by adding a subdivision; and 256E.08, subdivision 7.

H. F. No. 694, A bill for an act relating to Ramsey County; providing for the membership, terms, and procedures of the medical center commission; amending Minnesota Statutes 1982, section 383A.41, subdivisions 2, 3, and 4.

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. 859, A bill for an act relating to the military; redefining categories of service; restricting state liability for workers' compensation claims, tort claims, and special compensation payments; clarifying applicability of state's uniform code of military justice; reenacting the authority of the adjutant general to repair regimental battle flags; amending Minnesota Statutes 1982, sections 3.732, subdivision 1; 176.011, subdivision 9; 190.05, subdivision 5, and by adding subdivisions; 192.38; 192A.015; and 192A.02, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 190.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Kostohryz moved that the House concur in the Senate amendments to H. F. No. 859 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 859, A bill for an act relating to the military; redefining categories of service; restricting state liability for workers' compensation claims, tort claims, and special compensation payments; clarifying applicability of state's uniform code of military justice; reenacting the authority of the adjutant general to repair regimental battle flags; amending Minnesota Statutes 1982, sections 3.732, subdivision 1; 176.011, subdivision 9; 190.05, subdivision 5, and by adding subdivisions; 192.38; 192A.015; and 192A.02, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 190.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Blatz	Dempsey	Forsythe	Heinitz
Anderson, G.	Brinkman	DenOuden	Frerichs	Himle
Anderson, R.	Burger	Dimler	Graba	Hoberg
Battaglia	Carlson, D.	Eken	Greenfield	Hoffman
Beard	Carlson, L.	Elioff	Gruenes	Hokr
Begich	Clark, J.	Ellingson	Gustafson	Jacobs
Bennett	Clark, K.	Erickson	Gutknecht	Jennings
Bergstrom	Clawson	Evans	Halberg	Johnson
Berkelman	Cohen	Findlay	Haukoos	Ka'an
Bishop	Coleman	Fjoslien	Heap	Kalis

Kelly	Minne	Piepho	Scheid	Thiede
Knickerbocker	Munger	Piper	Schoenfeld	Tomlinson
Knuth	Murphy	Price	Schreiber	Tunheim
Kostohryz	Nelson, D.	Quinn	Seaberg	Uphus
Krueger	Nelson, K.	Quist	Segal	Valan
Kvam	Neuenschwander	Redalen	Shaver	Valento
Larsen	Norton	Reif	Shea	Vanasek
Levi	O'Connor	Rice	Sherman	Voss
Long	Ogren	Riveness	Simoneau	Waltman
Ludeman	Olsen	Rodosovich	Skoglund	Welch
Mann	Omann	Rodriguez, C.	Solberg	Welker
Marsh	Onnen	Rodriguez, F.	Sparby	Wenzel
McDonald	Osthoff	Rose	Stadum	Wigley
McEachern	Otis	St. Onge	Staten	Wynia
McKasy	Pauly	Sarna	Swiggum	Zaffke
Metzen	Peterson	Schafer	Swanson	Speaker Sieben

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. 1006, A bill for an act relating to intoxicating liquor; authorizing a city to authorize an on-sale licensee to dispense liquor at events held in facilities of the metropolitan sports facilities commission; amending Minnesota Statutes 1982, section 340.11, subdivision 11c.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Riveness moved that the House concur in the Senate amendments to H. F. No. 1006 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 1006, A bill for an act relating to intoxicating liquor; authorizing a city to authorize an on-sale licensee to dispense liquor at events held in facilities of the metropolitan sports facilities commission; amending Minnesota Statutes 1982, section 340.11, subdivision 11c.

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 118 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Fjoslien	Kvam	Peterson	Simoneau
Anderson, G.	Forsythe	Larsen	Piepho	Skoglund
Anderson, R.	Graba	Levi	Piper	Solberg
Battaglia	Greenfield	Long	Price	Sparby
Beard	Gruenes	Ludeman	Quinn	Stadum
Begich	Gustafson	Mann	Quist	Staten
Bennett	Gutknecht	Marsh	Redalen	Swanson
Bergstrom	Halberg	McEachern	Reif	Tomlinson
Berkelman	Heap	McKasy	Rice	Tunheim
Bishop	Heinitz	Metzen	Riveness	Uphus
Blatz	Himle	Minne	Rodosovich	Valan
Brinkman	Hoberg	Munger	Rodriguez, C.	Valento
Burger	Hoffman	Murphy	Rodriguez, F.	Vanasek
Carlson, L.	Hokr	Nelson, D.	Rose	Vellenga
Clark, J.	Jacobs	Nelson, K.	St. Onge	Voss
Clark, K.	Jennings	Neuenschwander	Sarna	Welch
Clawson	Jensen	Norton	Scheid	Welle
Cohen	Johnson	O'Connor	Schoenfeld	Wenzel
Coleman	Kahn	Ogren	Schreiber	Wigley
Eken	Kalis	Olsen	Seaberg	Wynia
Elioff	Knickerbocker	Omann	Segal	Zaffke
Ellingson	Knuth	Osthoff	Shaver	Speaker Sieben
Evans	Kostohryz	Otis	Shea	
Findlay	Krueger	Pauly	Sherman	

Those who voted in the negative were:

Carlson, D.	Erickson	Kelly	Swiggum	Welker
DenOuden	Frerichs	Onnen	Thiede	
Dimler	Haukoos	Schafer	Waltman	

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. 987, A bill for an act relating to public utilities; providing for additional investment authority of bond proceeds; amending Minnesota Statutes 1982, section 216B.49, by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Bergstrom moved that the House concur in the Senate amendments to H. F. No. 987 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 987, A bill for an act relating to public utilities; providing for additional investment authority of bond proceeds;

amending Minnesota Statutes 1982, section 216B.49, by adding a subdivision.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Evans	Krueger	Peterson	Sparby
Anderson, G.	Findlay	Kvam	Piepho	Stadum
Anderson, R.	Fjoslien	Larsen	Piper	Staten
Battaglia	Forsythe	Levi	Price	Sviggum
Beard	Frerichs	Long	Quinn	Swanson
Begich	Craba	Ludeman	Quist	Thiede
Bennett	Greenfield	Mann	Redalen	Tomlinson
Bergstrom	Gruenes	Marsh	Reif	Tunheim
Berkelman	Gustafson	McDonald	Riveness	Upphus
Bishop	Gutknecht	McEachern	Rodosovich	Valan
Blatz	Halberg	McKasy	Rodriguez, C.	Valento
Brinkman	Haukoos	Metzen	Rodriguez, F.	Vanasek
Burger	Heap	Minne	Rose	Vellenga
Carlson, D.	Heinitz	Munger	St. Onge	Voss
Carlson, L.	Himle	Murphy	Sarna	Waltman
Clark, J.	Hoberg	Nelson, D.	Schafer	Welch
Clark, K.	Hoffman	Nelson, K.	Scheid	Welker
Clawson	Jacobs	Neuenschwander	Schoenfeld	Wellie
Cohen	Jennings	Norton	Schreiber	Wenzel
Coleman	Jensen	O'Connor	Seaberg	Wigley
Dempsey	Johnson	Ogren	Segal	Wynia
DenOuden	Kahn	Olsen	Shaver	Zaffke
Dimler	Kalis	Omann	Shea	Speaker Sieben
Eken	Kelly	Onnen	Sherman	
Elioff	Knickerbocker	Osthoff	Simoneau	
Ellingson	Knuth	Otis	Skoglund	
Erickson	Kostohryz	Pauly	Solberg	

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. 958, A bill for an act relating to long term care; requiring the commissioners of health and public welfare to prepare a report to the legislature.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Rodosovich moved that the House concur in the Senate amendments to H. F. No. 958 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 958, A bill for an act relating to long term care; requiring the commissioners of health and public welfare to prepare a report to the legislature.

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 129 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Evans	Knuth	Osthoff	Simoneau
Anderson, G.	Findlay	Kostohryz	Otis	Skoglund
Anderson, R.	Fjoslien	Krueger	Pauly	Solberg
Battaglia	Forsythe	Kvam	Piepho	Sparby
Beard	Frerichs	Larsen	Piper	Stadum
Begich	Graba	Levi	Price	Staten
Bennett	Greenfield	Long	Quinn	Sviggunn
Bergstrom	Gruenes	Ludeman	Quist	Swanson
Berkelman	Gustafson	Mann	Redalen	Thiede
Bishop	Gutknecht	Marsh	Reif	Tomlinson
Blatz	Halberg	McDonald	Rice	Tunheim
Brinkman	Haukoos	McEachern	Riveness	Uphus
Burger	Heap	McKasy	Rodosovich	Valan
Carlson, D.	Heinitz	Metzen	Rodriguez, C.	Valento
Carlson, L.	Himle	Minne	Rodriguez, F.	Vanasek
Clark, J.	Hoberg	Munger	Rose	Vellenga
Clark, K.	Hoffman	Murphy	St. Onge	Waltman
Clawson	Hokr	Nelson, D.	Sarna	Welch
Cohen	Jacobs	Nelson, K.	Schafer	Welker
Coleman	Jennings	Neuenschwander	Scheid	Welle
Dempsey	Jensen	Norton	Schreiber	Wenzel
DenOuden	Johnson	O'Connor	Seaberg	Wigley
Dimler	Kahn	Ogren	Segal	Wynia
Eken	Kalis	Olsen	Shaver	Zaffke
Elioff	Kelly	Omann	Shea	Speaker Sieben
Erickson	Knickerbocker	Onnen	Sherman	

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. 584, A bill for an act relating to commerce; regulating the consignment of works of art; specifying the rights

and duties of consignors and consignees; defining terms; proposing new law coded as Minnesota Statutes, chapter 324.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Murphy moved that the House concur in the Senate amendments to H. F. No. 584 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 584, A bill for an act relating to commerce; regulating the consignment of works of art; specifying the rights and duties of consignors and consignees; defining terms; proposing new law coded as Minnesota Statutes, chapter 324.

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 114 yeas and 13 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Elioff	Krueger	Pauly	Simoneau
Anderson, G.	Ellingson	Kvam	Peterson	Skoglund
Anderson, R.	Evans	Larsen	Piepho	Solberg
Battaglia	Findlay	Levi	Piper	Sparby
Beard	Fjoslien	Long	Price	Stadum
Begich	Gruenes	Mann	Quinn	Staten
Bennett	Gustafson	Marsh	Redalen	Swanson
Bergstrom	Gutknecht	McEachern	Reif	Thiede
Berkelman	Halberg	McKasy	Rice	Tomlinson
Bishop	Heap	Metzen	Riveness	Tunheim
Blatz	Heinitz	Minne	Rodosovich	Valan
Brinkman	Himle	Munger	Rodriguez, C.	Valento
Burger	Hoberg	Murphy	Rodriguez, F.	Vanasek
Carlson, D.	Hoffman	Nelson, D.	Rose	Vellenga
Carlson, L.	Jacobs	Nelson, K.	St. Onge	Voss
Clark, J.	Jensen	Neuenschwander	Sarna	Waltman
Clark, K.	Johnson	Norton	Scheid	Welch
Clawson	Kahn	O'Connor	Schoenfeld	Welle
Cohen	Kalis	Ogren	Schreiber	Wenzel
Coleman	Kelly	Olsen	Seaberg	Wigley
Dempsey	Knickerbocker	Onnen	Shaver	Wynia
Dimler	Knuth	Osthoff	Shea	Speaker Sieben
Eken	Kostohryz	Otis	Sherman	

Those who voted in the negative were:

DenOuden	Haukoos	Omann	Sviggm	Zaffke
Erickson	Jennings	Quist	Uphus	
Frerichs	Ludeman	Schafer	Welker	

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. 588, A bill for an act relating to the North Suburban Hospital District; providing for adjustment of terms of office; changing filing dates for candidates for the hospital board.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Simoneau moved that the House concur in the Senate amendments to H. F. No. 588 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 588, A bill for an act relating to the North Suburban Hospital District; providing for adjustment of terms of office; changing filing dates for candidates for the hospital board.

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 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Evans	Kostohryz	Pauly	Solberg
Anderson, G.	Findlay	Krueger	Peterson	Sparby
Anderson, R.	Fjoslien	Kvam	Piepho	Stadum
Battaglia	Forsythe	Larsen	Piper	Staten
Beard	Frerichs	Levi	Price	Sviggum
Begich	Graba	Long	Quinn	Swanson
Bennett	Greenfield	Ludeman	Quist	Thiede
Bergstrom	Gruenes	Mann	Redalen	Tomlinson
Berkelman	Gustafson	Marsh	Reif	Tunheim
Bishop	Gutknecht	McDonald	Rice	Uphus
Blatz	Halberg	McEachern	Riveness	Valan
Brinkman	Haukoos	McKasy	Rodovich	Valento
Burger	Heap	Metzen	Rodriguez, C.	Vanasek
Carlson, D.	Heinitz	Minne	Rodriguez, F.	Vellenga
Carlson, L.	Himle	Munger	Rose	Waltman
Clark, J.	Hoberg	Murphy	St. Onge	Welch
Clark, K.	Hoffman	Nelson, D.	Sarna	Welker
Clawson	Hokr	Nelson, K.	Schafer	Welle
Cohen	Jacobs	Neuenschwander	Scheid	Wenzel
Coleman	Jennings	Norton	Schreiber	Wigley
Dempsey	Jensen	O'Connor	Seaberg	Wynia
DenOuden	Johnson	Ogren	Segal	Zaffke
Dimler	Kahn	Olsen	Shaver	Speaker Sieben
Eken	Kalis	Omann	Shea	
Elioff	Kelly	Onnen	Sherman	
Ellingson	Knickerbocker	Osthoff	Simoneau	
Erickson	Knuth	Otis	Skoglund	

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. 462, A bill for an act relating to St. Louis County; limiting compensation of elected county officers.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Begich moved that the House concur in the Senate amendments to H. F. No. 462 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 462, A bill for an act relating to St. Louis County; limiting compensation of elected county officers; providing that the county board set the fees for tax search certificates; providing for reimbursement of certain expenses of county commissioners; allowing the county board to designate a clerk other than the auditor; amending Laws 1951, chapter 391, section 2; Laws 1955, chapter 633, section 1, subdivision 2, as amended; and Laws 1959, chapter 301, section 1, as amended.

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 123 yeas and 3 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Dempsey	Heap	Levi	Omann
Anderson, G.	DonOuden	Heinitz	Long	Onnen
Anderson, R.	Dimler	Himle	Ludeman	Otis
Battaglia	Eken	Hoberg	Mann	Pauly
Beard	Elioff	Hoffman	Marsh	Peterson
Begich	Ellingson	Hokr	McDonald	Piepho
Bergstrom	Erickson	Jacobs	McEachern	Piper
Bishop	Evans	Jennings	McKasy	Price
Blatz	Findlay	Jensen	Metzen	Quinn
Brinkman	Fjoslien	Johnson	Minne	Quist
Burger	Forsythe	Kalis	Murphy	Redalen
Carlson, D.	Frerichs	Kelly	Nelson, D.	Reif
Carlson, L.	Graba	Knickerbocker	Nelson, K.	Rice
Clark, J.	Greenfield	Knuth	Neuenschwander	Riveness
Clark, K.	Gruenes	Kostohryz	Norton	Rodosovich
Clawson	Gutknecht	Krueger	O'Connor	Rodriguez, C.
Cohen	Halberg	Kvam	Ogren	Rodriguez, F.
Coleman	Haukoos	Larsen	Olsen	Rose

St. Onge	Shaver	Siadum	Uphus	Wenzel
Sarna	Shea	Staten	Valan	Wigley
Schafer	Sherman	Sviggum	Valento	Wynia
Scheid	Simoneau	Swanson	Vanasek	Zaffke
Schreiber	Skoglund	Thiede	Waltman	Speaker Sieben
Seaberg	Solberg	Tomlinson	Welch	
Segal	Sparby	Tunheim	Welle	

Those who voted in the negative were:

Berkelman	Munger	Osthoff
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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. 318, A bill for an act relating to local government; regulating kinds of and charges for water and sewer facilities and services; amending Minnesota Statutes 1982, section 444.075, subdivisions 1 and 3.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Riveness moved that the House concur in the Senate amendments to H. F. No. 318 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 318, A bill for an act relating to local government; regulating kinds of and charges for water and sewer facilities and services; amending Minnesota Statutes 1982, section 444.075, subdivisions 1 and 3.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Bennett	Burger	Coleman	Erickson
Anderson, G.	Bergstrom	Carlson, L.	DenOuden	Evans
Anderson, R.	Berkelman	Clark, J.	Dimler	Findlay
Battaglia	Bishop	Clark, K.	Eken	Fjoslien
Beard	Blatz	Clawson	Elioff	Forsythe
Begich	Brinkman	Cohen	Ellingson	Frerichs

Graba	Knickerbocker	Neuenschwander	Rodosovich	Sviggum
Greenfield	Knuth	Norton	Rodriguez, C.	Swanson
Gruenes	Kostohryz	O'Connor	Rodriguez, F.	Thiede
Gustafson	Krueger	Ogren	Rose	Tomlinson
Gutknecht	Kvam	Olsen	St. Onge	Tunheim
Halberg	Larsen	Omann	Sarna	Uphus
Haukoos	Levi	Onnen	Schafer	Valan
Heap	Long	Osthoff	Scheid	Valento
Heinitz	Ludeman	Otis	Schoenfeld	Vanasek
Himle	Mann	Pauly	Schreiber	Veilenga
Hoberg	Marsh	Peterson	Seaberg	Voss
Hoffman	McDonald	Piepho	Segal	Waltman
Hokr	McEachern	Piper	Shaver	Welch
Jacobs	McKasy	Price	Shea	Welker
Jennings	Metzen	Quinn	Sherman	Welle
Jensen	Minne	Quist	Skoglund	Wenzel
Johnson	Munger	Redalen	Solberg	Wigley
Kahn	Murphy	Reif	Sparby	Wynia
Kalis	Nelson, D.	Rice	Stadum	Zaffke
Kelly	Nelson, K.	Riveness	Staten	Speaker Sieben

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. 725, A bill for an act relating to transportation; classifying right-of-way appraisals as confidential data; regulating the conveyancing and leasing of certain rights-of-way; providing that the consideration to be paid upon reconveyance be equal to the estimated current market value of the property reconveyed; authorizing the acquisition of fee title under certain conditions; authorizing the lease of certain easements and providing for the distribution of rents; providing for the alteration of public drainage systems affecting trunk highways; authorizing fees for and the services of a licensed real estate broker for disposing of right-of-way; authorizing the commissioner to convey land to a utility under certain circumstances; amending Minnesota Statutes 1982, sections 13.50, subdivision 1; 161.202, subdivision 4; 161.241, subdivision 4; 161.28, subdivision 1; 161.43; 161.44, subdivisions 2 and 9, and by adding a subdivision; 161.46, subdivision 4; and proposing new law coded in Minnesota Statutes, chapter 161.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Kalis moved that the House concur in the Senate amendments to H. F. No. 725 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 725, A bill for an act relating to transportation; classifying right-of-way appraisals as confidential data; regulating the conveyancing and leasing of certain rights-of-way; providing that the consideration to be paid upon reconveyance be equal to the estimated current market value of the property reconveyed; authorizing the acquisition of fee title under certain conditions; authorizing the lease of certain easements and providing for the distribution of rents; providing for the alteration of public drainage systems affecting trunk highways; authorizing fees for and the services of a licensed real estate broker for disposing of right-of-way; authorizing the commissioner to convey land to a utility under certain circumstances; amending Minnesota Statutes 1982, sections 13.50, subdivision 1; 161.202, subdivision 4; 161.241, subdivisions 3 and 4; 161.28, subdivision 1; 161.43; 161.44, subdivisions 2 and 9, and by adding a subdivision; 161.46, subdivision 4; and proposing new law coded in Minnesota Statutes, chapter 161.

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 129 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, B.	Findlay	Kostohryz	Otis	Simoneau
Anderson, G.	Fjoslien	Krueger	Pauly	Skoglund
Anderson, R.	Forsythe	Kvam	Peterson	Solberg
Battaglia	Freichs	Larsen	Piepho	Sparby
Beard	Graba	Levi	Piper	Stadum
Begich	Greenfield	Long	Price	Staten
Bennett	Gruenes	Ludeman	Quinn	Sviggun
Bergstrom	Gustafson	Mann	Quist	Swanson
Berkelman	Gutknecht	Marsh	Redalen	Thiede
Bishop	Halberg	McDonald	Reif	Tomlinson
Blatz	Haukoos	McEachern	Rice	Tunheim
Brinkman	Heap	McKasy	Riveness	Uphus
Burger	Heinitz	Metzen	Rodosovich	Valan
Carlson, L.	Hirle	Minne	Rodriguez, C.	Valento
Clark, J.	Hoberg	Munger	Rodriguez, F.	Vanasek
Clawson	Hoffman	Murphy	Rose	Vellenga
Cohen	Hokr	Nelson, D.	St. Onge	Voss
Coleman	Jacobs	Nelson, K.	Sarna	Waltman
Dempsey	Jennings	Neuenschwander	Scheid	Welle
DenOuden	Jensen	Norton	Schoenfeld	Wenzel
Dimler	Johnson	O'Connor	Schreiber	Wigley
Eken	Kahn	Ogren	Seaberg	Wynia
Elioff	Kalis	Olsen	Segal	Zaffke
Ellingson	Kelly	Onann	Shaver	Speaker Sieben
Erickson	Knickerbocker	Onnen	Shea	
Evans	Knuth	Osthoff	Sherman	

Those who voted in the negative were:

Weiker

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. 482, A bill for an act relating to open meetings; requiring availability of certain materials; prescribing penalties; amending Minnesota Statutes 1982, section 471.705, subdivision 2; and by adding a subdivision.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Wynia moved that the House concur in the Senate amendments to H. F. No. 482 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 482, A bill for an act relating to open meetings; requiring availability of certain materials; prescribing penalties; amending Minnesota Statutes 1982, section 471.705, by adding a subdivision.

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 33 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Evans	Krueger	Pauly	Shaver
Battaglia	Forsythe	Larsen	Peterson	Sherman
Beard	Graba	Long	Piper	Simoneau
Begich	Greenfield	McEachern	Price	Skoglund
Bennett	Gruenes	McKasy	Quinn	Solberg
Bergstrom	Gustafson	Metzen	Quist	Sparby
Berkelman	Gutknecht	Minne	Reif	Staten
Bishop	Heap	Munger	Rice	Swanson
Blatz	Heinitz	Murphy	Riveness	Tomlinson
Burger	Himle	Nelson, D.	Rodosovich	Tunheim
Carlson, L.	Hoberg	Nelson, K.	Rodriguez, C.	Vanasek
Clark, J.	Hoffman	Neuenschwander	Rodriguez, F.	Vellenga
Clark, K.	Jacobs	Norton	Rose	Voss
Clawson	Jensen	O'Connor	St. Onge	Welch
Cohen	Kahn	Ogren	Sarna	Welle
Coleman	Kelly	Olsen	Scheid	Wenzel
Eken	Knickerbocker	Onnen	Schoenfeld	Wynia
Elioff	Knuth	Osthoff	Seaberg	Zaffke
Ellingson	Kostohryz	Otis	Segal	Speaker Sieben

Those who voted in the negative were:

Anderson, G.	Fjoslien	Kalis	Omann	Thiede
Brinkman	Frerichs	Kvam	Piepho	Uphus
Dempsey	Halberg	Levi	Redalen	Waltman
DenOuden	Haukoos	Ludeman	Schafer	Welker
Dimler	Hokr	Mann	Schreiber	Wigley
Erickson	Jennings	Marsh	Stadum	
Findlay	Johnson	McDonald	Svigum	

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. 223, A bill for an act relating to taxation; authorizing the assessment of personal liability of corporate or partnership officers or employees; deleting obsolete references; providing for service of summons and subpoena by mail; providing that tax liens include certain costs; providing for the filing of liens and the transcription of liens to other counties; eliminating the requirement of notification to commissioner of foreclosure in certain instances; providing for the assessment of taxes; providing time limitations for court proceedings to collect certain taxes; providing for a suspension of certain time limitations in bankruptcy cases; clarifying the classification of tax claims in estates; providing a bond requirement to secure withholding taxes; providing that the withholding tax clearance required for state contractors be expanded to include out-of-state subcontractors; amending Minnesota Statutes 1982, sections 270.06; 270.10, by adding a subdivision; 270.69, subdivisions 1, 4, 7, and by adding a subdivision; 270.70, subdivisions 1, 10, and 14; 290.49, subdivision 6; 290.58; 290.92, subdivisions 6 and 6a; 290.97; 297A.34, subdivisions 4, 5, and by adding a subdivision; 297A.42, subdivision 2; and 524.3-805.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Ogren moved that the House concur in the Senate amendments to H. F. No. 223 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 223, A bill for an act relating to taxation; authorizing the assessment of personal liability of corporate or partnership officers or employees; deleting obsolete references; clarifying that administrative subpoenas are enforced in the judicial district where the parties served is located; provid-

ing that tax liens include certain costs; providing for the filing of liens and the transcription of liens to other counties; eliminating the requirement of notification to commissioner of foreclosure in certain instances; providing for the assessment of taxes; providing time limitations for court proceedings to collect certain taxes; providing for a suspension of certain time limitations in bankruptcy cases; clarifying the classification of tax claims in estates; providing a bond requirement to secure withholding taxes; providing for payment of withholding taxes by contractors and certain subcontractors prior to final contract settlement; amending Minnesota Statutes 1982, sections 270.06; 270.10, by adding a subdivision; 270.69, subdivisions 1, 4, 7, and by adding a subdivision; 270.70, subdivisions 1, 10, and 14; 290.49, subdivision 6; 290.58; 290.92, subdivisions 6 and 6a; 290.97; 297A.34, subdivisions 4, 5, and by adding a subdivision; 297A.42, subdivision 2; and 524.3-805.

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 98 yeas and 24 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Ellingson	Knickerbocker	Osthoff	Simoneau
Anderson, G.	Evans	Knuth	Otis	Skoglund
Anderson, R.	Findlay	Kostohryz	Pauly	Solberg
Battaglia	Fjoslien	Krueger	Peterson	Sparby
Beard	Forsythe	Larsen	Piper	Staten
Begich	Graba	Long	Price	Swanson
Bennett	Greenfield	Mann	Reif	Tomlinson
Bergstrom	Gustafson	Marsh	Rice	Tunheim
Berkelman	Halberg	McEachern	Riveness	Valan
Bishop	Heap	McKasy	Rodosovich	Vanasek
Blatz	Heinitz	Minne	Rodriguez, C.	Vellenga
Brinkman	Himle	Munger	Rodriguez, F.	Voss
Burger	Hoberg	Murphy	St. Onge	Waltman
Carlson, L.	Hoffman	Nelson, D.	Sarna	Welch
Clark, J.	Jacobs	Nelson, K.	Scheid	Welle
Clark, K.	Jensen	Neuenschwander	Schreiber	Wenzel
Clawson	Johnson	Norton	Scaberg	Wynia
Cohen	Kahn	O'Connor	Segal	Speaker Sieben
Eken	Kalis	Ogren	Shaver	
Elioff	Kelly	Olsen	Sherman	

Those who voted in the negative were:

Dempsey	Haukoos	McDonald	Redalen	Uphus
DenOuden	Hokr	Omann	Schafer	Welker
Erickson	Jennings	Onnen	Schoenfeld	Wigley
Frerichs	Kvam	Piepho	Stadum	Zaffke
Gutknecht	Ludeman	Quist	Thiede	

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. 189, A bill for an act relating to energy; requiring certain conservation investments by regulated utilities; amending Minnesota Statutes 1982, sections 116J.09; 116J.18, subdivision 1a; 216A.07, subdivision 3; 216B.03; 216B.16, subdivision 1; and 216B.241, subdivisions 1, 2, and 3.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Otis moved that the House concur in the Senate amendments to H. F. No. 189 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 189, A bill for an act relating to energy; requiring certain conservation investments by regulated utilities; amending Minnesota Statutes 1982, sections 116J.09; 116J.18, subdivision 1a; 216A.07, subdivision 3; 216B.03; 216B.16, subdivision 1; and 216B.241, subdivisions 1, 2, and 3.

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 73 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Elioff	McEachern	Price	Sparby
Anderson, R.	Ellingson	Minne	Reif	Staten
Battaglia	Evans	Munger	Rice	Swanson
Beard	Greenfield	Murphy	Riveness	Tomlinson
Begich	Gustafson	Nelson, D.	Rodosovich	Tunheim
Bergstrom	Hoffman	Nelson, K.	Rodriguez, C.	Vanasek
Berkelman	Jacobs	Neuenschwander	Rodriguez, F.	Vellenga
Brinkman	Jensen	Norton	Sarna	Voss
Carlson, L.	Kahn	O'Connor	Scheid	Welch
Clark, J.	Kelly	Ogren	Segal	Welle
Clark, K.	Knuth	Olsen	Shaver	Wenzel
Clawson	Kostohryz	Osthoff	Shea	Wynia
Cohen	Krueger	Otis	Simoneau	Speaker Sieben
Coleman	Larsen	Peterson	Skoglund	
Eken	Long	Piper	Solberg	

Those who voted in the negative were:

Bennett	Blatz	Dempsey	Dimler	Findlay
Bishop	Burger	DenOuden	Erickson	Fjoslien

Forsythe	Himle	Ludeman	Redalen	Valan
Frerichs	Hoberg	Mann	Rose	Valento
Graba	Hokr	Marsh	Schafer	Waltman
Gruenes	Jennings	McDonald	Schreiber	Welker
Gutknecht	Johnson	McKasy	Seaberg	Wigley
Halberg	Kalis	Omann	Sherman	Zaifke
Haukoos	Knickerbocker	Onnen	Sviggum	
Heap	Kvam	Piepho	Thiede	
Heinitz	Levi	Quist	Uphus	

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. 259, A bill for an act relating to watercraft safety; requirement for rear view mirrors while towing skiers; amending Minnesota Statutes 1982, section 361.09, subdivision 1.

PATRICK E. FLAHAVEN, Secretary of the Senate

CONCURRENCE AND REPASSAGE

Bennett moved that the House concur in the Senate amendments to H. F. No. 259 and that the bill be repassed as amended by the Senate. The motion prevailed.

H. F. No. 259, A bill for an act relating to watercraft safety; requirement for rear view mirrors while towing skiers; amending Minnesota Statutes 1982, section 361.09, subdivision 1.

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 126 yeas and 2 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Clark, J.	Evans	Heap	Knickerbocker
Anderson, R	Clark, K.	Findlay	Heinitz	Knuth
Battaglia	Clawson	Fjoslien	Himle	Kostohryz
Beard	Cohen	Forsythe	Hoberg	Krueger
Begich	Coleman	Frerichs	Hoffman	Kvam
Bennett	Dempsey	Graba	Hokr	Larsen
Bergstrom	DenOuden	Greenfield	Jacobs	Levi
Bishop	Dimler	Gruenes	Jennings	Long
Blatz	Eken	Gustafson	Jensen	Ludeman
Brinkman	Elioff	Gutknecht	Johnson	Mann
Burger	Ellingson	Halberg	Kalis	Marsh
Carlson, L.	Erickson	Haukoos	Kelly	McDonald

McEachern	Onnen	Rodosovich	Sherman	Valento
McKasy	Osthoff	Rodriguez, C.	Simoneau	Vellenga
Metzen	Otis	Rodriguez, F.	Skoglund	Voss
Minne	Pauly	Rose	Solberg	Waltman
Munger	Peterson	St. Onge	Sparby	Welch
Murphy	Piepho	Sarna	Stadum	Welle
Nelson, D.	Piper	Schafer	Staten	Wenzel
Nelson, K.	Price	Scheid	Swiggum	Wigley
Neuenschwander	Quinn	Schoenfeld	Swanson	Wynia
Norton	Quist	Schreiber	Thiede	Speaker Sieben
O'Connor	Redalen	Seaberg	Tomlinson	
Ogren	Reif	Segal	Tutheim	
Olsen	Rice	Shaver	Uphus	
Omann	Riveness	Shea	Valan	

Those who voted in the negative were:

Vanasek Zaffke

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. 667, A bill for an act relating to employment; providing leaves of absence for adoptive parents; proposing new law coded in Minnesota Statutes, chapter 181.

PATRICK E. FLAHAVEN, Secretary of the Senate

Blatz moved that the House refuse to concur in the Senate amendments to H. F. No. 667, 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 Files, herewith transmitted:

S. F. Nos. 132 and 812.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

S. F. Nos. 318, 733 and 800.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

S. F. Nos. 985 and 1048.

PATRICK E. FLAHAVEN, Secretary of the Senate

Mr. Speaker:

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

S. F. Nos. 85, 359, 557, 984, 1003, 1008 and 1152.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 132, A bill for an act relating to state government; providing for chiropractic positions in state government civil service; providing for the provision of chiropractic services; proposing new law coded in Minnesota Statutes, chapters 43A and 148.

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

S. F. No. 812, A bill for an act relating to highway traffic regulations; clarifying certain bumper requirements; restricting the height of bumpers on certain vehicles; amending Minnesota Statutes 1982, section 169.73.

The bill was read for the first time.

Hoffman moved that S. F. No. 812 and H. F. No. 814, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 318, A bill for an act relating to alcohol and other drug abuse; requiring certain persons to report suspected chemical abuse by minors; establishing certain duties of certain chemical dependency counselors; proposing new law coded in Minnesota Statutes, chapter 626.

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

S. F. No. 733, A bill for an act relating to game and fish; licensing and record keeping by certain licensees; amending Minnesota Statutes 1982, sections 98.46, subdivision 5; and 98.51, subdivisions 2, 3, and by adding a subdivision.

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

S. F. No. 800, A bill for an act relating to health; providing for retention and destruction of certain medical records; amending Minnesota Statutes 1982, section 145.32.

The bill was read for the first time.

Eken moved that S. F. No. 800 and H. F. No. 544, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 985, A bill for an act relating to game and fish; penalty for taking or illegally possessing big game during the closed season; requiring hunters and trappers to wear a blaze orange cap, vest, or jacket during the firearm deer season; amending Minnesota Statutes 1982, sections 97.55, subdivision 9; and 100.29, subdivision 8, and by adding a subdivision.

The bill was read for the first time.

Neuenschwander moved that S. F. No. 985 and H. F. No. 1065, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1048, A bill for an act relating to natural resources; strengthening certain laws regarding the transportation of wild animals; including conservation officer in the definition of peace officer for purpose of laws relating to fleeing a peace officer; amending Minnesota Statutes 1982, sections 65B.605, subdivision 2; 97.45, subdivisions 1, 3, 4, 6, 7, and 12, and by adding a subdivision; and 609.487, subdivision 2; repealing Minnesota Statutes 1982, section 97.45, subdivision 5.

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

S. F. No. 85, A bill for an act relating to taxation; providing a property tax credit to certain veterans awarded the congressional medal of honor; appropriating money; proposing new law coded in Minnesota Statutes, chapter 273.

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

S. F. No. 359, A bill for an act relating to taxation; providing a transitional period of exemption from the tax on aggregate materials under certain circumstances.

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

S. F. No. 557, A bill for an act relating to costs and attorney fees; providing for recovery of costs and attorney fees by prevailing parties in civil actions against the state and administrative contested cases; amending Minnesota Statutes 1982, section 549.21; proposing new law coded in Minnesota Statutes, chapter 14.

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

S. F. No. 984, A bill for an act relating to taxation; authorizing cities to impose taxes on the gross receipts from the furnishing of certain lodging; requiring these funds to be dedicated to tourism marketing and promotion; proposing new law coded in Minnesota Statutes, chapter 477A.

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

S. F. No. 1003, A bill for an act relating to public welfare; establishing a medical assistance social health maintenance organization demonstration project; proposing new law coded in Minnesota Statutes, chapter 256B.

The bill was read for the first time.

Eken moved that S. F. No. 1003 and H. F. No. 933, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1008, A bill for an act relating to courts; authorizing the appointment of court referees; amending Minnesota Statutes 1982, sections 260.031, subdivision 1; 484.65, subdivisions 4, 5, and 6; and 484.70, subdivision 1; repealing Minnesota Statutes 1982, section 484.701.

The bill was read for the first time.

Ellingson moved that S. F. No. 1008 and H. F. No. 898, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

S. F. No. 1152, A bill for an act relating to marriage dissolution; clarifying factors to be considered in modifying a child

support order; amending Minnesota Statutes 1982, section 518.-64, subdivision 2.

The bill was read for the first time.

Forsythe moved that S. F. No. 1152 and H. F. No. 802, now on General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

ANNOUNCEMENT BY THE SPEAKER

The Speaker announced the appointment of the following members of the House to a Conference Committee on H. F. No. 667:

Blatz, Price and Krueger.

The Speaker called Wynia to the Chair.

CONSENT CALENDAR

S. F. No. 1105, A bill for an act relating to state lands; providing for the conveyance of certain state land to the city of St. Peter for use as a roadway.

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 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Elioff	Jensen	Nelson, K.	Rose
Anderson, C.	Ellingson	Johnson	Neuenschwander	St. Onge
Anderson, R.	Erickson	Kahn	Norton	Sarna
Battaglia	Evans	Kalis	O'Connor	Schafer
Beard	Findlay	Kelly	Ogren	Scheid
Begich	Fjoslien	Knickerbocker	Olsen	Schoenfeld
Bennett	Forsythe	Knuth	Omamn	Schreiber
Bergstrom	Frerichs	Kostohryz	Onnen	Seaberg
Berkelman	Graba	Krueger	Osthoff	Segal
Bishop	Greenfield	Kvam	Otis	Shaver
Blatz	Gruenes	Larsen	Pauly	Shea
Brinkman	Gustafson	Levi	Peterson	Sherman
Burger	Gutknecht	Ludeman	Piepho	Simoneau
Carlson, L.	Halberg	Mann	Price	Skoglund
Clark, J.	Haukoos	Marsh	Quinn	Solberg
Clark, K.	Heap	McDonald	Quist	Sparby
Clawson	Heinritz	McEachern	Redalen	Stadum
Cohen	Himle	McKasy	Reif	Staten
Coleman	Hoberg	Metzen	Rice	Sviggunn
Dempsey	Hoffman	Minne	Riveness	Swanson
DenOuden	Hokr	Munger	Rodosovich	Thiede
Dimler	Jacobs	Murphy	Rodriguez, C.	Tomlinson
Eken	Jennings	Nelson, D.	Rodriguez, F.	Tunheim

Uphus
Valan
Valento

Vanasek
Vellenga
Voss

Waltman
Welch
Welker

Welle
Wenzel
Wigley

Wynia
Zaffke
Speaker Sieben

The bill was passed and its title agreed to.

The Speaker resumed the Chair.

CALENDAR

S. F. No. 281, A bill for an act relating to elections; changing the date and time of precinct caucuses; prohibiting various government, school and university events on caucus night; amending Minnesota Statutes 1982, sections 202A.14, subdivision 1; and 202A.19.

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 98 yeas and 27 nays as follows:

Those who voted in the affirmative were:

Anderson, B.
Anderson, G.
Anderson, R.
Battaglia
Beard
Begich
Bennett
Bergstrom
Berkelman
Bishop
Blatz
Brinkman
Burger
Carlson, L.
Clark, J.
Clark, K.
Clawson
Cohen
Coleman
Elioff

Ellingson
Evans
Forsythe
Graba
Greenfield
Gruenes
Gustafson
Gutknecht
Halberg
Heinitz
Himle
Hoberg
Hoffman
Jacobs
Jensen
Kahn
Kalis
Kelly
Knickerbocker
Knuth

Kostohryz
Krueger
Kvam
Larsen
Levi
Long
Mann
Marsh
McEachern
McKasy
Metzen
Minne
Munger
Murphy
Nelson, D.
Nelson, K.
Neuenschwander
Norton
O'Connor
Ogren

Olsen
Omman
Onnen
Osthoff
Otis
Peterson
Piper
Quinn
Quist
Rice
Riveness
Rodriguez, C.
Rodriguez, F.
Rose
St. Onge
Sarna
Scheid
Schoenfeld
Segal
Shaver

Shea
Sherman
Simoneau
Solberg
Sparby
Sviggum
Swanson
Tomlinson
Tunheim
Valan
Vellenga
Voss
Waltman
Welch
Welle
Wenzel
Wynia
Speaker Sieben

Those who voted in the negative were:

Dempsey
DenOuden
Dimler
Erickson
Findlay
Fjoslien

Frerichs
Haukoos
Jennings
Johnson
Ludeman
McDonald

Piepho
Redalen
Reif
Rodosovich
Schafer
Schreiber

Seaberg
Skoglund
Thiede
Uphus
Valento
Vanasek

Welker
Wigley
Zaffke

The bill was passed and its title agreed to.

S. F. No. 664, A bill for an act relating to the city of St. Cloud; authorizing the creation of a downtown parking district; providing for its finances.

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 126 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Fjoslien	Larsen	Piepho	Solberg
Anderson, G.	Forsythe	Levi	Piper	Sparby
Anderson, R.	Frerichs	Long	Price	Stadum
Battaglia	Graba	Ludeman	Quinn	Sviggum
Beard	Gruenes	Mana	Quist	Swanson
Begich	Gustafson	Marsh	Redalen	Thiede
Bennett	Gutknecht	McDonald	Reif	Tomlinson
Bergstrom	Halberg	McEachern	Rice	Tunheim
Berkelman	Haukoos	McKasy	Riveness	Uphus
Bishop	Heap	Metzen	Rodsoovich	Valan
Blatz	Heinitz	Minne	Rodriguez, C.	Valento
Brinkman	Himle	Munger	Rodriguez, F.	Vellenga
Burger	Hoberg	Murphy	Rose	Voss
Carlson, L.	Hoffman	Nelson, D.	St. Onge	Waltman
Clark, J.	Hokr	Nelson, K.	Sarna	Welch
Clark, K.	Jacobs	Neuenschwander	Schafer	Welker
Clawson	Jennings	Norton	Scheid	Welle
Cohen	Jensen	O'Connor	Schoenfeld	Wenzel
Coleman	Johnson	Ogren	Schreiber	Wigley
Dempsey	Kahn	Olsen	Seaberg	Wynia
DenOuden	Kalis	Omann	Segal	Zaffke
Dimler	Knickerbocker	Onnen	Shaver	Speaker Sieben
Elioff	Knuth	Osthoff	Shea	
Ellingson	Kostohryz	Otis	Sherman	
Evans	Krueger	Pauly	Simoneau	
Findlay	Kvam	Peterson	Skoglund	

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 bills as Special Orders to be acted upon immediately preceding General Orders for today, May 4, 1983:

H. F. Nos. 575 and 520; S. F. Nos. 398 and 927; H. F. No. 360; S. F. No. 689; H. F. Nos. 544, 636 and 818; S. F. Nos. 900 and 843; H. F. Nos. 916, 933 and 973; S. F. Nos. 568 and 755; H. F. Nos. 1067 and 1090; S. F. Nos. 639 and 948.

SPECIAL ORDERS

H. F. No. 575 was reported to the House.

Simoneau moved to amend H. F. No. 575, as follows:

Page 1, after line 10, insert:

"ARTICLE 1

Section 1. Minnesota Statutes 1982, section 43A.23, is amended by adding a subdivision to read:

Subd. 3. [CONTRACT WITH INSURANCE CARRIERS.] The commissioner of labor and industry may contract with carriers authorized to provide coverage under the state employees group insurance plan to extend coverage to eligible employees who incur medical expenses due to a personal injury resulting from their state employment which are compensable under chapter 176.

Sec. 2. Minnesota Statutes 1982, 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 January 1, (1986) 1984. 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. 3. Minnesota Statutes 1982, section 79.211, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN WAGES EXCLUDED FOR RATE MAKING.] The rating association or an insurer shall not include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium. *An insurer shall not include that portion of an employee's wages which exceeds 1-1/2 times the maximum temporary total compensation allowed pursuant to section 176.101, subdivision 1, in the determination of a workers' compensation insurance premium provided that this limitation may be waived by an employer.*

Sec. 4. Minnesota Statutes 1982, section 79.251, is amended to read:

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) 5 and 79.251. 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) *six* members to be appointed by the commissioner of insurance. (TWO) *Three* members shall be insureds holding policies or contracts of coverage issued pursuant to (SECTION 79.25) *subdivision 4*. Two members shall be (MEMBERS OF THE ASSOCIATION) *insurers licensed pursuant to section 60A.06, subdivision 1, clause (5) (b)*. The commissioner shall be the (FIFTH) *sixth* member and shall *not* 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 *plan* review board shall audit the reserves established (BY INSURERS) (a) for individual cases arising under policies and contracts of coverage issued under (SECTION 79.25) *subdivision 4* and (b) for the total book of business issued under (SECTION 79.25) *subdivision 4*.

(4) The assigned risk *plan* review board shall monitor the operations of sections (79.24 TO 79.27) 5 and 79.251 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) *insurers and self-insurance administrators* issuing policies or contracts under (SECTION 79.25) *subdivision 4* shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies and contracts of coverage issued under (SECTION 79.25) *subdivision 4* for the purpose of defraying the costs of the assigned risk *plan* review board.

(6) *The assigned risk plan and the assigned risk plan review board shall not be deemed a state agency.*

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies or contracts of coverage issued pursuant to (SECTION 79.25 WHOSE PREMIUM IS LESS THAN THE AMOUNT NECESSARY TO QUALIFY FOR EXPERIENCE RATING) *subdivision 4* and to the insurers or self-insurance administrators issuing

those policies or contracts. The plan shall provide a maximum merit (PAYMENT) adjustment equal to ten percent of earned premium. The actual (PAYMENT) adjustment may vary with insured's loss experience.

Subd. 3. [RATES.] Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule. The commissioner shall annually, not later than July 1 of each year, establish the schedule of rates applicable to assigned risk plan business. Assigned risk premiums shall not be lower than rates generally charged by insurers for the business. The commissioner shall fix the compensation received by the agent of record.

Subd. 4. [ADMINISTRATION.] The commissioner shall enter into service contracts as necessary or beneficial to accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5)(b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2)(a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments, data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.

Subd. 5. [ASSESSMENTS.] The commissioner shall assess all insurers licensed pursuant to section 60A.06, subdivision 1, clause (5)(b) an amount sufficient to fully fund the obligations of the assigned risk plan, if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in this state during the preceding calendar year by all licensed insurers.

Sec. 5. [79.252] [ASSIGNED RISK PLAN.]

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a licensed insurance company, pursuant to subdivision 2.

Subd. 2. [REJECTED RISKS.] An insurer that refuses to write insurance for an employer shall furnish the employer a written notice of refusal. The employer shall file a copy of the

notice of refusal with the data service organization under contract with the commissioner pursuant to section 79.251, subdivision 4.

Subd. 3. [COVERAGE.] Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

Subd. 4. [RESPONSIBILITIES.] Assigned risk policies and contracts of coverage shall be subject to premium tax pursuant to section 60A.15, and special compensation fund assessments pursuant to section 176.181, subdivision 10. The assigned risk plan shall be a 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.

Subd. 5. [RULES.] The commissioner may adopt rules, including temporary rules, as may be necessary to implement sections 5 and 79.251.

Sec. 6. Minnesota Statutes 1982, 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 79.40 or any amendments thereto, sections 79.34 to 79.40 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. As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association (SHALL) is 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) are not (BE) subject to (CHAPTER) chapters 13, 14, and 15. The reinsurance association (SHALL BE) is exempt from taxation under the laws of this state and all property owned by the association (SHALL BE) is exempt from taxation. The reinsurance association (SHALL) is 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. 7. Minnesota Statutes 1982, 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. The (LESSER) lower retention limit shall be increased to the nearest \$10,000, on January 1, 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) higher retention limit shall be increased by the amount necessary to retain 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. *For losses incurred on or after January 1, 1979, any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association.* 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; (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. 8. Minnesota Statutes 1982, section 79.34, is amended by adding a subdivision to read:

Subd. 7. For losses incurred on or after January 1, 1984, the reinsurance association shall indemnify the member for the ultimate loss, in excess of the retention limit in effect at the time of the loss occurrence, sustained in each loss occurrence relating to one or more claims arising out of a single compensable event in another state provided that:

(a) the injured worker is eligible for benefits under section 176.041, subdivision 2 or 3 but elects to receive benefits under the workers' compensation statute of another state in lieu of benefits under chapter 176; and

(b) the ultimate loss indemnified by the reinsurance association shall be determined as provided in this chapter, except that the benefits shall be equal to those required to be paid under the workers' compensation statute of the state elected.

Sec. 9. Minnesota Statutes 1982, 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 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 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) *exposure base* of all members during the period to which the reinsurance association premium will apply (, AS DETERMINED BY THE COMMISSIONER). *The exposure base shall be determined by the board and is subject to the approval of the commissioner. In determining the exposure base, the board shall consider, among other things, equity, administrative convenience, records maintained by members, amenability to audit, and degree of risk refinement.* 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 shall 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). *The reinsurance association may charge the cost of the adjustment under this paragraph to the member, except that any penalties or interest incurred under sections 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association after it has undertaken adjustment of the claim shall not be charged to the member but shall be included in the ultimate loss and listed as a separate item; 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. 10. Minnesota Statutes 1982, section 79.37, is amended to read:

79.37 [BOARD OF DIRECTORS.]

A board of directors of the reinsurance association is created and (SHALL BE) is responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board (SHALL CONSIST) consists of (NINE) 13 directors and the (COMMISSIONER) commissioners of insurance (WHO SHALL BE AN EX OFFICIO MEMBER) and labor and industry, both of whom are voting members. Four members of the board shall represent insurers, (THREE) six members of the board shall represent employers, at least one, but not more than (TWO) three, of whom shall represent self-insurers, and (TWO) three members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner of insurance shall appoint the employer and employee directors from a list presented to the commissioner by the workers' compensation advisory council

established in section 175.007, subdivision 1, for the terms authorized in the plan of operation. Each board member (SHALL BE) is entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board (SHALL CONSTITUTE) constitutes a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

Sec. 11. Minnesota Statutes 1982, section 79.51, subdivision 1, is amended to read:

Subdivision 1. [ADOPTION; WHEN.] The commissioner shall adopt rules, *including temporary 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 DESCRIPTION AND EXPLANATION OF THE INTENT AND ANTICIPATED EFFECT OF THE RULES ON THE VARIOUS FACTORS OF THE RATING SYSTEM.)

Sec. 12. Minnesota Statutes 1982, section 79.51, subdivision 3, is amended to read:

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 AS-

SOCIATION 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)) (10) Imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;

((12)) (11) The rules contained in the workers' compensation rating manual adopted by the workers' compensation insurers rating association; and

((13)) (12) 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 monitoring the effectiveness of competition*; 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.)

Sec. 13. Laws 1981, chapter 346, section 145, is amended to read:

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; 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; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33 are repealed effective January 1, (1986) 1984. 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. 14. Laws 1981, chapter 346, section 146, is amended to read:

Sec. 146. [EFFECTIVE DATE.]

Sections 11, 21, 22, 23, 35, 36, 37, 38, 53, 54, 141, and 142 are effective the day following 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) 30 to 34 are effective July 1, 1983. *Sections 24 to 29 are effective January 1, 1984.* Section 139 is effective retroactively to April 12, 1980.

Sec. 15. Minnesota Statutes 1982, section 79.52, is amended by adding a subdivision to read:

Subd. 16. [ATTORNEY'S FEES.] No loss adjustment expense used to pay attorney fees or other costs in defense of a workers' compensation claim shall be charged to an insured in a merit rating plan or to a plan under section 79.251, subdivision 2.

Sec. 16. Minnesota Statutes 1982, section 147.02, is amended by adding a subdivision to read:

Subd. 3. [CONTINUING EDUCATION.] The board shall adopt rules requiring continuing education for physicians, surgeons, and osteopaths licensed under this chapter. These rules shall include rules relating to continuing education designed to assure the coordination of treatment, rehabilitation, and other medical services provided to injured employees under chapter 176. Rules relative to education regarding treatment under chapter 176 shall be adopted jointly with the commissioner of labor and industry.

Sec. 17. [148.031] [CONTINUING EDUCATION.]

The board shall adopt rules requiring continuing education for chiropractors licensed under this chapter. These rules shall include rules relating to continuing education designed to assure the coordination of treatment, rehabilitation, and other chiropractic services provided to injured employees under chapter 176. Rules relative to education under chapter 176 shall be adopted jointly with the commissioner of labor and industry.

Sec. 18. Minnesota Statutes 1982, section 175.006, subdivision 1, is amended to read:

Subdivision 1. [CREATION AND ORGANIZATION.] The division of workers' compensation, generally administering the workers' compensation law, is created within the department of labor and industry. (THERE IS CREATED AS A SEPARATE APPELLATE TRIBUNAL FOR WORKERS' COMPENSATION, THE WORKERS' COMPENSATION COURT OF APPEALS.)

(THE WORKERS' COMPENSATION COURT OF APPEALS SHALL BE COMPOSED OF FIVE JUDGES EACH SERVING IN THE UNCLASSIFIED SERVICE OF THE STATE CIVIL SERVICE. OF THE FIVE JUDGES, AT LEAST THREE 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. 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.)

Sec. 19. Minnesota Statutes 1982, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which (SHALL CONSIST) consists of five representatives of employers and five representatives of employees and (THREE) five nonvoting members representing the general public. The council may consult with (THE JUDGES OF THE WORKERS' COMPENSATION COURT OF APPEALS) any party it so desires. The (COUNCIL SHALL EXPIRE AND THE) terms (, COMPENSATION) and removal of members shall be as provided in section 15.059. The council is not subject to section 15.059, subdivision 5.

Sec. 20. Minnesota Statutes 1982, section 175.08, is amended to read:

175.08 [OFFICE.]

The (WORKERS' COMPENSATION COURT OF APPEALS AND THE) department of labor and industry shall maintain (THEIR) *its* main (OFFICES) *office* within the Minneapolis-Saint 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. THEY) *It* may hold sessions at any other place in the state when (THEIR CONVENIENCE AND THAT OF THE PARTIES INTERESTED SO REQUIRES) *it is convenient*.

Sec. 21. Minnesota Statutes 1982, section 175.10, is amended to read:

175.10 [SESSIONS TO BE PUBLIC.]

The department of labor and industry shall be open for the transaction of business during all business hours of each and every day, excepting Saturdays, Sundays and legal holidays. The hearings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the workers' compensation division shall be open to the public and may be adjourned from time to time. All the proceedings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the division shall be shown on their records, which shall be public records.

Sec. 22. Minnesota Statutes 1982, section 175.101, subdivision 1, is amended to read:

Subdivision 1. It is the legislative purpose in creating a division of workers' compensation, and in assigning to the commissioner of the department of labor and industry specific duties and responsibilities, to:

(a) provide for a unified department of labor and industry for the limited purposes of organization and administration of common administrative functions; *and*

(b) assure the autonomy and maximum independence of the necessary adjudicative functions and quasi-legislative administrative duties of the division (, AND;)

((C) SEPARATE AND LIMIT THE FUNCTIONS AND RESPONSIBILITIES OF THE EXISTING WORKERS' COMPENSATION COURT OF APPEALS TO THOSE APPROPRIATE TO AN INDEPENDENT APPELLATE REVIEWING BODY).

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) as head of the workers' compensation division is the administrator of the workers' compensation division. (HE) *The commissioner shall possess only (SUCH) the powers and shall perform only (SUCH) the duties (AS ARE SPECIFICALLY) prescribed by law.*

Sec. 23. Minnesota Statutes 1982, section 175.101, subdivision 2, is amended to read:

Subd. 2. The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall keep a full and true record of all proceedings of the workers' compensation division (AND THE WORKERS' COMPENSATION COURT OF APPEALS), issue all necessary processes, writs, warrants, and notices which the division (OR WORKERS' COMPENSATION COURT OF APPEALS ARE) *is* required or authorized to issue and generally act as the administrator of the division of workers' compensation in the department of labor and industry. Notices and other documents required to be served or filed on the division of workers' compensation or the workers' compensation court of appeals shall be served on the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 24. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 23. [RETRAINING.] *"Retraining" means a formal course of study in a school setting which is designed to train an employee to return to suitable gainful employment.*

Sec. 25. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 24. [HEALTH CARE PROVIDER.] *"Health care provider" means a physician, podiatrist, chiropractor, dentist, optometrist, osteopath, psychologist, psychiatric social worker, or any other person who furnishes a medical or health service to an employee under this chapter but does not include a qualified rehabilitation consultant or approved vendor.*

Sec. 26. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 25. [MAXIMUM MEDICAL IMPROVEMENT.] *"Maximum medical improvement" means the date after which no further significant recovery from or lasting improvement to a personal injury can reasonably be anticipated, based upon current medical knowledge.*

Sec. 27. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 26. [MONITORING PERIOD.] "Monitoring period" means the number of weeks during which economic recovery compensation pursuant to section 176.101, subdivision 3a, would have been paid if that compensation were payable.

Sec. 28. Minnesota Statutes 1982, section 176.012, is amended to read:

176.012 [ELECTION OF COVERAGE.]

The persons, partnerships and corporations described in this section may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c) may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, can elect to provide coverage for that independent contractor provided that if no such election is made the independent contractor may elect to provide coverage for him or herself.

The persons, partnerships and corporations described in this section may also elect coverage for an employee who is a spouse, parent or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this section. Coverage may be elected for a spouse, parent or child whether or not coverage is elected for the related owner, partner or executive director and whether or not the person, partnership or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this section shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this section shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed

to indicate the names of those persons for whom coverage has been elected or terminated under this section. An election of coverage under this section shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this section shall be construed to limit the responsibilities of owners, partnerships or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 29. Minnesota Statutes 1982, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of 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 for medical, burial, and other non-periodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by (SUBDIVISION 3A) *section 176.101*. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to (SUBDIVISION 3A) *section 176.101*, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of (ANY TENDER) commencement of the (LUMP SUM) payment of economic recovery compensation or impairment compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, 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) After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment compensation pursuant to *section 176.101* is payable in addition to but not concurrently with compensation for temporary total disability and temporary partial disability pursuant to *section 176.101*, subdivisions 1 and 2, and as provided in (SUBDIVISION 3A) *section 176.101*. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to *section 176.101*, subdivision 5, and as provided in (SUBDIVISION 3A) *section 176.101*. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensa-

tion pursuant to section 176.101 shall be withheld pending completion of payment for temporary total (AND TEMPORARY PARTIAL) disability (BUT SHALL NOT BE WITHHELD PENDING PAYMENT OF COMPENSATION FOR PERMANENT TOTAL DISABILITY), and no credit shall be taken for payment of (PERMANENT PARTIAL DISABILITY) economic recovery compensation or impairment compensation against liability for temporary total or permanent total disability. Liability on the part of an employer or (HIS) the 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) compensation is payable accordingly, subject to (SUBDIVISION 3A) section 176.101. (PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensation 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) section 176.101. The right to receive temporary total, temporary partial, (PERMANENT PARTIAL) or permanent total disability payments (SHALL VEST) vests in the injured employee or (HIS) the employee's dependents under this chapter or, if none, in (HIS) the employee's legal heirs at the time the disability can be ascertained and the right (SHALL) is not (BE) abrogated by the employee's death prior to the making of the payment.

The right to receive economic recovery compensation or impairment compensation vests in an injured employee at the time the disability is ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101.

Sec. 30. Minnesota Statutes 1982, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to persons employed by any common carrier by railroad engaged in interstate or foreign commerce, which persons are covered by the Federal Employers' Liability Act (45 U.S.C. 51-60) or other comparable federal law; persons employed by family farms as defined by section 176.011, subdivision 11a, the spouse, parent and child, regardless of age, of a farmer employer working for him; partners engaged in any farm operation or partners engaged in a business and the spouse, parent, and child, regardless of age, of any of the partners of the farm operation or business; an executive officer of a family farm corporation; an executive officer of a closely held corporation referred to in section 176.012; any spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, employed by

that family farm corporation; any spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; or other farmers or members of their families exchanging work with the farmer employer or family farm corporation operator in the same community, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession, or occupation of his employer; *persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 provided that this exclusion does not apply to an employee of an independent contractor*; nor does it apply to officers or members of veteran's organizations whose employment relationship arises solely by virtue of attending meetings or conventions of their organization, unless the veteran's organizations elect by resolution to provide coverage under this chapter for the officers or members. Neither shall the chapter apply to any person employed as a household worker in, for, or about, a private home or household who earns less than \$500 in cash in any three month period from a single private home or household provided that any household worker who has earned \$500 or more from his present employer in any three month period within the previous year shall be covered by this chapter regardless of whether or not he has in the present quarter earned \$500. This chapter does not apply to those persons employed by a corporation where those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to all of the officers of the corporation, and if the corporation files a written election with the commissioner (OF LABOR AND INDUSTRY) to have those persons excluded from this chapter *except that a written election is not required for a person who is otherwise excluded from this chapter by this section*. This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.

Sec. 31. Minnesota Statutes 1982, section 176.061, is amended to read:

176.061 [THIRD PARTY LIABILITY.]

Subdivision 1. [ELECTION OF REMEDIES.] Where an injury or death for which 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) the injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or (HIS) the employee's dependents, in case of death, may proceed either at law against that party to recover damages or against the employer for benefits, but not against both.

Subd. 2. [ACTION FOR RECOVERY OF DAMAGES.] If the employee, in case of injury, or (HIS) the employee's dependents, in case of death, brings an action for the recovery of damages, the amount thereof, the manner in which, and the persons

to whom the same are payable, shall be as provided in this chapter. In no case shall (SUCH) *the* party be liable to any person other than the employee or (HIS) *the employee's* dependents for any damages resulting from (SUCH) *the* injury or death.

Subd. 3. [ELECTION TO RECEIVE BENEFITS FROM EMPLOYER; INDEMNITY AND SUBROGATION.] If the employee or (HIS) *the employee's* dependents elect to receive benefits from the employer, or the special compensation fund, the employer, or the special compensation fund, *has a right of indemnity against third parties for cases under chapter 65B, or, in all other cases,* is subrogated to the right of the employee or (HIS) *the employee's* 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) *the* party and recover the aggregate amount of benefits payable to or on behalf of the employee or (HIS) *the employee's* dependents, together with 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 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) *has* 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.

Subd. 4. [APPLICATION OF SUBDIVISIONS 1, 2, AND 3.] The provisions of subdivisions 1, 2, and 3 apply only where the employer liable for benefits and the other party legally liable for damages are insured or self-insured and engaged, in the due course of business in, (a) furtherance of a common enterprise, or (b) in the accomplishment of the same or related purposes in operations on the premises where the injury was received at the time (THEREOF) *of the injury*.

Subd. 5. [CUMULATIVE REMEDIES.] Where an injury or death for which benefits are payable is caused under circumstances which created 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 proceedings may be taken by the employee or (HIS) *the employee's* 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 their liability to pay benefits.

(a) If an action against the other party is brought by the injured employee or (HIS) *the employee's* 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 benefits payable 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) *the action for the prosecution (THEREOF) of the action.* If the injured employee or (HIS) *the employee's* dependents or any party on their behalf receives benefits from the employer, or the special compensation fund, or institute proceedings to recover (THE SAME) *benefits* or accept from the employer, or the special compensation fund, any payment on account of the benefits, the employer, or the special compensation fund, is subrogated to the rights of the employee or (HIS) *the employee's* dependents or has a right of indemnity, for cases under chapter 65B, against a third party. This employer, or the attorney general on behalf of the special compensation fund, may maintain (AN) *a separate action or continue an action already instituted.* This action may be maintained in the name of the employee or the names of the *employee's* 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) *the 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) *the employee's* dependents the right to intervene in the action for the prosecution (THEREOF) *of the action.* The proceeds of (SUCH) *the action or settlement (THEREOF) of the action* 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) *an 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) *the 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) *are for the benefit of the employer and the provisions of subdivision 6 (SHALL) are not (BE) applicable to (SUCH) the damages.*

(c) The third party is not liable to any person other than the employee or (HIS) *the employee's* dependents, or (HIS) *the em-*

ployer, 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.

Subd. 6. [COSTS, ATTORNEY FEES, EXPENSES.] The proceeds of all actions for damages or settlement (THEREOF) of an action under this section, except for damages received under subdivision 5, clause (b) received by the injured employee or (HIS) the employee's 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) the employee's 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 benefits paid under this chapter to or on behalf of the employee or (HIS) the employee's 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 benefits paid by the employer, or the special compensation fund, to the employee or (HIS) the employee's dependents.

(d) Any balance remaining shall be paid to the employee or (HIS) the employee's dependents, and shall be a credit to employer, and the special compensation fund, for any benefits which employer is obligated to pay, but has not paid, and for any benefits that (SUCH) the employer (SHALL BE) is 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.

Subd. 7. [MEDICAL TREATMENT.] The liability of an employer, or the special compensation fund, for medical treatment or payment of any other compensation under this chapter (SHALL) is not (BE) affected by the fact that (HIS) the 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) *has* a separate additional cause of action against (SUCH) *the* third party to recover any amounts paid for medical treatment *or for other compensation payable* under this section resulting from the negligence of (SUCH) *the* 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) *the* 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 *or other compensation* 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 *compensation or for medical treatment* of the injured employee and (SHALL) *does* not affect the amount of periodic compensation to be paid.

(SUBD. 8. [STATE AS EMPLOYER.] IN EVERY CASE ARISING UNDER SUBDIVISION 5 WHEN THE STATE IS THE EMPLOYER AND A SETTLEMENT BETWEEN THE THIRD PARTY AND THE EMPLOYEE IS MADE IT IS NOT VALID UNLESS PRIOR NOTICE THEREOF IS GIVEN TO THE STATE WITHIN A REASONABLE TIME. IF THE STATE PAYS COMPENSATION TO THE EMPLOYEE UNDER THE PROVISIONS OF THIS CHAPTER AND BECOMES SUBROGATED TO THE RIGHTS OF THE EMPLOYEE OR HIS DEPENDENTS ANY SETTLEMENT BETWEEN THE EMPLOYEE OR HIS DEPENDENTS AND THE THIRD PARTY IS VOID AS AGAINST THE STATE'S RIGHT OF SUBROGATION. WHEN AN ACTION AT LAW IS INSTITUTED BY AN EMPLOYEE OR HIS DEPENDENTS AGAINST A THIRD PARTY FOR RECOVERY OF DAMAGES A COPY OF THE COMPLAINT AND NOTICE OF TRIAL OR NOTE OF ISSUE IN SUCH ACTION SHALL BE SERVED ON THE STATE. ANY JUDGMENT RENDERED THEREIN IS SUBJECT TO A LIEN OF THE STATE FOR THE AMOUNT TO WHICH IT IS ENTITLED TO BE SUBROGATED UNDER THE PROVISIONS OF SUBDIVISION 5.)

Subd. 8a. [NOTICE TO EMPLOYER.] In every case arising under subdivision 5, a settlement between the third party and the employee is not valid unless prior notice of the intention to settle is given to the employer within a reasonable time. If the employer or insurer pays compensation to the employee under the provisions of this chapter and becomes subrogated to the right of the employee or the employee's dependents or has a right of indemnity, any settlement between the employee or the employee's dependents and the third party is void as against the employer's right of subrogation or indemnity unless prior notice was given. When an action at law is instituted by an employee

or the employee's dependents against a third party for recovery of damages, a copy of the complaint and notice of trial or note of issue in the action shall be served on the employer or insurer. Any judgment rendered in the action is subject to a lien of the employer for the amount to which it is entitled to be subrogated or indemnified under the provisions of subdivision 5.

Subd. 9. [SERVICE OF NOTICE ON ATTORNEY GENERAL.] In every case in which the state is liable to pay compensation or is subrogated to the rights of the employee or (HIS) the employee's dependents or has a right of indemnity, all notices required to be given the state shall be served on the attorney general and the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 32. Minnesota Statutes 1982, 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, 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 THEM, INCLUDING SETTLEMENT PROCEEDINGS, HAVE AUTHORITY TO APPROVE) (a) A fee for legal services of (UP TO) 25 percent of the first \$4,000 of compensation awarded to the employee and (UP TO) 20 percent of the next \$27,500 of compensation awarded to employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in clause (b). If the employer or (HIS) the insurer or the defendant is given written notice of (SUCH) claims for legal services or disbursements, the (SAME) claim 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, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan.

(b) *An attorney who is claiming legal fees under this section shall file a statement of attorney's fees with the commissioner, compensation judge, before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee.*

If a timely objection is filed, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5.

If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

Sec. 33. Minnesota Statutes 1982, section 176.081, subdivision 2, is amended to read:

Subd. 2. (ANY) *An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the (WORKERS' COMPENSATION COURT OF APPEALS) division, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested and the basis for (SUCH) the 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) the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.*

Sec. 34. Minnesota Statutes 1982, section 176.081, subdivision 5, is amended to read:

Subd. 5. *In the determination of (THE REASONABLE VALUE OF ATTORNEY FEES ARISING OUT OF A CLAIM OR PROCEEDING UNDER THIS CHAPTER) an award of fees in excess of the amount authorized under subdivision 1, the following principles are to be applied:*

(a) *The fee in each individual case must be a reasonable one.*

(b) There is no set standard fee to be awarded in any workers' compensation matter.

(c) No attorney-client fee contract or arrangement is binding in any workers' compensation matter.

(d) In determining a reasonable attorney fee, important factors to be taken into account are: the amount involved, the time and expense necessary to prepare for trial, the responsibility assumed by counsel, the expertise of counsel in the workers' compensation field, the difficulties of the issues involved, the nature of proof needed to be adduced and the results obtained. The amount of money involved shall not be the controlling factor.

(e) The determination of the fee in each specific workers' compensation matter must be done with the same care as the determination of any other fact question in the matter.

(f) The determiner of the attorney fee in each matter must ascertain whether or not a retainer fee has been paid to the attorney and if so, the amount of the retainer fee.

(g) The determiner of attorney fees in each case must personally see that the workers' compensation file contains fully adequate information to justify the fee that is determined.

Sec. 35. Minnesota Statutes 1982, section 176.081, subdivision 6, is amended to read:

Subd. 6. *The commissioner, office of administrative hearings and the workers' compensation court of appeals may adopt reasonable and proper joint rules to effect (ITS) each of their obligations under this section.*

Sec. 36. Minnesota Statutes 1982, section 176.081, subdivision 7, is amended to read:

Subd. 7. *If the employer or insurer (SHALL FILE) files a denial of liability, notice of discontinuance, or (SHALL FAIL) fails to make payment of compensation or medical expenses within the statutory period after notice of injury or occupational disease, or (SHALL) otherwise (RESIST) unsuccessfully resists the payment of compensation or medical expenses, or unsuccessfully disputes the payment of rehabilitation benefits or other aspects of a rehabilitation plan, and the injured person (SHALL HAVE) has employed an attorney at law, who successfully procures payment on behalf of the employee or who enables the resolution of a dispute with respect to a rehabilitation plan, the compensation judge, commissioner of the department of labor and industry, or the workers' compensation court of appeals upon appeal, upon application, shall award to the employee against the insurer or self-insured employer or uninsured em-*

ployer, in addition to the compensation benefits paid or awarded to the employee, an amount equal to 25 percent of that portion of the attorney's fee which has been awarded pursuant to this section that is in excess of \$250.

Sec. 37. Minnesota Statutes 1982, section 176.081, is amended by adding a subdivision to read:

Subd. 11. [WHEN FEES DUE.] Attorney fees and other disbursements for a proceeding under this chapter shall not be due or paid until the issue for which the fee or disbursement was incurred has been resolved.

Sec. 38. Minnesota Statutes 1982, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be $66\frac{2}{3}$ percent of the difference between the (DAILY) weekly wage of the (WORKER) employee at the time of injury and the wage (HE) the employee is able to earn in (HIS) the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in section 176.101, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage. (IF THE EMPLOYER DOES NOT FURNISH THE WORKER WITH WORK WHICH HE CAN DO IN HIS TEMPORARY PARTIALLY DISABLED CONDITION AND HE IS UNABLE TO PROCURE SUCH WORK WITH ANOTHER EMPLOYER, AFTER REASONABLY DILIGENT EFFORT, THE EMPLOYEE SHALL BE PAID AT THE FULL COMPENSATION RATE FOR HIS OR HER TEMPORARY TOTAL DISABILITY.)

Sec. 39. Minnesota Statutes 1982, 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 that 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 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, 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, 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 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 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 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 experts 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, $66\frac{2}{3}$ 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 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 $66\frac{2}{3}$ 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.

This subdivision applies to a permanent partial disability incurred before the effective date of the rules adopted under section 176.105, subdivision 4.

Sec. 40. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3a. [ECONOMIC RECOVERY COMPENSATION.]
If an employee is not eligible for an impairment award pursuant to subdivision 3b, then the employee shall receive economic recovery compensation for a permanent partial disability pursuant to this subdivision. The compensation shall be $66\frac{2}{3}$ percent of the weekly wage at the time of injury subject to a maximum equal to the statewide average weekly wage. For permanent partial disability up to the percent of the whole body in the following schedule, the compensation shall be paid for the proportion that the loss of function of the disabled part bears to the

whole body multiplied by the number of weeks aligned with that percent.

<i>Percent of disability</i>	<i>Weeks of compensation</i>
0-25	600
26-30	640
31-35	680
36-40	720
41-45	760
46-50	800
51-55	880
56-60	960
61-65	1040
66-70	1120
71-100	1200

The percentage loss in all cases under this subdivision is determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 41. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3b. [IMPAIRMENT COMPENSATION.] An employee who suffers a permanent partial disability due to a personal injury and receives impairment compensation under this section shall receive compensation in an amount as provided by this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule the amount shall be equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by the amount aligned with that percent in the following schedule:

<i>Percent of disability</i>	<i>Amount</i>
0-25	75,000
26-30	80,000

31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

For all cases under this subdivision the percentage loss of function of a part of the body is determined by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 42. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3c. [MAXIMUM PAYABLE.] The maximum amount payable under subdivisions 3a and 3b is the maximum compensation payable to an employee who has a disability to the body as a whole and under no conditions shall an employee receive more than those amounts even if the employee sustains a disability to two or more body parts.

Sec. 43. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3d. [GENERAL.] An employee who has incurred a personal injury shall receive temporary total compensation until these benefits are no longer payable pursuant to this section. If

the injury results in a permanent partial disability, the employee shall receive compensation as provided in this section.

Sec. 44. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3e. [END OF TEMPORARY TOTAL COMPENSATION.] (a) 90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease. This cessation shall occur at an earlier date if otherwise provided by this section. If prior to the termination of this 90-day period the employee retires or the employer furnishes work to the employee that the employee can do in his or her physical condition and that job produces an economic status as close as possible to that the employee would have enjoyed without the disability, or the employer procures this employment with another employer or the employee accepts this job with another employer, temporary total compensation shall cease. If the injury resulted in permanent partial disability, the employee shall receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation for the same disability. Temporary total compensation and impairment compensation shall not be paid concurrently. Once temporary total compensation ceases no further temporary total compensation is payable except as specifically provided in this section.

(b) If the job offered under clause (a) is not the job the employee had at the time of injury it shall be in writing and shall state the nature of the job, the rate of pay, the physical requirements of the job, an agreement to pay temporary partial compensation if appropriate, and any other information necessary to fully and completely inform the employee of the job duties and responsibilities.

The employee has 14 calendar days to accept or reject the job offer. If the employee does not respond within this period it is deemed a refusal of the offer.

(c) Self employment may be an appropriate job under this subdivision.

The commissioner shall monitor application of this subdivision and may adopt rules to assure its proper application.

Sec. 45. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3f. [ACCEPTANCE OF JOB OFFER.] If the employee accepts a job offer described in subdivision 3e and begins work at that job, the impairment compensation shall be paid in a lump sum 30 calendar days after the return to work.

Sec. 46. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3g. [TEMPORARY PARTIAL COMPENSATION.] An employee who accepts a job under subdivision 3e and begins that job shall receive temporary partial compensation pursuant to subdivision 2, if appropriate.

Sec. 47. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3h. [LAYOFF BECAUSE OF LACK OF WORK OR RELEASED FOR OTHER THAN SEASONAL CONDITIONS.] (a) If an employee accepts a job under subdivision 3e and begins work at that job and is subsequently unemployed because of economic conditions, other than seasonal conditions, the employee shall receive monitoring period compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner deems it appropriate. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Upon the employee's initial return to work the monitoring period begins to run. If the employee is unemployed for the reason in clause (a), prior to the end of the monitoring period the employee shall receive monitoring period compensation. This compensation shall be paid for the lesser of (1) the weeks remaining in the monitoring period, or (2) the weeks equal to the monitoring period minus the impairment compensation paid to the employee. For purposes of this clause the impairment compensation shall be converted to weeks by dividing the impairment compensation received by the employee by the employee's compensation rate for temporary total disability at the time of the injury. No monitoring period compensation is payable if the unemployment occurs after the expiration of the monitoring period. Monitoring period compensation is payable at the same intervals and amount as temporary total compensation was paid.

(c) If the employee returns to work and is still receiving monitoring period compensation, this compensation shall cease. Any period remaining in the monitoring period upon this return to work shall be used to determine further benefits if the employee is again unemployed under clause (a).

(d) Upon the employee's return to work pursuant to this section the employer shall notify the employee of the length of the employee's monitoring period and shall notify the employee of the amount of impairment to be paid and the date of payment.

Sec. 48. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3i. [MEDICALLY UNABLE TO CONTINUE WORK.] (a) If the employee has started the job offered under subdivision 3e and is medically unable to continue at that job, that employee shall receive compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Compensation shall be paid for up to 90 days after the employee has reached maximum medical improvement or 90 days after the end of an approved retraining plan or 90 days after the employee has ceased work because of medical inability to continue, whichever is later. The temporary total compensation shall cease at any time within the 90-day period that the employee begins work meeting the requirements of subdivision 3e. If no such job is offered to the employee by the end of this 90-day period, the employee shall receive economic recovery compensation pursuant to this section except that this economic recovery compensation shall be reduced by the impairment compensation previously received by the employee for the same disability.

Sec. 49. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3j. [UNEMPLOYMENT DUE TO SEASONAL CONDITION.] If an employee has started the job offered under subdivision 3e and is subsequently unemployed from that job because of the job's seasonal nature, the employee shall receive any unemployment compensation the employee is eligible for pursuant to chapter 263. The employee shall receive, in addition and concurrently, the amount that the employee was receiving for temporary partial disability at the time of the layoff. No further or additional compensation is payable under this chapter because of the seasonal layoff.

Sec. 50. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3k. [FAILURE TO ACCEPT JOB OFFER.] If the employee has been offered a job under subdivision 3e and has refused the offer for reasons other than the employee is in an approved retraining program, the impairment compensation shall not be paid in a lump sum but shall be paid in the same interval and amount that temporary total compensation was paid. Tempo-

rary total compensation shall cease upon the employee's refusal to accept the job offered and no further or additional temporary total compensation is payable. The payment of the periodic impairment compensation shall cease when the amount the employee is eligible to receive under subdivision 3b is reached, after which time the employee shall not receive additional impairment compensation or any other compensation under this chapter unless the employee has a greater permanent partial disability than already compensated for.

Sec. 51. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3l. [RETURN TO WORK AFTER REFUSAL OF JOB OFFER.] If the employee has refused the job offer under subdivision 3e and is receiving periodic impairment compensation and returns to work at another job, the employee shall receive the remaining impairment compensation due, in a lump sum, 30 days after return to work.

Sec. 52. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3m. [NO TEMPORARY PARTIAL COMPENSATION OR REHABILITATION IF JOB OFFER REFUSED.] An employee who has been offered a job under subdivision 3 and who has refused the offer and who subsequently returns to work shall not receive temporary partial compensation pursuant to subdivision 2 if the job the employee returns to provides a wage less than the wage at the time of the injury. No rehabilitation shall be provided to this employee.

Sec. 53. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3n. [INABILITY TO RETURN TO WORK.] (a) An employee who is permanently totally disabled pursuant to subdivision 5 shall receive impairment compensation pursuant to subdivision 3b. This compensation is payable in addition to permanent total compensation pursuant to subdivision 4 and is payable concurrently. In this case the impairment compensation shall be paid in the same intervals and amount as the permanent total compensation is paid, and the impairment compensation shall cease when the amount due under subdivision 3b is reached. If this employee returns to work at any job during the period the impairment compensation is being paid, the remaining impairment compensation due shall be paid in a lump sum 30 days after the employee has returned to work and no further temporary total compensation shall be paid.

(b) If an employee is receiving or has received economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against permanent total compensation for the compensation paid. No further economic

recovery compensation is payable even if the amount due the employee pursuant to subdivision 3a has not yet been reached.

(c) If the employee has or is receiving impairment compensation and is determined to be permanently totally disabled no credit shall be taken for the compensation received. If any of this compensation remains to be paid, it shall cease and clause (d) of this subdivision applies.

(d) An employee who has received economic recovery compensation or impairment compensation and who meets the criteria under clause (b) or (c) of this subdivision shall receive impairment compensation pursuant to clause (a) of this subdivision even if the employee has previously received economic recovery compensation or impairment compensation for that disability.

(e) Rehabilitation consultation pursuant to section 176.102 shall be provided to an employee who is permanently totally disabled.

Sec. 54. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 30. [NO JOB OFFER.] Where the employee has a permanent partial disability and has reached maximum medical improvement or upon completion of an approved retraining program, whichever is later, that employee shall receive economic recovery compensation pursuant to subdivision 3a if no job offer meeting the criteria of the job in subdivision 3e is made within 90 days after reaching maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later.

Temporary total compensation shall cease upon commencement of the payment of economic recovery compensation. Temporary total compensation shall not be paid concurrently with economic recovery compensation.

Sec. 55. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3p. [METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation is payable at the same intervals and in the same amount as temporary total compensation was paid. If the employee returns to work and the economic recovery compensation is still being paid, the remaining economic recovery compensation due without further adjustments under section 176.645 shall be paid in a lump sum 30 days after the employee has returned to work.

(b) Periodic economic recovery compensation paid to the employee shall be adjusted pursuant to section 176.645.

Sec. 56. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3g. [PAYMENT OF COMPENSATION AT DEATH.] If an employee receiving economic recovery compensation or impairment compensation in periodic amounts dies during the period from causes unrelated to the injury, the compensation shall be paid in the following manner:

(a) If the deceased employee leaves a dependent surviving spouse and no dependent children, as defined by section 176.111, subdivision 1, the spouse shall receive the weekly economic recovery or impairment compensation that the deceased was receiving before the death. This compensation shall be paid for a period of up to ten years after the date of death at which time payments and future entitlement to it ceases.

(b) If the deceased employee leaves a dependent spouse and dependent children, as defined in section 176.111, subdivision 1, the periodic economic recovery or impairment compensation shall continue to be paid to the surviving spouse for up to ten years after the youngest child is no longer dependent after which time payments and future entitlement to the compensation ceases.

(c) Payment of compensation under this subdivision shall cease prior to the end of the ten-year periods in this subdivision if the amount to which the employee is entitled to receive under subdivision 3, 3a, or 3b, is reached prior to the end of the ten-year period. If the deceased employee is not survived by dependent children or a dependent spouse as defined by section 176.111, no further economic recovery compensation or impairment compensation is payable to any person under this subdivision.

(d) If the death results from the injury, the payment of economic recovery compensation or impairment compensation shall cease upon the death and death benefits are payable pursuant to section 176.111.

Sec. 57. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3r. [ADDITIONAL ECONOMIC RECOVERY COMPENSATION OR IMPAIRMENT COMPENSATION.] No additional economic recovery compensation or impairment compensation is payable to an employee who has received that compensation to which the employee is entitled pursuant to subdivision 3a or 3b unless the employee has a greater permanent partial disability than already compensated.

Sec. 58. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3s. [MINIMUM ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation pursuant to this section shall be at least 120 percent of the impairment compensation the employee would receive if that compensation were payable to the employee. The monitoring period shall be at least 120 percent of the weeks during which impairment compensation would be payable if paid weekly.

(b) An employee who has suffered a personal injury for which temporary total compensation is payable but which produces no permanent partial disability shall receive 26 weeks of economic recovery compensation if no job is offered within the time specified in and meeting the criteria of subdivision 3e.

Sec. 59. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3t. [MEDICAL BENEFITS.] This section does not in any way limit the medical benefits to which an injured employee is otherwise entitled pursuant to this chapter.

Sec. 60. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3u. [ADMINISTRATIVE CONFERENCE.] The provisions of section 176.242 apply if there exists a dispute regarding maximum medical improvement or whether the job offered meets the criteria under subdivision 3e.

Sec. 61. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4a. [PREEXISTING CONDITION OR DISABILITY; APPORTIONMENT.] (a) If a personal injury results in a disability which is attributable in part to a preexisting disability that arises from a congenital condition or is the result of a traumatic injury or incident, whether or not compensable under this chapter, the compensation payable for the permanent partial disability pursuant to this section shall be reduced by the proportion of the disability which is attributable only to the preexisting disability. An apportionment of a permanent partial disability under this subdivision shall be made only if the preexisting disability is registered under section 176.131, or is clearly evidenced in a medical report or record made prior to the current personal injury. Evidence of registration or a copy of the medical report or record upon which apportionment is based shall be made available to the employee by the employer at the time compensation for the permanent partial disability is begun.

(b) The compensable portion of the permanent partial disability under this section shall be paid at the rate at which the

entire disability would be compensated but for the apportionment.

Sec. 62. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4b. [LEGISLATIVE INTENT.] The legislature reaffirms its intent that the reduction of compensation benefits pursuant to subdivision 4 is applicable after an employee has received a total of \$25,000 of weekly compensation including compensation under subdivisions 1, 2, and 4 of this section.

Sec. 63. Minnesota Statutes 1982, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which (HE) *the employee* is entitled for (SAID) *the injury* the compensation rate for temporary total, temporary partial, (RETRAINING,) a permanent partial or permanent total disability or economic recovery compensation shall be the (LARGER OF EITHER THE) statewide average weekly wage (OR THE EMPLOYEES WEEKLY WAGE, BUT IN NO CASE SHALL THE COMPENSATION EXCEED THE MAXIMUM WEEKLY COMPENSATION RATE PAYABLE UNDER THIS CHAPTER).

Sec. 64. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 8. [RETIREMENT PRESUMPTION.] For injuries occurring after the effective date of this subdivision an employee who receives social security old age and survivors insurance retirement benefits is presumed retired from the labor market. This presumption is rebuttable by a preponderance of the evidence.

Sec. 65. Minnesota Statutes 1982, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (VOCATIONAL) Rehabilitation (SHALL TRAIN AN) *is intended to restore the injured employee, through physical and vocational rehabilitation, so (HE) the employee may (BE RETURNED) return to a job related to (HIS) the employee's former employment or to a job in another work area which produces an economic status as close as possible to that (HE) the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can*

be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 66. Minnesota Statutes 1982, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner (OF LABOR AND INDUSTRY) shall hire a director of rehabilitation services in the classified service. The commissioner (OF LABOR AND INDUSTRY IS RESPONSIBLE FOR SUPERVISING) *shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of medical care and rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services, the fitness of qualified rehabilitation consultants and vendors to continue to be approved under this section and has authority to discipline, by fine or otherwise, the consultants or vendors who act in violation of this chapter or rules adopted pursuant to this chapter.* The commissioner (OF LABOR AND INDUSTRY) may hire qualified personnel to assist in his duties under this section and may delegate his duties and performance.

Sec. 67. Minnesota Statutes 1982, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner (OF LABOR AND INDUSTRY) or (HIS) a designee, who shall serve as an ex officio member and two members each from (LABOR, EMPLOYERS,) insurers, (VOCATIONAL) rehabilitation, and medicine (AND), one member representing chiropractors, *six members representing employers and six members representing labor.* The members shall be appointed by the (GOVERNOR) commissioner and shall serve (FOUR YEAR) *four-year* terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chairman. The panel shall ((A)) review and make a determination with respect to (a) appeals regarding *eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivision 9;* (b) (HOLD) *appeals on any other rehabilitation issue the commissioner determines under this section;* and (c) appeals regarding fee disputes, penalties, discipline, certification approval or revocation (OF CERTIFICATION APPROVAL HEARINGS; (C)) *of registration of qualified rehabilitation consultants and approved vendors. The panel shall continuously study rehabilitation (;) services and delivery and ((D)) develop and recommend rehabilitation rules (AS NECESSARY)* to the commissioner (OF LABOR AND INDUSTRY. A MAJORITY VOTE OF THOSE ATTENDING A PANEL HEAR-

ING UNDER SUBDIVISION 6 SHALL CONSTITUTE THE DECISION OF THE BOARD).

Sec. 68. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 3a. [REVIEW PANEL APPEALS.] Appeals to the review panel shall be heard before a panel of five members designated by the review panel. Each five-member panel shall consist of two labor members, two employer or insurer members, and one member representing medicine or chiropractic or rehabilitation. The membership of panels shall rotate with each sitting and designations to serve must be evenly distributed. The determination of the five-member panel shall be by a majority vote and the determination shall represent the determination of the rehabilitation review panel. Such determinations are not subject to review by the panel as a whole. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision. Appeals to the review panel are subject to appeal in the workers' compensation court of appeals.

Sec. 69. Minnesota Statutes 1982, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN: DEVELOPMENT.] (WITHIN 30 DAYS OF THE TIME AN EMPLOYER OR HIS INSURER HAS MEDICAL INFORMATION THAT AN EMPLOYEE IS UNABLE DUE TO A PERSONAL INJURY OR OCCUPATIONAL DISEASE TO RETURN TO HIS PRE-INJURY OCCUPATION THE EMPLOYER SHALL PROVIDE REHABILITATION CONSULTATION FOR THE EMPLOYEE. THE EMPLOYEE, HOWEVER, HAS THE FINAL DECISION ON WHICH REHABILITATION AGENCY IS TO BE UTILIZED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE CONSULTATION SHALL BE DONE BY ANY PERSON OR PUBLIC OR PRIVATE INSTITUTION APPROVED BY THE COMMISSIONER OF LABOR AND INDUSTRY. IF THE CONSULTANT DETERMINES REHABILITATION WOULD SIGNIFICANTLY REDUCE OR ELIMINATE THE DECREASE IN EMPLOYABILITY, THE

EMPLOYER OR INSURER IN CONJUNCTION WITH THE REHABILITATION CONSULTANT SHALL SUBMIT A SPECIFIC PLAN OF REHABILITATION TO THE COMMISSIONER. IF THE EMPLOYER DOES NOT PROVIDE REHABILITATION CONSULTATION, WHEN REQUIRED BY THIS SECTION, WITHIN THE TIME SPECIFIED BY THIS SUBDIVISION, THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER AND INSURER THAT SHOULD THEY FAIL TO PROVIDE REHABILITATION CONSULTATION WITHIN 15 DAYS FROM THE RECEIPT OF THE COMMISSIONER'S NOTICE, THE DIVISION OF VOCATIONAL REHABILITATION SHALL BE AUTHORIZED TO PROVIDE THE REHABILITATION CONSULTATION FOR THE EMPLOYEE. IF THE EMPLOYEE REFUSES TO SUBMIT TO ANY REASONABLE EXAMINATIONS AND EVALUATIVE PROCEDURES TO DETERMINE THE NEED FOR AND THE DETAILS OF A PLAN OF REHABILITATION, THE AMOUNT OF COMPENSATION MAY BE REDUCED OR THE RIGHT TO COMPENSATION MAY BE SUSPENDED BY AN ORDER OF THE DIVISION OR WORKERS' COMPENSATION COURT OF APPEALS IN A MATTER BEFORE IT. IN DEVELOPING A PLAN, CONSIDERATION SHALL BE GIVEN TO THE EMPLOYEE'S AGE, EDUCATION, PREVIOUS WORK HISTORY, INTERESTS AND SKILLS.) (a) *An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be made immediately after receipt of this information.*

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection.

Upon receipt of the notice of objection, the commissioner may schedule an administrative conference for the purpose of determining which qualified rehabilitation consultant may be mu-

tually acceptable. The employee has the final decision on which qualified rehabilitation consultant is to be utilized.

The employee and employer shall enter into a program if one is prescribed in a rehabilitation plan. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner.

(b) If the employer does not provide rehabilitation consultation as required by this section, the commissioner shall notify the employer that if the employer fails to appoint a qualified rehabilitation consultant within 15 days to conduct a rehabilitation consultation, the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner determines the consultation is not required.

(c) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(d) The commissioner may waive rehabilitation consultation under this section if the commissioner is satisfied that the employee will return to work in the near future or that rehabilitation consultation will not be useful in returning an employee to work.

Sec. 70. Minnesota Statutes 1982, section 176.102, subdivision 5, is amended to read:

Subd. 5. [ON THE JOB TRAINING.] On the job training is to be given consideration in developing a rehabilitation plan especially where it would produce an economic status similar to that enjoyed prior to disability. (WHEN A REHABILITATION PLAN INCLUDES ON THE JOB TRAINING, THE EMPLOYEE SHALL RECEIVE COMPENSATION WHILE EMPLOYED IN AN AMOUNT EQUAL TO THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY. THIS COMPENSATION SHALL BE PAID IN WHOLE OR IN PART BY THE INSURER LIABLE FOR COMPENSATION FOR THE EMPLOYEE'S PERSONAL INJURY. THE AMOUNT OF COMPENSATION TO BE PAID BY THIS INSURER SHALL BE DETERMINED IN THE REHABILITATION PLAN PREPARED PURSUANT TO THIS SECTION. ANY DIFFERENCE BETWEEN THE AMOUNT OF COMPENSATION THE INSURER IS PAYING AND THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY SHALL BE PAID BY THE ON THE JOB EMPLOYER, BUT IN NO CASE SHALL THIS EMPLOYER'S AMOUNT EXCEED THE PREVAILING WAGE FOR THE JOB. AFTER TAX WAGE SHALL BE DETERMINED BY

SUBTRACTING FEDERAL AND STATE INCOME TAX FROM THE EMPLOYEE'S GROSS WAGE.)

(A REHABILITATION PLAN WHICH INCLUDES ON THE JOB TRAINING SHALL ATTEMPT TO CREATE AN INCENTIVE FOR AN EMPLOYER TO HIRE THE EMPLOYEE FOR ON THE JOB TRAINING. THIS INCENTIVE MAY BE IN THE FORM OF REDUCING THE ON THE JOB TRAINING EMPLOYER'S WAGES PAID TO THE EMPLOYEE TO A LEVEL WHICH IS LESS THAN THE PREVAILING WAGE FOR THE JOB, PROVIDED THAT THE TOTAL COMPENSATION FROM THE INSURER, REQUIRED BY THIS SECTION, AND THE WAGES PAID BY THE ON THE JOB TRAINING EMPLOYER IS NOT LESS THAN THE AFTER TAX WAGE RECEIVED BY THE EMPLOYEE AT THE TIME OF THE PERSONAL INJURY. THE COMPENSATION FROM THE INSURER AND THE ON THE JOB TRAINING EMPLOYER PAID PURSUANT TO THIS SUBDIVISION IS IN LIEU OF TEMPORARY TOTAL DISABILITY PAYMENTS AND THE ADDITIONAL COMPENSATION PROVIDED IN SUBDIVISION 11.)

Sec. 71. Minnesota Statutes 1982, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner (OF LABOR AND INDUSTRY) shall *determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivision 9 to which an employee is entitled.* (ANY PERSONS AGGRIEVED BY) A decision of the commissioner may (APPEAL) *be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court.* (THE PANEL MAY APPROVE OR REJECT THE DECISION OF THE COMMISSIONER. IF IT REJECTS THE COMMISSIONER'S DECISION IT MAY FORMULATE ITS OWN REHABILITATION PLAN.)

Sec. 72 Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 6a. [ELIGIBILITY DETERMINATION.] *The commissioner has the sole authority under this chapter to determine eligibility for rehabilitation services under this section and to review, approve, modify, or reject rehabilitation plans and make*

other rehabilitation determinations pursuant to this chapter. These determinations shall not be made by a compensation judge but may be appealed to the rehabilitation review panel and workers' compensation court of appeals as provided by subdivision 6.

Sec. 73. Minnesota Statutes 1982, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] Upon request by the commissioner, insurer (OR), employer, or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner (OF LABOR AND INDUSTRY), insurer (AND), employer, and employee (OF AN EMPLOYEE'S PROGRESS UNDER A PLAN).

Sec. 74. Minnesota Statutes 1982, section 176.102, subdivision 8, is amended to read:

Subd. 8. [PLAN MODIFICATION.] Upon request (OF) to the commissioner by the employer, the insurer, or employee (TO THE COMMISSIONER), or upon the commissioner's own request, the plan may be suspended, terminated or altered upon a showing of good cause (THEREFOR), including:

(a) a physical impairment that does not allow the employee to pursue the (VOCATION BEING TRAINED FOR) *rehabilitation plan*;

(b) the employee's performance level indicates (HE CAN-NOT COMPLETE) the plan *will not be successfully completed*; (OR)

(c) an employee does not cooperate with a plan; or

(d) *that the plan or its administration is substantially inadequate to achieve the rehabilitation plan objectives.*

An employee may request a change in a rehabilitation plan once because (HE) *the employee feels (HE IS NOT SUITED) ill-suited* for the type of work for which (TRAINING) *rehabilitation* is being provided (IF THE REQUEST IS MADE WITHIN 90 DAYS OF THE START OF THE PLAN). *If the rehabilitation plan includes retraining, this request must be made within 90 days of the beginning of the retraining program.* Any decision of the commissioner regarding a change in a plan may be appealed to the *rehabilitation review panel* within (15) 30 days of the decision.

Sec. 75. Minnesota Statutes 1982, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

- (a) Cost of (VOCATIONAL) rehabilitation (DIAGNOSIS) *evaluation* and preparation of a plan;
- (b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;
- (c) Reasonable cost of tuition, books and travel; and, in addition, reasonable costs of board (AND), lodging *and custodial daycare* when rehabilitation requires residence away from the employee's customary residence; (AND)
- (d) *Reasonable cost of travel and custodial daycare during the job interview process;*
- (e) *Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury; and*
- (f) Any other expense agreed to be paid.

Sec. 76. Minnesota Statutes 1982, section 176.102, subdivision 10, is amended to read:

Subd. 10. [REHABILITATION; CONSULTANTS.] The commissioner shall approve rehabilitation consultants who may propose and implement plans if they satisfy rules (PROMULGATED) *adopted* by the commissioner for rehabilitation consultants. A consultant may be an individual or public or private entity, *but may not be a vendor or the agent of a vendor of rehabilitation services.*

Sec. 77. Minnesota Statutes 1982, section 176.102, subdivision 11, is amended to read:

Subd. 11. [(COMPENSATION DURING REHABILITATION) *RETRAINING.*] (THE INSURER OR EMPLOYER SHALL PAY UP) *Retraining is limited to 156 weeks (OF COMPENSATION DURING REHABILITATION UNDER A PLAN IN AN AMOUNT EQUAL TO 125 PERCENT OF THE EMPLOYEE'S RATE FOR TEMPORARY TOTAL DISABILITY. THIS PAYMENT IS IN LIEU OF PAYMENT FOR TEM-*

PORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL DISABILITY TO WHICH THE EMPLOYEE MIGHT OTHERWISE BE ENTITLED FOR THIS PERIOD UNDER THIS CHAPTER, BUT SHALL BE CONSIDERED TO BE THE EQUIVALENT OF TEMPORARY TOTAL DISABILITY FOR THE PURPOSES OF SECTION 176.132. IF ON THE JOB TRAINING IS PART OF THE REHABILITATION PROGRAM, THE WEEKS DURING WHICH THE INSURER OR EMPLOYER PAYS COMPENSATION PURSUANT TO SUBDIVISION 5 SHALL BE SUBTRACTED FROM THE 156 WEEKS OF RETRAINING COMPENSATION WHICH HAS BEEN PAID, IF ANY, PURSUANT TO THIS SUBDIVISION. THIS SUBDIVISION SHALL NOT APPLY TO RETRAINING BENEFITS FOR WHICH LIABILITY HAS BEEN ESTABLISHED PRIOR TO JULY 1, 1979).

Sec. 78. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 11a. [APPLICABILITY OF SECTION.] This section is applicable to all employees injured prior to or on and after October 1, 1979, except for those provisions which affect an employee's monetary benefits.

Sec. 79. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 13. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by section 176.242.

Sec. 80. [176.103] [MEDICAL HEALTH CARE REVIEW.]

Subdivision 1. [PURPOSE.] It is the purpose of this section to provide for review of clinical health care providers who render services to injured employees. This review shall be achieved by establishing a quality control system within the department of labor and industry.

The commissioner shall hire a medical consultant to assist in the administration of this section.

The medical consultant shall be a doctor of medicine licensed under the laws of Minnesota.

The medical consultant shall perform all duties assigned by the commissioner relating to the supervision of the total continuum of care of injured employees and shall also advise the department on matters on which the commissioner requests the consultant's advice or if the consultant deems it appropriate.

Subd. 2. [SCOPE.] The commissioner shall monitor the medical, surgical, and hospital treatment provided to injured employees or the services of other health care providers. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. The commissioner may penalize, disqualify, or suspend a provider from receiving payment for services rendered under this chapter, if the commissioner determines that the provider has violated any part of this chapter or rule adopted under this chapter. The commissioner's authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section.

The commissioner has the sole authority to make determinations under this section with a right of appeal to the medical services review board as provided in subdivision 3 and the workers' compensation court of appeals. A compensation judge has no jurisdiction in making determinations under this section.

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee, two persons representing chiropractic and six medical practitioners representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have two members representing employees, two members representing employers or insurers, and two members representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board shall appoint from among its members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members one of whom must be a member who is not a chiropractor or doctor.

The clinical quality subcommittee shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.

The clinical cost containment subcommittee shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The subcommittees shall make regular reports to the board and the commissioner which shall evaluate the reports for the purpose of determining whether or not a particular health care provider continues to qualify for payment under chapter 176 or is subject to any other sanctions or penalties authorized under this section and to determine whether an employee has been off work longer than necessary.

In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;*
- (2) the clinical cost of the treatment; and*
- (3) the length of time of treatment.*

In its consideration of these factors, the board shall utilize the information and recommendations developed by the subcommittees. In addition, the board shall utilize any other data developed by the subcommittees pursuant to the duties assigned to the subcommittees under this section.

After making a determination, the board shall submit its recommendation in writing to the commissioner. The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and supervision of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three-member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three-member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three-member panel constitutes the decision of the board. This decision may be appealed to the workers' compensation court of appeals.

(c) In any situation where a conflict of interest prevents the appointment of a full three-member panel or in any other situa-

tion where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.

Sec. 81. [176.104] [REHABILITATION PRIOR TO DETERMINATION OF LIABILITY.]

Subdivision 1. [DISPUTE.] If there exists a dispute regarding whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4 prior to determination of liability, the employee shall be referred by the commissioner to the division of vocational rehabilitation which shall provide rehabilitation consultation. The services provided by the division of vocational rehabilitation and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be approved, rejected, or modified by the commissioner.

Subd. 2. [LIABILITY FOR PAST REHABILITATION.] If liability is determined after the employee has commenced rehabilitation under this section the liable party is responsible for the cost of rehabilitation provided and approved by the commissioner. Future rehabilitation after liability is established is governed by section 176.102.

Sec. 82. Minnesota Statutes 1982, section 176.105, is amended by adding a subdivision to read:

Subd. 4. The commissioner shall by rule adopt procedures to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3 and any other body part not listed in section 176.101, subdivision 3 which the commissioner deems appropriate.

Temporary rules shall be adopted for this purpose not later than January 1, 1985. Prior to the adoption of these rules, at least two public hearings shall be held by the commissioner, in addition to the requirements of sections 14.29 to 14.36. Notwithstanding sections 14.29 to 14.36, the temporary rules adopted under this subdivision shall be effective until superseded by permanent rules. The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Disability ratings and schedules shall be based on objective medical evidence.

Prior to adoption of temporary rules the commissioner of insurance shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner of labor and industry shall consider this analysis in adopting the rules under this subdivision and shall consider establishing a schedule which provides that the average award under the proposed schedule shall be approximately the same as the average award under the current schedule. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner shall consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

- (a) the workability and simplicity of the procedures with respect to the evaluation of functional disability;
- (b) the consistency of the procedures with accepted medical standards;
- (c) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability;
- (d) rules, guidelines, and schedules that have been developed by associations of health care providers or organizations;
- (e) the effect the rules may have on reducing litigation;
- (f) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and
- (g) symptomatology and loss of function and use of the injured member.

The factors in clauses (a) to (g) shall not be used in any individual or specific workers' compensation claim under this chapter but shall only be used in the adoption of rules pursuant to this section.

The commissioners authority to adopt, amend, or repeal rules under this subdivision shall expire upon adoption of the permanent rules, and in no case later than January 1, 1987. The rules

adopted under this subdivision, however, shall continue to have the full force and effect of law after this date.

Sec. 83. Minnesota Statutes 1982, 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 spouse (, 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. 84. Minnesota Statutes 1982, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] (a) If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of 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 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. 85. Minnesota Statutes 1982, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.]
((A)) If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children $66 \frac{2}{3}$ 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 depen-

dent, 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. 86. Minnesota Statutes 1982, section 176.111, is amended by adding a subdivision to read:

Subd. 9a. [REMARriage OF SPOUSE.] Remarriage of a surviving spouse who is receiving benefits under subdivision 6, 7, or 8 has no effect on the spouse's right to receive weekly benefits for the remaining period that the spouse is entitled to receive benefits pursuant to this section.

Sec. 87. Minnesota Statutes 1982, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount (\$1,000) \$2,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, (SUCH) its reasonable value shall be determined and approved by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after (SUCH) reasonable notice to interested parties as is required by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). If the deceased leave no dependents, no compensation is payable, except as provided by this chapter.

Sec. 88. Minnesota Statutes 1982, section 176.121, is amended to read:

176.121 [COMMENCEMENT OF COMPENSATION.]

In cases of temporary total or temporary partial disability no compensation (SHALL BE) is allowed for the three calendar days after the disability commenced, except as provided by section

176.135, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 176.141. If (SUCH) the disability continues for 10 calendar days or longer, (SUCH) the compensation (SHALL BE) is computed from the commencement of the disability. Disability is deemed to commence on the first calendar day or fraction of a calendar day that the employee is unable to work.

Sec. 89. [176.129] [CREATION OF THE SPECIAL COMPENSATION FUND.]

Subdivision 1. [DEPOSIT OF FUNDS.] *The special compensation fund is created for the purposes provided for in this chapter. The state treasurer is the custodian of the special compensation fund. Sums paid to the commissioner pursuant to this section shall be deposited with the state treasurer for the benefit of the fund and used to pay the benefits under this chapter. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund. Subject to the provisions of this section, all the powers, duties, functions, obligations, and rights vested in the special compensation fund immediately prior to the effective date of this section are transferred to and vested in the special compensation fund recreated by this section. All rights and obligations of employers with regard to the special compensation fund which existed immediately prior to the effective date of this section continue, subject to the provisions of this section.*

Subd. 2. [PAYMENTS TO FUND, DEATH.] *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 the sum of \$25,000 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 \$25,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner for the benefit of the special compensation fund the difference between the amounts actually paid for the dependency benefits and \$25,000; but in no event shall the employer pay the commissioner less than \$5,000.*

Subd. 3. [PAYMENTS TO FUND, INJURY.] *If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation under section 176.101 or 176.111 the employer shall pay to the commissioner a lump sum amount, without any interest deduction, equal to 20 percent of the total compensation payable. The rate under this subdivision shall remain constant and applies to injuries occurring prior to January 1, 1984, even if the payment is made*

on or after January 1, 1984. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.

Subd. 4. [TIME OF INJURY.] Subdivisions 2 and 3 apply to all workers' compensation payments paid under section 176.101 or 176.111 for an injury or death occurring on or after June 1, 1971, but before January 1, 1984.

Payments made for personal injuries that occurred prior to June 1, 1971, shall be assessed at the rate in effect on the date of occurrence.

Subd. 5. [DETERMINATION OF AMOUNT PAYABLE.]
(a) For injuries occurring on or after January 1, 1984, employers shall pay an assessment as provided in this subdivision. The assessment base shall be determined according to a method established by rule adopted by the commissioner. In determining this method, the commissioner shall consider, among other things, the frequency of indemnity claims, equity, administrative convenience, records maintained by employer's insurers and self-insurers, amenability to audit, and degree of risk refinement.

(b) Using the assessment base method established in clause (a), the commissioner shall annually determine the amount of the assessment base of each employer.

(c) The commissioner shall annually establish a uniform percentage rate to be applied to the assessment base determined pursuant to clause (b). In establishing this rate, the commissioner shall consider, among other things, the likely expenditures to be made by the special fund in the next calendar year, the current fiscal status of the fund, future expenditure trends, and the assessments estimated to be collected under subdivisions 2 and 3. The assessment rate multiplied by the assessment base of an employer is the assessment amount payable under this subdivision. The total amount assessed under this subdivision shall not exceed \$25,000,000 in calendar year 1984. The total amount which may annually be assessed under this subdivision may be increased by up to ten percent beginning on January 1, 1985, and each January 1 thereafter.

(d) An amount assessed pursuant to this subdivision is payable to the commissioner within 45 days of mailing notice of the amount due.

Subd. 6. [PAYMENTS OUT OF FUND.] The workers' compensation division, a compensation judge, the workers' compensation court of appeals, or district court in cases before them shall direct the distribution of benefits provided by this chapter.

These benefits are payable in the same manner as other payments of compensation.

Subd. 7. [REFUNDS.] In case deposit is or has been made under subdivision 2 and dependency later is shown, or if deposit is or has been made pursuant to subdivision 2 or 3 by mistake or inadvertence, or under circumstances that justice requires a refund, the state treasurer is authorized to refund the deposit under order of the commissioner, a compensation judge, the workers' compensation court of appeals, or a district court. There is appropriated to the commissioner from the fund an amount sufficient to make the refund and payment.

Subd. 8. [COMMISSIONER AS ADMINISTRATOR.] The commissioner is the administrator of the special compensation fund. The special compensation fund shall be designated a party in an action regarding any right, obligation, and liability of the special fund. The state treasurer, as custodian, does not have standing in an action determining any right, obligation, or liability of the special fund. The attorney general shall represent the special fund in all legal matters in which the special fund has an interest.

Subd. 9. [POWERS OF FUND.] In addition to powers granted to the special compensation fund by this chapter the fund may do the following:

- (a) sue and be sued in its own name;*
- (b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;*
- (c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter; and*
- (d) take any other action which an insurer is permitted by law to take in operating within this chapter.*

Subd. 10. [PENALTY.] Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty of up to 15 percent of the amount due under this section but not less than \$500 in the event payment is not made in the manner prescribed.

Subd. 11. [ADMINISTRATIVE PROVISIONS.] The accounting, investigation, and legal costs necessary for the ad-

ministration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process.

Subd. 12. [REPORT OF COMMISSIONER.] The commissioner shall report biennially to the governor and to the legislature as to the financial status of the special compensation fund. The report shall include a statement of the receipts and the disbursements for the period covered.

Subd. 13. [EMPLOYER REPORTS.] All employers shall make reports to the commissioner as required for the proper administration of this section and section 176.131.

Sec. 90. Minnesota Statutes 1982, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability that is substantially greater, because of a pre-existing physical impairment, than what would have resulted from the personal injury alone, the employer shall pay all compensation provided by this chapter, but (HE) *the employer* shall be reimbursed from the special compensation fund for all compensation paid in excess of 52 weeks of monetary benefits and \$2,000 in medical expenses, subject to the following exceptions:

If the personal injury alone results in permanent partial disability to a scheduled member under (SECTION 176.101) *the schedule adopted by the commissioner pursuant to section 176.105*, the monetary and medical expense limitations shall not apply and the employer (SHALL BE) is liable for (SUCH) *the* compensation, medical expense, and (RETRAINING) *rehabilitation* attributable to the permanent partial disability, and (HE) may be reimbursed from the *special* compensation fund only for compensation paid in excess of (SUCH) *the* disability.

Sec. 91. Minnesota Statutes 1982, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on the job retraining program pursuant to section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to enter the on the job retraining program, the on the job training employer shall pay the medical expenses and compensation required by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury. The employer, at the time of the personal injury for which the employee has been certified for retraining, is liable for the portion of the disability that is attributable to that injury.

Sec. 92. Minnesota Statutes 1982, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury (SHALL RESULT) *results* in disability or death, and if the injury, death, or disability would not have occurred except for the pre-existing physical impairment *registered with the special compensation fund*, the employer shall pay all compensation provided by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for (SUCH) *the* compensation (ONLY WHERE THE PERMANENT PHYSICAL IMPAIRMENT CONTRIBUTING TO THE SECOND INJURY IS DIABETES, HEMOPHILIA OR SEIZURES) *except that this reimbursement shall not be made for cardiac disease or a condition registered pursuant to clause (t) or (u) unless the commissioner by rule provides otherwise.*

Sec. 93. Minnesota Statutes 1982, section 176.131, subdivision 3, is amended to read:

Subd. 3. To entitle the employer to secure reimbursement from the special compensation fund, the following provisions must be complied with:

(a) Provisions of section 176.181, subdivisions 1 and 2.

(b) The employee with a pre-existing physical impairment must have been registered with the commissioner (OF LABOR AND INDUSTRY) prior to the employee's personal injury or within 180 days after notice of the employee's personal injury is received by the employer. Registration subsequent to the injury shall be based on a medical report *or record* made prior to the injury indicating the pre-existing physical impairment.

Sec. 94. Minnesota Statutes 1982, section 176.131, subdivision 4, is amended to read:

Subd. 4. Any employer who hires or retains in (HIS) *its* employment any person who has a physical impairment shall file a formal registration for (EACH SUCH) *the* employee with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY IN SUCH) *on a form (AS) prescribed by the commissioner (MAY REQUIRE).*

Sec. 95. Minnesota Statutes 1982, section 176.131, subdivision 5, is amended to read:

Subd. 5. Registration under this section may be made by the employee or any employer provided:

(a) Registration (SHALL BE) *is* accompanied by satisfactory evidence of (SUCH) *the* physical impairment;

(b) Registration (SHALL BE) is in effect as long as (SAID) the impairment exists;

(c) Upon request, a registered employee shall be furnished by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) with a registration card evidencing the (FACT OF) registration, and (SUCH) other facts as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) deems advisable.

Sec. 96. Minnesota Statutes 1982, section 176.131, subdivision 6, is amended to read:

Subd. 6. When the employer claims reimbursement from the special compensation fund after paying compensation as prescribed by this section, (HE) *the employer* shall file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) written notice of intention to claim reimbursement in accordance with the rules (AND REGULATIONS OF) *adopted by the commissioner* (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 97. Minnesota Statutes 1982, section 176.131, subdivision 7, is amended to read:

Subd. 7. Under subdivisions 1 and 2, an occupational disease may be deemed to be the personal (second) injury.

If the subsequent disability for which reimbursement is claimed is an occupational disease, and if, subsequent to registration as provided by subdivisions 4 and 5, the employee has been employed by the employer in employment similar to that which initially resulted in (SUCH) *the occupational disease*, no reimbursement shall be paid to the employer.

Sec. 98. Minnesota Statutes 1982, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment (PROVIDED) *except that* (,) physical impairment (AS USED HEREIN) is limited to the following:

(a) Epilepsy,

(b) Diabetes,

- (c) Hemophilia,
- (d) Cardiac disease,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) Residual disability from poliomyelitis,

(h) Cerebral Palsy,

(i) Multiple Sclerosis,

(j) Parkinson's disease,

(k) Cerebral vascular accident,

(l) Chronic Osteomyelitis,

(m) Muscular Dystrophy,

(n) Thrombophlebitis,

(o) *Brain tumors,*

(p) *Pott's disease,*

(q) *Seizures,*

(r) *Cancer of the bone,*

(s) *Leukemia,*

(t) Any other physical impairment for which at least 50 weeks or more of weekly benefits would be payable as permanent partial disability if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

((P)) (u) Any other physical impairments of a permanent nature which the (WORKERS' COMPENSATION COURT OF APPEALS) *commissioner* may by rule prescribe;

"Compensation" has the meaning defined in section 176.011;

"Employer" includes insurer;

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or (RETRAINING) *rehabilitation*.

Sec. 99. Minnesota Statutes 1982, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to the effective date of clause (b) for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as (HEREINAFTER) prescribed in this section after 104 weeks have elapsed and for the remainder of (HIS) the total disablement. Regardless of the number of weeks of total disability, no totally disabled person (SHALL BE) is ineligible for supplementary benefits after four years have elapsed since the first date of (HIS) the total disability, except as provided by clause (b), provided that all periods of disability are caused by the same injury.

(b) An employee injured after the effective date of this clause is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after six years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 100. Minnesota Statutes 1982, section 176.132, is amended by adding a subdivision to read:

Subd. 5. [ROUNDING OF PAYMENTS.] A payment made under this section shall be rounded to the next highest whole dollar.

Sec. 101. Minnesota Statutes 1982, section 176.134, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The commissioner (OF LABOR AND INDUSTRY) shall administer the reopened case fund as part of the special compensation fund provided that the reopened case fund is under separate accounting and audit procedures from the special fund.

Sec. 102. Minnesota Statutes 1982, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] The employer shall furnish (SUCH) any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. (SUCH) *This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of his inability or refusal seasonably to do so the employer (SHALL BE) is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of (A COMPENSATION JUDGE) the commissioner or medical services review board with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party or by writ of certiorari to the supreme court.*

Sec. 103. Minnesota Statutes 1982, section 176.135, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF LIABILITY.] The pecuniary liability of the employer for the treatment, articles and supplies required by this section shall be limited to (SUCH) *the charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living when the same are paid for by the injured persons. On this basis the (COMPENSATION JUDGE) commissioner, medical services review board, or workers' compensation court of appeals on appeal may determine the reasonable value of all such services and supplies and the liability of the employer is limited to the amount so determined.*

Sec. 104. Minnesota Statutes 1982, section 176.136, is amended to read:

176.136 [MEDICAL FEE REVIEW.]

The commissioner (OF 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), *medical services review board*, the workers' compensation court of appeals or a district court determines that the charge for a health service or medical service is excessive, no payment 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 (OF INSURANCE) shall contract with a review organization as defined in section 145.61 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. *If upon the effective date of this section this study has already been conducted by the commissioner of insurance, the commissioner is not required to conduct the study.*

The commissioner (OF INSURANCE) shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 14.14, subdivision 1, and any amendments, the temporary rules adopted by the com-

missioner (OF INSURANCE) pursuant to this subdivision may be extended for an additional 180 days if the procedures for adoption of a rule pursuant to sections 14.13 to 14.20 or 14.21 to 14.28, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

Any rules adopted by the commissioner of insurance pursuant to this section shall be adopted by the commissioner of labor and industry and may be amended, modified, or repealed only by the commissioner of labor and industry.

Sec. 105. [176.138] [MEDICAL DATA; ACCESS.]

Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. Requests for pertinent data shall be made in writing to the person or organization that collected or currently possesses the data. The data shall be provided by the collector or possessor within seven working days of receiving the request. In all cases of a request for the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made. This data shall be treated as private data by the party who requests or receives the data and the employee or the employee's attorney shall be provided with a copy of all data requested.

This section does not apply to medical data related to a previous injury or disability which is an issue in a claim for apportionment.

The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not release the data in a timely manner. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor.

Sec. 106. Minnesota Statutes 1982, section 176.155, subdivision 3, is amended to read:

Subd. 3. [REFUSAL TO BE EXAMINED.] If the injured employee refuses to comply with any reasonable request for examination, (HIS) the right to compensation may be suspended by order of the division, a compensation judge, or workers' compensation court of appeals in a matter before it, and no compensation shall be paid while (HE) the employee continues in (SUCH) the refusal.

Sec. 107. Minnesota Statutes 1982, section 176.155, subdivision 5, is amended to read:

Subd. 5. [TESTIMONY OF (EXAMINING PHYSICIANS) HEALTH CARE PROVIDER.] Any physician or other health care provider designated by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), compensation judge, or workers' compensation court of appeals or whose services are furnished or paid for by the employer, who treats (OR WHO MAKES), examines, or is present at any examination, of an injured employee, may be required to testify as to any knowledge acquired by (HIM) *the physician or health care provider* in the course of (SUCH) *the treatment or examination relative to the injury or disability resulting (THEREFROM) from the injury only if the commissioner or a compensation judge makes a written finding that the appearance of the physician or health care provider is crucial to the accurate determination of the employee's disability. In all other cases all medical evidence must be submitted by written report as prescribed by the chief hearing examiner. A party may cross-examine by deposition a physician or health care provider who has examined or treated the employee. If a physician or health care provider is not available for cross-examination prior to the hearing and the physician's or health care provider's written report is submitted at the hearing, the compensation judge shall, upon request of the adverse party, require the physician or health care provider to testify at the hearing for the purpose of being cross-examined by the adverse party. All written medical evidence must be submitted prior to or at the time of the hearing and no evidence shall be considered which was submitted after the hearing unless the compensation judge orders otherwise.*

Sec. 108. Minnesota Statutes 1982, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or (HIS) *the employee's survivors*, and received in good faith by the employee or (HIS) *the employee's survivors* shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same

injury, the mistaken compensation may be taken as a credit against future benefit entitlement; provided, however, that the credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits or death benefits shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 109. Minnesota Statutes 1982, section 176.182, is amended to read:

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 *for the doing of any public work* before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 110. Minnesota Statutes 1982, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee (SHALL SUSTAIN) *sustains an injury arising out of and in the course of (HIS) employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or (HIS) the employee's dependents shall nevertheless receive benefits as provided for (THEREIN) in this chapter from the special compensation fund, and the (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) commissioner has a cause of action against (SUCH) the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. An action to recover (SUCH) the moneys shall be instituted unless the (CUSTODIAN) commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.*

Sec. 111. Minnesota Statutes 1982, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or (HIS) *the employee's* dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but *the self-insurer fails to (BE PAID THEM) pay the benefits,* the employee or (HIS) *the employee's* dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive (SUCH) *the* benefits from the special compensation fund (, AND). The (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) *commissioner has* a cause of action against (SUCH) *the self-insuring* employer for reimbursement (,) for all (MONEYS) *benefits and other expenditures* paid out or to be paid out and, in the discretion of the court, (AS) *the self-insurer is liable for* punitive damages in an (ADDITIONAL) amount not to exceed 50 percent of the total of all (MONEYS) *benefits and other expenditures* paid out or to be paid out. *The commissioner shall institute an action to recover (SUCH MONEYS SHALL BE INSTITUTED) the total expenditures from the fund unless the (CUSTODIAN) commissioner determines that no recovery is possible. All (MONEYS) proceeds recovered shall be deposited in the general fund.*

Sec. 112. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 3. (a) *Notwithstanding subdivision 2, the commissioner may direct payment from the special compensation fund for compensation payable pursuant to subdivisions 1 and 1a, including benefits payable under sections 176.102 and 176.135, prior to issuance of an order of a compensation judge or the workers' compensation court of appeals directing payment or awarding compensation.*

(b) *The commissioner may suspend or terminate an order under clause (a) for good cause as determined by the commissioner.*

Sec. 113. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 4. *If the commissioner authorizes the special fund to commence payment under this section, the commissioner shall serve notice by certified mail upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver*

of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.

Sec. 114. Minnesota Statutes 1982, section 176.185, is amended by adding a subdivision to read:

Subd. 10. [DATA COLLECTION CONTRACTS.] The commissioner may contract with other parties regarding the collection of appropriate data to assist in meeting the requirements of this section.

Sec. 115. [176.186] [RECORDS FROM OTHER STATE AGENCIES.]

Notwithstanding any other state law to the contrary, the commissioner may obtain from the department of revenue, department of economic security, and office of the secretary of state, or any other state agency, upon request, names or lists of employers doing business in the state. This information shall be treated by the commissioner in the manner provided by chapter 13 and shall be used only for insurance verification by the commissioner.

Sec. 116. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 5. Where a dispute exists between an employer, insurer, the special compensation fund, the reopened case fund, or the workers' compensation reinsurance association, regarding benefits payable under this chapter, the dispute may be submitted with consent of all interested parties to binding arbitration pursuant to the rules of the American arbitration association. The decision of the arbitrator shall be conclusive with respect to all issues presented except as provided in subdivisions 6 and 7. Consent of the employee is not required for submission of a dispute to arbitration pursuant to this section and the employee is not bound by the results of the arbitration. An arbitration award shall not be admissible in any other proceeding under this chapter. Notice of the proceeding shall be given to the employee.

The employee, or any person with material information to the facts to be arbitrated, shall attend the arbitration proceeding if any party to the proceeding deems it necessary. Nothing said by an employee in connection with any arbitration proceeding may be used against the employee in any other proceeding under this chapter. Reasonable expenses of meals, lost wages, and travel of

the employee or witnesses in attending shall be reimbursed on a pro rata basis.

Sec. 117. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 6. If the employee commences an action under this chapter for benefits arising out of the same injury which resulted in the dispute arbitrated under subdivision 5, and if the benefits awarded to the employee under the employee's claim are inconsistent with the arbitration decision, any increase in benefits over those paid pursuant to the arbitration proceeding is paid by the party or parties who ordinarily would have been required to pay the increased benefits but for the arbitration. Any reimbursement from the employee of any decrease in benefits from those paid pursuant to the arbitration is paid to the party or parties who previously had paid the increased benefits. The provisions of this subdivision apply regardless of whether more or fewer employers and insurers or the special fund have been added or omitted as parties to the employee's subsequent action after arbitration.

Sec. 118. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 7. If an employee brings an action under the circumstances described in subdivision 6, the parties to the previous arbitration may be represented at the new action by a common or joint attorney.

Sec. 119. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 8. No attorney's fees shall be awarded under either section 176.081, subdivision 8, or 176.191 against any employer or insurer in connection with any arbitration proceeding unless the employee chooses to retain an attorney to represent the employee's interests during arbitration.

Sec. 120. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 1a. [ADDITIONAL GROUNDS.] Where an insurer or agent of an insurer has failed to comply with provisions of this chapter, other than the provisions in subdivision 1, the commissioner of insurance may revoke the license of the insurer to write workers' compensation insurance.

Sec. 121. Minnesota Statutes 1982, section 176.195, subdivision 2, is amended to read:

Subd. 2. [COMMENCEMENT OF PROCEEDINGS.] (SUCH) *The commissioner of insurance may act under subdivision 1 or 1a upon his own motion, the recommendation of the commissioner (OF THE DEPARTMENT) of labor and industry, the chief hearing examiner, or the workers' compensation court of appeals, or the complaint of any interested person.*

Sec. 122. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 7. [REPORT TO COMMISSIONER OF INSURANCE.] *The commissioner may send reports to the commissioner of insurance regarding compliance with this chapter by insurers writing workers' compensation insurance. A report may include a recommendation for revocation of an insurer's license under this section and may also recommend the imposition of other penalties which may be imposed upon insurers by the commissioner of insurance.*

Sec. 123. Minnesota Statutes 1982, section 176.221, is amended to read:

176.221 [PAYMENT OF COMPENSATION AND TREATMENT CHARGES, COMMENCEMENT.]

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of *temporary total* 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) *If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be (DISCONTINUED) terminated upon (NOTICE OF DISCONTINUANCE PURSUANT TO SECTION 176.241) the filing of a notice of denial of liability.* Upon the (DETERMINATION) *termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.*

(SUBD. 2. [GRANT OF EXTENSION.] UPON APPLICATION MADE WITHIN 30 DAYS AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE, THE COMMISSIONER 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) *pursuant to subdivision 1*, or to file a denial of liability *within the 14-day period referred to in subdivision 1*, (OR TO REQUEST AN EXTENSION OF TIME WITHIN 30 DAYS AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE, HE) *it 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 PERIOD AND UNTIL A) *to receive up to the date 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 30 DAYS FROM THE END OF THE 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 or compensation judge shall assess the penalty payments provided for by (SUBDIVISIONS) subdivision 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 it even if the delay is attributable to the employer.

An insurer who has paid a penalty under this section may recover from the employer the portion of the penalty attributable to the acts of the employer which resulted in the delay. A penalty paid by an insurer under this section which is attributable to the fault of the employer shall be treated as a loss in an experience rated plan, retrospective rating plan, or dividend calculation where appropriate.

Subd. 6a. [MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT COMPENSATION.] *The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivision 9, economic recovery compensation or impairment compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.*

Subd. 7. [INTEREST.] Any payment of compensation, charges for treatment under section 176.135 or (RETRAINING) rehabilitation expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent (PER ANNUM) a year from the due date to the date the payment is made or the rate set by section 549.09, subdivision 1, whichever is greater.

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 the filing of an appropriate order by the division or a compensation judge, unless the order is (TO BE) appealed (,) or (WHERE) if a different time period is provided by this chapter.

Sec. 124. Minnesota Statutes 1982, section 176.225, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] Upon reasonable notice and hearing or opportunity to be heard, the division, *a compensation judge*, or upon appeal, the workers' compensation court of appeals or the supreme court may award compensation, in addition to the total amount of compensation award, of up to 25 percent of that total amount where an employer or insurer has:

(a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,

(b) unreasonably or vexatiously delayed payment; or,

(c) neglected or refused to pay compensation; or,

(d) intentionally underpaid compensation.

Sec. 125. Minnesota Statutes 1982, section 176.225, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF BOOKS AND RECORDS.] To determine whether an employer or insurer (HAS BECOME SUBJECT TO) *is liable for* the payment provided by subdivision 1, the division, *a compensation judge*, or the workers' compensation court of appeals upon appeal may examine the books and records of the (PERSON) *employer or insurer* relating to the payment of compensation, and may require (HIM) *the employer or insurer* to furnish any other information relating to the payment of compensation.

Sec. 126. Minnesota Statutes 1982, section 176.225, subdivision 3, is amended to read:

Subd. 3. [DEFIANCE OF DIVISION, COMPENSATION JUDGE, OR WORKERS' COMPENSATION COURT OF APPEALS, COMPLAINT.] (WHERE) *If* an insurer persists in an action or omission listed in subdivision 1, or does not permit the examination of (HIS) books and records, or fails to furnish (SUCH) information as required, the commissioner or *the chief hearing examiner* shall file a written complaint with the insurance commissioner. The complaint shall specify the facts and recommend the revocation of the license of the insurer to do business in this state. The workers' compensation court of appeals may also file (SUCH) *a* written complaint.

Sec. 127. Minnesota Statutes 1982, section 176.231, subdivision 3, is amended to read:

Subd. 3. [PHYSICIANS, CHIROPRACTORS, OR (SURGEONS) OTHER HEALTH CARE PROVIDERS TO REPORT INJURIES.] (WHERE) A physician (OR SURGEON), *chiropractor, or other health care provider who* has examined, treated, or has special knowledge of an injury to an employee which may be compensable under this chapter, (HE) shall report to the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) all facts relating to the nature and extent of the injury and disability, *and the treatment provided for the injury or disability*, within ten days after (HE) *the health care provider* has received a written request for (SUCH) *the* information from the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) or (ANY MEMBER OR EMPLOYEE THEREOF) *an authorized representative of the commissioner.*

Sec. 128. Minnesota Statutes 1982, section 176.231, subdivision 4, is amended to read:

Subd. 4. [SUPPLEMENTARY REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) or (ANY MEMBER OR EMPLOYEE THEREOF,) *an authorized representative* may require the filing of (SUCH) supplementary reports of accidents as (IT DEEMS) *is deemed* necessary to provide information required by law.

Supplementary reports related to the current nature and extent of the employee's injury, disability, or treatment may be requested from a physician, surgeon, chiropractor, or other health care provider by the commissioner or a representative, an employer or insurer, or the employee.

Sec. 129. Minnesota Statutes 1982, section 176.231, subdivision 5, is amended to read:

Subd. 5. [FORMS FOR REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall *by rule* prescribe forms for use in making the reports required by this section. *The first report of injury* form which the employer submits (WITH REFERENCE TO AN ACCIDENT) shall include a declaration by the employer (THAT HE WILL) *of a promise to pay the compensation the law requires. Forms for reports required by this section shall be as prescribed by the commissioner and shall be the only forms used by an employer, insurer, self-insurer, group self-insurer, and all health care providers.*

Sec. 130. Minnesota Statutes 1982, section 176.231, subdivision 9, is amended to read:

Subd. 9. [USES WHICH MAY BE MADE OF REPORTS.] Reports filed with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) under this section may be used

in hearings held under this chapter, and for the purpose of state investigations and for statistics.

The division or office of administrative hearings or workers' compensation court of appeals may permit an attorney at law who represents an employer, insurer, or an employee or (HIS) a dependent to examine its file in a compensation case if the attorney furnishes written authorization to do so from (HIS) the attorney's client. Reports filed under this section and other information the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 131. Minnesota Statutes 1982, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] (WHERE) *If an employer, physician, (OR SURGEON HAS FAILED) chiropractor, or other health provider fails to file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) any report required by this section in the manner and within the time limitations prescribed, (HE SHALL FORFEIT TO THE STATE \$50) or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each (SUCH) failure.*

The attorney general shall sue in a civil action to collect this penalty upon notification of the matter by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall certify to the attorney general each failure to report immediately upon its occurrence.

Penalties collected by the state under this subdivision shall be paid into the state treasury.

Sec. 132. Minnesota Statutes 1982, section 176.241, subdivision 2, is amended to read:

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except (WHERE) *when the commissioner 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 or compensation judge as provided in the following subdivisions.

Sec. 133. Minnesota Statutes 1982, section 176.241, subdivision 4, is amended to read:

Subd. 4. [ORDER.] When the hearing has been held (,) and (HE HAS DULY CONSIDERED) the evidence *duly considered*, the person who held the hearing shall promptly enter an order directing the payment of further compensation or confirming the termination of compensation. (WHERE) *If the order confirms a termination of compensation, (THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER OF THE ACTION. THIS NOTIFICATION) the service and filing of the order* relieves the employer from further liability for compensation subject to the right of review afforded by this chapter, and to the right of the (DIVISION) *compensation judge* to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. *Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order but the court of appeals may remand the matter to a compensation judge for a new hearing.*

Sec. 124. [176.242] [ADMINISTRATIVE CONFERENCE PRIOR TO DISCONTINUANCE OF COMPENSATION.]

Subdivision 1. [NOTICE OF DISCONTINUANCE; GROUNDS.] *If an employer or insurer files a notice of intention to discontinue, the employer or insurer shall serve a copy upon the commissioner and the employee including detailed reasons for the intended discontinuance.*

Subd. 2. [CONFERENCE, REQUEST.] (a) *The employee has ten calendar days from the date the notice was served to request that the commissioner schedule an administrative conference to determine the appropriateness of the proposed discontinuance. The employer or insurer may request an administrative conference under this section at any time whether or not a notice of intent to discontinue is filed. The commissioner shall schedule an administrative conference to be held within ten calendar days after the commissioner receives timely notice of the employee's or employer's request for an administrative conference.*

(b) *If the employee does not, in a timely manner, request that the commissioner schedule an administrative conference, or fails to appear, without good cause, at a scheduled conference, compensation may be discontinued, subject to the employee's right under section 176.241.*

(c) *An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner de-*

termines that good cause exists for granting a continuance the commissioner may grant the continuance which shall not exceed ten calendar days. No more than one continuance shall be granted.

(d) The purpose of an administrative conference is to determine whether reasonable grounds exist for a discontinuance and to clarify issues and resolve disputes regarding the discontinuance.

Subd. 3. [NECESSITY FOR CONFERENCE, COMMISSIONER'S DISCRETION.] The commissioner may determine that no administrative conference is necessary under this section and permit the employer or insurer to discontinue compensation, subject to the employee's right under section 176.241.

The commissioner may permit compensation to be discontinued at any time after a notice pursuant to subdivision 1 is received even if no administrative conference has been held, if the commissioner deems the discontinuance appropriate based on the information the commissioner has; subject to the employee's right under section 176.241.

Subd. 4. [ADMINISTRATIVE DECISION.] After considering the information provided by the parties at the administrative conference, the commissioner shall issue to all interested parties a written administrative decision permitting or denying the employer's or insurer's request to discontinue compensation. The decision shall be issued within five working days from the close of the conference. The commissioner's decision is binding on the parties. The commissioner shall advise all parties of the right to petition to the chief hearing examiner under section 176.241 and of the right to be represented by an attorney at a hearing before a compensation judge.

Subd. 5. [OBJECTION TO DECISION.] If the commissioner grants the employer's or insurer's request to discontinue compensation and the employee objects to the discontinuance, the employee may file an objection to discontinuance under section 176.241. If the commissioner denies the request to discontinue compensation the employer or insurer may file a petition to discontinue under section 176.241.

Subd. 6. [EFFECT OF DECISION, APPEAL.] If an objection or a petition is filed under subdivision 5, the commissioner's administrative decision remains in effect and the parties obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge.

Subd. 7. [DECISION AS NOTICE.] If a party proceeds under subdivision 5, the commissioner's administrative decision under this section is deemed required notice to interested parties

under section 176.241 and the commissioner's obligations under section 176.241 are deemed to be met.

Subd. 8. [WHEN DISCONTINUANCE ALLOWED.] *Compensation shall not be discontinued prior to an administrative conference except as provided under subdivision 2, clause (b) or if the commissioner determines pursuant to subdivision 3 that no administrative conference is necessary. The employer may discontinue compensation immediately without having an administrative conference if the discontinuance is because the employee has returned to work.*

Subd. 9. [NOTICE, FORMS.] *Notice to the employee under subdivision 1 shall be on forms prescribed by the commissioner.*

Subd. 10. [FINES, VIOLATIONS.] *An employer or insurer who discontinues compensation in violation of this section is subject to a fine of up to \$500 for each violation. Fines shall be paid to the special compensation fund.*

Subd. 11. [APPLICATION.] *This section is applicable to any notice of intent to discontinue which is filed after the effective date of this section, even if the injury occurred prior to the effective date of this section.*

Sec. 135. [176.243] [ADMINISTRATIVE CONFERENCE FOLLOWING RETURN TO WORK, SUBSEQUENT INABILITY TO WORK.]

Subdivision 1. [CONFIRMATION OF EMPLOYMENT AND WAGES.] *If an insurer has discontinued compensation to an employee because the employee has returned to work, the insurer shall contact the employer by whom the employee is employed 14 calendar days after return to work. The insurer shall determine whether the employee is still employed after 14 days and shall also ascertain the wages being paid to the employee.*

Subd. 2. [NOTICE TO COMMISSIONER.] *If upon contact the insurer determines that the employee is not working or that the employee is earning a lower wage than at the time of the injury, the insurer shall notify the commissioner in writing of this fact and shall also state the actions that the insurer has taken or intends to take regarding payment of compensation. A copy of this notice shall be served by the insurer by certified mail to the employee.*

Subd. 3. [EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFERENCE.] *If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee, the employee may request an*

administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.

Subd. 4. [ADMINISTRATIVE DECISION.] *After considering the information provided by the parties at the administrative conference the commissioner shall issue to all interested parties a written administrative decision regarding payment of compensation. The commissioner's decision is binding upon the parties and the rights and obligation of the parties are governed by the decision. The commissioner shall advise all parties of the right to petition to the chief hearing examiner under section 176.241 and of the right to be represented by an attorney at a hearing before a compensation judge. A party aggrieved by the commissioner's decision may proceed under section 176.241.*

Subd. 5. [DECISION BINDING PENDING COMPENSATION JUDGE DECISION.] *If an aggrieved party files a petition under section 176.241, the commissioner's administrative decision remains in effect pending a determination by a compensation judge.*

Subd. 6. [DECISION AS NOTICE.] *If a party proceeds under section 176.241, the commissioner's administrative decision is deemed to fulfill the division's obligations under section 176.241.*

Subd. 7. [OBLIGATIONS PRIOR TO ADMINISTRATIVE DECISION.] *If an insurer has not voluntarily recommenced compensation following the employee's cessation of work, the insurer is not obligated to do so until an administrative conference is held and unless the commissioner determines that compensation shall be recommenced.*

Subd. 8. [NECESSITY OF ADMINISTRATIVE CONFERENCE.] *If the commissioner deems it appropriate, based upon information the commissioner has, the commissioner may determine that an administrative conference is not necessary, in which case a party may proceed under section 176.241.*

Subd. 9. [APPLICATION OF SECTION.] *This section applies only when the employee has received at least 30 days of temporary total or temporary partial compensation prior to return to work and if no rehabilitation plan has been approved.*

Subd. 10. [NOTICE FORMS.] *A notice under this section shall be on a form prescribed by the commissioner.*

Subd. 11. [FINES, VIOLATIONS.] An employer or insurer who violates this section is subject to a fine of up to \$500 for each violation which shall be paid to the special compensation fund.

Subd. 12. [APPLICATION.] This section is applicable to all cases in which a return to work has occurred after the effective date of this section even if the injury occurred prior to the effective date.

Sec. 136. Minnesota Statutes 1982, section 176.281, is amended to read:

176.281 [ORDERS, DECISIONS, AND AWARDS; FILING; SERVICE.]

When the commissioner or compensation judge or office of administrative hearings or the workers' compensation court of appeals has rendered (AN) a final order, decision, or award, or amendment to an order, decision, or award, it shall be filed immediately with the commissioner. (WHERE) If the commissioner, compensation judge, office of administrative hearings, or workers' compensation court of appeals has rendered (AN) a final order, decision, or award, or amendment thereto, the commissioner or the office of administrative hearings or the workers' compensation court of appeals shall immediately serve a copy upon every party in interest, together with a notification of the (TIME) date the (SAME) order was filed.

Sec. 137. Minnesota Statutes 1982, section 176.285, is amended to read:

176.285 [SERVICE OF PAPERS AND NOTICES.]

Service of papers and notices shall be by mail or (BY SUCH OTHER MEANS) otherwise as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY DIRECTS) or the chief hearing examiner may by rule direct. Where service is by mail, service is effected at the time mailed if properly addressed and stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served. However, a party may show by competent evidence that (HE) that party did not receive it or that it had been delayed in transit for an unusual or unreasonable period of time. In case of (SUCH) non-receipt or delay, an allowance shall be made for the party's failure to assert a right within the prescribed time.

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) and the chief hearing examiner shall (KEEP A CAREFUL RECORD OF EACH SERVICE INCLUDING THE TIME WHEN MADE) ensure that proof of service of all

papers and notices served by their respective agencies is placed in the official file of the case.

Sec. 138. [176.312] [AFFIDAVIT OF PREJUDICE.]

An affidavit of prejudice for cause may be filed by a party to the claim against a compensation judge, in the same manner as an affidavit of prejudice is filed pursuant to law or rule of district court. The filing of an affidavit of prejudice against a compensation judge has the same effect and shall be treated in the same manner as in district court.

Sec. 139. Minnesota Statutes 1982, section 176.321, subdivision 1, is amended to read:

Subdivision 1. [FILING, SERVICE.] Within (TWENTY) 20 days after (HE HAS BEEN SERVED WITH A COPY) service of the petition, an adverse party (MAY) *shall serve and file (A VERIFIED) an answer to the petition. (WHEN HE FILES THE ANSWER,)* The party shall (ALSO) serve a copy of the answer on the petitioner or (HIS) *the petitioner's 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. 140. Minnesota Statutes 1982, section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT.]

(WHERE) *If an adverse party (HAS FAILED) fails to file and serve an answer (, IF) and the petitioner presents proof of (SUCH) this fact, the commissioner or compensation judge (SHALL) may enter whatever award or order to which the petitioner is entitled on the basis of the facts alleged in the petition, but the compensation judge may require proof of an alleged fact. If the commissioner requires (SUCH) proof, (HE) the commissioner shall request the chief hearing examiner to assign the matter to a compensation judge (TO SUMMARILY HEAR AND DETERMINE THE SAME) for an immediate hearing and (TO PROMPTLY MAKE AN) prompt award or other order.*

Where in (SUCH) a default case the petition does not state facts sufficient to support an award, the compensation judge shall give the petitioner or (HIS) *the petitioner's attorney* written notice of this deficiency. The petitioner may thereupon serve and file another petition as in the case of an original petition.

Sec. 141. Minnesota Statutes 1982, section 176.341, is amended to read:

176.341 [HEARING ON PETITION.]

Subdivision 1. [TIME.] (WHEN THE REPLY HAS BEEN FILED OR THE TIME HAS EXPIRED IN WHICH TO FILE A REPLY) *Upon receipt of a matter from the commissioner, the chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held 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 176.001) and the requirements of section 176.306.*

Subd. 2. [PLACE.] Unless otherwise ordered by the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR COMPENSATION JUDGE) *chief hearing examiner, the hearing shall be held in the county where the injury or death occurred.*

Subd. 3. [NOTICE MAILED TO EACH PARTY.] At least (FIVE) 30 days prior to the date of hearing, the (WORKERS' COMPENSATION DIVISION) *chief hearing examiner shall mail a notice of the time and place of hearing to each interested party. This subdivision does not apply to hearings which have been continued from an earlier date. In those cases, the notice shall be given in a manner deemed appropriate by the chief hearing examiner after considering the particular circumstances in each case.*

Sec. 142. Minnesota Statutes 1982, section 176.361, is amended to read:

176.361 [INTERVENTION.]

(WHERE) A person *who* has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge (OF) such (A CHARACTER) that (HE) *the person* may either gain or lose by an order or decision (, HE) may intervene in the proceeding by filing an application in writing stating the facts which show (SUCH) *the* interest.

The commissioner of the department of labor and industry and workers' compensation court of appeals shall adopt rules to govern the procedure for intervention.

Sec. 143. Minnesota Statutes 1982, section 176.371, is amended to read:

176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hearing, shall hear all competent, *relevant* evidence produced at the hearing (, AND, AS SOON AFTER THE HEARING AS POSSIBLE, MAKE FINDINGS OF FACT, CONCLUSIONS OF LAW,). *All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner within 60 days after the submission, unless sickness or casualty prevents a timely filing, or the time is extended by written consent of the parties, or the chief hearing examiner extends the time for good cause. The compensation judge's decision shall include a determination of all contested issues of fact and law and an award or disallowance of compensation or other order as the pleadings, evidence, this chapter and rule require. A compensation judge's decision shall include a memorandum only if necessary to delineate the reasons for the decision or to discuss the credibility of witnesses. A memorandum shall not contain a recitation of the evidence presented at the hearing but shall be limited to the compensation judge's basis for the decision.*

No part of the salary of a compensation judge shall be paid unless the chief hearing examiner determines that all decisions of that judge have been issued within the time limit prescribed by this section.

Sec. 144. Minnesota Statutes 1982, section 176.421, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF APPEAL.] The appellant or (HIS) *the appellant's* attorney shall prepare and sign a written notice of appeal specifying:

- (1) the order appealed from;
- (2) that appellant appeals from the order to the workers' compensation court of appeals;
- (3) the particular finding of fact or conclusion of law which (HE) *the appellant* claims was unwarranted by the evidence or procured by fraud, coercion, or other improper conduct; and
- (4) (THE TESTIMONY OR OTHER PART OF THE RECORD OF THE HEARING NECESSARY TO BE TRANSCRIBED IN ORDER FOR THE COURT OF APPEALS TO CONSIDER THE APPEAL; AND,)

((5)) any other ground upon which the appeal is taken.

An appeal initiates the preparation of a typewritten transcript of the entire record unless the appeal is solely from an award of attorney's fees or an award of costs and disbursements or unless otherwise ordered by the court of appeals. On appeals

from an award of attorney's fees or an award of costs and disbursements, the appellant must specifically delineate in the notice of appeal the portions of the record to be transcribed in order for the court of appeals to consider the appeal.

Sec. 145. Minnesota Statutes 1982, 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 chief hearing examiner and file a copy with the commissioner;

(3) In order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25 (; AND)

((4) SUBMIT A REQUEST THAT THE CHIEF HEARING EXAMINER ORDER THE PREPARATION OF A TRANSCRIPT OF THAT PART OF THE HEARING DELINEATED IN THE NOTICE OF APPEAL).

(A PARTY WHO DESIRES A TRANSCRIPT OF MORE OF THE HEARING THAN HAS BEEN REQUESTED BY THE APPELLANT SHALL, WITHIN FIVE WORKING DAYS OF SERVICE OF THE NOTICE OF APPEAL, MAKE A REQUEST OF THE CHIEF HEARING EXAMINER THAT THE ADDITIONAL TESTIMONY BE TRANSCRIBED.)

The *first* party (REQUESTING THE PREPARATION OF THE TRANSCRIPT OR ANY PART) *to file an appeal* is liable for the *original* cost of preparation of the transcript. *Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy.* The cost of a transcript prepared by a non-governmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

Upon the showing of cause, the chief hearing examiner may direct that a transcript be prepared without expense to the party requesting its preparation, in which case the cost of the transcript shall be paid by the office of administrative hearings.

All fees received by the office of administrative hearings for the preparation of the record for submission to the workers' compensation court of appeals or for the cost of transcripts prepared by the office shall be deposited in the office of administrative hearings account in the state treasury and shall be used solely for the purpose of keeping the record of hearings conducted under this chapter and the preparation of transcripts of those hearings.

Sec. 146. Minnesota Statutes 1982, 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) *appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:*

(1) disregard the findings of fact which the compensation judge has made;

(2) examine the record;

(3) substitute for the findings of fact made by the compensation judge such findings as the total evidence requires; and,

(4) make an award or disallowance of compensation or other order as the facts and findings require.

Sec. 147. Minnesota Statutes 1982, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before (HIMSELF.) the commissioner and shall provide a stenographer or an audio magnetic recording device to make (A) the record of the proceedings (BEFORE HIM).

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge (AND SHALL FIX THE AMOUNT OF THIS CHARGE) *which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision.*

Sec. 148. Minnesota Statutes 1982, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER (OF DEPARTMENT OF LABOR AND INDUSTRY).]

Any decision or determination of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by (SUCH) *the* determination may appeal to the workers' compensation court of appeals *by filing a notice of appeal with the commissioner* 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.

Sec. 149. Minnesota Statutes 1982, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except (WHERE) *when* a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or (WHERE) *if* 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 *working* days after written notice to all interested parties, may set the award aside and grant a new hearing 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 *and order of award or* disallowance of compensation or other order (AS) *based on the* pleadings and the evidence produced and *as required by* the provisions of this chapter (SHALL REQUIRE) *or rules adopted under it.*

Sec. 150. Minnesota Statutes 1982, 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, the workers' compensation court of appeals, and the district court 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 con-

formity 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 conclusively presumed to be reasonable, fair, and in conformity with this chapter *except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the division, a compensation judge, or workers' compensation court of appeals.*

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

Sec. 151. Minnesota Statutes 1982, section 176.521, subdivision 2a, is amended to read:

Subd. 2a. [SETTLEMENTS NOT SUBJECT TO APPROVAL.] When a settled case is not subject to approval, upon receipt of the stipulation for settlement, a compensation judge (OR), a settlement judge, *or the workers' compensation court of appeals* shall immediately sign the award and file it with the commissioner. Payment pursuant to the award shall be made within 14 days after it is filed with the commissioner. The commissioner may correct mathematical or clerical errors at any time.

Sec. 152. Minnesota Statutes 1982, section 176.521, subdivision 3, is amended to read:

Subd. 3. [SETTING ASIDE AWARD UPON SETTLEMENT.] Notwithstanding *the provisions of section 176.521, subdivision 1, 2, or 2a, or any provision in the agreement of settlement to the contrary, upon the filing of a petition by any party to the settlement and after a hearing on the petition, the workers' compensation court of appeals may set aside an award made upon a settlement, pursuant to this chapter. In those cases, the workers' compensation court of appeals shall refer the matter to the chief hearing examiner for assignment to a compensation judge for hearing.*

Sec. 153. Minnesota Statutes 1982, section 176.561, is amended to read:

176.561 [WORKERS' COMPENSATION COURT OF APPEALS POWERS AND DUTIES AS TO STATE EMPLOYEES; PROCEDURE FOR DETERMINING LIABILITY.]

The division, *a compensation judge* and the workers' compensation court of appeals have the same powers and duties in

matters relating to state employees as they have in relation to other employees.

Except as specifically provided otherwise (HEREIN) in this chapter, the procedure for determining the liability of the state for compensation is the same as that applicable in other cases.

Sec. 154. [176.572] [CONTRACT WITH INSURANCE CARRIERS.]

The commissioner may contract with group health insurance carriers or health maintenance organizations to provide health care services and reimburse health care payments for injured state employees entitled to benefits under this chapter.

Sec. 155. Minnesota Statutes 1982, section 176.571, subdivision 6, is amended to read:

Subd. 6. [FORMAL HEARING ON OBJECTIONS.] *If the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY SHALL HOLD) determines that a formal hearing on the objections which have been filed to the proposed order (WHERE THE CIRCUMSTANCES WARRANT SUCH) is warranted, the commissioner shall refer the matter to the chief hearing examiner for the assignment of a compensation judge who shall hold a hearing. (THE HEARING SHALL BE BEFORE A COMPENSATION JUDGE.)*

Sec. 156. Minnesota Statutes 1982, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2, 3a, and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, 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.

Sec. 157. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 10. [MULTIPLE EMPLOYERS OR INSURERS; LIABILITY.] The employer liable for the compensation for a personal injury under this chapter is the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed. In the event that the employer who is liable for the compensation had multiple insurers during the employee's term of employment, the insurer or self-insurer who was on the risk during the employee's last exposure to the hazard of the occupational disease claimed is the liable party.

Sec. 158. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 11. [DATE OF INJURY IN OCCUPATIONAL DISEASE CASES.] In the case of a claim for occupational disease, the date of injury is the date a diagnosis is made or the date the employee displays symptoms of the disease and knows or has reason to know the symptoms are related to the hazard of occupational disease, whichever occurs first.

Sec. 159. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 12. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease shall be 66-2/3 percent of the employee's weekly wage on the date of injury, as defined in subdivision 11, of the occupational disease claimed, subject to a maximum compensation equal to the maximum compensation in effect on the date of injury provided that the employee shall be immediately eligible for supplementary benefits if that employee's compensation is less than 65 percent of the statewide average weekly wage.

Sec. 160. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 13. [EMPLOYER RIGHT TO RECOVER.] An employer or insurer who has paid compensation pursuant to this section has a right of subrogation, indemnity, or contribution against an employer or insurer for whom the employee has previously worked during which time the employee was exposed to the hazard of the occupational disease claimed. This right shall be asserted in an action before a compensation judge.

Sec. 161. [176.83] [RULES.]

In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner

may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules include but are not limited to:

(a) rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services including registration fees to be paid by rehabilitation consultants and approved vendors under section 176.102. Registration fees set by the commissioner shall be set so that the total fees received approximate the amount appropriated for the function, plus the portion of general support costs and statewide indirect costs of the agency that is attributable to the function for which the fee is charged. Subsequent fee adjustments may be made without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102. These rules may also establish criteria regarding "reasonable moving expenses" under the section. The rules may also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation pursuant to this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant, provided that in absence of such rules this consultation shall be conducted pursuant to the provisions of this chapter governing rehabilitation consultation;

(b) rules establishing standards for reviewing and evaluating the clinical consequences of services provided by qualified rehabilitation consultants, approved registered vendors of rehabilitation services, and services provided to an employee by health care providers;

(c) rules establishing standards and procedures for determining whether or not charges for health services or rehabilitation services rendered under this chapter are excessive. In this regard, the standards and procedures shall be structured to determine what is necessary to encourage providers of health services and rehabilitation services to develop and deliver services for the rehabilitation of injured employees.

The procedures shall include standards for evaluating hospital care, other health care and rehabilitation services to insure that quality hospital, other health care, and rehabilitation is available and is provided to injured employees;

(d) rules establishing standards and procedures for determining whether a provider of health care services and rehabilita-

tion services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the commissioner that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer. In addition, the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

A health or rehabilitation provider who is determined by the commissioner to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under chapter 176. A prohibition imposed on a provider under this clause may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

The rules adopted under this clause shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause;

(e) rules necessary for implementing and administering the provisions of sections 176.131, 176.132, 176.134, 176.242, 176.243, 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111 provided that under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule;

(f) procedures required for the implementation and administration of section 176.129;

(g) rules to govern the procedure for intervention pursuant to section 176.361;

(h) joint rules with either or both the workers' compensation court of appeals and the chief hearing examiner which may be necessary in order to provide for the orderly processing of claims or petitions made or filed pursuant to chapter 176;

(i) rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to

determine "suitable gainful employment" and "independent contractor"; or

(j) forms and other reporting procedures to be used by an employer, insurer, medical provider, qualified rehabilitation consultant, approved vendor of rehabilitation services, attorney, employee, or other person subject to the provisions of this chapter.

The chief hearing examiner shall adopt rules relating to procedures in matters pending before a compensation judge in the office of administrative hearings.

The commissioner may adopt rules regarding requirements which must be met by individuals who are employed by insurers or self-insurers or claims servicing or adjusting agencies and who work as claims adjusters in the field of workers' compensation insurance.

The commissioner may adopt temporary rules establishing qualifications necessary to be a qualified rehabilitation consultant and penalties to be imposed against qualified rehabilitation consultants or approved vendors who violate this chapter or rules, including temporary rules, adopted under this chapter. In addition to the provisions of sections 14.29 to 14.36, at least one public hearing shall be held prior to the adoption of these temporary rules.

Sec. 162. [176.84] [SPECIFICITY OF NOTICE OR STATEMENT.]

All notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102, 176.103, 176.221, 176.241, 176.242, and 176.243, shall be sufficiently specific to convey clearly, without further inquiry, the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.

Sec. 163. [176.85] [PENALTIES; APPEALS.]

Subd. 1. [APPEAL PROCEDURE.] If the commissioner has assessed a penalty against a party subject to this chapter and the party believes the penalty is not warranted, the party may request that a formal hearing be held on the matter. Upon a request for a hearing the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge or hearing examiner.

The chief hearing examiner shall keep a record of the proceeding and provide a record pursuant to section 176.421.

The decision of the compensation judge or hearing examiner shall be final and shall be binding and enforceable. The decision may be appealed to the workers' compensation court of appeals.

Subd. 2. [EXCEPTION.] This section does not apply to penalties for which another appeal procedure is provided, including but not limited to penalties imposed pursuant to sections 176.102 or 176.103.

Subd. 3. [HEARING COSTS.] For purposes of this section, a hearing before a hearing examiner shall be treated in the same manner as a hearing before a compensation judge and no costs may be charged to the commissioner for the hearing, regardless of who hears it.

Sec. 164. Minnesota Statutes 1982, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which he is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of his weekly benefit amount in the form of

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer *except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3j; or*

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all

of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under Title II of the social security act as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that he is not entitled to such benefits, this provision shall not apply.

Sec. 165. Minnesota Statutes 1982, section 471.982, subdivision 2, is amended to read:

Subd. 2. The commissioner of insurance is authorized to (PROMULGATE) *adopt* administrative rules, including emergency rules pursuant to sections 14.01 to 14.70. These rules may provide standards or guidelines governing the formation, operation, administration, dissolution of self insurance pools, and other reasonable requirements to further the purpose of this section (AND). *In developing the rules under this section, the commissioner shall* (AT A MINIMUM REQUIRE) *consider* the following:

(a) *The requirements for self-insuring pools of political subdivisions shall be no more restrictive and may be less restrictive than the requirements for self-insuring pools of private employers;*

(b) All participants in the pool are jointly and severally liable for all claims and expenses of the pool;

((B)) (c) Each pool shall contract with a service company licensed by the commissioner to provide or contract for all administrative services required by the pool. No vendor of risk management services or entity administering a self insurance plan under this section may transact such business in this state unless it is licensed to do so by the commissioner. 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 is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee shall be \$100. All licenses shall be for a period of two years;

((C)) (d) The service company has sole responsibility for the settlement of all claims against the pool or its members for which the pool may provide indemnification;

((D)) (e) A minimum premium volume for each pool shall be established. The minimum premium volume may differ because of the kinds of coverage provided, and the limits of liability for the coverage;

((E)) (f) All premiums or other assessments due to the pool from members shall be payable prior to the period for which coverage is being provided, or at equal intervals throughout the period;

((F)) (g) Premiums shall (EITHER) be (ESTABLISHED BY AN ACTUARY APPROVED BY THE COMMISSIONER OR SHALL BE PREMIUMS FILED BY A LICENSED RATE SERVICE ORGANIZATION WITH REDUCTIONS PERMITTED SOLELY FOR ADMINISTRATIVE OR PREMIUM TAX SAVINGS) *neither excessive, inadequate, nor unfairly discriminatory*;

((G)) (h) The commissioner may require each pool to purchase excess insurance above certain limits and in a particular form. The limits or form of the excess insurance may differ based on the kinds of coverage offered by a pool, the limits of liability of the coverage, and the revenues available to pool members for the payment of premiums or assessments;

((H)) (i) Each pool shall be audited annually by a certified public accountant;

((I)) (j) *Whether* limitations on the payment of dividends to pool members (MAY BE ESTABLISHED AS) *are necessary to assure the solvency of the pool in view of the taxing and levying authority of political subdivisions*;

((J)) (k) No participant may withdraw from a pool for a period of at least three years after its initial entry into the pool;

((K)) (l) The amount of any liabilities in excess of assets shall be assessed to members of the pool within 30 days after a deficiency is identified and shall be payable by the member within 90 days;

((L)) (m) The investment policies of the pool shall be governed by the laws governing investments by cities pursuant to section 475.66;

((M)) (n) Pools shall be subject to the standards of unfair methods of competition and unfair or deceptive acts or practices established in chapter 72A;

((N)) (o) Other requirements that are necessary to protect the solvency of the pool, the rights and privileges of claimants against the pool, and citizens of the members of the pool shall be included in the rules.

Sec. 166. Minnesota Statutes 1982, section 471.982, is amended by adding a subdivision to read:

Subd. 3. The rules adopted pursuant to subdivision 2 shall not apply to self insurance pools established and open for enrollment on a statewide basis by the Minnesota league of cities insurance trust, the Minnesota school boards association insurance trust or the Minnesota association of counties insurance trust.

Sec. 167. [CITY OF DULUTH; GROUP WORKERS' COMPENSATION SELF INSURANCE POOLS.]

Subdivision 1. [FORMATION OF POOLS WITH PRIVATE EMPLOYERS.] Notwithstanding any contrary provision of other law, ordinance, or charter, the city of Duluth may enter into a self insurance pool with private employers to self insure worker's compensation liability of pool members. Any pool formed pursuant to this section shall be operated under bylaws established by members of the pool. The initial bylaws and amendments to them shall not be effective unless approved by the city of Duluth and the commissioner of insurance. The bylaws shall address the following subjects:

(a) Qualifications for group self insurer membership, including underwriting standards.

(b) The method of selecting the board of directors, including the directors' terms of office.

(c) The procedure for amending the bylaws or plan of operation.

(d) Investment of assets of the fund.

(e) Frequency and extent of loss control or safety engineering services provided to members.

(f) A schedule for payment and collection of premiums.

(g) Expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses.

- (h) *Delineation of authority granted to the administrator.*
- (i) *Delineation of authority granted to the service company.*
- (j) *Basis for determining premium contributions by members including any experience rating program.*
- (k) *Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.*
- (l) *Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.*
- (m) *Provisions for security to be furnished by private employers to insure assessments are paid in case of private employer insolvency.*

The members participating in the pool may establish a joint board with appropriate powers to manage the pool. Each member of the pool shall pay to the pool the amounts assessed against it pursuant to the bylaws. A member may withdraw only after it has reimbursed the pool for the amounts for which it is obligated under the terms of the agreement.

Subd. 2. [APPROVAL OF COMMISSIONER.] A pool formed pursuant to this section shall not be effective or begin operation until it has been approved by the commissioner of insurance in the manner provided in Minnesota Statutes, section 471.982. Section 471.982 and any applicable rules adopted pursuant to it shall apply to any pool formed pursuant to this section. A pool formed pursuant to this section shall be a member of the workers' compensation reinsurance association and shall be bound by its plan of operation.

Sec. 168. [APPROPRIATIONS; COMPLEMENT INCREASE.]

Subdivision 1. [DEPARTMENT OF LABOR AND INDUSTRY.] (a) *There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984	1985
\$1,847,500	\$2,142,400

The approved complement of the department of labor and industry is increased by 90 of which 2 shall be federally funded and 19 shall be from the special compensation fund. The increased complement shall be allocated as follows:

- (1) *workers' compensation administration, 1;*
- (2) *records and compliance, 15;*
- (3) *rehabilitation service, 20;*
- (4) *legal services, 1;*
- (5) *settlement and docket, 3;*
- (6) *mediation and arbitration, 6;*
- (7) *research and education, 8;*
- (8) *information management service, 6;*
- (9) *state employee fund, 6;*
- (10) *general support, 8; and*
- (11) *special compensation fund, 19.*

The appropriation provided by this clause (a) is for the purpose of paying for the increased general fund complement and expenses related to their duties.

The authorized complement for the records and compliance section shall be reduced by four positions by June 30, 1985.

(b) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984
\$437,500

1985
\$875,000

The appropriation provided by this clause (b) is for the purpose of paying the state's premium to the workers' compensation reinsurance association. The commissioner of finance shall transfer to the general fund from each federal fund, dedicated or special revenue fund, or revolving fund the proportion of premium costs attributable to that fund as calculated pursuant to section 3 of this act. The amounts necessary for this transfer are appropriated from the various funds in the state treasury from which salaries are paid.

(c) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the special compensation fund in the state treasury:

1984

1985

\$614,000

\$646,400

The funds appropriated by this clause (c) are to pay the expenses of the increased complement provided for the fund by clause (a) and expenses related to their duties and to reimburse the general fund for legal services performed on behalf of the fund by the attorney general.

Subd. 2. [OFFICE OF ADMINISTRATIVE HEARINGS.] *There is appropriated to the office of administrative hearings for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984

1985

\$85,400

\$86,300

The approved complement of the office of administrative hearings is increased by two. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expenses related to their duties.

Subd. 3. [INSURANCE DIVISION.] *There is appropriated to the department of commerce for its insurance division for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984

1985

\$230,800

\$229,100

The approved complement of the insurance division of the department of commerce is increased by seven. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expense related to their duties.

Subd. 4. [ATTORNEY GENERAL.] *There is appropriated to the office of the attorney general for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984

1985

\$201,500

\$204,900

The approved complement of the office of attorney general is increased by six. The appropriation provided by this subdivision is for the purpose of providing for the increased complement and expenses related to their duties.

Sec. 169. [REPEALER.]

Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262 are repealed.

Sec. 170. [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. 171. [EFFECTIVE DATE.]**ARTICLE 2****Section 1. [176A.01] [DEFINITIONS.]**

Subdivision 1. [APPLICATION.] For the purposes of sections 1 to 12, the terms defined in this section have the meanings given them.

Subd. 2. "Manager" means the manager of the state compensation insurance fund.

Subd. 3. "Fund" means the state compensation insurance fund.

Subd. 4. "Board" means the board of directors of the state compensation insurance fund.

Subd. 5. "Personal injury" or "injury" has the meaning given to it in section 176.011, subdivision 16.

Sec. 2. [176A.02] [CREATION; PURPOSE; ORGANIZATION OF THE FUND.]

Subdivision 1. [FUND CREATED.] The fund is created as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under chapter 176.

Subd. 2. [BOARD OF DIRECTORS.] The board of directors consists of seven members and the commissioner of labor and industry who shall be an ex officio member. Each director shall hold office until a successor is appointed and qualifies. Each director shall represent a policyholder and may be an employee of a policyholder. A policyholder may designate a person to represent them on the board. The initial board of directors shall be appointed by the governor and shall consist of seven members, and the commissioner of labor and industry. Each member of the initial board shall be either an employer or employee. If the fund is operational and issuing policies upon the expiration of the terms of the initial board and thereafter, the governor shall appoint every other director until the governor has made four appointments. The remaining three directors shall be chosen by the fund's policyholders. In addition to the commissioner, no more than one member of the board shall be a representative of a governmental entity. At least two members of the board shall represent private, for profit, enterprises. No member of the board may represent or be an employee of an insurance company.

The membership terms shall be as provided in section 15.0575. The membership compensation shall be set by the board.

The board shall annually elect a chairman from among its members and other officers it deems necessary for the performance of its duties.

Subd. 3. [FUND MANAGEMENT.] The management and control of the fund is vested solely in the board.

Subd. 4. [POWERS AND DUTIES OF THE BOARD.] The board is vested with full power, authority, and jurisdiction over the fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by it under the provisions of this chapter, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this chapter.

Subd. 5. [MANAGER.] The fund is under the administrative control of the manager appointed by the board pursuant to section 5.

Subd. 6. [PERSONAL LIABILITY, EXCLUDED.] The members of the board and officers or employees of the fund are

not liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.

Sec. 3. [176A.03] [SPECIFIC POWERS OF THE FUND.]

Subdivision 1. [GENERAL.] For the purpose of carrying out its function the fund has the powers specified in this section.

Subd. 2. [INSURE WORKERS' COMPENSATION LIABILITY.] The fund may insure an employer against any workers' compensation claim arising out of and in the course of employment, as fully as any other insurer.

Subd. 3. [SELF-INSURED COVERAGE.] The fund may furnish advice, services, and employer liability insurance to any employer qualified as a self-insured employer.

Sec. 4. [176A.04] [GENERAL POWERS.]

For the purpose of exercising the specific powers granted in this chapter and effectuating the other purposes of this chapter, the fund:

- (a) may sue and be sued;*
- (b) may have a seal and alter it at will;*
- (c) may make, amend, and repeal rules relating to the conduct of the business of the fund;*
- (d) may enter into contracts relating to the administration of the fund;*
- (e) may rent, lease, buy, or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;*
- (f) may declare a dividend when there is an excess of assets over liabilities, and minimum surplus requirements as consistent with chapter 60A;*
- (g) may pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries, and pay administrative and other expenses;*
- (h) may hire personnel and set salaries and compensation; and*
- (i) may perform all other functions that are necessary or appropriate to administer the fund.*

Sec. 5. [176A.05] [MANAGER.]

Subdivision 1. [APPOINTMENT, QUALIFICATIONS.] The board shall appoint a manager of the fund who shall be in charge of the day-to-day operation of the fund. The manager shall have proven successful experience as an executive at the general management level. The manager shall receive compensation as set by the board and shall serve at the pleasure of the board.

Subd. 2. [BOND] Before entering on the duties of the office, the manager shall qualify by giving an official bond in an amount and with sureties approved by the board. The manager shall file the bond with the secretary of state. The premium for the bond shall be paid by the fund.

Sec. 6. [176A.06] [MANAGER'S POWERS.]

Subdivision 1. [GENERAL.] Subject to the authority of the board and the provisions of this chapter the manager has the powers and duties prescribed in this section.

Subd. 2. [SAFETY INSPECTION.] The manager may make safety inspections of risks and furnish advisory services to employers on safety and health measures.

Subd. 3. [DISBURSEMENT OF FUNDS.] The manager may act for the fund in collecting and disbursing money necessary to administer the fund and conduct the business of the fund.

Subd. 4. [ABSTRACT SUMMARY.] The manager shall have an abstract summary of any audit or survey conducted.

Subd. 5. [GENERAL AUTHORITY.] The manager may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by the fund under this chapter, including the establishment of premium rates.

Sec. 7. [176A.07] [PROPERTY.]

Subdivision 1. [PROPERTY OF FUND.] All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon money belonging to the fund and deposited or invested by the fund, are the sole property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not state money. The property of the fund is not state property.

Subd. 2. [NO STATE APPROPRIATION.] The fund shall not receive any state appropriation at any time other than as provided by section 10.

Sec. 8. [176A.08] [EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.]

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, and 43A. However, the fund shall be subject to sections 179.61 to 179.77. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of insurance has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15, subdivision 2. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.

Sec. 9. [176A.09] [ANNUAL REPORT.]

The manager shall submit an annual report pursuant to section 3.195 to the governor and legislature indicating the business done by the fund during the previous year and containing a statement of the resources and liabilities of the fund.

Sec. 10. [176A.10] [APPROPRIATION.]

There is appropriated from the general fund to the state compensation insurance fund a sum of \$125,600 to be available until expended. There is appropriated from the general fund to the commissioner of finance the amounts of \$1,176,900 in fiscal year 1984, and \$4,424,900 in fiscal year 1985, for the purpose of transfer to the state compensation insurance fund upon certification of need in accordance with procedures developed by the commissioner. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. Any amount appropriated or transferred plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year with the first payment occurring on June 30, 1986 provided that the fund shall not begin repayment on this date unless there exists sufficient earned surplus to comply with state law. Repayment shall then begin under the terms of this subdivision when sufficient earned surplus exists.

Sec. 11. [IMPLEMENTATION.]

The members of the board of directors shall be appointed no later than September 1, 1983. The board shall act promptly to hire a manager, hire necessary employees, and acquire necessary facilities and supplies to begin operation. The fund shall begin providing workers' compensation insurance coverage when the

board determines that the fund is able to do so and all requirements under state law have been met.

Sec. 12. [REPORT TO THE LEGISLATURE AND GOVERNOR.]

The commissioner of labor and industry shall, no later than March 1, 1986, report to the legislature and governor the operations of the fund up to that date. The report shall include but not be limited to:

(1) the volume of premiums insured through the state fund and its share of the state workers' compensation insurance market;

(2) the percent division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the state fund;

(3) the average rate of return enjoyed by the state fund on its invested assets;

(4) recommendations concerning desirable changes in the state fund to promote its prompt and efficient administration of policies and claims;

(5) a recommendation to the legislature and governor regarding the continued operation of the fund; and

(6) any other information the commissioner deems appropriate.

Sec. 13. [EFFECTIVE DATE.]

ARTICLE 3"

Delete the title and insert:

"A bill for an act relating to labor; providing for comprehensive reform of all aspects of workers' compensation; ratifying changes in the state employee bargaining unit composition schedule; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23; 79.071, subdivision 1; 79.211, subdivision 1; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 1 and 3; 79.52, by adding a subdivision; 147.02; 175.006, subdivision 1;

175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.081, subdivisions 1, 2, 5, and 7, and by adding a subdivision; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding a subdivision; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 179.741, subdivision 1, and by adding a subdivision; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79, 148, and 176; proposing new law coded as Minnesota Statutes, chapter 176A; repealing Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262."

A roll call was requested and properly seconded.

Simoneau moved to amend the Simoneau amendment to H. F. No. 575, as follows:

Page 112, line 5, after "*exposed*" insert "*in a significant way*"

Page 112, line 6, delete "*claimed*"

Page 112, line 9, after "*last*" insert "*significant*"

Page 112, line 10, delete "*claimed*" and after the period insert "*Where there is a dispute as to which employer is liable under this section, the employer in whose employment the employee is last exposed to the hazard of the occupational disease shall pay benefits pursuant to section 176.191, subdivision 1.*"

Page 112, delete section 158

Page 112, line 23, delete everything after the comma

Page 112, line 24, delete everything before "*subject*"

Page 112, line 26, delete "*provided that*"

Pages 112 and 113, delete section 160

Renumber the subdivision

Renumber the sections

Amend the title as follows:

Page 131, line 44, delete "subdivisions" and insert "a subdivision"

The motion prevailed and the amendment to the amendment was adopted.

Shea and Anderson, G., moved to amend the Simoneau amendment to H. F. No. 575, as amended, as follows:

Pages 125 to 131, delete article 2

Amend the title as follows:

Page 131, line 48, after the semicolon delete "proposing new law"

Page 131, line 49, delete "coded as Minnesota Statutes, Chapter 176A;"

A roll call was requested and properly seconded.

The question was taken on the Shea and Anderson, G., amendment to the amendment and the roll was called. There were 76 yeas and 53 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Fjoslien	Johnson	Pauly	Stadum
Anderson, C.	Forsythe	Kalis	Peterson	Svigum
Anderson, R.	Frerichs	Knickerbocker	Picpho	Tunheim
Bennett	Graba	Krueger	Quist	Uphus
Bishop	Gruenes	Kvam	Rcdalen	Valan
Blatz	Gutknecht	Levi	Reif	Valento
Brinkman	Halberg	Ludeman	Rodosovich	Vanasek
Burger	Haukoos	Marsh	Rodriguez, C.	Waltman
Carlson, D.	Heap	McDonald	Rose	Welker
Cohen	Heinitz	McEachern	Schafer	Welle
Dempsey	Himle	McKasy	Schoenfeld	Wigley
DenOuden	Hoberg	Metzen	Schreiber	Zaffke
Dimler	Hoffman	Neuenschwander	Seaberg	
Erickson	Hokr	Olsen	Shaver	
Evans	Jennings	Omann	Shea	
Findlay	Jensen	Onnen	Sherman	

Those who voted in the negative were:

Battaglia	Elioff	Minne	Quinn	Sparby
Beard	Ellingson	Munger	Rice	Staten
Begich	Greenfield	Murphy	Riveness	Swanson
Bergstrom	Gustafson	Nelson, D.	Rodriguez, F.	Vellenga
Berkelman	Jacobs	Nelson, K.	St. Onge	Voss
Carlson, L.	Kahn	Norton	Sarna	Welch
Clark, J.	Knuth	O'Connor	Scheid	Wenzel
Clark, K.	Kostohryz	Ogren	Segal	Wynia
Clawson	Larsen	Otis	Simoneau	Speaker Sieben
Coleman	Long	Piper	Skoglund	
Eken	Mann	Price	Solberg	

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Simoneau amendment, as amended, and the roll was called. There were 34 yeas and 87 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Graba	Larsen	Price	Sparby
Bergstrom	Cruenes	Long	Rodosovich	Tunheim
Brinkman	Heinitz	McEachern	Rodriguez, C.	Vanasek
Clawson	Hoffman	Metzen	Segal	Welch
Cohen	Jensen	Nelson, D.	Shea	Welle
Coleman	Kalis	Neuenschwander	Simoneau	Speaker Sieben
Eken	Knuth	Peterson	Skoglund	

Those who voted in the negative were:

Battaglia	Findlay	Kvam	Piper	Staten
Beard	Fjoslien	Levi	Quinn	Sviggum
Begich	Forsythe	Ludeman	Quist	Swanson
Bennett	Frerichs	Marsh	Redalen	Thiede
Berkelman	Greenfield	McDonald	Reif	Tomlinson
Blatz	Gustafson	McKasy	Rice	Uphus
Burger	Gutknecht	Minne	Riveness	Valan
Carlson, D.	Halberg	Munger	Rodriguez, F.	Valento
Carlson, L.	Haukoos	Murphy	St. Onge	Voss
Clark, J.	Heap	Norton	Sarna	Waltman
Clark, K.	Himle	O'Connor	Schafer	Welker
Dempsey	Hoberg	Ogren	Scheid	Wenzel
DenOuden	Hokr	Olsen	Schoenfeld	Wigley
Dimler	Jacobs	Omann	Seaberg	Wynia
Elioff	Jennings	Onnen	Shaver	Zaffke
Ellingson	Johnson	Otis	Sherman	
Erickson	Kelly	Pauly	Solberg	
Evans	Knickerbocker	Piepho	Stadium	

The motion did not prevail and the amendment, as amended, was not adopted.

Simoneau moved that H. F. No. 575 be continued on Special Orders until Sunday, May 22, 1983.

A roll call was requested and properly seconded.

The question was taken on the Simoneau motion and the roll was called. There were 49 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Battaglia	Elioff	Larsen	Piper	Skoglund
Beard	Ellingson	Long	Price	Solberg
Begich	Greenfield	Minne	Quinn	Staten
Carlson, L.	Gustafson	Nelson, D.	Rice	Swanson
Clark, J.	Hoffman	Nelson, K.	Riveness	Voss
Clark, K.	Jacobs	Norton	Rodriguez, F.	Welch
Clawson	Kahn	O'Connor	St. Onge	Welle
Cohen	Kelly	Ogren	Sarna	Wynia
Coleman	Knuth	Osthoff	Scheid	Speaker Sieben
Eken	Krueger	Otis	Simoneau	

Those who voted in the negative were:

Anderson, B.	Frerichs	Knickerbocker	Quist	Swiggum
Anderson, G.	Graba	Kvam	Redalen	Thiede
Bennett	Gruenes	Levi	Reif	Tomlinson
Blatz	Gutknecht	Ludeman	Rodosovich	Tunheim
Brinkman	Halberg	Marsh	Rose	Uphus
Burger	Haukoos	McDonald	Schafer	Valan
Carlson, D.	Heap	McKasy	Schoenfeld	Valento
Dempsey	Heinitz	Murphy	Schreiber	Waltman
DenOuden	Himle	Neuenschwander	Seaberg	Wenzel
Dimler	Hoberg	Olsen	Segal	Wigley
Erickson	Hokr	Omamn	Shaver	Zaffke
Evans	Jennings	Onnen	Shea	
Findlay	Jensen	Pauly	Sherman	
Fjoslien	Johnson	Peterson	Sparby	
Forsythe	Kalis	Piepho	Stadum	

The motion did not prevail.

Stadum and Johnson moved to amend H. F. No. 575, as follows:

Page 5, after line 19, insert:

Section 1. Minnesota Statutes 1982, 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 January 1, (1986) 1984. 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. 2. Minnesota Statutes 1982, 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 79.40 or any amendments thereto, sections 79.34 to 79.40 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. *As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association (SHALL) is 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) are not (BE) subject to (CHAPTER) chapters 13, 14, and 15. The reinsurance association (SHALL BE) is exempt from taxa-*

tion under the laws of this state and all property owned by the association (SHALL BE) is exempt from taxation. The reinsurance association (SHALL) is 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. 3. Minnesota Statutes 1982, 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. The (LESSER) *lower* retention limit shall be increased to the nearest \$10,000, on January 1, 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) *higher* retention limit shall be increased by the amount necessary to retain 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. *For losses incurred on or after January 1, 1979, any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association.* 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; (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. 4. Minnesota Statutes 1982, section 79.34, is amended by adding a subdivision to read:

Subd. 7. For losses incurred on or after January 1, 1984, the reinsurance association shall indemnify the member for the ultimate loss, in excess of the retention limit in effect at the time of the loss occurrence, sustained in each loss occurrence relating to one or more claims arising out of a single compensable event in another state provided that:

(a) the injured worker is eligible for benefits under section 176.041, subdivision 2 or 3 but elects to receive benefits under the workers' compensation statute of another state in lieu of benefits under chapter 176; and

(b) the ultimate loss indemnified by the reinsurance association shall be determined as provided in this chapter, except that the benefits shall be equal to those required to be paid under the workers' compensation statute of the state elected.

Sec. 5. Minnesota Statutes 1982, 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 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 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) *exposure base* of all members during the period to which the reinsurance association premium will apply (, AS DETERMINED BY THE COMMISSIONER). *The exposure base shall be determined by the board and is subject to the approval of the commissioner. In determining the exposure base, the board shall consider, among other things, equity, administrative convenience, records maintained by members, amenability to audit, and degree of risk refinement.* 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 shall 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). *The reinsurance association may charge the cost of the adjustment under this paragraph to the member, except that any penalties or interest*

incurred under sections 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association after it has undertaken adjustment of the claim shall not be charged to the member but shall be included in the ultimate loss and listed as a separate item; 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. 6. Minnesota Statutes 1982, section 79.37, is amended to read:

79.37 [BOARD OF DIRECTORS.]

A board of directors of the reinsurance association is created and (SHALL BE) is responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board (SHALL CONSIST) consists of nine directors and the (COMMISSIONER) *commissioners* of insurance (WHO SHALL BE AN EX OFFICIO MEMBER) *and labor and industry, both of whom are voting members.* Four members of the board shall represent insurers, three members of the board shall represent employers, at least one, but not more than two of whom shall represent self-insurers, and two members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner of insurance shall appoint the employer and employee directors, for the terms authorized in the plan of operation. Each board member (SHALL BE) is entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board (SHALL CONSTITUTE) *constitutes* a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

Sec. 7. Minnesota Statutes 1982, section 79.51, subdivision 2, is amended to read:

Subd. 2. [TRANSITION PERIOD; RULES GOVERN.] Insurance rates from July 1, 1983, to December 31, (1985) *1983*, 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.

Sec. 8. Minnesota Statutes 1982, section 79.51, subdivision 3, is amended to read:

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) 1984;

(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) 1984.

Sec. 9. Laws 1981, chapter 346, section 145, is amended to read:

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) 1984. 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. 10. Minnesota Statutes 1982, section 175.006, subdivision 1, is amended to read:

Subdivision 1. [CREATION AND ORGANIZATION.] The division of workers' compensation, generally administering the workers' compensation law, is created within the department of labor and industry. (THERE IS CREATED AS A SEPARATE APPELLATE TRIBUNAL FOR WORKERS' COMPENSATION, THE WORKERS' COMPENSATION COURT OF APPEALS.)

(THE WORKERS' COMPENSATION COURT OF APPEALS SHALL BE COMPOSED OF FIVE JUDGES EACH SERVING IN THE UNCLASSIFIED SERVICE OF THE STATE CIVIL SERVICE. OF THE FIVE JUDGES, AT

LEAST THREE 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. 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.)

Sec. 11. Minnesota Statutes 1982, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which (SHALL CONSIST) *consists* of five representatives of employers and five representatives of employees and (THREE) *five nonvoting* members representing the general public. The council may consult with (THE JUDGES OF THE WORKERS' COMPENSATION COURT OF APPEALS) *any party it so desires*. The (COUNCIL SHALL EXPIRE AND THE) terms (, COMPENSATION) and removal of members shall be as provided in section 15.059. *The council is not subject to section 15.059, subdivision 5.*

Sec. 12. Minnesota Statutes 1982, section 175.08, is amended to read:

175.08 [OFFICE.]

The (WORKERS' COMPENSATION COURT OF APPEALS AND THE) department of labor and industry shall maintain (THEIR) *its* main (OFFICES) *office* within the Minneapolis-Saint 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. THEY) *It* may hold sessions at any other place in the state when (THEIR CONVENIENCE AND THAT OF THE PARTIES INTERESTED SO REQUIRES) *it is convenient*.

Sec. 13. Minnesota Statutes 1982, section 175.10, is amended to read:

175.10 [SESSIONS TO BE PUBLIC.]

The department of labor and industry shall be open for the transaction of business during all business hours of each and every day, excepting Saturdays, Sundays and legal holidays. The hearings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the workers' compensation division shall be

open to the public and may be adjourned from time to time. All the proceedings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the division shall be shown on their records, which shall be public records.

Sec. 14. Minnesota Statutes 1982, section 175.101, subdivision 1, is amended to read:

Subdivision 1. It is the legislative purpose in creating a division of workers' compensation, and in assigning to the commissioner of the department of labor and industry specific duties and responsibilities, to:

(a) provide for a unified department of labor and industry for the limited purposes of organization and administration of common administrative functions; and

(b) assure the autonomy and maximum independence of the necessary adjudicative functions and quasi-legislative administrative duties of the division (, AND;)

((C) SEPARATE AND LIMIT THE FUNCTIONS AND RESPONSIBILITIES OF THE EXISTING WORKERS' COMPENSATION COURT OF APPEALS TO THOSE APPROPRIATE TO AN INDEPENDENT APPELLATE REVIEWING BODY).

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) as head of the workers' compensation division is the administrator of the workers' compensation division. (HE) *The commissioner* shall possess only (SUCH) *the* powers and shall perform only (SUCH) *the* duties (AS ARE SPECIFICALLY) prescribed by law.

Sec. 15. Minnesota Statutes 1982, section 175.101, subdivision 2, is amended to read:

Subd. 2. The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall keep a full and true record of all proceedings of the workers' compensation division (AND THE WORKERS' COMPENSATION COURT OF APPEALS), issue all necessary processes, writs, warrants, and notices which the division (OR WORKERS' COMPENSATION COURT OF APPEALS ARE) is required or authorized to issue and generally act as the administrator of the division of workers' compensation in the department of labor and industry. Notices and other documents required to be served or filed on the division of workers' compensation or the workers' compensation court of appeals shall be served on the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 16. Minnesota Statutes 1982, section 176.001, is amended to read:

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. *It is the specific intent of the legislature that workers' compensation cases shall be decided on their merits and that the common law rule of "liberal construction" based on the supposed "remedial" basis of workers' compensation legislation shall not apply in such cases. The workers' compensation system in Minnesota is based on a mutual renunciation of common law rights and defenses by employers and employees alike. Employees' rights to sue for damages over and above medical and health care benefits and wage loss benefits are to a certain degree limited by the provisions of this chapter, and employers' rights to raise common law defenses such as lack of negligence, contributory negligence on the part of the employee, and others, are curtailed as well. Accordingly, the legislature hereby declares that the workers' compensation laws are not remedial in any sense and are not to be given a broad liberal construction in favor of the claimant or employee on the one hand, nor are the rights and interests of the employer to be favored over those of the employee on the other hand.*

Sec. 17. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 23. [RETRAINING.] "Retraining" means a formal course of study in a school setting which is designed to train an employee to return to suitable gainful employment.

Sec. 18. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 24. [HEALTH CARE PROVIDER.] "Health care provider" means a physician, podiatrist, chiropractor, dentist, optometrist, osteopath, psychologist, psychiatric social worker, or any other person who furnishes a medical or health service to an employee under this chapter but does not include a qualified rehabilitation consultant or approved vendor.

Sec. 19. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 25. [MAXIMUM MEDICAL IMPROVEMENT.] "Maximum medical improvement" means the date after which no further significant recovery from or lasting significant improvement to a personal injury can reasonably be anticipated, based upon reasonable medical probability.

Sec. 20. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 26. [MONITORING PERIOD.] "Monitoring period" means the number of weeks during which economic recovery compensation pursuant to section 176.101, subdivision 3a, would have been paid if that compensation were payable.

Sec. 21. Minnesota Statutes 1982, section 176.012, is amended to read:

176.012 [ELECTION OF COVERAGE.]

The persons, partnerships and corporations described in this section may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c) may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) *Individuals who are independent contractors as defined by rules adopted by the commissioner.*

The persons, partnerships and corporations described in this section may also elect coverage for an employee who is a spouse, parent or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this section. Coverage may be elected for a spouse, parent or child whether or not coverage is elected for the related owner, partner or executive director and whether or not the person, partnership or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this section shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this section shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so

indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this section. An election of coverage under this section shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this section shall be construed to limit the responsibilities of owners, partnerships or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 22. Minnesota Statutes 1982, section 176.021, subdivision 1a, is amended 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, *and in accordance with the principles laid down in section 176.001*. 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) *on an even-handed basis in accordance with the principles laid down in section 176.001*.

Sec. 23. Minnesota Statutes 1982, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of 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 for medical, burial, and other non-periodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by (SUBDIVISION 3A) *section 176.101*. If doubt exists as to the eventual permanent partial disability, payment *for the economic recovery compensation or impairment compensation, whichever is due*, pursuant to (SUBDIVISION 3A) *section 176.101*, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. *Prior to or at the time of (ANY TENDER) commencement of the (LUMP SUM) payment of economic recovery compensation or impairment compensation*, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based *and all other medical reports which the insurer has that indicate a permanent partial disability rating*, 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) *After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability and temporary partial disability pursuant to section 176.101, subdivisions 1 and 2, and as provided in (SUBDIVISION 3A) section 176.101. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101, subdivision 5, and as provided in (SUBDIVISION 3A) section 176.101. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total (AND TEMPORARY PARTIAL) disability (BUT SHALL NOT BE WITHHELD PENDING PAYMENT OF COMPENSATION FOR PERMANENT TOTAL DISABILITY), and no credit shall be taken for payment of (PERMANENT PARTIAL DISABILITY) economic recovery compensation or impairment compensation against liability for temporary total or permanent total disability. Liability on the part of an employer or (HIS) the 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) compensation is payable accordingly, subject to (SUBDIVISION 3A) section 176.101. (PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensation 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) section 176.101. The right to receive temporary total, temporary partial, (PERMANENT PARTIAL) or permanent total disability payments (SHALL VEST) vests in the injured employee or (HIS) the employee's dependents under this chapter or, if none, in (HIS) the employee's legal heirs at the time the disability can be ascertained and the right (SHALL) is not (BE) abrogated by the employee's death prior to the making of the payment.*

The right to receive economic recovery compensation or impairment compensation vests in an injured employee at the time the disability is ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation

or impairment compensation, further compensation is payable pursuant to section 176.101.

Sec. 24. Minnesota Statutes 1982, section 176.041, subdivision 1 is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to persons employed by any common carrier by railroad engaged in interstate or foreign commerce, which persons are covered by the Federal Employers' Liability Act (45 U.S.C. 51-60) or other comparable federal law; persons employed by family farms as defined by section 176.011, subdivision 11a, the spouse, parent and child, regardless of age, of a farmer employer working for him; partners engaged in any farm operation or partners engaged in a business and the spouse, parent, and child, regardless of age, of any of the partners of the farm operation or business; an executive officer of a family farm corporation; an executive officer of a closely held corporation referred to in section 176.012; any spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, employed by that family farm corporation; any spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; or other farmers or members of their families exchanging work with the farmer employer or family farm corporation operator in the same community, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession, or occupation of his employer; *persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83*; nor does it apply to officers or members of veteran's organizations whose employment relationship arises solely by virtue of attending meetings or conventions of their organization, unless the veteran's organizations elect by resolution to provide coverage under this chapter for the officers or members. Neither shall the chapter apply to any person employed as a household worker in, for, or about, a private home or household who earns less than \$500 in cash in any three month period from a single private home or household provided that any household worker who has earned \$500 or more from his present employer in any three month period within the previous year shall be covered by this chapter regardless of whether or not he has in the present quarter earned \$500. This chapter does not apply to those persons employed by a corporation where those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to all of the officers of the corporation, and if the corporation files a written election with the commissioner (OF LABOR AND INDUSTRY) to have those persons excluded from this chapter *except that a written election is not required for a person who is otherwise excluded from this chapter by this section*. This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.

Sec. 25. Minnesota Statutes 1982, section 176.061, is amended to read:

176.061 [THIRD PARTY LIABILITY.]

Subdivision 1. [ELECTION OF REMEDIES.] Where an injury or death for which 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) *the* injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or (HIS) *the employee's* dependents, in case of death, may proceed either at law against that party to recover damages or against the employer for benefits, but not against both.

Subd. 2. [ACTION FOR RECOVERY OF DAMAGES.] If the employee, in case of injury, or (HIS) *the employee's* dependents, in case of death, brings an action for the recovery of damages, the amount thereof, the manner in which, and the persons to whom the same are payable, shall be as provided in this chapter. In no case shall (SUCH) *the* party be liable to any person other than the employee or (HIS) *the employee's* dependents for any damages resulting from (SUCH) *the* injury or death.

Subd. 3. [ELECTION TO RECEIVE BENEFITS FROM EMPLOYER; SUBROGATION.] If the employee or (HIS) *the employee's* dependents elect to receive benefits from the employer, or the special compensation fund, the employer, or the special compensation fund, *has a right of indemnity* or is subrogated to the right of the employee or (HIS) *the employee's* 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) *the* party and recover the aggregate amount of benefits payable to or on behalf of the employee or (HIS) *the employee's* dependents, together with 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 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) *has* 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.

Subd. 4. [APPLICATION OF SUBDIVISIONS 1, 2, AND 3.] The provisions of subdivisions 1, 2, and 3 apply only where

the employer liable for benefits and the other party legally liable for damages are insured or self-insured and engaged, in the due course of business in, (a) furtherance of a common enterprise, or (b) in the accomplishment of the same or related purposes in operations on the premises where the injury was received at the time (THEREOF) of the injury.

Subd. 5. [CUMULATIVE REMEDIES.] Where an injury or death for which benefits are payable is caused under circumstances which created 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 proceedings may be taken by the employee or (HIS) *the employee's* 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 their liability to pay benefits.

(a) If an action against the other party is brought by the injured employee or (HIS) *the employee's* 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 benefits payable 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) *the* action for the prosecution (THEREOF) of the action. If the injured employee or (HIS) *the employee's* dependents or any party on their behalf receives benefits from the employer, or the special compensation fund, or institute proceedings to recover (THE SAME) *benefits* or accept from the employer, or the special compensation fund, any payment on account of the benefits, the employer, or the special compensation fund, is subrogated to the rights of the employee or (HIS) *the employee's* dependents or has a right of indemnity against a third party. This employer, or the attorney general on behalf of the special compensation fund, may maintain (AN) *a separate* action or continue an action already instituted. This action may be maintained in the name of the employee or the names of the *employee's* 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) *the* 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) *the employee's dependents* the right to intervene in the action for the prosecution (THEREOF) of the action. The proceeds of (SUCH) *the action or settlement* (THEREOF) of the action 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) *an 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) *the 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) *are* for the benefit of the employer and the provisions of subdivision 6 (SHALL) *are* not (BE) applicable to (SUCH) *the damages*.

(c) The third party is not liable to any person other than the employee or (HIS) *the employee's dependents*, or (HIS) *the 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.

Subd. 6. [COSTS, ATTORNEY FEES, EXPENSES.] The proceeds of all actions for damages or settlement (THEREOF) of an action under this section, except for damages received under subdivision 5, clause (b) received by the injured employee or (HIS) *the employee's 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) *the employee's 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 benefits paid under this chapter to or on behalf of the employee or (HIS) *the employee's 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 benefits paid by the employer, or the special compensation fund, to the employee or (HIS) *the employee's* dependents.

(d) Any balance remaining shall be paid to the employee or (HIS) *the employee's* dependents, and shall be a credit to employer, and the special compensation fund, for any benefits which employer is obligated to pay, but has not paid, and for any benefits that (SUCH) *the employer* (SHALL BE) *is* 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.

Subd. 7. [MEDICAL TREATMENT.] The liability of an employer, or the special compensation fund, for medical treatment or *payment of any other compensation* under this chapter (SHALL) *is* not (BE) affected by the fact that (HIS) *the 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) *has* a separate additional cause of action against (SUCH) *the third party* to recover any amounts paid for medical treatment or *for other compensation payable* under this section resulting from the negligence of (SUCH) *the 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) *the 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 or *other compensation* 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 *compensation* or for medical treatment of the injured employee and (SHALL) *does* not affect the amount of periodic compensation to be paid.

(SUBD. 8. [STATE AS EMPLOYER.] IN EVERY CASE ARISING UNDER SUBDIVISION 5 WHEN THE STATE IS THE EMPLOYER AND A SETTLEMENT BETWEEN THE THIRD PARTY AND THE EMPLOYEE IS MADE IT IS NOT VALID UNLESS PRIOR NOTICE THEREOF IS GIVEN TO THE STATE WITHIN A REASONABLE TIME. IF THE STATE PAYS COMPENSATION TO THE EMPLOYEE UN-

DER THE PROVISIONS OF THIS CHAPTER AND BECOMES SUBROGATED TO THE RIGHTS OF THE EMPLOYEE OR HIS DEPENDENTS ANY SETTLEMENT BETWEEN THE EMPLOYEE OR HIS DEPENDENTS AND THE THIRD PARTY IS VOID AS AGAINST THE STATE'S RIGHT OF SUBROGATION. WHEN AN ACTION AT LAW IS INSTITUTED BY AN EMPLOYEE OR HIS DEPENDENTS AGAINST A THIRD PARTY FOR RECOVERY OF DAMAGES A COPY OF THE COMPLAINT AND NOTICE OF TRIAL OR NOTE OF ISSUE IN SUCH ACTION SHALL BE SERVED ON THE STATE. ANY JUDGMENT RENDERED THEREIN IS SUBJECT TO A LIEN OF THE STATE FOR THE AMOUNT TO WHICH IT IS ENTITLED TO BE SUBROGATED UNDER THE PROVISIONS OF SUBDIVISION 5.)

Subd. 8a. [NOTICE TO EMPLOYER.] In every case arising under subdivision 5, a settlement between the third party and the employee is not valid unless prior notice of the intention to settle is given to the employer within a reasonable time. If the employer or insurer pays compensation to the employee under the provisions of this chapter and becomes subrogated to the right of the employee or the employee's dependents or has a right of indemnity, any settlement between the employee or the employee's dependents and the third party is void as against the employer's right of subrogation or indemnity unless prior notice was given. When an action at law is instituted by an employee or the employee's dependents against a third party for recovery of damages, a copy of the complaint and notice of trial or note of issue in the action shall be served on the employer or insurer. Any judgment rendered in the action is subject to a lien of the employer for the amount to which it is entitled to be subrogated or indemnified under the provisions of subdivision 5.

Subd. 9. [SERVICE OF NOTICE ON ATTORNEY GENERAL.] In every case in which the state is liable to pay compensation or is subrogated to the rights of the employee or (HIS) the employee's dependents or has a right of indemnity, all notices required to be given the state shall be served on the attorney general and the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Subd. 10. [INDEMNITY.] Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability economic recovery compensation, impairment compensation, medical compensation, rehabilitation, death, and permanent total compensation.

Sec. 26. Minnesota Statutes 1982, section 176.101; subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be 66 2/3 percent of the difference between the (DAILY) *weekly* wage of the (WORKER) *employee* at the time of injury and the wage (HE) *the employee* is able to earn in (HIS) *the employee's* partially disabled condition. This compensation shall be paid during the period of disability *except as provided in section 176.101*, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage. (IF THE EMPLOYER DOES NOT FURNISH THE WORKER WITH WORK WHICH HE CAN DO IN HIS TEMPORARY PARTIALLY DISABLED CONDITION AND HE IS UNABLE TO PROCURE SUCH WORK WITH ANOTHER EMPLOYER, AFTER REASONABLY DILIGENT EFFORTS, THE EMPLOYEE SHALL BE PAID AT THE FULL COMPENSATION RATE FOR HIS OR HER TEMPORARY TOTAL DISABILITY.)

Sec. 27. Minnesota Statutes 1982, 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 2/3 PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 65 WEEKS) *13 percent of the whole body*;

(2) For the loss of a first finger, commonly called index finger, (66 2/3 PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 40 WEEKS) *eight percent of the whole body*;

(3) For the loss of a second finger, (66 2/3 PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 35 WEEKS) *seven percent of the whole body*;

(4) For the loss of a third finger, (66 2/3 PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 25 WEEKS) *five percent of the whole body*;

(5) For the loss of a fourth finger, commonly called the little finger, (66 2/3 PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 20 WEEKS) *four percent of the whole body*;

(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) *seven percent of the whole body;*

((9)) (7) 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) *three percent of the whole body;*

((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)) (8) 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) *40 percent of the whole body;*

((13)) (9) 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) *44 percent of the whole body;*

((14)) (10) For the loss of an arm, (66 $\frac{2}{3}$ PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 270 WEEKS) *54 percent of the whole body;*

((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)) (11) 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) *28 percent of the whole body;*

((17)) (12) 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) *33 percent of the whole body;*

((18)) (13) 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) *40 percent of the whole body;*

((19)) (14) 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) *44 percent of the whole body;*

((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)) (15) For the loss of an eye, (66 $\frac{2}{3}$ PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 160 WEEKS) *32 percent of the whole body;*

((22)) (16) 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) *17 percent of the whole body;*

((23)) (17) 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) *34 percent of the whole body;*

((24)) (18) 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) *95 percent of the whole body;*

((25)) (19) 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) *95 percent of the whole body;*

((26)) (20) 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) *90 percent of the whole body;*

((27)) (21) 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) *80 percent of the whole body;*

((28)) (22) 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) *100 percent of the whole body;*

((29)) (23) For the loss of two hands, (66 $\frac{2}{3}$ PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 500 WEEKS) *100 percent of the whole body;*

((30)) (24) 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) *100 percent of the whole body;*

((31)) (25) For the loss of two feet, (66 $\frac{2}{3}$ PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 500 WEEKS) *100 percent of the whole body;*

((32)) (26) 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) *100 percent of the whole body;*

((33)) (27) 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) *100 percent of the whole body;*

((34)) (28) 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) *100 percent of the whole body;*

((35)) (29) 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) *100 percent of the whole body;*

((36)) (30) 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) *100 percent of the whole body;*

((37)) (31) 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) *100 percent of the whole body;*

((38)) (32) For the loss of the voice mechanism, (66 $\frac{2}{3}$ PERCENT OF THE DAILY WAGE AT THE TIME OF INJURY DURING 500 WEEKS) *100 percent of the whole body;*

((39)) (33) For head injuries, 66 $\frac{2}{3}$ percent of the daily wage at the time of injury for that proportion of (500 WEEKS)

100 percent 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 OR AS DETERMINED BY THE WORKERS' COMPENSATION COURT OF APPEALS IN CASES ON APPEAL);

((40)) (34) 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, $66 \frac{2}{3}$ percent of the daily wage at time of injury for that proportion of (500 WEEKS, NOT TO EXCEED 500 WEEKS) *100 percent*, as determined by the commissioner (, 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 OR THE WORKERS' COMPENSATION COURT OF APPEALS);

((41)) (35) 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) *18 percent of the whole body*;

((42)) (36) 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) *70 percent of the whole body*;

((43)) (37) 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 sub-division 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)) (38) 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 as *determined by rules adopted by the commissioner*;

((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 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 EXPERTS ON INDUSTRIAL VISION AND AFTER PUBLIC NOTICE TO AND HEARING OF INTERESTED PARTIES);

((48)) (39) 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) 70 percent which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge 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. 28. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3a. [ECONOMIC RECOVERY COMPENSATION.] If an employee is not eligible for an impairment award pursuant to subdivision 3b, then the employee shall receive economic recovery compensation for a permanent partial disability pursuant to this subdivision. The compensation shall be 66 2/3 percent of the weekly wage at the time of injury subject to a maximum equal to the statewide average weekly wage. For permanent partial disability up to the percent of the whole body in the following schedule the compensation shall be paid for the proportion that the loss of function of the disabled part bears to the whole body multiplied by the number of weeks aligned with that percent.

<i>Percent of disability</i>	<i>Weeks of Compensation</i>
0-40	500
41-50	600
51-60	700
61-75	800
76-100	1200

The percentage loss in all cases under this subdivision is determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 29. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3b. [IMPAIRMENT COMPENSATION.] An employee who suffers a permanent partial disability due to a personal injury and receives impairment compensation under this section shall receive compensation in an amount as provided by this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule the amount shall be equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by the amount aligned with that percent in the following schedule:

<i>Percent of disability</i>	<i>Amount</i>
0-40	50,000
41-50	75,000
51-60	100,000
61-75	150,000
76-100	240,000

For all cases under this subdivision the percentage loss of function of a part of the body is determined by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 30. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3c. [MAXIMUM PAYABLE.] The maximum amount payable under subdivisions 3a and 3b is the maximum compensation payable to an employee who has a disability to the body as a whole and under no conditions shall an employee receive more than those amounts even if the employee sustains a disability to two or more body parts.

Sec. 31. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3d. [GENERAL.] An employee who has incurred a personal injury shall receive temporary total compensation until these benefits are no longer payable pursuant to this section. If the injury results in a permanent partial disability, the employee shall receive compensation as provided in this section.

Sec. 32. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3e. [END OF TEMPORARY TOTAL COMPENSATION.] (a) 90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease. This cessation shall occur at an earlier date if otherwise provided by this section. If prior to the termination of this 90-day period the employee retires or the employer furnishes work to the employee that the employee can do in his or her physical condition or the employer procures this employment with another employer or the employee accepts this job with another employer, temporary total compensation shall cease. If the injury resulted in permanent partial disability, the employee shall receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation for the same disability. Temporary total compensation and impairment compensation shall not be paid concurrently. Once temporary total compensation ceases no further temporary total compensation is payable except as specifically provided in this section.

(b) If the job offered under clause (a) is not the job the employee had at the time of injury it shall state any information necessary to fully and completely inform the employee of the job duties and responsibilities and shall agree to pay temporary partial compensation if appropriate.

The employee has 14 calendar days to accept or reject the job offer. If the employee does not respond within this period it is deemed a refusal of the offer.

(c) Self employment may be an appropriate job under this subdivision.

The commissioner shall monitor application of this subdivision and may adopt rules to assure its proper application.

Sec. 33. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3f. [ACCEPTANCE OF JOB OFFER.] If the employee accepts a job offer described in subdivision 3e and begins work at that job, the impairment compensation shall be paid in a lump sum 30 calendar days after the return to work.

Sec. 34. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3g. [TEMPORARY PARTIAL COMPENSATION.] An employee who accepts a job under subdivision 3e and begins that job shall receive temporary partial compensation pursuant to subdivision 2, if appropriate.

Sec. 35. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3h. [LAYOFF BECAUSE OF LACK OF WORK OR RELEASED FOR OTHER THAN SEASONAL CONDITIONS.]

(a) If an employee accepts a job under subdivision 3e and begins work at that job and is subsequently unemployed because of economic conditions, other than seasonal conditions, the employee shall receive monitoring period compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner deems it appropriate. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Upon the employee's initial return to work the monitoring period begins to run. If the employee is unemployed for the reason in clause (a), prior to the end of the monitoring period the employee shall receive monitoring period compensation. This compensation shall be paid for the lesser of (1) the weeks remaining the monitoring period, or (2) the weeks equal to the monitoring period minus the impairment compensation paid to the employee. For purposes of this clause the impairment compensation shall be converted to weeks by dividing the impairment compensation received by the employee by the employee's compensation rate for temporary total disability at the time of the injury. No monitoring period compensation is payable if the unemployment occurs after the expiration of the monitoring period. Monitoring period compensation is payable at the same intervals and amount as temporary total compensation was paid.

(c) If the employee returns to work and is still receiving monitoring period compensation, this compensation shall cease.

Any period remaining in the monitoring period upon this return to work shall be used to determine further benefits if the employee is again unemployed under clause (a).

(d) Upon the employee's return to work pursuant to this section the employer shall notify the employee of the length of the employee's monitoring period and shall notify the employee of the amount of impairment to be paid and the date of payment.

Sec. 36. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3i. [MEDICALLY UNABLE TO CONTINUE WORK.] (a) If the employee has started the job offered under subdivision 3e and is medically unable to continue at that job, that employee shall receive compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Compensation shall be paid for up to 90 days after the employee has reached maximum medical improvement or 90 days after the end of an approved retraining plan or 90 days after the employee has ceased work because of medical inability to continue, whichever is later. The temporary total compensation shall cease at any time within the 90-day period that the employee begins work meeting the requirements of subdivision 3e. If no such job is offered to the employee by the end of this 90-day period, the employee shall receive economic recovery compensation pursuant to this section except that this economic recovery compensation shall be reduced by the impairment compensation previously received by the employee for the same disability.

Sec. 37. Minnesota Statutes 1982, section 176.101 is amended by adding a subdivision to read:

Subd. 3j. [UNEMPLOYMENT DUE TO SEASONAL CONDITION.] If an employee has started the job offered under subdivision 3e and is subsequently unemployed from that job because of the job's seasonal nature, the employees shall receive any unemployment compensation the employee is eligible for pursuant to chapter 268. The employee shall receive, in addition and concurrently, the amount that the employee was receiving for temporary partial disability at the time of the layoff. No further or additional compensation is payable under this chapter because of the seasonal layoff.

Sec. 38. Minnesota Statutes 1982 section 176.101, is amended by adding a subdivision to read:

Subd. 3k. [FAILURE TO ACCEPT JOB OFFER.] *If the employee has been offered a job under subdivision 3e and has refused the offer for reasons other than the employee is in an approved retraining program, the impairment compensation shall not be paid in a lump sum but shall be paid in the same interval and amount that temporary total compensation was paid. Temporary total compensation shall cease upon the employee's refusal to accept the job offered and no further or additional temporary total compensation is payable. The payment of the periodic impairment compensation shall cease when the amount the employee is eligible to receive under subdivision 3b is reached, after which time the employee shall not receive additional impairment compensation or any other compensation under this chapter unless the employee has a greater permanent partial disability than already compensated for.*

Sec. 39. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 31. [RETURN TO WORK AFTER REFUSAL OF JOB OFFER.] *If the employee has refused the job offer under subdivision 3e and is receiving periodic impairment compensation and returns to work at another job, the employee shall receive the remaining impairment compensation due, in a lump sum, 30 days after return to work.*

Sec. 40. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3m. [NO TEMPORARY PARTIAL COMPENSATION OR REHABILITATION IF JOB OFFER REFUSED.] *An employee who has been offered a job under subdivision 3 and who has refused the offer and who subsequently returns to work shall not receive temporary partial compensation pursuant to subdivision 2 if the job the employee returns to provides a wage less than the wage at the time of the injury. No rehabilitation shall be provided to this employee.*

Sec. 41. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3n. [INABILITY TO RETURN TO WORK.] *(a) An employee who is permanently totally disabled pursuant to subdivision 5 shall receive impairment compensation pursuant to subdivision 3b. This compensation is payable in addition to permanent total compensation pursuant to subdivision 4 and is payable concurrently. In this case the impairment compensation shall be paid in the same intervals and amount as the permanent total compensation is paid, and the impairment compensation shall cease when the amount due under subdivision 3b is reached. If this employee returns to work at any job during the period the impairment compensation is being paid, the remaining impairment compensation due shall be paid in a lump sum 30 days*

after the employee has returned to work and no further temporary total compensation shall be paid.

(b) If an employee is receiving or has received economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against permanent total compensation for the compensation paid. No further economic recovery compensation is payable even if the amount due the employee pursuant to subdivision 3a has not yet been reached.

(c) If the employee has or is receiving impairment compensation and is determined to be permanently totally disabled no credit shall be taken for the compensation received. If any of this compensation remains to be paid, it shall cease and clause (d) of this subdivision applies.

(d) An employee who has received economic recovery compensation or impairment compensation and who meets the criteria under clause (b) or (c) of this subdivision shall receive impairment compensation pursuant to clause (a) of this subdivision even if the employee has previously received economic recovery compensation or impairment compensation for that disability.

(e) Rehabilitation consultation pursuant to section 176.102 shall be provided to an employee who is permanently totally disabled.

Sec. 42. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 30. [NO JOB OFFER.] Where the employee has a permanent partial disability and has reached maximum medical improvement or upon completion of an approved retraining program, whichever is later, that employee shall receive economic recovery compensation pursuant to subdivision 3a if no job offer meeting the criteria of the job in subdivision 3e is made within 90 days after reaching maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later.

Temporary total compensation shall cease upon commencement of the payment of economic recovery compensation. Temporary total compensation shall not be paid concurrently with economic recovery compensation.

Sec. 43. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3p. [METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation is only payable at the same intervals and in the same

amount as temporary total compensation was paid. Economic recovery compensation shall not be paid in a lump sum except as provided in this subdivision. If the employee returns to work and the economic recovery compensation is still being paid, the remaining economic recovery compensation due shall be paid in a lump sum 30 days after the employee has returned to work.

Sec. 44. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3q. [PAYMENT OF COMPENSATION AT DEATH.]
If an employee receiving economic recovery compensation or impairment compensation in periodic amounts dies during the period from causes unrelated to the injury, the compensation shall be paid in the following manner:

(a) *If the deceased employee leaves a dependent surviving spouse and no dependent children, as defined by section 176.111, subdivision 1, the spouse shall receive the weekly economic recovery or impairment compensation that the deceased was receiving before the death. This compensation shall be paid for a period of up to ten years after the date of death at which time payments and future entitlement to it ceases.*

(b) *If the deceased employee leaves a dependent spouse and dependent children, as defined in section 176.111, subdivision 1, the periodic economic recovery or impairment compensation shall continue to be paid to the surviving spouse for up to ten years after the youngest child is no longer dependent after which time payments and future entitlement to the compensation ceases.*

(c) *Payment of compensation under this subdivision shall cease prior to the end of the ten-year periods in this subdivision if the amount to which the employee is entitled to receive under subdivision 3, 3a, or 3b, is reached prior to the end of the ten-year period. If the deceased employee is not survived by dependent children or a dependent spouse as defined by section 176.111, no further economic recovery compensation or impairment compensation is payable to any person under this subdivision.*

(d) *If the death results from the injury, the payment of economic recovery compensation or impairment compensation shall cease upon the death and death benefits are payable pursuant to section 176.111.*

Sec. 45. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3r. [ADDITIONAL ECONOMIC RECOVERY COMPENSATION OR IMPAIRMENT COMPENSATION.] No

additional economic recovery compensation or impairment compensation is payable to an employee who has received that compensation to which the employee is entitled pursuant to subdivision 3a or 3b unless the employee has a greater permanent partial disability than already compensated.

Sec. 46. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3s. [MINIMUM ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation pursuant to this section shall be at least 110 percent of the impairment compensation the employee would receive if that compensation were payable to the employee. The monitoring period shall be at least 110 percent of the weeks during which impairment compensation would be payable if paid weekly.

(b) An employee who has suffered a personal injury for which temporary total compensation is payable but which produces no permanent partial disability shall receive 26 weeks of economic recovery compensation if no job is offered within the time specified in and meeting the criteria of subdivision 3e.

Sec. 47. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3t. [MEDICAL BENEFITS.] This section does not in any way limit the medical benefits to which an injured employee is otherwise entitled pursuant to this chapter.

Sec. 48. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3u. [ADMINISTRATIVE CONFERENCE.] The provisions of section 176.242 apply if there exists a dispute regarding maximum medical improvement or whether the job offered meets the criteria under subdivision 3e.

Sec. 49. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4a. [PREEXISTING CONDITION OR DISABILITY; APPORTIONMENT.] (a) If a personal injury results in a disability which is attributable in part to a preexisting disability, the compensation payable for the permanent partial disability pursuant to this section shall be equal to the proportion of the disability which is not attributable to the preexisting disability.

Sec. 50. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4b. [LEGISLATIVE INTENT.] The legislature reaffirms its intent that the reduction of compensation benefits pursuant to subdivision 4 is applicable after an employee has received a total of \$25,000 of weekly compensation including compensation under subdivisions 1, 2, and 4 of this section.

Sec. 51. Minnesota Statutes 1982, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which (HE) the employee is entitled for (SAID) the injury the compensation rate for temporary total, temporary partial, (RETRAINING,) a permanent partial or permanent total disability or economic recovery compensation shall be the (LARGER OF EITHER THE) statewide average weekly wage (OR THE EMPLOYEES WEEKLY WAGE, BUT IN NO CASE SHALL THE COMPENSATION EXCEED THE MAXIMUM WEEKLY COMPENSATION RATE PAYABLE UNDER THIS CHAPTER).

Sec. 52. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 8. [RETIREMENT PRESUMPTION.] For injuries occurring after the effective date of this subdivision an employee who is eligible to receive social security old age insurance retirement benefits is presumed retired from the labor market. This presumption is rebuttable by a preponderance of the evidence.

Sec. 53. Minnesota Statutes 1982, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (VOCATIONAL) Rehabilitation (SHALL TRAIN AN) is intended to restore the injured employee, through physical and vocational rehabilitation, so (HE) the employee may (BE RETURNED) return to a job related to (HIS) the employee's former employment or to a job in another work area which produces an economic status as close as possible to that (HE) the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 54. Minnesota Statutes 1982, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner (OF LABOR AND INDUSTRY) shall hire a director of *medical care and rehabilitation services* in the classified service. The commissioner (OF LABOR AND INDUSTRY IS RESPONSIBLE FOR SUPERVISING) shall *monitor medical care and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of medical care and rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services, the fitness of qualified rehabilitation consultants and vendors to continue to be approved under this section and has authority to discipline, by fine or otherwise, the consultants or vendors who act in violation of this chapter or rules adopted pursuant to this chapter.* The commissioner (OF LABOR AND INDUSTRY) may hire qualified personnel and shall hire a medical consultant to assist in his duties under this section and may delegate his duties and performance.

The medical consultant shall be a doctor of medicine licensed under the laws of Minnesota.

The medical consultant shall perform all duties assigned by the commissioner relating to the supervision of the total continuum of care of injured employees and shall also advise the department on matters on which the commissioner requests the consultant's advice or if the consultant deems it appropriate.

Sec. 55. Minnesota Statutes 1982, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner (OF LABOR AND INDUSTRY) or (HIS) a designee, who shall serve as an ex officio member and two members each from (LABOR, EMPLOYERS,) insurers, (VOCATIONAL) rehabilitation, and medicine (AND), one member representing chiropractors, four members representing employers and four members representing labor. The members shall be appointed by the (GOVERNOR) commissioner and shall serve (FOUR YEAR) four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chairman. The panel shall ((A)) review and make a determination with respect to (a) appeals regarding *eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivision 9;* (b) (HOLD) *appeals on any other rehabilitation issue the commissioner determines under this section;* and (c) *appeals regarding fee disputes, penalties, discipline, certification approval or revocation (OF CERTIFICATION APPROVAL HEARINGS; (C)) of registration of qualified rehabilitation consultants and approved vendors. The panel shall continuously study rehabilitation (;) services and delivery and*

((D)) develop and recommend rehabilitation rules (AS NECESSARY) to the commissioner (OF LABOR AND INDUSTRY. A MAJORITY VOTE OF THOSE ATTENDING A PANEL HEARING UNDER SUBDIVISION 6 SHALL CONSTITUTE THE DECISION OF THE BOARD).

Sec. 56. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 3a. [REVIEW PANEL APPEALS.] Appeals to the review panel shall be heard before a panel of three members designated by the review panel. Each three-member panel shall consist of one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation. The determination of the three-member panel shall be by a majority vote and the determination shall represent the determination of the rehabilitation review panel. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision.

Sec. 57. Minnesota Statutes 1982, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (WITHIN 30 DAYS OF THE TIME AN EMPLOYER OR HIS INSURER HAS MEDICAL INFORMATION THAT AN EMPLOYEE IS UNABLE DUE TO A PERSONAL INJURY OR OCCUPATIONAL DISEASE TO RETURN TO HIS PREINJURY OCCUPATION THE EMPLOYER SHALL PROVIDE REHABILITATION CONSULTATION FOR THE EMPLOYEE. THE EMPLOYEE, HOWEVER, HAS THE FINAL DECISION ON WHICH REHABILITATION AGENCY IS TO BE UTILIZED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE CONSULTATION SHALL BE DONE BY ANY PERSON OR PUBLIC OR PRIVATE INSTITUTION APPROVED BY THE COMMISSIONER OF LABOR AND INDUSTRY. IF THE CONSULTANT DETERMINES REHABILITATION WOULD SIGNIFICANTLY REDUCE OR ELIMINATE THE DECREASE IN EMPLOYABILITY, THE EMPLOYER OR INSURER IN CONJUNCTION WITH THE REHABILITATION CONSULTANT SHALL SUBMIT A SPECIFIC PLAN OF REHABILITATION TO THE COMMIS-

SIONER. IF THE EMPLOYER DOES NOT PROVIDE REHABILITATION CONSULTATION, WHEN REQUIRED BY THIS SECTION, WITHIN THE TIME SPECIFIED BY THIS SUBDIVISION, THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER AND INSURER THAT SHOULD THEY FAIL TO PROVIDE REHABILITATION CONSULTATION WITHIN 15 DAYS FROM THE RECEIPT OF THE COMMISSIONER'S NOTICE, THE DIVISION OF VOCATIONAL REHABILITATION SHALL BE AUTHORIZED TO PROVIDE THE REHABILITATION CONSULTATION FOR THE EMPLOYEE. IF THE EMPLOYEE REFUSES TO SUBMIT TO ANY REASONABLE EXAMINATIONS AND EVALUATIVE PROCEDURES TO DETERMINE THE NEED FOR AND THE DETAILS OF A PLAN OF REHABILITATION, THE AMOUNT OF COMPENSATION MAY BE REDUCED OR THE RIGHT TO COMPENSATION MAY BE SUSPENDED BY AN ORDER OF THE DIVISION OR WORKERS' COMPENSATION COURT OF APPEALS IN A MATTER BEFORE IT. IN DEVELOPING A PLAN, CONSIDERATION SHALL BE GIVEN TO THE EMPLOYEE'S AGE, EDUCATION, PREVIOUS WORK HISTORY, INTERESTS AND SKILLS.) (a) *An employer or insurer shall provide rehabilitation consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be made immediately after receipt of this information.*

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection.

Upon receipt of the notice of objection, the commissioner may schedule an administrative conference for the purpose of determining which qualified rehabilitation consultant may be mutually acceptable. The employee has the final decision on which qualified rehabilitation consultant is to be utilized.

The employee and employer shall enter into a program if one is prescribed in a rehabilitation plan. A copy of the plan, includ-

ing a target date for return to work, shall be submitted to the commissioner.

(b) If the employer does not provide rehabilitation consultation as required by this section, the commissioner shall notify the employer that if the employer fails to appoint a qualified rehabilitation consultant within 15 days to conduct a rehabilitation consultation, the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner determines the consultation is not required.

(c) In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.

(d) The commissioner may waive rehabilitation consultation under this section if the commissioner is satisfied that the employee will return to work in the near future or that rehabilitation consultation will not be useful in returning an employee to work.

Sec. 58. Minnesota Statutes 1982, section 176.102, subdivision 5, is amended to read:

Subd. 5. [ON THE JOB TRAINING.] On the job training is to be given consideration in developing a rehabilitation plan especially where it would produce an economic status similar to that enjoyed prior to disability. (WHEN A REHABILITATION PLAN INCLUDES ON THE JOB TRAINING, THE EMPLOYEE SHALL RECEIVE COMPENSATION WHILE EMPLOYED IN AN AMOUNT EQUAL TO THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY. THIS COMPENSATION SHALL BE PAID IN WHOLE OR IN PART BY THE INSURER LIABLE FOR COMPENSATION FOR THE EMPLOYEE'S PERSONAL INJURY. THE AMOUNT OF COMPENSATION TO BE PAID BY THIS INSURER SHALL BE DETERMINED IN THE REHABILITATION PLAN PREPARED PURSUANT TO THIS SECTION. ANY DIFFERENCE BETWEEN THE AMOUNT OF COMPENSATION THE INSURER IS PAYING AND THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY SHALL BE PAID BY THE ON THE JOB EMPLOYER, BUT IN NO CASE SHALL THIS EMPLOYER'S AMOUNT EXCEED THE PREVAILING WAGE FOR THE JOB. AFTER TAX WAGE SHALL BE DETERMINED BY SUBTRACTING FEDERAL AND STATE INCOME TAX FROM THE EMPLOYEE'S GROSS WAGE.)

(A REHABILITATION PLAN WHICH INCLUDES ON THE JOB TRAINING SHALL ATTEMPT TO CREATE AN INCENTIVE FOR AN EMPLOYER TO HIRE THE EM-

EMPLOYEE FOR ON THE JOB TRAINING. THIS INCENTIVE MAY BE IN THE FORM OF REDUCING THE ON THE JOB TRAINING EMPLOYER'S WAGES PAID TO THE EMPLOYEE TO A LEVEL WHICH IS LESS THAN THE PREVAILING WAGE FOR THE JOB, PROVIDED THAT THE TOTAL COMPENSATION FROM THE INSURER, REQUIRED BY THIS SECTION, AND THE WAGES PAID BY THE ON THE JOB TRAINING EMPLOYER IS NOT LESS THAN THE AFTER TAX WAGE RECEIVED BY THE EMPLOYEE AT THE TIME OF THE PERSONAL INJURY. THE COMPENSATION FROM THE INSURER AND THE ON THE JOB TRAINING EMPLOYER PAID PURSUANT TO THIS SUBDIVISION IS IN LIEU OF TEMPORARY TOTAL DISABILITY PAYMENTS AND THE ADDITIONAL COMPENSATION PROVIDED IN SUBDIVISION 11.)

Sec. 59. Minnesota Statutes 1982, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner (OF LABOR AND INDUSTRY) shall *determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivision 9 to which an employee is entitled.* (ANY PERSONS AGGRIEVED BY) A decision of the commissioner may (APPEAL) be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court. (THE PANEL MAY APPROVE OR REJECT THE DECISION OF THE COMMISSIONER. IF IT REJECTS THE COMMISSIONER'S DECISION IT MAY FORMULATE ITS OWN REHABILITATION PLAN.)

Sec. 60. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 6a. [ELIGIBILITY DETERMINATION.] The commissioner has the sole authority under this chapter to determine eligibility for rehabilitation services under this section and to review, approve, modify, or reject rehabilitation plans and make other rehabilitation determinations pursuant to this chapter. These determinations shall not be made by a compensation judge but may be appealed to the rehabilitation review panel and workers' compensation court of appeals as provided by subdivision 6.

Sec. 61. Minnesota Statutes 1982, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] Upon request by the commissioner, insurer (OR), employer *or employee, medical and rehabilitation* reports shall be made by the provider of the *medical and rehabilitation* service to the commissioner (OF LABOR AND INDUSTRY), insurer (AND), employer *or employee* (OF AN EMPLOYEE'S PROGRESS UNDER A PLAN).

Sec. 62. Minnesota Statutes 1982, section 176.102, subdivision 8, is amended to read:

Subd. 8. [PLAN MODIFICATION.] Upon request (OF) *to the commissioner by the employer, the insurer, or employee (TO THE COMMISSIONER), or upon the commissioner's own request,* the plan may be suspended, terminated or altered upon a showing of good cause (THEREFOR), including:

(a) a physical impairment that does not allow the employee to pursue the (VOCATION BEING TRAINED FOR) *rehabilitation plan;*

(b) the employee's performance level indicates (HE CANNOT COMPLETE) the plan *will not be successfully completed;* or

(c) an employee does not cooperate with a plan.

An employee may request a change in a rehabilitation plan once because (HE) *the employee* feels (HE IS NOT SUITED) *ill-suited* for the type of work for which (TRAINING) *rehabilitation* is being provided if the request is made within 90 days of the start of the plan. Any decision of the commissioner regarding a change in a plan may be appealed to the *rehabilitation review panel* within (15) *30* days of the decision.

Sec. 63. Minnesota Statutes 1982, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of (VOCATIONAL) rehabilitation (DIAGNOSIS) *evaluation and preparation of a plan;*

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books and travel; and, in addition, reasonable costs of board (AND), lodging *and custodial*

daycare when rehabilitation requires residence away from the employee's customary residence; (AND)

(d) Reasonable cost of travel and custodial daycare during the job interview process;

(e) Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury; and

((D)) (f) Any other expense agreed to be paid.

Sec. 64. Minnesota Statutes 1982, section 176.102, subdivision 10, is amended to read:

Subd. 10. [REHABILITATION; CONSULTANTS.] The commissioner shall approve rehabilitation consultants who may propose and implement plans if they satisfy rules (PROMULGATED) adopted by the commissioner for rehabilitation consultants. A consultant may be an individual or public or private entity, but may not be a vendor or the agent of a vendor of rehabilitation services.

Sec. 65. Minnesota Statutes 1982, section 176.102, subdivision 11, is amended to read:

Subd. 11. [(COMPENSATION DURING REHABILITATION) RETRAINING.] (THE INSURER OR EMPLOYER SHALL PAY UP) *Retraining is limited to 156 weeks (OF COMPENSATION DURING REHABILITATION UNDER A PLAN IN AN AMOUNT EQUAL TO 125 PERCENT OF THE EMPLOYEE'S RATE FOR TEMPORARY TOTAL DISABILITY. THIS PAYMENT IS IN LIEU OF PAYMENT FOR TEMPORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL DISABILITY TO WHICH THE EMPLOYEE MIGHT OTHERWISE BE ENTITLED FOR THIS PERIOD UNDER THIS CHAPTER. BUT SHALL BE CONSIDERED TO BE THE EQUIVALENT OF TEMPORARY TOTAL DISABILITY FOR THE PURPOSES OF SECTION 176.132. IF ON THE JOB TRAINING IS PART OF THE REHABILITATION PROGRAM, THE WEEKS DURING WHICH THE INSURER OR EMPLOYER PAYS COMPENSATION PURSUANT TO SUBDIVISION 5 SHALL BE SUBTRACTED FROM THE 156 WEEKS OF RETRAINING COMPENSATION WHICH HAS BEEN PAID, IF ANY, PURSUANT TO THIS SUBDIVISION. THIS SUBDIVISION SHALL NOT APPLY TO RETRAINING BENEFITS FOR WHICH LIABILITY HAS BEEN ESTABLISHED PRIOR TO JULY 1, 1979).*

Sec. 66. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 11a. [APPLICABILITY OF SECTION.] This section is applicable to all employees injured prior to or on and after October 1, 1979, except for those provisions which affect an employee's monetary benefits.

Sec. 67. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 13. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by section 176.242.

Sec. 68. [176.103] [MEDICAL HEALTH CARE REVIEW.]

Subdivision 1. [PURPOSE.] It is the purpose of this section to provide for review of clinical health care providers who render services to injured employees. This review shall be achieved by establishing a quality control system within the department of labor and industry.

Subd. 2. [SCOPE.] The commissioner shall monitor the medical and surgical treatment provided to injured employees, the services of other health care providers, and shall also monitor hospital utilization as it relates to the treatment of injured employees. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. The commissioner may penalize, disqualify, or suspend a provider from receiving payment for services rendered under this chapter, if the commissioner determines that the provider has violated any part of this chapter or rule adopted under this chapter. The commissioner's authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section.

The commissioner has the sole authority to make determinations under this section with a right of appeal to the medical services review board as provided in subdivision 3 and the workers' compensation court of appeals. A compensation judge has no jurisdiction in making determinations under this section.

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee, one person representing chiropractic, one person representing hospital administration, and seven medical practitioners representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed.

The board shall review and make a determination with respect to appeals from the commissioner's decision regarding medical care, quality control and monitoring of medical care, and any other disputes or issues regarding care provided by hospitals and health care providers. The board shall also hear appeals from the commissioner regarding the eligibility of medical providers to receive payment for services to injured employees and any other determinations made by the commissioner pursuant to subdivision 2. The board shall also advise the commissioner on policies affecting medical care for injured employees, and shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and monitoring of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three-member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three-member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three-member panel constitutes the decision of the board. This decision may be appealed to the workers' compensation court of appeals.

(c) In any situation where a conflict of interest prevents the appointment of a full three-member panel or in any other situa-

tion where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.

Sec. 69. [176.104] [REHABILITATION PRIOR TO DETERMINATION OF LIABILITY.]

Subdivision 1. [DISPUTE.] If there exists a dispute regarding whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4 prior to determination of liability, the employee shall be referred by the commissioner to the division of vocational rehabilitation which shall provide rehabilitation consultation and other rehabilitation services. The services provided by the division of vocational rehabilitation and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be approved, rejected, or modified by the commissioner.

Subd. 2. [LIABILITY FOR PAST REHABILITATION.] If liability is determined after the employee has commenced rehabilitation under this section the liable party is responsible for the cost of rehabilitation provided and approved by the commissioner. Future rehabilitation after liability is established is governed by section 176.102.

Sec. 70. Minnesota Statutes 1982, section 176.105, is amended by adding a subdivision to read:

Subd. 4. The commissioner shall by rule adopt procedures to determine the percentage of loss of function of a part of the body, including internal organs, described in section 176.101, subdivision 3 and any other body part not listed in section 176.101, subdivision 3 which the commissioner deems appropriate.

Temporary rules shall be adopted for this purpose not later than January 1, 1985. Prior to the adoption of these rules, at least two public hearings shall be held by the commissioner, in addition to the requirements of sections 14.29 to 14.36. Notwithstanding sections 14.29 to 14.36, the temporary rules adopted under this subdivision shall be effective until superseded by permanent rules. The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Disability ratings and schedules shall be based on objective medical evidence.

The rules shall:

(a) *be workable and simple with respect to the evaluation of functional disability;*

(b) *require consistency of the procedures with accepted medical standards; utilize standards established in Wisconsin Administrative Code, sections Ind. 80.25 to 80.33, inclusive;*

(c) *prohibit the consideration of symptomatology which is not substantiated by objective medical evidence;*

(d) *attempt to reduce litigation;*

(e) *require that all disability amounts shall be rounded to the nearest five percent.*

Sec. 71. Minnesota Statutes 1982, 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 spouse (, 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. 72. Minnesota Statutes 1982, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] (a) If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of 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. 73. Minnesota Statutes 1982, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] ((A)) If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children $66 \frac{2}{3}$ 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. 74. Minnesota Statutes 1982, section 176.111, is amended by adding a subdivision to read:

Subd. 9a. [REMARRIAGE OF SPOUSE.] Remarriage of a surviving spouse who is receiving benefits under subdivisions 6, 7, or 8 has no effect on the spouse's right to receive weekly benefits for the remaining period that the spouse is entitled to receive benefits pursuant to this section.

Sec. 75. Minnesota Statutes 1982, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount (\$1,000) \$2,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, (SUCH) its reasonable value shall be determined and approved by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after (SUCH) reasonable notice to interested parties as is required by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). If the

deceased leave no dependents, no compensation is payable, except as provided by this chapter.

Sec. 76. Minnesota Statutes 1982, section 176.121, is amended to read:

176.121 [COMMENCEMENT OF COMPENSATION.]

In cases of temporary total or temporary partial disability no compensation (SHALL BE) is allowed for the three *calendar* days after the disability commenced, except as provided by section 176.135, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 176.141. If (SUCH) *the* disability continues for 10 *calendar* days or longer, (SUCH) *the* compensation (SHALL BE) is computed from the commencement of the disability. *Disability is deemed to commence on the first calendar day or fraction of a calendar day that the employee is unable to work.*

Sec. 77. [176.129] [CREATION OF THE SPECIAL COMPENSATION FUND.]

Subdivision 1. [DEPOSIT OF FUNDS.] The special compensation fund is created for the purposes provided for in this chapter. The state treasurer is the custodian of the special compensation fund. Sums paid to the commissioner pursuant to this section shall be deposited with the state treasurer for the benefit of the fund and used to pay the benefits under this chapter. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund.

Subd. 2. [PAYMENTS TO FUND, DEATH.] 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 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 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 less than \$1,000.

Subd. 3. [PAYMENTS TO FUND, INJURY.] If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation, medical or rehabilitative services under sections 176.101, 176.102, 176.-

111, or 176.135, the employer shall pay to the commissioner a lump sum amount determined by the commissioner pursuant to subdivision 4 without any interest deduction. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.

Subd. 4. [DETERMINATION OF AMOUNT OF PAYMENT.] The amount payable by the employer to the special compensation fund under subdivision 3 shall be determined by the commissioner pursuant to section 176.83.

Subd. 5. [TIME OF INJURY.] Subdivisions 2 and 3 apply to all workers' compensation payments paid under sections 176.101, 176.102, 176.111, or 176.135, for an injury or death occurring on or after the effective date of this section.

Payments made for personal injuries that occurred prior to the effective date of this section shall be assessed at the rate in effect on the date of payment.

Subd. 6. [PAYMENTS OUT OF FUND.] The workers' compensation division, a compensation judge, the workers' compensation court of appeals, or district court in cases before them shall direct the distribution of benefits provided by this chapter. These benefits are payable in the same manner as other payments of compensation.

Subd. 7. [REFUNDS.] In case deposit is or has been made under subdivision 2 and dependency later is shown, or if deposit is or has been made pursuant to subdivision 2 or 3 by mistake or inadvertence, or under circumstances that justice requires a refund, the state treasurer is authorized to refund the deposit under order of the commissioner, a compensation judge, the workers' compensation court of appeals, or a district court. There is appropriated to the commissioner from the fund an amount sufficient to make the refund and payment.

Subd. 8. [COMMISSIONER AS ADMINISTRATOR.] The commissioner is the administrator of the special compensation fund. The special compensation fund shall be designated a party in an action regarding any right, obligation, and liability of the special fund. The state treasurer, as custodian, does not have standing in an action determining any right, obligation, or liability of the special fund. The attorney general shall represent the special fund in all legal matters in which the special fund has an interest.

Subd. 9. [POWERS OF FUND.] In addition to powers granted to the special compensation fund by this chapter the fund may do the following:

(a) *sue and be sued in its own name;*

(b) *intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;*

(c) *enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter; and*

(d) *take any other action which an insurer is permitted by law to take in operating within this chapter.*

Subd. 10. [PENALTY.] *Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty of up to 15 percent of the amount due under this section but not less than \$500 in the event payment is not made in the manner prescribed.*

Subd. 11. [ADMINISTRATIVE PROVISIONS.] *The accounting, investigation, and legal costs necessary for the administration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process.*

Subd. 12. [REPORT OF COMMISSIONER.] *The commissioner shall report biennially to the governor and to the legislature as to the financial status of the special compensation fund. The report shall include a statement of the receipts and the disbursements for the period covered.*

Subd. 13. [EMPLOYER REPORTS.] *All employers shall make reports to the commissioner as required for the proper administration of this section and section 176.131.*

Sec. 78. Minnesota Statutes 1982, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability that is substantially greater, because of a pre-existing physical impairment, than what would have resulted from the personal injury alone, the employer shall pay all compensation provided by this chapter, but (HE) *the employer* shall be reimbursed from the special compensation fund for all compensation paid in excess of 52 weeks of monetary benefits and \$2,000 in medical expenses, subject to the following exceptions:

If the personal injury alone results in permanent partial disability to a scheduled member under (SECTION 176.101) *the schedule adopted by the commissioner pursuant to section 176.105*, the monetary and medical expense limitations shall not apply and the employer (SHALL BE) is liable for (SUCH) the compensation, medical expense, and (RETRAINING) *rehabilitation* attributable to the permanent partial disability, and (HE) may be reimbursed from the *special* compensation fund only for compensation paid in excess of (SUCH) *the* disability.

Sec. 79. Minnesota Statutes 1982, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on the job retraining program pursuant to section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to enter the on the job retraining program, the on the job training employer shall pay the medical expenses and compensation required by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury. The employer, at the time of the personal injury for which the employee has been certified for retraining, is liable for the portion of the disability that is attributable to that injury.

Sec. 80. Minnesota Statutes 1982, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury (SHALL RESULT) *results* in disability or death, and if the injury, death, or disability would not have occurred except for the pre-existing physical impairment *registered with the special compensation fund*, the employer shall pay all compensation provided by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for (SUCH) *the* compensation (ONLY WHERE THE PERMANENT PHYSICAL IMPAIRMENT CONTRIBUTING TO THE SECOND INJURY IS DIABETES, HEMOPHILIA OR SEIZURES) *except that this reimbursement shall not be made for cardiac disease or a condition registered pursuant to clause (t) or (u) unless the commissioner by rule provides otherwise.*

Sec. 81. Minnesota Statutes 1982, section 176.131, subdivision 3, is amended to read:

Subd. 3. To entitle the employer to secure reimbursement from the special compensation fund, the following provisions must be complied with:

- (a) Provisions of section 176.181, subdivisions 1 and 2.

(b) The employee with a pre-existing physical impairment must have been registered with the commissioner (OF LABOR AND INDUSTRY) prior to the employee's personal injury or within 180 days after notice of the employee's personal injury is received by the employer. Registration subsequent to the injury shall be based on a medical report or record made prior to the injury indicating the pre-existing physical impairment.

Sec. 82. Minnesota Statutes 1982, section 176.131, subdivision 4, is amended to read:

Subd. 4. Any employer who hires or retains in (HIS) *its* employment any person who has a physical impairment shall file a formal registration for (EACH SUCH) *the* employee with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY IN SUCH) *on a form (AS) prescribed by the commissioner (MAY REQUIRE).*

Sec. 83. Minnesota Statutes 1982, section 176.131, subdivision 5, is amended to read:

Subd. 5. Registration under this section may be made by the employee or any employer provided:

(a) Registration (SHALL BE) *is* accompanied by satisfactory evidence of (SUCH) *the* physical impairment;

(b) Registration (SHALL BE) *is* in effect as long as (SAID) *the* impairment exists;

(c) Upon request, a registered employee shall be furnished by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) with a registration card evidencing the (FACT OF) registration, and (SUCH) other facts as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) deems advisable.

Sec. 84. Minnesota Statutes 1982, section 176.131, subdivision 6, is amended to read:

Subd. 6. When the employer claims reimbursement from the special compensation fund after paying compensation as prescribed by this section, (HE) *the employer* shall file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) written notice of intention to claim reimbursement in accordance with the rules (AND REGULATIONS OF) *adopted by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).*

Sec. 85. Minnesota Statutes 1982, section 176.131, subdivision 7, is amended to read:

Subd. 7. Under subdivisions 1 and 2, an occupational disease may be deemed to be the personal (second) injury.

If the subsequent disability for which reimbursement is claimed is an occupational disease, and if, subsequent to registration as provided by subdivisions 4 and 5, the employee has been employed by the employer in employment similar to that which initially resulted in (SUCH) *the* occupational disease, no reimbursement shall be paid to the employer.

Sec. 86. Minnesota Statutes 1982, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment (PROVIDED) *except* that (,) physical impairment (AS USED HEREIN) is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,
- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,

(n) Thrombophlebitis,

(o) Brain tumors,

(p) Pott's disease,

(q) Seizures,

(r) Cancer of the bone,

(s) Leukemia,

((O)) (t) Any other physical impairment for which at least 50 weeks or more of weekly benefits would be payable as permanent partial disability if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

((P)) (u) Any other physical impairments of a permanent nature which the (WORKERS' COMPENSATION COURT OF APPEALS) commissioner may by rule prescribe;

"Compensation" has the meaning defined in section 176.011;

"Employer" includes insurer;

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or (RETRAINING) rehabilitation.

Sec. 87. Minnesota Statutes 1982, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to the effective date of clause (b) for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as (HEREINAFTER) prescribed in this section after 104 weeks have elapsed and for the remainder of (HIS) the total disablement. Regardless of the number of weeks of total disability, no totally disabled person (SHALL BE) is ineligible for supplementary benefits after four years have elapsed since the first date of (HIS) the total disability, except as provided by clause (b), provided that all periods of disability are caused by the same injury.

(b) No employee injured after July 1, 1981, shall be eligible to receive supplementary benefits.

Sec. 88. Minnesota Statutes 1982, section 176.132, is amended by adding a subdivision to read:

Subd. 5. [ROUNDING OF PAYMENTS.] A payment made under this section shall be rounded to the nearest whole dollar.

Sec. 89. Minnesota Statutes 1982, section 176.134, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The commissioner (OF LABOR AND INDUSTRY) shall administer the reopened case fund as part of the special compensation fund provided that the reopened case fund is under separate accounting and audit procedures from the special fund.

Sec. 90. Minnesota Statutes 1982, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] The employer shall furnish (SUCH) any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. (SUCH) This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of his inability or refusal seasonably to do so the employer (SHALL BE) is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of (A COMPENSATION JUDGE) the commissioner or medical services review board with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party or by writ of certiorari to the supreme court.

Sec. 91. Minnesota Statutes 1982, section 176.135, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF LIABILITY.] The pecuniary liability of the employer for the treatment, articles and supplies required by this section shall be limited to (SUCH) the charges

therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living when the same are paid for by the injured persons. On this basis the (COMPENSATION JUDGE) *commissioner, medical services review board*, or workers' compensation court of appeals on appeal may determine the reasonable value of all such services and supplies and the liability of the employer is limited to the amount so determined.

Sec. 92. Minnesota Statutes 1982, section 176.136, is amended to read:

176.136 [MEDICAL FEE REVIEW.]

The commissioner (OF 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), *medical services review board*, the workers' compensation court of appeals or a district court determines that the charge for a health service or medical service is excessive, no payment 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 (OF INSURANCE) shall contract with a review organization as defined in section 145.61 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, includ-

ing 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. *If upon the effective date of this section this study has already been conducted by the commissioner of insurance, the commissioner is not required to conduct the study.*

The commissioner (OF INSURANCE) shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 14.14, subdivision 1, 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 sections 14.13 to 14.20 or 14.21 to 14.28, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

Any rules adopted by the commissioner of insurance pursuant to this section shall be adopted by the commissioner of labor and industry and may be amended, modified, or repealed only by the commissioner of labor and industry.

Sec. 93. [176.138] [MEDICAL DATA; ACCESS.]

Notwithstanding any other laws related to the privacy of medical data, except federal law, or any private agreements to the contrary, the release of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. Requests for pertinent data shall be made in writing to the person or organization that collected or currently possesses the data. The data shall be provided by the collector or possessor within seven working days of receiving the request. In all cases of a request for the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made. This data shall be treated as private data by the party who requests or receives the data and the employee or the employee's attorney shall be provided with a copy of all data requested.

The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not release the data in a timely manner. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor.

Sec. 94. Minnesota Statutes 1982, section 176.155, subdivision 3, is amended to read:

Subd. 3. [REFUSAL TO BE EXAMINED.] If the injured employee refuses to comply with any reasonable request for examination, (HIS) *the* right to compensation may be suspended by order of the division, a *compensation judge* or workers' compensation court of appeals in a matter before it, and no compensation shall be paid while (HE) *the employee* continues in (SUCH) *the* refusal.

Sec. 95. Minnesota Statutes 1982, section 176.155, subdivision 5, is amended to read:

Subd. 5. [TESTIMONY OF (EXAMINING PHYSICIANS) HEALTH CARE PROVIDER.] Any physician or other health care provider designated by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), compensation judge, or workers' compensation court of appeals or whose services are furnished or paid for by the employer, who treats (OR WHO MAKES), *examines*, or is present at any examination, of an injured employee, may be required to testify as to any knowledge acquired by (HIM) *the physician or health care provider* in the course of (SUCH) *the treatment or examination* relative to the injury or disability resulting (THEREFROM) *from the injury only if the commissioner or a compensation judge makes a written finding that the appearance of the physician or health care provider is crucial to the accurate determination of the employee's disability. In all other cases all medical evidence must be submitted by written report as prescribed by the chief hearing examiner. A party may cross examine by deposition a physician or health care provider who has examined or treated the employee. If a physician or health care provider is not available for cross examination prior to the hearing and the physician's or health care provider's written report is submitted at the hearing, the compensation judge shall, upon request of the adverse party, require the physician or health care provider to testify at the hearing for the purpose of being cross examined by the adverse party. All written medical evidence must be submitted prior to or at the time of the hearing and no evidence shall be considered which was submitted after the hearing unless the compensation judge orders otherwise.*

Sec. 96. Minnesota Statutes 1982, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors

of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a *compensation judge*, or court of appeals relative to a claim by an injured employee or (HIS) *the employee's* survivors, and received in good faith by the employee or (HIS) *the employee's* survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a credit against future benefit entitlement; provided, however, that the credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits or death benefits shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 97. Minnesota Statutes 1982, section 176.182, is amended to read:

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 *for the doing of any public work* before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 98. Minnesota Statutes 1982, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee (SHALL SUSTAIN) *sustains* an injury arising out of and in the course of (HIS) employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or (HIS) *the employee's* dependents shall nevertheless receive benefits as pro-

vided for (THEREIN) *in this chapter* from the special compensation fund, and the (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) *commissioner has a cause of action against (SUCH) the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. An action to recover (SUCH) the moneys shall be instituted unless the (CUSTODIAN) commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.*

Sec. 99. Minnesota Statutes 1982, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or (HIS) *the employee's* dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but *the self-insurer* fails to (BE PAID THEM) *pay the benefits, the employee or (HIS) the employee's* dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive (SUCH) *the* benefits from the special compensation fund (, AND). The (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) *commissioner has a cause of action against (SUCH) the self-insuring employer for reimbursement (,) for all (MONEYS) benefits and other expenditures paid out or to be paid out and, in the discretion of the court, (AS) the self-insurer is liable for punitive damages in and (ADDITIONAL) amount not to exceed 50 percent of the total of all (MONEYS) benefits and other expenditures paid out or to be paid out. The commissioner shall institute an action to recover (SUCH MONEYS SHALL BE INSTITUTED) the total expenditures from the fund unless the (CUSTODIAN) commissioner determines that no recovery is possible. All (MONEYS) proceeds recovered shall be deposited in the general fund.*

Sec. 100. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 3. (a) *Notwithstanding subdivision 2, the commissioner may direct payment from the special compensation fund for compensation payable pursuant to subdivisions 1 and 1a, including benefits payable under sections 176.102 and 176.135, prior to issuance of an order of a compensation judge or the workers' compensation court of appeals directing payment or awarding compensation.*

(b) *The commissioner may suspend or terminate an order under clause (a) for good cause as determined by the commissioner.*

Sec. 101. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 4. If the commissioner authorizes the special fund to commence payment under this section, the commissioner shall serve by certified mail notice upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.

Sec. 102. Minnesota Statutes 1982, section 176.185, is amended by adding a subdivision to read:

Subd. 10. [DATA COLLECTION CONTRACTS.] The commissioner may contract with other parties regarding the collection of appropriate data to assist in meeting the requirements of this section.

Sec. 103. [176.186] [RECORDS FROM OTHER STATE AGENCIES.] *Notwithstanding any other state law to the contrary, the commissioner may obtain from the department of revenue, department of economic security, and office of the secretary of state, or any other state agency, upon request, names or lists of employers doing business in the state. This information shall be treated by the commissioner in the manner provided by chapter 13 and shall be used only for insurance verification by the commissioner.*

Sec. 104. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 5. Where a dispute exists between an employer, insurer, the special compensation fund, the reopened case fund, or the workers' compensation reinsurance association, regarding benefits payable under this chapter, the dispute may be submitted with consent of all interested parties to binding arbitration pursuant to the rules of the American arbitration association. The decision of the arbitrator shall be conclusive with respect to all issues presented except as provided in subdivisions 6 and 7. Consent of the employee is not required for submission of a dispute to arbitration pursuant to this section and the employee is not bound by the results of the arbitration. An arbitra-

tion award shall not be admissible in any other proceeding under this chapter. Notice of the proceeding shall be given to the employee.

The employee, or any person with material information to the facts to be arbitrated, shall attend the arbitration proceeding if any party to the proceeding deems it necessary. Nothing said by an employee in connection with any arbitration proceeding may be used against the employee in any other proceeding under this chapter. Reasonable expenses of meals, lost wages, and travel of the employee or witnesses in attending shall be reimbursed on a pro rata basis.

Sec. 105. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 6. If the employee commences an action under this chapter for benefits arising out of the same injury which resulted in the dispute arbitrated under subdivision 5, and if the benefits awarded to the employee under the employee's claim are inconsistent with the arbitration decision, any increase in benefits over those paid pursuant to the arbitration proceeding is paid by the party or parties who ordinarily would have been required to pay the increased benefits but for the arbitration. Any reimbursement from the employee of any decrease in benefits from those paid pursuant to the arbitration is paid to the party or parties who previously had paid the increased benefits. The provisions of this subdivision apply regardless of whether more or fewer employers and insurers or the special fund have been added or omitted as parties to the employee's subsequent action after arbitration.

Sec. 106. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 7. If an employee brings an action under the circumstances described in subdivision 6, the parties to the previous arbitration may be represented at the new action by a common or joint attorney.

Sec. 107. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 8. No attorney's fees shall be awarded under either section 176.081, subdivision 8, or 176.191 against any employer or insurer in connection with any arbitration proceeding unless the employee chooses to retain an attorney to represent the employee's interests during arbitration.

Sec. 108. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 1a. [ADDITIONAL GROUNDS.] Where an insurer or agent of an insurer has failed to comply with provisions of this chapter, other than the provisions in subdivision 1, the commissioner of insurance may revoke the license of the insurer to write workers' compensation insurance.

Sec. 109. Minnesota Statutes 1982, section 176.195, subdivision 2, is amended to read:

Subd. 2. [COMMENCEMENT OF PROCEEDINGS.] (SUCH) The commissioner of insurance may act under subdivision 1 or subdivision 1a upon his own motion, the recommendation of the commissioner (OF THE DEPARTMENT) of labor and industry, the chief hearing examiner, or the workers' compensation court of appeals, or the complaint of any interested person.

Sec. 110. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 7. [REPORT TO COMMISSIONER OF INSURANCE.] The commissioner may send reports to the commissioner of insurance regarding compliance with this chapter by insurers writing workers' compensation insurance. A report may include a recommendation for revocation of an insurer's license under this section and may also recommend the imposition of other penalties which may be imposed upon insurers by the commissioner of insurance.

Sec. 111. Minnesota Statutes 1982, section 176.221, is amended to read:

176.221. [PAYMENT OF COMPENSATION AND TREATMENT CHARGES, COMMENCEMENT.]

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total 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) *If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be (DISCONTINUED) terminated upon (NOTICE OF DISCONTINUANCE PURSUANT TO SECTION 176.241) the filing of a notice of*

denial of liability. Upon the (DETERMINATION) termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Subd. 2. [GRANT OF EXTENSION.] Upon application made within 30 days (AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE) of notice to or knowledge by the employer of the injury, the commissioner may grant an extension of time within which to determine liability. The extension shall not exceed 30 days from the date the request for extension is made. The application or grant of extension does not release the employer of the obligation to commence payment under subdivision 1 or to continue payments.

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) pursuant to subdivision 1, or to file a denial of liability within the 14-day period referred to in subdivision 1, (OR TO REQUEST AN EXTENSION OF TIME WITHIN 30 DAYS AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE, HE) it 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 PERIOD AND UNTIL A) to receive up to the date 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 IN-

SURER HAS FAILED TO MAKE THE PAYMENTS REQUIRED BY SUBDIVISION 3 OR SUBDIVISION 4 WITHIN 30 DAYS FROM THE END OF THE 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 or compensation judge shall assess the penalty payments provided for by (SUBDIVISIONS) *subdivision 3 (TO 5,)* and any increase in benefit payments provided by section 176.225, subdivision 5, against (EITHER THE EMPLOYER OR) the insurer (DEPENDENT 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 it even if the delay is attributable to the employer.

An insurer who has paid a penalty under this section may recover from the employer the portion of the penalty attributable to the acts of the employer which resulted in the delay. A penalty paid by an insurer under this section which is attributable to the fault of the employer shall be treated as a loss in an experience rated plan, retrospective rating plan, or dividend calculation where appropriate.

Subd. 6a. [MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT COMPENSATION.] *The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivision 9, economic recovery compensation or impairment compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.*

Subd. 7. [INTEREST.] Any payment of compensation, charges for treatment under section 176.135 or (RETRAINING) rehabilitation expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent (PER ANNUM) a year from the due date to the date the payment is made or the rate set by section 549.09, subdivision 1, whichever is greater.

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 *the filing of an appropriate order by the division or a compensation judge, unless the order is (TO BE) appealed (,) or (WHERE) if a different time period is provided by this chapter.*

Sec. 112. Minnesota Statutes 1982, section 176.225, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] Upon reasonable notice and hearing or opportunity to be heard, the division, *a compensation judge, or upon appeal, the workers' compensation court of appeals or the supreme court may award compensation, in addition to the total amount of compensation award, of up to 25 percent of that total amount where an employer or insurer has:*

(a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,

(b) unreasonably or vexatiously delayed payment; or,

(c) neglected or refused to pay compensation; or,

(d) intentionally underpaid compensation.

Sec. 113. Minnesota Statutes 1982, section 176.225, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF BOOKS AND RECORDS.] To determine whether an employer or insurer (HAS BECOME SUBJECT TO) *is liable for the payment provided by subdivision 1, the division, a compensation judge, or the workers' compensation court of appeals upon appeal may examine the books and records of the (PERSON) employer or insurer relating to the payment of compensation, and may require (HIM) the employer or insurer to furnish any other information relating to the payment of compensation.*

Sec. 114. Minnesota Statutes 1982, section 176.225, subdivision 3, is amended to read:

Subd. 3. [DEFIANCE OF DIVISION, COMPENSATION JUDGE, OR WORKERS' COMPENSATION COURT OF APPEALS, COMPLAINT.] (WHERE) *If an insurer persists in an action or omission listed in subdivision 1, or does not permit the examination of (HIS) books and records, or fails to furnish (SUCH) information as required, the commissioner or*

the chief hearing examiner shall file a written complaint with the insurance commissioner. The complaint shall specify the facts and recommend the revocation of the license of the insurer to do business in this state. The workers' compensation court of appeals may also file (SUCH) a written complaint.

Sec. 115. Minnesota Statutes 1982, section 176.231, subdivision 3, is amended to read:

Subd. 3. [PHYSICIANS, CHIROPRACTORS, OR (SURGEONS) *OTHER HEALTH CARE PROVIDERS TO REPORT INJURIES.*] (WHERE) A physician (OR SURGEON), *chiropractor, or other health care provider who* has examined, treated, or has special knowledge of an injury to an employee which may be compensable under this chapter, (HE) shall report to the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) all facts relating to the nature and extent of the injury and disability, *and the treatment provided for the injury or disability,* within ten days after (HE) *the health care provider* has received a written request for (SUCH) the information from the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) or (ANY MEMBER OR EMPLOYEE THEREOF) *an authorized representative of the commissioner.*

Sec. 116. Minnesota Statutes 1982, section 176.231, subdivision 4, is amended to read:

Subd. 4. [SUPPLEMENTARY REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) or (ANY MEMBER OR EMPLOYEE THEREOF,) *an authorized representative* may require the filing of (SUCH) supplementary reports of accidents as (IT DEEMS) *is deemed* necessary to provide information required by law.

Supplementary reports related to the current nature and extent of the employee's injury, disability, or treatment may be requested from a physician, surgeon, chiropractor, or other health care provider by the commissioner or a representative, an employer or insurer, or the employee.

Sec. 117. Minnesota Statutes 1982, section 176.231, subdivision 5, is amended to read:

Subd. 5. [FORMS FOR REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall *by rule* prescribe forms for use in making the reports required by this section. *The first report of injury form* which the employer submits (WITH REFERENCE TO AN ACCIDENT) shall include a declaration by the employer (THAT HE WILL) *of a promise to pay the compensation the law requires. Forms for reports required by this section shall be as prescribed by the*

commissioner and shall be the only forms used by an employer, insurer, self-insurer, group self-insurer, and all health care providers.

Sec. 118. Minnesota Statutes 1982, section 176.231, subdivision 9, is amended to read:

Subd. 9. [USES WHICH MAY BE MADE OF REPORTS.] Reports filed with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics.

The division or office of administrative hearings or workers' compensation court of appeals may permit an attorney at law who represents an employer, insurer, or an employee or (HIS) a dependent to examine its file in a compensation case if the attorney furnishes written authorization to do so from (HIS) the attorney's client. Reports filed under this section and other information the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 119. Minnesota Statutes 1982, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] (WHERE) *If an employer, physician, (OR SURGEON HAS FAILED) chiropractor, or other health provider fails to file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) any report required by this section in the manner and within the time limitations prescribed, (HE SHALL FORFEIT TO THE STATE \$50) or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each (SUCH) failure.*

The attorney general shall sue in a civil action to collect this penalty upon notification of the matter by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall certify to the attorney general each failure to report immediately upon its occurrence.

Penalties collected by the state under this subdivision shall be paid into the state treasury.

Sec. 120. Minnesota Statutes 1982, section 176.241, subdivision 2, is amended to read:

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except (WHERE) *when* the commissioner 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 *or compensation judge* as provided in the following subdivisions.

Sec. 121. Minnesota Statutes 1982, section 176.241, is amended to read:

176.241. [NOTICE TO DIVISION OF INTENTION TO DISCONTINUE COMPENSATION PAYMENTS.]

Subdivision 1. [NECESSITY FOR NOTICE AND SHOWING; CONTENTS.] Where an employee claims that the right to compensation continues, the employer may not discontinue payment of compensation until he provides the 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. 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 possession of the employer bearing on the physical condition of the employee at the time of the proposed discontinuance.

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except where the commissioner 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.

Subd. 3. [COPY OF NOTICE TO EMPLOYEE, INVESTIGATION, HEARING.] 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 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 shall 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) 30 days after the division has received the notice of discontinuance. The compensation judge shall give eight days notice of the hearing to interested parties.

Subd. 4. [ORDER.] When the hearing has been held (,) and (HE HAS DULY CONSIDERED) the evidence *duly considered*, the person who held the hearing shall promptly enter an order directing the payment of further compensation or confirming the termination of compensation. (WHERE) *If the order confirms a termination of compensation, (THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER OF THE ACTION. THIS NOTIFICATION) the service and filing of the order* relieves the employer from further liability for compensation subject to the right of review afforded by this chapter, and to the right of the (DIVISION) *compensation judge to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order but the court of appeals may remand the matter to a compensation judge for a new hearing.*

Sec. 122. [176.243] [ADMINISTRATIVE CONFERENCE FOLLOWING RETURN TO WORK, SUBSEQUENT INABILITY TO WORK.]

Subdivision 1. [CONFIRMATION OF EMPLOYMENT AND WAGES.] *If an insurer has discontinued compensation to an employee because the employee has returned to work, the insurer shall contact the employer by whom the employee is employed 14 calendar days after return to work. The insurer shall determine whether the employee is still employed after 14 days and shall also ascertain the wages being paid to the employee.*

Subd. 2. [NOTICE TO COMMISSIONER.] *If upon contact the insurer determines that the employee is not working or that the employee is earning a lower wage than at the time of the injury, the insurer shall notify the commissioner in writing of this fact and shall also state the actions that the insurer has*

taken or intends to take regarding payment of compensation. A copy of this notice shall be served by the insurer by certified mail to the employee.

Subd. 3. [EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFERENCE.] *If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee, the employee may request an administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.*

Subd. 4. [ADMINISTRATIVE DECISION.] *After considering the information provided by the parties at the administrative conference the commissioner shall issue to all interested parties a written administrative decision regarding payment of compensation. The commissioner's decision is binding upon the parties and the rights and obligations of the parties are governed by the decision. The commissioner shall advise all parties of the right to petition to the chief hearing examiner under section 176.241 and of the right to be represented by an attorney at a hearing before a compensation judge. A party aggrieved by the commissioner's decision may proceed under section 176.241.*

Subd. 5. [DECISION BINDING PENDING COMPENSATION JUDGE DECISION.] *If an aggrieved party files a petition under section 176.241, the commissioner's administrative decision remains in effect pending a determination by a compensation judge.*

Subd. 6. [DECISION AS NOTICE.] *If a party proceeds under section 176.241, the commissioner's administrative decision is deemed to fulfill the division's obligations under section 176.241.*

Subd. 7. [OBLIGATIONS PRIOR TO ADMINISTRATIVE DECISION.] *If an insurer has not voluntarily recommenced compensation following the employee's cessation of work the insurer is not obligated to do so until an administrative conference is held and unless the commissioner determines that compensation shall be recommenced.*

Subd. 8. [NECESSITY OF ADMINISTRATIVE CONFERENCE.] *If the commissioner deems it appropriate, based upon information the commissioner has, the commissioner may determine that an administrative conference is not necessary, in which case a party may proceed under section 176.241.*

Subd. 9. [APPLICATION OF SECTION.] This section applies only when the employee has received at least 60 days of temporary total or temporary partial compensation prior to return to work and if no rehabilitation plan has been approved.

Subd. 10. [NOTICE FORMS.] A notice under this section shall be on a form prescribed by the commissioner.

Subd. 11. [FINES, VIOLATIONS.] An employer or insurer who violates this section is subject to a fine of up to \$500 for each violation which shall be paid to the special compensation fund.

Subd. 12. [APPLICATION.] This section is applicable to all cases in which a return to work has occurred after the effective date of this section even if the injury occurred prior to the effective date.

Sec. 123. Minnesota Statutes 1982, section 176.271, is amended by adding a subdivision to read:

Subd. 3. Notwithstanding any other provision to the contrary, no attorney employed by the state of Minnesota may represent any person in any action or matter under this chapter other than the state, as defined in section 79.34, subdivision 1.

Sec. 124. Minnesota Statutes 1982, section 176.281, is amended to read:

176.281 [ORDERS, DECISIONS, AND AWARDS; FILING; SERVICE.]

When the commissioner or compensation judge or office of administrative hearings or the workers' compensation court of appeals has rendered (AN) *a final order, decision, or award, or amendment to an order, decision, or award*, it shall be filed immediately with the commissioner. (WHERE) *If the commissioner, compensation judge, office of administrative hearings, or workers' compensation court of appeals has rendered (AN) a final order, decision, or award, or amendment thereto*, the commissioner or the office of administrative hearings or the workers' compensation court of appeals shall immediately serve a copy upon every party in interest, together with a notification of the (TIME) *date* the (SAME) *order* was filed.

Sec. 125. Minnesota Statutes 1982, section 176.285, is amended to read:

176.285 [SERVICE OF PAPERS AND NOTICES.]

Service of papers and notices shall be by mail or (BY SUCH OTHER MEANS) *otherwise* as the commissioner (OF THE

DEPARTMENT OF LABOR AND INDUSTRY DIRECTS) *or the chief hearing examiner may by rule direct.* Where service is by mail, service is effected at the time mailed if properly addressed and stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served. However, a party may show by competent evidence that (HE) *that party* did not receive it or that it had been delayed in transit for an unusual or unreasonable period of time. In case of (SUCH) non-receipt or delay, an allowance shall be made for the party's failure to assert a right within the prescribed time.

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) *and the chief hearing examiner* shall (KEEP A CAREFUL RECORD OF EACH SERVICE INCLUDING THE TIME WHEN MADE) *ensure that proof of service of all papers and notices served by their respective agencies is placed in the official file of the case.*

Sec. 126. [176.312] [AFFIDAVIT OF PREJUDICE.]

An affidavit of prejudice for cause may be filed by a party to the claim against a compensation judge, in the same manner as an affidavit of prejudice is filed pursuant to law or rule of district court. The filing of an affidavit of prejudice against a compensation judge has the same effect and shall be treated in the same manner as in district court.

Sec. 127. Minnesota Statutes 1982, section 176.321, subdivision 1, is amended to read:

Subdivision 1. [FILING, SERVICE.] Within (TWENTY) 20 days after (HE HAS BEEN SERVED WITH A COPY) *service of the petition, an adverse party (MAY) shall serve and file (A VERIFIED) an answer to the petition. (WHEN HE FILES THE ANSWER,)* The party shall (ALSO) serve a copy of the *answer on the petitioner or (HIS) the petitioner's 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. 128. Minnesota Statutes 1982, section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT.]

(WHERE) *If an adverse party (HAS FAILED) fails to file and serve an answer (, IF) and the petitioner presents proof of (SUCH) this fact, the commissioner or compensation judge (SHALL) may enter whatever award or order to which the petitioner is entitled on the basis of the facts alleged in the petition,*

but the compensation judge may require proof of an alleged fact. If the commissioner requires (SUCH) proof, (HE) *the commissioner* shall request the chief hearing examiner to assign the matter to a compensation judge (TO SUMMARILY HEAR AND DETERMINE THE SAME) *for an immediate hearing* and (TO PROMPTLY MAKE AN) *prompt award or other order*.

Where in (SUCH) a default case the petition does not state facts sufficient to support an award, the compensation judge shall give the petitioner or (HIS) *the petitioner's* attorney written notice of this deficiency. The petitioner may thereupon *serve and* file another petition as in the case of an original petition.

Sec. 129. Minnesota Statutes 1982, section 176.341, is amended to read:

176.341 [HEARING ON PETITION.]

Subdivision 1. [TIME.] (WHEN THE REPLY HAS BEEN FILED OR THE TIME HAS EXPIRED IN WHICH TO FILE A REPLY) *Upon receipt of a matter from the commissioner*, the chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held 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 176.001) and the requirements of section 176.306.

Subd. 2. [PLACE.] Unless otherwise ordered by the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR COMPENSATION JUDGE) *chief hearing examiner*, the hearing shall be held in the county where the injury or death occurred.

Subd. 3. [NOTICE MAILED TO EACH PARTY.] At least (FIVE) 30 days prior to the date of hearing, the (WORKERS' COMPENSATION DIVISION) *chief hearing examiner* shall mail a notice of the time and place of hearing to each interested party. *This subdivision does not apply to hearings which have been continued from an earlier date. In those cases, the notice shall be given in a manner deemed appropriate by the chief hearing examiner after considering the particular circumstances in each case.*

Sec. 130. Minnesota Statutes 1982, section 176.361, is amended to read:

176.361 [INTERVENTION.]

(WHERE) A person *who* has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge (OF) such (A CHARACTER) that (HE) *the person* may either gain or lose by an order or decision (,

HE) may intervene in the proceeding by filing an application in writing stating the facts which show (SUCH) *the* interest.

The commissioner of the department of labor and industry and workers' compensation court of appeals shall adopt rules to govern the procedure for intervention.

Sec. 131. Minnesota Statutes 1982, section 176.371, is amended to read:

176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hearing, shall hear all competent, *relevant* evidence produced at the hearing (, AND, AS SOON AFTER THE HEARING AS POSSIBLE, MAKE FINDINGS OF FACT, CONCLUSIONS OF LAW,). *All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner within 60 days after the submission, unless sickness or casualty prevents a timely filing, or the time is extended by written consent of the parties, or the chief hearing examiner extends the time for good cause. The compensation judge's decision shall include a determination of all contested issues of fact and law and an award or disallowance of compensation or other order as the pleadings, evidence, this chapter and rule require. A compensation judge's decision shall include a memorandum only if necessary to delineate the reasons for the decision or to discuss the credibility of witnesses. A memorandum shall not contain a recitation of the evidence presented at the hearing but shall be limited to the compensation judge's basis for the decision.*

No part of the salary of a compensation judge shall be paid unless the chief hearing examiner determines that all decisions of that judge have been issued within the time limit prescribed by this section.

Sec. 132. Minnesota Statutes 1982, section 176.421, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF APPEAL.] The appellant or (HIS) *the appellant's* attorney shall prepare and sign a written notice of appeal specifying:

- (1) the order appealed from;
- (2) that appellant appeals from the order to the workers' compensation court of appeals;

(3) the particular finding of fact or conclusion of law which (HE) *the appellant* claims was unwarranted by the evidence or procured by fraud, coercion, or other improper conduct; and

(4) (THE TESTIMONY OR OTHER PART OF THE RECORD OF THE HEARING NECESSARY TO BE TRANSCRIBED IN ORDER FOR THE COURT OF APPEALS TO CONSIDER THE APPEAL; AND,)

((5)) any other ground upon which the appeal is taken.

Sec. 133. Minnesota Statutes 1982, 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 chief hearing examiner and file a copy with the commissioner;

(3) In order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25; and

(4) Submit a request that the chief hearing examiner order the preparation of a transcript of (THAT PART OF) the hearing (DELINEATED IN THE NOTICE OF APPEAL).

(A PARTY WHO DESIRES A TRANSCRIPT OF MORE OF THE HEARING THAN HAS BEEN REQUESTED BY THE APPELLANT SHALL, WITHIN FIVE WORKING DAYS OF SERVICE OF THE NOTICE OF APPEAL, MAKE A REQUEST OF THE CHIEF HEARING EXAMINER THAT THE ADDITIONAL TESTIMONY BE TRANSCRIBED.)

The *first* party (REQUESTING THE PREPARATION OF THE TRANSCRIPT OR ANY PART) *to file an appeal* is liable for the *original* cost of preparation of the transcript. Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy. The cost of a transcript prepared by a non-governmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

Upon a showing of cause, the chief hearing examiner may direct that a transcript be prepared without expense to the party

requesting its preparation, in which case the cost of the transcript shall be paid by the office of administrative hearings.

All fees received by the office of administrative hearings for the preparation of the record for submission to the workers' compensation court of appeals or for the cost of transcripts prepared by the office shall be deposited in the office of administrative hearings account in the state treasury and shall be used solely for the purpose of keeping the record of hearings conducted under this chapter and the preparation of transcripts of those hearings.

Sec. 134. Minnesota Statutes 1982, 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) *appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:*

(1) disregard the findings of fact which the compensation judge has made;

(2) examine the record;

(3) substitute for the findings of fact made by the compensation judge such findings as the total evidence requires; and,

(4) make an award or disallowance of compensation or other order as the facts and findings require.

Sec. 135. Minnesota Statutes 1982, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before (HIMSELF.) the commissioner and shall provide a stenographer or an audio magnetic recording device to make (A) the record of the proceedings (BEFORE HIM).

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge (AND SHALL FIX THE AMOUNT OF THIS CHARGE) *which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and*

shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision.

Sec. 136. Minnesota Statutes 1982, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER (OF DEPARTMENT OF LABOR AND INDUSTRY).]

Any decision or determination of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by (SUCH) the determination may appeal to the workers' compensation court of appeals *by filing a notice of appeal with the commissioner* 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.

Sec. 137. Minnesota Statutes 1982, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except (WHERE) *when* a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or (WHERE) *if* 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 *working* days after written notice to all interested parties, may set the award aside and grant a new hearing 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 *an order of award or disallowance of compensation or other order (AS) based on* the pleadings and the evidence produced and *as required by* the provisions of this chapter (SHALL REQUIRE) *or rules adopted under it.*

Sec. 138. Minnesota Statutes 1982, 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, the workers' compensation court of appeals, and the district court 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 conclusively presumed to be reasonable, fair, and in conformity with this chapter *except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the division, a compensation judge, or workers' compensation court of appeals.*

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

Sec. 139. Minnesota Statutes 1982, section 176.521, subdivision 2a, is amended to read:

Subd. 2a. [SETTLEMENTS NOT SUBJECT TO APPROVAL.] When a settled case is not subject to approval, upon receipt of the stipulation for settlement, a compensation judge (OR), a settlement judge, *or the workers' compensation court of appeals* shall immediately sign the award and file it with the commissioner. Payment pursuant to the award shall be made within 14 days after it is filed with the commissioner. The commissioner may correct mathematical or clerical errors at any time.

Sec. 140. Minnesota Statutes 1982, section 176.521, subdivision 3, is amended to read:

Subd. 3. [SETTING ASIDE AWARD UPON SETTLEMENT.] Notwithstanding *the provisions of section 176.521, subdivision 1, 2, or 2a, or any provision in the agreement of settlement to the contrary, upon the filing of a petition by any party to the settlement and after a hearing on the petition, the workers' compensation court of appeals may set aside an award made upon a settlement, pursuant to this chapter. In those cases, the workers' compensation court of appeals shall refer the matter to the chief hearing examiner for assignment to a compensation judge for hearing.*

Sec. 141. Minnesota Statutes 1982, section 176.561, is amended to read:

176.561 [WORKERS' COMPENSATION COURT OF APPEALS POWERS AND DUTIES AS TO STATE EMPLOYEES; PROCEDURE FOR DETERMINING LIABILITY.]

The division, a compensation judge and the workers' compensation court of appeals have the same powers and duties in matters relating to state employees as they have in relation to other employees.

Except as specifically provided otherwise (HEREIN) in this chapter, the procedure for determining the liability of the state for compensation is the same as that applicable in other cases.

Sec. 142. Minnesota Statutes 1982, section 176.571, subdivision 6, is amended to read:

Subd. 6. [FORMAL HEARING ON OBJECTIONS.] *If the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY SHALL HOLD) determines that a formal hearing on the objections which have been filed to the proposed order (WHERE THE CIRCUMSTANCES WARRANT SUCH) is warranted, the commissioner shall refer the matter to the chief hearing examiner for the assignment of a compensation judge who shall hold a hearing. (THE HEARING SHALL BE BEFORE A COMPENSATION JUDGE.)*

Sec. 143. Minnesota Statutes 1982, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2, 3a, and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, 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.

Sec. 144. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 10. [MULTIPLE EMPLOYERS OR INSURERS; LIABILITY.] *The employer liable for the compensation for a*

personal injury under this chapter is the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed, if the employment was for six months or more, whether intermittent or consecutive. In the event that the employer who is liable for the compensation had multiple insurers during the employee's term of employment, the insurer or self-insurer who was on the risk during the employee's last exposure as defined in this subdivision to the hazard of the occupational disease claimed is the liable party.

Sec. 145. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease shall be 66-2/3 percent of the employee's weekly wage on the date of last exposure to the hazard in the employment of the liable employer as defined in subdivision 10 of the occupational disease claimed, subject to a maximum compensation equal to the maximum compensation in effect on the date of the last exposure provided that the employee shall be immediately eligible for supplementary benefits if that employee's compensation is less than 65 percent of the statewide average weekly wage.

Sec. 146. [176.83] [RULES.]

In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules shall have the force and effect of law and are binding on a compensation judge, workers' compensation court of appeals, the rehabilitation review panel, and the medical services advisory board and shall include but not be limited to:

(a) rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services including registration fees to be paid by rehabilitation consultants and approved vendors under section 176.102. Registration fees set by the commissioner shall be set so that the total fees received approximate the amount appropriated for the function, plus the portion of general support costs and statewide indirect costs of the agency that is attributable to the function for which the fee is charged. Subsequent fee adjustments may be made without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.-

102. These rules may also establish criteria regarding "reasonable moving expenses" under the section. The rules may also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation pursuant to this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant, provided that in absence of such rules this consultation shall be conducted pursuant to the provisions of this chapter governing rehabilitation consultation;

(b) rules establishing standards for reviewing and evaluating the clinical consequences of services provided by qualified rehabilitation consultants, approved registered vendors of rehabilitation services, and services provided to an employee by health care providers;

(c) rules establishing standards and procedures for determining whether or not charges for health services or rehabilitation services rendered under this chapter are excessive. In this regard, the standards and procedures shall be structured to determine what is necessary to encourage providers of health services and rehabilitation services to develop and deliver services for the rehabilitation of injured employees.

The procedures shall include standards for evaluating hospital care, other health care and rehabilitation services to insure that quality hospital, other health care, and rehabilitation is available and is provided to injured employees;

(d) rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the commissioner that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer. In addition, the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

A health or rehabilitation provider who is determined by the commissioner to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under chapter 176. A prohibition imposed on a

provider under this clause may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

The rules adopted under this clause shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause;

(e) rules establishing procedures and standards for the certification of physicians, chiropractors, podiatrists, and other health care providers, including rules related to additional training and continuing education, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter;

(f) rules necessary for implementing and administering the provisions of sections 176.001, 176.131, 176.132, 176.134, 176.242, 176.243, 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111;

(g) procedures required for the implementation and administration of section 176.129 including, but not limited to, determining the method by which an employer will be assessed for payments due under section 176.129, subdivision 3, and the amount of the assessment. In adopting the rule regarding the assessment, the commissioner shall consider among other things, the expenditures to be made from the fund in the next calendar year, the current fund balance, and future expenditure trends;

(h) rules establishing standards or criteria under which a physician, podiatrist, or chiropractor is selected or under which a change of physician, podiatrist, or chiropractor is allowed under section 176.135, subdivision 2;

(i) rules to govern the procedure for intervention pursuant to section 176.361;

(j) joint rules with either or both the workers' compensation court of appeals and the chief hearing examiner which may be necessary in order to provide for the orderly processing of claims or petitions made or filed pursuant to chapter 176;

(k) rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "independent contractor";

(l) rules necessary for implementation of the provisions of section 176.101, subdivision 3, shall include the provisions contained in the Manual for Orthopaedic Surgeons in Evaluating

Permanent Physical Impairment, published by the American Academy of Orthopaedic Surgeons, which are in effect as of the effective date of this act. The provisions adopted by reference herein shall be effective the same day as the provisions of section 176.101, subdivision 3.

(m) forms and other reporting procedures to be used by an employer, insurer, medical provider, qualified rehabilitation consultant, approved vendor of rehabilitation services, attorney, employee, or other person subject to the provisions of this chapter; or

(n) any other rules necessary to implement, administer, or clarify the intent of a provision of chapter 176 which are not inconsistent with the law.

The chief hearing examiner shall adopt rules relating to procedures in matters pending before a compensation judge in the office of administrative hearings.

The commissioner may adopt rules regarding requirements which must be met by individuals who are employed by insurers or self-insurers or claims servicing or adjusting agencies and who work as claims adjusters in the field of workers' compensation insurance.

The commissioner may adopt temporary rules establishing qualifications necessary to be a qualified rehabilitation consultant and penalties to be imposed against qualified rehabilitation consultants or approved vendors who violate this chapter or rules, including temporary rules, adopted under this chapter. In addition to the provisions of sections 14.29 to 14.36, at least one public hearing shall be held prior to the adoption of these temporary rules.

Sec. 147. [176.84] [SPECIFICITY OF NOTICE OR STATEMENT.]

All notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102, 176.103, 176.221, 176.241, 176.242, and 176.243, shall be sufficiently specific to convey clearly, without further inquiry, the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.

Sec. 148. [176.85] [PENALTIES; APPEALS.]

Subdivision 1. [APPEAL PROCEDURE.] If the commissioner has assessed a penalty against a party subject to this chapter and the party believes the penalty is not warranted, the party may request that a formal hearing be held on the matter. Upon a request for a hearing the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge or hearing examiner.

The chief hearing examiner shall keep a record of the proceeding and provide a record pursuant to section 176.421.

The decision of the compensation judge or hearing examiner shall be final and shall be binding and enforceable. The decision may be appealed to the workers' compensation court of appeals.

Subd. 2. [EXCEPTION.] This section does not apply to penalties for which another appeal procedure is provided, including but not limited to penalties imposed pursuant to sections 176.102 or 176.103.

Subd. 3. [HEARING COSTS.] For purposes of this section, a hearing before a hearing examiner shall be treated in the same manner as a hearing before a compensation judge and no costs may be charged to the commissioner for the hearing, regardless of who hears it.

Sec. 149. Minnesota Statutes 1982, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which he is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of his weekly benefit amount in the form of

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund es-

established and paid for by the employer *except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3j; or*

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under Title II of the social security act as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that he is not entitled to such benefits, this provision shall not apply.

Sec. 150. Minnesota Statutes 1982, section 471.982, subdivision 2, is amended to read:

Subd. 2. The commissioner of insurance is authorized to (PROMULGATE) *adopt* administrative rules, including emergency rules pursuant to sections 14.01 to 14.70. These rules may provide standards or guidelines governing the formation, operation, administration, dissolution of self insurance pools, and other reasonable requirements to further the purpose of this section (AND). *In developing the rules under this section, the commissioner shall (AT A MINIMUM REQUIRE) consider the following:*

(a) *The requirements for self-insuring pools of political subdivisions shall be no more nor less restrictive than the requirements for self-insuring pools of private employers;*

(b) All participants in the pool are jointly and severally liable for all claims and expenses of the pool;

((B)) (c) Each pool shall contract with a service company licensed by the commissioner to provide or contract for all administrative services required by the pool. No vendor of risk management services or entity administering a self insurance plan under this section may transact such business in this state unless it is licensed to do so by the commissioner. 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 is satisfied that the entity possesses the necessary

organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee shall be \$100. All licenses shall be for a period of two years;

((C)) (d) The service company has sole responsibility for the settlement of all claims against the pool or its members for which the pool may provide indemnification;

((D)) (e) A minimum premium volume for each pool shall be established. The minimum premium volume may differ because of the kinds of coverage provided, and the limits of liability for the coverage;

((E)) (f) All premiums or other assessments due to the pool from members shall be payable prior to the period for which coverage is being provided, or at equal intervals throughout the period;

((F)) (g) Premiums shall (EITHER) be (ESTABLISHED BY AN ACTUARY APPROVED BY THE COMMISSIONER OR SHALL BE PREMIUMS FILED BY A LICENSED RATE SERVICE ORGANIZATION WITH REDUCTIONS PERMITTED SOLELY FOR ADMINISTRATIVE OR PREMIUM TAX SAVINGS) *neither excessive, inadequate, nor unfairly discriminatory*;

((G)) (h) The commissioner may require each pool to purchase excess insurance above certain limits and in a particular form. The limits or form of the excess insurance may differ based on the kinds of coverage offered by a pool, the limits of liability of the coverage, and the revenues available to pool members for the payment of premiums or assessments;

((H)) (i) Each pool shall be audited annually by a certified public accountant;

((I)) (j) *Whether* limitations on the payment of dividends to pool members (MAY BE ESTABLISHED AS) *are* necessary to assure the solvency of the pool;

((J)) (k) No participant may withdraw from a pool for a period of at least three years after its initial entry into the pool;

((K)) (l) The amount of any liabilities in excess of assets shall be assessed to members of the pool within 30 days after a deficiency is identified and shall be payable by the member within 90 days;

((L)) (m) The investment policies of the pool shall be governed by the laws governing investments by cities pursuant to section 475.66;

((M)) (n) Pools shall be subject to the standards of unfair methods of competition and unfair or deceptive acts or practices established in chapter 72A;

((N)) (o) Other requirements that are necessary to protect the solvency of the pool, the rights and privileges of claimants against the pool, and citizens of the members of the pool shall be included in the rules.

Sec. 151. [CITY OF DULUTH; GROUP WORKER'S COMPENSATION SELF INSURANCE POOLS.]

Subdivision 1. [PILOT STATE FUND.] Notwithstanding any contrary provision of other law, ordinance, or charter, the city of Duluth may enter into a self insurance pool with private employers located in the city of Duluth to self insure workers' compensation liability of pool members. Any pool formed pursuant to this section shall be operated under bylaws established by members of the pool. The initial bylaws and amendments to them shall not be effective unless approved by the city of Duluth and the commissioner of insurance. The bylaws shall address the following subjects:

(a) Qualifications for group self insurer membership, including underwriting standards.

(b) The method of selecting the board of directors, including the directors' terms of office.

(c) The procedure for amending the bylaws or plan of operation.

(d) Investment of assets of the fund.

(e) Frequency and extent of loss control or safety engineering services provided to members.

(f) A schedule for payment and collection of premiums.

(g) Expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses.

(h) Delineation of authority granted to the administrator.

(i) Delineation of authority granted to the service company.

(j) *Basis for determining premium contributions by members including any experience rating program.*

(k) *Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.*

(l) *Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.*

(m) *Provisions for security to be furnished by private employers to insure assessments are paid in case of private employer insolvency.*

The members participating in the pool may establish a joint board with appropriate powers to manage the pool. Each member of the pool shall pay to the pool the amounts assessed against it pursuant to the bylaws. A member may withdraw only after it has reimbursed the pool for the amounts for which it is obligated under the terms of the agreement.

Subd. 2. [APPROVAL OF COMMISSIONER.] A pool formed pursuant to this section shall not be effective or begin operation until it has been approved by the commissioner of insurance in the manner provided in Minnesota Statutes, section 471.982. Section 471.982 and any applicable rules adopted pursuant to it shall apply to any pool formed pursuant to this section. A pool formed pursuant to this section shall be a member of the workers' compensation reinsurance association and shall be bound by its plan of operation.

Sec. 152. [APPROPRIATIONS; COMPLEMENT INCREASE.]

Subdivision 1. [DEPARTMENT OF LABOR AND INDUSTRY.] (a) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

<i>1984</i>	<i>1985</i>
<i>\$2,159,901</i>	<i>\$2,516,169</i>

The approved complement of the department of labor and industry is increased by 103 of which 3.8 shall be federally funded. The increased complement shall be allocated as follows:

- (1) workers' compensation administration, 1;*
- (2) records and compliance, 15;*

- (3) *rehabilitation service, 20;*
- (4) *legal services, 1;*
- (5) *settlement and docket, 3;*
- (6) *mediation and arbitration, 6;*
- (7) *research and education, 15;*
- (8) *information management service, 6;*
- (9) *state employee fund, 6;*
- (10) *occupational safety and health consultation, 2;*
- (11) *general support, 9; and*
- (12) *special compensation fund, 19.*

The appropriation provided by this clause (a) is for the purpose of paying for the increased complement and expenses related to their duties.

(b) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$437,500	\$375,000

The appropriation provided by this clause (b) is for the purpose of paying the state's premium to the workers' compensation reinsurance association.

(c) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$476,985	\$449,855

The funds appropriated by this clause (c) are to be deposited in the special compensation fund to pay the expenses of the increased complement provided for the fund by clause (a) and expenses related to their duties.

Subd. 2. [OFFICE OF ADMINISTRATIVE HEARINGS.] There is appropriated to the office of administrative hearings

for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$127,400	\$130,050

The approved complement of the office of administrative hearings is increased by four. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expenses related to their duties.

Subd. 3. [INSURANCE DIVISION.] There is appropriated to the department of commerce for its insurance division for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$230,818	\$239,620

The approved complement of the insurance division of the department of commerce is increased by seven. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expense related to their duties.

Subd. 4. [ATTORNEY GENERAL.] There is appropriated to the office of the attorney general for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$204,500	\$206,062

The approved complement of the office of attorney general is increased by six. The appropriation provided by this subdivision is for the purpose of providing for the increased complement and expenses related to their duties.

Sec. 153. [REPEALER.]

Minnesota Statutes 1982, sections 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262 are repealed.

Sec. 154. [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."

Delete the title and insert:

"A bill for an act relating to workers' compensation; providing for comprehensive reform of all aspects of workers' compensation; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 79.071, subdivision 1; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 2 and 3; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.001; 176.011, by adding subdivisions; 176.012; 176.021, subdivisions 1a and 3; 176.041, subdivision 1; 176.061; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241; 176.271, by adding a subdivision; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 268.08, subdivision 3; and 471.982, subdivision 2; Laws 1981, chapter 346, section 145; proposing new law coded in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1982, sections 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262."

A roll call was requested and properly seconded.

CALL OF THE HOUSE

On the motion of Anderson, G., and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, B.	Bennett	Burger	Cohen	Elioff
Anderson, G.	Bergstrom	Carlson, D.	Coleman	Ellingson
Anderson, R.	Berkelman	Carlson, L.	Dempsey	Erickson
Battaglia	Bishop	Clark, J.	DenOuden	Evans
Beard	Blatz	Clark, K.	Dimler	Findlay
Begich	Brinkman	Clawson	Eken	Fjoslien

Forsythe	Knickerbocker	Neuenschwander	Rodriguez, C.	Swanson
Frerichs	Knuth	O'Connor	Rodriguez, F.	Thiede
Graba	Kostohryz	Ogren	Rose	Tunheim
Greenfield	Krueger	Olsen	St. Onge	Uphus
Gruenes	Kvam	Omann	Sarna	Valan
Gustafson	Larsen	Onnen	Schafer	Valento
Gutknecht	Levi	Osthoff	Schoenfeld	Vellenga
Halberg	Long	Otis	Schreiber	Voss
Haukoos	Ludeman	Pauly	Seaberg	Waltman
Heap	Mann	Peterson	Segal	Welch
Heinitz	Marsh	Piepho	Shaver	Welker
Himle	McDonald	Piper	Shea	Welle
Hoberg	McEachern	Price	Sherman	Wenzel
Hoffman	McKasy	Quinn	Simoneau	Wigley
Hokr	Metzen	Quist	Skoglund	Wynia
Jennings	Minne	Redalen	Solberg	Zaffke
Jensen	Munger	Reif	Sparby	Speaker Sieben
Johnson	Murphy	Rice	Stadum	
Kahn	Nelson, D.	Riveness	Staten	
Kalis	Nelson, K.	Rodosovich	Sviggun	

Eken 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.

The question recurred on the Stadum amendment and the roll was called.

Eken moved that those not voting be excused from voting. The motion did not prevail.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 49 yeas and 83 nays as follows:

Those who voted in the affirmative were:

Bennett	Forsythe	Johnson	Pauly	Sviggun
Bishop	Frerichs	Knickerbocker	Piepho	Thiede
Blatz	Gruenes	Kvam	Quist	Uphus
Burger	Gutknecht	Levi	Reif	Valan
Dempsey	Halberg	Ludeman	Rose	Valento
DenOuden	Haukoos	Marsh	Schafer	Waltman
Dimler	Heap	McKasy	Seaberg	Welker
Erickson	Himle	Olsen	Shaver	Wigley
Findlay	Hokr	Omann	Sherman	Zaffke
Fjoslien	Jennings	Onnen	Stadum	

Those who voted in the negative were:

Anderson, B.	Brinkman	Eken	Hoberg	Krueger
Anderson, G.	Carlson, D.	Elioff	Jacobs	Larsen
Anderson, R.	Carlson, L.	Ellingson	Jensen	Long
Battaglia	Clark, J.	Evans	Kahn	Mann
Beard	Clark, K.	Graba	Kalis	McDonald
Begich	Clawson	Greenfield	Kelly	McEachern
Bergstrom	Cohen	Gustafson	Knuth	Metzen
Berkelman	Coleman	Heinitz	Kostohryz	Minne

Munger	Otis	Rodriguez, C.	Simoneau	Vellenga
Murphy	Peterson	Rodriguez, F.	Skoglund	Voss
Nelson, D.	Piper	St. Onge	Solberg	Welch
Nelson, K.	Price	Sarna	Sparby	Welle
Neuenschwander	Quinn	Scheid	Staten	Wenzel
Norton	Redalen	Schoenfeld	Swanson	Wynia
O'Connor	Rice	Schreiber	Tomlinson	Speaker Sieben
Ogren	Riveness	Segal	Tunheim	
Osthoff	Rodosovich	Shea	Vanasek	

The motion did not prevail and the amendment was not adopted.

Shea; Anderson, G., and Heinitz moved to amend H. F. No. 575, as follows:

Page 1, after line 10, insert "Article 1"

Page 5, after line 19, insert:

"ARTICLE 2"

Section 1. Minnesota Statutes 1982, section 43A.23, is amended by adding a subdivision to read:

Subd. 3. [CONTRACT WITH INSURANCE CARRIERS.] The commissioner of labor and industry may contract with carriers authorized to provide coverage under the state employees group insurance plan to extend coverage to eligible employees who incur medical expenses due to a personal injury resulting from their state employment which are compensable under chapter 176.

Sec. 2. Minnesota Statutes 1982, 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 January 1, (1986) 1984. 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. 3. Minnesota Statutes 1982, section 79.211, subdivision 1, is amended to read:

Subdivision 1. [CERTAIN WAGES EXCLUDED FOR RATE MAKING.] The rating association or an insurer shall

not include wages paid for a vacation, holiday, or sick leave in the determination of a workers' compensation insurance premium. *An insurer shall not include that portion of an employee's wages which exceeds 1-1/2 times the maximum temporary total compensation allowed pursuant to section 176.101, subdivision 1, in the determination of a workers' compensation insurance premium provided that this limitation may be waived by an employer.*

Sec. 4. Minnesota Statutes 1982, section 79.251, is amended to read:

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) 5 and 79.251. 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) *six* members to be appointed by the commissioner of insurance. (TWO) *Three* members shall be insureds holding policies or contracts of coverage issued pursuant to (SECTION 79.25) *subdivision 4*. Two members shall be (MEMBERS OF THE ASSOCIATION) *insurers licensed pursuant to section 60A.06, subdivision 1, clause (5)(b)*. The commissioner shall be the (FIFTH) *sixth* member and shall not 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 *plan* review board shall audit the reserves established (BY INSURERS) (a) for individual cases arising under policies and contracts of coverage issued under (SECTION 79.25) *subdivision 4* and (b) for the total book of business issued under (SECTION 79.25) *subdivision 4*.

(4) The assigned risk *plan* review board shall monitor the operations of sections (79.24 TO 79.27) 5 and 79.251 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) *insurers and self-insurance administrators* issuing policies or contracts under (SECTION 79.25) *subdivision 4* shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies and contracts of coverage

issued under (SECTION 79.25) *subdivision 4* for the purpose of defraying the costs of the assigned risk plan review board.

(6) *The assigned risk plan and the assigned risk plan review board shall not be deemed a state agency.*

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies or contracts of coverage issued pursuant to (SECTION 79.25 WHOSE PREMIUM IS LESS THAN THE AMOUNT NECESSARY TO QUALIFY FOR EXPERIENCE RATING) *subdivision 4* and to the insurers or self-insurance administrators issuing those policies or contracts. The plan shall provide a maximum merit (PAYMENT) adjustment equal to ten percent of earned premium. The actual (PAYMENT) adjustment may vary with insured's loss experience.

Subd. 3. [RATES.] *Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule. The commissioner shall annually, not later than July 1 of each year, establish the schedule of rates applicable to assigned risk plan business. Assigned risk premiums shall not be lower than rates generally charged by insurers for the business. The commissioner shall fix the compensation received by the agent of record.*

Subd. 4. [ADMINISTRATION.] *The commissioner shall enter into service contracts as necessary or beneficial to accomplishing the purposes of the assigned risk plan. Services related to the administration of policies or contracts of coverage shall be performed by one or more qualified insurance companies licensed pursuant to section 60A.06, subdivision 1, clause (5)(b), or self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2)(a). A qualified insurer or self-insurance administrator shall possess sufficient financial, professional, administrative, and personnel resources to provide the services contemplated in the contract. Services related to assignments; data management, assessment collection, and other services shall be performed by a licensed data service organization. The cost of those services is an obligation of the assigned risk plan.*

Subd. 5. [ASSESSMENTS.] *The commissioner shall assess all insurers licensed pursuant to section 60A.06, subdivision 1, clause (5)(b) an amount sufficient to fully fund the obligations of the assigned risk plan, if the commissioner determines that the assets of the assigned risk plan are insufficient to meet its obligations. The assessment of each insurer shall be in a proportion equal to the proportion which the amount of compensation insurance written in this state during the preceding calendar year by that insurer bears to the total compensation insurance written in*

this state during the preceding calendar year by all licensed insurers.

Sec. 5. [79.252] [ASSIGNED RISK PLAN.]

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a licensed insurance company, pursuant to subdivision 2.

Subd. 2. [REJECTED RISKS.] An insurer that refuses to write insurance for an employer shall furnish the employer a written notice of refusal. The employer shall file a copy of the notice of refusal with the data service organization under contract with the commissioner pursuant to section 79.251, subdivision 4.

Subd. 3. [COVERAGE.] Policies and contracts of coverage issued pursuant to section 79.251, subdivision 4, shall contain the usual and customary provisions of workers' compensation insurance policies, and shall be deemed to meet the mandatory workers' compensation insurance requirements of section 176.181, subdivision 2.

Subd. 4. [RESPONSIBILITIES.] Assigned risk policies and contracts of coverage shall be subject to premium tax pursuant to section 60A.15, and special compensation fund assessments pursuant to section 176.131, subdivision 10. The assigned risk plan shall be a 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.

Subd. 5. [RULES.] The commissioner may adopt rules, including temporary rules, as may be necessary to implement sections 5 and 79.251.

Sec. 6. Minnesota Statutes 1982, 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 79.40 or any amendments thereto, sections 79.34 to 79.40 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-insurers 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. *As a condition of its authority to self-insure workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association (SHALL) is 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) are not (BE) subject to (CHAPTER) chapters 13, 14, and 15. The reinsurance association (SHALL BE) is exempt from taxation under the laws of this state and all property owned by the association (SHALL BE) is exempt from taxation. The reinsurance association (SHALL) is 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. 7. Minnesota Statutes 1982, 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. The (LESSER) lower retention limit shall be increased to the nearest \$10,000, on January 1, 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) higher retention limit shall be increased by the amount necessary to retain 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. *For losses incurred on or after January 1, 1979, any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association.* 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 reinsurance 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; (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. 8. Minnesota Statutes 1982, section 79.34, is amended by adding a subdivision to read:

Subd. 7. For losses incurred on or after January 1, 1984, the reinsurance association shall indemnify the member for the ultimate loss, in excess of the retention limit in effect at the time of the loss occurrence, sustained in each loss occurrence relating to one or more claims arising out of a single compensable event in another state provided that:

(a) the injured worker is eligible for benefits under section 176.041, subdivision 2 or 3 but elects to receive benefits under the workers' compensation statute of another state in lieu of benefits under chapter 176; and

(b) *the ultimate loss indemnified by the reinsurance association shall be determined as provided in this chapter, except that the benefits shall be equal to those required to be paid under the workers' compensation statute of the state elected.*

Sec. 9. Minnesota Statutes 1982, 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 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 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) *exposure base* of all members during the period to which the reinsurance association premium will apply (, AS DETERMINED BY THE COMMISSIONER).

The exposure base shall be determined by the board and is subject to the approval of the commissioner. In determining the exposure base, the board shall consider, among other things, equity, administrative convenience, records maintained by members, amenability to audit, and degree of risk refinement. 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 shall 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). *The reinsurance association may charge the cost of the adjustment under this paragraph to the member, except that any penalties or interest incurred under sections 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association after it has undertaken adjustment of the claim shall not be charged to the member but shall be included in the ultimate loss and listed as a separate item; 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. 10. Minnesota Statutes 1982, section 79.37, is amended to read:

79.37 [BOARD OF DIRECTORS.]

A board of directors of the reinsurance association is created and (SHALL BE) *is* responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board (SHALL CONSIST) *consists* of (NINE) *13* directors and the (COMMISSIONER) *commissioners* of insurance (WHO SHALL BE AN EX OFFICIO MEMBER) *and labor and industry, both of whom are voting members*. Four members of the board shall represent insurers, (THREE) *six* members of the board shall represent employers, at least one, but not more than (TWO) *three*, of whom shall represent self-insurers, and (TWO) *three* members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner of insurance shall appoint the employer and employee directors, for the terms authorized in the plan of operation. Each board member (SHALL BE) *is* entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board (SHALL CONSTITUTE) *constitutes* a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

Sec. 11. Minnesota Statutes 1982, section 79.51, subdivision 1, is amended to read:

Subdivision 1. [ADOPTION; WHEN.] The commissioner shall adopt rules, *including temporary 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 DESCRIPTION AND EXPLANATION OF THE INTENT AND ANTICIPATED EFFECT OF THE RULES ON THE VARIOUS FACTORS OF THE RATING SYSTEM.)

Sec. 12. Minnesota Statutes 1982, section 79.51, subdivision 3, is amended to read:

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)) (10) Imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;
 - ((12)) (11) The rules contained in the workers' compensation rating manual adopted by the workers' compensation insurers rating association; and
 - ((13)) (12) 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 monitoring the effectiveness of competition*; 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.)

Sec. 13. Laws 1981, chapter 346, section 145, is amended to read:

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; 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; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33 are repealed effective January 1, (1986) 1984. Minnesota Statutes 1980, Sections 175.066, Subdivisions 1a and 2; 175.061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2, are repealed.

Sec. 14. Laws 1981, chapter 346, section 146, is amended to read:

Sec. 146. [EFFECTIVE DATE.]

Sections 11, 21, 22, 23, 35, 36, 37, 38, 53, 54, 141, and 142 are effective the day following 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) 30 to 34 are effective July 1, 1983. *Sections 24 to 29 are effective January 1, 1984.* Section 139 is effective retroactively to April 12, 1980.

Sec. 15. Minnesota Statutes 1982, section 79.52, is amended by adding a subdivision to read:

Subd. 16. [ATTORNEY'S FEES.] No loss adjustment expense used to pay attorney fees or other costs in defense of a workers' compensation claim shall be charged to an insured in

a merit rating plan or to a plan under section 79.251, subdivision 2.

Sec. 16. Minnesota Statutes 1982, section 175.006, subdivision 1, is amended to read:

Subdivision. 1. [CREATION AND ORGANIZATION.] The division of workers' compensation, generally administering the workers' compensation law, is created within the department of labor and industry. (THERE IS CREATED AS A SEPARATE APPELLATE TRIBUNAL FOR WORKERS' COMPENSATION, THE WORKERS' COMPENSATION COURT OF APPEALS.)

(THE WORKERS' COMPENSATION COURT OF APPEALS SHALL BE COMPOSED OF FIVE JUDGES EACH SERVING IN THE UNCLASSIFIED SERVICE OF THE STATE CIVIL SERVICE. OF THE FIVE JUDGES, AT LEAST THREE 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. 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.)

Sec. 17. Minnesota Statutes 1982, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which (SHALL CONSIST) consists of five representatives of employers and five representatives of employees and (THREE) *five nonvoting* members representing the general public. The council may consult with (THE JUDGES OF THE WORKERS' COMPENSATION COURT OF APPEALS) *any party it so desires*. The (COUNCIL SHALL EXPIRE AND THE) terms (, COMPENSATION) and removal of members shall be as provided in section 15.059. *The council is not subject to section 15.059, subdivision 5.*

Sec. 18. Minnesota Statutes 1982, section 175.08, is amended to read:

175.08 [OFFICE.]

The (WORKERS' COMPENSATION COURT OF APPEALS AND THE) department of labor and industry shall maintain (THEIR) *its* main (OFFICES) *office* within the Minneapolis-Saint Paul metropolitan area and be provided by the commissioner of administration with suitable rooms and necessary fur-

niture. (THE OFFICES OF THE WORKERS' COMPENSATION COURT OF APPEALS AND THE DEPARTMENT OF LABOR AND INDUSTRY SHALL BE IN SEPARATE BUILDINGS. THEY) *It* may hold sessions at any other place in the state when (THEIR CONVENIENCE AND THAT OF THE PARTIES INTERESTED SO REQUIRES) *it is convenient*.

Sec. 19. Minnesota Statutes 1982, section 175.10, is amended to read:

175.10 [SESSIONS TO BE PUBLIC.]

The department of labor and industry shall be open for the transaction of business during all business hours of each and every day, excepting Saturdays, Sundays and legal holidays. The hearings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the workers' compensation division shall be open to the public and may be adjourned from time to time. All the proceedings of (THE WORKERS' COMPENSATION COURT OF APPEALS AND) the division shall be shown on their records, which shall be public records.

Sec. 20. Minnesota Statutes 1982, section 175.101, subdivision 1, is amended to read:

Subdivision 1. It is the legislative purpose in creating a division of workers' compensation, and in assigning to the commissioner of the department of labor and industry specific duties and responsibilities, to:

(a) provide for a unified department of labor and industry for the limited purposes of organization and administration of common administrative functions; and

(b) assure the autonomy and maximum independence of the necessary adjudicative functions and quasi-legislative administrative duties of the division (, AND;)

((C) SEPARATE AND LIMIT THE FUNCTIONS AND RESPONSIBILITIES OF THE EXISTING WORKERS' COMPENSATION COURT OF APPEALS TO THOSE APPROPRIATE TO AN INDEPENDENT APPELLATE REVIEWING BODY).

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) as head of the workers' compensation division is the administrator of the workers' compensation division. (HE) *The commissioner* shall possess only (SUCH) *the* powers and shall perform only (SUCH) *the* duties (AS ARE SPECIFICALLY) prescribed by law.

Sec. 21. Minnesota Statutes 1982, section 175.101, subdivision 2, is amended to read:

Subd. 2. The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall keep a full and true record of all proceedings of the workers' compensation division (AND THE WORKERS' COMPENSATION COURT OF APPEALS), issue all necessary processes, writs, warrants, and notices which the division (OR WORKERS' COMPENSATION COURT OF APPEALS ARE) is required or authorized to issue and generally act as the administrator of the division of workers' compensation in the department of labor and industry. Notices and other documents required to be served or filed on the division of workers' compensation or the workers' compensation court of appeals shall be served on the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 22. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 23. [RETRAINING.] *"Retraining" means a formal course of study in a school setting which is designed to train an employee to return to suitable gainful employment.*

Sec. 23. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 24. [HEALTH CARE PROVIDER.] *"Health care provider" means a physician, podiatrist, chiropractor, dentist, optometrist, osteopath, psychologist, psychiatric social worker, or any other person who furnishes a medical or health service to an employee under this chapter but does not include a qualified rehabilitation consultant or approved vendor.*

Sec. 24. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 25. [MAXIMUM MEDICAL IMPROVEMENT.] *"Maximum medical improvement" means the date after which no further significant recovery from or lasting improvement to a personal injury can reasonably be anticipated, based upon current medical knowledge.*

Sec. 25. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

Subd. 26. [MONITORING PERIOD.] *"Monitoring period" means the number of weeks during which economic recovery compensation pursuant to section 176.101, subdivision 3a, would have been paid if that compensation were payable.*

Sec. 26. Minnesota Statutes 1982, section 176.012, is amended to read:

176.012 [ELECTION OF COVERAGE.]

The persons, partnerships and corporations described in this section may elect to provide the insurance coverage required by this chapter.

(a) An owner or owners of a business or farm may elect coverage for themselves.

(b) A partnership owning a business or farm may elect coverage for any partner.

(c) A family farm corporation as defined in section 500.24, subdivision 2, clause (c) may elect coverage for any executive officer.

(d) A closely held corporation which had less than 22,880 hours of payroll in the previous calendar year may elect coverage for any executive officer if that executive officer is also an owner of at least 25 percent of the stock of the corporation.

(e) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, can elect to provide coverage for that independent contractor provided that if no such election is made the independent contractor may elect to provide coverage for him or herself.

The persons, partnerships and corporations described in this section may also elect coverage for an employee who is a spouse, parent or child, regardless of age, of an owner, partner, or executive officer, who is eligible for coverage under this section. Coverage may be elected for a spouse, parent or child whether or not coverage is elected for the related owner, partner or executive director and whether or not the person, partnership or corporation employs any other person to perform a service for hire. Any person for whom coverage is elected pursuant to this section shall be included within the meaning of the term employee for the purposes of this chapter.

Notice of election of coverage or of termination of election under this section shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this section. An election of coverage under this section shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this section shall be construed to limit the responsibilities of owners, partnerships or corporations to provide coverage for their employees, if any, as required under this chapter.

Sec. 27. Minnesota Statutes 1982, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of 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 for medical, burial, and other non-periodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by (SUBDIVISION 3A) section 176.101. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to (SUBDIVISION 3A) section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of (ANY TENDER) commencement of the (LUMP SUM) payment of economic recovery compensation or impairment compensation, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, 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) After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability and temporary partial disability pursuant to section 176.101, subdivisions 1 and 2, and as provided in (SUBDIVISION 3A) section 176.101. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101, subdivision 5, and as provided in (SUBDIVISION 3A) section 176.101. (COMPENSATION FOR PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total (AND TEMPORARY PARTIAL) disability (BUT SHALL NOT BE WITHHELD PENDING PAYMENT OF COMPENSATION FOR PERMANENT TOTAL DISABILITY), and no credit shall be taken for payment of (PERMANENT PARTIAL DISABILITY) economic recovery compensation or impairment compensation against liability for temporary total or permanent total disability. Liability on the part of an employer or (HIS)

the 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) *compensation is payable accordingly, subject to (SUBDIVISION 3A) section 176.101. (PERMANENT PARTIAL DISABILITY) Economic recovery compensation or impairment compensation 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) section 176.101.* The right to receive temporary total, temporary partial, (PERMANENT PARTIAL) or permanent total disability payments (SHALL VEST) *vests in the injured employee or (HIS) the employee's dependents under this chapter or, if none, in (HIS) the employee's legal heirs at the time the disability can be ascertained and the right (SHALL) is not (BE) abrogated by the employee's death prior to the making of the payment.*

The right to receive economic recovery compensation or impairment compensation vests in an injured employee at the time the disability is ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101.

Sec. 28. Minnesota Statutes 1982, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to persons employed by any common carrier by railroad engaged in interstate or foreign commerce, which persons are covered by the Federal Employers' Liability Act (45 U.S.C. 51-60) or other comparable federal law; persons employed by family farms as defined by section 176.011, subdivision 11a, the spouse, parent and child, regardless of age, of a farmer employer working for him; partners engaged in any farm operation or partners engaged in a business and the spouse, parent, and child, regardless of age, of any of the partners of the farm operation or business; an executive officer of a family farm corporation; an executive officer of a closely held corporation referred to in section 176.012; any spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, employed by that family farm corporation; any spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; or other farmers or members of their families exchanging work with the farmer employer or family farm corporation operator in the same community, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession, or oc-

cupation of his employer; *persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 provided that this exclusion does not apply to an employee of an independent contractor; nor does it apply to officers or members of veteran's organizations whose employment relationship arises solely by virtue of attending meetings or conventions of their organization, unless the veteran's organizations elect by resolution to provide coverage under this chapter for the officers or members. Neither shall the chapter apply to any person employed as a household worker in, for, or about, a private home or household who earns less than \$500 in cash in any three month period from a single private home or household provided that any household worker who has earned \$500 or more from his present employer in any three month period within the previous year shall be covered by this chapter regardless of whether or not he has in the present quarter earned \$500. This chapter does not apply to those persons employed by a corporation where those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to all of the officers of the corporation, and if the corporation files a written election with the commissioner (OF LABOR AND INDUSTRY) to have those persons excluded from this chapter except that a written election is not required for a person who is otherwise excluded from this chapter by this section. This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.*

Sec. 29. Minnesota Statutes 1982, section 176.061, is amended to read:

176.061 [THIRD PARTY LIABILITY.]

Subdivision 1. [ELECTION OF REMEDIES.] Where an injury or death for which 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) *the* injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or (HIS) *the employee's* dependents, in case of death, may proceed either at law against that party to recover damages or against the employer for benefits, but not against both.

Subd. 2. [ACTION FOR RECOVERY OF DAMAGES.] If the employee, in case of injury, or (HIS) *the employee's* dependents, in case of death, brings an action for the recovery of damages, the amount thereof, the manner in which, and the persons to whom the same are payable, shall be as provided in this chapter. In no case shall (SUCH) *the* party be liable to any person other than the employee or (HIS) *the employee's* dependents for any damages resulting from (SUCH) *the* injury or death.

Subd. 3. [ELECTION TO RECEIVE BENEFITS FROM EMPLOYER; INDEMNITY AND SUBROGATION.] If the employee or (HIS) *the employee's* dependents elect to receive benefits from the employer, or the special compensation fund, the employer, or the special compensation fund, *has a right of indemnity against third parties for cases under chapter 65B, or, in all other cases,* is subrogated to the right of the employee or (HIS) *the employee's* 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) *the party* and recover the aggregate amount of benefits payable to or on behalf of the employee or (HIS) *the employee's* dependents, together with 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 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) *has* 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.

Subd. 4. [APPLICATION OF SUBDIVISIONS 1, 2, AND 3.] The provisions of subdivisions 1, 2, and 3 apply only where the employer liable for benefits and the other party legally liable for damages are insured or self-insured and engaged, in the due course of business in, (a) furtherance of a common enterprise, or (b) in the accomplishment of the same or related purposes in operations on the premises where the injury was received at the time (THEREOF) *of the injury*.

Subd. 5. [CUMULATIVE REMEDIES.] Where an injury or death for which benefits are payable is caused under circumstances which created 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 proceedings may be taken by the employee or (HIS) *the employee's* 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 their liability to pay benefits.

(a) If an action against the other party is brought by the injured employee or (HIS) *the employee's* 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 benefits payable 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) *the action for the prosecution (THEREOF) of the action.* If the injured employee or (HIS) *the employee's dependents* or any party on their behalf receives benefits from the employer, or the special compensation fund, or institute proceedings to recover (THE SAME) *benefits* or accept from the employer, or the special compensation fund, any payment on account of the benefits, the employer, or the special compensation fund, is subrogated to the rights of the employee or (HIS) *the employee's dependents or has a right of indemnity, for cases under chapter 65B, against a third party.* This employer, or the attorney general on behalf of the special compensation fund, may maintain (AN) *a separate action or continue an action already instituted.* This action may be maintained in the name of the employee or the names of the *employee's 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) *the 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) *the employee's dependents* the right to intervene in the action for the prosecution (THEREOF) *of the action.* The proceeds of (SUCH) *the action or settlement (THEREOF) of the action* 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) *an 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) *the 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) *are* for the benefit of the employer and the provisions of subdivision 6 (SHALL) *are not (BE)* applicable to (SUCH) *the damages.*

(c) The third party is not liable to any person other than the employee or (HIS) *the employee's dependents*, or (HIS) *the 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.

Subd. 6. [COSTS, ATTORNEY FEES, EXPENSES.] The proceeds of all actions for damages or settlement (THEREOF) of an action under this section, except for damages received under subdivision 5, clause (b) received by the injured employee or (HIS) *the employee's* 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) *the employee's* 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 benefits paid under this chapter to or on behalf of the employee or (HIS) *the employee's* 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 benefits paid by the employer, or the special compensation fund, to the employee or (HIS) *the employee's* dependents.

(d) Any balance remaining shall be paid to the employee or (HIS) *the employee's* dependents, and shall be a credit to employer, and the special compensation fund, for any benefits which employer is obligated to pay, but has not paid, and for any benefits that (SUCH) *the employer* (SHALL BE) *is* 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.

Subd. 7. [MEDICAL TREATMENT.] The liability of an employer, or the special compensation fund, for medical treatment or payment of any other compensation under this chapter (SHALL) *is not* (BE) affected by the fact that (HIS) *the 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) *has* a separate additional cause of action against (SUCH) *the third party* to recover any amounts paid for medical treatment or for other compensation payable under this section resulting from the negligence of (SUCH) *the 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) *the* 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 or *other compensation* 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 *compensation* or for medical treatment of the injured employee and (SHALL) *does* not affect the amount of periodic compensation to be paid.

(SUBD. 8. [STATE AS EMPLOYER.] IN EVERY CASE ARISING UNDER SUBDIVISION 5 WHEN THE STATE IS THE EMPLOYER AND A SETTLEMENT BETWEEN THE THIRD PARTY AND THE EMPLOYEE IS MADE IT IS NOT VALID UNLESS PRIOR NOTICE THEREOF IS GIVEN TO THE STATE WITHIN A REASONABLE TIME. IF THE STATE PAYS COMPENSATION TO THE EMPLOYEE UNDER THE PROVISIONS OF THIS CHAPTER AND BECOMES SUBROGATED TO THE RIGHTS OF THE EMPLOYEE OR HIS DEPENDENTS ANY SETTLEMENT BETWEEN THE EMPLOYEE OR HIS DEPENDENTS AND THE THIRD PARTY IS VOID AS AGAINST THE STATE'S RIGHT OF SUBROGATION. WHEN AN ACTION AT LAW IS INSTITUTED BY AN EMPLOYEE OR HIS DEPENDENTS AGAINST A THIRD PARTY FOR RECOVERY OF DAMAGES A COPY OF THE COMPLAINT AND NOTICE OF TRIAL OR NOTE OF ISSUE IN SUCH ACTION SHALL BE SERVED ON THE STATE. ANY JUDGMENT RENDERED THEREIN IS SUBJECT TO A LIEN OF THE STATE FOR THE AMOUNT TO WHICH IT IS ENTITLED TO BE SUBROGATED UNDER THE PROVISIONS OF SUBDIVISION 5.)

Subd. 8a. [NOTICE TO EMPLOYER.] In every case arising under subdivision 5, a settlement between the third party and the employee is not valid unless prior notice of the intention to settle is given to the employer within a reasonable time. If the employer or insurer pays compensation to the employee under the provisions of this chapter and becomes subrogated to the right of the employee or the employee's dependents or has a right of indemnity, any settlement between the employee or the employee's dependents and the third party is void as against the employer's right of subrogation or indemnity unless prior notice was given. When an action at law is instituted by an employee or the employee's dependents against a third party for recovery of damages, a copy of the complaint and notice of trial or note of issue in the action shall be served on the employer or insurer. Any judgment rendered in the action is subject to a lien of the

employer for the amount to which it is entitled to be subrogated or indemnified under the provisions of subdivision 5.

Subd. 9. [SERVICE OF NOTICE ON ATTORNEY GENERAL.] In every case in which the state is liable to pay compensation or is subrogated to the rights of the employee or (HIS) *the employee's dependents or has a right of indemnity*, all notices required to be given the state shall be served on the attorney general and the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).

Sec. 30. Minnesota Statutes 1982, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be 66-2/3 percent of the difference between the (DAILY) *weekly wage of the (WORKER) employee at the time of injury and the wage (HE) the employee is able to earn in (HIS) the employee's partially disabled condition.* This compensation shall be paid during the period of disability *except as provided in section 176.101*, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage. (IF THE EMPLOYER DOES NOT FURNISH THE WORKER WITH WORK WHICH HE CAN DO IN HIS TEMPORARY PARTIALLY DISABLED CONDITION AND HE IS UNABLE TO PROCURE SUCH WORK WITH ANOTHER EMPLOYER, AFTER REASONABLY DILIGENT EFFORT, THE EMPLOYEE SHALL BE PAID AT THE FULL COMPENSATION RATE FOR HIS OR HER TEMPORARY TOTAL DISABILITY.)

Sec. 31. Minnesota Statutes 1982, 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, 66-2/3 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, 66-2/3 percent of the daily wage at the time of injury during 40 weeks;

(3) For the loss of a second finger, 66-2/3 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 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 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 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 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 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 2/3 percent of the daily wage at the time of injury during 500 weeks;

(38) For loss of the voice mechanism, 66 2/3 percent of the daily wage at the time of injury during 500 weeks;

(39) For head injuries, 66 2/3 percent of the daily wage at the time of injury for that 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 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, 66 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, 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 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 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 2/3 percent of the daily wage at the time of in-

jury 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 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 experts 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 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.

This subdivision applies to a permanent partial disability incurred before the effective date of the rules adopted under section 176.105, subdivision 4.

Sec. 32. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3a. [ECONOMIC RECOVERY COMPENSATION.] If an employee is not eligible for an impairment award pursuant to subdivision 3b, then the employee shall receive economic recovery compensation for a permanent partial disability pursuant to this subdivision. The compensation shall be 66-2/3 percent of the weekly wage at the time of injury subject to a maximum equal to the statewide average weekly wage. For permanent partial disability up to the percent of the whole body in the following schedule the compensation shall be paid for the proportion that the loss of function of the disabled part bears to the whole body multiplied by the number of weeks aligned with that percent.

<i>Percent of disability</i>	<i>Weeks of compensation</i>
0-25	600
26-30	640
31-35	680
36-40	720
41-45	760
46-50	800
51-55	880
56-60	960
61-65	1040
66-70	1120
71-100	1200

The percentage loss in all cases under this subdivision is determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 33. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3b. [IMPAIRMENT COMPENSATION.] An employee who suffers a permanent partial disability due to a personal injury and receives impairment compensation under this section shall receive compensation in an amount as provided by this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule the amount shall be equal to the proportion that the loss of function of the disabled part bears to the whole body multiplied by the amount aligned with that percent in the following schedule:

<i>Percent of disability</i>	<i>Amount</i>
0-25	75,000
26-30	80,000
31-35	85,000

36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

For all cases under this subdivision the percentage loss of function of a part of the body is determined by the commissioner pursuant to section 176.105, subdivision 4. This subdivision shall apply to a permanent partial disability incurred on or after the adoption of those rules.

Sec. 34. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3c. [MAXIMUM PAYABLE.] The maximum amount payable under subdivisions 3a and 3b is the maximum compensation payable to an employee who has a disability to the body as a whole and under no conditions shall an employee receive more than those amounts even if the employee sustains a disability to two or more body parts.

Sec. 35. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3d. [GENERAL.] An employee who has incurred a personal injury shall receive temporary total compensation until these benefits are no longer payable pursuant to this section. If the injury results in a permanent partial disability, the employee shall receive compensation as provided in this section.

Sec. 36. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3e. [END OF TEMPORARY TOTAL COMPENSATION.] (a) 90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease. This cessation shall occur at an earlier date if otherwise provided by this section. If prior to the termination of this 90-day period the employee retires or the employer furnishes work to the employee that the employee can do in his or her physical condition and that job produces an economic status as close as possible to that the employee would have enjoyed without the disability, or the employer procures this employment with another employer or the employee accepts this job with another employer, temporary total compensation shall cease. If the injury resulted in permanent partial disability, the employee shall receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation for the same disability. Temporary total compensation and impairment compensation shall not be paid concurrently. Once temporary total compensation ceases no further temporary total compensation is payable except as specifically provided in this section.

(b) If the job offered under clause (a) is not the job the employee had at the time of injury it shall be in writing and shall state the nature of the job, the rate of pay, the physical requirements of the job, an agreement to pay temporary partial compensation if appropriate, and any other information necessary to fully and completely inform the employee of the job duties and responsibilities.

The employee has 14 calendar days to accept or reject the job offer. If the employee does not respond within this period it is deemed a refusal of the offer.

(c) Self employment may be an appropriate job under this subdivision.

The commissioner shall monitor application of this subdivision and may adopt rules to assure its proper application.

Sec. 37. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3f. [ACCEPTANCE OF JOB OFFER.] If the employee accepts of job offer described in subdivision 3e and begins work at that job, the impairment compensation shall be paid in a lump sum 30 calendar days after the return to work.

Sec. 38. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3g. [TEMPORARY PARTIAL COMPENSATION.] An employee who accepts a job under subdivision 3e and begins that job shall receive temporary partial compensation pursuant to subdivision 2, if appropriate.

Sec. 39. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3h. [LAYOFF BECAUSE OF LACK OF WORK OR RELEASED FOR OTHER THAN SEASONAL CONDITIONS.] (a) If an employee accepts a job under subdivision 3e and begins work at that job and is subsequently unemployed because of economic conditions, other than seasonal conditions, the employee shall receive monitoring period compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant if the employee remains unemployed for 45 calendar days. The commissioner may waive this rehabilitation consultation if the commissioner deems it appropriate. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Upon the employee's initial return to work the monitoring period begins to run. If the employee is unemployed for the reason in clause (a), prior to the end of the monitoring period the employee shall receive monitoring period compensation. This compensation shall be paid for the lesser of (1) the weeks remaining in the monitoring period, or (2) the weeks equal to the monitoring period minus the impairment compensation paid to the employee. For purposes of this clause the impairment compensation shall be converted to weeks by dividing the impairment compensation received by the employee by the employee's compensation rate for temporary total disability at the time of the injury. No monitoring period compensation is payable if the unemployment occurs after the expiration of the monitoring period. Monitoring period compensation is payable at the same intervals and amount as temporary total compensation was paid.

(c) If the employee returns to work and is still receiving monitoring period compensation, this compensation shall cease. Any period remaining in the monitoring period upon this return to work shall be used to determine further benefits if the employee is again unemployed under clause (a).

(d) Upon the employee's return to work pursuant to this section the employer shall notify the employee of the length of the employee's monitoring period and shall notify the employee of the amount of impairment to be paid and the date of payment.

Sec. 40. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3i. [MEDICALLY UNABLE TO CONTINUE WORK.] (a) If the employee has started the job offered under subdivision 3e and is medically unable to continue at that job, that employee shall receive compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Compensation shall be paid for up to 90 days after the employee has reached maximum medical improvement or 90 days after the end of an approved retraining plan or 90 days after the employee has ceased work because of medical inability to continue, whichever is later. The temporary total compensation shall cease at any time within the 90-day period that the employee begins work meeting the requirements of subdivision 3e. If no such job is offered to the employee by the end of this 90-day period, the employee shall receive economic recovery compensation pursuant to this section except that this economic recovery compensation shall be reduced by the impairment compensation previously received by the employee for the same disability.

Sec. 41. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3j. [UNEMPLOYMENT DUE TO SEASONAL CONDITION.] If an employee has started the job offered under subdivision 3e and is subsequently unemployed from that job because of the job's seasonal nature, the employee shall receive any unemployment compensation the employee is eligible for pursuant to chapter 268. The employee shall receive, in addition and concurrently, the amount that the employee was receiving for temporary partial disability at the time of the layoff. No further or additional compensation is payable under this chapter because of the seasonal layoff.

Sec. 42. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3k. [FAILURE TO ACCEPT JOB OFFER.] If the employee has been offered a job under subdivision 3e and has refused the offer for reasons other than the employee is in an approved retraining program, the impairment compensation shall not be paid in a lump sum but shall be paid in the same interval and amount that temporary total compensation was paid. Temporary total compensation shall cease upon the employee's refusal to accept the job offered and no further or additional temporary total compensation is payable. The payment of the periodic impairment compensation shall cease when the

amount the employee is eligible to receive under subdivision 3b is reached, after which time the employee shall not receive additional impairment compensation or any other compensation under this chapter unless the employee has a greater permanent partial disability than already compensated for.

Sec. 43. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3l. [RETURN TO WORK AFTER REFUSAL OF JOB OFFER.] If the employee has refused the job offer under subdivision 3e and is receiving periodic impairment compensation and returns to work at another job, the employee shall receive the remaining impairment compensation due, in a lump sum, 30 days after return to work:

Sec. 44. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3m. [NO TEMPORARY PARTIAL COMPENSATION OR REHABILITATION IF JOB OFFER REFUSED.] An employee who has been offered a job under subdivision 3 and who has refused the offer and who subsequently returns to work shall not receive temporary partial compensation pursuant to subdivision 2 if the job the employee returns to provides a wage less than the wage at the time of the injury. No rehabilitation shall be provided to this employee.

Sec. 45. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3n. [INABILITY TO RETURN TO WORK.] (a) An employee who is permanently totally disabled pursuant to subdivision 5 shall receive impairment compensation pursuant to subdivision 3b. This compensation is payable in addition to permanent total compensation pursuant to subdivision 4 and is payable concurrently. In this case the impairment compensation shall be paid in the same intervals and amount as the permanent total compensation is paid, and the impairment compensation shall cease when the amount due under subdivision 3b is reached. If this employee returns to work at any job during the period the impairment compensation is being paid, the remaining impairment compensation due shall be paid in a lump sum 30 days after the employee has returned to work and no further temporary total compensation shall be paid.

(b) If an employee is receiving or has received economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against permanent total compensation for the compensation paid. No further economic recovery compensation is payable even if the amount due the employee pursuant to subdivision 3a has not yet been reached.

(c) *If the employee has or is receiving impairment compensation and is determined to be permanently totally disabled no credit shall be taken for the compensation received. If any of this compensation remains to be paid, it shall cease and clause (d) of this subdivision applies.*

(d) *An employee who has received economic recovery compensation or impairment compensation and who meets the criteria under clause (b) or (c) of this subdivision shall receive impairment compensation pursuant to clause (a) of this subdivision even if the employee has previously received economic recovery compensation or impairment compensation for that disability.*

(e) *Rehabilitation consultation pursuant to section 176.102 shall be provided to an employee who is permanently totally disabled.*

Sec. 46. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 30. [NO JOB OFFER.] Where the employee has a permanent partial disability and has reached maximum medical improvement or upon completion of an approved retraining program, whichever is later, that employee shall receive economic recovery compensation pursuant to subdivision 3a if no job offer meeting the criteria of the job in subdivision 3e is made within 90 days after reaching maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later.

Temporary total compensation shall cease upon commencement of the payment of economic recovery compensation. Temporary total compensation shall not be paid concurrently with economic recovery compensation.

Sec. 47. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3p. [METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation is payable at the same intervals and in the same amount as temporary total compensation was paid. If the employee returns to work and the economic recovery compensation is still being paid, the remaining economic recovery compensation due without further adjustments under section 176.645 shall be paid in a lump sum 30 days after the employee has returned to work.

(b) Periodic economic recovery compensation paid to the employee shall be adjusted pursuant to section 176.645.

Sec. 48. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3q. [PAYMENT OF COMPENSATION AT DEATH.] *If an employee receiving economic recovery compensation or impairment compensation in periodic amounts dies during the period from causes unrelated to the injury, the compensation shall be paid in the following manner:*

(a) *If the deceased employee leaves a dependent surviving spouse and no dependent children, as defined by section 176.111, subdivision 1, the spouse shall receive the weekly economic recovery or impairment compensation that the deceased was receiving before the death. This compensation shall be paid for a period of up to ten years after the date of death at which time payments and future entitlement to it ceases.*

(b) *If the deceased employee leaves a dependent spouse and dependent children, as defined in section 176.111, subdivision 1, the periodic economic recovery or impairment compensation shall continue to be paid to the surviving spouse for up to ten years after the youngest child is no longer dependent after which time payments and future entitlement to the compensation ceases.*

(c) *Payment of compensation under this subdivision shall cease prior to the end of the ten-year periods in this subdivision if the amount to which the employee is entitled to receive under subdivision 3, 3a, or 3b, is reached prior to the end of the ten-year period. If the deceased employee is not survived by dependent children or a dependent spouse as defined by section 176.111, no further economic recovery compensation or impairment compensation is payable to any person under this subdivision.*

(d) *If the death results from the injury, the payment of economic recovery compensation or impairment compensation shall cease upon the death and death benefits are payable pursuant to section 176.111.*

Sec. 49. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3r. [ADDITIONAL ECONOMIC RECOVERY COMPENSATION OR IMPAIRMENT COMPENSATION.] *No additional economic recovery compensation or impairment compensation is payable to an employee who has received that compensation to which the employee is entitled pursuant to subdivision 3a or 3b unless the employee has a greater permanent partial disability than already compensated.*

Sec. 50. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3s. [MINIMUM ECONOMIC RECOVERY COMPENSATION.] (a) *Economic recovery compensation pursu-*

ant to this section shall be at least 120 percent of the impairment compensation the employee would receive if that compensation were payable to the employee. The monitoring period shall be at least 120 percent of the weeks during which impairment compensation would be payable if paid weekly.

(b) An employee who has suffered a personal injury for which temporary total compensation is payable but which produces no permanent partial disability shall receive 26 weeks of economic recovery compensation if no job is offered within the time specified in and meeting the criteria of subdivision 3e.

Sec. 51. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3t. [MEDICAL BENEFITS.] This section does not in any way limit the medical benefits to which an injured employee is otherwise entitled pursuant to this chapter.

Sec. 52. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3u. [ADMINISTRATIVE CONFERENCE.] The provisions of section 176.242 apply if there exists a dispute regarding maximum medical improvement or whether the job offered meets the criteria under subdivision 3e.

Sec. 53. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4a. [PREEXISTING CONDITION OR DISABILITY; APPORTIONMENT.] (a) If a personal injury results in a disability which is attributable in part to a preexisting disability that arises from a congenital condition or is the result of a traumatic injury or incident, whether or not compensable under this chapter, the compensation payable for the permanent partial disability pursuant to this section shall be reduced by the proportion of the disability which is attributable only to the preexisting disability. An apportionment of a permanent partial disability under this subdivision shall be made only if the preexisting disability is registered under section 176.131, or is clearly evidenced in a medical report or record made prior to the current personal injury. Evidence of registration or a copy of the medical report or record upon which apportionment is based shall be made available to the employee by the employer at the time compensation for the permanent partial disability is begun.

(b) The compensable portion of the permanent partial disability under this section shall be paid at the rate at which the entire disability would be compensated but for the apportionment.

Sec. 54. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4b. [LEGISLATIVE INTENT.] The legislature reaffirms its intent that the reduction of compensation benefits pursuant to subdivision 4 is applicable after an employee has received a total of \$25,000 of weekly compensation including compensation under subdivisions 1, 2, and 4 of this section.

Sec. 55. Minnesota Statutes 1982, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which (HE) the employee is entitled for (SAID) the injury the compensation rate for temporary total, temporary partial, (RETRAINING,) a permanent partial or permanent total disability or economic recovery compensation shall be the (LARGER OF EITHER THE) statewide average weekly wage (OR THE EMPLOYEES WEEKLY WAGE, BUT IN NO CASE SHALL THE COMPENSATION EXCEED THE MAXIMUM WEEKLY COMPENSATION RATE PAYABLE UNDER THIS CHAPTER).

Sec. 56. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 8. [RETIREMENT PRESUMPTION.] For injuries occurring after the effective date of this subdivision an employee who receives social security old age and survivors insurance retirement benefits is presumed retired from the labor market. This presumption is rebuttable by a preponderance of the evidence.

Sec. 57. Minnesota Statutes 1982, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (VOCATIONAL) Rehabilitation (SHALL TRAIN AN) is intended to restore the injured employee, through physical and vocational rehabilitation, so (HE) the employee may (BE RETURNED) return to a job related to (HIS) the employee's former employment or to a job in another work area which produces an economic status as close as possible to that (HE) the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.

Sec. 58. Minnesota Statutes 1982, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner (OF LABOR AND INDUSTRY) shall hire a director of rehabilitation services in the classified service. The commissioner (OF LABOR AND INDUSTRY IS RESPONSIBLE FOR SUPERVISING) *shall monitor and supervise* rehabilitation services, including, but not limited to, *making determinations regarding the selection and delivery of medical care and rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services, the fitness of qualified rehabilitation consultants and vendors to continue to be approved under this section and has authority to discipline, by fine or otherwise, the consultants or vendors who act in violation of this chapter or rules adopted pursuant to this chapter.* The commissioner (OF LABOR AND INDUSTRY) may hire qualified personnel to assist in his duties under this section and may delegate his duties and performance.

Sec. 59. Minnesota Statutes 1982, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner (OF LABOR AND INDUSTRY) or (HIS) a designee, who shall serve as an ex officio member and two members each from (LABOR. EMPLOYERS,) insurers, (VOCATIONAL) rehabilitation, and medicine (AND), one member representing chiropractors, *four members representing employers and four members representing labor.* The members shall be appointed by the (GOVERNOR) commissioner and shall serve (FOUR YEAR) *four-year* terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chairman. The panel shall ((A)) review and make a determination with respect to (a) appeals regarding *eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivision 9;* (b) (HOLD) *appeals on any other rehabilitation issue the commissioner determines under this section;* and (c) *appeals regarding fee disputes, penalties, discipline, certification approval or revocation (OF CERTIFICATION APPROVAL HEARINGS; (C)) of registration of qualified rehabilitation consultants and approved vendors. The panel shall continuously study rehabilitation (;) services and delivery and ((D)) develop and recommend rehabilitation rules (AS NECESSARY) to the commissioner (OF LABOR AND INDUSTRY. A MAJORITY VOTE OF THOSE ATTENDING A PANEL HEARING UNDER SUBDIVISION 6 SHALL CONSTITUTE THE DECISION OF THE BOARD).*

Sec. 60. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 3a. [REVIEW PANEL APPEALS.] Appeals to the review panel shall be heard before a panel of three members designated by the review panel. Each three-member panel shall consist of one labor member, one employer or insurer member, and one member representing medicine or chiropractic or rehabilitation. The determination of the three-member panel shall be by a majority vote and the determination shall represent the determination of the rehabilitation review panel. Such determinations are not subject to review by the panel as a whole. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision.

Sec. 61. Minnesota Statutes 1982, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (WITHIN 30 DAYS OF THE TIME AN EMPLOYER OR HIS INSURER HAS MEDICAL INFORMATION THAT AN EMPLOYEE IS UNABLE DUE TO A PERSONAL INJURY OR OCCUPATIONAL DISEASE TO RETURN TO HIS PREINJURY OCCUPATION THE EMPLOYER SHALL PROVIDE REHABILITATION CONSULTATION FOR THE EMPLOYEE. THE EMPLOYEE, HOWEVER, HAS THE FINAL DECISION ON WHICH REHABILITATION AGENCY IS TO BE UTILIZED PURSUANT TO THE PROVISIONS OF THIS SECTION. THE CONSULTATION SHALL BE DONE BY ANY PERSON OR PUBLIC OR PRIVATE INSTITUTION APPROVED BY THE COMMISSIONER OF LABOR AND INDUSTRY. IF THE CONSULTANT DETERMINES REHABILITATION WOULD SIGNIFICANTLY REDUCE OR ELIMINATE THE DECREASE IN EMPLOYABILITY, THE EMPLOYER OR INSURER IN CONJUNCTION WITH THE REHABILITATION CONSULTANT SHALL SUBMIT A SPECIFIC PLAN OF REHABILITATION TO THE COMMISSIONER. IF THE EMPLOYER DOES NOT PROVIDE REHABILITATION CONSULTATION, WHEN REQUIRED BY THIS SECTION, WITHIN THE TIME SPECIFIED BY THIS SUBDIVISION, THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER AND INSURER THAT SHOULD THEY FAIL TO PROVIDE RE-

HABILITATION CONSULTATION WITHIN 15 DAYS FROM THE RECEIPT OF THE COMMISSIONER'S NOTICE, THE DIVISION OF VOCATIONAL REHABILITATION SHALL BE AUTHORIZED TO PROVIDE THE REHABILITATION CONSULTATION FOR THE EMPLOYEE. IF THE EMPLOYEE REFUSES TO SUBMIT TO ANY REASONABLE EXAMINATIONS AND EVALUATIVE PROCEDURES TO DETERMINE THE NEED FOR AND THE DETAILS OF A PLAN OF REHABILITATION, THE AMOUNT OF COMPENSATION MAY BE REDUCED OR THE RIGHT TO COMPENSATION MAY BE SUSPENDED BY AN ORDER OF THE DIVISION OR WORKERS' COMPENSATION COURT OF APPEALS IN A MATTER BEFORE IT. IN DEVELOPING A PLAN, CONSIDERATION SHALL BE GIVEN TO THE EMPLOYEE'S AGE, EDUCATION, PREVIOUS WORK HISTORY, INTERESTS AND SKILLS.) (a) *An employer or insurer shall provide rehabilitation consultation by a qualified rehabilitation consultant to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation shall be made immediately after receipt of this information.*

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection.

Upon receipt of the notice of objection, the commissioner may schedule an administrative conference for the purpose of determining which qualified rehabilitation consultant may be mutually acceptable. The employee has the final decision on which qualified rehabilitation consultant is to be utilized.

The employee and employer shall enter into a program if one is prescribed in a rehabilitation plan. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner.

(b) *If the employer does not provide rehabilitation consultation as required by this section, the commissioner shall notify the employer that if the employer fails to appoint a qualified rehabilitation consultant within 15 days to conduct a rehabilitation consultation, the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner determines the consultation is not required.*

(c) *In developing a rehabilitation plan consideration shall be given to the employee's qualifications, including but not limited to age, education, previous work history, interest, transferable skills, and present and future labor market conditions.*

(d) *The commissioner may waive rehabilitation consultation under this section if the commissioner is satisfied that the employee will return to work in the near future or that rehabilitation consultation will not be useful in returning an employee to work.*

Sec. 62. Minnesota Statutes 1982, section 176.102, subdivision 5, is amended to read:

Subd. 5. [ON THE JOB TRAINING.] On the job training is to be given consideration in developing a rehabilitation plan especially where it would produce an economic status similar to that enjoyed prior to disability. (WHEN A REHABILITATION PLAN INCLUDES ON THE JOB TRAINING, THE EMPLOYEE SHALL RECEIVE COMPENSATION WHILE EMPLOYED IN AN AMOUNT EQUAL TO THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY. THIS COMPENSATION SHALL BE PAID IN WHOLE OR IN PART BY THE INSURER LIABLE FOR COMPENSATION FOR THE EMPLOYEE'S PERSONAL INJURY. THE AMOUNT OF COMPENSATION TO BE PAID BY THIS INSURER SHALL BE DETERMINED IN THE REHABILITATION PLAN PREPARED PURSUANT TO THIS SECTION. ANY DIFFERENCE BETWEEN THE AMOUNT OF COMPENSATION THE INSURER IS PAYING AND THE AFTER TAX WAGE THE EMPLOYEE RECEIVED AT THE TIME OF THE PERSONAL INJURY SHALL BE PAID BY THE ON THE JOB EMPLOYER, BUT IN NO CASE SHALL THIS EMPLOYER'S AMOUNT EXCEED THE PREVAILING WAGE FOR THE JOB. AFTER TAX WAGE SHALL BE DETERMINED BY SUBTRACTING FEDERAL AND STATE INCOME TAX FROM THE EMPLOYEE'S GROSS WAGE.)

(A REHABILITATION PLAN WHICH INCLUDES ON THE JOB TRAINING SHALL ATTEMPT TO CREATE AN INCENTIVE FOR AN EMPLOYER TO HIRE THE EMPLOYEE FOR ON THE JOB TRAINING. THIS INCENTIVE

MAY BE IN THE FORM OF REDUCING THE ON THE JOB TRAINING EMPLOYER'S WAGES PAID TO THE EMPLOYEE TO A LEVEL WHICH IS LESS THAN THE PREVAILING WAGE FOR THE JOB, PROVIDED THAT THE TOTAL COMPENSATION FROM THE INSURER, REQUIRED BY THIS SECTION, AND THE WAGES PAID BY THE ON THE JOB TRAINING EMPLOYER IS NOT LESS THAN THE AFTER TAX WAGE RECEIVED BY THE EMPLOYEE AT THE TIME OF THE PERSONAL INJURY. THE COMPENSATION FROM THE INSURER AND THE ON THE JOB TRAINING EMPLOYER PAID PURSUANT TO THIS SUBDIVISION IS IN LIEU OF TEMPORARY TOTAL DISABILITY PAYMENTS AND THE ADDITIONAL COMPENSATION PROVIDED IN SUBDIVISION 11.)

Sec. 63. Minnesota Statutes 1982, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner (OF LABOR AND INDUSTRY) shall *determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivision 9 to which an employee is entitled.* (ANY PERSONS AGGRIEVED BY) A decision of the commissioner may (APPEAL) *be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court. (THE PANEL MAY APPROVE OR REJECT THE DECISION OF THE COMMISSIONER. IF IT REJECTS THE COMMISSIONER'S DECISION IT MAY FORMULATE ITS OWN REHABILITATION PLAN.)*

Sec. 64. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 6a. [ELIGIBILITY DETERMINATION.] *The commissioner has the sole authority under this chapter to determine eligibility for rehabilitation services under this section and to review, approve, modify, or reject rehabilitation plans and make other rehabilitation determinations pursuant to this chapter. These determinations shall not be made by a compensation judge but may be appealed to the rehabilitation review panel and workers' compensation court of appeals as provided by subdivision 6.*

Sec. 65. Minnesota Statutes 1982, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] Upon request by the commissioner, insurer (OR), employer, or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner (OF LABOR AND INDUSTRY), insurer (AND), employer, and employee (OF AN EMPLOYEE'S PROGRESS UNDER A PLAN).

Sec. 66. Minnesota Statutes 1982, section 176.102, subdivision 8, is amended to read:

Subd. 8. [PLAN MODIFICATION.] Upon request (OF) to the commissioner by the employer, the insurer, or employee (TO THE COMMISSIONER), or upon the commissioner's own request, the plan may be suspended, terminated or altered upon a showing of good cause (THEREFOR), including:

(a) a physical impairment that does not allow the employee to pursue the (VOCATION BEING TRAINED FOR) rehabilitation plan;

(b) the employee's performance level indicates (HE CANNOT COMPLETE) the plan will not be successfully completed; or

(c) an employee does not cooperate with a plan.

An employee may request a change in a rehabilitation plan once because (HE) the employee feels (HE IS NOT SUITED) ill-suited for the type of work for which (TRAINING) rehabilitation is being provided if the request is made within 90 days of the start of the plan. Any decision of the commissioner regarding a change in a plan may be appealed to the rehabilitation review panel within (15) 30 days of the decision.

Sec. 67. Minnesota Statutes 1982, section 176.102, subdivision 9, is amended to read:

Subd. 9. [PLAN, COSTS.] An employer is liable for the following rehabilitation expenses under this section:

(a) Cost of (VOCATIONAL) rehabilitation (DIAGNOSIS) evaluation and preparation of a plan;

(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;

(c) Reasonable cost of tuition, books and travel; and, in addition, reasonable costs of board (AND), lodging and custodial daycare when rehabilitation requires residence away from the employee's customary residence; (AND)

(d) *Reasonable cost of travel and custodial daycare during the job interview process;*

(e) *Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury; and*

(f) Any other expense agreed to be paid.

Sec. 68. Minnesota Statutes 1982, section 176.102, subdivision 10, is amended to read:

Subd. 10. [REHABILITATION; CONSULTANTS.] The commissioner shall approve rehabilitation consultants who may propose and implement plans if they satisfy rules (PROMULGATED) adopted by the commissioner for rehabilitation consultants. A consultant may be an individual or public or private entity, *but may not be a vendor or the agent of a vendor of rehabilitation services.*

Sec. 69. Minnesota Statutes 1982, section 176.102, subdivision 11, is amended to read:

Subd. 11. [(COMPENSATION DURING REHABILITATION) RETRAINING.] (THE INSURER OR EMPLOYER SHALL PAY UP) *Retraining is limited to 156 weeks (OF COMPENSATION DURING REHABILITATION UNDER A PLAN IN AN AMOUNT EQUAL TO 125 PERCENT OF THE EMPLOYEE'S RATE FOR TEMPORARY TOTAL DISABILITY. THIS PAYMENT IS IN LIEU OF PAYMENT FOR TEMPORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL DISABILITY TO WHICH THE EMPLOYEE MIGHT OTHERWISE BE ENTITLED FOR THIS PERIOD UNDER THIS CHAPTER, BUT SHALL BE CONSIDERED TO BE THE EQUIVALENT OF TEMPORARY TOTAL DISABILITY FOR THE PURPOSES OF SECTION 176.132. IF ON THE JOB TRAINING IS PART OF THE REHABILITATION PROGRAM, THE WEEKS DURING WHICH THE INSURER OR EMPLOYER PAYS COMPENSATION PURSUANT TO SUBDIVISION 5 SHALL BE SUBTRACTED FROM THE 156 WEEKS OF RETRAINING COMPENSATION WHICH HAS BEEN PAID, IF ANY, PURSUANT TO THIS SUBDIVISION. THIS SUBDIVISION SHALL NOT APPLY TO RETRAINING BENEFITS FOR WHICH LIABILITY HAS BEEN ESTABLISHED PRIOR TO JULY 1, 1979).*

Sec. 70. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 11a. [APPLICABILITY OF SECTION.] This section is applicable to all employees injured prior to or on and after October 1, 1979, except for those provisions which affect an employee's monetary benefits.

Sec. 71. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 13. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by section 176.242.

Sec. 72. [176.103] [MEDICAL HEALTH CARE REVIEW.]

Subd. 1. [PURPOSE.] It is the purpose of this section to provide for review of clinical health care providers who render services to injured employees. This review shall be achieved by establishing a quality control system within the department of labor and industry.

The commissioner shall hire a medical consultant to assist in the administration of this section.

The medical consultant shall be a doctor of medicine licensed under the laws of Minnesota.

The medical consultant shall perform all duties assigned by the commissioner relating to the supervision of the total continuum of care of injured employees and shall also advise the department on matters on which the commissioner requests the consultant's advice or if the consultant deems it appropriate.

Subd. 2. [SCOPE.] The commissioner shall monitor the medical, surgical, and hospital treatment provided to injured employees or the services of other health care providers. This monitoring shall include determinations concerning the appropriateness of the service, whether the treatment is necessary and effective, the proper cost of services, the quality of the treatment, the right of providers to receive payment under this chapter for services rendered or the right to receive payment under this chapter for future services. The commissioner may penalize, disqualify, or suspend a provider from receiving payment for services rendered under this chapter, if the commissioner determines that the provider has violated any part of this chapter or rule adopted under this chapter. The commissioner's

authority under this section also includes the authority to make determinations regarding any other activity involving the questions of utilization of medical services, and any other determination the commissioner deems necessary for the proper administration of this section.

The commissioner has the sole authority to make determinations under this section with a right of appeal to the medical services review board as provided in subdivision 3 and the workers' compensation court of appeals. A compensation judge has no jurisdiction in making determinations under this section.

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee, one person representing chiropractic and seven medical practitioners representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one member representing employees, one member representing employers or insurers, and one member representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board shall appoint from among its members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members.

The clinical quality subcommittee shall review clinical results for adequacy and recommend to the commissioner scales for disabilities and apportionment.

The clinical cost containment subcommittee shall review and recommend to the commissioner rates for individual clinical procedures and aggregate costs. The subcommittees shall make regular reports to the board and the commissioner which shall evaluate the reports for the purpose of determining whether or not a particular health care provider continues to qualify for payment under chapter 176 or is subject to any other sanctions or penalties authorized under this section and to determine whether an employee has been off work longer than necessary.

In evaluating the clinical consequences of the services provided to an employee by a clinical health care provider, the board shall consider the following factors in the priority listed:

- (1) the clinical effectiveness of the treatment;*
- (2) the clinical cost of the treatment; and*
- (3) the length of time of treatment.*

In its consideration of these factors, the board shall utilize the information and recommendations developed by the subcommittees. In addition, the board shall utilize any other data developed by the subcommittees pursuant to the duties assigned to the subcommittees under this section.

After making a determination, the board shall submit its recommendation in writing to the commissioner. The board shall advise the commissioner on the adoption of rules regarding all aspects of medical care and services provided to injured employees.

(b) The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and supervision of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three-member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three-member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three-member panel constitutes the decision of the board. This decision may be appealed to the workers' compensation court of appeals.

(c) In any situation where a conflict of interest prevents the appointment of a full three-member panel or in any other situation where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.

Sec. 73. [176.104] [REHABILITATION PRIOR TO DETERMINATION OF LIABILITY.]

Subdivision 1. [DISPUTE.] *If there exists a dispute regarding whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4 prior to determination of liability, the employee shall be referred by the commissioner to the division of vocational rehabilitation which shall provide rehabilitation consultation. The services provided by the division of vocational rehabilitation and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be approved, rejected, or modified by the commissioner.*

Subd. 2. [LIABILITY FOR PAST REHABILITATION.] If liability is determined after the employee has commenced rehabilitation under this section the liable party is responsible for the cost of rehabilitation provided and approved by the commissioner. Future rehabilitation after liability is established is governed by section 176.102.

Sec. 74. Minnesota Statutes 1982, section 176.105, is amended by adding a subdivision to read:

Subd. 4. The commissioner shall by rule adopt procedures to determine the percentage of loss of function of a part of the body based on the body as a whole, including internal organs, described in section 176.101, subdivision 3 and any other body part not listed in section 176.101, subdivision 3 which the commissioner deems appropriate.

Temporary rules shall be adopted for this purpose not later than January 1, 1985. Prior to the adoption of these rules, at least two public hearings shall be held by the commissioner, in addition to the requirements of sections 14.29 to 14.36. Notwithstanding sections 14.29 to 14.36, the temporary rules adopted under this subdivision shall be effective until superseded by permanent rules. The rules shall promote objectivity and consistency in the evaluation of permanent functional impairment due to personal injury and in the assignment of a numerical rating to the functional impairment.

Disability ratings and schedules shall be based on objective medical evidence.

Prior to adoption of temporary rules the commissioner of insurance shall conduct an analysis of the current permanent partial disability schedule for the purpose of determining the number and distribution of permanent partial disabilities and the average compensation for various permanent partial disabilities. The commissioner of labor and industry shall consider this analysis in adopting the rules under this subdivision and shall consider establishing a schedule which provides that the average award under the proposed schedule shall be approximately the same as the average award under the current schedule. The commissioner shall consider setting the compensation under the proposed schedule for the most serious conditions higher in comparison to the current schedule and shall consider decreasing awards for minor conditions in comparison to the current schedule.

The commissioner shall consider, among other factors, and shall not be limited to the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:

(a) *the workability and simplicity of the procedures with respect to the evaluation of functional disability;*

(b) *the consistency of the procedures with accepted medical standards;*

(c) *rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability;*

(d) *rules, guidelines, and schedules that have been developed by associations of health care providers or organizations;*

(e) *the effect the rules may have on reducing litigation;*

(f) *the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and*

(g) *symptomatology and loss of function and use of the injured member.*

The factors in clauses (a) to (g) shall not be used in any individual or specific workers' compensation claim under this chapter but shall only be used in the adoption of rules pursuant to this section.

Sec. 75. Minnesota Statutes 1982, 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 spouse (, 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. 76. Minnesota Statutes 1982, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] (a) If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of 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 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 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. 77. Minnesota Statutes 1982, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] ((A)) If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and 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. 78. Minnesota Statutes 1982, section 176.111, is amended by adding a subdivision to read:

Subd. 9a. [REMARRIAGE OF SPOUSE.] *Remarriage of a surviving spouse who is receiving benefits under subdivision 6, 7, or 8 has no effect on the spouse's right to receive weekly benefits for the remaining period that the spouse is entitled to receive benefits pursuant to this section.*

Sec. 79. Minnesota Statutes 1982, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount (\$1,000) \$2,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, (SUCH) *its* reasonable value shall be determined and approved by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after (SUCH) reasonable notice to interested parties as is required by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). If the deceased leave no dependents, no compensation is payable, except as provided by this chapter.

Sec. 80. Minnesota Statutes 1982, section 176.121, is amended to read:

176.121 [COMMENCEMENT OF COMPENSATION.]

In cases of temporary total or temporary partial disability no compensation (SHALL BE) is allowed for the three *calendar* days after the disability commenced, except as provided by section 176.135, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 176.141. If (SUCH) *the* disability continues for 10 *calendar* days or longer, (SUCH) *the* compensation (SHALL BE) is computed from the commencement of the disability. *Disability is deemed to commence on the first calendar day or fraction of a calendar day that the employee is unable to work.*

Sec. 81 [176.129] [CREATION OF THE SPECIAL COMPENSATION FUND.]

Subdivision 1. [DEPOSIT OF FUNDS.] The special compensation fund is created for the purposes provided for in this chapter. The state treasurer is the custodian of the special compensation fund. Sums paid to the commissioner pursuant to this section shall be deposited with the state treasurer for the benefit of the fund and used to pay the benefits under this chapter. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund. Subject to the provisions of this section, all the powers, duties, functions, obligations, and rights vested in the special compensation fund immediately prior to the effective date of this section are transferred to and vested in the special compensation fund recreated by this section. All rights and obligations of employers with regard to the special compensation fund which existed immediately prior

to the effective date of this section continue, subject to the provisions of this section.

Subd. 2. [PAYMENTS TO FUND, DEATH.] 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 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 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 less than \$1,000.

Subd. 3. [PAYMENTS TO FUND, INJURY.] If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation under section 176.101 or 176.111 the employer shall pay to the commissioner a lump sum amount, without any interest deduction, equal to 20 percent of the total compensation payable. The rate under this subdivision shall remain constant and applies to injuries occurring prior to January 1, 1984, even if the payment is made on or after January 1, 1984. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.

Subd. 4. [TIME OF INJURY.] Subdivisions 2 and 3 apply to all workers' compensation payments paid under section 176.101 or 176.111 for an injury or death occurring on or after June 1, 1971, but before January 1, 1984.

Payments made for personal injuries that occurred prior to June 1, 1971, shall be assessed at the rate in effect on the date of occurrence.

Subd. 5. [DETERMINATION OF AMOUNT PAYABLE.] (a) For injuries occurring on or after January 1, 1984, employers shall pay an assessment as provided in this subdivision. The assessment base shall be determined according to a method established by the commissioner. In determining this method, the commissioner shall consider, among other things, the frequency of indemnity claims, equity, administrative convenience, records maintained by employer's insurers and self-insurers, amenability to audit, and degree of risk refinement.

(b) *Using the assessment base method established in clause (a), the commissioner shall annually determine the amount of the assessment base of each employer.*

(c) *The commissioner shall annually establish a uniform percentage rate to be applied to the assessment base determined pursuant to clause (b). In establishing this rate, the commissioner shall consider, among other things, the likely expenditures to be made by the special fund in the next calendar year, the current fiscal status of the fund, future expenditure trends, and the assessments estimated to be collected under subdivisions 2 and 3. The assessment rate multiplied by the assessment base of an employer is the assessment amount payable under this subdivision. The total amount assessed under this subdivision shall not exceed \$25,000,000 in calendar year 1984. The total amount which may annually be assessed under this subdivision may be increased by up to ten percent beginning on January 1, 1985, and each January 1 thereafter.*

(d) *An amount assessed pursuant to this subdivision is payable to the commissioner within 45 days of mailing notice of the amount due.*

Subd. 6. [PAYMENTS OUT OF FUND.] *The workers' compensation division, a compensation judge, the workers' compensation court of appeals, or district court in cases before them shall direct the distribution of benefits provided by this chapter. These benefits are payable in the same manner as other payments of compensation.*

Subd. 7. [REFUNDS.] *In case deposit is or has been made under subdivision 2 and dependency later is shown, or if deposit is or has been made pursuant to subdivision 2 or 3 by mistake or inadvertence, or under circumstances that justice requires a refund, the state treasurer is authorized to refund the deposit under order of the commissioner, a compensation judge, the workers' compensation court of appeals, or a district court. There is appropriated to the commissioner from the fund an amount sufficient to make the refund and payment.*

Subd. 8. [COMMISSIONER AS ADMINISTRATOR.] *The commissioner is the administrator of the special compensation fund. The special compensation fund shall be designated a party in an action regarding any right, obligation, and liability of the special fund. The state treasurer, as custodian, does not have standing in an action determining any right, obligation, or liability of the special fund. The attorney general shall represent the special fund in all legal matters in which the special fund has an interest.*

Subd. 9. [POWERS OF FUND.] *In addition to powers granted to the special compensation fund by this chapter the fund may do the following:*

- (a) sue and be sued in its own name;
- (b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;
- (c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter; and
- (d) take any other action which an insurer is permitted by law to take in operating within this chapter.

Subd. 10. [PENALTY.] Sums paid to the commissioner pursuant to this section shall be in the manner prescribed by the commissioner. The commissioner may impose a penalty of up to 15 percent of the amount due under this section but not less than \$500 in the event payment is not made in the manner prescribed.

Subd. 11. [ADMINISTRATIVE PROVISIONS.] The accounting, investigation, and legal costs necessary for the administration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process.

Subd. 12. [REPORT OF COMMISSIONER.] The commissioner shall report biennially to the governor and to the legislature as to the financial status of the special compensation fund. The report shall include a statement of the receipts and the disbursements for the period covered.

Subd. 13. [EMPLOYER REPORTS.] All employers shall make reports to the commissioner as required for the proper administration of this section and section 176.131.

Sec. 82. Minnesota Statutes 1982, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability that is substantially greater, because of a pre-existing physical impairment, than what would have resulted from the personal injury alone, the employer shall pay all compensation provided by this chapter, but (HE) the employer shall be reimbursed from the special compensation fund for all compensation paid in excess of 52 weeks of monetary benefits and \$2,000 in medical expenses, subject to the following exceptions:

If the personal injury alone results in permanent partial disability to a scheduled member under (SECTION 176.101) *the schedule adopted by the commissioner pursuant to section 176.105*, the monetary and medical expense limitations shall not apply and the employer (SHALL BE) *is* liable for (SUCH) *the* compensation, medical expense, and (RETRAINING) *rehabilitation* attributable to the permanent partial disability, and (HE) may be reimbursed from the *special* compensation fund only for compensation paid in excess of (SUCH) *the* disability.

Sec. 83. Minnesota Statutes 1982, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on the job retraining program pursuant to section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to enter the on the job retraining program, the on the job training employer shall pay the medical expenses and compensation required by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury. The employer, at the time of the personal injury for which the employee has been certified for retraining, is liable for the portion of the disability that is attributable to that injury.

Sec. 84. Minnesota Statutes 1982, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury (SHALL RESULT) *results* in disability or death, and if the injury, death, or disability would not have occurred except for the pre-existing physical impairment *registered with the special compensation fund*, the employer shall pay all compensation provided by this chapter, (BUT) *and* shall be reimbursed from the special compensation fund for (SUCH) *the* compensation (ONLY WHERE THE PERMANENT PHYSICAL IMPAIRMENT CONTRIBUTING TO THE SECOND INJURY IS DIABETES, HEMOPHILIA OR SEIZURES) *except that this reimbursement shall not be made for cardiac disease or a condition registered pursuant to clause (t) or (u) unless the commissioner by rule provides otherwise.*

Sec. 85. Minnesota Statutes 1982, section 176.131, subdivision 3, is amended to read:

Subd. 3. To entitle the employer to secure reimbursement from the special compensation fund, the following provisions must be complied with:

- (a) Provisions of section 176.181, subdivisions 1 and 2.

(b) The employee with a pre-existing physical impairment must have been registered with the commissioner (OF LABOR AND INDUSTRY) prior to the employee's personal injury or within 180 days after notice of the employee's personal injury is received by the employer. Registration subsequent to the injury shall be based on a medical report *or record* made prior to the injury indicating the pre-existing physical impairment.

Sec. 86. Minnesota Statutes 1982, section 176.131, subdivision 4, is amended to read:

Subd. 4. Any employer who hires or retains in (HIS) *its* employment any person who has a physical impairment shall file a formal registration for (EACH SUCH) *the* employee with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY IN SUCH) *on a form (AS) prescribed by the commissioner (MAY REQUIRE).*

Sec. 87. Minnesota Statutes 1982, section 176.131, subdivision 5, is amended to read:

Subd. 5. Registration under this section may be made by the employee or any employer provided:

(a) Registration (SHALL BE) *is* accompanied by satisfactory evidence of (SUCH) *the* physical impairment;

(b) Registration (SHALL BE) *is* in effect as long as (SAID) *the* impairment exists;

(c) Upon request, a registered employee shall be furnished by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) with a registration card evidencing the (FACT OF) registration, and (SUCH) other facts as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) deems advisable.

Sec. 88. Minnesota Statutes 1982, section 176.131, subdivision 6, is amended to read:

Subd. 6. When the employer claims reimbursement from the special compensation fund after paying compensation as prescribed by this section, (HE) *the employer* shall file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) written notice of intention to claim reimbursement in accordance with the rules (AND REGULATIONS OF) *adopted by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY).*

Sec. 89. Minnesota Statutes 1982, section 176.131, subdivision 7, is amended to read:

Subd. 7. Under subdivisions 1 and 2, an occupational disease may be deemed to be the personal (second) injury.

If the subsequent disability for which reimbursement is claimed is an occupational disease, and if, subsequent to registration as provided by subdivisions 4 and 5, the employee has been employed by the employer in employment similar to that which initially resulted in (SUCH) *the* occupational disease, no reimbursement shall be paid to the employer.

Sec. 90. Minnesota Statutes 1982, section 176.131, subdivision 8, is amended to read:

Subd. 8. As used in this section the following terms have the meanings given them:

"Physical impairment" means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment (PROVIDED) *except* that (,) physical impairment (AS USED HEREIN) is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,
- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,

(n) Thrombophlebitis,

(o) Brain tumors,

(p) Pott's disease,

(q) Seizures,

(r) Cancer of the bone,

(s) Leukemia,

(t) Any other physical impairment for which at least 50 weeks or more of weekly benefits would be payable as permanent partial disability if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

((P)) (u) Any other physical impairments of a permanent nature which the (WORKERS' COMPENSATION COURT OF APPEALS) commissioner may by rule prescribe;

"Compensation" has the meaning defined in section 176.011;

"Employer" includes insurer;

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or (RETRAINING) rehabilitation.

Sec. 91. Minnesota Statutes 1982, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to the effective date of clause (b) for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as (HEREIN-AFTER) prescribed in this section after 104 weeks have elapsed and for the remainder of (HIS) the total disablement. Regardless of the number of weeks of total disability, no totally disabled person (SHALL BE) is ineligible for supplementary benefits after four years have elapsed since the first date of (HIS) the total disability, except as provided by clause (b), provided that all periods of disability are caused by the same injury.

(b) An employee injured after the effective date of this clause is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of

total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after six years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 92. Minnesota Statutes 1982, section 176.132, is amended by adding a subdivision to read:

Subd. 5. [ROUNDING OF PAYMENTS.] A payment made under this section shall be rounded to the next highest whole dollar.

Sec. 93. Minnesota Statutes 1982, section 176.134, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The commissioner (OF LABOR AND INDUSTRY) shall administer the reopened case fund as part of the special compensation fund provided that the reopened case fund is under separate accounting and audit procedures from the special fund.

Sec. 94. Minnesota Statutes 1982, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] The employer shall furnish (SUCH) any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. (SUCH) This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of his inability or refusal seasonably to do so the employer (SHALL BE) is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of (A COMPENSATION JUDGE) the commissioner or medical services review board with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party or by writ of certiorari to the supreme court.

Sec. 95. Minnesota Statutes 1982, section 176.135, subdivision 3, is amended to read:

Subd. 3. [LIMITATION OF LIABILITY.] The pecuniary liability of the employer for the treatment, articles and supplies required by this section shall be limited to (SUCH) *the* charges therefor as prevail in the same community for similar treatment, articles and supplies furnished to injured persons of a like standard of living when the same are paid for by the injured persons. On this basis the (COMPENSATION JUDGE) *commissioner, medical services review board, or workers' compensation court of appeals* on appeal may determine the reasonable value of all such services and supplies and the liability of the employer is limited to the amount so determined.

Sec. 96. Minnesota Statutes 1982, section 176.136, is amended to read:

176.136 [MEDICAL FEE REVIEW.]

The commissioner (OF 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), *medical services review board, the workers' compensation court of appeals or a district court* determines that the charge for a health service or medical service is excessive, no payment 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 ap-

peal such determination. The commissioner (OF INSURANCE) shall contract with a review organization as defined in section 145.61 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. *If upon the effective date of this section this study has already been conducted by the commissioner of insurance, the commissioner is not required to conduct the study.*

The commissioner (OF INSURANCE) shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 14.14, subdivision 1, 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 sections 14.13 to 14.20 or 14.21 to 14.28, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

Any rules adopted by the commissioner of insurance pursuant to this section shall be adopted by the commissioner of labor and industry and may be amended, modified, or repealed only by the commissioner of labor and industry.

Sec. 97. [176.138] [MEDICAL DATA; ACCESS.]

Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. Requests for pertinent data shall be made in writing to the person or organization that collected or currently possesses the data. The data shall be provided by the collector or possessor within seven working days of receiving the request. In all cases of a request for the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made. This data shall be treated as private data by the party who requests or receives the data and the employee or the employee's attorney shall be provided with a copy of all data requested.

The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not release the data in a timely manner. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor.

Sec. 98. Minnesota Statutes 1982, section 176.155, subdivision 3, is amended to read:

Subd. 3. [REFUSAL TO BE EXAMINED.] If the injured employee refuses to comply with any reasonable request for examination, (HIS) *the right to compensation may be suspended by order of the division, a compensation judge, or workers' compensation court of appeals in a matter before it, and no compensation shall be paid while (HE) the employee continues in (SUCH) the refusal.*

Sec. 99. Minnesota Statutes 1982, section 176.155, subdivision 5, is amended to read:

Subd. 5. [TESTIMONY OF (EXAMINING PHYSICIANS) HEALTH CARE PROVIDER.] Any physician or other health care provider designated by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY), compensation judge, or workers' compensation court of appeals or whose services are furnished or paid for by the employer, who treats (OR WHO MAKES), examines, or is present at any examination, of an injured employee, may be required to testify as to any knowledge acquired by (HIM) *the physician or health care provider in the course of (SUCH) the treatment or examination relative to the injury or disability resulting (THEREFROM) from the injury only if the commissioner or a compensation judge makes a written finding that the appearance of the physician or health care provider is crucial to the accurate determination of the employee's disability. In all other cases all medical evidence must be submitted by written report as prescribed by the chief hearing examiner. A party may cross-examine by deposition a physician or health care provider who has examined or treated the employee. If a physician or health care provider is not available for cross-examination prior to the hearing and the physician's or health care provider's written report is submitted at the hearing, the compensation judge shall, upon request of the adverse party, require the physician or health care provider to testify at the hearing for the purpose of being cross-examined by the adverse party. All written medical evidence must be submitted prior to or at the time of the hearing and no evidence shall be considered which was submitted after the hearing unless the compensation judge orders otherwise.*

Sec. 100. Minnesota Statutes 1982, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, *a compensation judge*, or court of appeals relative to a claim by an injured employee or (HIS) *the employee's* survivors, and received in good faith by the employee or (HIS) *the employee's* survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a credit against future benefit entitlement; provided, however, that the credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits or death benefits shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 101. Minnesota Statutes 1982, section 176.182, is amended to read:

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 *for the doing of any public work* before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

This section shall not be construed to create any liability on the part of the state or any governmental subdivision to pay workers' compensation benefits or to indemnify the special compensation fund, an employer, or insurer who pays workers' compensation benefits.

Sec. 102. Minnesota Statutes 1982, section 176.183, subdivision 1, is amended to read:

Subdivision 1. When any employee (SHALL SUSTAIN) *sustains an injury arising out of and in the course of (HIS) employment while in the employ of an employer, other than the state or its political subdivisions, not insured or self-insured as provided for in this chapter, the employee or (HIS) the employee's dependents shall nevertheless receive benefits as provided for (THEREIN) in this chapter from the special compensation fund, and the (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) commissioner has a cause of action against (SUCH) the employer for reimbursement for all moneys paid out or to be paid out, and, in the discretion of the court, as punitive damages an additional amount not exceeding 50 percent of all moneys paid out or to be paid out. An action to recover (SUCH) the moneys shall be instituted unless the (CUSTODIAN) commissioner determines that no recovery is possible. All moneys recovered shall be deposited in the general fund. There shall be no payment from the special compensation fund if there is liability for the injury under the provisions of section 176.215, by an insurer or self-insurer.*

Sec. 103. Minnesota Statutes 1982, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or (HIS) *the employee's* dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but *the self-insurer fails to (BE PAID THEM) pay the benefits,* the employee or (HIS) *the employee's* dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive (SUCH) *the* benefits from the special compensation fund (, AND). The (STATE TREASURER AS CUSTODIAN OF SUCH FUND SHALL HAVE) *commissioner has a cause of action against (SUCH) the self-insuring employer for reimbursement (,) for all (MONEYS) benefits and other expenditures paid out or to be paid out and, in the discretion of the court, (AS) the self-insurer is liable for punitive damages in an (ADDITIONAL) amount not to exceed 50 percent of the total of all (MONEYS) benefits and other expenditures paid out or to be paid out. The commissioner shall institute an action to recover (SUCH MONEYS SHALL BE INSTITUTED) the total expenditures from the fund unless the (CUSTODIAN) commissioner determines that no recovery is possible. All (MONEYS) proceeds recovered shall be deposited in the general fund.*

Sec. 104. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 3. (a) *Notwithstanding subdivision 2, the commissioner may direct payment from the special compensation fund for compensation payable pursuant to subdivisions 1 and 1a, including benefits payable under sections 176.102 and 176.135,*

prior to issuance of an order of a compensation judge or the workers' compensation court of appeals directing payment or awarding compensation.

(b) *The commissioner may suspend or terminate an order under clause (a) for good cause as determined by the commissioner.*

Sec. 105. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

Subd. 4. If the commissioner authorizes the special fund to commence payment under this section, the commissioner shall serve notice by certified mail upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.

Sec. 106. Minnesota Statutes 1982, section 176.185, is amended by adding a subdivision to read:

Subd. 10. [DATA COLLECTION CONTRACTS.] The commissioner may contract with other parties regarding the collection of appropriate data to assist in meeting the requirements of this section.

Sec. 107. [176.186] [RECORDS FROM OTHER STATE AGENCIES.]

Notwithstanding any other state law to the contrary, the commissioner may obtain from the department of revenue, department of economic security, and office of the secretary of state, or any other state agency, upon request, names or lists of employers doing business in the state. This information shall be treated by the commissioner in the manner provided by chapter 18 and shall be used only for insurance verification by the commissioner.

Sec. 108. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 5. Where a dispute exists between an employer, insurer, the special compensation fund, the reopened case fund, or the workers' compensation reinsurance association, regarding benefits payable under this chapter, the dispute may be submitted with consent of all interested parties to binding arbitration pursuant to the rules of the American arbitration association. The decision of the arbitrator shall be conclusive with respect to all issues presented except as provided in subdivisions 6 and 7. Consent of the employee is not required for submission of a dispute to arbitration pursuant to this section and the employee is not bound by the results of the arbitration. An arbitration award shall not be admissible in any other proceeding under this chapter. Notice of the proceeding shall be given to the employee.

The employee, or any person with material information to the facts to be arbitrated, shall attend the arbitration proceeding if any party to the proceeding deems it necessary. Nothing said by an employee in connection with any arbitration proceeding may be used against the employee in any other proceeding under this chapter. Reasonable expenses of meals, lost wages, and travel of the employee or witnesses in attending shall be reimbursed on a pro rata basis.

Sec. 109. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 6. If the employee commences an action under this chapter for benefits arising out of the same injury which resulted in the dispute arbitrated under subdivision 5, and if the benefits awarded to the employee under the employee's claim are inconsistent with the arbitration decision, any increase in benefits over those paid pursuant to the arbitration proceeding is paid by the party or parties who ordinarily would have been required to pay the increased benefits but for the arbitration. Any reimbursement from the employee of any decrease in benefits from those paid pursuant to the arbitration is paid to the party or parties who previously had paid the increased benefits. The provisions of this subdivision apply regardless of whether more or fewer employers and insurers or the special fund have been added or omitted as parties to the employee's subsequent action after arbitration.

Sec. 110. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 7. If an employee brings an action under the circumstances described in subdivision 6, the parties to the previous arbitration may be represented at the new action by a common or joint attorney.

Sec. 111. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

Subd. 8. No attorney's fees shall be awarded under either section 176.081, subdivision 8, or 176.191 against any employer or insurer in connection with any arbitration proceeding unless the employee chooses to retain an attorney to represent the employee's interests during arbitration.

Sec. 112. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 1a. [ADDITIONAL GROUNDS.] Where an insurer or agent of an insurer has failed to comply with provisions of this chapter, other than the provisions in subdivision 1, the commissioner of insurance may revoke the license of the insurer to write workers' compensation insurance.

Sec. 113. Minnesota Statutes 1982, section 176.195, subdivision 2, is amended to read:

Subd. 2. [COMMENCEMENT OF PROCEEDINGS.] (SUCH) The commissioner of insurance may act under subdivision 1 or 1a upon his own motion, the recommendation of the commissioner (OF THE DEPARTMENT) of labor and industry, the chief hearing examiner, or the workers' compensation court of appeals, or the complaint of any interested person.

Sec. 114. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

Subd. 7. [REPORT TO COMMISSIONER OF INSURANCE.] The commissioner may send reports to the commissioner of insurance regarding compliance with this chapter by insurers writing workers' compensation insurance. A report may include a recommendation for revocation of an insurer's license under this section and may also recommend the imposition of other penalties which may be imposed upon insurers by the commissioner of insurance.

Sec. 115. Minnesota Statutes 1982, section 176.221, is amended to read:

176.221 [PAYMENT OF COMPENSATION AND TREATMENT CHARGES, COMMENCEMENT.]

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of *temporary* total 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) *If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be (DISCONTINUED) terminated upon (NOTICE OF DISCONTINUANCE PURSUANT TO SECTION 176.241) the filing of a notice of denial of liability.* Upon the (DETERMINATION) termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. *A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.*

Subd. 2. [GRANT OF EXTENSION.] Upon application made within 30 days (AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE) *of notice to or knowledge by the employer of the injury, the commissioner may grant an extension of time within which to determine liability. The extension shall not exceed 30 days from the date the request for the extension is made. The application or grant of extension does not release the employer of the obligation to commence payment under subdivision 1 or to continue payments.*

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) *pursuant to subdivision 1, or to file a denial of liability within the 14-day period referred to in subdivision 1, (OR TO REQUEST AN EXTENSION OF TIME WITHIN 30 DAYS AFTER THE DATE ON WHICH THE FIRST PAYMENT WAS DUE, HE) it 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 PERIOD AND UNTIL A) to receive up to the date 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 30 DAYS FROM THE END OF THE 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 or compensation judge shall assess the penalty payments provided for by (SUBDIVISIONS) *subdivision 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 *it even if the delay is attributable to the employer.*

An insurer who has paid a penalty under this section may recover from the employer the portion of the penalty attributable to the acts of the employer which resulted in the delay. A penalty paid by an insurer under this section which is attributable to the fault of the employer shall be treated as a loss in an experience rated plan, retrospective rating plan, or dividend calculation where appropriate.

Subd. 6a. [MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT COMPENSATION.] *The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivision 9, economic recovery compensa-*

tion or impairment compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Subd. 7. [INTEREST.] Any payment of compensation, charges for treatment under section 176.135 or (RETRAINING) *rehabilitation* expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent (PER ANNUM) *a year* from the due date to the date the payment is made or the rate set by section 549.09, subdivision 1, whichever is greater.

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 *the filing of* an appropriate order by the division or a *compensation judge*, unless the order is (TO BE) appealed (,) or (WHERE) if a different time period is provided by this chapter.

Sec. 116. Minnesota Statutes 1982, section 176.225, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] Upon reasonable notice and hearing or opportunity to be heard, the division, *a compensation judge*, or upon appeal, the workers' compensation court of appeals or the supreme court may award compensation, in addition to the total amount of compensation award, of up to 25 percent of that total amount where an employer or insurer has:

(a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,

(b) unreasonably or vexatiously delayed payment; or,

(c) neglected or refused to pay compensation; or,

(d) intentionally underpaid compensation.

Sec. 117. Minnesota Statutes 1982, section 176.225, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF BOOKS AND RECORDS.] To determine whether an employer or insurer (HAS BECOME SUBJECT TO) *is liable for* the payment provided by subdivision 1, the division, *a compensation judge*, or the workers' compensation court of appeals upon appeal may examine the books and records of the (PERSON) *employer or insurer* relating to the payment of compensation, and may require (HIM) *the employer*

or insurer to furnish any other information relating to the payment of compensation.

Sec. 118. Minnesota Statutes 1982, section 176.225, subdivision 3, is amended to read:

Subd. 3. [DEFIANCE OF DIVISION, COMPENSATION JUDGE, OR WORKERS' COMPENSATION COURT OF APPEALS, COMPLAINT.] (WHERE) *If* an insurer persists in an action or omission listed in subdivision 1, or does not permit the examination of (HIS) books and records, or fails to furnish (SUCH) information as required, the commissioner *or the chief hearing examiner* shall file a written complaint with the insurance commissioner. The complaint shall specify the facts and recommend the revocation of the license of the insurer to do business in this state. The workers' compensation court of appeals may also file (SUCH) *a* written complaint.

Sec. 119. Minnesota Statutes 1982, section 176.231, subdivision 3, is amended to read:

Subd. 3. [PHYSICIANS, CHIROPRACTORS, OR (SURGEONS) OTHER HEALTH CARE PROVIDERS TO REPORT INJURIES.] (WHERE) A physician (OR SURGEON), *chiropractor, or other health care provider who* has examined, treated, or has special knowledge of an injury to an employee which may be compensable under this chapter, (HE) shall report to the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) all facts relating to the nature and extent of the injury and disability, *and the treatment provided for the injury or disability*, within ten days after (HE) *the health care provider* has received a written request for (SUCH) *the* information from the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) or (ANY MEMBER OR EMPLOYEE THEREOF) *an authorized representative of the commissioner.*

Sec. 120. Minnesota Statutes 1982, section 176.231, subdivision 4, is amended to read:

Subd. 4. [SUPPLEMENTARY REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY,) or (ANY MEMBER OR EMPLOYEE THEREOF,) *an authorized representative* may require the filing of (SUCH) supplementary reports of accidents as (IT DEEMS) *is deemed* necessary to provide information required by law.

Supplementary reports related to the current nature and extent of the employee's injury, disability, or treatment may be requested from a physician, surgeon, chiropractor, or other health care provider by the commissioner or a representative, an employer or insurer, or the employee.

Sec. 121. Minnesota Statutes 1982, section 176.231, subdivision 5, is amended to read:

Subd. 5. [FORMS FOR REPORTS.] The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall *by rule* prescribe forms for use in making the reports required by this section. The *first report of injury* form which the employer submits (WITH REFERENCE TO AN ACCIDENT) shall include a declaration by the employer (THAT HE WILL) of a promise to pay the compensation the law requires. *Forms for reports required by this section shall be as prescribed by the commissioner and shall be the only forms used by an employer, insurer, self-insurer, group self-insurer, and all health care providers.*

Sec. 122. Minnesota Statutes 1982, section 176.231, subdivision 9, is amended to read:

Subd. 9. [USES WHICH MAY BE MADE OF REPORTS.] Reports filed with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics.

The division or office of administrative hearings or workers' compensation court of appeals may permit an attorney at law who represents an employer, insurer, or an employee or (HIS) a dependent to examine its file in a compensation case if the attorney furnishes written authorization to do so from (HIS) the attorney's client. Reports filed under this section and other information the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 123. Minnesota Statutes 1982, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] (WHERE) *If an employer, physician, (OR SURGEON HAS FAILED) chiropractor, or other health provider fails to file with the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) any report required by this section in the manner and within the time limitations prescribed, (HE SHALL FORFEIT TO THE STATE \$50) or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each (SUCH) failure.*

The attorney general shall sue in a civil action to collect this penalty upon notification of the matter by the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY). The commissioner (OF THE DEPARTMENT OF LABOR AND

INDUSTRY) shall certify to the attorney general each failure to report immediately upon its occurrence.

Penalties collected by the state under this subdivision shall be paid into the state treasury.

Sec. 124. Minnesota Statutes 1982, section 176.241, subdivision 2, is amended to read:

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except (WHERE) *when* the commissioner 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 or *compensation judge* as provided in the following subdivisions.

Sec. 125. Minnesota Statutes 1982, section 176.241, subdivision 4, is amended to read:

Subd. 4. [ORDER.] When the hearing has been held (,) and (HE HAS DULY CONSIDERED) the evidence *duly considered*, the person who held the hearing shall promptly enter an order directing the payment of further compensation or confirming the termination of compensation. (WHERE) *If* the order confirms a termination of compensation, (THE COMMISSIONER OF LABOR AND INDUSTRY SHALL NOTIFY THE EMPLOYER OF THE ACTION. THIS NOTIFICATION) *the service and filing of the order* relieves the employer from further liability for compensation subject to the right of review afforded by this chapter, and to the right of the (DIVISION) *compensation judge* to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. *Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order but the court of appeals may remand the matter to a compensation judge for a new hearing.*

Sec. 126. [176.242] [ADMINISTRATIVE CONFERENCE PRIOR TO DISCONTINUANCE OF COMPENSATION.]

Subdivision 1. [NOTICE OF DISCONTINUANCE; GROUNDS.] *If an employer or insurer files a notice of intention to discontinue, the employer or insurer shall serve a copy upon the commissioner and the employee including detailed reasons for the intended discontinuance.*

Subd. 2. [CONFERENCE, REQUEST.] (a) *The employee has ten calendar days from the date the notice was served to request that the commissioner schedule an administrative conference to determine the appropriateness of the proposed discontinuance. The employer or insurer may request an administrative conference under this section at any time whether or not a notice of intent to discontinue is filed. The commissioner shall schedule an administrative conference to be held within ten calendar days after the commissioner receives timely notice of the employee's or employer's request for an administrative conference.*

(b) *If the employee does not, in a timely manner, request that the commissioner schedule an administrative conference, or fails to appear, without good cause, at a scheduled conference, compensation may be discontinued, subject to the employee's right under section 176.241.*

(c) *An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner determines that good cause exists for granting a continuance the commissioner may grant the continuance which shall not exceed ten calendar days. No more than one continuance shall be granted. If the employee is granted a continuance, compensation need not be paid during the period of continuance but shall recommence upon the date of the conference unless the commissioner orders otherwise.*

(d) *The purpose of an administrative conference is to determine whether reasonable grounds exist for a discontinuance and to clarify issues and resolve disputes regarding the discontinuance.*

Subd. 3. [NECESSITY FOR CONFERENCE, COMMISSIONER'S DISCRETION.] *The commissioner may determine that no administrative conference is necessary under this section and permit the employer or insurer to discontinue compensation, subject to the employee's right under section 176.241.*

The commissioner may permit compensation to be discontinued at any time after a notice pursuant to subdivision 1 is received even if no administrative conference has been held, if the commissioner deems the discontinuance appropriate based on the information the commissioner has; subject to the employee's right under section 176.241.

Subd. 4. [ADMINISTRATIVE DECISION.] *After considering the information provided by the parties at the administrative conference, the commissioner shall issue to all interested parties a written administrative decision permitting or denying the employer's or insurer's request to discontinue compensation. The decision shall be issued within five working days from the close of the conference. The commissioner's decision is binding.*

on the parties. The commissioner shall advise all parties of the right to petition to the chief hearing examiner under section 176.241 and of the right to be represented by an attorney at a hearing before a compensation judge.

Subd. 5. [OBJECTION TO DECISION.] If the commissioner grants the employer's or insurer's request to discontinue compensation and the employee objects to the discontinuance, the employee may file an objection to discontinuance under section 176.241. If the commissioner denies the request to discontinue compensation the employer or insurer may file a petition to discontinue under section 176.241.

Subd. 6. [EFFECT OF DECISION, APPEAL.] If an objection or a petition is filed under subdivision 5, the commissioner's administrative decision remains in effect and the parties' obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge.

Subd. 7. [DECISION AS NOTICE.] If a party proceeds under subdivision 5, the commissioner's administrative decision under this section is deemed required notice to interested parties under section 176.241 and the commissioner's obligations under section 176.241 are deemed to be met.

Subd. 8. [WHEN DISCONTINUANCE ALLOWED.] Compensation shall not be discontinued prior to an administrative conference except as provided under subdivision 2, clause (b) or if the commissioner determines pursuant to subdivision 3 that no administrative conference is necessary. The employer may discontinue compensation immediately without having an administrative conference if the discontinuance is because the employee has returned to work.

Subd. 9. [NOTICE, FORMS.] Notice to the employee under subdivision 1 shall be on forms prescribed by the commissioner.

Subd. 10. [FINES, VIOLATIONS.] An employer or insurer who discontinues compensation in violation of this section is subject to a fine of up to \$500 for each violation. Fines shall be paid to the special compensation fund.

Subd. 11. [APPLICATION.] This section is applicable to any notice of intent to discontinue which is filed after the effective date of this section, even if the injury occurred prior to the effective date of this section.

Sec. 127. [176.243] [ADMINISTRATIVE CONFERENCE FOLLOWING RETURN TO WORK, SUBSEQUENT INABILITY TO WORK.]

Subdivision 1. [CONFIRMATION OF EMPLOYMENT AND WAGES.] *If an insurer has discontinued compensation to an employee because the employee has returned to work, the insurer shall contact the employer by whom the employee is employed 14 calendar days after return to work. The insurer shall determine whether the employee is still employed after 14 days and shall also ascertain the wages being paid to the employee.*

Subd. 2. [NOTICE TO COMMISSIONER.] *If upon contact the insurer determines that the employee is not working or that the employee is earning a lower wage than at the time of the injury, the insurer shall notify the commissioner in writing of this fact and shall also state the actions that the insurer has taken or intends to take regarding payment of compensation. A copy of this notice shall be served by the insurer by certified mail to the employee.*

Subd. 3. [EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFERENCE.] *If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee, the employee may request an administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.*

Subd. 4. [ADMINISTRATIVE DECISION.] *After considering the information provided by the parties at the administrative conference the commissioner shall issue to all interested parties a written administrative decision regarding payment of compensation. The commissioner's decision is binding upon the parties and the rights and obligations of the parties are governed by the decision. The commissioner shall advise all parties of the right to petition to the chief hearing examiner under section 176.241 and of the right to be represented by an attorney at a hearing before a compensation judge. A party aggrieved by the commissioner's decision may proceed under section 176.241.*

Subd. 5. [DECISION BINDING PENDING COMPENSATION JUDGE DECISION.] *If an aggrieved party files a petition under section 176.241, the commissioner's administrative decision remains in effect pending a determination by a compensation judge.*

Subd. 6. [DECISION AS NOTICE.] *If a party proceeds under section 176.241, the commissioner's administrative decision is deemed to fulfill the division's obligations under section 176.241.*

Subd. 7. [OBLIGATIONS PRIOR TO ADMINISTRATIVE DECISION.] *If an insurer has not voluntarily recommenced*

compensation following the employee's cessation of work, the insurer is not obligated to do so until an administrative conference is held and unless the commissioner determines that compensation shall be recommenced.

Subd. 8. [NECESSITY OF ADMINISTRATIVE CONFERENCE.] If the commissioner deems it appropriate, based upon information the commissioner has, the commissioner may determine that an administrative conference is not necessary, in which case a party may proceed under section 176.241.

Subd. 9. [APPLICATION OF SECTION.] This section applies only when the employee has received at least 60 days of temporary total or temporary partial compensation prior to return to work and if no rehabilitation plan has been approved.

Subd. 10. [NOTICE FORMS.] A notice under this section shall be on a form prescribed by the commissioner.

Subd. 11. [FINES, VIOLATIONS.] An employer or insurer who violates this section is subject to a fine of up to \$500 for each violation which shall be paid to the special compensation fund.

Subd. 12. [APPLICATION.] This section is applicable to all cases in which a return to work has occurred after the effective date of this section even if the injury occurred prior to the effective date.

Sec. 128. Minnesota Statutes 1982, section 176.281, is amended to read:

176.281 [ORDERS, DECISIONS, AND AWARDS; FILING; SERVICE.]

When the commissioner or compensation judge or office of administrative hearings or the workers' compensation court of appeals has rendered (AN) a final order, decision, or award, or amendment to an order, decision, or award, it shall be filed immediately with the commissioner. (WHERE) If the commissioner, compensation judge, office of administrative hearings, or workers' compensation court of appeals has rendered (AN) a final order, decision, or award, or amendment thereto, the commissioner or the office of administrative hearings or the workers' compensation court of appeals shall immediately serve a copy upon every party in interest, together with a notification of the (TIME) date the (SAME) order was filed.

Sec. 129. Minnesota Statutes 1982, section 176.285, is amended to read:

176.285 [SERVICE OF PAPERS AND NOTICES.]

Service of papers and notices shall be by mail or (BY SUCH OTHER MEANS) *otherwise* as the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY DIRECTS) *or the chief hearing examiner may by rule direct*. Where service is by mail, service is effected at the time mailed if properly addressed and stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served. However, a party may show by competent evidence that (HE) *that party* did not receive it or that it had been delayed in transit for an unusual or unreasonable period of time. In case of (SUCH) non-receipt or delay, an allowance shall be made for the party's failure to assert a right within the prescribed time.

The commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) *and the chief hearing examiner* shall (KEEP A CAREFUL RECORD OF EACH SERVICE INCLUDING THE TIME WHEN MADE) *ensure that proof of service of all papers and notices served by their respective agencies is placed in the official file of the case.*

Sec. 130. [176.312] [AFFIDAVIT OF PREJUDICE.]

An affidavit of prejudice for cause may be filed by a party to the claim against a compensation judge, in the same manner as an affidavit of prejudice is filed pursuant to law or rule of district court. The filing of an affidavit of prejudice against a compensation judge has the same effect and shall be treated in the same manner as in district court.

Sec. 131. Minnesota Statutes 1982, section 176.321, subdivision 1, is amended to read:

Subdivision 1. [FILING, SERVICE.] Within (TWENTY) 20 days after (HE HAS BEEN SERVED WITH A COPY) service of the petition, an adverse party (MAY) *shall serve and file (A VERIFIED) an answer to the petition. (WHEN HE FILES THE ANSWER,)* The party shall (ALSO) serve a copy of the answer on the petitioner or (HIS) *the petitioner's 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. 132. Minnesota Statutes 1982, section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT.]

(WHERE) *If an adverse party (HAS FAILED) fails to file and serve an answer (, IF) and the petitioner presents proof*

of (SUCH) *this* fact, the *commissioner* or compensation judge (SHALL) *may* enter whatever award or order to which the petitioner is entitled on the basis of the facts alleged in the petition, but the compensation judge may require proof of an alleged fact. If the commissioner requires (SUCH) proof, (HE) *the commissioner* shall request the chief hearing examiner to assign the matter to a compensation judge (TO SUMMARILY HEAR AND DETERMINE THE SAME) *for an immediate hearing and (TO PROMPTLY MAKE AN) prompt award or other order.*

Where in (SUCH) a default case the petition does not state facts sufficient to support an award, the compensation judge shall give the petitioner or (HIS) *the petitioner's* attorney written notice of this deficiency. The petitioner may thereupon *serve and* file another petition as in the case of an original petition.

Sec. 133. Minnesota Statutes 1982, section 176.341, is amended to read:

176.341 [HEARING ON PETITION.]

Subdivision 1. [TIME.] (WHEN THE REPLY HAS BEEN FILED OR THE TIME HAS EXPIRED IN WHICH TO FILE A REPLY) *Upon receipt of a matter from the commissioner,* the chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held 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 176.001) and the requirements of section 176.306.

Subd. 2. [PLACE.] Unless otherwise ordered by the (COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY OR COMPENSATION JUDGE) *chief hearing examiner,* the hearing shall be held in the county where the injury or death occurred.

Subd. 3. [NOTICE MAILED TO EACH PARTY.] At least (FIVE) 30 days prior to the date of hearing, the (WORKERS' COMPENSATION DIVISION) *chief hearing examiner* shall mail a notice of the time and place of hearing to each interested party. *This subdivision does not apply to hearings which have been continued from an earlier date. In those cases, the notice shall be given in a manner deemed appropriate by the chief hearing examiner after considering the particular circumstances in each case.*

Sec. 134. Minnesota Statutes 1982, section 176.361, is amended to read:

176.361 [INTERVENTION.]

(WHERE) A person *who* has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge (OF) such (A CHARACTER) that (HE) *the person* may either gain or lose by an order or decision (, HE) may intervene in the proceeding by filing an application in writing stating the facts which show (SUCH) *the* interest.

The commissioner of the department of labor and industry and workers' compensation court of appeals shall adopt rules to govern the procedure for intervention.

Sec. 135. Minnesota Statutes 1982, section 176.371, is amended to read:

176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hearing, shall hear all competent, *relevant* evidence produced at the hearing (, AND, AS SOON AFTER THE HEARING AS POSSIBLE, MAKE FINDINGS OF FACT, CONCLUSIONS OF LAW,). *All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner within 60 days after the submission, unless sickness or casualty prevents a timely filing, or the time is extended by written consent of the parties, or the chief hearing examiner extends the time for good cause. The compensation judge's decision shall include a determination of all contested issues of fact and law and an award or disallowance of compensation or other order as the pleadings, evidence, this chapter and rule require. A compensation judge's decision shall include a memorandum only if necessary to delineate the reasons for the decision or to discuss the credibility of witnesses. A memorandum shall not contain a recitation of the evidence presented at the hearing but shall be limited to the compensation judge's basis for the decision.*

No part of the salary of a compensation judge shall be paid unless the chief hearing examiner determines that all decisions of that judge have been issued within the time limit prescribed by this section.

Sec. 136. Minnesota Statutes 1982, section 176.421, subdivision 3, is amended to read:

Subd. 3. [NOTICE OF APPEAL.] The appellant or (HIS) *the appellant's* attorney shall prepare and sign a written notice of appeal specifying:

- (1) the order appealed from;
- (2) that appellant appeals from the order to the workers' compensation court of appeals;

(3) the particular finding of fact or conclusion of law which (HE) *the appellant* claims was unwarranted by the evidence or procured by fraud, coercion, or other improper conduct; and

(4) (THE TESTIMONY OR OTHER PART OF THE RECORD OF THE HEARING NECESSARY TO BE TRANSCRIBED IN ORDER FOR THE COURT OF APPEALS TO CONSIDER THE APPEAL; AND,)

((5)) any other ground upon which the appeal is taken.

An appeal initiates the preparation of a typewritten transcript of the entire record unless the appeal is solely from an award of attorney's fees or an award of costs and disbursements or unless otherwise ordered by the court of appeals. On appeals from an award of attorney's fees or an award of costs and disbursements, the appellant must specifically delineate in the notice of appeal the portions of the record to be transcribed in order for the court of appeals to consider the appeal.

Sec. 137. Minnesota Statutes 1982, 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 chief hearing examiner and file a copy with the commissioner;

(3) In order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25 (; AND)

((4) SUBMIT A REQUEST THAT THE CHIEF HEARING EXAMINER ORDER THE PREPARATION OF A TRANSCRIPT OF THAT PART OF THE HEARING DELINEATED IN THE NOTICE OF APPEAL).

(A PARTY WHO DESIRES A TRANSCRIPT OF MORE OF THE HEARING THAN HAS BEEN REQUESTED BY THE APPELLANT SHALL, WITHIN FIVE WORKING DAYS OF SERVICE OF THE NOTICE OF APPEAL, MAKE A REQUEST OF THE CHIEF HEARING EXAMINER THAT THE ADDITIONAL TESTIMONY BE TRANSCRIBED.)

The *first* party (REQUESTING THE PREPARATION OF THE TRANSCRIPT OR ANY PART) *to file an appeal* is liable for the *original* cost of preparation of the transcript. *Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy.* The cost of a transcript prepared by a non-governmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

Upon a showing of cause, the chief hearing examiner may direct that a transcript be prepared without expense to the party requesting its preparation, in which case the cost of the transcript shall be paid by the office of administrative hearings.

All fees received by the office of administrative hearings for the preparation of the record for submission to the workers' compensation court of appeals or for the cost of transcripts prepared by the office shall be deposited in the office of administrative hearings account in the state treasury and shall be used solely for the purpose of keeping the record of hearings conducted under this chapter and the preparation of transcripts of those hearings.

Sec. 138. Minnesota Statutes 1982, 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) *appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:*

(1) disregard the findings of fact which the compensation judge has made;

(2) examine the record;

(3) substitute for the findings of fact made by the compensation judge such findings as the total evidence requires; and,

(4) make an award or disallowance of compensation or other order as the facts and findings require.

Sec. 139. Minnesota Statutes 1982, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before (HIMSELF.) the commissioner and shall

provide a stenographer or an audio magnetic recording device to make (A) the record of the proceedings (BEFORE HIM).

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge (AND SHALL FIX THE AMOUNT OF THIS CHARGE) which shall be set by the commissioner. Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision.

Sec. 140. Minnesota Statutes 1982, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER (OF DEPARTMENT OF LABOR AND INDUSTRY).]

Any decision or determination of the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY) affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by (SUCH) the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner 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.

Sec. 141. Minnesota Statutes 1982, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except (WHERE) when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or (WHERE) if 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 working days after written notice to all interested parties, may set the award aside and grant a new hearing 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 an order of award or disallowance of compensation or other order (AS) based on the pleadings and the evidence produced and as required

by the provisions of this chapter (SHALL REQUIRE) or rules adopted under it.

Sec. 142. Minnesota Statutes 1982, 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, the workers' compensation court of appeals, and the district court 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 conclusively presumed to be reasonable, fair, and in conformity with this chapter *except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the division, a compensation judge, or workers' compensation court of appeals.*

The conclusive presumption in this subdivision applies to a settlement agreement entered into on or after January 15, 1982, whether the injury to which the settlement applies occurred prior to or on or after January 15, 1982.

Sec. 143. Minnesota Statutes 1982, section 176.521, subdivision 2a, is amended to read:

Subd. 2a. [SETTLEMENTS NOT SUBJECT TO APPROVAL.] When a settled case is not subject to approval, upon receipt of the stipulation for settlement, a compensation judge (OR), a settlement judge, *or the workers' compensation court of appeals* shall immediately sign the award and file it with the commissioner. Payment pursuant to the award shall be made within 14 days after it is filed with the commissioner. The commissioner may correct mathematical or clerical errors at any time.

Sec. 144. Minnesota Statutes 1982, section 176.521, subdivision 3, is amended to read:

Subd. 3. [SETTING ASIDE AWARD UPON SETTLEMENT.] Notwithstanding the provisions of section 176.521, subdivision 1, 2, or 2a, or any provision in the agreement of settlement to the contrary, *upon the filing of a petition by any party to the settlement and after a hearing on the petition*, the workers' compensation court of appeals may set aside an award made upon

a settlement, pursuant to this chapter. *In those cases, the workers' compensation court of appeals shall refer the matter to the chief hearing examiner for assignment to a compensation judge for hearing.*

Sec. 145. Minnesota Statutes 1982, section 176.561, is amended to read:

176.561 [WORKERS' COMPENSATION COURT OF APPEALS POWERS AND DUTIES AS TO STATE EMPLOYEES; PROCEDURE FOR DETERMINING LIABILITY.]

The division, a *compensation judge* and the workers' compensation court of appeals have the same powers and duties in matters relating to state employees as they have in relation to other employees.

Except as specifically provided otherwise (HEREIN) *in this chapter*, the procedure for determining the liability of the state for compensation is the same as that applicable in other cases.

Sec. 146. [176.572] [CONTRACT WITH INSURANCE CARRIERS.]

The commissioner may contract with group health insurance carriers or health maintenance organizations to provide health care services and reimburse health care payments for injured state employees entitled to benefits under this chapter.

Sec. 147. Minnesota Statutes 1982, section 176.571, subdivision 6, is amended to read:

Subd. 6. [FORMAL HEARING ON OBJECTIONS.] *If the commissioner (OF THE DEPARTMENT OF LABOR AND INDUSTRY SHALL HOLD) determines that a formal hearing on the objections which have been filed to the proposed order (WHERE THE CIRCUMSTANCES WARRANT SUCH) is warranted, the commissioner shall refer the matter to the chief hearing examiner for the assignment of a compensation judge who shall hold a hearing. (THE HEARING SHALL BE BEFORE A COMPENSATION JUDGE.)*

Sec. 148. Minnesota Statutes 1982, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2, 3a, and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multi-

plying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to adjustment and the numerator of which is the statewide average weekly wage for December 31, 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.

Sec. 149. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 10. [MULTIPLE EMPLOYERS OR INSURERS; LIABILITY.] The employer liable for the compensation for a personal injury under this chapter is the employer in whose employment the employee was last exposed to the hazard of the occupational disease claimed. In the event that the employer who is liable for the compensation had multiple insurers during the employee's term of employment, the insurer or self-insurer who was on the risk during the employee's last exposure to the hazard of the occupational disease claimed is the liable party.

Sec. 150. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease shall be 66-2/3 percent of the employee's weekly wage on the date of last exposure of the occupational disease claimed, subject to a maximum compensation equal to the maximum compensation in effect on the date of last exposure provided that the employee shall be immediately eligible for supplementary benefits if that employee's compensation is less than 65 percent of the statewide average weekly wage.

Sec. 151. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 13. [EMPLOYER RIGHT TO RECOVER.] An employer or insurer who has paid compensation pursuant to this section has a right of subrogation, indemnity, or contribution against an employer or insurer for whom the employee has previously worked during which time the employee was exposed to the hazard of the occupational disease claimed. This right shall be asserted in an action before a compensation judge or may be arbitrated pursuant to section 176.191, subdivisions 5 to 8.

Sec. 152. [176.83] [RULES.]

In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules shall have the force and effect of law and are binding on a compensation judge, workers' compensation court of appeals, rehabilitation review panel, and the medical services advisory board and shall include but are not limited to:

(a) rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services including registration fees to be paid by rehabilitation consultants and approved vendors under section 176.102. Registration fees set by the commissioner shall be set so that the total fees received approximate the amount appropriated for the function, plus the portion of general support costs and statewide indirect costs of the agency that is attributable to the function for which the fee is charged. Subsequent fee adjustments may be made without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102. These rules may also establish criteria regarding "reasonable moving expenses" under the section. The rules may also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation pursuant to this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant, provided that in absence of such rules this consultation shall be conducted pursuant to the provisions of this chapter governing rehabilitation consultation;

(b) rules establishing standards for reviewing and evaluating the clinical consequences of services provided by qualified rehabilitation consultants, approved registered vendors of rehabilitation services, and services provided to an employee by health care providers;

(c) rules establishing standards and procedures for determining whether or not charges for health services or rehabilitation services rendered under this chapter are excessive. In this regard, the standards and procedures shall be structured to determine what is necessary to encourage providers of health services and rehabilitation services to develop and deliver services for the rehabilitation of injured employees.

The procedures shall include standards for evaluating hospital care, other health care and rehabilitation services to insure that quality hospital, other health care, and rehabilitation is available and is provided to injured employees;

(d) rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the commissioner that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer. In addition, the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program.

A health or rehabilitation provider who is determined by the commissioner to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under chapter 176. A prohibition imposed on a provider under this clause may be grounds for revocation or suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

The rules adopted under this clause shall require insurers, self-insurers, and group self-insurers to report medical and other data necessary to implement the procedures required by this clause;

(e) rules establishing procedures and standards for the certification of physicians, chiropractors, podiatrists, and other health-care providers, including rules related to additional training and continuing education, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter;

(f) rules necessary for implementing and administering the provisions of sections 176.001, 176.131, 176.132, 176.134, 176.242, 176.243, 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111 provided that under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the

proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule;

(g) procedures required for the implementation and administration of section 176.129;

(h) rules to govern the procedure for intervention pursuant to section 176.361;

(i) joint rules with either or both the workers' compensation court of appeals and the chief hearing examiner which may be necessary in order to provide for the orderly processing of claims or petitions made or filed pursuant to chapter 176;

(j) rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "suitable gainful employment" and "independent contractor"; or

(k) forms and other reporting procedures to be used by an employer, insurer, medical provider, qualified rehabilitation consultant, approved vendor of rehabilitation services, attorney, employee, or other person subject to the provisions of this chapter.

The chief hearing examiner shall adopt rules relating to procedures in matters pending before a compensation judge in the office of administrative hearings.

The commissioner may adopt rules regarding requirements which must be met by individuals who are employed by insurers or self-insurers or claims servicing or adjusting agencies and who work as claims adjusters in the field of workers' compensation insurance.

The commissioner may adopt temporary rules establishing qualifications necessary to be a qualified rehabilitation consultant and penalties to be imposed against qualified rehabilitation consultants or approved vendors who violate this chapter or rules, including temporary rules, adopted under this chapter. In addition to the provisions of sections 14.29 to 14.36, at least one public hearing shall be held prior to the adoption of these temporary rules.

Sec. 153. [176.84] [SPECIFICITY OF NOTICE OR STATEMENT.]

All notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102, 176.103, 176.221, 176.241, 176.242, and 176.243, shall be sufficiently specific to convey clearly, without further inquiry,

the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.

Sec. 154. [176.85] [PENALTIES; APPEALS.]

Subdivision 1. [APPEAL PROCEDURE.] If the commissioner has assessed a penalty against a party subject to this chapter and the party believes the penalty is not warranted, the party may request that a formal hearing be held on the matter. Upon a request for a hearing the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge or hearing examiner.

The chief hearing examiner shall keep a record of the proceeding and provide a record pursuant to section 176.421.

The decision of the compensation judge or hearing examiner shall be final and shall be binding and enforceable. The decision may be appealed to the workers' compensation court of appeals.

Subd. 2. [EXCEPTION.] This section does not apply to penalties for which another appeal procedure is provided, including but not limited to penalties imposed pursuant to sections 176.102 or 176.103.

Subd. 3. [HEARING COSTS.] For purposes of this section, a hearing before a hearing examiner shall be treated in the same manner as a hearing before a compensation judge and no costs may be charged to the commissioner for the hearing, regardless of who hears it.

Sec. 155. Minnesota Statutes 1982, section 268.08, subdivision 3, is amended to read:

Subd. 3. [NOT ELIGIBLE.] An individual shall not be eligible to receive benefits for any week with respect to which he is receiving, has received, or has filed a claim for remuneration in an amount equal to or in excess of his weekly benefit amount in the form of

(1) termination, severance, or dismissal payment or wages in lieu of notice whether legally required or not; provided that if a termination, severance, or dismissal payment is made in a lump sum, the employer may allocate such lump sum payment over a period equal to the lump sum divided by the employee's regular pay while employed by such employer; provided any

such payment shall be applied for a period immediately following the last day of work but not to exceed 28 calendar days; or

(2) vacation allowance paid directly by the employer for a period of requested vacation, including vacation periods assigned by the employer under the provisions of a collective bargaining agreement, or uniform vacation shutdown; or

(3) compensation for loss of wages under the workers' compensation law of this state or any other state or under a similar law of the United States, or under other insurance or fund established and paid for by the employer *except that this does not apply to an individual who is receiving temporary partial compensation pursuant to section 176.101, subdivision 3j*; or

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

(5) 50 percent of a primary insurance benefit under Title II of the social security act as amended, or similar old age benefits under any act of congress or this state or any other state.

Provided, that if such remuneration is less than the benefits which would otherwise be due under sections 268.03 to 268.24, he shall be entitled to receive for such week, if otherwise eligible, benefits reduced by the amount of such remuneration; provided, further, that if the appropriate agency of such other state or the federal government finally determines that he is not entitled to such benefits, this provision shall not apply.

Sec. 156. Minnesota Statutes 1982, section 471.982, subdivision 2, is amended to read:

Subd. 2. The commissioner of insurance is authorized to (PROMULGATE) *adopt* administrative rules, including emergency rules pursuant to sections 14.01 to 14.70. These rules may provide standards or guidelines governing the formation, operation, administration, dissolution of self insurance pools, and other reasonable requirements to further the purpose of this section (AND). *In developing the rules under this section, the commissioner shall (AT A MINIMUM REQUIRE) consider the following:*

(a). *The requirements for self-insuring pools of political subdivisions shall be no more restrictive and may be less restrictive than the requirements for self-insuring pools of private employers;*

(b) All participants in the pool are jointly and severally liable for all claims and expenses of the pool;

((B)) (c) Each pool shall contract with a service company licensed by the commissioner to provide or contract for all administrative services required by the pool. No vendor of risk management services or entity administering a self insurance plan under this section may transact such business in this state unless it is licensed to do so by the commissioner. 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 is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner may issue a license subject to restrictions or limitations upon the authorization, including the type of services which may be supplied or the activities which may be engaged in. The license fee shall be \$100. All licenses shall be for a period of two years;

((C)) (d) The service company has sole responsibility for the settlement of all claims against the pool or its members for which the pool may provide indemnification;

((D)) (e) A minimum premium volume for each pool shall be established. The minimum premium volume may differ because of the kinds of coverage provided, and the limits of liability for the coverage;

((E)) (f) All premiums or other assessments due to the pool from members shall be payable prior to the period for which coverage is being provided, or at equal intervals throughout the period;

((F)) (g) Premiums shall (EITHER) be (ESTABLISHED BY AN ACTUARY APPROVED BY THE COMMISSIONER OR SHALL BE PREMIUMS FILED BY A LICENSED RATE SERVICE ORGANIZATION WITH REDUCTIONS PERMITTED SOLELY FOR ADMINISTRATIVE OR PREMIUM TAX SAVINGS) *neither excessive, inadequate, nor unfairly discriminatory*;

((G)) (h) The commissioner may require each pool to purchase excess insurance above certain limits and in a particular form. The limits or form of the excess insurance may differ based on the kinds of coverage offered by a pool, the limits of liability of the coverage, and the revenues available to pool members for the payment of premiums or assessments;

((H)) (i) Each pool shall be audited annually by a certified public accountant;

((I)) (j) *Whether* limitations on the payment of dividends to pool members (MAY BE ESTABLISHED AS) *are* necessary

to assure the solvency of the pool in view of the taxing and levying authority of political subdivisions;

((J)) (k) No participant may withdraw from a pool for a period of at least three years after its initial entry into the pool;

((K)) (l) The amount of any liabilities in excess of assets shall be assessed to members of the pool within 30 days after a deficiency is identified and shall be payable by the member within 90 days;

((L)) (m) The investment policies of the pool shall be governed by the laws governing investments by cities pursuant to section 475.66;

((M)) (n) Pools shall be subject to the standards of unfair methods of competition and unfair or deceptive acts or practices established in chapter 72A;

((N)) (o) Other requirements that are necessary to protect the solvency of the pool, the rights and privileges of claimants against the pool, and citizens of the members of the pool shall be included in the rules.

Sec. 157. Minnesota Statutes 1982, section 471.982, is amended by adding a subdivision to read:

Subd. 3. The rules adopted pursuant to subdivision 2 shall not apply to self insurance pools established and open for enrollment on a statewide basis by the Minnesota league of cities insurance trust, the Minnesota school boards association insurance trust or the Minnesota association of counties insurance trust.

Sec. 158. [CITY OF DULUTH; GROUP WORKER'S COMPENSATION SELF INSURANCE POOLS.]

Subdivision 1. [FORMATION OF POOLS WITH PRIVATE EMPLOYERS.] Notwithstanding any contrary provision of other law, ordinance, or charter, the city of Duluth may enter into a self insurance pool with private employers to self insure worker's compensation liability of pool members. Any pool formed pursuant to this section shall be operated under bylaws established by members of the pool. The initial bylaws and amendments to them shall not be effective unless approved by the city of Duluth and the commissioner of insurance. The bylaws shall address the following subjects:

(a) Qualifications for group self insurer membership, including underwriting standards.

(b) *The method of selecting the board of directors, including the directors' terms of office.*

(c) *The procedure for amending the bylaws or plan of operation.*

(d) *Investment of assets of the fund.*

(e) *Frequency and extent of loss control or safety engineering services provided to members.*

(f) *A schedule for payment and collection of premiums.*

(g) *Expulsion procedures, including expulsion for nonpayment of premiums and expulsion for excessive losses.*

(h) *Delineation of authority granted to the administrator.*

(i) *Delineation of authority granted to the service company.*

(j) *Basis for determining premium contributions by members including any experience rating program.*

(k) *Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.*

(l) *Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.*

(m) *Provisions for security to be furnished by private employers to insure assessments are paid in case of private employer insolvency.*

The members participating in the pool may establish a joint board with appropriate powers to manage the pool. Each member of the pool shall pay to the pool the amounts assessed against it pursuant to the bylaws. A member may withdraw only after it has reimbursed the pool for the amounts for which it is obligated under the terms of the agreement.

Subd. 2. [APPROVAL OF COMMISSIONER.] *A pool formed pursuant to this section shall not be effective or begin operation until it has been approved by the commissioner of insurance in the manner provided in Minnesota Statutes, section 471.982. Section 471.982 and any applicable rules adopted pursuant to it shall apply to any pool formed pursuant to this section. A pool formed pursuant to this section shall be a member of the workers' compensation reinsurance association and shall be bound by its plan of operation.*

Sec. 159. [APPROPRIATIONS; COMPLEMENT INCREASE.]

Subdivision 1. [DEPARTMENT OF LABOR AND INDUSTRY.] (a) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$2,016,500	\$2,215,900

The approved complement of the department of labor and industry is increased by 90 of which 2 shall be federally funded and 19 shall be from the special compensation fund. The increased complement shall be allocated as follows:

- (1) workers' compensation administration, 1;*
- (2) records and compliance, 15;*
- (3) rehabilitation service, 20;*
- (4) legal services, 1;*
- (5) settlement and docket, 3;*
- (6) mediation and arbitration, 6;*
- (7) research and education, 8;*
- (8) information management service, 6;*
- (9) state employee fund, 6;*
- (10) general support, 8; and*
- (11) special compensation fund, 19.*

The appropriation provided by this clause (a) is for the purpose of paying for the increased general fund complement and expenses related to their duties.

The authorized complement for the records and compliance section shall be reduced by four positions by June 30, 1985.

(b) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984

1985

\$437,500

\$875,000

The appropriation provided by this clause (b) is for the purpose of paying the state's premium to the workers' compensation reinsurance association. The commissioner of finance shall transfer to the general fund from each federal fund, dedicated or special revenue fund, or revolving fund the proportion of premium costs attributable to that fund as calculated pursuant to section 4 of this article. The amounts necessary for this transfer are appropriated from the various funds in the state treasury from which salaries are paid.

(c) There is appropriated to the department of labor and industry for the fiscal years ending June 30 of the year indicated from the special compensation fund in the state treasury:

1984

1985

\$614,000

\$646,400

The funds appropriated by this clause (c) are to pay the expenses of the increased complement provided for the fund by clause (a) and expenses related to their duties and to reimburse the general fund for legal services performed on behalf of the fund by the attorney general.

Subd. 2. [OFFICE OF ADMINISTRATIVE HEARINGS.] There is appropriated to the office of administrative hearings for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984

1985

\$85,400

\$86,300

The approved complement of the office of administrative hearings is increased by two. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expenses related to their duties.

Subd. 3. [INSURANCE DIVISION.] There is appropriated to the department of commerce for its insurance division for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984

1985

\$230,800

\$229,100

The approved complement of the insurance division of the department of commerce is increased by seven. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expense related to their duties.

Subd. 4. [ATTORNEY GENERAL.] *There is appropriated to the office of the attorney general for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984	1985
\$201,500	\$204,900

The approved complement of the office of attorney general is increased by six. The appropriation provided by this subdivision is for the purpose of providing for the increased complement and expenses related to their duties.

Sec. 160. [REPEALER.]

Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262 are repealed.

Sec. 161. [SEVERABILITY.]

If any provision of this article is found to be unconstitutional and void, the remaining provisions of the article shall remain valid, unless the court finds the valid provisions of the article 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. 162. [EFFECTIVE DATE.]

Delete the title and insert:

"A bill for an act relating to labor; providing for comprehensive reform of all aspects of workers' compensation; ratifying

changes in the state employee bargaining unit composition schedule; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23, by adding a subdivision; 79.071, subdivision 1; 79.211, subdivision 1; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 1 and 3; 79.52, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 179.741, subdivision 1, and by adding a subdivision; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262."

A roll call was requested and properly seconded.

Knickerbocker moved to amend the Shea amendment to H. F. No. 575.

Swanson requested a division of the Knickerbocker amendment to the Shea amendment.

A roll call was requested and properly seconded.

The first portion of the Knickerbocker amendment to the Shea amendment reads as follows:

Page 1, after line 24, insert:

"Sec. 3. Minnesota Statutes 1982, section 79.071, subdivision 1a, is amended 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 *and the level of benefits* or order a hearing to determine whether and by what percentage the schedule of rates *or level of benefits* 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.

Renumber the remaining sections

Amend the title as necessary

Correct internal references

The question was taken on the first portion of the Knickerbocker amendment to the Shea amendment, and the roll call was called.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 27 yeas and 102 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Fjoslien	Jennings	Pauly	Uphus
Bishop	Forsythe	Johnson	Piepho	Waltman
Dempsey	Frerichs	Knickerbocker	Rose	Zaffke
DenOuden	Halberg	McKasy	Schoenfeld	
Erickson	Heap	Olsen	Schreiber	
Findlay	Hokr	Onnen	Thiede	

Those who voted in the negative were:

Anderson, B.	Eken	Krueger	Omann	Segal
Anderson, G.	Elioff	Kvam	Osthoff	Shaver
Battaglia	Ellingson	Larsen	Otis	Shea
Beard	Evans	Levi	Peterson	Sherman
Begich	Graba	Long	Piper	Simoneau
Bennett	Greenfield	Ludeman	Price	Skoglund
Bergstrom	Gustafson	Mann	Quinn	Solberg
Berkelman	Haukoos	McDonald	Quist	Sparby
Blatz	Heinitz	McEachern	Redalen	Stadum
Brinkman	Himle	Metzen	Rice	Staten
Burger	Hoberg	Minne	Riveness	Sviggum
Carlson, D.	Hoffman	Munger	Rodosovich	Swanson
Carlson, L.	Jacobs	Murphy	Rodriguez, C.	Tomlinson
Clark, J.	Jensen	Nelson, D.	Rodriguez, F.	Tunheim
Clark, K.	Kahn	Nelson, K.	St. Onge	Valan
Clawson	Kalis	Neuenschwander	Sarna	Valento
Cohen	Kelly	Norton	Schafer	Vanasek
Coleman	Knuth	O'Connor	Scheid	Vellenga
Dimler	Kostohryz	Ogren	Seaberg	Voss

Welch
Welker

Welle
Wenzel

Wigley

Wynia

Speaker Sieben

The motion did not prevail and the first portion of the Knickerbocker amendment to the Shea amendment was not adopted.

The second portion of the Knickerbocker amendment to the Shea amendment reads as follows:

Page 1, after line 24, insert:

"Sec. 3. Minnesota Statutes 1982, section 79.071, subdivision 1a, is amended 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. *The commissioner is prohibited from granting approval of any proposed increase in rates after May 1, 1983. Further, if the schedule of rates has not decreased by an average of at least 30 percent between May 1, 1983 and October 1, 1983, the commissioner is ordered to bring about a reduction in the schedule of rates that will equal an average of 30 percent by October 1, 1983.*"

Renumber the remaining sections

Amend the title as necessary

Correct internal references

The question was taken on the second portion of the Knickerbocker amendment to the Shea amendment and the roll was called.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 103 yeas and 25 nays as follows:

Those who voted in the affirmative were:

Anderson, R.
Battaglia
Beard
Begich

Bennett
Bergstrom
Bishop
Blatz

Carlson, L.
Clark, J.
Clark, K.
Clawson

Cohen
Coleman
Dempsey
DenOuden

Dimler
Eken
Elioff
Ellingson

Evans	Jennings	Munger	Rice	Staten
Findlay	Johnson	Murphy	Riveness	Swanson
Fjoslien	Kahn	Nelson, D.	Rodosovich	Thiede
Forsythe	Kalis	Nelson, K.	Rodriguez, C.	Tomlinson
Frerichs	Kelly	Norton	Rodriguez, F.	Tunheim
Graba	Knickerbocker	O'Connor	Rose	Valan
Greenfield	Knuth	Ogren	St. Onge	Vanasek
Gruenes	Kostohryz	Olsen	Sarna	Vellenga
Gustafson	Krueger	Omann	Scheid	Voss
Halberg	Kvam	Onnen	Schoenfeld	Waltman
Haukoos	Larsen	Osthoff	Schreiber	Welch
Heap	Long	Otis	Segal	Wenzel
Himle	Marsh	Pauly	Shea	Wynia
Hoberg	McEachern	Piepho	Simoneau	Zaffke
Hoffman	McKasy	Piper	Skoglund	Speaker Sieben
Hokr	Metzen	Price	Solberg	
Jacobs	Minne	Redalen	Sparby	

Those who voted in the negative were:

Anderson, B.	Carlson, D.	Mann	Schafer	Swiggum
Anderson, G.	Erickson	McDonald	Seaberg	Uphus
Berkelman	Heinitz	Neuenschwander	Shaver	Welker
Brinkman	Jensen	Peterson	Sherman	Welle
Burger	Levi	Quist	Stadum	Wigley

The motion prevailed and the second portion of the Knickerbocker amendment to the Shea amendment was adopted.

Kahn and Piepho moved to amend the Shea amendment, as amended, to H. F. No. 575, as follows:

Page 118, delete line 10, and insert:

"\$1,847,500

\$2,142,400"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Shea; Anderson, G., and Heinitz amendment, as amended, and the roll was called.

Eken moved that those not voting be excused from voting. The motion did not prevail.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 82 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Bergstrom	Burger	Dempsey	Evans
Anderson, G.	Bishop	Carlson, D.	DenOuden	Findlay
Anderson, R.	Blatz	Clawson	Dimler	Fjoslien
Bennett	Brinkman	Cohen	Erickson	Forsythe

Frerichs	Jensen	Nelson, K.	Schafer	Uphus
Graba	Johnson	Neuenschwander	Schoenfeld	Valan
Cruenes	Kalis	Olsen	Schreiber	Valento
Gutknecht	Knickerbocker	Omann	Seaberg	Vanasek
Halberg	Krueger	Onnen	Segal	Vellenga
Haukoos	Kvam	Pauly	Shaver	Waltman
Heap	Levi	Peterson	Shea	Welker
Heinitz	Ludeman	Piepho	Sherman	Welle
Himle	Mann	Quist	Sparby	Wigley
Hoberg	Marsh	Redalen	Stadum	Zaffke
Hoffman	McDonald	Reif	Sviggunn	
Hokr	McEachern	Rodosovich	Thiede	
Jennings	McKasy	Rodriguez, C.	Tunheim	

Those who voted in the negative were:

Battaglia	Ellingson	Minne	Quinn	Staten
Beard	Greenfield	Munger	Rice	Swanson
Begich	Gustafson	Murphy	Riveness	Tomlinson
Berkelman	Jacobs	Nelson, D.	Rodriguez, F.	Voss
Brandl	Kahn	Norton	Rose	Welch
Carlson, L.	Kelly	O'Connor	St. Onge	Wenzel
Clark, J.	Knuth	Ogren	Sarna	Wynia
Clark, K.	Kostohryz	Osthoff	Scheid	Speaker Sieben
Coleman	Larsen	Otis	Simoneau	
Eken	Long	Piper	Skoglund	
Elioff	Metzen	Price	Solberg	

The motion prevailed and the amendment, as amended, was adopted.

Begich moved to amend H. F. No. 575, as amended, as follows:

Page 120, after line 29, insert:

"Sec. 162 [176A.01] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] For the purposes of sections . . . to . . . , the terms defined in this section have the meanings given them.

Subd. 2. "Manager" means the manager of the state compensation insurance fund.

Subd. 3. "Fund" means the state compensation insurance fund.

Subd. 4. "Board" means the board of directors of the state compensation insurance fund.

Subd. 5. "Personal injury" or "injury" has the meaning given to it in section 176.011, subdivision 16.

Sec. 163. [176A.02] [CREATION; PURPOSE; ORGANIZATION OF THE FUND.]

Subdivision 1. [FUND CREATED.] The fund is created as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under chapter 176.

Subd. 2. [BOARD OF DIRECTORS]. The governor shall appoint a board of directors consisting of seven members and the commissioner of labor and industry who shall be an ex officio member. Each director shall hold office until a successor is appointed and qualifies. Each member shall be a policyholder or an employee of a policyholder. A policyholder may designate a person to represent them on the board. Until the fund is operational and is issuing policies, the governor shall appoint any employer or employee to serve as a director. In addition to the commissioner, no more than one member of the board shall be a representative of a governmental entity. At least two members of the board shall represent private, for profit, enterprises. No member of the board may represent or be an employee of an insurance company.

The membership terms, compensation, removal of members, and filling of vacancies shall be as provided in section 15.0575.

The board shall annually elect a chairman from among its members and other officers it deems necessary for the performance of its duties. The requirement that each appointee of the governor be a policyholder or the employee of a policyholder shall not apply to the initial appointments of the governor prior to the subscription of the first policyholder to the state fund.

Subd. 3. [FUND MANAGEMENT.] The management and control of the fund is vested solely in the board.

Subd. 4. [POWERS AND DUTIES OF THE BOARD.] The board is vested with full power, authority, and jurisdiction over the fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by it under the provisions of this chapter, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this chapter.

Subd. 5. [MANAGER.] The fund is under the administrative control of the manager appointed by the board pursuant to section

Subd. 6. [PERSONAL LIABILITY, EXCLUDED.] The members of the board and officers or employees of the fund are not liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.

Sec. 164. [176A.03] [SPECIFIC POWERS OF THE FUND.]

Subdivision 1. [GENERAL.] For the purpose of carrying out its function the fund has the powers specified in this section.

Subd. 2. [INSURE WORKERS' COMPENSATION LIABILITY.] The fund may insure an employer against any workers' compensation claim arising out of and in the course of employment, as fully as any other insurer.

Subd. 3. [SELF-INSURED COVERAGE.] The fund may furnish advice, services, and employer liability insurance to any employer qualified as a self-insured employer.

Sec. 165. [176A.04] [GENERAL POWERS.]

Subdivision 1. For the purpose of exercising the specific powers granted in this chapter and effectuating the other purposes of this chapter, the fund:

- (a) may sue and be sued;*
- (b) may have a seal and alter it at will;*
- (c) may make, amend, and repeal rules relating to the conduct of the business of the fund;*
- (d) may enter into contracts relating to the administration of the fund;*
- (e) may rent, lease, buy, or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;*
- (f) may declare a dividend when there is an excess of assets over liabilities, and necessary reserves;*
- (g) may pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries, and pay administrative and other expenses;*
- (h) may hire personnel and set salaries and compensation; and*
- (i) may perform all other functions that are necessary or appropriate to administer the fund.*

Sec. 166. [176A.05] [MANAGER.]

Subdivision 1. [APPOINTMENT, QUALIFICATIONS.] The board shall appoint a manager of the fund who shall be in charge of the day-to-day operation of the fund. The manager shall have proven successful experience as an executive at the general management level. The manager shall be appointed for a term of six years and shall receive compensation as set by the board.

Subd. 2. [BOND.] Before entering on the duties of the office, the manager shall qualify by giving an official bond in an amount and with sureties approved by the board. The manager shall file the bond with the secretary of state. The premium for the bond shall be paid by the fund from the account established in section

Sec. 167. [176A.06] [MANAGER'S POWERS.]

Subdivision 1. [GENERAL.] Subject to the authority of the board and the provisions of this chapter the manager has the powers and duties prescribed in this section.

Subd. 2. [HEALTH PROVIDER CONTRACTS.] The manager may contract with physicians, surgeons, hospitals, other health care providers, qualified rehabilitation consultants, and approved vendors for medical, surgical, and rehabilitation evaluation and treatment and the care and nursing of injured persons entitled to benefits from the fund.

Subd. 3. [SAFETY INSPECTION.] The manager may make safety inspections of risks and furnish advisory services to employers on safety and health measures.

Subd. 4. [DISBURSEMENT OF FUNDS.] The manager may act for the fund in collecting and disbursing money necessary to administer the fund and conduct the business of the fund.

Subd. 5. [ABSTRACT SUMMARY.] The manager shall have an abstract summary of an audit or survey conducted pursuant to section . . . , subdivisions 1 to 3, prepared for public use.

Subd. 6. [GENERAL AUTHORITY.] The manager may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by the fund under this chapter, including the establishment of premium rates.

Sec. . . . [176A.07] [AUDITS AND EXAMINATIONS.]

Subdivision 1. [STATE AUDITOR REPORT.] A financial audit of the books and records of the fund shall be conducted each year by the state auditor.

Subd. 2. [ACTUARIAL SURVEY.] An actuarial survey of the fund shall be conducted annually by an independent certified accountant selected by the manager.

Subd. 3. [COMMISSIONER OF INSURANCE EXAMINATION.] The commissioner of insurance shall examine the financial condition and conduct an actuarial survey of the fund at least once every four years.

Sec. 168. [176A.08] [ACCOUNT.]

Subdivision 1. [STATE COMPENSATION ACCOUNT.] There is created and established under the jurisdiction and control of the fund a revolving account known as the "state compensation account."

The manager shall deliver all money collected or received under this chapter to the account.

The money in the account may be used by the fund in carrying out its purpose under this chapter.

Subd. 2. [PROPERTY OF FUND.] All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon money belonging to the fund and deposited or invested by the fund, are the sole property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not state money. The property of the fund is not state property.

Subd. 3. [NO STATE APPROPRIATION.] The fund shall not receive any state appropriation at any time other than as provided by section

Sec. 169. [176A.09] [EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.]

The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, 43. However, the fund shall be subject to sections 179.61 to 179.77. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of insurance has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The board is considered an insurer for the purposes of chapters 79 and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15, subdivision 2.

Sec. 170. [176A.10] [ANNUAL REPORT.]

The manager shall submit an annual report pursuant to section 3.195 to the governor and legislature indicating the business done by the fund during the previous year and containing a statement of the resources and liabilities of the fund.

Sec. 171. [176A.11] [APPROPRIATION.]

There is appropriated from the general fund to the state compensation insurance fund a sum of \$3,000,000 to be available until expended. This amount plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year.

Sec. 172. [IMPLEMENTATION.]

The members of the board of directors shall be appointed no later than September 1, 1983. The board shall act promptly to hire a manager, hire necessary employees, and acquire necessary facilities and supplies to begin operation. The fund shall begin providing workers' compensation insurance coverage when the board determines that the fund is able to do so and all requirements under state law have been met.

Sec. 173. [REPORT TO THE LEGISLATURE AND GOVERNOR.]

The commissioner of labor and industry shall, no later than March 1, 1986, report to the legislature and governor the operations of the fund up to that date. The report shall include but not be limited to:

(1) the volume of premiums insured through the state fund and its share of the state workers' compensation insurance market;

(2) the percent division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the state fund;

(3) the average rate of return enjoyed by the state fund on reserves set aside by the fund;

(4) recommendations concerning desirable changes in the state fund to promote its prompt and efficient administration of policies and claims;

(5) a recommendation to the legislature and governor regarding the continued operation of the fund; and

(6) any other information the commissioner deems appropriate."

Amend the title as follows:

Page 121, line 36, after the semicolon insert "creating a competitive state fund for workers' compensation insurance; proposing new law coded in Minnesota Statutes, chapter 176A;"

A roll call was requested and properly seconded.

POINT OF ORDER

Jennings raised a point of order pursuant to section 401, paragraph 4, of "Mason's Manual of Legislative Procedure" that the amendment was out of order. The Speaker ruled the point of order not well taken and the amendment in order.

Metzen was excused for the remainder of today's session.

The question recurred on the Begich amendment and the roll was called.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 56 yeas and 75 nays as follows:

Those who voted in the affirmative were:

Battaglia	Elioff	Minne	Rice	Swanson
Beard	Ellingson	Munger	Riveness	Tomlinson
Begich	Greenfield	Murphy	Rodriguez, F.	Vellenga
Bergstrom	Gustafson	Nelson, D.	St. Onge	Voss
Berkelman	Jacobs	Norton	Sarna	Welch
Brandl	Kahn	O'Connor	Scheid	Wenzel
Carlson, L.	Kelly	Ogren	Segal	Wynia
Clark, J.	Knuth	Osthoft	Simonéau	Speaker Sieben
Clark, K.	Kostohryz	Otis	Skoglund	
Clawson	Larsen	Piper	Solberg	
Coleman	Long	Price	Sparby	
Eken	Mann	Quinn	Staten	

Those who voted in the negative were:

Anderson, B.	DenOuden	Halberg	Kalis	Omann
Anderson, G.	Dimler	Haukoos	Knickerbocker	Onnen
Anderson, R.	Erickson	Heap	Krueger	Pauly
Bennett	Evans	Heinitz	Kvam	Peterson
Bishop	Findlay	Himle	Levi	Piepho
Blatz	Fjoslien	Hoberg	Ludeman	Quist
Brinkman	Forsythe	Hoffman	Marsh	Redalen
Burger	Frerichs	Hokr	McDonald	Reif
Carlson, D.	Graba	Jennings	McKasy	Rodosovich
Cohen	Gruenes	Jensen	Neuenschwander	Rodriguez, C.
Dempsey	Gutknecht	Johnson	Olsen	Rose

Schafer	Shaver	Swiggum	Valan	Welker
Schoenfeld	Shea	Thiede	Valento	Welle
Schreiber	Sherman	Tunheim	Vanasek	Wigley
Seaberg	Stadum	Uphus	Waltman	Zaffke

The motion did not prevail and the amendment was not adopted.

H. F. No. 575, A bill for an act relating to labor; providing for comprehensive reform of all aspects of workers' compensation; ratifying changes in the state employee bargaining unit composition schedule; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23, by adding a subdivision; 79.071, subdivisions 1 and 1a; 79.211, subdivision 1; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 1 and 3; 79.52, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 179.741, subdivision 1, and by adding a subdivision; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262.

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.

Eken moved that those not voting be excused from voting. The motion did not prevail.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 85 yeas and 47 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Fjoslien	Kalis	Omann	Shea
Anderson, G.	Forsythe	Knickerbocker	Onnen	Sherman
Anderson, R.	Frerichs	Knuth	Pauly	Sparby
Bennett	Graba	Krueger	Peterson	Stadum
Bishop	Gruenes	Kvam	Piepho	Sviggum
Blatz	Gutknecht	Levi	Quist	Thiede
Brinkman	Halberg	Long	Redalen	Tunheim
Burger	Haukoos	Ludeman	Reif	Uphus
Carlson, D.	Heap	Mann	Rodosovich	Valan
Clawson	Heinitz	Marsh	Rodriguez, C.	Valento
Cohen	Himle	McDonald	Rose	Vanasek
Dempsey	Hoberg	McEachern	Schafer	Vellenga
DenOuden	Hoffman	McKasy	Schoenfeld	Waltman
Dimler	Hokr	Nelson, D.	Schreiber	Welker
Erickson	Jennings	Nelson, K.	Seaberg	Welle
Evans	Jensen	Neuenschwander	Segal	Wigley
Findlay	Johnson	Olsen	Shaver	Zaffke

Those who voted in the negative were:

Battaglia	Elioff	Munger	Rice	Swanson
Beard	Ellingson	Murphy	Riveness	Tomlinson
Begich	Greenfield	Norton	Rodriguez, F.	Voss
Berkelman	Gustafson	O'Connor	St. Onge	Welch
Brandl	Jacobs	Ogren	Sarna	Wenzel
Carlson, L.	Kahn	Osthoff	Scheid	Wynia
Clark, J.	Kelly	Otis	Simoneau	Speaker Sieben
Clark, K.	Kostohryz	Piper	Skoglund	
Coleman	Larsen	Price	Solberg	
Eken	Minne	Quinn	Staten	

The bill was passed, as amended, and its title agreed to.

O'Connor was excused for the remainder of today's session.

The following conference committee report was received:

CONFERENCE COMMITTEE REPORT ON H. F. NO. 76

A bill for an act relating to the environment; establishing an environmental response, compensation and compliance fund to pay for removal and remedial action associated with certain hazardous substances released into the environment and for other purposes; providing for liability for cleanup costs, personal injury, economic loss, and damage to natural resources resulting from releases of hazardous substances; imposing taxes, fees, and penalties; providing for injunctive relief; appropriating money; amending Minnesota Statutes 1982, sections 115A.24, subdivision 1; 466.01, by adding a subdivision; and 466.04, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 116; proposing new law coded as Minnesota Statutes,

chapter 115B; repealing Minnesota Statutes 1982, section 115A.-24, subdivision 2.

May 2, 1983

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H. F. No. 76, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H. F. No. 76 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [115B.01] [CITATION.]

Sections 1 to 24 may be cited as the Environmental Response and Liability Act.

Sec. 2. [115B.02] [DEFINITIONS.]

Subdivision 1. [APPLICATION.] For the purposes of sections 1 to 20, the following terms have the meanings given them.

Subd. 2. [ACT OF GOD.] "Act of God" means an unanticipated grave natural disaster or other natural phenomenon of an exceptional, inevitable, and irresistible character, the effects of which could not have been prevented or avoided by the exercise of due care or foresight.

Subd. 3. [AGENCY.] "Agency" means the pollution control agency.

Subd. 4. [DIRECTOR.] "Director" means the director of the pollution control agency.

Subd. 5. [FACILITY.] "Facility" means:

(a) Any building, structure, installation, equipment, pipe or pipeline (including any pipe into a sewer or publicly owned treatment works), well, pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock, or aircraft;

(b) Any watercraft of any description, or other artificial contrivance used or capable of being used as a means of transportation on water; or

(c) Any site or area where a hazardous substance, or a pollutant or contaminant, has been deposited, stored, disposed of, or placed, or otherwise come to be located.

"Facility" does not include any consumer product in consumer use.

Subd. 6. [FEDERAL SUPERFUND ACT.] "Federal Superfund Act" means the Comprehensive Environmental Response, Compensation and Liability Act of 1980, 42 U.S.C. Section 9601 et seq.

Subd. 7. [FUND.] "Fund" means the environmental response, compensation and compliance fund established under section 20.

Subd. 8. [HAZARDOUS SUBSTANCE.] "Hazardous substance" means:

(a) Any commercial chemical designated pursuant to the Federal Water Pollution Control Act, under 33 U.S.C. Section 1321(b)(2)(A);

(b) Any hazardous air pollutant listed pursuant to the Clean Air Act, under 42 U.S.C. Section 7412; and

(c) Any hazardous waste.

"Hazardous substance" does not include natural gas, natural gas liquids, liquified natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas, nor does it include petroleum, including crude oil or any fraction thereof which is not otherwise a hazardous waste.

Subd. 9. [HAZARDOUS WASTE.] "Hazardous waste" means:

(a) Any hazardous waste as defined in section 116.06, subdivision 13, and any substance identified as a hazardous waste pursuant to rules adopted by the agency under section 116.07; and

(b) Any hazardous waste as defined in the Resource Conservation and Recovery Act, under 42 U.S.C. Section 6903, which is listed or has the characteristics identified under 42 U.S.C. Section 6921, not including any hazardous waste the regulation of which has been suspended by act of Congress.

Subd. 10. [NATURAL RESOURCES.] "*Natural resources*" has the meaning given it in section 116B.02, subdivision 4.

Subd. 11. [OWNER OF REAL PROPERTY.] "*Owner of real property*" means a person who is in possession of, has the right of control, or controls the use of real property, including without limitation a person who may be a fee owner, lessee, renter, tenant, lessor, contract for deed vendee, licensor, licensee, or occupant; provided that:

(1) A lessor of real property under a lease which in substance is a financing device and is treated as such under the United States Internal Revenue Code, common law, or statute, is not an owner of the real property;

(2) A public utility holding a public utility easement is an owner of the real property described in the easement only for the purpose of carrying out the specific use for which the easement was granted; and

(3) Any person holding a remainder or other nonpossessory interest or estate in real property is an owner of the real property beginning when that person's interest or estate in the real property vests in possession or that person obtains the unconditioned right to possession, or to control the use of, the real property.

Subd. 12. [PERSON.] "*Person*" means any individual, partnership, association, public or private corporation or other entity including the United States government, any interstate body, the state and any agency, department or political subdivision of the state.

Subd. 13. [POLLUTANT OR CONTAMINANT.] "*Pollutant or contaminant*" means any element, substance, compound, mixture, or agent, other than a hazardous substance, which after release from a facility and upon exposure of, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will or may reasonably be anticipated to cause death, disease, behavioral abnormalities, cancer, genetic mutation, physiological malfunctions (including malfunctions in reproduction) or physical deformations, in the organisms or their offspring.

"Pollutant or contaminant" does not include natural gas, natural gas liquids, liquefied natural gas, synthetic gas usable for fuel, or mixtures of such synthetic gas and natural gas.

Subd. 14. [PUBLIC UTILITY EASEMENT.] "*Public utility easement*" means an easement used for the purposes of transmission, distribution, or furnishing, at wholesale or retail, natural or manufactured gas, or electric or telephone service,

by a public utility as defined in section 216B.02, subdivision 4, a cooperative electric association organized under the provisions of chapter 308, a telephone company as defined in section 237.01, subdivisions 2 and 3, or a municipality producing or furnishing gas, electric, or telephone service.

Subd. 15. [RELEASE.] "Release" means any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment which occurred at a point in time or which continues to occur.

"Release" does not include:

(a) Emissions from the engine exhaust of a motor vehicle, rolling stock, aircraft, watercraft, or pipeline pumping station engine;

(b) Release of source, byproduct, or special nuclear material from a nuclear incident, as those terms are defined in the Atomic Energy Act of 1954, under 42 U.S.C. Section 2014, if the release is subject to requirements with respect to financial protection established by the federal nuclear regulatory commission under 42 U.S.C. Section 2210;

(c) Release of source, byproduct or special nuclear material from any processing site designated pursuant to the Uranium Mill Tailings Radiation Control Act of 1978, under 42 U.S.C. Section 7912(a)(1) or 7942(a); or

(d) Any release resulting from the application of fertilizer or agricultural or silvicultural chemicals, or disposal of emptied pesticide containers or residues from a pesticide as defined in section 18A.21, subdivision 25.

Subd. 16. [REMEDY OR REMEDIAL ACTION.] "Remedy" or "remedial action" means those actions consistent with permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance, or a pollutant or contaminant, into the environment, to prevent, minimize or eliminate the release in order to protect the public health or welfare or the environment.

"Remedy" or "remedial action" includes, but is not limited to:

(a) Actions at the location of the release such as storage, confinement, perimeter protection using dikes, trenches, or ditches, clay cover, neutralization, cleanup of released hazardous substances, pollutants or contaminants, or contaminated materials, recycling or reuse, diversion, destruction, segregation of reactive wastes, dredging or excavations, repair or replacement of leaking containers, collection of leachate and runoff,

onsite treatment or incineration, provision of alternative water supplies, and any monitoring and maintenance reasonably required to assure that these actions protect the public health and welfare and the environment; and

(b) The costs of permanent relocation of residents and businesses and community facilities when the agency determines that, alone or in combination with other measures, relocation is more cost effective than and environmentally preferable to the transportation, storage, treatment, destruction, or secure disposition offsite of hazardous substances, or pollutants or contaminants, or may otherwise be necessary to protect the public health or welfare.

"Remedy" or "remedial action" does not include offsite transport of hazardous substances, pollutants or contaminants, or contaminated materials or their storage, treatment, destruction, or secure disposition offsite unless the agency determines that these actions:

(1) Are more cost effective than other remedial actions;

(2) Will create new capacity to manage hazardous substances in addition to those located at the affected facility, in compliance with section 116.07 and subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section 6921 et seq.; or

(3) Are necessary to protect the public health or welfare or the environment from a present or potential risk which may be created by further exposure to the continued presence of the hazardous substances, pollutants or contaminants, or contaminated materials.

Subd. 17. [REMOVE OR REMOVAL.] "Remove" or "removal" means:

(a) The cleanup or removal of a released hazardous substance, or a pollutant or contaminant, from the environment;

(b) Necessary actions taken in the event of a threatened release of a hazardous substance, or a pollutant or contaminant, into the environment;

(c) Actions necessary to monitor, test, analyze, and evaluate a release or threatened release of a hazardous substance, or a pollutant or contaminant;

(d) Disposal or processing of removed material; or

(e) Other actions necessary to prevent, minimize, or mitigate damage to the public health or welfare or the environment, which may otherwise result from a release or threatened release.

"Remove" or "removal" includes, but is not limited to, security fencing or other measures to limit access, provision of alternative water supplies, temporary evacuation and housing of threatened individuals not otherwise provided for, action taken pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(b), and any emergency assistance which may be provided under the Disaster Relief Act of 1974, 42 U.S.C. Section 5121 et seq.

Subd. 18. [RESPOND OR RESPONSE.] "Respond" or "response" means remove, removal, remedy, and remedial action.

Subd. 19. [WATER.] "Water" has the meaning given to the term "waters of the state" in section 115.01, subdivision 9.

Sec. 3. [115B.03] [RESPONSIBLE PERSON.]

Subdivision 1. [GENERAL RULE.] For the purposes of sections 1 to 20, and except as provided in subdivisions 2 and 3, a person is responsible for a release or threatened release of a hazardous substance, or a pollutant or contaminant, from a facility if the person:

(a) Owned or operated the facility: (1) when the hazardous substance, or pollutant or contaminant, was placed or came to be located in or on the facility; (2) when the hazardous substance, or pollutant or contaminant, was located in or on the facility but before the release; or (3) during the time of the release or threatened release;

(b) Owned or possessed the hazardous substance, or pollutant or contaminant, and arranged, by contract, agreement or otherwise, for the disposal, treatment or transport for disposal or treatment of the hazardous substance, or pollutant or contaminant; or

(c) Knew or reasonably should have known that waste he accepted for transport to a disposal or treatment facility contained a hazardous substance, or pollutant or contaminant, and either selected the facility to which it was transported or disposed of it in a manner contrary to law.

Subd. 2. [EMPLOYEES AND EMPLOYERS.] When a person who is responsible for a release or threatened release as provided in subdivision 1 is an employee who is acting in the scope of his employment:

(a) The employee is subject to liability under section 4 or 5 only if his conduct with respect to the hazardous substance was negligent under circumstances in which he knew that the substance was hazardous and that his conduct, if negligent, could result in serious harm.

(b) *His employer shall be considered a person responsible for the release or threatened release and is subject to liability under section 4 or 5 regardless of the degree of care exercised by the employee.*

Subd. 3. [OWNER OF REAL PROPERTY.] An owner of real property is not a person responsible for the release or threatened release of a hazardous substance from a facility in or on the property unless that person:

(a) *was engaged in the business of generating, transporting, storing, treating, or disposing of a hazardous substance at the facility or disposing of waste at the facility, or knowingly permitted others to engage in such a business at the facility;*

(b) *knowingly permitted any person to make regular use of the facility for disposal of waste;*

(c) *knowingly permitted any person to use the facility for disposal of a hazardous substance;*

(d) *knew or reasonably should have known that a hazardous substance was located in or on the facility at the time right, title, or interest in the property was first acquired by the person and engaged in conduct by which he associated himself with the release; or*

(e) *took action which significantly contributed to the release after he knew or reasonably should have known that a hazardous substance was located in or on the facility.*

For the purpose of clause (d), a written warranty, representation, or undertaking, which is set forth in an instrument conveying any right, title or interest in the real property and which is executed by the person conveying the right, title or interest, or which is set forth in any memorandum of any such instrument executed for the purpose of recording, is admissible as evidence of whether the person acquiring any right, title, or interest in the real property knew or reasonably should have known that a hazardous substance was located in or on the facility.

Any liability which accrues to an owner of real property under sections 1 to 15 does not accrue to any other person who is not an owner of the real property merely because the other person holds some right, title, or interest in the real property.

An owner of real property on which a public utility easement is located is not a responsible person with respect to any release caused by any act or omission of the public utility which holds the easement in carrying out the specific use for which the easement was granted.

Sec. 4. [115B.04] [LIABILITY FOR RESPONSE COSTS AND NATURAL RESOURCES; LIMITATIONS AND DEFENSES.]

Subdivision 1. [LIABILITY.] Except as otherwise provided in subdivisions 2 to 12, and notwithstanding any other provision or rule of law, any person who is responsible for a release or threatened release of a hazardous substance from a facility is strictly liable, jointly and severally, for the following response costs and damages which result from the release or threatened release or to which the release or threatened release significantly contributes:

(a) All reasonable and necessary response costs incurred by the state, a political subdivision of the state or the United States;

(b) All reasonable and necessary removal costs incurred by any person; and

(c) All damages for any injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing such injury, destruction, or loss.

Subd. 2. [LIABILITY FOR POLLUTANT OR CONTAMINANT EXCLUDED.] *There is no liability under this section for response costs or damages which result from the release of a pollutant or contaminant.*

Subd. 3. [LIABILITY FOR A THREATENED RELEASE.] *Liability under this section for a threatened release of a hazardous substance is limited to the recovery by the agency of reasonable and necessary response costs as provided in section 17, subdivision 6.*

Subd. 4. [LIABILITY OF POLITICAL SUBDIVISIONS.] *The liability of a political subdivision under this section is subject to the limits imposed under section 466.04, subdivision 1.*

Subd. 5. [TRANSPORTATION OF HOUSEHOLD REFUSE.] *A person who accepts only household refuse for transport to a treatment or disposal facility is not liable under this section for the release or threatened release of any hazardous substance unless he knew or reasonably should have known that the hazardous substance was present in the refuse. For the purpose of this subdivision, household refuse means garbage, trash, or septic tank sanitary wastes generated by single or multiple residences, hotels, motels, restaurants and other similar facilities.*

Subd. 6. [DEFENSE TO CERTAIN CLAIMS BY POLITICAL SUBDIVISIONS AND PRIVATE PERSONS.] *It is a*

defense to a claim by a political subdivision or private person for recovery of the costs of its response actions under this section that the hazardous substance released from the facility was placed or came to be located in or on the facility before April 1, 1982, and that the response actions of the political subdivision or private person were not authorized by the agency as provided in section 17, subdivision 12. This defense applies only to response costs incurred on or after July 1, 1983.

Subd. 7. [DEFENSE FOR INTERVENING ACTS.] *It is a defense to liability under this section that the release or threatened release was caused solely by:*

- (a) An act of God;*
- (b) An act of war;*
- (c) An act of vandalism or sabotage; or*
- (d) An act or omission of a third party or the plaintiff.*

"Third party" for the purposes of clause (d) does not include an employee or agent of the defendant, or a person in the chain of responsibility for the generation, transportation, storage, treatment, or disposal of the hazardous substance.

The defenses provided in clauses (c) and (d) apply only if the defendant establishes that he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances which he knew or should have known, and that he took precautions against foreseeable acts or omissions and the consequences that could foreseeably result from those acts or omissions.

Subd. 8. [INTERVENING ACTS OF PUBLIC AGENCIES.] *When the agency or the federal environmental protection agency assumes control over any release or threatened release of a hazardous substance by taking removal actions at the site of the release, the persons responsible for the release are not liable under sections 1 to 15 for any subsequent release of the hazardous substance from another facility to which it has been removed.*

Subd. 9. [RELEASES SUBJECT TO CERTAIN PERMITS OR STANDARDS; FEDERAL POST-CLOSURE FUND.] *It is a defense to liability under this section that:*

- (a) The release or threatened release was from a hazardous waste facility as defined under section 115A.03, for which a permit had been issued pursuant to section 116.07 or pursuant to subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section*

6921 et seq., the hazardous substance was specifically identified in the permit, and the release was within the limits allowed in the permit for release of that substance;

(b) The hazardous substance released was specifically identified in a federal or state permit and the release is within the limits allowed in the permit;

(c) The release resulted from circumstances identified and reviewed and made a part of the public record of a federal or state agency with respect to a permit issued or modified under federal or state law, and the release conformed with the permit;

(d) The release was any part of an emission or discharge into the air or water and the emission or discharge was subject to a federal or state permit and was in compliance with control rules or regulations adopted pursuant to state or federal law;

(e) The release was the introduction of any hazardous substance into a publicly owned treatment works and the substance was specified in, and is in compliance with, applicable pretreatment standards specified for that substance under state and federal law; or

(f) Liability has been assumed by the federal post-closure liability fund under 42 U.S.C. Section 9607(k).

Subd. 10. [NATURAL RESOURCES.] It is a defense to liability under this section, for any injury to, destruction of, or loss of natural resources that:

(a) The natural resources were specifically identified as an irreversible and irretrievable commitment of natural resources in an approved final state or federal environmental impact statement, or other comparable approved final environmental analysis for a project or facility which was the subject of a governmental permit or license; and

(b) The project or facility was being operated within the terms of its permit or license.

Subd. 11. [RENDERING ASSISTANCE IN RESPONSE ACTIONS.] It is a defense to liability under this section that the response costs or damages resulted from acts taken or omitted in preparation for, or in the course of rendering care, assistance, or advice to the director or agency pursuant to section 17 or in accordance with the national hazardous substance response plan pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9605, or at the direction of an on-scene coordinator appointed under that plan, with respect to any release or threatened release of a hazardous substance.

Subd. 12. [BURDEN OF PROOF FOR DEFENSES.] *Any person claiming a defense provided in subdivisions 6 to 11 has the burden to prove all elements of the defense by a preponderance of the evidence.*

Sec. 5. [115B.05] [LIABILITY FOR ECONOMIC LOSS, DEATH, PERSONAL INJURY AND DISEASE; LIMITATIONS AND DEFENSES.]

Subdivision 1. [LIABILITY.] *Except as otherwise provided in subdivisions 2 to 10, and notwithstanding any other provision or rule of law, any person who is responsible for the release of a hazardous substance from a facility is strictly liable, jointly and severally, for the following damages which result from the release or to which the release significantly contributes:*

(a) *All damages for actual economic loss including:*

(1) *Any injury to, destruction of, or loss of any real or personal property, including relocation costs;*

(2) *Any loss of use of real or personal property;*

(3) *Any loss of past or future income or profits resulting from injury to, destruction of, or loss of real or personal property without regard to the ownership of the property; and*

(b) *All damages for death, personal injury, or disease including:*

(1) *Any medical expenses, rehabilitation costs or burial expenses;*

(2) *Any loss of past or future income, or loss of earning capacity; and*

(3) *Damages for pain and suffering, including physical impairment.*

Subd. 2. [LIABILITY FOR POLLUTANT OR CONTAMINANT EXCLUDED.] *There is no liability under this section for damages which result from the release of a pollutant or contaminant.*

Subd. 3. [CERTAIN EMPLOYEE CLAIMS NOT COVERED.] *Except for a third party who is subject to liability under section 176.061, subdivision 5, there is no liability under this section for the death, personal injury or disease of an employee which is compensable under chapter 176 as an injury or disease arising out of and in the course of employment.*

Subd. 4. [LIABILITY LIMITATIONS.] *The liability of a political subdivision under this section is subject to the limits imposed under section 466.04, subdivision 1.*

Subd. 5. [TRANSPORTATION OF HOUSEHOLD REFUSE.] *A person who accepts only household refuse for transport to a treatment or disposal facility is not liable under this section for the release or threatened release of any hazardous substance unless he knew or reasonably should have known that the hazardous substance was present in the refuse. For the purpose of this subdivision, household refuse means garbage, trash, or septic tank sanitary wastes generated by single or multiple residences, hotels, motels, restaurants and other similar facilities.*

Subd. 6. [DEFENSE FOR INTERVENING ACTS.] *It is a defense to liability under this section that the release or threatened release was caused solely by:*

- (a) *An act of God;*
- (b) *An act of war;*
- (c) *An act of vandalism or sabotage; or*
- (d) *An act or omission of a third party or the plaintiff.*

"Third party" for the purposes of clause (d) does not include an employee or agent of the defendant, or a person in the chain of responsibility for the generation, transportation, storage, treatment, or disposal of the hazardous substance.

The defenses provided in clauses (c) and (d) apply only if the defendant establishes that he exercised due care with respect to the hazardous substance concerned, taking into consideration the characteristics of the hazardous substance in light of all relevant facts and circumstances which he knew or should have known, and that he took precautions against foreseeable acts or omissions and the consequences that could foreseeably result from those acts or omissions.

Subd. 7. [INTERVENING ACTS OF PUBLIC AGENCIES.] *When the agency or the federal environmental protection agency assumes control over any release or threatened release of a hazardous substance by taking removal actions at the site of the release, the persons responsible for the release are not liable under sections 1 to 15 for any subsequent release of the hazardous substance from another facility to which it has been removed.*

Subd. 8. [RELEASES SUBJECT TO CERTAIN PERMITS OR STANDARDS; FEDERAL POST-CLOSURE FUND.] *It is a defense to liability under this section that:*

(a) *The release or threatened release was from a hazardous waste facility as defined under section 115A.03, for which a permit had been issued pursuant to section 116.07 or pursuant to subtitle C of the Solid Waste Disposal Act, 42 U.S.C. Section 6921 et seq., the hazardous substance was specifically identified in the permit, and the release was within the limits allowed in the permit for release of that substance;*

(b) *The hazardous substance released was specifically identified in a federal or state permit and the release is within the limits allowed in the permit;*

(c) *The release resulted from circumstances identified and reviewed and made a part of the public record of a federal or state agency with respect to a permit issued or modified under federal or state law, and the release conformed with the permit;*

(d) *The release was any part of an emission or discharge into the air or water and the emission or discharge was subject to a federal or state permit and was in compliance with control rules or regulations adopted pursuant to state or federal law;*

(e) *The release was the introduction of any hazardous substance into a publicly owned treatment works and the substance was specified in, and is in compliance with, applicable pretreatment standards specified for that substance under state and federal law; or*

(f) *Liability has been assumed by the federal post-closure liability fund under 42 U.S.C. Section 9607(k).*

Subd. 9. [RENDERING ASSISTANCE IN RESPONSE ACTIONS.] *It is a defense to liability under this section that the damages resulted from acts taken or omitted in preparation for, or in the course of rendering care, assistance, or advice to the director or agency pursuant to section 17 or in accordance with the national hazardous substance response plan pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9605, or at the direction of an on-scene coordinator appointed under that plan, with respect to any release or threatened release of a hazardous substance.*

Subd. 10. [BURDEN OF PROOF FOR DEFENSES.] *Any person claiming a defense provided in subdivisions 6 to 9 has the burden to prove all elements of the defense by a preponderance of the evidence.*

Sec. 6. [115B.06] [APPLICATION TO PAST ACTIONS.]

Subdivision 1. [APPLICATION OF SECTION 5 AND ADDITIONAL DEFENSE.] (a) *A defendant in an action under*

section 5 has the additional defense provided in subdivision 2 for damages caused or significantly contributed to by the release of a hazardous substance from a facility if the defendant shows that the substance was placed or came to be located in or on the facility wholly before January 1, 1973.

(b) Section 5 does not apply to any claim for damages arising out of the release of a hazardous substance which was placed or came to be located in or on the facility wholly before January 1, 1960.

Subd. 2. [ADDITIONAL DEFENSE.] For a defendant who has made the showing required in subdivision 1, clause (a), it is a defense to liability under section 5 that the activity by which the substance was kept, placed, or came to be located in or on the facility was not an abnormally dangerous activity. The determination of whether the activity was an abnormally dangerous activity shall be made by the court.

Sec. 7. [115B.07] [CAUSATION.]

In any action brought under section 5 or any other law to recover damages for death, personal injury, or disease arising out of the release of a hazardous substance, the court may not direct a verdict against the plaintiff on the issue of causation if the plaintiff produces evidence sufficient to enable a reasonable person to find that:

(a) the defendant is a person who is responsible for the release;

(b) the plaintiff was exposed to the hazardous substance;

(c) the release could reasonably have resulted in plaintiff's exposure to the substance in the amount and duration experienced by the plaintiff; and

(d) the death, injury, or disease suffered by the plaintiff is caused or significantly contributed to by exposure to the hazardous substance in an amount and duration experienced by the plaintiff.

Evidence to a reasonable medical certainty that exposure to the hazardous substance caused or significantly contributed to the death, injury, or disease is not required for the question of causation to be submitted to the trier of fact.

Nothing in this section shall be construed to relieve the plaintiff of the burden of proving that the defendant is a person who is responsible for the release and of proving the causal connection between the release of the hazardous substance for which

the defendant is a responsible person and the plaintiff's death, injury, or disease.

Sec. 8. [115B.08] [LIABILITY UNDER SECTION 4; APPORTIONMENT AND CONTRIBUTION.]

Subdivision 1. [RIGHT OF APPORTIONMENT; FACTORS.] Any person held jointly and severally liable under section 4 has the right at trial to have the trier of fact apportion liability among the parties as provided in this section. The burden is on each defendant to show how his liability should be apportioned. The court shall reduce the amount of damages in proportion to any amount of liability apportioned to the party recovering.

In apportioning the liability of any party under this section, the trier of fact shall consider the following:

(a) The extent to which that party's contribution to the release of a hazardous substance can be distinguished;

(b) The amount of hazardous substance involved;

(c) The degree of toxicity of the hazardous substance involved;

(d) The degree of involvement of and care exercised by the party in manufacturing, treating, transporting, and disposing of the hazardous substance;

(e) The degree of cooperation by the party with federal, state, or local officials to prevent any harm to the public health or the environment; and

(f) Knowledge by the party of the hazardous nature of the substance.

Subd. 2. [CONTRIBUTION.] If a person is held jointly and severally liable under section 4 and establishes his proportionate share of the aggregate liability, the provisions of section 604.02, subdivisions 1 and 2, shall apply with respect to contribution and reallocation of any uncollectible amounts.

Sec. 9. [115B.09] [LIABILITY UNDER SECTION 5; COMPARATIVE FAULT AND CONTRIBUTION.]

The provisions of sections 604.01, 604.02, subdivisions 1 and 2, apply to any action for damages under section 5, except that, if the percentage of fault attributable to a defendant is determined under section 604.01, the liability of the defendant shall be limited to two times that percentage of the damages recoverable in the action.

Sec. 10. [115B.10] [NO AVOIDANCE OF LIABILITY; INSURANCE AND SUBROGATION.]

An owner or operator of a facility or any other person who may be liable under sections 1 to 15 may not avoid that liability by means of any conveyance of any right, title, or interest in real property, or by any indemnification, hold harmless agreement, or similar agreement. Nothing in this section shall be construed:

(a) To prohibit any party who may be liable under sections 1 to 15 from entering an agreement by which that party is insured, held harmless or indemnified for part or all of that liability;

(b) To prohibit the enforcement of any insurance, hold harmless or indemnification agreement; or

(c) To bar any cause of action brought by a party who may be liable under sections 1 to 15 or by an insurer or guarantor, whether by right of subrogation or otherwise.

Sec. 11. [115B.11] [STATUTE OF LIMITATIONS.]

No person may recover pursuant to sections 1 to 15 unless the action is commenced within six years from the date when the cause of action accrues. In determining when the cause of action accrues for an action to recover damages for death, personal injury or disease, the court shall consider factors including the following:

(a) When the plaintiff discovered the injury or loss;

(b) Whether a personal injury or disease had sufficiently manifested itself; and

(c) When the plaintiff discovered, or using due diligence should have discovered, a causal connection between the injury, disease, or loss and the release of a hazardous substance.

Sec. 12. [115B.12] [OTHER REMEDIES PRESERVED.]

Nothing in sections 1 to 15 shall be construed to abolish or diminish any remedy or affect the right of any person to bring a legal action or use any remedy available under any other provision of state or federal law, including common law, to recover for personal injury, disease, economic loss or response costs arising out of a release of any hazardous substance, or for removal or the costs of removal of that hazardous substance. Nothing in sections 1 to 15 shall be construed to limit or restrict in any way the liability of any person under any other state or federal law, including common law, for loss due to personal injury or disease, for economic loss, or for response costs arising out of any release or

threatened release of a hazardous substance from a facility regardless of the time at which a hazardous substance was placed or came to be located in or on the facility. The provisions of sections 1 to 15 shall not be considered, interpreted, or construed in any way as reflecting a determination, in whole or in part, of policy regarding the inapplicability of strict liability, or strict liability doctrines under any other state or federal law, including common law, to activities past, present or future, relating to hazardous substances, or pollutants or contaminants, or other similar activities.

Sec. 13. [115B.13] [DOUBLE RECOVERY PROHIBITED.]

A person who recovers response costs or damages pursuant to sections 1 to 15 may not recover the same costs or damages pursuant to any other law. A person who recovers response costs or damages pursuant to any other state or federal law may not recover for the same costs or damages pursuant to sections 1 to 15.

Sec. 14. [115B.14] [AWARD OF COSTS.]

Upon motion of a party prevailing in an action under sections 1 to 15 the court may award costs, disbursements and reasonable attorney fees and witness fees to that party.

Sec. 15. [115B.15] [APPLICATION OF SECTIONS 1 TO 14.]

Sections 1 to 14 apply to any release or threatened release of a hazardous substance occurring on or after July 1, 1983, including any release which began before July 1, 1983, and continued after that date. Sections 1 to 14 do not apply to a release or threatened release which occurred wholly before July 1, 1983, regardless of the date of discovery of any injury or loss caused by the release or threatened release.

Sec. 16. [115B.16] [DISPOSITION OF FACILITIES.]

Subdivision 1. [CLOSED DISPOSAL FACILITIES; USE OF PROPERTY.] *No person shall use any property on or in which hazardous waste remains after closure of a disposal facility as defined in section 115A.03, subdivision 10, in any way that disturbs the integrity of the final cover, liners, or any other components of any containment system, or the function of the disposal facility's monitoring systems, unless the agency finds that the disturbance:*

(a) Is necessary to the proposed use of the property, and will not increase the potential hazard to human health or the environment; or

(b) *Is necessary to reduce a threat to human health or the environment.*

Subd. 2. [RECORDING OF AFFIDAVIT.] *Before any transfer of ownership of any property which the owner knew or should have known was used as the site of a hazardous waste disposal facility as defined in section 115A.03, subdivision 10, or which the owner knew or should have known is subject to extensive contamination by release of a hazardous substance, the owner shall record with the county recorder of the county in which the property is located an affidavit containing a legal description of the property that discloses to any potential transferee:*

(a) *That the land has been used to dispose of hazardous waste or that the land is contaminated by a release of a hazardous substance;*

(b) *The identity, quantity, location, condition and circumstances of the disposal or contamination to the full extent known or reasonably ascertainable; and*

(c) *That the use of the property or some portion of it may be restricted as provided in subdivision 1.*

An owner must also file an affidavit within 60 days after any material change in any matter required to be disclosed under clauses (a) to (c) with respect to property for which an affidavit has already been recorded.

If the owner or any subsequent owner of the property removes the hazardous substance, together with any residues, liner, and contaminated underlying and surrounding soil, that owner may record an affidavit indicating the removal of the hazardous substance.

Failure to record an affidavit as provided in this subdivision does not affect or prevent any transfer of ownership of the property.

Subd. 3. [DUTY OF COUNTY RECORDER.] *The county recorder shall record all affidavits presented to him in accordance with subdivision 2. The affidavits shall be recorded in a manner which will assure their disclosure in the ordinary course of a title search of the subject property.*

Subd. 4. [PENALTIES.] (a) *Any person who knowingly violates the provisions of subdivision 1 is subject to a civil penalty in an amount determined by the court of not more than \$100,000, and shall be liable under sections 4 and 5 for any release or threatened release of any hazardous substance resulting from the violation.*

(b) Any person who knowingly fails to record an affidavit as required by subdivision 2 shall be liable under sections 4 and 5 for any release or threatened release of any hazardous substance from a facility located on that property.

(c) A civil penalty may be imposed and recovered by an action brought by a county attorney or by the attorney general in the district court of the county in which the property is located.

(d) Any civil fines recovered under this subdivision shall be deposited in the fund.

Sec. 17. [115B.17] [STATE RESPONSE TO RELEASES.]

Subdivision 1. [REMOVAL AND REMEDIAL ACTION.] Whenever there is a release or substantial threat of release from a facility of any pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare or the environment or whenever a hazardous substance is released or there is a threatened release of a hazardous substance from a facility:

(a) The agency may take any removal or remedial action relating to the hazardous substance, or pollutant or contaminant, which the agency deems necessary to protect the public health or welfare or the environment. Before taking any action the agency shall:

(1) Request any responsible party known to the agency to take actions which the agency deems reasonable and necessary to protect the public health or welfare or the environment, stating the reasons for the actions; a reasonable time for beginning and completing the actions taking into account the urgency of the actions for protecting the public health or welfare or the environment, and the intention of the agency to take action if the requested actions are not taken as requested;

(2) Notify the owner of real property where the facility is located or where response actions are proposed to be taken, if the owner is not a responsible party, that responsible parties have been requested to take response actions and that the owner's cooperation will be required in order for responsible parties or the agency to take those actions; and

(3) Determine that the actions requested by the agency will not be taken by any known responsible party in the manner and within the time requested.

(b) The director may take removal action which he deems necessary to protect the public health or welfare or the environment if the director determines that the release or threatened

release constitutes an emergency requiring immediate action to prevent, minimize or mitigate damage to the public health or welfare or the environment. Before taking any action the director shall make reasonable efforts in light of the urgency of the action to follow the procedure provided in clause (a).

No removal action taken by any person shall be construed as an admission of liability for a release or threatened release.

Subd. 2. [OTHER ACTIONS.] Whenever the agency or director is authorized to act pursuant to subdivision 1 or whenever the agency or director has reason to believe that a release of a hazardous substance, or a pollutant or contaminant, has occurred or is about to occur, or that illness, disease, or complaints thereof may be attributable to exposure to a hazardous substance, or a pollutant or contaminant, the agency or director may undertake investigations, monitoring, surveys, testing, and other similar activities necessary or appropriate to identify the existence and extent of the release or threat thereof, the source and nature of the hazardous substances, or pollutants or contaminants, and the extent of danger to the public health or welfare or the environment. In addition, the agency may undertake planning, legal, fiscal, economic, engineering, architectural, and other studies or investigations necessary or appropriate to plan and direct a response action, to recover the costs of the response action, and to enforce the provisions of sections 1 to 18.

Subd. 3. [DUTY TO PROVIDE INFORMATION] Any person who the agency has reason to believe is responsible for a release or threatened release as provided in section 3, or who is the owner of real property where the release or threatened release is located or where response actions are proposed to be taken, when requested by the agency, or any member, employee or agent thereof who is authorized by the agency, shall furnish to the agency any information which he may have or may reasonably obtain which is relevant to the release or threatened release.

Subd. 4. [ACCESS TO INFORMATION AND PROPERTY.] The agency or any member, employee or agent thereof authorized by the agency, upon presentation of credentials, may:

(a) Examine and copy any books, papers, records, memoranda or data of any person who has a duty to provide information to the agency under subdivision 3; and

(b) Enter upon any property, public or private, for the purpose of taking any action authorized by this section purpose of taking any action authorized by this section including obtaining information from any person who has a duty to provide the information under subdivision 3, conducting surveys or investigations, and taking removal or remedial action.

Subd. 5. [CLASSIFICATION OF DATA.] Except as otherwise provided in this subdivision, data obtained from any person pursuant to subdivision 3 or 4 is public data as defined in section 13.02. Upon certification by the subject of the data that the data relates to sales figures, processes or methods of production unique to that person, or information which would tend to affect adversely the competitive position of that person, the director shall classify the data as private or nonpublic data as defined in section 13.02. Notwithstanding any other law to the contrary, data classified as private or nonpublic under this subdivision may be disclosed when relevant in any proceeding under sections 1 to 18, or to other public agencies concerned with the implementation of sections 1 to 18.

Subd. 6. [RECOVERY OF EXPENSES.] Any reasonable and necessary expenses incurred by the agency or director pursuant to this section, including all response costs, and administrative and legal expenses, may be recovered in a civil action brought by the attorney general against any person who may be liable under section 4 or any other law. The agency's certification of expenses shall be prima facie evidence that the expenses are reasonable and necessary. Any expenses incurred pursuant to this section which are recovered by the attorney general pursuant to section 4 or any other law, including any award of attorneys fees, shall be deposited in the fund and credited to a special account for additional response actions as provided in section 20, subdivision 2, clause (b) or (d).

Subd. 7. [ACTIONS RELATING TO NATURAL RESOURCES.] For the purpose of this subdivision, the state is the trustee of the air, water and wildlife of the state. An action pursuant to section 4 for damages with respect to air, water or wildlife may be brought by the attorney general in the name of the state as trustee for those natural resources. Any damages recovered by the attorney general pursuant to section 4 or any other law for injury to, destruction of, or loss of natural resources resulting from the release of a hazardous substance, or a pollutant or contaminant, shall be deposited in the fund and credited to a special account for the purposes provided in section 20, subdivision 2, clause (f).

Subd. 8. [ACTIONS RELATING TO PESTICIDES OR FERTILIZER OR SOIL OR PLANT AMENDMENTS.] When the commissioner of agriculture has reported an incident involving the release of pesticides under the provisions of section 18A.37 or the release of fertilizers or soil or plant amendments, and the agency determines that the incident constitutes a release of a hazardous substance, or a pollutant or contaminant, the agency shall authorize the commissioner, subject to the provisions of subdivision 13, to take any action which the agency would be authorized to take under subdivisions 1 to 4. Subject to the provisions of section 20, subdivision 3, the agency shall reimburse the commissioner from the fund for the reasonable and

necessary expenses incurred in taking those actions and may recover any amount spent from the fund under subdivision 6.

Subd. 9. [ACTIONS RELATING TO OCCUPATIONAL SAFETY AND HEALTH.] *The agency, director and the commissioner of labor and industry shall make reasonable efforts to coordinate any actions taken under this section and under sections 182.65 to 182.674 to avoid duplication or conflict of actions or requirements with respect to a release or threatened release affecting the safety of any conditions or place of employment.*

Subd. 10. [ACTIONS RELATING TO HEALTH.] *The agency and director shall make reasonable efforts to coordinate and consult with the commissioner of health in planning and directing response actions with respect to a release or threatened release affecting the public health. If the commissioner of health, upon the request of the agency, takes any actions authorized under this section, the agency shall reimburse the commissioner from the fund for the reasonable and necessary expenses incurred in taking those actions and may recover any amount spent from the fund under subdivision 6.*

Subd. 11. [LIMIT ON ACTIONS BY POLITICAL SUBDIVISIONS.] *When the agency or director has requested a person who is responsible for a release or threatened release to take any response action under subdivision 1, no political subdivision shall request or order that person to take any action which conflicts with the action requested by the agency or director.*

Subd. 12. [AUTHORIZATION OF CERTAIN RESPONSE ACTIONS.] *For the purpose of permitting a political subdivision or private person to recover response costs as provided in section 4, subdivision 6, the agency may authorize the political subdivision to take removal or remedial actions or may authorize the private person to take removal actions with respect to any release of a hazardous substance which was placed or came to be located in the facility before April 1, 1982. The authorization shall be based on application of the criteria in the rules of the agency adopted under subdivision 13 or, if the rules have not been adopted, under the criteria set forth in subdivision 13 on which the rules are required to be based. The authorization shall not be inconsistent with the criteria. This subdivision shall not be construed to prohibit a political subdivision or private person from taking removal or remedial actions without the authorization of the agency.*

Subd. 13. [PRIORITIES; RULES.] *By November 1, 1983, the agency shall establish a temporary list of priorities among releases or threatened releases for the purpose of taking remedial action and, to the extent practicable consistent with the urgency of the action, for taking removal action under this section. The temporary list, with any necessary modifications, shall remain in effect until the agency adopts rules establishing state criteria for*

determining priorities among releases and threatened releases. The agency shall adopt the rules by July 1, 1984. After rules are adopted, a permanent priority list shall be established, and may be modified from time to time, according to the criteria set forth in the rules. Before any list is established under this subdivision the agency shall publish the list in the state register and allow 30 days for comments on the list by the public.

The temporary list and the rules required by this subdivision shall be based upon the relative risk or danger to public health or welfare or the environment, taking into account to the extent possible the population at risk, the hazardous potential of the hazardous substances at the facilities, the potential for contamination of drinking water supplies, the potential for direct human contact, the potential for destruction of sensitive ecosystems, the administrative and financial capabilities of the agency, and other appropriate factors.

Sec. 18. [115B.18] [FAILURE TO TAKE REQUESTED ACTIONS; CIVIL PENALTIES; ACTION TO COMPEL PERFORMANCE; INJUNCTIVE RELIEF.]

Subdivision 1. [CIVIL PENALTIES.] Any person responsible for a release or threatened release from a facility of a pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare or the environment or for a release or threatened release of a hazardous substance from a facility shall forfeit and pay to the state a civil penalty in an amount to be determined by the court of not more than \$20,000 per day for each day that the person fails to take reasonable and necessary response actions or to make reasonable progress in completing response actions requested as provided in subdivision 3.

The penalty provided under this subdivision may be recovered by an action brought by the attorney general in the name of the state in connection with an action to recover expenses of the agency under section 17, subdivision 6, or by a separate action in the district court of Ramsey County. All penalties recovered under this subdivision shall be deposited in the fund.

Subd. 2. [ACTION TO COMPEL PERFORMANCE.] When any person who is responsible for a release or threatened release from a facility of a pollutant or contaminant which presents an imminent and substantial danger to the public health or welfare or the environment or for a release or threatened release of a hazardous substance from a facility, fails to take response actions or to make reasonable progress in completing response actions requested as provided in subdivision 3, the attorney general may bring an action in the name of the state to compel performance of the requested response actions. If any person having any right, title, or interest in and to the real property where the facility is located or where response actions are proposed to be

taken is not a person responsible for the release or threatened release, the person may be joined as an indispensable party in an action to compel performance in order to assure that the requested response actions can be taken on that property by the responsible parties.

Subd. 3. [REQUESTS FOR RESPONSE ACTIONS.] A request for emergency removal action shall be made by the director. Other requests for response actions shall be made by the agency. A request shall be in writing, shall state the action requested, the reasons for the action, and a reasonable time by which the action must be begun and completed taking into account the urgency of the action for protection of the public health or welfare or the environment.

Subd. 4. [INJUNCTIVE RELIEF.] The release or threatened release of a hazardous substance, or a pollutant or contaminant, shall constitute a public nuisance and may be enjoined in an action, in the name of the state, brought by the attorney general.

Sec. 19. [115B.19] [PURPOSES OF FUND AND TAXES.]

In establishing the environmental response, compensation and compliance fund in section 20 and imposing taxes in section 22 it is the purpose of the legislature to:

(a) Encourage treatment and disposal of hazardous waste in a manner that adequately protects the public health or welfare or the environment;

(b) Encourage responsible parties to provide the response actions necessary to protect the public and the environment from the effects of the release of hazardous substances;

(c) Encourage the use of alternatives to land disposal of hazardous waste including resource recovery, recycling, neutralization, and reduction;

(d) Provide state agencies with the financial resources needed to prepare and implement an effective and timely state response to the release of hazardous substances, including investigation, planning, removal and remedial action;

(e) Compensate for increased governmental expenses and loss of revenue and to provide other appropriate assistance to mitigate any adverse impact on communities in which commercial hazardous waste processing or disposal facilities are located under the siting process provided in chapter 115A;

(f) Recognize the environmental and public health costs of land disposal of solid waste and of the use and disposal of

hazardous substances and to place the burden of financing state hazardous waste management activities on those whose products and services contribute to hazardous waste management problems and increase the risks of harm to the public and the environment.

Sec. 20. [115B.20] [ENVIRONMENTAL RESPONSE, COMPENSATION AND COMPLIANCE FUND.]

Subdivision 1. [ESTABLISHMENT.] The environmental response, compensation and compliance fund is created as an account in the state treasury and may be spent only for the purposes provided in subdivision 2.

Subd. 2. [PURPOSES FOR WHICH MONEY MAY BE SPENT.] Subject to appropriation by the legislature the money in the fund may be spent for any of the following purposes:

(a) Preparation by the agency for taking removal or remedial action under section 17, including investigation, monitoring and testing activities, enforcement and compliance efforts relating to the release of hazardous substances, pollutants or contaminants under section 17 or 18;

(b) Removal and remedial actions taken or authorized by the agency or director under section 17, including related enforcement and compliance efforts under section 17 or 18, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(c)(3) for actions related to facilities other than commercial hazardous waste facilities located under the siting authority of chapter 115A;

(c) Reimbursement to any private person for expenditures made before July 1, 1983 to provide alternative water supplies deemed necessary by the agency and the department of health to protect the public health from contamination resulting from the release of a hazardous substance;

(d) Removal and remedial actions taken or authorized by the agency or director under section 17 including related enforcement and compliance efforts under section 17 or 18, and payment of the state share of the cost of remedial action which may be carried out under a cooperative agreement with the federal government pursuant to the Federal Superfund Act, under 42 U.S.C. Section 9604(c)(3) for actions related to commercial hazardous waste facilities located under the siting authority of chapter 115A;

(e) Compensation as provided by law, after submission by the waste management board of the report required under sec-

tion 115A.08, subdivision 5, to mitigate any adverse impact of the location of commercial hazardous waste processing or disposal facilities located pursuant to the siting authority of chapter 115A;

(f) Planning and implementation by the commissioner of natural resources of the rehabilitation, restoration or acquisition of natural resources to remedy injuries or losses to natural resources resulting from the release of a hazardous substance;

(g) Inspection, monitoring and compliance efforts by the agency, or by political subdivisions with agency approval, of commercial hazardous waste facilities located under the siting authority of chapter 115A;

(h) Grants by the agency or the waste management board to demonstrate alternatives to land disposal of hazardous waste including reduction, separation, pretreatment, processing and resource recovery, for education of persons involved in regulating and handling hazardous waste;

(i) Intervention and environmental mediation by the legislative commission on waste management under chapter 115A; and

(j) Grants by the agency to study the extent of contamination and feasibility of cleanup of hazardous substances and pollutants or contaminants in major waterways of the state.

Subd. 3. [LIMIT ON CERTAIN EXPENDITURES.] The director or agency may not spend any money under subdivision 2, clause (b) or (d) for removal or remedial actions to the extent that the costs of those actions may be compensated from any fund established under the Federal Superfund Act, 42 U.S.C. Section 9600 et seq. The director or agency shall determine the extent to which any of the costs of those actions may be compensated under the federal act based on the likelihood that the compensation will be available in a timely fashion. In making this determination the director or agency shall take into account:

(a) The urgency of the removal or remedial actions and the priority assigned under the Federal Superfund Act to the release which necessitates those actions;

(b) The availability of money in the funds established under the Federal Superfund Act; and

(c) The consistency of any compensation for the cost of the proposed actions under the Federal Superfund Act with the national contingency plan, if such a plan has been adopted under that act.

Subd. 4. [REVENUE SOURCES.] Revenue from the following sources shall be deposited in the environmental response, compensation and compliance fund:

(a) The proceeds of the taxes imposed pursuant to section 22, including interest and penalties;

(b) All money recovered by the state under sections 1 to 18 or under any other statute or rule related to the regulation of hazardous waste or hazardous substances, including civil penalties and money paid under any agreement, stipulation or settlement but excluding fees imposed under section 25;

(c) All interest attributable to investment of money deposited in the fund; and

(d) All money received in the form of gifts, grants, reimbursement or appropriation from any source for any of the purposes provided in subdivision 2, except federal grants.

Subd. 5. [RECOMMENDATION BY LCWM.] The legislative commission on waste management shall make recommendations to the standing legislative committees on finance and appropriations regarding appropriations from the fund.

Subd. 6. [REPORT TO LEGISLATURE.] By November 1, 1984, and each year thereafter, the agency shall submit to the senate finance committee, the house appropriations committee and the legislative commission on waste management a report detailing the activities for which money from the environmental response, compensation and compliance fund has been spent during the previous fiscal year.

Sec. 21. [115B.21] [TAXES; DEFINITIONS.]

Subdivision 1. [APPLICATION.] The definitions provided in this section and section 2 apply to sections 21 to 24.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of revenue.

Subd. 3. [GENERATOR.] "Generator" means a person who generates hazardous waste and who is required to disclose the generation of hazardous waste under the hazardous waste rules of the agency adopted under section 116.07.

Subd. 4. [LONG TERM CONTAINMENT.] "Long term containment" means land disposal or storage for a period of more than one year.

Subd. 5. [TREATMENT.] "Treatment" means any material, technique or process designed to change the physical,

chemical or biological character or composition of a hazardous waste in order to: (a) neutralize it; (b) render it nonhazardous or less hazardous; (c) render it safer to transport, store or dispose of; (d) make it amenable to storage; or (e) reduce its volume.

Subd. 6. [WASTEWATER TREATMENT UNIT.] "Wastewater treatment unit" means a device which is part of a wastewater treatment facility subject to regulation pursuant to the federal Clean Water Act under 33 U.S.C. Section 1317 (b) or 1342.

Sec. 22. [115B.22] [HAZARDOUS WASTE GENERATOR TAX.]

Subdivision 1. [TAXES IMPOSED: EXCLUSIONS.] Each generator of hazardous waste shall pay the taxes imposed by this section based upon the volume and destination of the hazardous wastes generated. The taxes imposed by this section do not apply to hazardous wastes destined for recycling or reuse including waste accumulated, stored, or physically, chemically, or biologically treated before recycling or reuse, to used crankcase oil, to hazardous waste which is generated as a result of any response action, or to hazardous waste which meets applicable pretreatment standards or compliance schedules and is discharged to a public sewage treatment works.

Subd. 2. [LONG TERM CONTAINMENT WITHOUT TREATMENT.] Hazardous waste destined for long term containment without treatment shall be taxed at the rate of \$2 cents per gallon of liquid or \$32 per cubic yard of solid.

Subd. 3. [LONG TERM CONTAINMENT AFTER TREATMENT.] Hazardous waste destined for long term containment after treatment shall be taxed at the rate of 16 cents per gallon of liquid or \$16 per cubic yard of solid.

Subd. 4. [LAND TREATMENT.] Hazardous waste destined for treatment in or on the land shall be taxed at the rate of \$32 per cubic yard.

Subd. 5. [OTHER TREATMENT.] Hazardous waste destined for treatment, other than as provided in subdivision 6, to produce a material which is not hazardous, including treatment permitted by the agency in a sewage treatment works, or hazardous waste which is destined for destructive treatment by incineration shall be taxed at the rate of eight cents per gallon of liquid or \$8 per cubic yard of solid.

Subd. 6. [ON-SITE WASTEWATER TREATMENT.] The tax imposed under this section does not apply to hazardous waste which is destined for treatment in an on-site wastewater treatment unit to produce a material which is not hazardous before

entering a public sewer system or waters of the state but the tax does apply to any residue of treatment which is a hazardous waste.

Subd. 7. [DISPOSITION OF PROCEEDS.] The proceeds of the taxes imposed under this section including any interest and penalties shall be deposited in the fund.

Subd. 8. [REVIEW OF TAX BY LCWM.] After the waste management board submits the plan required under section 115A.11 to the legislative commission on waste management, the commission shall review the taxes and tax rates imposed under this section in light of the objectives and recommendations of the plan, and shall recommend to the standing tax committees of both houses of the legislature any changes in the taxes or tax rates which are needed to assist or encourage implementation of the strategies adopted by the state for management of hazardous waste.

Sec. 23. [115B.23] [SEVERABILITY.]

If any tax imposed under section 22 is found to be invalid because of the purpose for which the proceeds were appropriated or made available under section 20, subdivision 2, the proceeds of that tax shall not be appropriated or available for the objectionable purposes, but the tax shall continue to be imposed and the proceeds shall be appropriated and made available for other purposes provided in section 20, subdivision 2.

Sec. 24. [115B.24] [TAX ADMINISTRATION AND ENFORCEMENT.]

Subdivision 1. [ANNUAL RETURNS.] Every generator of hazardous waste subject to taxation pursuant to section 22 shall file a return relating to the tax due for the preceding calendar year with the commissioner of revenue by April 15 each year, in the form prescribed by the commissioner. Payment of the tax, to the extent not paid in full pursuant to subdivisions 2 and 3, shall be submitted with the return.

Subd. 2. [DECLARATIONS OF ESTIMATED TAX.] For 1983, every generator of hazardous waste required to pay a tax pursuant to section 22 shall make a declaration of estimated hazardous waste generated for the last six months of calendar 1983 if the tax can reasonably be estimated to exceed \$500. The declaration of the estimated tax shall be filed by October 15, 1983. The amount of estimated tax with respect to which a declaration is required shall be paid in two equal installments by October 15, 1983 and January 15, 1984. For 1984 and subsequent years, every generator of hazardous waste required to pay a tax pursuant to section 22 shall make a declaration of estimated hazardous waste generated for the calendar year if the tax can reasonably be expected to be in excess of \$1,000. The declaration

of estimated tax shall be filed by March 15. The amount of estimated tax with respect to which a declaration is required shall be paid in four equal installments on or before the 15th day of March, June, September, and December.

An amendment of a declaration may be filed in any interval between installment dates prescribed above but only one amendment may be filed in each interval. If an amendment of a declaration is filed, the amount of each remaining installment shall be the amount which would have been payable if the new estimate had been made when the first estimate for the calendar year was made, increased or decreased, as the case may be, by the amount computed by dividing

(1) the difference between (A) the amount of estimated tax required to be paid before the date on which the amendment was made, and (B) the amount of estimated tax which would have been required to be paid before that date if the new estimate had been made when the first estimate was made, by

(2) the number of installments remaining to be paid on or after the date on which the amendment is made.

The commissioner of revenue may grant a reasonable extension of time for filing any declaration but the extension shall not be for more than six months.

Subd. 3. [FAILURE TO PAY ESTIMATED TAX.] (a) In case of any underpayment of estimated tax required by this section, except as provided in clause (b), there shall be added to the tax for the taxable year an amount determined at the rate specified in section 270.75, subdivision 4, upon the amount of the underpayment for the period of the underpayment.

For purposes of this subdivision, the amount of the underpayment shall be the excess of

(1) the amount of the installment, over

(2) the amount, if any, of the installment paid on or before the last date prescribed for payment.

The period of the underpayment shall run from the date the installment was required to be paid to whichever of the following dates is the earlier:

(1) April 15, or

(2) With respect to any portion of the underpayment, the date on which the portion is paid. For purposes of this paragraph, a payment of estimated tax on any installment date shall be considered a payment of any previous underpayment only to

the extent the payment exceeds the amount of the installment determined under this subdivision for the installment date.

(b) Notwithstanding the provisions of clause (a), the addition to the tax with respect to any underpayment of any installment shall not be imposed if the total amount of all payments of estimated tax made on or before the last date prescribed for the payment of the installment equals or exceeds the amount which would have been required to be paid on or before that date if the estimated tax were the lesser of:

(1) For 1985 and thereafter, the tax shown on the return of the taxpayer for the preceding year or, for 1984, twice the amount of the tax shown for 1983; or

(2) Eighty percent of the actual liability for the year.

Subd. 4. [REFUNDS OF OVERPAYMENTS OF ESTIMATED TAX.] Refunds of overpayments of estimated tax shall be made as provided in section 290.936.

Subd. 5. [EXCHANGE OF INFORMATION.] Notwithstanding the provisions of section 116.075, the pollution control agency may provide the commissioner of revenue with the information necessary for the enforcement of section 22 and this section. Information disclosed in a return filed pursuant to this section is public. Information exchanged between the commissioner and the agency is public unless the information is of the type determined to be for the confidential use of the agency pursuant to section 116.075 or is trade secret information classified pursuant to section 13.37. Information obtained in the course of an audit of the taxpayer by the department of revenue shall be nonpublic or private data to the extent that it is not directly divulged in a return of the tax.

Subd. 6. [PAYMENT BY OUT-OF-STATE GENERATORS.] A generator of any hazardous waste which is generated outside of this state and is transported into this state for long term containment or treatment as described in section 22, subdivisions 2 to 5 shall pay the tax imposed by section 22 at the first point at which the hazardous wastes are received by a person in this state for storage, treatment or long term containment. The tax shall be paid to the person who first receives the wastes in this state at the time the waste is received and shall be remitted by that person to the commissioner of revenue quarterly in the form and manner provided by the commissioner.

Subd. 7. [DUTIES OF THE AGENCY AND METROPOLITAN COUNTIES.] The agency shall provide to the commissioner the names and addresses of all persons known to the agency who are subject to tax under section 22, together with any information which the agency possesses concerning the amount of hazardous waste generated and disposed of by those

persons. Metropolitan counties required to regulate hazardous wastes under section 473.811, subdivision 5b, shall provide to the agency the data and information necessary to allow the agency to carry out its duties under this subdivision. Upon request by the commissioner, the agency shall examine returns and reports filed with the commissioner and notify the commissioner of any suspected inaccurate or fraudulent declaration or return. The agency may assist in auditing any person subject to tax under section 22 when requested by the commissioner.

Subd. 8. [PENALTIES; ENFORCEMENT.] The audit, penalty and enforcement provisions applicable to taxes imposed under chapter 290 apply to the taxes imposed under section 22 and those provisions shall be administered by the commissioner.

Subd. 9. [RULES.] The commissioner may adopt temporary and permanent rules necessary to implement the provisions of this section and section 22.

Subd. 10. [ADMINISTRATIVE EXPENSES.] Any amount expended by the commissioner from a general fund appropriation to enforce and administer section 22 and this section shall be reimbursed to the general fund and the amount necessary to make the reimbursement is appropriated from the fund to the commissioner of finance for transfer to the general fund.

Sec. 25. [116.12] [HAZARDOUS WASTE ADMINISTRATION FEES.]

Subdivision 1. [FEE SCHEDULES.] The agency shall establish the fees provided in subdivisions 2 and 3 in the manner provided in section 16A.128 to cover the amount appropriated from the general fund to the agency for that year for permitting, monitoring, inspection and enforcement expenses of the hazardous waste activities of the agency.

The legislature may appropriate additional amounts that need not be covered by fees or may provide that the fees shall cover only a portion of the general fund appropriation for the hazardous waste activities of the agency, in order to assure adequate funding for the regulatory and enforcement functions of the agency related to hazardous waste. All fees collected by the agency under this section shall be deposited in the general fund.

Subd. 2. [HAZARDOUS WASTE GENERATOR FEE.] Each generator of hazardous waste shall pay a fee on the hazardous waste which he generates. The agency shall compute the amount of the fee due based on the hazardous waste disclosures submitted by the generators and other information available to the agency. The agency shall annually prepare a statement of the amount of the fee due from each generator. The fee shall be paid annually commencing with the first day of the calendar quarter after the date of the statement.

The agency may exempt generators of small quantities of hazardous wastes otherwise subject to the fee if it finds that the cost of administering a fee on those generators is excessive relative to the proceeds of the fee. The fee shall consist of a minimum fee for each generator not exempted by the agency and an additional fee based on the quantity of wastes generated by the generator.

If any metropolitan counties recover the costs of administering county hazardous waste regulations by charging fees, the fees charged by the agency outside of those counties shall not exceed the fees charged by those counties. The agency shall not charge a fee in any metropolitan county which charges such a fee. The agency shall impose a fee calculated as a surcharge on the fees charged by the metropolitan counties and by the agency to reflect the agency's expenses in carrying out its statewide hazardous waste regulatory responsibilities. The surcharge imposed on the fees charged by the metropolitan counties shall be collected by the metropolitan counties in the manner in which the counties collect their generator fees. Metropolitan counties shall remit the proceeds of the surcharge to the agency by the last day of the month following the month in which they were collected.

Subd. 3. [FACILITY FEES.] The agency shall charge an original permit fee, a reissuance fee and an annual operator's fee for any hazardous waste facility regulated by the agency. The agency may include reasonable and necessary costs of any environmental review required under chapter 116D in the original permit fee for any hazardous waste facility.

Sec. 26. Minnesota Statutes 1982, section 115A.24, subdivision 1, is amended to read:

Subdivision 1. [CERTIFICATE.] (EXCEPT AS PROVIDED IN SUBDIVISION 2.) By December 15, 1982, on the basis of and consistent with its hazardous waste management plan adopted under section 115A.11, the board shall issue a certificate or certificates of need for disposal facilities for hazardous wastes in the state. The certificate or certificates shall indicate the types and volumes of waste for which disposal facilities are and will be needed through the year 2000 and the number, types, sizes, general design and operating specifications, and function or use of the disposal facilities needed in the state. The board shall certify need only to the extent that the board has determined that there are no feasible and prudent alternatives including waste reduction, separation, pretreatment, processing, and resource recovery which would minimize adverse impact upon natural resources, provided that the board shall require the establishment of at least one commercial disposal facility in the state. Economic considerations alone shall not justify certification nor the rejection of alternatives. Alternatives that are speculative and conjectural shall not be deemed to be feasible and

prudent. The board shall consider all technologies being developed in other countries as well as in the United States when it considers the alternatives to hazardous waste disposal. The certificate or certificates shall not be subject to the provisions of chapter 14 but shall be the final determination required on the matters decided by the certificate or certificates and shall have the force and effect of law. The certificate or certificates shall not be amended for five years. The board and the permitting agencies, in reviewing and selecting sites, completing environmental impact statements, and issuing approvals and permits for waste disposal facilities described in the certificate or certificates of need, shall not reconsider matters determined in the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of facilities consistent with the certification. The board and the permitting agencies shall be required to make a final decision approving the establishment of at least one commercial disposal facility for hazardous waste in the state.

Sec. 27. Minnesota Statutes 1982, section 466.01, is amended by adding a subdivision to read:

Subd. 3. For the purposes of sections 466.01 to 466.15, "release" and "hazardous substance" have the meanings given in section 2.

Sec. 28. Minnesota Statutes 1982, section 466.04, subdivision 1, is amended to read:

Subdivision 1. [LIMITS; PUNITIVE DAMAGES.] Liability of any municipality on any claim within the scope of sections 466.01 to 466.15 shall not exceed

(a) \$100,000 when the claim is one for death by wrongful act or omission and \$100,000 to any claimant in any other case;

(b) \$300,000 for any number of claims arising out of a single occurrence (.);

(c) *Twice the limits provided in clauses (a) and (b), but not less than \$300,000 per claim, when the claim arises out of the release or threatened release of a hazardous substance, whether the claim is brought under sections 1 to 15 or under any other law.*

No award for damages on any such claim shall include punitive damages.

Sec. 29. [RECOMMENDATIONS CONCERNING ALLOCATION OF LIABILITY.]

The waste management board shall make recommendations to the legislature by November 1, 1983 regarding the allocation of

liability among the owners, operators, and users of a hazardous waste disposal facility established pursuant to sections 115A.18 to 115A.30, including any recommended legislative changes, taking into consideration the need for the facility, the state's involvement in the facility, the need to protect the health, property and environment of the local community from injury and loss, and the need for incentives to encourage the development and use of alternatives to land disposal. The recommendations shall be made after consultation with affected industries, including insurers, generators, transporters, disposers, and treaters of hazardous waste, individuals, including academic, scientific and legal professionals, and groups, including community and environmental groups.

Sec. 30. [VICTIM COMPENSATION STUDY.]

By July 1, 1984, the legislative commission on waste management shall conduct a study and make recommendations to the legislature on the creation of a compensation fund to compensate persons who are injured as the result of a release of a hazardous substance and who would not otherwise be adequately compensated for their injuries. The study shall consider matters including the following:

(a) The appropriate scope of compensation which should be provided by the fund including the extent of any compensation which should be available for medical expenses, disability, loss of income, physical impairment, and death;

(b) Creation of a simple, speedy, and cost efficient claims procedure which provides an effective remedy for injured claimants;

(c) Methods by which compensation can be financed by those who create or contribute to the risk of injury from hazardous substance releases, including the manner by which the state may seek to recover amounts paid from the fund; and

(d) Whether the fund should be established or administered at the federal or state level and the appropriate degree of state and federal cooperation in providing compensation.

Sec. 31. [INSURANCE STUDY.]

The commissioner of insurance shall conduct a study of insurance providing coverage for liability under section 5. The commissioner shall submit the results of the study, together with his recommendations, to the legislature by July 1, 1985. The director of the pollution control agency shall cooperate with and provide assistance to the commissioner during the course of the study.

Sec. 32. [APPROPRIATION; COMPLEMENT.]

Subdivision 1. [APPROPRIATION TO FUND.] \$5,000,000 is appropriated from the general fund and transferred to the environmental response, compensation, and compliance fund established in section 20. This appropriation is available until expended.

Subd. 2. [TAX ADMINISTRATION; COMPLEMENT.] \$50,000 in fiscal year 1984 and \$40,000 in fiscal year 1985 is appropriated from the general fund to the commissioner of revenue for the purposes of administering and enforcing sections 21 to 24. This appropriation shall be reimbursed to the general fund under the provisions of section 24, subdivision 10.

The complement of the department of revenue is increased by two positions.

Subd. 3. [APPROPRIATION FOR RESPONSE ACTIONS; COMPLEMENT.] \$483,700 in fiscal year 1984 and \$400,700 in fiscal year 1985 is appropriated from the environmental response, compensation, and compliance fund to the pollution control agency for administrative costs.

The complement of the pollution control agency is increased by ten positions.

All money in the environmental response, compensation, and compliance fund not otherwise appropriated is appropriated to the pollution control agency for the purposes described in section 20, subdivision 2, clauses (a), (b), and (c). This appropriation is available until June 30, 1985.

Subd. 4. [APPROPRIATION FOR COMPLIANCE ACTIONS; COMPLEMENT.] \$45,600 in fiscal year 1984 and \$56,400 in fiscal year 1985 is appropriated from the general fund to the attorney general for the purposes of enforcing this act. This appropriation shall be reimbursed to the general fund from the environmental response, compensation, and compliance fund, and the amount necessary to make the reimbursement is appropriated to the commissioner of finance for transfer to the general fund.

The complement of the office of the attorney general is increased by two positions.

Subd. 5. [APPROPRIATION FOR VICTIM COMPENSATION STUDY.] \$20,000 is appropriated from the general fund to the legislative commission on waste management to carry out the study required by section 30.

Subd. 6. [APPROPRIATION FOR INSURANCE STUDY.] There is appropriated from the general fund to the commissioner

of insurance \$5,000 for fiscal year 1984, to conduct the study described in section 31.

Sec. 33. [REPEALER.]

Minnesota Statutes 1982, section 115A.24, subdivision 2, is repealed.

Sec. 34. [EFFECTIVE DATE.]

Sections 17 to 24 are effective the day following final enactment. The taxes imposed by section 22 are effective July 1, 1983. The remaining sections of this act are effective July 1, 1983."

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "providing for studies;"

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

House Conferees: DEE LONG, DARBY NELSON, WILLARD M. MUNGER, BOB ANDERSON and HARRY A. SIEBEN, JR.

Senate Conferees: GENE MERRIAM, RANDOLF W. PETERSON, WILLIAM P. LUTHER and ERIC D. PETTY.

Long moved that the report of the Conference Committee on H. F. No. 76 be adopted and that the bill be repassed as amended by the Conference Committee.

Olsen moved that the Conference Committee Report on H. F. No. 76 be rejected, that the Speaker appoint new conferees, and that the bill be returned to Conference Committee.

A roll call was requested and properly seconded on the Olsen motion.

The Speaker called Wynia to the Chair.

The question was taken on the Olsen motion and the roll was called.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 49 yeas and 78 nays as follows:

Those who voted in the affirmative were:

Bennett
Bishop

Blatz
Burger

Carlson, D.
Dempsey

DenOuden
Elioff

Erickson
Findlay

Fjoslien	Himle	Ludeman	Reif	Uphus
Forsythe	Hoberg	McDonald	Schafer	Valan
Frerichs	Hokr	McKasy	Schreiber	Valento
Gruenes	Jennings	Olsen	Scaberg	Waltman
Gutknecht	Johnson	Omann	Sherman	Welker
Haukoos	Knickerbocker	Pauly	Stadum	Wigley
Heap	Kvam	Piepho	Svigum	Zaffke
Heinitz	Levi	Quist	Thiede	

Those who voted in the negative were:

Anderson, B.	Eken	Mann	Price	Skoglund
Anderson, G.	Ellingson	Marsh	Quinn	Solberg
Anderson, R.	Graba	McEachern	Rice	Sparby
Battaglia	Greenfield	Minne	Riveness	Staten
Beard	Gustafson	Munger	Rodosovich	Swanson
Begich	Hoffman	Murphy	Rodriguez, C.	Tomlinson
Bergstrom	Jacobs	Nelson, D.	Rodriguez, F.	Tunheim
Berkelman	Jensen	Nelson, K.	Rose	Vanasek
Brandl	Kahn	Neuenschwander	St. Onge	Vellenga
Brinkman	Kalis	Norton	Sarna	Voss
Carlson, L.	Kelly	Ogren	Scheid	Welch
Clark, J.	Knuth	Onnen	Schoenfeld	Welle
Clark, K.	Kostohryz	Osthoff	Scgal	Wenzel
Clawson	Krueger	Otis	Shaver	Speaker Sieben
Cohen	Larsen	Peterson	Shea	
Coleman	Long	Piper	Simoneau	

The motion did not prevail.

The Speaker resumed the Chair.

The question recurred on the Long motion that the report of the Conference Committee on H. F. No. 76 be adopted and that the bill be repassed as amended by the Conference Committee. The motion prevailed.

H. F. No. 76, A bill for an act relating to the environment; establishing an environmental response; compensation and compliance fund to pay for removal and remedial action associated with certain hazardous substances released into the environment and for other purposes; providing for liability for cleanup costs, personal injury, economic loss, and damage to natural resources resulting from releases of hazardous substances; imposing taxes, fees, and penalties; providing for injunctive relief; appropriating money; amending Minnesota Statutes 1982, sections 115A.24, subdivision 1; 466.01, by adding a subdivision; and 466.04, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 116; proposing new law coded as Minnesota Statutes, chapter 115B; repealing Minnesota Statutes 1982, section 115A.24, subdivision 2.

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.

Eken moved that those not voting be excused from voting. The motion prevailed.

There were 112 yeas and 18 nays as follows:

Those who voted in the affirmative were:

Anderson, B.	Elioff	Kostohryz	Peterson	Solberg
Anderson, G.	Ellingson	Krueger	Piepho	Sparby
Anderson, R.	Evans	Larsen	Price	Staten
Battaglia	Fjoslien	Long	Quinn	Sviggum
Beard	Forsythe	Mann	Quist	Swanson
Begich	Graba	Marsh	Keif	Tomlinson
Bennett	Greenfield	McDonald	Rice	Tunheim
Bergstrom	Gruenes	McEachern	Riveness	Uphus
Berkelman	Gustafson	McKasy	Rodosovich	Valan
Bishop	Haukoos	Minne	Rodriguez, C.	Valento
Blatz	Heap	Munger	Rodriguez, F.	Vanasek
Brandl	Himle	Murphy	Rose	Vellenga
Brinkman	Hoberg	Nelson, D.	St. Onge	Voss
Burger	Hoffman	Nelson, K.	Sarna	Waltman
Carlson, D.	Hokr	Neuenschwander	Scheid	Welch
Carlson, L.	Jacobs	Norton	Schoenfeld	Welle
Clark, J.	Jensen	Ogren	Schreiber	Wenzel
Clark, K.	Johnson	Olsen	Seaberg	Wynia
Clawson	Kahn	Omann	Segal	Zaffke
Cohen	Kalis	Onnen	Shaver	Speaker Sieben
Coleman	Kelly	Osthoff	Shea	
Dimler	Knickerbocker	Otis	Simoneau	
Eken	Knuth	Pauly	Skoglund	

Those who voted in the negative were:

Dempsey	Frerichs	Kvam	Schafer	Welker
DenOuden	Gutknecht	Levi	Sherman	Wigley
Erickson	Heinitz	Ludeman	Stadium	
Findlay	Jennings	Piper	Thiede	

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

Clark, J., was excused for the remainder of today's session.

SPECIAL ORDERS, Continued

Eken moved that the remaining bills on Special Orders for today be continued one day. The motion prevailed.

CALL OF THE HOUSE LIFTED

Eken moved that the call of the House be dispensed with. The motion prevailed and it was so ordered.

GENERAL ORDERS

Eken moved that the bills on General Orders for today be continued one day. The motion prevailed.

MOTIONS AND RESOLUTIONS

Greenfield moved that the name of Staten be added as an author on H. F. No. 1013. The motion prevailed.

Kvam moved that his name be stricken as an author on H. F. No. 1218. The motion prevailed.

Dempsey moved that his name be stricken as an author on H. F. No. 1218. The motion prevailed.

Rodriguez, F., moved that the name of Wigley be added as an author on H. F. No. 1273. The motion prevailed.

Staten moved that the name of Clark, K., be added as an author on H. F. No. 1274. The motion prevailed.

Greenfield moved that the name of Clark, K., be added as an author on H. F. No. 1276. The motion prevailed.

Heap moved that the name of Segal be added as an author on H. F. No. 1277. The motion prevailed.

Norton, Munger and Carlson, D., introduced:

House Concurrent Resolution No. 5, A house concurrent resolution commending the University of Minnesota Department of Civil and Mineral Engineering for receipt of the 1983 National Award for Outstanding Civil Engineering Achievement from the American Society of Civil Engineers.

The resolution was referred to the Committee on Rules and Legislative Administration.

ADJOURNMENT

Eken moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:00 p.m., Thursday, May 5, 1983.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

