

STATE OF MINNESOTA

SEVENTY-FOURTH SESSION - 1986

SEVENTY-FIFTH DAY

SAINT PAUL, MINNESOTA, WEDNESDAY, FEBRUARY 26, 1986

The House of Representatives convened at 2:00 p.m. and was called to order by David M. Jennings, Speaker of the House.

Prayer was offered by Reverend Sally L. Hill, Associate Director of the Greater Minneapolis-St. Paul area and Minnesota Council of Churches.

The roll was called and the following members were present:

Anderson, G.	Ellingson	Kvam	Ozment	Simoneau
Anderson, R.	Erickson	Levi	Pappas	Skoglund
Backlund	Fjoslien	Lieder	Pauly	Solberg
Battaglia	Forsythe	Long	Peterson	Sparby
Beard	Frederick	Marsh	Piepho	Stanius
Becklin	Frederickson	McDonald	Piper	Staten
Begich	Frerichs	McEachern	Poppenhagen	Swiggum
Bennett	Greenfield	McKasy	Price	Thiede
Bishop	Gruenes	McLaughlin	Quinn	Thorson
Blatz	Gutknecht	McPherson	Quist	Tjornhom
Boerboom	Halberg	Metzen	Redalen	Tomlinson
Boo	Hartinger	Miller	Rees	Tompkins
Brandl	Hartle	Minne	Rest	Tunheim
Brinkman	Haukoos	Munger	Rice	Uphus
Brown	Heap	Murphy	Richter	Valan
Burger	Himle	Nelson, D.	Riveness	Valento
Carlson, D.	Jacobs	Nelson, K.	Rodosovich	Vanasek
Carlson, J.	Jennings, L.	Neuenschwander	Rose	Vellenga
Carlson, L.	Johnson	Norton	Sarna	Voss
Clark	Kahn	O'Connor	Schafer	Waltman
Clausnitzer	Kalis	Ogren	Scheid	Welle
Cohen	Kelly	Olsen, S.	Schoenfeld	Wenzel
Dempsey	Kiffmeyer	Olson, E.	Schreiber	Wynia
DenOuden	Knickerbocker	Omann	Seaberg	Zaffke
Dimler	Knuth	Onnen	Segal	Spk. Jennings, D.
Dyke	Kostohryz	Osthoff	Shaver	
Elioff	Krueger	Otis	Sherman	

A quorum was present.

Jaros was excused.

The Chief Clerk proceeded to read the Journal of the preceding day. Waltman moved that further reading of the Journal be dis-

pensed with and that the Journal be approved as corrected by the Chief Clerk. The motion prevailed.

REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 325, 1345, 1727, 1865, 1883, 2023, 2075, 2230, 1764, 1782, 1801, 1838, 1842, 1877, 1912, 1915, 1947, 2064, 2100, 1772, 1824 and 1766 and S. F. Nos. 1575, 641, 1319, 1531, 1645, 1587, 1597 and 1612 have been placed in the members' files.

S. F. No. 1575 and H. F. No. 1820, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

McPherson moved that the rules be so far suspended that S. F. No. 1575 be substituted for H. F. No. 1820 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1587 and H. F. No. 1853, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

McPherson moved that the rules be so far suspended that S. F. No. 1587 be substituted for H. F. No. 1853 and that the House File be indefinitely postponed. The motion prevailed.

S. F. No. 1597 and H. F. No. 1842, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Dimler moved that the rules be so far suspended that S. F. No. 1597 be substituted for H. F. No. 1842 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Levi from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 124, A bill for an act proposing an amendment to the Minnesota Constitution, adding a section to article VIII; providing for the recall of elected officials.

Reported the same back with the following amendments:

Page 2, line 4, after "state" insert "*for violation of their oath of office as determined by the people*"

Page 2, lines 8, 13, and 19, delete "25" and insert "10"

Page 2, line 29, after "person" insert "*for the same violation*"

Page 2, after line 30, insert:

"If a recall petition indicates that an official is being recalled because of specific actions the official has taken, and if the official is recalled by the voters in the special election, those specific actions taken by the official are void, to the extent possible."

Page 2, line 32, delete everything after the period

Page 2, delete line 33

With the recommendation that when so amended the bill pass.

The report was adopted.

Levi from the Committee on Rules and Legislative Administration to which was referred:

H. F. No. 397, A bill for an act proposing an amendment to the Minnesota Constitution, article I, adding a section to provide that the right to possess and use arms shall not be abridged.

Reported the same back with the following amendments:

Page 1, delete lines 11 to 13, and insert:

"Sec. 18. The right of a citizen to keep and bear arms for the defense and security of the person, family, or home, or for lawful hunting, recreation, or marksmanship training shall not be abridged."

Page 1, delete lines 18 to 20, and insert:

"that the right of a citizen to keep and bear arms for the defense and security of the person, family, or home, or for lawful hunting, recreation, or marksmanship training shall not be abridged?"

Amend the title as follows:

Page 1, line 4, delete "possess and use" and insert "keep and bear"

With the recommendation that when so amended the bill pass.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 1611, A bill for an act relating to Ramsey county; authorizing the issuance of bonds for the construction of library buildings and an annual levy for debt retirement.

Reported the same back with the following amendments:

Page 2, after line 8, insert:

"Sec. 3. [383A.381] [ABSTRACT CLERK.]

Subdivision 1. [APPOINTED.] In Ramsey county the office of abstract clerk shall not be elective but be filled by procedures adopted by the county personnel department and shall discharge the functions provided by the county. The last abstract clerk elected shall serve in a position created by the county to perform the functions of the office until the elected term expires or, upon the expiration of the term, until a successor is appointed and qualified and shall not before age 70 be disqualified from appointment because of age.

Subd. 2. [REPEALER.] Minnesota Statutes 1984, section 383A.38, is repealed."

Renumber the remaining section

Amend the title as follows:

Page 1, line 4, after "retirement" insert "; proposing coding for new law in Minnesota Statutes, chapter 383A; repealing Minnesota Statutes 1984, section 383A.38"

With the recommendation that when so amended the bill pass.

The report was adopted.

Blatz from the Committee on Crime and Family Law to which was referred:

H. F. No. 1732, A bill for an act relating to firearms; permitting certain licensed dealers and manufacturers to own or

possess machine guns and short-barreled shotguns for certain purposes; amending Minnesota Statutes 1984, section 609.67, subdivisions 3 and 4.

Reported the same back with the following amendments:

Page 2, line 3, delete "are" and delete "engaged"

Page 2, line 4, delete "in" and insert "own or possess the guns for the purpose of conducting"

Page 2, line 5, after "or" insert "are"

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 1746, A bill for an act relating to motor vehicles; defining term; establishing category and system of registration of fleet vehicles; amending Minnesota Statutes 1984, section 168.011, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 168.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 168.011, is amended by adding a subdivision to read:

Subd. 30. [FLEET.] "Fleet" means a combination of 1,000 or more vehicles and trailers owned by a person solely for the use of that person or employees of the person and registered in this state under section 2. It does not include vehicles licensed under section 168.187.

Sec. 2. [168.127] [FLEET VEHICLES; REGISTRATION, FEES.]

Subdivision 1. [REGISTRATION CATEGORY.] A unique registration category is established for vehicles and trailers of a fleet. Vehicles registered in the fleet must be issued a distinctive license plate. The design and size of the fleet license plate must be determined by the commissioner.

Subd. 2. [ANNUAL REGISTRATION PERIOD.] Instead of the registration period assigned for vehicles registered under

sections 168.014, 168.017, and 168.12, subdivisions 1 and 2a, a person may register a fleet on an annual basis. The annual registration period for vehicles in the fleet will be determined by the commissioner. By January 1, the applicant must provide all information necessary to qualify as a fleet registrant including a list of all vehicles in the fleet. On initial registration, all taxes and fees for vehicles in the fleet must be reassessed based on the expiration date. Gross weights for fleet vehicles may not be changed during the registration period.

Subd. 3. [REGISTRATION CARDS ISSUED.] On approval of the application for fleet registration the commissioner must issue a registration card for each qualified vehicle in the fleet. The registration card must be carried in the vehicle at all times and be made available to a peace officer on demand. Validation stickers must be issued to vehicles registered by gross weight.

Subd. 4. [FILING REGISTRATION APPLICATIONS.] Initial fleet applications for registration and renewals must be filed with the registrar or authorized representative at the main headquarters offices of the department of public safety in St. Paul.

Subd. 5. [RENEWAL OF FLEET REGISTRATION.] On the renewal of a fleet registration the registrant shall pay full licensing fees for every vehicle registered in the preceding year unless the vehicle has been properly deleted from the fleet. In order to delete a vehicle from a fleet, the fleet registrant must surrender to the commissioner the registration card, validation stickers, and license plates. If the card, stickers, or license plates are lost or stolen, the fleet registrant shall submit a sworn statement stating the circumstances for the inability to surrender the card, stickers, and license plates. The commissioner shall assess a penalty of 20 percent of the total tax due on the fleet against the fleet registrant who fails to renew the licenses issued under this section or fails to report the removal of vehicles from the fleet within 30 days. The penalty must be paid within 30 days after it is assessed.

Subd. 6. [FEES.] Instead of the \$3.25 filing fee for each vehicle, the applicant shall pay a \$3.25 administrative fee for each vehicle in the fleet. The administrative fee must be deposited in the state treasury and credited to the highway user tax distribution fund. A filing fee of \$3.25 must be collected by the processing office for an application regardless of the number of vehicles listed."

Amend the title as follows:

Page 1, line 2, delete "defining term;"

Page 1, line 3, delete "category and" and insert "a"

With the recommendation that when so amended the bill pass.

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 1765, A bill for an act relating to human services; prohibiting local governments from establishing special fire code requirements for small family day care homes; amending Minnesota Statutes 1984, section 299F.011, subdivision 4a.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 245.791, is amended to read:

245.791 [EXCLUSIONS.]

Sections 245.781 to 245.812 shall not apply to:

(1) Day care or residential care provided by a relative to related persons;

(2) Day care or residential care provided for a cumulative total of less than 30 days in any 12-month period;

(3) Day care provided for persons from a single unrelated family for any length of time;

(4) A home caring for a person placed there by a licensed agency for legal adoption, unless the adoption is not completed within two years after placement;

(5) A licensed hospital whose psychiatric or chemical dependency program is located within the hospital;

(6) A nursing home, hospital, or boarding care home, licensed by the state commissioner of health, except that an identifiable unit of such a facility which regularly provides care for more than five adults defined as persons in Minnesota Statutes, section 245.782, subdivision 2, who are not residents or patients of the nursing home, hospital, or boarding care home, must be licensed under sections 245.781 to 245.812;

(7) A day care or residential program serving any number of adults who are not defined as persons under Minnesota Statutes, section 245.782, subdivision 2;

(8) A sheltered workshop day program, certified by the state board of education;

(9) A work activity day program, certified by the state board of education;

(10) A work-wage home providing care for one nonrelated child who has reached his sixteenth birthday and who has been independently placed for purposes of education or employment;

(11) A school under the general supervision of the commissioner of education or a local education agency;

(12) A residential or day care facility under the direct control and supervision of a local education agency or a state agency other than the commissioner;

(13) Day care provided for periods of no more than three hours per day for any person while his relatives are in the same building, or can be present in the same building within 30 minutes;

(14) Facilities which in the judgment of the commissioner of education are operated for the primary purpose of educating children shall be exempt from these rules and regulations except insofar as the regulations affect the health and safety of the children therein. The classrooms shall meet the applicable standards of the commissioner of public safety and state commissioner of health;

(15) *Programs not located in family or group family day care homes and whose primary purpose is to provide activities outside the regular school day for children age five and over.*

Sec. 2. Minnesota Statutes 1984, section 245.802, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall develop and promulgate rules and regulations pursuant to chapter 14 for the operation and maintenance of day care and residential facilities and agencies, and for granting, suspending, revoking, and making licenses probationary. In developing rules and regulations, he shall consult with:

(1) Other appropriate state agencies including, but not limited to, the state commissioner of health, the state board of education, and the fire marshal. Any agency consulted is directed to cooperate with and assist the commissioner in developing appropriate rules and regulations for the licensing of day care and residential facilities and agencies;

(2) Persons and the relatives of the persons who use the service;

- (3) Advocacy groups;
- (4) Representatives of those who operate day care or residential facilities or agencies;
- (5) Experts in relevant professional fields.

Rules promulgated under this section establishing the maximum number of children permitted to reside in group foster homes shall require that children in the group foster parents' natural family be counted in the number of children actually residing in the group foster home, and the application of the rules providing the maximum number and manner of counting residents shall not be waived. *The authority granted by this section is limited by section 8, subdivision 2.*

Sec. 3. [245.88] [PURPOSE.]

The legislature recognizes that a growing number of families need child care services. It is the intent of the legislature to ensure the availability of safe, affordable, quality child care throughout the state.

Sec. 4. [245.881] [CITATION.]

Sections 2 to 9 may be cited as the "child care services act." The child care services act is to be read in conjunction with the public welfare licensing act and with sections 245.83 to 245.87.

Sec. 5. [245.882] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 2 to 9.

Subd. 2. [AGENCY.] "Agency" means the county social or human service agency governed by the board of county commissioners.

Subd. 3. [APPLICANT.] "Applicant" means an applicant for licensure as a day care provider under Minnesota Rules, parts 9545.0315 to 9545.0445 or as a center under Minnesota Rules, parts 9503.0511 to 9503.0661.

Subd. 4. [CHILD.] "Child" has the definition given in section 245.83, subdivision 3.

Subd. 5. [CHILD CARE SERVICES.] "Child care services" has the definition given in section 245.83, subdivision 2.

Subd. 6. [COMMISSIONER.] "Commissioner" means the commissioner of human services.

Subd. 7. [DAY CARE.] "Day care" means the care of a child outside the child's own home for gain or otherwise, on a regular basis, for any part of a 24-hour day.

Subd. 8. [DAY CARE RULE.] "Day care rule" means any rule promulgated under section 245.802 to regulate day care as defined in this section.

Subd. 9. [CONSUMER.] "Consumer" means a parent who places a child in day care.

Subd. 10. [DEPARTMENT.] "Department" means the department of human services.

Subd. 11. [PARENT.] "Parent" means a person who has the legal responsibility for a child such as the child's mother, father, or legally appointed guardian.

Subd. 12. [PROVIDER.] "Provider" means the day care license holder and primary caregiver.

Sec. 6. [STUDY.]

Subdivision 1. [TASK FORCE.] The commissioner shall establish a task force to study child care services in the state of Minnesota. The task force shall consist of representatives from counties; the legislature; providers; consumers; advocacy groups; and state agencies, including the state fire marshal, state building inspector, and the departments of human services and health.

Subd. 2. [FOCUS OF STUDY.] The task force shall consider at least the following matters related to day care:

- (1) availability of liability insurance for providers;*
- (2) safety and supervision factors which must be considered in developing child/staff ratios;*
- (3) identification of key indicators of quality day care;*
- (4) factors which must be considered in setting safety standards for day care facilities. In examining safety standards, the task force shall pay particular attention to simulation studies showing the evacuation of day care homes in case of fire;*
- (5) alternative approaches to the regulation of day care which:*
 - (i) give consumers an opportunity to find and choose day care situations suitable to their individual needs;*

(ii) *expand the availability of day care by allowing for restrictive and conditional day care licenses; and*

(iii) *set minimum standards of safety, sanitation, and the developmental needs of children and establish graduated levels of regulation for day care facilities which exceed minimum standards; and*

(6) *coordination with the USDA child care food program.*

Subd. 3. [RECOMMENDATIONS.] *The task force shall report to the legislature recommendations for making quality, safe, affordable day care available to consumers throughout the state. Task force recommendations shall include, but not be limited to, the following matters:*

(1) *child/staff ratios which will ensure safe, quality child care;*

(2) *standards for day care homes which will ensure the safety of children without placing undue financial burdens on providers;*

(3) *liability insurance requirements which will consider both the need to protect children and the importance of reducing financial burdens on the providers;*

(4) *methods of regulation which rely on performance standards rather than specification standards and which allow for flexibility in regulation; and*

(5) *guidelines for coordinating with the USDA child care food program in a manner which alleviates financial burdens on providers.*

Sec. 7. [REPORT.]

By October 1, 1986, the commissioner shall submit to the health and human services committees of the legislature a report containing the findings and recommendations of the task force and proposals for legislative action. By January 1, 1987, the commissioner shall compile and present to the health and human services committees of the legislature all proposed rules regarding day care.

Sec. 8. [CONDITIONAL LICENSE; ACTIONS SUSPENDED.]

Subdivision 1. [CONDITIONAL LICENSE.] *Whenever a county agency determines that day care rules would require an applicant or provider to spend more than \$100 for physical*

changes regarding fire safety, the fire marshal shall inspect the proposed day care home.

In carrying out the duties of this subdivision, the fire marshal shall:

(i) set forth the specific conditions under which the applicant or provider will be allowed to operate, and

(ii) explain, with reference to specific day care rules, how the conditions ensure safety of the day care home.

The commissioner has final authority to grant or deny a request for a conditional license.

Subd. 2. [DAY CARE RULES.] The commissioner shall adopt no additional day care rules except those for which notice was published in the state register on January 27, 1986.

Subd. 3. [REGULATION BY LOCAL GOVERNMENT.] The authority of local units of government to establish requirements for day care facilities is limited by Minnesota Statutes, section 299F.011, subdivision 4a, clauses (1) and (2).

Sec. 9. [245.883] [DUTIES OF COMMISSIONER.]

The commissioner shall:

(1) summarize day care rules in language understandable to the general public and provide a copy of each rule and its summary to each agency and provider;

(2) develop and distribute to providers and applicants an information brochure, in language understandable to the general public, which:

(a) describes services offered to applicants by the department under section 245.783, subdivision 1;

(b) summarizes procedures for appealing a denial, revocation, suspension, or nonrenewal of license as set forth in section 245.801 and in rules promulgated by the commissioner;

(c) explains penalties for failure to license a day care facility or failure to take corrective action as set forth in section 245.803; and

(d) explains the necessity of maintaining and providing access to records as set forth in section 245.804.

(3) *provide an information service to consumers and providers. The information service shall interpret day care rules to consumers and providers;*

(4) *ensure that day care rules are interpreted uniformly throughout the state by providing information, training, and technical assistance to licensing agencies prior to implementing a day care rule or any revision to a day care rule; and*

(5) *ensure that day care rules promulgated after July 1, 1987, reflect the needs of consumers and providers throughout the state by consulting with people from urban, suburban, and rural communities and with families which reflect the diversity of families who use day care.*

Sec. 10. [245.884] [CERTIFICATION STANDARDS.]

Subdivision 1. The commissioner of human services shall develop certification standards for use by county boards to certify people who license day care facilities. The commissioner of public safety shall develop certification standards for use by county boards to certify fire inspectors for day care facilities. The commissioners of human services and public safety shall report their proposed standards to the health and human services committees of the legislature before implementation.

Sec. 11. Minnesota Statutes 1984, section 299F.011, subdivision 4a, is amended to read:

Subd. 4a. [FAMILY OR GROUP FAMILY DAY CARE HOME REGULATION.] *Notwithstanding any other provision of law, a local unit of government in cities of the first class except for the city of Duluth may establish more restrictive requirements pertaining only to life safety measures for family day care homes serving fewer than ten and more than five children. In all other areas, a local unit of government shall not establish more restrictive requirements for family day care homes serving ten or fewer children than the requirements that apply to residential dwellings not used for family day care. When a local authority believes that the day care facility presents a life threatening hazard, the fire authority may then request in writing that the state fire marshal allow more restrictive requirements for that facility. The state fire marshal has final authority to grant or deny the request. Notwithstanding any contrary provision of this section, the fire marshal shall not adopt or enforce a rule:*

(1) *establishing staff ratios, age distribution requirements, and limitations on the number of children in care;*

(2) *regulating the means of egress from family or group family day care homes in addition to the egress regulations that apply to the home as a (SINGLE FAMILY) residential dwelling;*
or

(3) confining family or group family day care home activities to the floor of exit discharge.

For purposes of this subdivision, "family day care home" or "group family day care home" means a (SINGLE FAMILY) *residential* dwelling in which the day care provider: (1) resides as a member of the household; and (2) provides the services referred to in section 245.782, subdivision 5, to one or more persons.

Nothing in this subdivision prohibits the department of human services from adopting or enforcing rules regulating day care, including the subjects in subdivision 4a, clauses (1) and (3). The department may not, however, adopt or enforce a rule stricter than subdivision 4a, clause (2).

The department of human services may by rule adopt procedures for requesting the state fire marshal or a local fire marshal to conduct an inspection of day care homes to ensure compliance with state or local fire codes.

Sec. 12. Minnesota Statutes 1984, section 466.01, is amended by adding a subdivision to read:

Subd. 4. For the purposes of sections 466.01 to 466.15, "day care facility" has the meaning given in Minnesota Statutes 1984, section 245.782, subdivision 5.

Sec. 13. Minnesota Statutes 1984, section 466.01, is amended by adding a subdivision to read:

Subd. 5. For the purposes of sections 466.01 to 466.15, "provider" has the meaning given in section 4, subdivision 12.

Sec. 14. Minnesota Statutes 1984, section 466.03, is amended by adding a subdivision to read:

Subd. 6d. [LICENSING OF PROVIDERS.] Any claim against a municipality based on the failure of a provider to meet the standards needed for a license to operate a day care facility.

Sec. 15. [466.131] [INDEMNIFICATION BY STATE.]

A municipality is an employee of the state for purposes of the indemnification provisions of section 3.736, subdivision 9, when the municipality is acting under the public welfare licensing act and rules promulgated thereunder to inspect or investigate a provider.

Sec. 16. [REPEALER.]

Sections 6 to 8 are repealed effective July 1, 1987.

Sec. 17. [EFFECTIVE DATE.]

This act is effective upon final enactment."

Delete the title and insert:

"A bill for an act relating to human services; setting forth legislative direction for child care services; excluding certain programs from licensing requirements; authorizing a study; ensuring safe, affordable, quality child care; directing the commissioner of human services to provide information to providers and consumers of day care; suspending administrative authority until further consideration by the legislature; indemnifying counties; amending Minnesota Statutes 1984, sections 245.791; 245.802, subdivision 1; 299F.011, subdivision 4a; 466.01, by adding subdivisions; 466.03, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapters 245 and 466."

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

The report was adopted.

Blatz from the Committee on Crime and Family Law to which was referred:

H. F. No. 1767, A bill for an act relating to taxation; imposing a tax on marijuana and controlled substances; requiring dealers in marijuana and controlled substances to obtain a license; imposing penalties; proposing coding for new law as Minnesota Statutes, chapter 297D.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Sec. 1. [297D.01] [DEFINITIONS.]

Subdivision 1. "Marijuana" means any marijuana, whether real or counterfeit, as defined in section 152.01, subdivision 9, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws.

Subd. 2. "Controlled substance" means any drug or substance, whether real or counterfeit, as defined in section 152.01, subdivision 4, that is held, possessed, transported, transferred, sold, or offered to be sold in violation of Minnesota laws. "Controlled substance" does not include marijuana.

Subd. 3. "Dealer" means a person who in violation of Minnesota law manufactures, produces, ships, transports, or imports

into Minnesota or in any manner acquires or possesses more than one and one-half ounces of marijuana, or two grams of any controlled substance, or more than ten dosage units of any controlled substance which is not sold by weight, upon which the taxes have not been paid as required by sections 1 to 14.

Subd. 4. "Commissioner" means the commissioner of revenue.

Sec. 2. [297D.02] [ADMINISTRATION.]

The commissioner of revenue shall administer sections 1 to 14. Payments required by sections 1 to 14 must be made to the commissioner on the form provided by the commissioner. The commissioner shall collect all taxes under sections 1 to 14.

Sec. 3. [297D.03] [RULES.]

The commissioner may adopt rules necessary to enforce sections 1 to 14. The commissioner shall adopt a uniform system of providing, affixing, and displaying official stamps, official labels, or other official indicia for marijuana and controlled substances on which a tax is imposed.

Sec. 4. [297D.04] [TAX PAYMENT REQUIRED FOR POSSESSION.]

No dealer may possess any marijuana or controlled substance upon which a tax is imposed by section 8 unless the tax has been paid on the marijuana or other controlled substance as evidenced by a stamp or other official indicia.

Sec. 5. [297D.05] [NO IMMUNITY.]

Nothing in this chapter may in any manner provide immunity for a dealer from criminal prosecution pursuant to Minnesota law.

Sec. 6. [297D.06] [PHARMACEUTICALS.]

Nothing in sections 1 to 14 requires persons registered under chapter 151 or otherwise lawfully in possession of marijuana or a controlled substance to pay the tax required under this chapter.

Sec. 7. [297D.07] [MEASUREMENT.]

For the purpose of calculating the tax under section 8, an ounce of marijuana or other controlled substance is measured by the weight of the substance in the dealer's possession.

Sec. 8. [297D.08] [TAX RATE.]

A tax is imposed on marijuana and controlled substances as defined in section 1 at the following rates:

(1) on each ounce of marijuana, or each portion of an ounce, \$100; and

(2) on each ounce of controlled substance, or portion of an ounce, \$5,000; or

(3) on each 50 dosage units of a controlled substance that is not sold by weight, or portion thereof, \$2,000.

Sec. 9. [297D.09] [FAILURE TO FILE, FILING FALSE OR FRAUDULENT RETURN; INTENT TO EVADE TAX; CRIMINAL PROVISIONS.]

Subdivision 1. [PENALTIES.] Any dealer violating sections 1 to 14 is subject to a penalty of 100 percent of the tax in addition to the tax imposed by section 8. In addition to the tax penalty imposed, a dealer distributing or possessing marijuana or controlled substances without affixing the appropriate stamps, labels, or other indicia is guilty of a crime and, upon conviction, may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. [STATUTE OF LIMITATIONS.] Notwithstanding section 628.26, or any other provision of the criminal laws of this state, an indictment may be found and filed upon any criminal offense specified in this section, in the proper court within six years after the commission of this offense.

Sec. 10. [297D.10] [STAMP PRICE.]

A dealer shall purchase from the department official stamps, labels, or other indicia to be affixed to all marijuana or controlled substances. The dealer shall pay 100 percent of face value for each stamp, label, or other indicia at the time of the purchase.

Sec. 11. [297D.11] [PAYMENT DUE.]

Subdivision 1. [STAMPS AFFIXED.] When a dealer purchases, acquires, transports, or imports into this state marijuana or controlled substances on which a tax is imposed by section 8, and if the indicia evidencing the payment of the tax have not already been affixed, the dealer shall have them permanently affixed on the marijuana or controlled substance immediately after receiving the substance. Each stamp or other official indicia may be used only once.

Subd. 2. [PAYABLE ON POSSESSION.] *Taxes imposed upon marijuana or controlled substances by sections 1 to 14 are due and payable immediately upon acquisition or possession in this state by a dealer.*

Sec. 12. [297D.12] [ALL ASSESSMENTS ARE JEOPARDY.]

Subdivision 1. [ASSESSMENT PROCEDURE.] *An assessment for a dealer not possessing stamps or other official indicia showing that the tax has been paid shall be considered a jeopardy assessment or collection, as provided in section 270.70. The commissioner shall assess a tax based on personal knowledge or information available to the commissioner; mail the taxpayer at the taxpayer's last known address or serve in person, a written notice of the amount of tax; demand its immediate payment; and, if payment is not immediately made, collect the tax by any method prescribed in chapter 270, except that the commissioner need not await the expiration of the times specified in chapter 270. Section 270.70, subdivision 4, paragraph (a), does not apply to sections 1 to 14.*

Subd. 2. [INJUNCTION PROHIBITED.] *No person may bring suit to enjoin the assessment or collection of any taxes, interest, or penalties imposed by sections 1 to 14.*

Subd. 3. [STANDARD OF PROOF.] *The tax and penalties assessed by the commissioner are presumed to be valid and correctly determined and assessed. The burden is upon the taxpayer to show their incorrectness or invalidity. Any statement filed by the commissioner with the clerk of court, or any other certificate by the commissioner of the amount of tax and penalties determined or assessed is admissible in evidence and is prima facie evidence of the facts it contains.*

Sec. 13. [297D.13] [CONFIDENTIAL NATURE OF INFORMATION.]

Subdivision 1. [CONTENTS OF RETURN.] *Neither the commissioner nor a public employee may reveal facts contained in a report or return required by sections 1 to 14, nor can any information contained in such a report or return be used against the dealer in any criminal proceeding, unless independently obtained, except in connection with a proceeding involving taxes due under sections 1 to 14 from the taxpayer making the return.*

Subd. 2. [EVIDENCE.] (a) *A person called to testify or produce evidence before the commissioner or an agent of the commissioner may not refuse to do so on the grounds that the testimony or evidence might tend to incriminate the person or subject the person to a criminal penalty.*

(b) No testimony or other information directly or indirectly derived from the testimony or other information given by a person described in paragraph (a) may be used against that person in any criminal case.

Sec. 14. [297D.14] [INVESTIGATORY POWERS.]

For the purpose of determining the correctness of any return, determining the amount of tax that should have been paid, determining whether or not the dealer should have made a return or paid taxes, or collecting any taxes under this chapter, the commissioner may examine, or cause to be examined, any books, papers, records, or memoranda, that may be relevant to making such determinations, whether the books, papers, records, or memoranda, are the property of or in the possession of the dealer or another person. The commissioner may require the attendance of any person having knowledge or information that may be relevant, compel the production of books, papers, records, or memoranda by persons required to attend, take testimony on matters material to the determination, and administer oaths or affirmations. Upon demand of the commissioner or any examiner or investigator, the clerk of any court shall issue a subpoena for the attendance of a witness or the production of books, papers, records, and memoranda. The commissioner may also issue subpoenas. Disobedience of subpoenas issued under this chapter is punishable by the district court of the district in which the subpoena is issued, or, if the subpoena is issued by the commissioner, by the district court of the district in which the party served with the subpoena is located, in the same manner as contempt of district court."

Amend the title as follows:

Page 1, line 3, delete everything after the semicolon

Page 1, delete line 4

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 1803, A bill for an act relating to traffic regulations; authorizing municipalities to permit handicapped persons to operate three-wheel off-road vehicles on city streets and roads under certain conditions; amending Minnesota Statutes 1984, section 169.045.

Reported the same back with the following amendments:

Page 1, line 16, delete *"three-wheel off-road vehicles as defined in section"*

Page 1, line 17, delete *"84.92"* and insert *"four-wheel all-terrain vehicles"*

Page 1, line 19, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 5, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 9, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 11, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 18, delete the new language

Page 2, line 22, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 26, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 30, delete *"three-wheel"*

Page 2, line 31, delete *"off-road"* and insert *"four-wheel all-terrain"*

Page 2, line 35, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 3, line 3, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

Page 3, after line 4, insert:

"Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

Amend the title as follows:

Page 1, line 4, delete *"three-wheel off-road"* and insert *"four-wheel all-terrain"*

With the recommendation that when so amended the bill pass.

The report was adopted.

Rose from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1804, A bill for an act relating to airports; requiring approval of pollution control agency for expanded capacity at Minneapolis-St. Paul International Airport; amending Minnesota Statutes 1984, section 473.612.

Reported the same back with the following amendments:

Page 2, line 16, delete "*The agency may*"

Page 2, delete lines 17 to 24 and insert "*The agency must approve or disapprove within 90 days, after providing the commission with reasonable opportunity to make specific amendments necessary to gain agency approval. The commission may not undertake a capital project, or borrow money or issue bonds for a capital project, that would result in an increase in aircraft noise as determined by the agency, unless the agency has approved the commission's plan, goals, and most recent annual report or unless the agency specifically approves the project.*"

Sec. 2. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment."

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

The report was adopted.

Blatz from the Committee on Crime and Family Law to which was referred:

H. F. No. 1863, A bill for an act relating to crimes; clarifying the crime of failing to file a tax return; creating a presumption that property acquired during the course of certain crimes are "proceeds" of the crime for purposes of forfeiture law; providing a court procedure to freeze bank funds of persons charged with certain crimes; amending Minnesota Statutes 1985 Supplement, sections 290.92, subdivision 15; and 609.531, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 609.

Reported the same back with the following amendments:

Page 3, line 9, after the stricken "truthfully" insert "to"

Page 3, line 10, after the first "or" insert "to"

Page 3, line 11, after "or" insert "willfully"

Pages 6 and 7, delete section 3

Page 7, line 31, delete "to 3" and insert "and 2"

Renumber the remaining section

Amend the title as follows:

Page 1, line 6, delete everything after the semicolon

Page 1, line 7, delete everything before "amending"

Page 1, line 9, delete " ; proposing"

Page 1, line 10, delete everything before the period

With the recommendation that when so amended the bill pass.

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 1873, A bill for an act relating to workers' compensation; regulating the obligations and administration of the special compensation fund; regulating the payment and right to benefits; compensation court of appeals; regulating attorneys' fees; providing for the administration of claims; providing penalties; amending Minnesota Statutes 1984, sections 176.041, subdivision 4; 176.081, subdivision 1; 176.101, subdivisions 2, 3f, and 3v; 176.104, subdivision 1; 176.105, subdivision 4; 176.111, subdivisions 6, 12, 15, and 20; 176.129, subdivision 8; 176.131, subdivisions 1a and 3; 176.135, subdivision 1a; 176.138; 176.179; 176.225, subdivision 1; 176.231, subdivisions 1 and 10; 176.242, subdivision 2; 176.243, subdivision 3; 176.361, subdivision 1; 176.421, subdivision 6; 176.461; 176.521, subdivision 3; 176.603; 176.611, subdivision 2; Minnesota Statutes 1985 Supplement, section 176.101, subdivision 3e; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1984, sections 176.265; 176.431; 176.441; and 176.611, subdivisions 3 and 4.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [79.531] [NEGLIGENTLY PAID CLAIMS.]

An insurer who has negligently paid benefits under chapter 176 may not charge the payment to the employer's experience rating.

Sec. 2. Minnesota Statutes 1984, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of his employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part-time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. (THE MAXIMUM WEEKLY COMPENSATION PAYABLE TO AN EMPLOYEE, OR TO HIS DEPENDENTS IN THE EVENT OF DEATH, SHALL NOT EXCEED 66-2/3 PERCENT OF THE PRODUCT OF THE DAILY WAGE TIMES THE NUMBER OF DAYS NORMALLY WORKED, PROVIDED THAT THE COMPENSATION PAYABLE FOR PERMANENT PARTIAL DISABILITY UNDER SECTION 176.101, SUBDIVISION 3, AND FOR PERMANENT TOTAL DISABILITY UNDER SECTION 176.101, SUBDIVISION 4, OR DEATH UNDER SECTION 176.111, SHALL NOT BE COMPUTED ON LESS THAN THE NUMBER OF HOURS NORMALLY WORKED IN THE EMPLOYMENT OR INDUSTRY IN WHICH THE INJURY WAS SUSTAINED, SUBJECT ALSO TO SUCH MAXIMUMS AS ARE SPECIFICALLY OTHERWISE PROVIDED.)

Sec. 3. Minnesota Statutes 1984, section 176.011, is amended by adding a subdivision to read:

Subd. 27. [SPENDABLE WEEKLY EARNINGS.] (a) "*Spendable weekly earnings*" means the employee's weekly wage, as defined by subdivision 18, reduced by both of the following:

(1) *an amount equal to a prorated weekly amount which would have been withheld under the withholding tables in effect on July 1, in the year preceding the injury, under Minnesota law and under the Internal Revenue Code of 1954, as amended, using the number of exemptions allowed for the employee, including old age and blindness, and for actual dependents to which the employee is entitled on the date of injury; and*

(2) *an amount equal to the weekly amount required to be withheld, as of July 1, in the year preceding the injury, under the Social Security Act of 1935, as amended, from the earnings of the employee at the time of the injury as if the earnings were earned at the beginning of the calendar year in which the employee was injured.*

(b) *Each December 1, the commissioner of the department of labor and industry shall publish uniform tables of spendable weekly earnings, as defined in paragraph (a). This table shall be conclusive for the purpose of converting a weekly wage into spendable weekly earnings during the subsequent calendar year.*

Sec. 4. Minnesota Statutes 1984, section 176.011, is amended by adding a subdivision to read:

Subd. 28. [PROFESSIONAL ATHLETE.] Professional athlete means a person whose primary occupation or employment is baseball, basketball, football, boxing, hockey, soccer, polo, tennis, wrestling, or other athletic games.

Sec. 5. Minnesota Statutes 1984, 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) in chapter 176C, may elect to provide coverage for that independent contractor.

A person, partnership, or corporation may charge the independent contractor a fee for providing the coverage only if the inde-

pendent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage and the name of the independent contractor, and (3) the fee and how it is calculated. An employer shall not base the amount of the fee on wages paid for vacation, holiday, or sick leave and shall not deduct any fee from those wages.

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. 6. Minnesota Statutes 1984, section 176.021, subdivision 1, is amended to read:

Subdivision 1. [LIABILITY FOR COMPENSATION.] Except as excluded by this chapter all employers and employees are subject to the provisions of this chapter.

Every employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of his employee arising out of and in the course of employment without regard to the question of negligence. The burden of proof of these facts is upon the employee.

If the injury was intentionally self-inflicted or the intoxication of, or use of drugs or controlled substances by, the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of these facts is upon the employer.

Sec. 7. Minnesota Statutes 1984, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to a person employed by a common carrier by railroad engaged in interstate or foreign commerce and who is covered by the Federal Employers' Liability Act, United States Code, title 45, sections 51 to 60, or other comparable federal law; to a person employed by a family farm as defined by section 176.011, subdivision 11a, or the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer; to a partner engaged in a farm operation or a partner engaged in a business and the spouse, parent, and child, regardless of age, of a partner in the farm operation or business; to an executive officer of a family farm corporation; to an executive officer of a closely held corporation referred to in section 176.012; to a spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, and employed by that family farm corporation; to a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; to another farmer or to a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community; to a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer; persons who are independent contractors as defined (BY RULES ADOPTED BY THE COMMISSIONER PURSUANT TO SECTION 176.83) *in chapter 176C*, except that this exclusion does not apply to an employee of an independent contractor; nor does this chapter apply to an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member.

Neither does the chapter apply to a person employed as a household worker in, for, or about a private home or household who earns less than (\$500) \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned (\$500) \$1,000 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned (\$500) \$1,000 in the present quarter.

This chapter does not apply to those persons employed by a corporation if those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to the officers of the corporation, and if the corporation files a written election with the commissioner 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) \$1,000 in salary or wages in a year.

This chapter does not apply to persons covered under the Domestic Volunteer Service Act of 1973, as amended, 42 U.S.C. sections 5011, et seq.

Sec. 8. Minnesota Statutes 1984, section 176.041, subdivision 2, is amended to read:

Subd. 2. [EXTRA-TERRITORIAL APPLICATION.] If an employee who regularly performs the primary duties of his employment within this state (, OR WHO IS HIRED WITHIN THIS STATE,) receives an injury while outside of this state in the employ of the same employer, the provisions of this chapter shall apply to such injury (UNLESS THE TRANSFER IS NORMALLY CONSIDERED TO BE PERMANENT). If a resident of this state is transferred outside the territorial limits of the United States as an employee of a Minnesota employer, he shall be presumed to be temporarily employed outside of this state while so employed.

Sec. 9. Minnesota Statutes 1984, section 176.041, subdivision 3, is amended to read:

Subd. 3. [TEMPORARY OUT-OF-STATE EMPLOYMENT.] If an employee hired in this state by a Minnesota employer, receives an injury while temporarily employed outside of this state, such injury shall be subject to the provisions of this chapter. (IF THE EMPLOYER'S BUSINESS IS IN MINNESOTA AND THE EMPLOYEE'S RESIDENCE IS IN MINNESOTA EMPLOYMENT OUTSIDE OF THIS STATE SHALL BE CONSIDERED TEMPORARY.)

Sec. 10. Minnesota Statutes 1984, section 176.041, subdivision 4, is amended to read:

Subd. 4. [OUT-OF-STATE EMPLOYMENTS.] If an employee who regularly performs the primary duties of his employment outside of this state or is hired to perform the primary duties of his employment outside of this state, receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forego any workers' compensation claim resulting from the injury that he may have a right to pursue in some other state. *Coverage under this subdivision shall be assumed by the employer or its insurer, and shall not be assumed or paid by the special compensation fund.*

Sec. 11. Minnesota Statutes 1984, section 176.041, is amended by adding a subdivision to read:

Subd. 5a. [OUT-OF-STATE INJURIES.] Except as specifically provided by subdivisions 2 and 3, injuries occurring outside of this state are not subject to this chapter.

Sec. 12. Minnesota Statutes 1984, section 176.081, subdivision 1, is amended to read:

Subdivision 1. (a) A fee for legal services of 25 percent of the first \$4,000 of compensation awarded to the employee and 20 percent of the next \$27,500 of compensation awarded to the 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 the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. 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. *Fees for administrative conferences under sections 176.242, 176.2421, 176.243, or 176.244 shall be determined on an hourly basis, according to the criteria in subdivision 5.*

(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, *or the fee is determined on an hourly basis*, 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. 13. Minnesota Statutes 1984, section 176.081, subdivision 7, is amended to read:

Subd. 7. If the employer or insurer files a denial of liability, notice of discontinuance, or fails to make payment of compensation or medical expenses within the statutory period after notice of injury or occupational disease, or otherwise 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 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, 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 employer, 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, *except in cases where the employer or insurer has denied primary liability, 100 percent of reasonable attorney fees may be awarded.*

Sec. 14. Minnesota Statutes 1984, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] For injury producing temporary total disability, the compensation is (66-2/3) 80 percent of (THE) *spendable* weekly (WAGE) *earnings* at the time of injury

(1) provided that during the year commencing on October 1, 1979, and each year thereafter, commencing on October 1, the maximum weekly compensation payable is the statewide average weekly wage for the period ending December 31, of the preceding year.

(2) The minimum weekly compensation benefits for temporary total disability shall be not less than (50) 20 percent of the statewide average weekly wage or the injured employee's (ACTUAL) *spendable* weekly (WAGE) *earnings*, whichever is (LESS) *more*. (IN NO CASE SHALL A WEEKLY BENEFIT BE LESS THAN 20 PERCENT OF THE STATEWIDE AVERAGE WEEKLY WAGE.)

Subject to subdivisions 3a to 3u this compensation shall be paid during the period of disability, payment to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 15. Minnesota Statutes 1984, 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) 80 percent of the difference between the *spendable* weekly (WAGE) *earnings* of the employee at the time of injury and the (WAGE) *spendable weekly earnings* the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability except as provided in section 176.101, *commencing upon the employee's return to work at a suitable job before the end of the 90-day period referred to in subdivision 3e. Notwithstanding subdivision 3n, if the employee commences a suitable job before the end of the 90-day period referred to in subdivision 3e, temporary partial benefits are payable during the period of disability. Temporary partial compensation shall also be paid during the period of disability commencing upon the employee's return to work at a light-duty job under subdivision 3f and terminating upon commencement of economic recovery compensation. Payment under this subdivision is 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 employee with work which the employee can perform in the partially disabled condition and the partial disability is a significant factor in the employee's inability to procure such work with another employer, and the employee has made a reasonable diligent effort to find work, the employee shall be paid temporary total disability benefits, subject to the limitations of subdivisions 3a to 3v.*

Sec. 16. Minnesota Statutes 1984, section 176.101, is amended by adding a subdivision to read:

Subd. 2a. [TEMPORARY PARTIAL DISABILITY; PROFESSIONAL ATHLETE.] *A professional athlete is not eligible to receive temporary partial disability compensation under this chapter for any period of disability resulting from an injury arising out of and in the course of employment as a professional athlete.*

Sec. 17. Minnesota Statutes 1984, section 176.101, subdivision 3a, is amended 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) 80 percent of the *spendable* weekly (WAGE) *earnings* 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.

Percent of disability	Weeks of compensation
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) *provisions of chapter 176B*. This subdivision applies to an injury which occurs on or after January 1, 1984.

Sec. 18. Minnesota Statutes 1984, section 176.101, subdivision 3b, is amended 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:

Percent of disability	Amount
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 according to the (RULES ADOPTED BY THE COMMISSIONER PURSUANT TO SECTION 176.105, SUBDIVISION 4) *provisions of chapter 176B*. This subdivision applies to an injury which occurs on or after January 1, 1984.

Sec. 19. Minnesota Statutes 1985 Supplement, section 176.101, subdivision 3e, is amended to read:

Subd. 3e. [END OF TEMPORARY TOTAL COMPENSATION; *SUITABLE JOB*.] (a) Ninety days after an employee has reached maximum medical improvement *and the medical report described in clause (c) has been served on the employee*, 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 chapter.

(b) If at any time prior to the end of the 90-day period described in clause (a) the employee retires or the employer furnishes work to the employee that is consistent with an approved plan of rehabilitation and meets the requirements of section 176.102, subdivision 1, or, if no plan has been approved, 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 and the employee shall, if appropriate, 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. 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 by this section.

(c) Upon receipt of a written medical report indicating that the employee has reached maximum medical improvement, the employer or insurer shall serve a copy of the report upon the employee and shall file a copy with the division. The beginning of the 90-day period *described in clause (a)* shall commence on the day this report is served on the employee for the purpose of determining whether a job offer consistent with the requirements of this subdivision is made. A job offer may be made before the employee reaches maximum medical improvement.

(d) The job which is offered or procured by the employer or accepted by the employee under clause (b) does not necessarily have to commence immediately but shall commence within a reasonable period after the end of the 90-day period described in clause (a). Temporary total compensation shall not cease under this subdivision until the job commences.

(e) If the job offered under clause (a) is *offered or procured by the employer and is not the job the employee had at the time of injury* it shall be offered *and described* in writing (AND). *The written description* shall state the nature of the job, the rate of pay, the physical requirements of the job, and any other information necessary to fully and completely inform the employee of the job duties and responsibilities. *The written description and the written offer need not be contained in the same document.*

The employee has 14 calendar days *after receipt of the written description and offer* to accept or reject the job offer. If the employee does not respond within this period it is deemed a refusal of the offer. Where there is an administrative conference to determine suitability under section 176.101, *subdivision 3v*, or 176.242, the period begins to run on the date of the commissioner's decision.

(f) 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. 20. Minnesota Statutes 1984, section 176.101, subdivision 3f, is amended to read:

Subd. 3f. [*LIGHT-DUTY JOB PRIOR TO (MAXIMUM MEDICAL IMPROVEMENT) THE END OF TEMPORARY TOTAL COMPENSATION.*] If the employer offers a job prior to (THE EMPLOYEE REACHING MAXIMUM MEDICAL IMPROVEMENT) *the end of the 90-day period referred to in subdivision 3e, paragraph (a)* and the job is consistent with an approved plan of rehabilitation or if no rehabilitation plan has been approved and the job is within the employee's physical limitations; or the employer procures a job for the employee with another employer which meets the requirements of this subdivision; or the employee accepts a job with another employer which meets the requirements of this subdivision, the employee's temporary total compensation shall cease. In this case the employee shall receive impairment compensation for the permanent partial disability which is ascertainable at that time. This impairment compensation shall be paid at the same rate that temporary total compensation was last paid. Upon (REACHING MAXIMUM MEDICAL IMPROVEMENT) *the end of temporary total compensation under subdivision 3e, paragraph (a)*, the provisions of subdivisions 3e or 3p apply, whichever is appropriate, and economic recovery compensation or impairment compensation is payable accordingly except that the compensation shall be offset by impairment compensation received under this subdivision.

Sec. 21. Minnesota Statutes 1985 Supplement, section 176.101, subdivision 3t, is amended to read:

Subd. 3t. [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.

((B) WHERE AN EMPLOYEE HAS SUFFERED A PERSONAL INJURY FOR WHICH TEMPORARY TOTAL COMPENSATION IS PAYABLE BUT WHICH PRODUCES NO PERMANENT PARTIAL DISABILITY AND THE EMPLOYEE IS UNABLE TO RETURN TO HIS FORMER EMPLOYMENT FOR MEDICAL REASONS ATTRIBUTABLE TO THE INJURY, THE EMPLOYEE SHALL RECEIVE 26 WEEKS OF ECONOMIC RECOVERY COMPENSATION. THIS PARAGRAPH SHALL NOT BE USED TO DETERMINE MONITORING PERIOD COMPENSATION UNDER SUBDIVISION 3I AND SHALL NOT BE A MINIMUM FOR DETERMINING THE AMOUNT OF COMPENSATION WHEN AN EMPLOYEE HAS SUFFERED A PERMANENT PARTIAL DISABILITY.)

Sec. 22. Minnesota Statutes 1984, section 176.101, subdivision 4, is amended to read:

Subd. 4. [PERMANENT TOTAL DISABILITY.] For permanent total disability, as defined in subdivision 5, the compensation shall be $(66\frac{2}{3})$ 80 percent of the (DAILY WAGE) *spendable weekly earnings* at the time of the injury, subject to a maximum weekly compensation equal to the maximum weekly compensation for a temporary total disability and a minimum weekly compensation equal to the minimum weekly compensation for a temporary total disability. This compensation shall be paid during the permanent total disability of the injured employee but after a total of \$25,000 of weekly compensation has been paid, the amount of the weekly compensation benefits being paid by the employer shall be reduced by the amount of any disability benefits being paid by any government disability benefit program if the disability benefits are occasioned by the same injury or injuries which give rise to payments under this subdivision. This reduction shall also apply to any old age and survivor insurance benefits. Payments shall be made at the intervals when the wage was payable, as nearly as may be. In case an employee who is permanently and totally disabled becomes an inmate of a public institution, no compensation shall be payable during the period of confinement in the institution, unless he has wholly dependent on him for support some person named in section 176.111, subdivisions 1, 2 or 3, in which case the compensation provided for in section 176.111, during the period of confinement, shall be paid for the benefit of the dependent person during dependency. The dependency of this person shall be determined as though the employee were deceased.

Sec. 23. Minnesota Statutes 1984, section 176.103, subdivision 2, is amended to read:

Subd. 2. [SCOPE.] (a) 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.

Except as provided in paragraph (b), 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.

(b) The commissioner has authority under this section to make determinations regarding medical causation. Objections to these determinations shall be referred to the chief administrative law judge for a de novo hearing before a compensation judge, with a right to review by the workers' compensation court of appeals, as provided in this chapter.

Sec. 24. Minnesota Statutes 1984, section 176.104, subdivision 1, is amended to read:

Subdivision 1. [DISPUTE.] If there exists a dispute regarding *medical causation* or 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 if appropriate. 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 monitored by the commissioner.

Sec. 25. Minnesota Statutes 1984, section 176.105, subdivision 4, is amended to read:

Subd. 4. [(LEGISLATIVE INTENT; RULES; LOSS OF MORE THAN ONE BODY PART) *DISABILITY FORMULA.*] ((A) FOR THE PURPOSE OF ESTABLISHING A DISABILITY SCHEDULE PURSUANT TO CLAUSE (B) OF THIS SUBDIVISION, THE LEGISLATURE DECLARES ITS INTENT THAT THE COMMISSIONER ESTABLISH A DISABILITY SCHEDULE WHICH, ASSUMING THE SAME NUMBER AND DISTRIBUTION OF SEVERITY OF INJURIES, THE AGGREGATE TOTAL OF IMPAIRMENT COMPENSATION AND ECONOMIC RECOVERY COMPENSATION BENEFITS UNDER SECTION 176.101, SUBDIVISIONS 3A TO 3U BE APPROXIMATELY EQUAL TO THE TOTAL AGGREGATE AMOUNT PAYABLE FOR PERMANENT PARTIAL DISABILITIES UNDER SECTION 176.101, SUBDIVISION 3, PROVIDED, HOWEVER, THAT AWARDS FOR SPECIFIC INJURIES UNDER THE PROPOSED SCHEDULE NEED NOT BE THE SAME AS THEY WERE FOR THE SAME INJURIES UNDER THE SCHEDULE PURSUANT TO SECTION 176.101, SUBDIVISION 3. THE SCHEDULE SHALL BE DETERMINED BY SOUND ACTUARIAL EVALUATION AND SHALL BE BASED ON THE BENEFIT LEVEL WHICH EXISTS ON JANUARY 1, 1983.)

((B) THE COMMISSIONER SHALL BY RULEMAKING ADOPT PROCEDURES SETTING FORTH RULES FOR THE EVALUATION AND RATING OF FUNCTIONAL DISABILITY AND THE SCHEDULE FOR PERMANENT PARTIAL DISABILITY AND 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.)

(EMERGENCY RULES SHALL BE ADOPTED FOR THIS PURPOSE NOT LATER THAN JANUARY 1, 1984. PRIOR TO THE ADOPTION OF THESE RULES, AT LEAST ONE PUBLIC HEARING 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 EMERGENCY 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.)

(PRIOR TO ADOPTION OF EMERGENCY RULES THE COMMISSIONER 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 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 MAY 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:)

((1) THE WORKABILITY AND SIMPLICITY OF THE PROCEDURES WITH RESPECT TO THE EVALUATION OF FUNCTIONAL DISABILITY ;)

((2) THE CONSISTENCY OF THE PROCEDURES WITH ACCEPTED MEDICAL STANDARDS;)

((3) 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 PROVIDED THAT THE COMMISSIONER IS NOT BOUND BY THE DEGREE OF DISABILITY IN THESE SOURCES BUT SHALL ADJUST THE RELATIVE DEGREE OF DISABILITY TO CONFORM TO THE EXPRESSED INTENT OF CLAUSE (A);)

((4) RULES, GUIDELINES, AND SCHEDULES THAT HAVE BEEN DEVELOPED BY ASSOCIATIONS OF HEALTH CARE PROVIDERS OR ORGANIZATIONS PROVIDED THAT THE COMMISSIONER IS NOT BOUND BY THE DEGREE OF DISABILITY IN THESE SOURCES BUT SHALL ADJUST THE RELATIVE DEGREE OF DISABILITY TO CONFORM TO THE EXPRESSED INTENT OF CLAUSE (A);)

((5) THE EFFECT THE RULES MAY HAVE ON REDUCING LITIGATION;)

((6) 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)

((7) SYMPTOMATOLOGY AND LOSS OF FUNCTION AND USE OF THE INJURED MEMBER.)

(THE FACTORS IN PARAGRAPHS (1) TO (7) SHALL NOT BE USED IN ANY INDIVIDUAL OR SPECIFIC WORKERS' COMPENSATION CLAIM UNDER THIS CHAPTER BUT SHALL BE USED ONLY IN THE ADOPTION OF RULES PURSUANT TO THIS SECTION.)

(NOTHING LISTED IN PARAGRAPHS (1) TO (7) SHALL BE USED TO DISPUTE OR CHALLENGE A DISABILITY RATING GIVEN TO A PART OF THE BODY SO LONG AS THE WHOLE SCHEDULE CONFORMS WITH THE EXPRESSED INTENT OF CLAUSE (A).)

((C)) If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body :

$$A + B (1 - A)$$

where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part. $A + B (1-A)$ is equivalent to $A + B - AB$.

For permanent partial disabilities to three body parts due to a single occurrence or as the result of an occupational disease, the above formula shall be applied, providing that A equals the result obtained from application of the formula to the first two body parts and B equals the percentage for the third body part. For permanent partial disability to four or more body parts incurred as described above, A equals the result obtained from the prior application of the formula, and B equals the percentage for the fourth body part or more in arithmetic progressions.

Sec. 26. Minnesota Statutes 1984, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at 50 percent of the (DAILY) *weekly* wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 27. Minnesota Statutes 1984, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid 55 percent of the (DAILY) *weekly* wage at the time of the injury of the deceased, for two or more orphans there shall be paid $66 \frac{2}{3}$ percent of the wages.

Sec. 28. Minnesota Statutes 1984, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leave no widow or child or husband or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on him for support, there shall be paid to such dependent, if but one, 30 percent of the (DAILY) *weekly* wage at the time of injury of the deceased, or if more than one, 35 percent of the (DAILY) *weekly* wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 29. Minnesota Statutes 1984, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until 66 2/3 percent of the (DAILY) *weekly* wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 30. Minnesota Statutes 1984, section 176.129, is amended by adding a subdivision to read:

Subd. 4b. [STATE MUTUAL INSURANCE COMPANY; CONTRIBUTION.] *Beginning January 30, 1987, and every January 30 thereafter, the state compensation insurance fund, established pursuant to chapter 176A, shall pay a management assessment equal to two percent of its gross premiums for the previous calendar year into the special compensation fund. The management assessment shall be deemed a "tax based on premiums" for the purposes of Minnesota Statutes 1984, section 290.06, subdivision 3f, clause (6).*

Sec. 31. Minnesota Statutes 1984, section 176.129, subdivision 8, is amended to read:

Subd. 8. [COMMISSIONER AS ADMINISTRATOR.] The commissioner is the administrator of the special compensation fund. The special 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. *As requested by the commissioner, the attorney general shall represent the special fund in all legal matters in which the special fund has an interest. The commissioner may designate one or more division employees to appear on behalf of the special fund in proceedings under this chapter. The division employees so designated need not be attorneys-at-law.*

Sec. 32. Minnesota Statutes 1984, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on the job (RETRAINING) *training* program pursuant to an approved rehabilitation plan under 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) *training* program, the on the job training employer shall pay the medical expenses and compensation required by this chapter, 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) *approved* for (RETRAINING) *on the job training*, is liable for the portion of the disability that is attributable to that injury.

Sec. 33. Minnesota Statutes 1984, 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 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. 34. Minnesota Statutes 1984, 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 prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, except as provided by clause (b) or (c), provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury 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 four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

(c) *No employee shall be eligible to receive supplementary benefits after October 1, 1986, unless the employee has been*

eligible and receiving such supplementary benefits prior to that date.

Sec. 35. Minnesota Statutes 1984, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] (a) The employer shall furnish 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. 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 the employer's inability or refusal seasonably to do so the employer 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. *Except as provided in paragraph (b),* orders of the commissioner with respect to this subdivision may be reviewed by the medical services review board pursuant to section 176.103. Orders of the 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 pursuant to section 176.103. Orders of the court of appeals may be reviewed by writ of certiorari to the supreme court.

(b) The commissioner has authority to make determinations regarding medical causation and regarding the question whether the medical condition, which required the furnished treatment or supplies, is a consequence of the injury. Objections to any order of the commissioner with respect to this paragraph shall be referred to the chief administrative law judge for a de novo hearing before a compensation judge, with a right to review by the workers' compensation court of appeals, as provided in this chapter.

Sec. 36. Minnesota Statutes 1984, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NON-EMERGENCY SURGERY; SECOND SURGICAL OPINION.] The employer is required to furnish surgical treatment pursuant to subdivision 1 only after the

employee has obtained two surgical opinions concerning whether the surgery is reasonably required to cure and relieve the effects of the personal injury or occupational disease. If at least one of the opinions affirms that the surgery is reasonably required, the employee may choose to undergo the surgery (AT THE EMPLOYER'S EXPENSE). *The employer is required to pay the reasonable value of the surgery unless the commissioner determines that the surgery is not reasonably required.* A second surgical opinion is not required in cases of emergency surgery or when the employer and employee agree that the opinion is not necessary.

Sec. 37. Minnesota Statutes 1985 Supplement, section 176.138, is amended to read:

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. This section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. 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 party receiving the data shall provide the employee or the employee's attorney (SHALL BE PROVIDED) with a copy of all data requested by the requester.

Medical data which is not directly related to a current injury or disability shall not be released without prior authorization of the employee.

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. This section applies only to written medical data which exists at the time the request is made.

Sec. 38. Minnesota Statutes 1984, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit himself to examination by the employer's

physician, if requested by the employer, and at reasonable times thereafter upon the employer's request. The employee is entitled upon request to have his own physician present at any such examination. Each party shall defray the cost of his own physician. Any report or written statement made by the employer's physician as a result of an examination of the employee, regardless of whether the examination preceded the injury or was made subsequent to the injury, shall be made available, upon request and without charge, to the injured employee or his representative. *An employer or insurer who receives notice of a potential proceeding, pursuant to section 176.271, subdivision 2, or is served with a petition pursuant to section 176.271, subdivision 1, or 176.291, shall immediately schedule any necessary examinations of the employee, if the examinations by the employer's physician or health care provider are necessary for the evaluation of the claim. The examinations shall be concluded and the report of any examination, prepared in compliance with Minnesota Rules, part 1415.2900, subpart 3, item D, shall be served and filed within 90 days of service of the notice required by section 176.271, subdivision 2.*

Where the adverse examination is canceled or the report cannot be prepared because of actions of the employee, the 90-day period shall not continue to run and, on motion, the claim petition may be stricken from active consideration. The claim petition may be reinstated or a new claim petition filed when the employee corrects the actions that caused the delay. The 90-day period for filing the medical report, as required by this subdivision, shall begin to run when the claim petition is filed or reinstated. In such cases, settlement judges shall schedule and conclude any settlement conference, pursuant to section 176.305, subdivision 1, within 100 days of the reinstatement or filing of the claim petition. Where the special compensation fund is a party to a proceeding, the 90-day period shall not commence for the special compensation fund until it receives notice that it is being named or joined as a party.

In cases involving occupational disease, the commissioner may extend the time for completing the adverse examination and filing the report but only if the employer or insurer establishes (1) that the extension is not for the purposes of delay, (2) that the employer or insurer has made a good faith effort to comply with this subdivision, and (3) that the extension is necessary because of the limited number of physicians available with expertise in the particular disease. Any report that does not comply with the provisions of this section shall not be accepted for filing and no evidence relating to the examination or report will be received or considered by the commissioner, a compensation judge, or the workers' compensation court of appeals in determining any issues in the case.

Sec. 39. Minnesota Statutes 1984, section 176.155, subdivision 5, is amended to read:

Subd. 5. [TESTIMONY OF HEALTH CARE PROVIDER.] Any physician or other health care provider designated by the commissioner, compensation judge, or workers' compensation court of appeals or whose services are furnished or paid for by the employer, who treats, examines, or is present at any examination, of an injured employee, may be required to testify as to any knowledge acquired by the physician or health care provider in the course of the treatment or examination relative to the injury or disability resulting from the injury only in cases involving occupational disease, cardiopulmonary injuries or diseases, injuries resulting from cumulative trauma, issues of apportionment of liability, and mental disorders, or upon an order of the chief administrative law judge, and then 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 evidence related to health care must be submitted by written report as prescribed by the chief administrative law judge. 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 evidence relating to health care 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, and, in no case later than 30 days following the final hearing date. Existing medical reports must be submitted with a claim petition or answer as provided in sections 176.291 and 176.321. All reports shall substantially conform to rules prescribed by the commissioner and the chief administrative law judge.

Sec. 40. Minnesota Statutes 1984, 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 the employee's survivors, and received in good faith by the employee or 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 *full credit against future lump sum benefit entitlement* (; PROVIDED, HOWEVER, THAT) *and as a partial credit against future weekly benefits.* The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits (OR), death benefits, *or weekly payments of economic recovery or impairment compensation* shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 41. Minnesota Statutes 1984, 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; or,

(e) *unreasonably and vexatiously discontinued compensation in violation of section 176.242.*

Sec. 42. Minnesota Statutes 1984, section 176.231, subdivision 1, is amended to read:

Subdivision 1. [TIME LIMITATION.] Where death or serious injury occurs to an employee during the course of employment, the employer shall report the injury or death to the commissioner and insurer within 48 hours after its occurrence. Where any other injury occurs which wholly or partly incapacitates the employee from performing labor or service for more than three calendar days (OR LONGER), the employer shall report the injury to the insurer on a form prescribed by the commissioner within ten days from its occurrence. An insurer and self-insured employer shall report the injury to the commissioner no later than 14 days from its occurrence. Where an

injury has once been reported but subsequently death ensues, the employer shall report the death to the commissioner and insurer within 48 hours after the employer receives notice of this fact.

Sec. 43. Minnesota Statutes 1984, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] If an employer, physician, chiropractor, or other health provider fails to file with the commissioner any report required by this section in the manner and within the time limitations prescribed, 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 failure.

(THE ATTORNEY GENERAL SHALL SUE IN A CIVIL ACTION TO COLLECT THIS PENALTY UPON NOTIFICATION OF THE MATTER BY THE COMMISSIONER. THE COMMISSIONER SHALL CERTIFY TO THE ATTORNEY GENERAL EACH FAILURE TO REPORT IMMEDIATELY UPON ITS OCCURRENCE.) *The imposition of a penalty may be appealed to a compensation judge within 30 days of notice of the penalty.*

Penalties collected by the state under this subdivision shall be paid into the (STATE TREASURY) *special compensation fund.*

Sec. 44. Minnesota Statutes 1984, section 176.242, subdivision 2, is amended to read:

Subd. 2. [CONFERENCE, REQUEST.] (a) The employee has ten calendar days from the date the notice was filed with the commissioner 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. If a notice of intent to discontinue has been filed, the commissioner shall schedule an administrative conference within ten calendar days after the commissioner receives timely notice of the request for an administrative conference. If no notice of intent to discontinue has been filed and the employer or insurer has requested a conference, the commissioner shall schedule an administrative conference to be held within 30 calendar days after the commissioner receives the employer's or insurer's request for a 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, employer, or insurer 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 unless the parties agree to a longer continuance. 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. If the employer or insurer is granted a continuance, compensation shall continue to be paid during the continuance. There is no limit to the number of continuances the commissioner may grant provided that the payment of compensation is subject to this clause during the continuance.

(d) If the insurer's stated reason for the discontinuance is that the employee has reached maximum medical improvement, the employee may request a continuance under paragraph (c) for the purpose of obtaining a medical report. The continuance under this paragraph may at the discretion of the commissioner exceed ten days and benefits shall not cease until the expiration of the 90-day period following maximum medical improvement.

((D)) (e) The purpose of an administrative conference is to determine whether reasonable grounds exist for a discontinuance.

Sec. 45. Minnesota Statutes 1984, section 176.242, is amended by adding a subdivision to read:

Subd. 12. [ADMINISTRATIVE CONFERENCE OUTSIDE OF THE METROPOLITAN AREA; FUNDING.] (a) To insure that employees and employers outside of the metropolitan area, as defined in Minnesota Statutes 1984, section 473.121, subdivision 2, have convenient access to administrative conferences pursuant to sections 176.102, 176.103, 176.242, 176.2421, and 176.243, the commissioner shall establish a mechanism for conducting such conferences outside of the metropolitan area. The commissioner shall report to the legislature in January 1988 concerning implementation of this subdivision.

(b) To implement clause (a), the commissioner may expend annually an amount equal to the amount deposited on the previous January 30 into the special compensation fund pursuant to section 176.129, subdivision 4b, from the special compensation fund. If, in implementing clause (a), the commissioner does not exhaust the funds that were deposited into the special compensation fund pursuant to section 176.129, subdivision 4b, the commissioner may spend the remaining funds to carry out the responsibilities of the mediation program within the workers' compensation division of the department of labor and industry. If any funds are remaining, the commissioner may use the money to carry out such responsibilities of the department as the commissioner deems necessary.

Sec. 46. Minnesota Statutes 1984, section 176.243, subdivision 3, is amended to read:

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 or regarding the payment of temporary partial disability benefits, 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) *filing* of the notice (ON THE EMPLOYEE) *with the department*. 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.

Sec. 47. [176.244] [ADMINISTRATIVE CONFERENCE SCHEDULED BY COMMISSIONER, FILING.]

(a) *The commissioner may schedule an administrative conference under sections 176.242, 176.2421, or 176.243 if it appears to the commissioner that the employer or insurer has not properly or timely filed or served a notice required by those sections and the employee requests the conference within 40 days of the date the employer or insurer should have filed the notice. The commissioner may, if appropriate, order that compensation be paid through the date of the conference where compensation is discontinued.*

(b) *Where an employer or insurer is required to file a notice under section 176.242, 176.2421, or 176.243, service on the employee by mail or in person must occur on before the date of filing.*

Sec. 48. Minnesota Statutes 1984, section 176.271, is amended to read:

176.271 [INITIATION OF PROCEEDINGS.]

Subdivision 1. Unless otherwise provided by this chapter or by the commissioner of labor and industry, all proceedings before the division are initiated by the filing of a written petition on a prescribed form with the commissioner of labor and industry at his principal office. *All petitions shall include the information required by section 176.291.*

Subd. 2. Before a proceeding is initiated pursuant to subdivision 1 the party contemplating initiation of a proceeding shall notify the party against whom the proceeding will be directed including an employer who has an interest in the matter and shall state the relief that will be sought in the proceeding. *The notice shall also be served on known third parties, other than the*

workers' compensation insurer, that have paid monetary benefits or treatment expenses to the employee or on the employee's behalf. The notice shall also include all medical reports not previously submitted to the employer or insurer, copies of all items in dispute, and the names and addresses of all witnesses that the party intends to call in support of the petition. The medical reports shall substantially conform to the manner prescribed by the commissioner and the chief administrative law judge. If the party to whom the notice is directed does not respond to the satisfaction of the party supplying the notice within (15) 30 days of the receipt of the notice a proceeding may be initiated pursuant to subdivision 1. This notification is not required in cases where compliance with this subdivision would result in the claim being barred by section 176.151 or other sections or a proceeding under section 176.103, 176.242 or 176.243 or other proceeding for which the commissioner determines this notice is not necessary.

Sec. 49. Minnesota Statutes 1984, section 176.291, is amended to read:

176.291 [DISPUTES AND DEFAULTS; PETITIONS; PROCEDURE.]

Where there is a dispute as to a question of law or fact in connection with a claim for compensation, or where there has been a default in the payment of compensation for a period of ten days, a party may present a verified petition to the commissioner stating the matter in dispute or the fact of default.

The petition shall also state:

- (1) names and residence of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) *copies of written medical reports and other information necessary to support the claim;*
- (6) *names and addresses of all witnesses intended to be called in support of the claim;*
- (7) *the desired location of any hearing and estimated time needed to present evidence at the hearing;*
- (8) *any requests for a prehearing or settlement conference;*

(9) facts which the commissioner by rule requires; and,

((6)) (10) such other facts as are necessary for the information of the commissioner, a compensation judge or the workers' compensation court of appeals.

If the answer to the claim petition raises issues not anticipated at the time of the service of the claim petition, the claim petition may be amended within 15 days of receipt of the answer. Any further amendment shall be permitted only upon an order of a compensation judge.

Sec. 50. Minnesota Statutes 1984, section 176.305, subdivision 1, is amended to read:

Subdivision 1. [HEARINGS ON PETITIONS.] The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition, *together with the copy of the notice of claim required by section 176.271, subdivision 2*, shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner shall, within ten days, refer the matter presented by the petition to a settlement judge. The settlement judge shall schedule a settlement conference if appropriate *and conclude the conference within 60 days, provided that if evidence is produced by a party for the first time at the conference or within five days prior to the scheduled conference, or where a potential intervenor is discovered at the time of, or immediately prior to, the settlement conference, the settlement judge may continue the conference for up to 14 calendar days. Conferences shall be scheduled in all cases where the petition followed a denial of primary liability.* If a settlement conference is not appropriate, or if such a conference or conferences do not result in progress toward a settlement, the settlement judge shall certify the matter for a hearing before a compensation judge and shall refer the matter to the chief administrative law judge to be heard by a compensation judge.

Sec. 51. Minnesota Statutes 1984, section 176.305, is amended by adding a subdivision to read:

Subd. 1a. [IMPROPER PETITION.] *The commissioner may reject any claim petition that does not meet the requirements of section 176.291, within 30 days of filing. The commissioner shall notify the petitioner, specifying the reasons for the rejection, and shall serve a copy on all parties who were served with the petition. The claimant may serve and file a new petition. If the original petition was timely filed under section 176.151, but the petition is rejected after that time has expired, a new petition may be filed within ten days of service of the notice of the rejection.*

Sec. 52. Minnesota Statutes 1984, section 176.306, is amended by adding a subdivision to read:

Subd. 3. The chief administrative law judge or the compensation judge assigned to the case may schedule a pretrial or settlement conference, whether or not a party requests such a conference.

Sec. 53. Minnesota Statutes 1984, section 176.321, subdivision 2, is amended to read:

Subd. 2. [CONTENTS.] The answer shall admit, deny, or affirmatively defend against the substantial averments of the petition, and shall state the contention of the adverse party with reference to the matter in dispute.

Each fact alleged by the petition or answer and not specifically denied by the answer or reply is deemed admitted, but the failure to deny such a fact does not preclude the workers' compensation court of appeals, commissioner, or compensation judge from requiring proof of the fact.

The answer shall include the names and addresses of all witnesses; the date, time, and place of scheduled adverse examinations; the desired location for a hearing; any request for a pre-hearing or settlement conference, and the estimated time needed to present evidence at a hearing. Answers may be amended at any time up to 50 days after the filing of the claim petition. After that time, an answer may be amended only on order of a compensation judge.

Sec. 54. Minnesota Statutes 1984, section 176.321, subdivision 3, is amended to read:

Subd. 3. [EXTENSION OF TIME IN WHICH TO FILE ANSWER.] Upon showing of cause, the commissioner of the department of labor and industry may extend the time in which to file an answer or reply for not more than 30 additional days. The time to file an answer or reply may also be extended upon agreement of the petitioner. If an answer is not filed and there has been no extension by order of the commissioner or by agreement, the failure to file an answer shall be treated as a default. *Any case certified by the commissioner, which does not include an answer or written extension order or agreement shall be set for a hearing at the first available date.*

Sec. 55. Minnesota Statutes 1984, section 176.341, is amended by adding a subdivision to read:

Subd. 4. [CONTINUANCES.] Only the chief administrative law judge or designee, on a showing of good cause, may grant a continuance provided that no continuance may be granted for

longer than 120 days. Any request for a continuance must be signed by both the party and the attorney who are seeking the continuance.

Sec. 56. Minnesota Statutes 1984, section 176.341, is amended by adding a subdivision to read:

Subd. 5. [EVIDENCE.] All evidence must be submitted at the time of the hearing; however, upon a showing of surprise at the hearing, a party may submit additional evidence provided that all evidence must be submitted within 30 days following the scheduled hearing date. This subdivision applies to all evidence, including evidence related to the issue of attorney's fees.

Sec. 57. Minnesota Statutes 1984, section 176.351, subdivision 2, is amended to read:

Subd. 2. [SUBPOENAS.] Upon his own initiative, or upon written request of an interested party, the commissioner or compensation judge before whom a hearing is held may issue a subpoena for the attendance of a witness or the production of such books, papers, records and documents as are material in the cause and are designated in the subpoena. The commissioner may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material in the cause pending and are designated in the subpoena. The commissioner may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material to the issue and designated in the subpoena in any claim where the employer or insurer has filed a denial of benefits without regard to whether a claim petition has been filed.

Sec. 58. Minnesota Statutes 1984, section 176.361, subdivision 1, is amended to read:

Subdivision 1. [RIGHT TO INTERVENE.] A person who has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge such that the person may either gain or lose by an order or decision may intervene in the proceeding by filing an application in writing stating the facts which show the interest. The commissioner is considered to have an interest and shall be permitted to intervene at the appellate level when a party relies in its claim or defense upon any statute or rule administered by the commissioner, or upon any rule, order, requirement, or agreement issued or made under the statute or rule.

The commissioner may adopt rules, not inconsistent with this section to govern intervention. The workers' compensation court of appeals shall adopt rules to govern the procedure for intervention in matters before it.

If the department of human services or the department of economic security seeks to intervene in any matter before the division, a compensation judge or the workers' compensation court of appeals, a nonattorney employee of the department, acting at the direction of the staff of the attorney general, may prepare, sign, serve and file motions for intervention and related documents (AND), appear at prehearing conferences, and participate in matters before a compensation judge or the workers' compensation court of appeals. Any other interested party may intervene using a nonattorney and may participate in any proceeding to the same extent an attorney could. This activity shall not be considered to be the unauthorized practice of law. An intervenor represented by a nonattorney shall be deemed to be represented by an attorney for the purposes of the conclusive presumption of section 176.521, subdivision 2.

Subdivisions 3 to 6 do not apply to matters pending in the mediation or rehabilitation and medical services sections.

Sec. 59. Minnesota Statutes 1984, section 176.361, subdivision 2, is amended to read:

Subd. 2. [WRITTEN APPLICATION.] A person desiring to intervene in a workers' compensation case as a party, including but not limited to a health care provider who has rendered services to an employee or an insurer who has paid benefits under section 176.191, shall submit a timely written application to intervene to the compensation or settlement judge to whom the case has been assigned. If the case has not yet been assigned, the application shall be made to the calendar judge if the case has been certified to the office, or to the division if the case has not been certified to the office or to the mediation or rehabilitation and medical services section if the matter is pending in that section.

(a) The application must be served on all parties either personally, by first class mail, or registered mail, return receipt requested. An application to intervene must be served and filed within (60) 30 days after a person has received notice that a (PETITION) claim has been filed (AS PROVIDED IN THIS SECTION) or a request for mediation made. An untimely (MOTION) application is subject to denial under subdivision 7.

(b) In any other situation, timeliness will be determined by the judge or awarding authority in each case based on circumstances at the time of filing. The application must show how the (MOVING PARTY'S) applicant's legal rights, duties, or privileges may be determined or affected by the case; state the grounds and purposes for which intervention is sought; and indicate the (MOVING PARTY'S) statutory right to intervene. The application must be accompanied by the following, if applicable, except that if the action is pending in the mediation or rehabilitation and medical services section, clause (6) is not required

and the information listed in clauses (1) to (5) may be brought to the conference rather than attached to the application:

(1) an itemization of disability payments showing the period during which the payments were or are being made; the weekly or monthly rate of the payments; and the amount of reimbursement claimed;

(2) a summary of the medical or treatment payments, or rehabilitation services provided by the division of vocational rehabilitation, broken down by creditor, showing the total bill submitted, the period of treatment or rehabilitation covered by that bill, the amount of payment on that bill, and to whom the payment was made;

(3) copies of all medical or treatment bills on which some payment was made;

(4) copies of the work sheets or other information stating how the payments on medical or treatment bills were calculated;

(5) a copy of the relevant policy or contract provisions upon which the claim for reimbursement is based;

(6) a proposed order allowing intervention with sufficient copies to serve on all parties;

(7) the name and telephone number of the person representing the intervenor who has authority to reach a settlement of the issues in dispute;

(8) proof of service or copy of the registered mail receipt;

(9) at the option of the intervenor, a proposed stipulation which states that all of the payments for which reimbursement is claimed are related to the injury or condition in dispute in the case and that, if the petitioner is successful in proving the compensability of the claim, it is agreed that the sum be reimbursed to the intervenor; and

(10) if represented by an attorney, the name, address, telephone number, and Minnesota Supreme Court license number of the attorney.

Sec. 60. Minnesota Statutes 1984, 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. 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 administrative law judge 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.

The compensation judge may dismiss, without prejudice, any case where the petitioner fails to comply with the provisions of chapter 176 or any order of a compensation judge or cannot proceed to hearing on the date set. The petitioner may file and serve a new petition. If the original petition was timely filed under section 176.151, but the petition is dismissed after that time has expired, a new petition may be filed within ten days of the dismissal.

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

Sec. 61. Minnesota Statutes 1984, section 176.411, subdivision 2, is amended to read:

Subd. 2. [DEPOSITIONS.] Except where a compensation judge orders otherwise, depositions may be taken in the manner which the law provides for depositions in civil actions in district court. *All other discovery shall be conducted pursuant to the joint rules of the commissioner and chief administrative law judge, except that all discovery must be completed within 60 days following the filing of the claim petition, provided that this subdivision does not govern adverse examinations and depositions conducted pursuant to section 176.155.*

Sec. 62. Minnesota Statutes 1984, 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' 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) *grant an oral argument based on the record before the compensation judge;*

(2) *examine the record;*

((2)) (3) *substitute for the findings of fact made by the compensation judge findings based on the total evidence; (AND,)*

((3)) (4) *sustain, reverse, make, or modify an award or disallowance of compensation or other order based on the facts (AND), findings, and law; and*

(5) *remand or make other appropriate order.*

Sec. 63. Minnesota Statutes 1984, section 176.461, is amended to read:

176.461 [SETTING ASIDE AWARD.]

Except when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or 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 administrative law judge for assignment to a compensation judge, who shall make findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order based on the pleadings and the evidence produced and as required by the provisions of this chapter or rules adopted under it.

"Cause" as used in this section is limited to the following grounds:

(1) *mutual mistake of fact not discoverable at the time of the award;*

(2) *newly discovered evidence not discoverable by the time of the award;*

(3) *fraud; or*

(4) *substantial and unanticipated change in medical condition since the time of the award.*

Sec. 64. Minnesota Statutes 1984, 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) *appropriate* cases, the workers' compensation court of appeals (SHALL) *may* refer the matter to the chief administrative law judge for assignment to a compensation judge for hearing.

Sec. 65. Minnesota Statutes 1984, section 176.603, is amended to read:

176.603 [COST OF ADMINISTERING CHAPTER, PAYMENT.]

The annual cost to the commissioner of the department of labor and industry of administering this chapter in relation to state employees and the necessary expenses which the department of labor and industry or the attorney general incurs in investigating, *administering*, and defending a claim against the state for compensation shall be paid from (THE MONEYS BIENNIALY APPROPRIATED TO THE DEPARTMENT AND NOT FROM) the state compensation revolving fund.

Sec. 66. Minnesota Statutes 1984, section 176.611, subdivision 2, is amended to read:

Subd. 2. [(SELF-SUSTAINING) STATE DEPARTMENTS.] (EXCEPT THAT THE TRANSPORTATION DEPARTMENT) *Every department of the state, including the University of Minnesota, shall reimburse the fund for moneys paid (TO ITS EMPLOYEES OR THEIR DEPENDENTS) for the administration of its claims at such times and in such amounts as the commissioner of the department of labor and industry (ORDERS, EVERY SELF-SUSTAINING DEPARTMENT OF THE STATE SHALL PAY INTO SUCH FUND AT THE END OF EVERY FISCAL YEAR SUCH AMOUNTS AS THE COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY) shall certify has been paid out of the fund (FOR) on its (EMPLOYEES OR THEIR DEPENDENTS) behalf. (FOR THE PURPOSES OF THIS SECTION, A "SELF-SUSTAINING DEPARTMENT" IS ONE IN WHICH THE INCOME AND REVENUE FROM ITS ACTIVITIES SUBSTANTIALLY OFFSETS ITS COST OF OPERATION.) The heads of the departments shall anticipate these payments by including them in their budgets.*

Sec. 67. Minnesota Statutes 1984, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 shall be deferred until the first anniversary of the date of the injury, *except that for injuries occurring on or after October 1, 1985, for which benefits are payable under section 176.101, subdivision 1 or 2, the initial adjustment made pursuant to subdivision 1 shall be made on the third anniversary of the date of the injury and shall be limited to the one-year adjustment for the year preceding that anniversary.*

Sec. 68. Minnesota Statutes 1984, section 176.83, subdivision 2, is amended to read:

Subd. 2. [REHABILITATION.] 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.

(IN THIS REGARD, THE COMMISSIONER SHALL IMPOSE FEES UNDER SECTION 16A.128 SUFFICIENT TO COVER THE COST OF APPROVING, REGISTERING AND MONITORING QUALIFIED REHABILITATION CONSULTANTS AND APPROVED VENDORS OF REHABILITATION SERVICES.) 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 for determining "reasonable moving expenses" under section 176.102.

The rules shall also establish criteria, guidelines, methods, or procedures to be met by an employer or insurer in providing the initial rehabilitation consultation required under this chapter which would permit the initial consultation to be provided by an individual other than a qualified rehabilitation consultant. In the absence of rules regarding an initial consultation this consultation shall be conducted pursuant to section 176.102.

Sec. 69. Minnesota Statutes 1984, section 176.83, subdivision 11, is amended to read:

Subd. 11. [SUITABLE GAINFUL EMPLOYMENT.] 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)."

Sec. 70. [176.1011] [LOSS OF SMELL OR TASTE.]

For personal injuries occurring after December 31, 1983, and before November 12, 1985, the permanent partial disability rating for total loss of taste shall be three percent of the whole body and for complete and total loss of smell shall be three percent of the whole body.

Sec. 71. [176B.01] [WORKERS' COMPENSATION PERMANENT PARTIAL DISABILITY SCHEDULES.]

Subdivision 1. [PURPOSE OF SCHEDULES.] This chapter assigns percentages of disability of the whole body for permanent partial disabilities compensable under chapter 176.

Subd. 2. [INTERPRETATION OF SCHEDULES.] Only the categories in the schedule in this chapter may be used when rating the extent of a disability. Where a category represents the disabling condition, the disability determination shall not be based on the cumulation of lesser included categories. If more than one category may apply to a condition, the category most closely representing the condition shall be selected. Where more than one category is necessary to represent the disabling condition, categories shall be selected to avoid double compensation for any part of a condition. The percentages of disability to the whole body as set forth in two or more categories shall not be averaged, prorated, or otherwise deviated from, unless specifically provided in the schedule. Unless provided otherwise, where an impairment must be rated under more than one category, the ratings must be combined using the $A + B(1-A)$ formula as provided in section 176.105, subdivision 4. With respect to the musculo-skeletal schedule, the percent of whole body disability for motor or sensory loss of a member shall not exceed the percent of whole body disability for amputation of that member.

Subd. 3. [DISABILITIES NOT PART OF SCHEDULES.] A category not found within this chapter shall not be used to determine permanent partial disability.

Subd. 4. [RULES OF CONSTRUCTION.] The technical terms in this chapter are defined in either section 176B.02 or by the documents incorporated by reference in this chapter. Documents are incorporated by reference only to the extent necessary for definition or to the extent specifically referenced in a schedule. The documents incorporated by reference are as follows:

(a) Guides to the Evaluation of Permanent Impairment, published by the American Medical Association, Committee on Rating of Mental and Physical Impairment, second edition 1984. This document is also known as the A.M.A. Guides.

(b) Snellen Charts, published by American Medical Association Committee for Eye Injuries and designated Industrial Vision Test Charts. These charts are also known and referred to as A.M.A. charts.

(c) *American Medical Association Rating Reading Card of 1932, published by the American Medical Association Committee for Eye Injuries. This document is also known as the A.M.A. Card.*

(d) *S3.1-1977 Criteria for Permissible Ambient Noise during Audiometric Testing and S3.6-1969 (R1973) Specification for Audiometers, published by the American National Standard Institutes, Inc. in 1973 and 1977, respectively.*

(e) *Metropolitan Life Insurance Company Height and Weight Tables, published by the Metropolitan Life Insurance Company, 1983.*

(f) *The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence in Activities of Daily Living, published by Sister Kenny Institute, 1973.*

(g) *Dorland's Illustrated Medical Dictionary, 26th edition, published by W. B. Saunders Company, 1981. This document is also known as Dorland's.*

(h) *D.S.M. III, Diagnostic and Statistical Manual of Mental Disorders, published by American Psychiatric Association, 1980. This document is also known as D.S.M. III.*

(i) *Fractures, Charles A. Rockwood and David Green, published by Lippencott, 1975.*

(j) *Textbook on Anatomy, William Henry Hollinshead, published by Harper & Row, 1985.*

(k) *"The Estimation of Areas of Burns," in Surgery, Gynecology and Obstetrics, by Lund and Browder, pages 352-358, volume 79, published by Surgical Publishing Company of Chicago, 1944. This document is referred to as Lund and Browder.*

Sec. 72. [176B.02] [DEFINITIONS.]

Subdivision 1. [SCOPE.] For the purpose of this chapter the terms defined in this section have the meanings given them unless the context clearly indicates otherwise. Terms not defined in this section are defined in Dorland's or other documents incorporated by reference. If the definition in a document incorporated by reference conflicts with or differs from the definition in this chapter, the specific definitions in this chapter shall govern.

Subd. 2. [ACROMIO-CLAVICULAR GRADE 1.] "Acromio-clavicular grade 1" means an undisplaced acromio-clavicular joint.

Subd. 3. [ACROMIO-CLAVICULAR GRADE 2.] "Acromio-clavicular grade 2" means a 50 percent displacement of the clav-

icle in relationship to the acromion at the acromio-clavicular joint.

Subd. 4. [ACROMIO-CLAVICULAR GRADE 3.] "*Acromio-clavicular grade 3*" means a completely disrupted acromio-clavicular joint.

Subd. 5. [ACTIVITIES OF DAILY LIVING.] "*Activities of daily living*" means the ability to perform self cares, to perform housework and related tasks, to ride in or operate a motor vehicle, and to perform vocational tasks not requiring physical labor.

Subd. 6. [ANKYLOSIS.] "*Ankylosis*" means the stiffening or fixation of a joint.

Subd. 7. [ANSI.] "*ANSI*" means the American National Standards Institute.

Subd. 8. [BANDING.] "*Banding*" means a thick, rope-like cord of hypertrophic scarring resulting from burns.

Subd. 9. [CATEGORY.] "*Category*" means a permanent partial disability as described in this chapter and the corresponding percent of disability to the whole body for that permanent partial disability.

Subd. 10. [CHRONIC.] "*Chronic*" means the repeated or continuous occurrence of a specific condition or symptom.

Subd. 11. [DEMONSTRABLE DEGENERATIVE CHANGES.] "*Demonstrable degenerative changes*" means radiographic findings demonstrating the presence of degeneration of intervertebral disc or facet joints. Examples of demonstrable degenerative changes are disc space narrowing, small osteophytes, and facet joint hypertrophic changes.

Subd. 12. [DESIRABLE LEVEL OF WEIGHT.] "*Desirable level of weight*" means preferred weights in the tables created by the Metropolitan Life Insurance Company.

Subd. 13. [DISARTICULATION.] "*Disarticulation*" means an amputation occurring through a joint.

Subd. 14. [DISTANCE VISION.] "*Distance vision*" means the ability to distinguish letters at a distance of 20 feet according to the Snellen and A.M.A. Charts.

Subd. 15. [FAMILY MEMBER.] "*Family member*" means cohabitants and is not limited to those related by blood or marriage. In cases of institutionalization or similar nonhome environ-

ment, family member may include staff members who care for the individual on a regular basis.

Subd. 16. [FORE-QUARTER.] "*Fore-quarter*" means the amputation of the upper extremity involving the scapula, clavicle, and muscles that attach to the chest.

Subd. 17. [FUSION.] "*Fusion*" means the surgical uniting of one vertebral segment to an adjoining vertebral segment.

Subd. 18. [GASTROSTOMY.] "*Gastrostomy*" means a surgical creation of a gastric fistula through the abdominal wall for the purpose of introducing food into the stomach.

Subd. 19. [GLOSSOPHARYNGEAL.] "*Glossopharyngeal*" means the ninth cranial nerve with sensory fibers to the tongue and pharynx. It affects taste and swallowing.

Subd. 20. [GROSS MOTOR WEAKNESS.] "*Gross motor weakness*" means total or partial loss as described in section 176B.16.

Subd. 21. [HYPERTROPHIC SCAR.] "*Hypertrophic scar*" means an elevated irregularly shaped mass of scar tissue.

Subd. 22. [HYPOGLOSSAL.] "*Hypoglossal*" means the motor nerve to the tongue. It is the 12th cranial nerve and carries impulses from the brain to the tongue, including movement of muscles and secretion of glands and motor movement.

Subd. 23. [KENNY SCALE.] "*Kenny scale*" means the Kenny self-care evaluation system in *The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence of Activities of Daily Living*.

Subd. 24. [LAMINECTOMY.] "*Laminectomy*" means the removal of part or all of the lamina of one vertebral segment, usually with associated disc excision.

Subd. 25. [LETHARGY.] "*Lethargy*" means, in relation to a nervous system injury to the brain, that an individual is drowsy, but can be aroused.

Subd. 26. [MODERATE REFERRED SHOULDER AND ARM PAIN.] "*Moderate referred shoulder and arm pain*" means pain of an intensity necessitating decreased activity in order to avoid the pain. This pain is demonstrated in a dermatomal distribution into the shoulder and upper extremity.

Subd. 27. [MODERATE PARTIAL DISLOCATION.] "*Moderate partial dislocation*" means a loss of normal vertebral

alignment of up to 50 percent of the vertebral body on the adjacent vertebral body associated with vertebral fractures.

Subd. 28. [NEAR VISION.] "Near vision" means clearness of vision at the distance of 14 inches.

Subd. 29. [NONPREFERRED EXTREMITY.] "Nonpreferred extremity" means the arm or leg not used dominantly, as for example, the left hand of a right-handed writer.

Subd. 30. [OBJECTIVE CLINICAL FINDINGS.] "Objective clinical findings" as used in section 176B.07 means examination results which are reproducible and consistent. Examples of objective clinical findings are involuntary muscle spasms, consistent postural abnormalities, and changes in deep tendon reflexes.

Subd. 31. [POSTURAL ABNORMALITY.] "Postural abnormality" means a deviation from normal posture, as found on anterior/posterior or lateral X-rays, that involves the spine and pelvis or segments of the spine or pelvis, such as kyphosis, lordosis, or scoliosis.

Subd. 32. [PREFERRED EXTREMITY.] "Preferred extremity" means the dominant leg or arm, as for example, the right arm of a right-handed person.

Subd. 33. [PRESBYCUSIS.] "Presbycusis" means a decline in hearing acuity that occurs with the aging process.

Subd. 34. [PSEUDOPHAKIA.] "Pseudophakia" means that the crystalline lens of the eye has been replaced with a surgically implanted lens.

Subd. 35. [SELF CARES.] "Self cares" means bed activities, transfers, locomotion, dressing, personal hygiene, bowel and bladder, and feeding as described in The Revised Kenny Self-Care Evaluation: A Numerical Measure of Independence in Activities of Daily Living, pages 10-24.

Subd. 36. [SPINAL STENOSIS.] "Spinal stenosis" means the narrowing of the spinal canal.

Subd. 37. [SPONDYLOLISTHESIS.] "Spondylolisthesis" means the forward movement of one vertebral body of one of the lower lumbar vertebrae on the vertebrae below it or upon the sacrum.

Subd. 38. [SPONDYLOLISTHESIS GRADE 1.] "Spondylolisthesis grade 1" means forward movement from zero to 25 percent of the vertebral body.

Subd. 39. [SPONDYLOLISTHESIS GRADE 2.] "*Spondylolisthesis grade 2*" means forward movement from 25 to 50 percent of the vertebral body.

Subd. 40. [SPONDYLOLISTHESIS GRADE 3.] "*Spondylolisthesis grade 3*" means movement from 50 to 75 percent of the vertebral body.

Subd. 41. [SPONDYLOLISTHESIS GRADE 4.] "*Spondylolisthesis grade 4*" means forward movement from 75 to 100 percent of the vertebral body.

Subd. 42. [STUPOR.] "*Stupor*" means, in relation to a nervous system injury to the brain, that a strong stimulus or pain is needed to arouse consciousness or response.

Subd. 43. [TINNITUS.] "*Tinnitus*" means a subjective sense of noises in the head or ringing in the ear for which there is no observable external cause.

Subd. 44. [TRIGEMINAL.] "*Trigeminal*" means the mixed nerve with sensory fibers to the face, cornea, anterior scalp, nasal and oral cavities, tongue and supertentorial dura matter. It also has motor fibers to the muscles of mastication. It is the fifth cranial nerve.

Subd. 45. [VERTIGO.] "*Vertigo*" means a sensation of moving around in space or having objects move about the person. It is the result of a disturbance of the equilibratory apparatus.

Subd. 46. [VESTIBULAR.] "*Vestibular*" means the main division of the auditory nerve. It is the eighth cranial nerve and deals with equilibrium.

Subd. 47. [WRINKLING.] "*Wrinkling*" means small ridges on the skin formed by shrinking or contraction as a result of burns.

Subd. 48. [14/14.] "*14/14*" is a term used in the measurement of near vision. It is the clearness of vision at a distance of 14 inches. The numerator is the test distance in inches. The denominator is the distance at which the smallest letter on the A.M.A. card can be seen.

Subd. 49. [20/20 SNELLEN OR A.M.A. CHART.] "*20/20 Snellen or A.M.A. Chart*" refers to a chart imprinted with block letters or numbers in gradually decreasing sizes, identified according to distances at which they are ordinarily visible. It is used in testing visual acuity. The numerator is the test distance in feet. The denominator is the distance at which the smallest letter discriminated by a patient would subtend five minutes of arc.

Sec. 73. [176B.03] [EYE SCHEDULE.]

Subdivision 1. [COMPLETE LOSS OF VISION.] For complete loss of vision in both eyes, disability of the whole body is 85 percent. For complete loss of vision in one eye, disability of the whole body is 24 percent. In determining the degree of vision impairment and of whole body disability, subdivisions 2 to 6 shall be used.

Subd. 2. [EXAMINATION.] Disability shall not be determined until all medically acceptable attempts to correct the defect have been made. Prior to the final examination on which disability is to be determined, at least six months shall elapse after all visible inflammation has disappeared. In cases of disturbance of extrinsic ocular muscles, optic nerve atrophy, injury of the retina, sympathetic ophthalmia, and traumatic cataract, at least 12 months shall elapse before the final examination is made. Testing shall be conducted with corrective lenses applied, unless indicated otherwise in this section.

Subd. 3. [MAXIMUM AND MINIMUM LIMITS OF PRIMARY COORDINATE FACTORS OF VISION.] The primary coordinate factors of vision are central visual acuity, visual field efficiency, and ocular motility.

(a) The maximum limit for each coordinate function is established in clauses (1) to (3).

(1) The maximum limit of central visual acuity is the ability to recognize letters or characters which subtend an angle of five minutes, each unit part of which subtends a one-minute angle at the distance viewed. A 20/20 Snellen or A.M.A. chart is 100 percent (maximum) central visual acuity for distance vision. 14/14 A.M.A. card is 100 percent (maximum) central visual acuity for near vision.

(2) The maximum visual field is defined as 500 degrees. It is the sum of the degrees in the eight principal meridians from the point of fixation to the outermost limits of visual perception and defines the area in which a three millimeter white target is visible at 33 centimeters. One hundred percent visual field efficiency is that visual field which extends from the point of fixation outward 85 degrees, down 65 degrees, down and in 50 degrees, inward 60 degrees, in and up 55 degrees, upward 45 degrees, and up and out 55 degrees.

(3) Maximum ocular motility is present if there is absence of diplopia in all parts of the field of binocular fixation, and if normal binocular motor coordination is present.

(b) The minimum limit for each coordinate function is established in clauses (1) to (3).

(1) *The minimum limit of central visual acuity is:*

(i) *for distance vision, 20/800 Snellen or A.M.A. chart; and*

(ii) *for near vision, 14/560 A.M.A. card.*

(2) *The minimum limit for field vision is established as a concentric central contraction of the visual field to five degrees. Five degrees of contraction of the visual field reduces the visual efficiency of the eye to zero.*

(3) *The minimum limit for ocular motility is established by the presence of diplopia in all parts of the field of binocular fixation or by absence of binocular motor coordination. The minimum limit is 50 percent ocular motility efficiency.*

Subd. 4. [MEASUREMENT OF COORDINATE FACTORS OF VISION AND COMPUTATION OF PARTIAL LOSS.]

(a) *Central visual acuity shall be measured both for distance vision and for near vision, each eye being measured separately, both with and without correction. A Snellen or A.M.A. chart shall be used for distance vision and an A.M.A. card shall be used for near vision. Illumination shall be at least five foot-candles.*

(1) *Table 1 shows the percentage of visual efficiency corresponding to the notations for distance vision and for near vision. For test readings between those listed on the chart, round up from the midpoint to the nearest reading, and round down from below the midpoint.*

Where distance vision is less than 20/200 and the A.M.A. chart is used, readings are at ten feet. The test reading is translated to the corresponding distance reading in Table 1 by multiplying both the numerator and the denominator of the test reading by two.

TABLE 1

Central Visual Acuity

A.M.A. Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Central Visual Acuity Efficiency
20/20	14/14	100.00
20/25	14/17.5	95.7

<i>20/25.7</i>	<i>.....</i>	<i>95.0</i>
<i>20/30</i>	<i>14/21</i>	<i>91.5</i>
<i>20/32.1</i>	<i>.....</i>	<i>90.0</i>
<i>20/35</i>	<i>14/24.5</i>	<i>87.5</i>
<i>20/38.4</i>	<i>.....</i>	<i>85.0</i>
<i>20/40</i>	<i>14/28</i>	<i>83.6</i>
<i>20/44.9</i>	<i>14/31.5</i>	<i>80.0</i>
<i>20/50</i>	<i>14/35</i>	<i>76.5</i>
<i>20/52.1</i>	<i>.....</i>	<i>75.0</i>
<i>20/60</i>	<i>14/42</i>	<i>69.9</i>
<i>20/60.2</i>	<i>.....</i>	<i>70.0</i>
<i>20/68.2</i>	<i>.....</i>	<i>65.0</i>
<i>20/70</i>	<i>14/49</i>	<i>64.0</i>
<i>20/77.5</i>	<i>.....</i>	<i>60.0</i>
<i>20/80</i>	<i>14/56</i>	<i>58.5</i>
<i>20/86.8</i>	<i>.....</i>	<i>55.0</i>
<i>20/90</i>	<i>14/63</i>	<i>53.4</i>
<i>20/97.5</i>	<i>.....</i>	<i>50.0</i>
<i>20/100</i>	<i>14/70</i>	<i>48.9</i>
<i>20/109.4</i>	<i>.....</i>	<i>45.0</i>
<i>20/120</i>	<i>14/84</i>	<i>40.9</i>
<i>.....</i>	<i>14/89</i>	<i>38.4</i>
<i>20/122.5</i>	<i>.....</i>	<i>40.0</i>
<i>20/137.3</i>	<i>.....</i>	<i>35.0</i>
<i>20/140</i>	<i>14/98</i>	<i>34.2</i>

20/155	30.0
20/160	14/112	28.6
20/175	25.0
20/180	14/126	23.9
20/200	14/140	20.0
20/220	14/154	16.7
20/240	14/168	14.0
.....	14/178	12.3
20/260	14/182	11.7
20/280	14/196	9.7
20/300	14/210	8.2
20/320	14/224	6.8
20/340	14/238	5.7
20/360	14/252	4.8
20/380	14/266	4.0
20/400	14/280	3.3
20/450	14/315	2.1
20/500	14/350	1.4
20/600	14/420	0.6
20/700	14/490	0.3
20/800	14/560	0.1

(2) *The percentage of central visual acuity efficiency of the eye for distance vision is that percentage in Table 1 which corresponds to the test reading for distance vision for that eye.*

(3) *The percentage of central visual acuity efficiency of the eye for near vision is that percentage in Table 1 which corresponds to the test reading for near vision for that eye.*

(4) *The percentage of central visual acuity efficiency of the eye in question is determined as follows:*

(i) *Multiply by two the value determined for corrected near vision in clause (3).*

(ii) *Add the product obtained in (i) to the value determined for corrected distance vision in clause (2).*

(iii) *Divide the sum obtained in (ii) by three.*

The following is an example of this calculation. If the central visual acuity efficiency for distance is 70 percent, and that for near is 25 percent, the percentage of central visual acuity efficiency for the eye is:

$$\frac{70\% + (2 \times 25)}{3} = 40\% \text{ central visual acuity efficiency}$$

(5) *For traumatic aphakia, the corrected central visual acuity efficiency of the eye is 50 percent of the central visual acuity efficiency determined in clause (4). This clause shall not apply if an adjustment for glasses or contact lenses pursuant to subdivision 5, paragraph (b), clause (2) or (3) results in a lower visual efficiency than would be given by application of this clause.*

(6) *For traumatic pseudophakia, the corrected central visual acuity efficiency of the eye is 80 percent of the central visual acuity efficiency determined in clause (4). This clause shall not apply if an adjustment for glasses or contact lenses pursuant to subdivision 5, paragraph (b), clause (2) or (3) results in a lower visual efficiency than would be given by application of this clause.*

(b) *For each eye, the extent of the field of vision shall be determined by perimetric test methods. A three millimeter white disk which subtends a 0.5-degree angle under illumination of not less than seven footcandles shall be used. For aphakia, a six millimeter white disk shall be used. The result shall be plotted on the visual field chart as illustrated in the A.M.A. Guides, page 144.*

(1) *The amount of radial contraction in the eight principal meridians shall be determined. The sum of the degrees of field vision remaining on these meridians, divided by 500, is the visual field efficiency of one eye, expressed as a percentage. If the eye has a concentric central contraction of the field to a diameter of five degrees, the visual efficiency is zero.*

(2) *When the impairment of field is irregular and not fairly disclosed by the eight radii, the determination shall be based on a*

number of radii greater than eight and the divisor in clause (1) shall be changed accordingly.

(3) Where there is a loss of a quadrant or a half-field, the degrees of field vision remaining in each meridian are added to one-half the sum of the two boundary meridians.

(c) Ocular motility shall be measured in all parts of the motor field with any useful correction applied.

(1) All directions of gaze shall be tested with use of a test light and without the addition of colored lenses or correcting prisms. The extent of diplopia is determined on the perimeter at 330 millimeters or on a tangent screen at a distance of one meter from the eye.

(2) Plot the test results on a motility chart as illustrated in the A.M.A. Guides, page 147.

(3) Determine the percentage loss of ocular motility from the motility chart. This percentage is assigned to the injured eye or, if both eyes are injured, to the eye with the greatest impairment of central visual acuity and field vision. The eye with the greatest impairment means the eye for which the product of central visual acuity efficiency and visual field efficiency is the least. For the purpose of calculation, a value of zero percent is deemed to be one percent. For the other eye, the percentage loss of ocular motility is zero.

(4) The percentage loss of ocular motility is subtracted from 100 percent to obtain the ocular motility efficiency. The minimum ocular motility efficiency of one eye is 50 percent.

Subd. 5. [VISUAL EFFICIENCY.] The visual efficiency of one eye is the product of the efficiency values of central visual acuity, of visual field, and of ocular motility. For the purpose of this calculation, these values shall be expressed as decimals and not as percentages; a value of zero percent is deemed to be one percent.

(a) For example, if central visual acuity efficiency is 50 percent, visual field efficiency is 80 percent, and ocular motility efficiency is 100 percent, the visual efficiency of the eye is .50 times .80 times 1.00, equals 40 percent. If ocular motility efficiency is changed to 50 percent, the visual efficiency is .50 times .80 times .50, equals 20 percent.

(b) Visual efficiency shall be adjusted as set in this paragraph. Visual efficiency may not be less than zero percent. No adjustment for glasses or contacts shall be made in cases of aphakia or pseudophakia where the central visual efficiency was adjusted pursuant to subdivision 4, paragraph (a), clause (5) or (6).

(1) *Visual efficiency shall be decreased by subtracting two percent for any of the following conditions which are present due to the injury: loss of color vision; loss of adaptation to light and dark; metamorphosis; entropion or ectropion uncorrected by surgery; lagophthalmos; epiphora; and muscle disturbances such as ocular ticks not included under diplopia.*

(2) *If glasses are required as a result of the injury, or if as a result of the injury the refractive error increases by at least one diopeter of sphere or of cylinder or of both, subtract five percent from the visual efficiency. Where the glasses contain prisms, subtract six percent.*

(3) *If a noncosmetic contact lens is required in one or both eyes as a result of the injury, subtract seven percent from the visual efficiency.*

Subd. 6. [PROCEDURE FOR DETERMINING WHOLE BODY DISABILITY DUE TO VISION LOSS.] For each eye, subtract the percentage of visual efficiency determined in subdivision 5 from 100 percent. The difference is the percentage impairment of each eye. The better eye has the lower percentage impairment. The poorer eye has the greater percentage impairment.

(a) *Multiply the percentage impairment of the better eye by three.*

(b) *Add the percentage impairment of the poorer eye to the product obtained in paragraph (a).*

(c) *Divide the sum obtained in paragraph (b) by four.*

(d) *The quotient obtained in paragraph (c) is the percentage impairment of the visual system. Fractions shall be rounded to the nearest whole number percentage as provided in subdivision 4, paragraph (a), clause (1).*

(e) *The percentage impairment of the visual system is translated to the percentage disability of the whole body by Table 2.*

Table 2

Eye Schedule

<i>Impairment of Visual System, %</i>	<i>Disability of Whole Man, %</i>	<i>Impairment of Visual System, %</i>	<i>Disability of Whole Man, %</i>
0	0	45	42
1	1	46	43

<i>2</i>	<i>2</i>	<i>47</i>	<i>44</i>
<i>3</i>	<i>3</i>	<i>48</i>	<i>45</i>
<i>4</i>	<i>4</i>	<i>49</i>	<i>46</i>
<i>5</i>	<i>5</i>	<i>50</i>	<i>47</i>
<i>6</i>	<i>6</i>	<i>51</i>	<i>48</i>
<i>7</i>	<i>7</i>	<i>52</i>	<i>49</i>
<i>8</i>	<i>8</i>	<i>53</i>	<i>50</i>
<i>9</i>	<i>8</i>	<i>54</i>	<i>51</i>
<i>10</i>	<i>9</i>	<i>55</i>	<i>52</i>
<i>11</i>	<i>10</i>	<i>56</i>	<i>53</i>
<i>12</i>	<i>11</i>	<i>57</i>	<i>54</i>
<i>13</i>	<i>12</i>	<i>58</i>	<i>55</i>
<i>14</i>	<i>13</i>	<i>59</i>	<i>56</i>
<i>15</i>	<i>14</i>	<i>60</i>	<i>57</i>
<i>16</i>	<i>15</i>	<i>61</i>	<i>58</i>
<i>17</i>	<i>16</i>	<i>62</i>	<i>59</i>
<i>18</i>	<i>17</i>	<i>63</i>	<i>59</i>
<i>19</i>	<i>18</i>	<i>64</i>	<i>60</i>
<i>20</i>	<i>19</i>	<i>65</i>	<i>61</i>
<i>21</i>	<i>20</i>	<i>66</i>	<i>62</i>
<i>22</i>	<i>21</i>	<i>67</i>	<i>63</i>
<i>23</i>	<i>22</i>	<i>68</i>	<i>64</i>
<i>24</i>	<i>23</i>	<i>69</i>	<i>65</i>
<i>25</i>	<i>24</i>	<i>70</i>	<i>66</i>
<i>26</i>	<i>25</i>	<i>71</i>	<i>67</i>

27	25	72	68
28	26	73	69
29	27	74	70
30	28	75	71
31	29	76	72
32	30	77	73
33	31	78	74
34	32	79	75
35	33	80	76
36	34	81	76
37	35	82	77
38	36	83	78
39	37	84	79
40	38	85	80
41	39	86	81
42	40	87	82
43	41	88	83
44	42	89	84
		90-100	85

Sec. 74. [176B.04] [EAR SCHEDULE.]

Subdivision 1. [GENERAL.] For hearing loss, the maximum disability of the whole body is 35 percent. The procedures in subdivisions 2 to 7 shall be used to determine the extent of binaural hearing loss and of whole body disability.

Subd. 2. [MEDICAL DIAGNOSIS.] Otological evaluation shall be the method for determining the degree of permanent partial hearing loss. The medical diagnosis shall include the following:

(a) a complete history of occupational, military, and recreational noise exposure. This medical history shall include documentation of any previous hearing loss, if that information is available;

(b) a complete physical examination of the ear; and

(c) an audiological evaluation which shall include pure tone air conduction and bone conduction testing.

Subd. 3. [STANDARDS FOR AUDIOMETRIC CALIBRATION AND TEST ENVIRONMENT.] To ensure accurate measurement of hearing loss, the following standards shall be observed in conducting the tests required in subdivision 2:

(a) The audiometer used to measure hearing loss shall be calibrated to meet the specifications of ANSI S3.6-1969 (R1973), Specifications for Audiometers. The following are also required:

(1) biological or electroacoustical calibration checks of the audiometer shall be performed monthly;

(2) electroacoustical calibration shall be performed annually to certify the audiometer to the ANSI standard in this subdivision; and

(3) the calibration records shall be preserved and shall be provided upon request.

(b) Audiometric test rooms or booths shall meet the specifications of ANSI S3.1-1977, Criteria for Permissible Ambient Noise during Audiometric Testing.

Subd. 4. [WAITING PERIOD FOR FINAL EVALUATION OF HEARING LOSS.] A waiting period of at least three months shall elapse between the date of the occurrence of the noise injury and the final evaluation of the permanent partial hearing loss.

Subd. 5. [PROCEDURE FOR DETERMINING DISABILITY OF WHOLE BODY DUE TO HEARING LOSS.] The binaural hearing loss is determined as follows:

(a) The calculation for the percent of binaural hearing loss consists of the following steps:

(1) For each ear, test the hearing threshold levels at the four frequencies of 500, 1,000, 2,000, and 3,000 Hertz.

(2) For each ear, determine the average four-frequency hearing level. The average four-frequency hearing level is one-

fourth of the sum of the threshold levels at each of the four tested frequencies. The average four-frequency hearing level is expressed in decibels.

(3) For each ear, subtract 25 decibels from the average four-frequency hearing level for that ear. The remainder, expressed in decibels, is the adjusted average four-frequency hearing level.

(4) For each ear, multiply the adjusted average four-frequency hearing level by 1.5 percent. The product is the monaural hearing loss, expressed as a percentage. A product less than zero percent is deemed to be zero. A product greater than 100 percent is deemed to be 100 percent.

(5) Considering both ears, compare the monaural hearing losses as determined in clause (4). The ear with the smaller monaural hearing loss is the better ear. The ear with the larger monaural hearing loss is the poorer ear.

(6) Multiply the monaural hearing loss of the better ear by five, add this product to the monaural hearing loss of the poorer ear, and divide the sum by six. The quotient is the binaural hearing loss, expressed as a percentage. The formula is:

$$\frac{(\text{monaural hearing loss of better ear}) + 5 \times (\text{monaural hearing loss of poorer ear})}{6} = \text{percent binaural hearing loss}$$

(b) The calculation of the percent of binaural hearing loss is illustrated by the following examples.

Example 1

	500 Hertz	1,000 Hertz	2,000 Hertz	3,000 Hertz
Right ear	15	25	45	55
Left ear	30	45	60	85

1. Calculation of the average four-frequency hearing level:

$$\text{Right ear} = \frac{15 + 25 + 45 + 55}{4} = \frac{140}{4} = 35 \text{ decibels}$$

$$\text{Left ear} = \frac{30 + 45 + 60 + 85}{4} = \frac{220}{4} = 55 \text{ decibels}$$

2. Calculation of adjusted average four-frequency hearing level:

$$\text{Right ear} = 35 \text{ decibels} - 25 \text{ decibels} = 10 \text{ decibels};$$

$$\text{Left ear} = 55 \text{ decibels} - 25 \text{ decibels} = 30 \text{ decibels};$$

3. Calculation of monaural hearing loss:

$$\text{Right ear} = 10 \times 1.5\% = 15\%$$

$$\text{Left ear} = 30 \times 1.5\% = 45\%$$

4. Calculation of binaural hearing loss:

$$\frac{(15\% \times 5) + 45\%}{6} = 20 \text{ percent binaural hearing loss}$$

Example 2

	500 Hertz	1,000 Hertz	2,000 Hertz	3,000 Hertz
Right ear	20	25	30	35
Left ear	30	45	60	85

1. Calculation of average four-frequency hearing level.

$$\text{Right ear} = \frac{20 + 25 + 30 + 35}{4} = 25 \text{ decibels}$$

$$\text{Left ear} = \frac{30 + 45 + 60 + 85}{4} = 55 \text{ decibels}$$

2. Calculation of adjusted average four-frequency hearing level.

$$\text{Right ear} = 25 \text{ decibels} - 25 \text{ decibels} = 0 \text{ decibels}$$

$$\text{Left ear} = 55 \text{ decibels} - 25 \text{ decibels} = 30 \text{ decibels}$$

3. Calculation of monaural hearing loss:

$$\text{Right ear} = 0 \times 1.5 \text{ percent} = 0$$

$$\text{Left ear} = 30 \times 1.5 \text{ percent} = 45 \text{ percent}$$

4. *Calculation of binaural hearing loss:*

$$\frac{(0\% \times 5) + 45\%}{6} = 7.5 \text{ percent binaural hearing loss}$$

(c) *The binaural hearing loss is translated to a percentage of disability of the whole body by the ear schedule set forth below:*

EAR SCHEDULE

<i>Binaural Hearing Loss, Percent</i>	<i>Disability of Whole Body Percent</i>
0 - 1.7	0
1.8 - 4.2	1
4.3 - 7.4	2
7.5 - 9.9	3
10.0 - 13.1	4
13.2 - 15.9	5
16.0 - 18.8	6
18.9 - 21.4	7
21.5 - 24.5	8
24.6 - 27.1	9
27.2 - 30.0	10
30.1 - 32.8	11
32.9 - 35.9	12
36.0 - 38.5	13
38.6 - 41.7	14
41.8 - 44.2	15
44.3 - 47.4	16
47.5 - 49.9	17

50.0 - 53.1	18
53.2 - 55.7	19
55.8 - 58.8	20
58.9 - 61.4	21
61.5 - 64.5	22
64.6 - 67.1	23
67.2 - 70.0	24
70.1 - 72.8	25
72.9 - 75.9	26
76.0 - 78.5	27
78.6 - 81.7	28
81.8 - 84.2	29
84.3 - 87.4	30
87.5 - 89.9	31
90.0 - 93.1	32
93.2 - 95.7	33
95.8 - 98.8	34
98.9 - 100.0	35

Subd. 6. [PRESBYCUSIS.] The calculation of the binaural hearing loss shall not include an additional adjustment for presbycusis.

Subd. 7. [TINNITUS.] No additional percentage of permanent partial disability for hearing loss shall be allowed for tinnitus.

Sec. 75. [176B.05] [SKULL DEFECTS.]

Subdivision 1. [SKULL DEPRESSIONS.] For skull defects the percent of disability of the whole body is provided by the following schedule:

	<i>Unfilled defect Percent</i>	<i>Filled defect Percent</i>
<i>0 - 1-1/2 square inches</i>	<i>0</i>	<i>0</i>
<i>1-1/2 - 2-1/2 square inches</i>	<i>5</i>	<i>0</i>
<i>2-1/2 - 4 square inches</i>	<i>10</i>	<i>2</i>
<i>4 - 6-1/2 square inches</i>	<i>15</i>	<i>3</i>
<i>6-1/2 or more square inches</i>	<i>20</i>	<i>5</i>

Subd. 2. [SKULL FRACTURES.] Skull fractures are:

(a) Basilar skull fracture with persistent spinal fluid leak, 20 percent.

(b) Basilar skull fracture without cerebrospinal fluid leak, 0 percent.

Sec. 76. [176B.06] [CENTRAL NERVOUS SYSTEM.]

Subdivision 1. [GENERAL.] For permanent partial disability of the central nervous system the percentage of disability of the whole body is as provided in subdivisions 2 to 9.

Subd. 2. [TRIGEMINAL NERVE.] Permanent partial disability of the trigeminal nerve is a disability of the whole body as follows:

(a) partial unilateral sensory loss, three percent;

(b) complete unilateral sensory loss, five percent;

(c) partial bilateral sensory loss, ten percent;

(d) complete bilateral sensory loss, 25 percent;

(e) intractable trigeminal neuralgia, 20 percent;

(f) atypical facial pain, five percent;

(g) partial unilateral motor loss, two percent;

(h) complete unilateral motor loss, five percent;

(i) partial bilateral motor loss, ten percent; or

(j) complete bilateral motor loss, 30 percent.

Subd. 3. [FACIAL NERVE.] Permanent partial disability of the facial nerve is a disability of the whole body as follows:

- (a) total loss of taste, three percent;*
- (b) partial unilateral motor loss, 25 to 75 percent of function lost, three percent;*
- (c) unilateral motor loss, more than 75 percent of function lost, ten percent;*
- (d) partial bilateral motor loss, 25 to 75 percent of function lost, ten percent; or*
- (e) bilateral motor loss, more than 75 percent of function lost, 20 percent.*

Subd. 4. [VESTIBULAR LOSS WITH VERTIGO OR DISEQUILIBRIUM.] Vestibular loss with vertigo or disequilibrium is a disability of the whole body as follows:

- (a) a score of 24 to 28 on the Kenny scale, and restricted in activities involving personal or public safety, such as operating a motor vehicle or riding a bicycle, ten percent;*
- (b) a score of 16 to 28 on the Kenny scale, and ambulation impaired due to equilibrium disturbance, 30 percent;*
- (c) a score of ten to 16 on the Kenny scale, 40 percent; or*
- (d) a score of zero to ten on the Kenny scale, 70 percent.*

Subd. 5. [GLOSSOPHARYNGEAL, VAGUS AND SPINAL ACCESSORY NERVES.] Permanent partial disability to glossopharyngeal, vagus and spinal accessory nerves is a disability of the whole body as follows:

(a) Swallowing impairment caused by disability to any one or more of these nerves:

- (1) diet restricted to semi-solids, ten percent;*
- (2) diet restricted to liquids, 25 percent; or*
- (3) diet by tube feeding or gastrostomy, 50 percent.*

(b) Mechanical disturbances of articulation due to disability to any one or more of these nerves:

- (1) 95 percent or more of words are understood by those who are not family members and others outside the immediate family, but speech is distorted, five percent;*

(2) 95 percent or more of words are understood by family members, but speech is distorted and not easily understood by those who are not family members, ten percent;

(3) 75 percent or more of words are understood by family members, but speech is distorted, 15 percent;

(4) more than 50 percent of words are understood by family members, 20 percent;

(5) less than 50 percent of words are understood by family members, 25 percent; or

(6) ten percent or less of words are understood by family members, 30 percent.

Subd. 6. [HYPOGLOSSAL NERVE.] *Permanent partial disability of hypoglossal nerve is a disability of the whole body as follows:*

(a) *Bilateral paralysis; swallowing impairment:*

(1) *diet restricted to semi-solids, ten percent;*

(2) *diet restricted to liquids, 25 percent; and*

(3) *diet by tube feeding or gastrostomy, 50 percent.*

(b) *Mechanical disturbances of articulation:*

(1) 95 percent or more of words are understood by family members and others outside the immediate family, but speech is distorted, five percent;

(2) 95 percent or more of words are understood by family members, but speech is distorted and not easily understood by nonfamily members, ten percent;

(3) 75 percent or more of words are understood by family members, but speech is distorted, 15 percent;

(4) more than 50 percent of words are understood by family members, 20 percent;

(5) less than 50 percent of words are understood by family members, 25 percent; or

(6) ten percent or less of words are understood by family members, 30 percent.

Subd. 7. [SPINAL CORD.] To rate under this subdivision, determine the disability to the lower extremities, upper extremities, respiration, urinary bladder, anorectal, and sexual functions as follows. The percentage of whole body disability under this subdivision is determined by combining the disabilities under paragraphs (a) to (f) in the manner described in section 176.105, subdivision 4.

(a) A permanent partial disability in the use of lower extremities is a disability of the whole body as follows:

(1) can rise to a standing position and can walk, but has difficulty walking onto elevations, grades, steps, and distances, 15 percent;

(2) can stand but can walk only on a level surface, 30 percent;

(3) can stand but cannot walk, 45 percent; and

(4) can neither stand nor walk, 55 percent.

(b) Permanent partial disability in the use of upper extremities is a disability of the whole body as follows:

Whole Body Disability, Percentages

	<i>Preferred extremity</i>	<i>Nonpreferred extremity</i>	<i>Both</i>
<i>score of 24 to 28 on Kenny scale, but some difficulty with digital dexterity</i>	10	5	15
<i>score of 16 to 28 on Kenny scale, but no digital dexterity</i>	20	10	30
<i>score of ten to 16 on Kenny scale</i>	40	40	50
<i>score of zero to ten on Kenny scale</i>	70	70	85

(c) Permanent partial disability of the respiratory function is a disability of the whole body as follows:

(1) difficulty only where extra exertion is required, such as running, climbing stairs, heavy lifting, or carrying loads, ten percent;

(2) *restricted to limited walking, confined to one's own home, 35 percent;*

(3) *restricted to bed, 75 percent; and*

(4) *has no spontaneous respiration, 95 percent.*

(d) *Permanent partial disability of the bladder is a disability of the whole body as set forth below. Evaluative procedures to be followed are in section 176B.22, subdivision 2.*

(1) *impaired voluntary control evidenced by urgency or hesitancy, but continent without collecting devices, ten percent;*

(2) *impaired voluntary control, incontinent requiring external collecting devices, 20 percent; or*

(3) *impaired voluntary control, incontinent requiring internal collecting or continence devices, 30 percent.*

(e) *The permanent partial disability of the anorectal function is a disability of the whole body as follows:*

(1) *impaired voluntary control with urgency, ten percent;*

(2) *impaired voluntary control without reflex regulation, 20 percent; or*

(3) *impaired voluntary control, incontinent without diversion, 30 percent.*

(f) *Permanent partial disability of sexual function is a disability of the whole body as follows:*

(1) *Male: rate under section 176B.22, subdivision 6.*

(2) *Female: rate under section 176B.22, subdivision 9.*

Subd. 8. [BRAIN INJURY.] *Supporting objective evidence of structural injury, neurological deficit, or psychomotor findings is required to substantiate the permanent partial disability. Permanent partial disability of the brain is a disability of the whole body as follows:*

(a) *Communications disturbances, expressive:*

(1) *mild disturbance of expressive language ability not significantly impairing ability to be understood, such as mild word-finding difficulties, mild degree of paraphasias, or mild dysarthria, ten percent;*

(2) *severe impairment of expressive language ability, but still capable of functional communication with the use of additional methods such as gestures, facial expressions, writing, word board, or alphabet board, 35 percent; or*

(3) *unable to produce any functional expressive language, 70 percent.*

(b) *Communication disturbances, receptive:*

(1) *mild impairment of comprehension of aural speech, but comprehension functional with the addition of visual cues such as gestures, facial expressions, or written material, 40 percent;*

(2) *some ability to comprehend language is present, but significant impairment even with use of visual cues such as gestures, facial expressions, and written material, 60 percent; or*

(3) *no evidence of functional comprehension of language, 90 percent.*

(c) *Complex integrated cerebral function disturbances must be determined by medical observation and organic dysfunctions supported by psychometric testing. Functional overlay or primary psychiatric disturbances shall not be rated under this section. The permanent partial disabilities are as follows:*

(1) *mild impairment of higher level cognitive function or memory, but able to live independently and function in the community as evidenced by independence in activities such as shopping and taking a bus, 20 percent;*

(2) *same as clause (1), and also requires supporting devices and direction to carry out limited vocational tasks, 30 percent;*

(3) *moderate impairment of memory, judgment, or other higher level cognitive abilities, can live alone with some supervision such as for money management, some limitation in ability to function independently outside the home in activities such as shopping and traveling, 50 percent;*

(4) *moderately severe impairment of memory, judgment, or other higher cognitive abilities, unable to live alone and some supervision required at all times, but able to perform self cares independently, 70 percent; or*

(5) *severe impairment of memory, judgment, or other higher cognitive abilities such that constant supervision and assistance in self cares are required, 95 percent.*

(d) Emotional disturbances and personality changes must be substantiated by medical observation and by organic dysfunction supported by psychometric testing. Permanent partial disability is a disability of the whole body as follows:

(1) only present under stressful situation such as losing one's job, getting a divorce, or a death in the family, ten percent;

(2) present at all times but not significantly impairing ability to relate to others, to live with others, or to perform self cares, 30 percent;

(3) present at all times in moderate to severe degree, minimal ability to live with others, some supervision required, 65 percent; or

(4) severe degree of emotional disturbance which, because of danger to self and others, requires continuous supervision, 95 percent.

(e) Psychotic disorders, as described in D.S.M. III, not caused by organic dysfunction and substantiated by medical observation:

(1) only present under stressful situation, such as losing one's job, getting divorced, a death in the family, ten percent;

(2) present at all times but not significantly impairing ability to relate to others, live with others, or perform self cares, 30 percent;

(3) present at all times in moderate to severe degree significantly affecting ability to live with others, and requiring some supervision, 65 percent; or

(4) severe degree of emotional disturbance which, because of danger to self or others, requires continuous supervision, 95 percent.

(f) Consciousness disturbances; permanent partial disability of the whole body is as follows:

(1) mild or intermittent decreased level of consciousness manifested by periodic mild confusion or lethargy, a score of 16 to 28 on the Kenny scale, 40 percent;

(2) moderate intermittent or continuous decreased level of consciousness manifested by a moderate level of confusion or lethargy, and a score of ten to 16 on the Kenny scale, 70 percent;

(3) *severe decreased level of consciousness manifested as stupor with inability to function independently, and a score of zero to ten on the Kenny scale, 95 percent; or*

(4) *comatose or persistent vegetative state, 99 percent.*

(g) *Motor dysfunction, movement disorder, paralysis, spasticity, sensory loss, or neglect. Where these impairments are due to brain or brain stem injury, rate as provided in subdivision 7, paragraphs (a) and (b).*

(h) *Other impairments; impairments of respiration, urinary bladder function, anorectal functions, or sexual function due to brain or brain stem injury are rated as provided in subdivision 7, paragraphs (c) to (f).*

(i) *Epilepsy; permanent partial disability due to epilepsy is a disability of the whole body as follows:*

(1) *well controlled, on medication for one year or more, able to enter work force but with restrictions preventing operation of motor vehicles or dangerous machinery and climbing above six feet in height, ten percent;*

(2) *seizures occurring at least once a year, but not severely limiting ability to live independently, 20 percent;*

(3) *seizures occurring at least six times per year, some supervision required, 40 percent;*

(4) *seizures poorly controlled with at least 15 seizures per year, supervision required, protective care required with activities restricted, 75 percent; or*

(5) *frequency of seizures requires continuous supervision and protective care, activities restricted, unable to perform self cares, 95 percent.*

(j) *Headaches; permanent partial disability due to vascular headaches with nausea or vomiting is a five percent disability of the whole body.*

(k) *Total loss of taste, three percent.*

(l) *Traumatic head injury, complete and total loss of smell, supported by objective examination, three percent.*

Sec. 77. [176B.07] [MUSCULO-SKELETAL SCHEDULE; BACK.]

Subdivision 1. [LUMBAR SPINE.] The spine rating is inclusive of leg symptoms except for gross motor weakness,

bladder or bowel dysfunction, or sexual dysfunction. Permanent partial disability of the lumbar spine is a disability of the whole body as follows:

(a) *Healed sprain, strain, or contusion:*

(1) *Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, zero percent.*

(2) *Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings but without associated demonstrable degenerative changes, 3.5 percent.*

(3) *Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings and is associated with demonstrable degenerative changes.*

(i) *single vertebral level, seven percent; or*

(ii) *multiple vertebral levels, 10.5 percent.*

(4) *pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings.*

(i) *spondylolisthesis grade I, no surgery, seven percent;*

(ii) *spondylolisthesis grade II, no surgery, 14 percent; or*

(iii) *spondylolisthesis grade III or IV, without fusion, 24.5 percent.*

(b) *Herniated intervertebral disc, single vertebral level:*

(1) *condition not surgically treated:*

(i) *X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, nine percent.*

(ii) *back and specific radicular pain present with objective neurologic findings; and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; and no surgery is performed for treatment, 14 percent;*

(2) *condition treated by surgery:*

(i) *surgery or chemonucleolysis with excellent results such as mild low back pain, no leg pain, and no neurologic deficit, nine percent;*

(ii) *surgery or chemonucleolysis with average results such as mild increase in symptoms with bending or lifting, and mild to moderate restriction of activities related to back and leg pain, 11 percent;*

(iii) *surgery or chemonucleolysis with poor surgical results such as persistent or increased symptoms with bending or lifting, and major restriction of activities because of back and leg pain, 13 percent; or*

(iv) *multiple operations on low back with poor surgical results such as persisting or increased symptoms of back and leg pain, 15 percent;*

(3) *recurrent herniated intervertebral disc, occurring to same vertebral level previously treated with surgery or chemonucleolysis, add five percent to clause (2);*

(4) *herniated intervertebral disc at a new vertebral level other than the previously treated herniated intervertebral disc, calculate rating the same as clauses (1) and (2); or*

(5) *second herniated disc at adjacent level treated concurrently, add five percent to clause (1) or (2).*

(c) *Spinal stenosis, central or lateral, proven by computerized axial tomography or myelogram:*

(1) *mild symptoms such as occasional back pain with athletic activities or repetitive bending or lifting, leg pain with radicular symptoms, one vertebral level and no surgery, 14 percent; or*

(2) *severe spinal stenosis with bilateral leg pain requiring decompressive laminectomy, single vertebral level, with or without surgery (if multiple vertebral levels, add five percent per vertebral level), 18 percent.*

(d) *Spinal fusion surgery for single vertebral level with or without laminectomy, 17.5 percent. Add five percent for each additional vertebral level.*

(e) *Fractures:*

(1) *vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no*

fragmentation, no involvement of posterior elements, no nerve root involvement, four percent;

(2) vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 10.5 percent;

(3) vertebral compression fracture, with a decrease of more than 25 percent in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 15 percent;

(4) vertebral fracture with involvement of posterior elements with X-ray evidence of moderate partial dislocation:

(i) no nerve root involvement, healed, 10.5 percent;

(ii) with persistent radicular pain, 12 percent;

(iii) with surgical fusion, healed, no permanent motor or sensory changes, 14 percent;

(5) severe dislocation:

(i) normal reduction with surgical fusion, 12 percent;

(ii) poor reduction with fusion, persistent radicular pain, 17.5 percent.

Subd. 2. [CERVICAL SPINE.] The spine rating is inclusive of arm symptoms except for gross motor weakness; sensory loss; and bladder, bowel, or sexual dysfunction. Bladder, bowel, or sexual dysfunction must be rated as provided in section 176B.06, subdivision 7. Permanent partial disability of the cervical spine is a disability of the whole body as follows:

(a) Healed sprain, strain, or contusion:

(1) Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, zero percent.

(2) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle spasm or rigidity is substantiated by objective clinical findings but without associated demonstrable degenerative changes, 3.5 percent.

(3) Pain associated with rigidity (loss of motion or postural abnormality) or chronic muscle spasm. The chronic muscle

spasm or rigidity is substantiated by objective clinical findings and is associated with demonstrable degenerative changes.

(i) *Single vertebral level, seven percent; or*

(ii) *Multiple vertebral levels, 10.5 percent.*

(b) *Herniated intervertebral disc, single vertebral level:*

(1) *Condition not surgically treated:*

(i) *X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, nine percent.*

(ii) *Neck and specific radicular pain present with objective neurologic findings; and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; and no surgery is performed for treatment, 14 percent.*

(2) *Condition treated by surgery:*

(i) *Surgery with excellent results such as mild neck pain, no arm pain, and no neurologic deficit, nine percent.*

(ii) *Surgery with average results such as mild increase in symptoms with neck motion or lifting, and mild to moderate restriction of activities related to neck and arm pain, 11 percent.*

(iii) *Surgery with poor surgical results such as persistent or increased symptoms with neck motion or lifting, and major restriction of activities because of neck and arm pain, 13 percent.*

(iv) *Multiple operations on neck with poor surgical results such as persisting or increased symptoms of neck and arm pain, 15 percent.*

(3) *Recurrent herniated intervertebral disc, occurring to same vertebral level previously treated with surgery, add five percent to clause (2).*

(4) *Herniated intervertebral disc at a new vertebral level other than the previously treated herniated intervertebral disc, calculate rating the same as clauses (1) and (2).*

(5) *Second herniated disc at adjacent level treated concurrently, add five percent to clause (1) or (2).*

(c) *Spinal stenosis, proven by computerized axial tomography or myelogram.*

(1) *With myelopathy verified by objective neurologic findings, no loss of function, 14 percent.*

(2) *Loss of function: the rate provided in section 176B.06, subdivision 7.*

(d) *Fusion of a single vertebral level with or without a laminectomy, 11.5 percent. Add five percent for each additional vertebral level.*

(e) *Fracture:*

(1) *vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement of posterior elements, no nerve root involvement, loss of motion neck and all planes, approximately 75 percent normal range of motion neck with pain, six percent;*

(2) *vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, loss of motion in the neck in all planes, approximately 50 percent normal range of motion in neck with pain, 14 percent;*

(3) *vertebral compression with a decrease of more than 25 percent of vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, loss of motion in the neck in all planes, approximately 50 percent normal range of motion in neck with pain, 19 percent;*

(4) *vertebral fracture with involvement of posterior elements with X-ray evidence of moderate partial dislocation:*

(i) *no nerve root involvement, healed, 10.5 percent;*

(ii) *with persistent pain, 12 percent;*

(iii) *with surgical fusion, healed, no permanent motor or sensory changes, 14 percent;*

(5) *severe dislocation:*

(i) *normal reduction with surgical fusion, 12 percent;*

(ii) *poor reduction with fusion, persistent radicular pain, 17.5 percent.*

Subd. 3. [THORACIC SPINE.] The spine rating is inclusive of all symptoms including radicular gross motor weakness

and sensory loss, but excluding spinal cord injury. Permanent partial disability of the thoracic spine is a disability of the whole body as follows:

(a) Healed sprain, strain, or contusion:

(1) Subjective symptoms of pain not substantiated by objective clinical findings or demonstrable degenerative changes, zero percent.

(2) Pain associated with chronic muscle spasm. The chronic muscle spasm is substantiated by objective clinical findings and is associated with demonstrable degenerative changes, single or multiple level, 3.5 percent.

(b) Herniated intervertebral disc, symptomatic:

(1) Condition not surgically treated:

(i) X-ray or computerized axial tomography or myelogram specifically positive for herniated disc; excellent results, with resolution of objective neurologic findings, three percent.

(ii) Specific radicular pain present with objective neurologic findings, and X-ray or computerized axial tomography or myelogram specifically positive for herniated disc, and no surgery is performed for treatment, five percent.

(2) Condition treated by surgery:

(i) surgery with excellent results such as mild thoracic pain, no radicular pain, and no neurological deficit, five percent;

(ii) surgery with poor surgical results such as persistence of increased symptoms with lifting, and major restriction of activities, ten percent.

(c) Fractures:

(1) Vertebral compression with a decrease of ten percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement of posterior elements, no nerve root involvement, four percent.

(2) Vertebral compression with a decrease of 25 percent or less in vertebral height, one or more vertebral segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 10.5 percent.

(3) Vertebral compression fracture, with a decrease of more than 25 percent in vertebral height, one or more vertebral

segments, no fragmentation, no involvement posterior elements, no nerve root involvement, 15 percent.

(4) Vertebral fracture with involvement of posterior elements with x-ray evidence of moderate partial dislocation:

(i) no nerve root involvement, healed, 10.5 percent;

(ii) with persistent pain, with mild motor and sensory manifestations, 17.5 percent;

(iii) with surgical fusion, healed, no permanent motor or sensory changes, 14 percent.

(5) Severe dislocation, normal reduction with surgical fusion:

(i) no residual motor or sensory changes, 12 percent;

(ii) poor reduction with fusion, persistent radicular pain, motor involvement, 17.5 percent.

Sec. 78. [176B.08] [MUSCULO-SKELETAL SCHEDULE; AMPUTATIONS OF UPPER EXTREMITY.]

Permanent partial disability due to amputation of upper extremities is a disability of the whole body as follows:

(a) forequarter amputation, 70 percent;

(b) disarticulation at shoulder joint, 60 percent;

(c) amputation of arm above deltoid insertion, 60 percent;

(d) amputation of arm between deltoid insertion and elbow joint, 57 percent;

(e) disarticulation at elbow joint, 57 percent;

(f) amputation of forearm below elbow joint proximal to insertion of biceps tendon, 57 percent;

(g) amputation of forearm below elbow joint distal to insertion of biceps tendon, 54 percent;

(h) disarticulation at wrist joint, 54 percent;

(i) midcarpal or midmetacarpal amputation of hand, 54 percent;

(j) amputation of all fingers except thumb at metacarpophalangeal joints, 32.5 percent;

(k) amputation of thumb:

(1) at metacarpophalangeal joint or with resection of metacarpal bone, 21.5 percent;

(2) at interphalangeal joint or through proximal phalynx, 16 percent;

(3) from interphalangeal joint to midportion distal phalynx, 13 percent;

(4) from mid-distal phalynx, distal, six percent;

(l) amputation of index finger:

(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 13.5 percent;

(2) at proximal interphalangeal joint or through middle phalynx, 11 percent;

(3) at distal interphalangeal joint to middistal phalynx, five percent;

(4) from middistal phalynx, distal, 2.5 percent;

(m) amputation of middle finger:

(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 11 percent;

(2) at proximal interphalangeal joint or through middle phalynx, nine percent;

(3) at distal interphalangeal joint to middistal phalynx, five percent;

(4) from middistal phalynx, distal, 2.5 percent;

(n) amputation of ring finger:

(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, 5.5 percent;

(2) at proximal interphalangeal joint or through middle phalynx, four percent;

(3) at distal interphalangeal joint to middistal phalynx, three percent;

(4) from middistal phalynx, distal, 1.5 percent;

(o) amputation of little finger:

(1) at metacarpophalangeal joint or with resection of metacarpal bone or through proximal phalynx, three percent;

(2) at proximal interphalangeal joint or through middle phalynx, two percent;

(3) at distal interphalangeal joint to middistal phalanx, one percent;

(4) from middistal phalynx, distal, 0.5 percent.

Sec. 79. [176B.09] [MUSCULO-SKELETAL SCHEDULE; SENSORY LOSS, UPPER EXTREMITIES.]

Subdivision 1. [GENERAL.] For sensory loss to the upper extremities resulting from nerve injury, the disability of the whole body is set forth in subdivisions 2 to 4. For the portion of the body described in subdivision 2, there must be a total loss of the sensory function. Carpal tunnel syndrome is rated under section 176B.13, subdivision 3, paragraphs (e) and (f).

Subd. 2. [TOTAL SENSORY LOSS.] Sensory loss, complete:

(a) median function at wrist, 22.5 percent;

(b) ulnar function at wrist, 11 percent;

(c) radial function at wrist, 5.5 percent;

(d) medial antebrachial cutaneous, three percent;

(e) medial brachial cutaneous, three percent;

(f) loss of thumb, whole, 11 percent;

(1) radial digital nerve, four percent;

(2) ulnar digital nerve, 6.5 percent;

(g) index finger, whole, 5.5 percent;

(1) radial digital nerve, whole, 3.5 percent;

- (2) ulnar digital nerve, two percent;
- (h) long finger, whole, 5.5 percent;
- (1) radial digital nerve, 3.5 percent;
- (2) ulnar digital nerve, two percent;
- (i) ring finger, whole, three percent;
- (1) radial digital nerve, two percent;
- (2) ulnar digital nerve, one percent;
- (j) little finger, whole, three percent;
- (1) radial digital nerve, one percent;
- (2) ulnar digital nerve, two percent;
- (k) sensory loss distal to proximal interphalangeal joint, 50 percent of the value of entire digital nerve as set forth in subdivision 2, either radial or ulnar as applicable;
- (l) sensory loss distal to one-half distal phalanx, 25 percent of entire digital nerve as set forth in subdivision 2.

Subd. 3. [QUALITY OF SENSORY LOSS IN HAND.] The levels of sensory loss and the corresponding disabilities of the whole body are measured as follows:

- (a) minimal, two-point discrimination at six millimeters or less, zero percent;
- (b) moderate, two-point discrimination greater than six millimeters, 1/2 of value in subdivision 2;
- (c) severe, two-point discrimination at greater than ten millimeters, 3/4 of value in subdivision 2;
- (d) total, two-point discrimination at greater than 15 millimeters, same value as in subdivision 2.

Subd. 4. [CAUSALGIA.] When objective medical evidence shows persistent causalgia despite treatment, there is loss of sensory and motor function, loss of joint function, and inability to use the extremity in any useful manner. The permanent partial disability to the member, rating from the most proximal joint involved, and the percentage disability of the whole body is 50 percent of that in section 176B.08, subdivision 1.

**Sec. 80. [176B.10] [MUSCULO-SKELETAL SCHEDULE;
MOTOR LOSS OR MOTOR AND SENSORY LOSS, UPPER
EXTREMITIES.]**

Subdivision 1. [TOTAL OR COMPLETE LOSS.] Total or complete loss means that motor function is less than anti-gravity and there is complete loss of sensation. For loss to the upper extremities resulting from nerve injury, and where there is total loss of function for those particular portions of the body, the disability of the whole body is:

(a) Motor loss, complete:

- (1) median nerve above mid forearm, 30 percent;*
- (2) median nerve below mid forearm, 19 percent;*
- (3) radial nerve, 19 percent;*
- (4) ulnar nerve above mid forearm, 19 percent;*
- (5) ulnar nerve below mid forearm, 13.5 percent.*

(b) Complete motor and sensory loss:

- (1) median nerve above mid forearm, 40.5 percent;*
- (2) median nerve below mid forearm, 35 percent;*
- (3) radial nerve, 27 percent;*
- (4) ulnar nerve above mid forearm, 21.5 percent;*
- (5) ulnar nerve below mid forearm, 16 percent.*

(c) Complete loss of motor function:

- (1) brachial plexus complete, 60 percent:*
 - (i) upper trunk C5-6, 47 percent;*
 - (ii) mid trunk C7, 23 percent;*
 - (iii) lower trunk C8-T1, 46 percent;*
- (2) anterior thoracic, three percent;*
- (3) axillary nerve, 23 percent;*
- (4) dorsal scapular, three percent;*

- (5) *long thoracic, nine percent;*
- (6) *musculo cutaneous, 17.5 percent;*
- (7) *subscapular, three percent;*
- (8) *suprascapular, 11.5 percent;*
- (9) *thoraco dorsal, six percent.*
- (d) *Complete loss of function, motor and sensory:*
 - (1) *C-5 root, 11 percent;*
 - (2) *C-6 root, 12 percent;*
 - (3) *C-7 root, 11 percent;*
 - (4) *C-8 root, 13 percent.*

Subd. 2. [PARTIAL LOSS.] Partial loss means that motor function is less than normal but greater than anti-gravity, and there is incomplete sensory loss. Partial loss is rated at 25 percent of the percentages assigned at subdivision 1.

Sec. 81. [176B.11] [MUSCULO-SKELETAL SCHEDULE; SHOULDER.]

Subdivision 1. [GENERAL.] For permanent partial disability to the shoulder, disability of the whole body is as in subdivisions 2 and 3.

Subd. 2. [RANGE OF MOTION.] (a) Total ankylosis in optimum position, abduction 60 degrees, flexion ten degrees, rotation, neutral position, 30 percent;

(b) total ankylosis in mal-position, grade upward to 50 percent;

(c) mild limitation of motion: no abduction beyond 90 degrees, rotation no more than 40 degrees with full flexion and extension, three percent;

(d) moderate limitation of motion: no abduction beyond 60 degrees, rotation no more than 20 degrees, with flexion and extension limited to 30 degrees, 12 percent;

(e) severe limitation of motion: no abduction beyond 25 degrees, rotation no more than ten degrees, flexion and extension limited to 20 degrees, 30 percent.

Subd. 3. [PROCEDURES OR CONDITIONS.] (a) Acromio-clavicular separation of the following severity:

- (1) grade 1, zero percent;*
- (2) grade 2, three percent;*
- (3) grade 3, six percent.*

(b) anterior or posterior shoulder dislocation, no surgery, single episode, three percent.

(c) recurrent dislocation, at least three times in six months, ten percent.

(d) repair recurrent shoulder dislocation:

- (1) no loss of motion, six percent;*
- (2) if mild limitation of motion, nine percent;*

(3) if moderate or severe limitation of motion, rate as in subdivision 2, paragraphs (d) and (e).

(e) resection distal end of clavicle, three percent.

(f) humeral shaft fracture, normal range of motion both joints, zero percent.

(g) humeral shaft fracture, open reduction, mild restriction of shoulder and elbow motion, six percent. For moderate or severe limitation of motion, rate as in subdivision 2, paragraphs (d) and (e).

(h) surgical neck fracture, healed, no loss of motion, zero percent; if loss of motion, rate as in subdivision 2.

(i) greater tuberosity fracture, normal range of motion, zero percent. If loss of motion, rate as in subdivision 2.

Sec. 82. [176B.12] [MUSCULO-SKELETAL SCHEDULE; ELBOW.]

Subdivision 1. [GENERAL.] Permanent partial disability of the elbow is disability of the whole body as in subdivisions 2 and 3.

Subd. 2. [RANGE OF MOTION.] Flexion and extension of forearm is 85 percent of the arm. Rotation of the forearm is 15 percent of the arm.

(a) Total ankylosis in optimum position approximating midway between 90 degrees flexion and 180 degrees extension, a 45-degree angle, 30 percent.

(b) Total ankylosis in mal-position, 40 percent.

(c) Limitation of motion:

(1) mild, motion limited from ten degrees flexion to 100 degrees of further flexion, six percent;

(2) moderate, motion limited from 20 degrees flexion to 75 degrees of further flexion, 12 percent;

(3) severe, motion limited from 45 degrees flexion to 90 degrees of further flexion, 21 percent;

(d) Flail elbow, pseudarthrosis above joint line, wide motion but very unstable, 39 percent.

(e) Resection head of radius, nine percent.

Subd. 3. [PROCEDURES OR CONDITIONS.] (a) Radial or ulnar shaft fracture, full motion, zero percent;

(b) radial or ulnar fracture, open reduction, mild limitation of motion as defined in subdivision 2, paragraph (c), nine percent;

(c) olecranon fracture, no loss of motion, zero percent;

(d) olecranon fracture, open reduction internal fixation, mild limitation of motion as defined in subdivision 2, paragraph (c), six percent;

(e) epicondylar fracture, no loss of motion, zero percent;

(f) epicondylar fracture, mild loss of motion as defined in subdivision 2, paragraph (c), six percent;

(g) release medial or lateral epicondyle, two percent;

(h) ulnar nerve transposition, two percent.

Sec. 83. [176B.13] [MUSCULO-SKELETAL SCHEDULE; WRIST.]

Subdivision 1. [GENERAL.] Permanent partial disability of wrist is disability of the whole body as set in subdivisions 2 and 3.

Subd. 2. [RANGE OF MOTION.] (a) Excision distal end of ulna, flexion and extension credited with 75 percent of hand, and rotation 25 percent of hand, five percent;

(b) total ankylosis in optimum position, 19 percent;

(c) total ankylosis in mal-position of extreme flexion or extension, 25 percent;

(d) limitation of motion:

(1) mild, rotation normal, loss of 15 degrees palmar flexion and loss of 20 degrees dorsiflexion, five percent;

(2) moderate, rotation limited to 60 degrees in pronation-supination, loss of 25 degrees palmar flexion, loss of 30 degrees dorsiflexion, ten percent; or

(3) severe, rotation limited to 30 degrees in pronation-supination, palmar flexion less than 25 degrees, dorsi-flexion less than 30 degrees, 15 percent.

Subd. 3. [PROCEDURE OR CONDITIONS.] (a) Colles/Smith, extraarticular:

(1) no loss of motion, zero percent;

(2) mild loss of motion as defined in subdivision 2, paragraph (d), clause (1), three percent.

(b) Colles/Smith/Barton, intraarticular.

(1) no loss of motion, zero percent;

(2) mild loss of motion as defined in subdivision 2, paragraph (d), clause (1), six percent;

(3) moderate loss of motion as defined in subdivision 2, paragraph (d), clause (2), ten percent.

(c) Carpal bone fracture, no loss of motion, three percent.

(d) Carpal dislocation, mild loss of motion as defined in subdivision 2, paragraph (d), clause (1), six percent.

(e) Carpal tunnel release, 0.5 percent.

(f) Carpal tunnel release with moderate paresthesias, three percent.

(g) DeQuervain's release, zero percent.

(h) *Ganglion excision, zero percent.*

(i) *Scaphoid graft, three percent.*

Sec. 84. [176B.14] [MUSCULO-SKELETAL SCHEDULE; FINGERS.]

Subdivision 1. [GENERAL.] Permanent partial disability of fingers is a disability of the whole body as set in subdivision 2.

Subd. 2. [ANKYLOSIS OF JOINTS.] (a) Thumb.

(1) Total ankylosis interphalangeal joint:

(i) *optimum position, zero to 15 degrees, eight percent;*

(ii) *mal-position, flexion greater than 15 degrees, 14 percent.*

(2) Total ankylosis metacarpophalangeal joint:

(i) *optimum position, up to 25 degree flexion, 10.5 percent;*

(ii) *mal-position, flexion greater than 25 degrees, 14 percent.*

(3) Total ankylosis both interphalangeal and metacarpophalangeal joints:

(i) *optimum position, 16 percent;*

(ii) *mal-position, 18 percent.*

(4) Total ankylosis carpometacarpal joint alone:

(i) *optimum position, four percent;*

(ii) *mal-position, eight percent.*

(5) Total ankylosis interphalangeal, metacarpophalangeal, and carpometacarpophalangeal joints:

(i) *optimum position, 19 percent;*

(ii) *mal-position, 21 percent.*

(6) Limitation of motion, thumb:

(i) *mild, total closing motion tip of digit, can flex to touch palm, and extend to 15 degrees flexion, strength of grip normal, three percent;*

(ii) moderate, total closing motion, tip of digit, lacks 1/2 inch of touching palm and can extend to 30 degrees flexion, six percent;

(iii) severe, total closing motion tip of digit lacks one inch of touching palm and can extend to 45 degrees flexion, nine percent.

(b) Digits other than thumb.

(1) to rate any digit excluding the thumb, find the appropriate descriptive category in paragraph (a), then multiply the rating by the following factor for the involved digit:

(i) index finger, multiply by 0.6;

(ii) middle finger, multiply by 0.5;

(iii) ring finger, multiply by 0.25;

(iv) little finger, multiply by 0.125.

(2) Total ankylosis of distal interphalangeal joint, multiply rating in (i) or (ii) by multiplier for involved digit in clause (1).

(i) optimum position, 5.5 percent;

(ii) mal-position, flexed 35 degrees or more, eight percent.

(c) soft tissue loss, isolated soft tissue loss of the end of digit greater than one centimeter, 20 percent of the disability to the whole body for amputation of that digit as set forth at section 176B.08.

Sec. 85. [176B.15] [MUSCULO-SKELETAL SCHEDULE; AMPUTATIONS OF LOWER EXTREMITIES.]

For permanent partial disability due to amputation of lower extremities the disability of the whole body is:

(a) hemipelvectomy, 50 percent;

(b) disarticulation at hip joint, 40 percent;

(c) amputation above knee joint with short thigh stump, three inch or less below tuberosity of ischium, 40 percent;

(d) amputation above knee joint with functional stump, 36 percent;

(e) disarticulation at knee joint, 36 percent;

(f) *amputation below knee joint with short stump, three inch or less below intercondular notch, 36 percent;*

(g) *amputation below knee joint with functional stump, 28 percent;*

(h) *amputation at ankle, Syme type, 28 percent;*

(i) *partial amputation of foot, Chopart's type, 21 percent;*

(j) *mid-metatarsal amputation, 14 percent;*

(k) *amputation of all toes at metatarsophalangeal joints, eight percent;*

(l) *amputation of great toe;*

(1) *with resection of metatarsal bone, eight percent;*

(2) *at metatarsophalangeal joint, five percent;*

(3) *at interphalangeal joint, four percent;*

(m) *amputation of lesser toe, 2nd-5th:*

(1) *with resection of metatarsal bone, two percent;*

(2) *at metatarsophalangeal joint, one percent;*

(3) *at proximal interphalangeal joint, zero percent;*

(4) *at distal interphalangeal joint, zero percent.*

**Sec. 86. [176B.16] [MUSCULO-SKELETAL SCHEDULE;
NERVE INJURY OR MOTOR AND SENSORY LOSS, LOWER
EXTREMITIES.]**

Subdivision 1. [TOTAL LOSS.] Total loss means that motor function is less than anti-gravity and there is complete loss of sensation. For loss to the lower extremities resulting from nerve injury, and where there is total loss of function for those particular portions of the body, the disability of the whole body is:

(a) *femoral, anterior crural, 13 percent;*

(b) *femoral, anterior crural, below iliacus nerve, 11 percent;*

(c) *genitofemoral, genito crural, two percent;*

- (d) *inferior gluteal, nine percent;*
- (e) *lateral femoral cutaneous, three percent;*
- (f) *posterior cutaneous of thigh, two percent;*
- (g) *superior gluteal, seven percent;*
- (h) *sciatic, above hamstring innervation, 31 percent;*
- (i) *common peroneal, lateral, or external popliteal, 13 percent;*
- (j) *deep peroneal, above midshin, nine percent;*
- (k) *deep peroneal, below midshin, anterior tibial, two percent;*
- (l) *superficial peroneal, five percent;*
- (m) *tibial nerve, medial, or internal popliteal:*
 - (1) *above knee, 15 percent;*
 - (2) *posterior tibial, midcalf and knee, 11 percent;*
 - (3) *below midcalf, nine percent;*
 - (4) *lateral plantar branch, three percent; or*
 - (5) *medial plantar branch, three percent;*
- (n) *sural, external saphenous, one percent;*
- (o) *L-4 nerve root, 11 percent;*
- (p) *L-5 nerve root, 13 percent;*
- (q) *S-1 nerve root, 15 percent; or*
- (r) *Lumbosacral plexus, 40 percent.*

Subd. 2. [PARTIAL LOSS.] Partial loss means that motor function is less than normal but greater than anti-gravity, and there is incomplete sensory loss. Partial loss is rated at 25 percent of the percentages assigned at subdivision 1.

Sec. 87. [176B.17] [MUSCULO-SKELETAL SCHEDULE; JOINTS.]

Subdivision 1. [GENERAL.] For permanent partial disability of joints, disability of the whole body is set forth in subdivisions 2 to 9.

Subd. 2. [SURGICAL OR TRAUMATIC SHORTENING OF LOWER EXTREMITY.] (a) 1/4 inch to 3/4 inch, three percent;

(b) 3/4 to 1-1/4 inches, 4.5 percent;

(c) 1-1/4 to 1-3/4 inches, six percent; or

(d) 1-3/4 inches and above, nine percent.

Subd. 3. [HIP.] (a) Range of motion.

(1) limitation of motion:

(i) mild, anterior posterior movement from zero degree to 120 degree flexion, rotation and lateral motion, abduction, adduction free to 50 percent of normal, six percent;

(ii) moderate, anterior posterior motion from 15 degrees flexion deformity to 110 degrees further flexion, rotation, lateral motion, abduction, and adduction free to 25 percent normal, 12 percent;

(iii) severe, anterior posterior motion from 30 degrees flexion deformity to 90 degrees further flexion, 22 percent.

(b) Procedures or conditions:

(1) nonunion proximal femur fracture without reconstruction, 33 percent;

(2) arthroplasty, able to stand at work and walk, motion 25 percent to 50 percent of normal, 18 percent;

(3) total hip arthroplasty, normal result, 13 percent;

(4) femoral endoprosthesis:

(i) minimal pain, near normal range of motion, able to walk unsupported, 15 percent;

(ii) mild to moderate pain with weight bearing, motion 50 percent of normal, 20 percent;

(5) hip pinning for fracture:

(i) *minimal pain, near normal range of motion, able to walk unsupported, five percent;*

(ii) *mild to moderate pain, motion 50 percent of normal, ten percent.*

Subd. 4. [FEMUR.] *Femur:*

(a) *shaft fracture, closed, healed, zero percent;*

(b) *femoral shaft fracture, open reduction, loss of less than 20 degrees of movement of any one plane of either the hip or the knee, no malalignment, two percent.*

Subd. 5. [KNEE.] *Knee:*

(a) *Range of motion:*

(1) *ankylosis and limited motion, total ankylosis optimum position, 15 degrees flexion, 22 percent;*

(2) *limitation of motion:*

(i) *mild, zero degrees to at least 110 degrees flexion, two percent;*

(ii) *moderate, five degrees to at least 80 degrees flexion, seven percent;*

(iii) *severe, five degrees to at least 60 degrees flexion, 15 percent;*

(iv) *extremely severe, limited from 15 degrees flexion deformity with further flexion to 90 degree, 18 percent.*

(b) *Procedures or conditions:*

(1) *surgical removal of medial or lateral semilunar cartilage, more than 50 percent of cartilage removed, no complications, three percent;*

(2) *partial meniscectomy, up to 50 percent of the meniscus removed, two percent;*

(3) *surgical removal both cartilages, nine percent;*

(4) *ruptured cruciate ligament, repaired or unrepaired:*

(i) *mild laxity, three percent;*

(ii) *moderate laxity, seven percent;*

- (iii) *severe laxity, ten percent;*
- (5) *excision of patella, nine percent;*
- (6) *plateau fracture, depressed bone elevated, semilunar excised, nine percent;*
- (7) *plateau fracture, undisplaced, two percent;*
- (8) *supracondylar or intercondylar fracture, displaced, seven percent;*
- (9) *supracondylar or intercondylar fracture, undisplaced, two percent;*
- (10) *patella fracture, open reduction or partial patellectomy, displaced, five percent;*
- (11) *patella fracture, open reduction or partial patellectomy, undisplaced, two percent;*
- (12) *patellar shaving, one percent;*
- (13) *arthroscopy, zero percent;*
- (14) *repair collateral ligament, mild laxity, two percent;*
- (15) *repair collateral ligament, moderate laxity, four percent;*
- (16) *repair patellar dislocation, five percent;*
- (17) *total knee arthroplasty, flexion to 90 degrees, extension to zero degrees, 13 percent;*
- (18) *total knee unicondylar, seven percent;*
- (19) *lateral retinacular release, one percent;*
- (20) *proximal tibial osteotomy, flexion to 90 degrees, extension to zero degrees, five percent.*

Subd. 6. [TIBIA.] *Tibia:*

- (a) *tibial shaft fracture, undisplaced, healed, normal motion and alignment, zero percent;*
- (b) *tibial shaft fracture, open reduction, loss of less than 20 degrees of movement in any one plane in either the knee or the ankle with full knee extension, no malalignment, five percent.*

Subd. 7. [ANKLE AND FOOT.] (a) Range of motion:

(1) total ankylosis ankle and foot, pantalar arthrodesis:

(i) in ten degrees plantar flexion, 15 percent;

(ii) mal-position 30 degrees plantar flexion, 20 percent;

(2) ankylosis of foot, subtalar or triple arthrodesis tarsal bones, ankle, normal motion, 7.5 percent;

(i) decreased motion, subtalar joint, 3.5 percent;

(ii) ankylosis in mal-position, eight percent;

(3) ankylosis of tibia and talus, subtalar joints free, optimum position 15 degrees plantar flexion, 12 percent;

(4) limitation of motion in the ankle:

(i) mild, motion limited from position of 90 degrees right angle to 20 degrees plantar flexion, three percent;

(ii) moderate, motion limited from position of ten degrees flexion to 20 degrees plantar flexion, six percent;

(iii) severe, motion limited from position of 20 degrees plantar flexion to 30 degrees plantar flexion, 12 percent.

(b) Procedures or conditions:

(1) achilles tendon rupture with treatment surgically or non-surgically, able to stand on toes, two percent;

(2) achilles tendon rupture with treatment surgically or non-surgically, unable to sustain body weight on toes, four percent;

(3) open reduction ankle:

(i) normal range of motion:

(A) medial malleolus only, two percent;

(B) lateral malleolus only, two percent;

(ii) normal to mild restriction on range of motion:

(A) medial and lateral malleolus, four percent;

(B) trimalleolar, four percent;

(iii) *for moderate to severe restriction of range of motion in the ankle, rate as in paragraph (a), clause (4);*

(4) *ankle, lateral ligament reconstruction, mild laxity, normal range of motion, two percent;*

(5) *ankle, lateral ligament reconstruction, moderate laxity, at least ten degrees greater widening on the Talar tilt stress test X-ray compared to the uninjured side, three percent.*

Subd. 8. [FOOT.] (a) Range of motion:

(1) *ankylosis of tarsal metatarsal or mild tarsal joints:*

(i) *normal position, 2.5 percent;*

(ii) *mal-position, five percent;*

(2) *limited motion in the foot:*

(i) *mild, limited motion with mild pain with weight bearing, no change in activities, 2.5 percent;*

(ii) *moderate, limitation of motion with pain with weight bearing, no reduction in athletic or vigorous activities, five percent;*

(iii) *severe, limitation of motion with pain with weight bearing, sedentary activities not affected, ten percent;*

(b) Procedures or conditions:

(1) *calcaneal fracture, extra articular, pain with weight bearing, six percent;*

(2) *calcaneal fracture, intra articular:*

(i) *mild limitation of motion as in paragraph (a), clause (2) (i), six percent;*

(ii) *moderate limitation of motion as in paragraph (a), clause (2) (ii), 12 percent;*

(iii) *severe limitation of motion as in paragraph (a), clause (2) (iii), 18 percent;*

(3) *avascular necrosis talus:*

(i) *mild limitation of motion as in paragraph (a), clause (2) (i), six percent;*

(ii) moderate limitation of motion as in paragraph (a), clause (2)(i), 12 percent;

(iii) severe limitation of motion as in paragraph (a), clause (2)(iii), 18 percent;

(4) tarsal fractures, healed, mild pain, three percent;

(5) metatarsal fractures, healed, zero percent;

(6) pharyngeal fractures, healed, zero percent.

Subd. 9. [TOES.] (a) Complete ankylosis of metatarsophalangeal joint, any toe, three percent;

(b) complete ankylosis any toe, interphalangeal joint, optimum position semi-flexion, one percent.

Sec. 88. [176B.18] [RESPIRATORY SYSTEM.]

Subdivision 1. [EVALUATION PROCEDURES.] The procedures used in evaluating permanent partial disability of the respiratory system shall include the following:

(a) complete history and physical examination with special reference to cardiopulmonary symptoms and signs;

(b) chest roentgenography (posteroanterior in full inspiration, posteroanterior in full expiration timed, three seconds, lateral);

(c) hematocrit or hemoglobin determination;

(d) electrocardiogram;

(e) performance of the following tests of ventilation:

(1) one second forced expiratory volume (FEV1), expressed as a percentage of the normal values set forth in the A.M.A. Guides, pages 69 and 71;

(2) forced vital capacity (FVC), expressed as a percentage of the normal values set forth in the A.M.A. Guides, pages 70 and 72.

(f) diffusing capacity studies must be performed when complaints of dyspnea continue unabated in spite of forced spirometric measurement results above the cut-off limits.

Subd. 2. [MEASUREMENT OF RESPIRATORY LOSS OF FUNCTION.] Table 1 shall be used to calculate the percentage

of disability of the whole body due to permanent partial disability of the respiratory system.

TABLE 1

Symptoms	Forced Spirometry Measurements 1/2 (FEV1 + FVC) (Test three times)	Diffusing Capacity*	Percent Disa- bility of Whole Body
When dyspnea occurs, is consistent with the circumstances of activity.	Not less than 85 percent of normal	Not Applicable	0
Dyspnea does not occur at rest and seldom occurs during the performance of the usual activities of daily living.	70 to 85 percent of normal	Not Applicable	15
Dyspnea does not occur at rest but does occur during the usual activities of daily living.	50 to 70 percent of normal	Usually Not Applicable	30
Dyspnea occurs during activities such as climbing one flight of stairs or walking one block on the level.	25 to 50 percent of normal	40 percent or less of normal	60
Confined to bed and oxygen dependent.	Less than 25 percent of normal	20 percent or less of normal	85

*The diffusing capacity studies must be performed when complaints of dyspnea continue unabated in spite of forced spiro-

metric measurement results above the cut-off limits set forth in Table 1.

Subd. 3. [ASTHMA.] Asthma which is not medically controllable and which requires at least six hospitalizations in 12 months, 25 percent.

Subd. 4. [DEVELOPMENT OF A PERMANENT SENSITIZATION TO A SPECIFIC ALLERGEN AS A RESULT OF AN OCCUPATIONAL EXPOSURE.] The sensitization is documented by objective tests such as skin testing or radioallergosorbent assays and objective physical findings of reactive airway disease, such as a reversible decrease of FEV₁, or vital capacity of 15 percent or more following exposure to the allergen.

(a) The sensitization preexisted the occupational exposure, 1 percent.

(b) The allergen is uncommon, and is not normally encountered in most workplaces or homes, two percent.

(c) The allergen is found in some workplaces but can be avoided by selective job placement. Normal activities of daily living do not result in exposure to the allergen, four percent.

(d) The allergen is commonly encountered in most homes or in workplaces, and repeated exposure is likely, eight percent.

(e) Asthma which is not medically controllable and which requires at least six hospitalizations in 12 months, 25 percent.

Sec. 89. [176B.19] [ORGANIC HEART DISEASE.]

Subdivision 1. [GENERAL.] For permanent partial disability due to organic heart disease, the disability of the whole body is set forth in subdivision 2.

Subd. 2. [HEART RATINGS.] The following ratings may be applied only after a compilation of a patient's complete history and a physical examination. Testing must include chest X-ray and electrocardiogram. The testing may include echocardiography, exercise testing, and radionuclide studies.

The following table sets forth symptoms of organic heart disease. The percentage of disability of the whole body is determined by the symptoms present.

Organic Heart Disease Schedule

<i>Percentage Disability of Whole Body</i>	<i>10 percent</i>	<i>30 percent</i>	<i>60 percent</i>	<i>85 percent</i>
<i>Organic Heart Disease</i>	<i>Present</i>	<i>Present</i>	<i>Present</i>	<i>Present</i>
<i>Symptoms</i>	<i>Not present</i>	<i>Not present at rest</i>	<i>Not present at rest</i>	<i>Present at rest</i>
<i>Level of activity causing symptoms</i>	<i>No symptoms from usual activities of daily living, including such activities as stair- or hill- climbing, and walking</i>	<i>No symptoms from usual activities of daily living</i>	<i>Symptoms from a one or more block walk or from climbing stairs. Symptoms also from activities of daily living</i>	<i>Worsening of symptoms with any activity</i>
<i>Level of unusual activity causing symptoms</i>	<i>No symptoms from walking quickly, recreation, hill- or stair- climbing, arm-work, and similar activities</i>	<i>Symptoms from hill- or stair- climbing, walking quickly, arm-work, or recreation</i>	<i>Symptoms from emotional stress, walking quickly, and similar activities</i>	<i>May be present at rest or may awaken patient</i>
<i>Signs of heart failure</i>	<i>No</i>	<i>No</i>	<i>Relieved by therapy</i>	<i>Not usually relieved by therapy</i>
<i>Signs of symptoms of angina</i>	<i>No</i>	<i>With prolonged or severe exertion</i>	<i>With mild exertion</i>	<i>Rest or nocturnal symptoms</i>

<i>Objective tests of functional status</i>	<i>Ischemic S-T segment changes of at least 1 mm at or before stage 3 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 7 METS or less in a nuclear isotope exercise study</i>	<i>Ischemic S-T segment changes of at least 1 mm at or before stage 2 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 4 METS or less in a nuclear isotope exercise study</i>	<i>Ischemic S-T segment changes of at least 1 mm at or before stage 1 of a Bruce protocol exercise test, or diagnostic ischemic changes at a level of 2 METS or less in a nuclear isotope exercise study</i>	<i>Diagnostic ischemic S-T segment changes of at least 1 mm on resting electrocardiogram</i>
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Sec. 90. [176B.20] [VASCULAR DISEASE AFFECTING EXTREMITIES.]

The following schedule shall be used to determine the percentage of disability of the whole body for permanent partial disability due to vascular disease. Permanent partial disability from vascular disease affecting the extremities must be rated according to the following classifications. The system shall be used only after a complete history and physical examination. The full evaluation shall include imaging examination (X-ray with and without contrast, computer axial tomography scanning, sonography, radionuclide studies) volume studies, or flow studies.

(a) Vascular disease schedule, lower extremities.

<i>Percentage of Disability of Whole Body</i>					
	<i>0%</i>	<i>10%</i>	<i>30%</i>	<i>60%</i>	<i>90%</i>
<i>Intermittent claudication distance</i>	<i>No</i>	<i>Approx. one city block</i>	<i>Approx. 1/4 city block</i>	<i>Less than 1/4 city block</i>	<i>Constant pain</i>
<i>Pain at rest</i>	<i>No</i>	<i>No</i>	<i>No</i>	<i>Sometimes</i>	<i>Constant</i>

<i>Physical signs of diagnosis</i>	<i>None No ulceration</i>	<i>Healed, painless stump, or healed ulcer</i>	<i>Healed stump but persistent signs of activity, or persistent superficial ulcer</i>	<i>Amputation above wrist or ankle with continued sign of disease, or widespread deep ulcer</i>	<i>Amputation above wrist or ankle in more than one limb, or wide, deep ulceration of more than one limb</i>
<i>Edema</i>	<i>Rare and transient</i>	<i>Persistent, incompletely controlled</i>	<i>Very severe and only partially controlled</i>	<i>Marked and uncontrollable</i>	<i>Marked and uncontrollable</i>

(b) *Peripheral vascular disease, upper extremities.*

(1) *Class 1. The following findings are present: Decreased pulse or pulses; minimal loss of subcutaneous tissue of fingertips; calcification of arteries as detected by radiographic examination or Raynaud's phenomenon that occurs with exposure to temperature lower than zero degrees centigrade (32 degrees Fahrenheit) but is readily controlled by medication; zero percent.*

(2) *Class 2. Objective signs of vascular damage as evidenced by findings such as that of a healed, painless stump of an amputated digit showing evidence of persistent vascular disease, or of a healed ulcer; and Raynaud's phenomenon occurs on exposures lower than four degrees centigrade (39 degrees Fahrenheit) but is controlled by medication, ten percent.*

(3) *Class 3. Objective signs of vascular damage as evidenced by healed amputation of two or more digits of one extremity, with evidence of persisting vascular disease or superficial ulceration; and Raynaud's phenomenon occurs on exposure to temperatures lower than ten degrees centigrade (50 degrees Fahrenheit) and it is only partially controlled by medication; 30 percent.*

(4) *Class 4. Objective evidence of vascular damage as evidenced by signs such as amputation of two or more digits of two extremities with evidence of persistent vascular disease, or persistent widespread or deep ulceration involving one*

extremity; and Raynaud's phenomenon occurs on exposure to temperatures lower than 15 degrees centigrade (59 degrees Fahrenheit) and is only partially controlled by medication; 54 percent.

Sec. 91. [176B.21] [GASTROINTESTINAL TRACT.]

Subdivision 1. [GENERAL.] The following schedule is for the evaluation of permanent partial disability of the gastrointestinal tract. The evaluation must include a thorough history and physical examination. Additional studies, such as radiographic, metabolic, absorptive, endoscopic, and biopsy may be necessary to determine the functioning of these organs. Disability shall not be determined until after completion of all medically accepted diagnostic and therapeutic efforts. The percentages indicated in this schedule are the disability of the whole body for the corresponding class.

For evaluative purposes, the digestive tract has been divided into

(1) the esophagus, stomach, duodenum, small intestine, and pancreas,

(2) the colon and rectum,

(3) the anus, and

(4) the liver and biliary tract.

Subd. 2. [UPPER DIGESTIVE TRACT (ESOPHAGUS, STOMACH, DUODENUM, SMALL INTESTINE, AND PANCREAS).] (a) *Class 1, 2 percent.*

(1) Symptoms or signs of upper digestive tract disease are present and there is anatomic loss or alteration; continuous treatment is not required; and weight can be maintained at the desirable level; or

(2) There are no complications after surgical procedures.

(b) Class 2, 15 percent. Symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; dietary restriction and drugs are required for control of symptoms, signs, or nutritional deficiency; and loss of weight below the desirable weight does not exceed ten percent.

(c) Class 3, 35 percent.

(1) symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; and

dietary restrictions and drugs do not completely control symptoms, signs, or nutritional state; or

(2) there is ten to 20 percent loss of weight below the desirable weight and the weight loss is ascribable to a disorder of the upper digestive tract.

(d) Class 4, 65 percent.

(1) symptoms and signs of organic upper digestive tract disease are present or there is anatomic loss or alteration; and symptoms are not controlled by treatment; or

(2) there is greater than a 20 percent loss of weight below the desirable weight and the weight loss is ascribable to a disorder of the upper digestive tract.

Subd. 3. [COLON AND RECTUM.] (a) Class 1, two percent:

(1) signs and symptoms of colonic or rectal disease are infrequent;

(2) limitation of activities, special diet, or medication is not required; no systemic manifestations are present and weight and nutritional state can be maintained at a desirable level; or

(3) there are no complications after surgical procedures.

(b) Class 2, 15 percent. There is objective evidence of colonic or rectal disease and anatomic loss or alteration. There are mild gastrointestinal symptoms with intermittent disturbance of bowel function, accompanied by periodic or continual pain. Minimal restriction of diet or mild symptomatic therapy may be necessary. No impairment of nutrition results.

(c) Class 3, 30 percent. There is objective evidence of colonic or rectal disease and anatomic loss or alteration; there are moderate to severe exacerbations with disturbance of bowel habit, accompanied by periodic or continual pain; restriction of activity, special diet and drugs are required during attacks; and there are constitutional manifestations such as fever, anemia, or weight loss.

(d) Class 4, 50 percent. There is objective evidence of colonic and rectal disease or anatomic loss or alteration; there are persistent disturbances of bowel function present at rest with severe persistent pain; complete limitation of activity, continued restriction of diet, and medication do not entirely control the symptoms; there are constitutional manifestations

such as fever, weight loss, or anemia present; and there is no prolonged remission.

Subd. 4. [ANUS.] (a) Class 1, two percent. Signs of organic anal disease are present or there is anatomic loss or alteration; or there is mild incontinence involving gas or liquid stool; or anal symptoms are mild, intermittent, and controlled by treatment.

(b) Class 2, 12 percent. Signs of organic anal disease are present or there is anatomic loss or alteration; and moderate but partial fecal incontinence is present requiring continual treatment; or continual anal symptoms are present and incompletely controlled by treatment.

(c) Class 3, 22 percent.

(1) signs of organic anal diseases are present and there is anatomic loss or alteration; and complete fecal incontinence is present; or

(2) signs of organic anal disease are present and severe anal symptoms are unresponsive or not amenable to therapy.

Subd. 5. [LIVER AND BILIARY TRACT.] (a) Class 1, five percent.

(1) There is objective evidence of persistent liver disease even though no symptoms of liver disease are present; and no history of ascites, jaundice, or bleeding esophageal varices within five years; nutrition and strength are normal; and biochemical studies indicate minimal disturbance of the liver function; or

(2) Primary disorders of bilirubin metabolism are present.

(b) Class 2, 20 percent. There is objective evidence of chronic liver disease even though no symptoms of liver disease are present; and no history of ascites, jaundice, or bleeding esophageal varices within five years; nutrition and strength are normal; and biochemical studies indicate more severe liver damage than Class 1.

(c) Class 3, 40 percent. There is objective evidence of progressive chronic liver disease, or history of jaundice, ascites, or bleeding esophageal or gastric varices within the past year; nutrition and strength may be affected; and there is intermittent ammonia and meat intoxication.

(d) Class 4, 75 percent. There is objective evidence of progressive chronic liver disease, or persistent ascites or persistent jaundice or bleeding esophageal or gastric varices, with central

nervous system manifestations or hepatic insufficiency; and nutrition state is below normal.

Subd. 6. [BILIARY TRACT.] (a) Class 1, five percent. There is an occasional episode of biliary tract dysfunction.

(b) Class 2, 20 percent. There is recurrent biliary tract impairment irrespective of treatment.

(c) Class 3, 40 percent. There is irreparable obstruction of the bile tract with recurrent cholangitis.

(d) Class 4, 75 percent. There is persistent jaundice and progressive liver disease due to obstruction of the common bile duct.

Sec. 92. [176B.22] [REPRODUCTIVE AND URINARY TRACT SCHEDULE.]

Subdivision 1. [GENERAL.] This section sets percentage of disability of the whole body for permanent partial disability of the reproductive and urinary systems. The percentages indicated in this section are the disability of the whole body for the corresponding class.

Subd. 2. [EVALUATIVE PROCEDURES.] For evaluative purposes the reproductive and urinary systems are divided into the: (1) upper urinary tract, (2) bladder, (3) urethra, (4) male reproductive organs, and (5) female reproductive organs.

Procedures for evaluating permanent partial disability of the genitourinary and reproductive systems shall include:

(a) a complete history and physical examination with special reference to genitourinary/reproductive symptoms and signs, including psychological evaluation when indicated by the symptoms;

(b) laboratory tests to identify the presence or absence of associated disease. The tests may include multi-channel chemistry profile, complete blood count, complete urinalysis, including microscopic examination of centrifuged sediment, chest X-ray, both posterior/anterior and left lateral views, electrocardiogram, performance of a measurement of total renal functions-endogenous creatinine clearance corrected for total body surface area. Other tests may include:

(1) kidney function tests, such as arterial blood gases and determinations of other chemistries that would reflect the metabolic effects of decreased kidney function;

(2) *special examinations such as cystoscopy, voiding cystograms, cystometrograms;*

(3) *a description of the anatomy of the reproduction or urinary system;*

(4) *urodynamics, specifically cystometry combined with electromyography of the external urethral sphincter to evaluate for presumed upper or lower motor neuron neurogenic bladder; and*

(5) *nocturnal penile tumescence monitoring with paper or computer printout that displays frequency, duration, and, whenever possible, rigidity of erections.*

Subd. 3. [UPPER URINARY TRACT.] (a) Solitary kidney, ten percent. This category shall apply only when a solitary kidney is the only upper urinary tract permanent partial disability. When a solitary kidney occurs in combination with any one of the following four classes, the disability rating for that class shall be increased by ten percent.

(b) Class 1, five percent. Diminution of kidney function as evidenced by a creatinine clearance of 50 to 70 percent of age and sex adjusted normal values, other underlying causes absent.

(c) Class 2, 22 percent. Diminution of the upper urinary tract function as evidenced by a creatinine clearance of 40 to 50 percent of age and sex adjusted normal values, no other underlying disease.

(d) Class 3, 47 percent. Diminution of upper urinary tract function, as evidenced by creatinine clearance of 25 to 40 percent of age and sex adjusted normal values.

(e) Class 4, 77 percent. Diminution of upper urinary tract function as evidenced by creatinine clearance below 25 percent of age and sex adjusted normal values.

Subd. 4. [BLADDER.] (a) Class 1, five percent. Symptoms and signs of bladder disorder requiring intermittent treatment, but without evidence of intervening malfunction between periods of treatments or symptomatology.

(b) Class 2, 15 percent. Symptoms and signs of bladder disorder requiring continuous treatment, or there is bladder reflex activity but loss of voluntary control.

(c) Class 3, 20 percent. Poor reflex activity evidenced by intermittent dribbling, and no voluntary control.

(d) Class 4, 30 percent. Continuous dribbling.

Subd. 5. [URETHRA.] (a) Class 1, two percent. Symptoms and signs of urethral disorder are present which require intermittent therapy for control.

(b) Class 2, 15 percent. Symptoms and signs of urethral disorder that cannot be effectively controlled by treatment.

Subd. 6. [PENIS.] (a) Class 1, ten percent. Impaired sexual function but vaginal penetration is possible, with supporting objective evidence of abnormal penile tumescence studies to substantiate impaired tumescence or rigidity.

(b) Class 2, 20 percent. Impaired sexual function and vaginal penetration is not possible, with supporting objective evidence of insufficient penile tumescence or rigidity.

(c) Psychogenic impotence, zero percent.

Subd. 7. [TESTES, EPIDIDYMIDES, AND SPERMATIC CORDS.] (a) Class 1, five percent.

(1) symptoms and signs of testicular, epididymal, or spermatic cord disease are present and there is anatomic alteration; and

(2) continuous treatment is not required; and

(3) there are no abnormalities of seminal or hormonal functions; or

(4) solitary teste is present.

(b) Class 2, ten percent.

(1) symptoms and signs of testicular, epididymal or spermatic cord disease are present and there is anatomic alteration; and

(2) frequent or continuous treatment is required; and

(3) there are detectable seminal or hormonal abnormalities.

(c) Class 3, 20 percent. Trauma or disease produces bilateral anatomical loss or there is no detectable seminal or hormonal function of testes, epididymides, or spermatic cords.

(d) Inguinal hernia, direct or indirect, unilateral or bilateral, recurrent after two or more herniorrhaphies, five percent.

Subd. 8. [PROSTATE AND SEMINAL VESICLES.] (a) Class 1, five percent.

(1) *there are symptoms and signs of prostatic or seminal vesicular dysfunction or disease;*

(2) *anatomic alteration is present; and*

(3) *continuous treatment is not required.*

(b) *Class 2, ten percent.*

(1) *frequent severe symptoms and signs of prostatic or seminal vesicular dysfunction or disease are present; and*

(2) *anatomic alteration is present; and*

(3) *continuous treatment is required.*

(c) *Class 3, 20 percent. There has been ablation of the prostate or seminal vesicles.*

Subd. 9. [VULVA AND VAGINA.] (a) Class 1, ten percent. Impaired sexual function but penile containment is possible.

(b) *Class 2, 20 percent. Impaired sexual function and penile containment is not possible.*

Subd. 10. [CERVIX AND UTERUS.] (a) Class 1, five percent.

(1) *symptoms and signs of disease or deformity of the cervix or uterus are present which do not require continuous treatment; or*

(2) *cervical stenosis, if present, requires no treatment; or*

(3) *there is anatomic loss of the cervix or uterus in the postmenopausal years.*

(b) *Class 2, ten percent.*

(1) *symptoms and signs of disease or deformity of the cervix or uterus are present which require continuous treatment; or*

(2) *cervical stenosis, if present, requires periodic treatment.*

(c) *Class 3, 20 percent.*

(1) *symptoms and signs of disease or deformity of the cervix or uterus are present which are not controlled by treatment; or*

(2) *cervical stenosis is complete; or*

(3) *anatomic or complete functional loss of the cervix or uterus occurs in premenopausal years.*

Subd. 11. [FALLOPIAN TUBES AND OVARIES.] (a) Class 1, five percent.

(1) *symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present which do not require continuous treatment; or*

(2) *only one fallopian tube or ovary is functioning in the premenopausal years.*

(b) *Class 2, ten percent. Symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present which require continuous treatment, but tubal patency persists and ovulation is possible.*

(c) *Class 3, 20 percent.*

(1) *symptoms and signs of disease or deformity of the fallopian tubes or ovaries are present and there is total loss of tubal patency or total failure to produce ova in the premenopausal years; or*

(2) *bilateral loss of the fallopian tubes or ovaries occurs in the premenopausal years.*

Sec. 93. [176B.23] [SKIN DISORDERS.]

Permanent partial disability resulting from skin disorders are a disability of the whole body as set forth in this section. This schedule is based upon the effect of the disorder on the ability to function and perform activities of daily living and the degree of treatment required for the disorder. The schedule is not based upon the location or the percentage of the body affected by a specific skin disorder. Impairment due to burns shall be rated under section 176B.24 and not under this schedule.

(a) *Class 1, two percent. Signs or symptoms of skin disorder are present and supported by objective skin findings. With treatment there is no or minimal limitation in the performance of the activities of daily living, although certain physical or chemical agents might temporarily increase the extent of limitation.*

(b) *Class 2, ten percent. Signs and symptoms of skin disorder are present and intermittent treatment is required. There is limitation in the performance of some of the activities of daily living.*

(c) *Class 3, 20 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required. There is limitation in the performance of many of the activities of daily living.*

(d) *Class 4, 45 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required which may include periodic confinement at home or other domicile. There is limitation in the performance of many of the activities of daily living.*

(e) *Class 5, 70 percent. Signs and symptoms of skin disorder are present. Continuous treatment is required which necessitates confinement at home or other domicile. There is severe limitation in the performance of nearly all of the activities of daily living.*

Sec. 94. [176B.24] [BURNS.]

Subdivision 1. [GENERAL.] The whole body disability due to burns is not equal to the percent of body surface area which is burned. The percentage of body surface area affected must be determined according to Lund and Browder. The ratings determined under subdivisions 1 to 4 must be combined as set forth at section 176.105, subdivision 4, provided that the maximum disability to the whole body under this schedule must not exceed 70 percent. Loss of motion or body parts except the face must be rated under the musculoskeletal schedules and must not be considered as included in a rating under this section unless specifically provided otherwise.

Subd. 2. [BURNS OTHER THAN ELECTRICAL CONDUCTION.] A rating under this section is the rating assigned by paragraphs (a) to (f) combined as provided in section 176.105, subdivision 4:

(a) *Any burn that heals within one month and leaves no hypertrophic scar, zero percent.*

(b) *Cold intolerance of the hands, face, or head as evidenced by the wearing of heavy gloves or additional scarves at 35 degrees Fahrenheit; a scar of at least ten square centimeters must be present for an affected member to be rated under this clause:*

- (1) *dominant hand, four percent;*
- (2) *nondominant hand, three percent;*
- (3) *both hands, six percent;*
- (4) *face, three percent; or*
- (5) *face and both hands, ten percent.*

(c) Heat intolerance is evidenced by fatigue, malaise, nausea, and an oral temperature of at least 100 degrees Fahrenheit upon exposure to an environmental temperature of 90 degrees Fahrenheit at 60 percent relative humidity, five percent.

(d) Sensitivity to sun exposure as evidenced by the need to cover the skin or use sun screen to prevent sunburn; a scar of at least ten square centimeters must be present for an affected member to be rated under this clause:

- (1) dominant hand, four percent;
- (2) nondominant hand, three percent;
- (3) both hands, six percent;
- (4) face, three percent; or
- (5) face and both hands, ten percent.

(e) Sensitivity to dust, chemical, or petroleum exposure; altered sweating; or apocrine gland dysfunction. For one or any combination of these conditions, the whole body disability is:

(1) If the sensitivity affects less than five percent of the body surface area, zero percent.

(2) If the sensitivity affects five to 20 percent of the body surface area, two percent.

(3) If the sensitivity affects 20 percent or more of the body surface area, three percent.

(f) Sensory loss due to burns:

(1) Loss of sensation on palmar surface of hands shall be rated as provided by section 176B.09, subdivision 3.

(2) Sensory loss in less than five percent of the body surface area, zero percent.

(3) Sensory loss in five to 20 percent of the body surface area, two percent.

(4) Sensory loss in more than 20 percent of the body surface area, five percent.

Subd. 3. [ELECTRICAL CONDUCTION INJURIES.] (a) Associated sensory loss and concomitant thermal injuries must be rated as provided in subdivision 1.

(b) *Peripheral nerve deficits must be rated as provided in the musculoskeletal schedule.*

The ratings under paragraphs (a) and (b) must be combined in the manner set forth at section 176.105, subdivision 4.

Subd. 4. [COSMETIC DISFIGUREMENT.] This subdivision applies to disfigurement on the face, the head, the neck, or the hands due to burns. Where there is surgery, this rating is done after correction by plastic surgery. The final rating under this schedule shall not be done until hypertrophic scarring is matured or more than 24 months after the injury. The ratings under the items of this section must be combined in the manner set forth at section 176.105, subdivision 4.

(a) The face is the anterior head from the forehead, to and including the chin.

(1) Loss of facial features:

(i) Deformity of nasal tip or deformity, thinning, or eversion of ala nasi, five percent.

(ii) Loss of more than 50 percent of nasal cartilage or of both ala nasi, 25 percent.

(2) Eyes:

(i) Loss of one eyebrow, 2.5 percent.

(ii) Loss of two eyebrows, five percent.

(iii) Ectropion unaccompanied by visual impairment:

(A) Lower lid pulled from eye when mouth is opened and neck extended, five percent.

(B) Lower lid pulled away with no movement of face or neck, ten percent.

(C) Cornea unprotected when sleeping, 15 percent.

(iv) Epiphora unaccompanied by visual impairment, ten percent.

(3) Mouth. A rating under this clause is the arithmetic sum of clause (3)(i) to (3)(iv).

(i) Noncongenital microstomia or distortion affecting eating and dental hygiene, ten percent.

- (ii) *Eversion of the upper lip, 7.5 percent.*
- (iii) *Eversion of the lower lip, 7.5 percent.*
- (iv) *Distortion of vermillion border, ten percent.*
- (4) *Ear. Loss of 75 percent or more of one external ear, five percent.*
- (5) *Hypertrophic scarring of face in areas other than those covered in clauses (1) to (4):*
 - (i) *Affecting only forehead above the eyebrows, ten percent.*
 - (ii) *Affecting the lower face from eyebrows to chin, 25 percent.*
 - (iii) *Affecting both the forehead above the eyebrows and the lower face from the eyebrows to chin, 35 percent.*
- (6) *Wrinkling of face in areas other than those covered in clauses (1) to (5), one-third of percentages in clause (5).*
- (b) *Head, Alopecia:*
 - (1) *Anterior hairline:*
 - (i) *Loss of less than 20 percent of hair on anterior hairline, zero percent.*
 - (ii) *Loss of 20 to 50 percent of hair on anterior hairline, two percent.*
 - (iii) *Loss of more than 50 percent of hair on anterior hairline, three percent.*
 - (2) *Elsewhere on head and not affecting anterior hairline:*
 - (i) *Loss of zero to 15 percent of hair, zero percent.*
 - (ii) *Loss of 15 to 30 percent of hair, one percent.*
 - (iii) *Loss of 20 to 50 percent of hair, two percent.*
 - (iv) *Loss of more than 50 percent of hair, three percent.*

The ratings under clauses (1) and (2) must be combined as set forth in section 176.105, subdivision 4.

(c) *The anterior neck extends from the ear lobule anteriorly to the ear lobule and downward to mid clavicle. Disfigurement*

on the posterior neck from the ear lobule posteriorally to the ear lobule shall not be rated under this section. Ratings under clauses (1) and (2) shall be combined as set forth in section 176.105, subdivision 4.

(1) Hypertrophic scarring or banding:

(i) Affecting less than ten percent of the anterior neck, zero percent.

(ii) Affecting ten to 30 percent of the anterior neck, ten percent.

(iii) Affecting 30 to 50 percent of the anterior neck, 12 percent.

(iv) Affecting more than 50 percent of the anterior neck, 15 percent.

(2) The chin shelf is the area from the chin backwards to the neck.

(i) Chin shelf extends less than two inches, three percent.

(ii) Chin shelf extends less than one inch, ten percent.

(d) The hand extends from the carpus outward. Loss of body parts and loss of motion are rated in the musculoskeletal schedule.

(1) Hypertrophic scarring affecting less than 30 percent of dorsum of one hand, zero percent.

(2) Hypertrophic scarring affecting 30 to 50 percent of dorsum of one hand, three percent.

(3) Hypertrophic scarring affecting 50 percent or more of dorsum of one hand, seven percent.

Sec. 95. [176B.25] [PREEXISTING IMPAIRMENTS.]

Where a disability is subject to apportionment under section 176.101, subdivision 4a, the rating for the disabled condition under a category of the schedules of this chapter must be reduced as provided in this section. As used in this section, the term disabled condition includes the preexisting disability.

(a) This section applies where the preexisting disability has not been rated and neither paragraph (b) nor (c) is applicable.

(1) The preexisting disability must be rated under a category of the schedules of this chapter.

(2) *The whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter must be reduced by the rating assigned to the preexisting disability of the member in clause (1).*

(3) *For example, the medical report establishes a preexisting impairment of amputation of the index finger at the metacarpophalangeal joint. This injury is a 13.5 percent preexisting disability to the body as a whole under section 176B.08, subdivision 1, paragraph (1), clause (1). The disabled condition is amputation of all fingers except the thumb at the metacarpophalangeal joint, a 32.5 percent disability under section 176B.08, subdivision 1, paragraph (j), 32.5 percent less 13.5 percent gives the disability (adjusted for the preexisting impairment) of 19 percent. Payment is made for the 19 percent disability at the rate appropriate for a 32.5 percent disability. Thus, if economic recovery benefits are paid, 19 percent is multiplied by 680 weeks; for impairment benefits, 19 percent is multiplied by \$85,000.*

(b) *This paragraph applies where the preexisting disability of a member has been rated in another proceeding or state and the rating represents a percentage of disability to the whole body. The rating of the disabled condition under a category of these schedules shall be reduced by the rating assigned to the preexisting disability of the member.*

(c) *This paragraph applies where the injury producing the preexisting disability occurred prior to January 1, 1984, and the preexisting disability has been rated under section 176.101, subdivision 3; or where chapter 176 is inapplicable and the rating represents a percentage of disability of a member.*

(1) *From Table 1, determine the maximum whole body disability assignable to the preexisting disability. Use Table 2 where disability to an internal organ is rated as a percentage of disability to the particular organ rather than a percentage of disability to internal organs. Where the preexisting disability is not listed in Table 1 or Table 2, the maximum whole body disability is the maximum disability assigned to the affected member by the schedules of this chapter.*

TABLE 1

Member	Maximum Whole Body Disability (Percent)
Thumb	16
Index finger	11
Middle finger	9

<i>Ring finger</i>	4
<i>Little finger</i>	2
<i>Great toe</i>	5
<i>Lesser toe</i>	1
<i>Hand</i>	54
<i>Hand and wrist</i>	54
<i>Arm</i>	60
<i>Foot</i>	21
<i>Foot and ankle</i>	28
<i>Leg</i>	40
<i>Eye</i>	24
<i>Eyes (both)</i>	85
<i>Hearing loss, (one ear)</i>	6
<i>Hearing loss (both ears)</i>	35
<i>Back</i>	71
<i>Voice</i>	70
<i>Burns and skin impairments, including disfigurement</i>	70
<i>Internal organs, excluding brain</i>	85
<i>Brain</i>	100
<i>Head</i>	20

TABLE 2

<i>Member</i>	<i>Maximum Whole Body Disability (Percent)</i>
<i>Stomach</i>	65
<i>Pancreas</i>	65

Colon	50
Spleen	0
Bladder	30
Sexual organs or function	20
Circulatory system	90
Heart	85
Lungs	85
Liver	75
Solitary kidney	10
Kidney, excluding solitary kidney	77

(2) Multiply the prior rating of the member's preexisting disability by the maximum whole body disability determined in clause (1). Where a disputed rating has been closed out to a stipulated rating but payments were made on a different rating, the rating for purposes of this section is the closed-out rating.

(3) Subtract the percentage amount determined in clause (2) from the whole body disability rating assigned to the disabled condition of the member by the schedules of this chapter. The remainder is the amount due for the disabled condition after apportionment for the preexisting disability.

(4) For example, a pre-1984 back injury was rated at 25 percent of the back. The whole body disability attributable to this injury is 25 percent by 71 percent equals 17.75 percent. After 1984, a second back injury is rated at 24.5 percent under this chapter (24.5 percent minus 17.75 percent equals 6.75 percent). 6.75 percent is the amount assigned to the disabled condition after apportionment.

(d) Where both sections 176.101, subdivision 4a, and 176.105, subdivision 4 apply, apportionment must be determined as follows:

(1) For each member, determine the percentage of whole body disability under paragraphs (a) to (c), as appropriate.

(2) Combine the percentages obtained in clause (1) in the manner set forth in section 176.105, subdivision 4. Prior to the next application of the formula, the result of an application of the formula must be stated as a decimal, not as a percentage, that is rounded up or down to four decimal places.

Sec. 96. [176C.01] [PURPOSE.]

The purpose of this chapter is to establish standards for distinguishing between an employee and an independent contractor for purposes of workers' compensation coverage under section 176.012, paragraph (e). For those occupations specifically discussed in sections 176C.02 to 176C.35, this chapter establishes a "safe harbor" for assuring either independent contractor or employee status in those occupations. Where a worker is within the scope of the definition of a section, but does not meet the safe harbor criteria for either independent contractor or employee status, the determination shall be made as described in section 176C.36.

"Employee" as used in this chapter means a worker who is not an independent contractor. The employee safe harbor criteria are not intended to define "employee" under section 176.011, subdivision 9 for any purpose other than distinguishing workers who are not independent contractors.

Sec. 97. [176C.02] [ARTISANS.]

Subdivision 1. [DEFINITION.] An artisan is a person who has been trained in a mechanical art or trade. The particular skill necessary in the work is acquired by attending a vocational school, serving an apprenticeship, or by working as a handyman or helper and learning the trade informally.

Artisans include bricklayers, blocklayers, cable installers, carpenters, electricians, roofers, siders, painters, plasterers, paperhangers, tapers, joiners, plumbers, and steamfitters.

Subd. 2. [INDEPENDENT CONTRACTOR.] An artisan is an independent contractor and not an employee if all of the following criteria are substantially met.

(a) The artisan is responsible for the final result, is free to choose the means and methods for accomplishing the result, and is not required to conform to fixed hours.

(b) The artisan is free to select others to assist in performing the job.

(c) The artisan has the opportunity of making a profit or suffering a loss and is not guaranteed a minimum income.

(d) The artisan has business expenses beyond the furnishing of tools, such as scaffolding, ladders, trucks, equipment, and advertising.

(e) The artisan has a substantial investment in facilities or equipment.

(f) *The artisan is held out to the public as being available to perform services for others.*

(g) *Payment for the work is on a job basis for a complete job rather than a time basis.*

(h) *The artisan agrees to provide lien waivers upon completion of the job.*

Subd. 3. [EMPLOYEE.] *An artisan is an employee if all of the following criteria are substantially met.*

(a) *The artisan is hired to do the work personally and any helpers are hired, paid, and subject to control by the purchaser of the artisan's services.*

(b) *Work is during fixed hours established by the purchaser and on a full-time basis.*

(c) *The artisan is paid on an hourly, weekly, or similar rate that is independent of the amount of work completed.*

(d) *The artisan has no substantial investment in facilities or equipment for doing the work.*

(e) *Materials and equipment other than hand tools are supplied by the purchaser of the artisan's services.*

(f) *The artisan will not incur a loss or realize a profit by exercising independent judgment in hiring helpers, selecting the materials used, determining methods of work, or similar matters.*

(g) *If the artisan does not complete the job, the artisan is not responsible for damages for noncompletion or for obtaining a replacement to complete the job.*

Subd. 4. [COOPERATIVES.] *An artisan who is a member of a labor cooperative or similar job-sharing entity is an employee of the cooperative or entity if the artisan's investment in the cooperative is less than 15 percent and advance payments based on hours of work are made by the cooperative prior to completion of the job.*

Sec. 98. [176C.03] [BARBERS.]

Subdivision 1. [DEFINITION.] *Barbers are persons registered to practice barbering pursuant to chapter 154. A registered barber's apprentice is not an independent contractor.*

Subd. 2. [INDEPENDENT CONTRACTOR.] *A barber is an independent contractor if all of the following criteria are substantially met.*

(a) *The barber rents a barber chair from the purported employer for a flat sum per week, month, or similar time basis.*

(b) *All payments by customers for services are retained by the barber.*

(c) *The barber furnishes tools, but need not furnish linens or supplies.*

(d) *The purported employer does not have the right to control the means and manner of the barber's performance of services such as haircuts, shaves, shampoos, scalp treatments, and facial massages.*

(e) *A written agreement between the parties provides that the barber is an independent contractor.*

Subd. 3. [EMPLOYEE.] *A barber is an employee if all of the following criteria are substantially met.*

(a) *The barber is paid on a salary basis, though tips may be retained by the barber, or the employer retains a set percentage of the money taken in by the barber's services, excluding tips.*

(b) *The employer furnishes equipment and supplies other than razors, combs, scissors, and similar items.*

(c) *The employer furnishes uniforms if uniforms unique to the employer are required.*

(d) *The barber does not advertise.*

(e) *The employer may terminate the barber's employment for noncompliance with rules including hours of work, smoking, or wasting time.*

(f) *A written employment agreement states that the parties are not independent contractors.*

(g) *The employer has the right to control the means and manner by which the barber performs services such as haircuts, shaves, shampoos, scalp treatments, and facial massages.*

Subd. 4. [FACTORS EXCLUDED.] *The fact that barber associations or unions fix hours of work or other conditions of business operation indicates neither employment nor independent contractor status. Rules prescribed with respect to sanitary conditions by the state or city health departments are not to be considered in determining independent contractor or employment status.*

Sec. 99. [176C.04] [BOOKKEEPERS AND ACCOUNTANTS.]

Subdivision 1. [DEFINITION.] A bookkeeper is an individual whose work consists substantially of some or all of the following: recording items in proper journals and on special forms, posting ledgers, balancing books, compiling reports, and otherwise keeping a complete and systematic set of records of an organization's business transactions. Accountants licensed under chapter 326 are bookkeepers for the purposes of this section.

Subd. 2. [INDEPENDENT CONTRACTOR.] A bookkeeper is an independent contractor if all of the following criteria are substantially met.

(a) The bookkeeper rents an office or maintains one in the home.

(b) The bookkeeper makes services available to the public.

(c) The bookkeeper's services are rendered for a number of clients and are compensated for on a fee basis.

(d) The bookkeeper pays business expenses, which include the cost of equipment, materials, and helper's wages.

(e) The bookkeeper is hired to accomplish a specific result and is not subject to direction or control over the methods or means of accomplishing it.

(f) The bookkeeper's services are not performed on the premises of the purchaser of the services.

Subd. 3. [EMPLOYEE.] A bookkeeper is an employee if all of the following criteria are substantially met.

(a) The bookkeeper performs services at regular intervals for a single business concern for a fixed salary.

(b) The bookkeeper works on the employer's premises with the necessary supplies and office help furnished.

(c) The bookkeeper does not make services available to the public, and does not maintain an office of the bookkeeper's own.

(d) The bookkeeper works during fixed hours and enjoys the usual privileges extended by an employer to employees including paid vacations, sick benefits, or bonuses.

(e) The bookkeeper's services are in connection with a system of bookkeeping or accounting adopted by the employer.

(f) *The bookkeeper is subject to direction and control of the employer, although the bookkeeper may not be closely supervised because of the skill required to do the work.*

Sec. 100. [176C.05] [BULK OIL PLANT OPERATORS.]

Subdivision 1. [DEFINITION.] A bulk plant operator is an individual who:

(a) *distributes the products of firms engaged in the oil business;*

(b) *receives the oil products from the firm with which the operator contracts and delivers them to the retailers in the operator's territory; and*

(c) *collects money for the products from customers and forwards it to the firm.*

Subd. 2. [INDEPENDENT CONTRACTOR.] A bulk oil plant operator is an independent contractor if all of the following criteria are substantially met.

(a) *The operator is in complete charge of the entire plant.*

(b) *The operator's contract with an oil firm provides that the operator will:*

(1) *sell the firm's petroleum products on a consignment basis and account for all money collected;*

(2) *sell the products within a general territory at prices set by the firm;*

(3) *bear all expenses except freight on the products consigned;*

(4) *furnish trucks and other equipment; and*

(5) *hire, pay, and assume full responsibility for all necessary assistants.*

(c) *The operator advertises the firms' products at the operator's own expense.*

(d) *The operator fixes the hours and days the plant remains open, and hires, pays, and controls the employees.*

Subd. 3. [EMPLOYEE.] A bulk oil plant operator is an employee if all of the following criteria are substantially met.

(a) *The operator does not have an investment in capital assets and is paid on a salary basis.*

(b) *The operator is required to work fixed hours or full time.*

(c) *The operator is included in the oil firm's employee benefits plans.*

(d) *The operator is required to comply with instructions given by the firm.*

(e) *The operator is not personally obligated to pay wages or does not assist in paying the truck or plant maintenance expenses.*

(f) *The operator is hired to manage the plant on a salary basis under instructions on the method and manner of doing the work.*

Sec. 101. [176C.06] [COLLECTORS.]

Subdivision 1. [DEFINITION.] A collector is an individual who collects, accepts, or encourages payments from the customers of a business for merchandise sold or services rendered by that business.

Subd. 2. [INDEPENDENT CONTRACTOR.] A collector is an independent contractor when the criteria of clause (a) or (b) is substantially met.

(a) *If the collector is a door-to-door or telephone collector, the collector:*

(1) *is assigned a specific territory and furnished lists of people from whom to collect;*

(2) *is not required to conform to fixed hours, devote any particular amount of time to the business, or produce a minimum volume of collections;*

(3) *is required to cover the territory regularly, but works out a schedule of contacts;*

(4) *reports to the office only to turn in collections and to get new lists;*

(5) *receives a fixed percentage of the collections made, out of which are paid all expenses connected with the work;*

(6) *is not guaranteed a minimum income; and*

(7) is free to engage in other employment, including collecting accounts for other firms.

(b) The collector accepts payment of bills from the customers of a third party on the collector's premises and:

(1) bills can be paid at any and all times the collector's premises is open for business;

(2) the collector is not required to be present if someone is on the premises to receive payments;

(3) the collector is not required to conform to fixed hours, or to devote any particular amount of time to the third party's business, or to give preference to the third party's customers;

(4) the collector deposits all money collected in a bank and periodically forwards to the third party copies of bank deposit receipts, and complaint forms from customers;

(5) the third party furnishes the collector with the necessary business forms, postage, and stationery;

(6) the collector is required to purchase a surety bond;

(7) the third party pays a salary for the collection services or the collector may receive a percentage of the money collected;

(8) the collector is not trained in the work or required to follow prescribed routines; and

(9) the collector is free to conduct private business activities in addition to the collection services.

Subd. 3. [EMPLOYEE.] A collector is an employee if all of the following are substantially met.

(a) The services of the collector are retained to further the employer's business.

(b) The collector is required to perform services pursuant to schedules established by the employer.

(c) The employer has first call on the collector's time and efforts.

(d) The collector has no significant business expenses or investment in the business.

(e) The collector is paid on a commission or salary basis.

(f) *The employer has the right to establish the means and methods used in collecting.*

(g) *The employer has the right to interfere with or set the order of the services.*

(h) *The collector must report at the firm's office regularly for conferences, training, or instructions.*

(i) *The hiring of helpers or substitutes is not permitted.*

(j) *The grounds for termination are not limited to failure to meet production quotas.*

Sec. 102. [176C.07] [CONSULTANTS.]

Subdivision 1. [DEFINITION.] A consultant is one who confers with and advises people on matters within the particular field in which the consultant specializes. The consultant has developed a peculiar knowledge or special skill of a professional or semiprofessional nature through extensive training and education or through wide experience in a particular occupation.

Subd. 2. [INDEPENDENT CONTRACTOR.] A consultant is an independent contractor if all of the following criteria are substantially met.

(a) *The consultant rents an office or offices at home.*

(b) *The consultant advertises in newspapers or trade journals, or maintains business listings, or otherwise holds out to the public as being available for a particular type of service.*

(c) *The consultant is free to hire clerical help and assistants.*

(d) *The consultant's success in the business world is dependent entirely on personal efforts and the demand by the public for the services.*

(e) *The consultant operates under an arrangement where for a set fee technical advice or assistance is given.*

(f) *The consultant's contract of service is for a specified period of time or specific purpose.*

(g) *The consultant is free to work for others at the same time.*

(h) *The consultant is not required to observe regular hours of work either at the firm's offices or at home.*

(i) *The consultant agrees only to be available for conferences and consultations at the request of the firm or, as in some cases, to perform services on a specified minimum number of days.*

(j) *The consultant makes no regular reports and is not required to attend regular conferences with members of the firm.*

(k) *The consultant is not subject to control or supervision, but is given a free hand in doing work.*

(l) *The consultant is employed to do a specific job and those who employ the consultant are interested only in the result accomplished and not in the manner and means of accomplishing it.*

Subd. 3. [EMPLOYEE.] *A consultant is an employee when all the following criteria are substantially met.*

(a) *The consultant is retained for services which further the employer's business.*

(b) *The consultant is required to perform services personally.*

(c) *The consultant's services are not available to the public.*

(d) *The consultant has no investment or business expense.*

(e) *The consultant provides recurring, rather than sporadic or infrequent, services.*

(f) *The employer has the right of first call on the services of the consultant.*

(g) *The consultant is required to report on the progress of assignments.*

(h) *Either party has the right to end the relationship at any time.*

(i) *The consultant receives a fixed salary determined on a weekly, monthly, annual, or similar basis.*

(j) *The consultant cannot realize a profit or loss from the services.*

Sec. 103. [176C.08] [DOMESTIC SERVICE.]

Subdivision 1. [DEFINITION.] *Domestic service means household services such as housecleaning, meal preparation, or invalid companionship or care.*

Subd. 2. [INDEPENDENT CONTRACTOR.] A person providing domestic services is an independent contractor if all of the following criteria are substantially met.

(a) The service is performed in connection with some episode in the life of the purported employer's family, such as an illness of short duration, preparation for a wedding, the birth of a child, or other episode of limited duration that indicates an engagement to accomplish a specific job.

(b) The domestic is free to work for others.

(c) The domestic may hire helpers to complete the job.

(d) The domestic is paid on a job basis rather than an hourly basis.

Subd. 3. [EMPLOYEE.] A person providing domestic services is an employee if all of the following factors are substantially met.

(a) The parties are not members of the same household or immediate family.

(b) The services are performed regularly and over a considerable period of time.

(c) The domestic received at least \$500 as wages from the employer for any three-month period during the preceding 12 months. This factor is alone sufficient to establish the employment relationship under section 176.041, subdivision 1.

(d) The domestic is not claimed as a dependent for income tax purposes.

(e) The domestic is paid on an hourly, weekly, or similar time basis.

(f) The domestic does not contribute to the employer's household expenses.

Sec. 104. [176C.09] [BABYSITTERS.]

Subdivision 1. [DEFINITION.] Babysitters are individuals who provide childcare services to parents and are not licensed to operate day care centers under chapter 245. Subdivisions 2 and 3 are applicable only if the threshold requirements of section 176.041, subdivision 1, have been met.

Subd. 2. [INDEPENDENT CONTRACTOR.] A babysitter is an independent contractor if all of the following criteria are substantially met.

(a) *The babysitter takes care of another's child in the babysitter's own home or other premises under the babysitter's control.*

(b) *The instructions given to the babysitter by the parents are general in nature, relating to matters of diet, health, rest, special foods to be given to the child, and who to contact in an emergency.*

(c) *The babysitter is allowed to exercise judgment on matters as to the amount of time and attention the child requires, the types of meals to serve, and the manner of coping with situations which may arise.*

(d) *The babysitter is free to perform household chores when the child does not require personal attention.*

Subd. 3. [EMPLOYEE.] *A babysitter is an employee if all of the following criteria are substantially met.*

(a) *The babysitter performs childcare services in the home of the child's parents.*

(b) *The babysitter has been engaged to devote services exclusively to the performance of the employer's work.*

(c) *The babysitter is given instructions regarding such matters as the amount of time and attention the child requires, the types of meals to serve, and the manner of coping with situations that may arise.*

Subd. 4. [BABYSITTER SERVICES CONTRACTED THROUGH AGENCIES.] *A babysitter is an employee of an agency in the business of supplying names of babysitters if all of the following criteria are substantially met.*

(a) *The agency maintains a register of names and addresses of individuals whom the agency determines are qualified to perform babysitter services. The agency advertises and otherwise holds itself out to the public as being engaged in the business of furnishing a babysitter service.*

(b) *The agency fixes the fee to be charged for the services and notifies the babysitter where to report and the hours to be worked.*

(c) *The babysitter pays the agency a specified amount or a percentage of the wages. Appearance and the performance of services must be guided by standards and rules issued by the agency.*

(d) *The babysitter must notify the agency when not available for an assignment and usually agrees to restrict work to that furnished by the agency.*

(e) *Any complaints as to the quality of the services are made by the parents to the agency, and the agency may remove the babysitter's name from its register.*

Sec. 105. [176C.10] [INDUSTRIAL HOMEWORKERS.]

Subdivision 1. [DEFINITION.] Industrial homeworkers are persons who work in their own homes or workshops on the manufacture or assembly of articles from materials supplied by the purchaser of their services. Services provided by industrial homeworkers include typing of envelopes and the manufacture, alteration, or finishing of gloves, slippers, bedspreads, slipcovers, pottery, boxes, toys, or similar items.

Subd. 2. [INDEPENDENT CONTRACTOR.] An industrial homemaker is an independent contractor when all the following criteria are substantially met.

(a) *The homemaker works under agreements that only require the completion of assignments according to specifications and within designated times.*

(b) *The homemaker is furnished materials by the firm and, in accordance with a pattern or general instructions, turns out a finished product which measures up to the firm's standards.*

(c) *The completed products are paid for on a piecework basis.*

(d) *There is no requirement that the homemaker give preference to the firm's work, although the homemaker is expected to complete assignments within a specified time.*

(e) *The homemaker may work for others; however, in many cases, the amount of work furnished by one firm keeps the worker busy full time.*

(f) *Unsatisfactory work is done over without pay.*

(g) *Set hours of work are not prescribed by the firm, nor is the work supervised.*

Subd. 3. [EMPLOYEE.] A homemaker is an employee if all of the following criteria are substantially met.

(a) *The services of the homemaker are closely integrated into the business of the firm that employs the worker.*

(b) *The homemaker is subject to virtually the same set of controls as employees who work on the firm's premises.*

(c) *The homemaker uses the homemaker's own small hand tools, but large tools or heavy equipment is furnished by the firm.*

(d) *The homemaker works or is paid on an hourly basis and renders personal services of a recurring nature.*

(e) *The homemaker is given detailed instructions or training in the work and is required to change the work plans and the order of services when requested.*

(f) *Although there is usually no direct supervision over the services, the firm checks the finished product and has the right to change or direct the method of operation if the completed article is not satisfactory.*

(g) *The homemaker is required to report on progress periodically.*

(h) *The relationship is terminable by either party, with or without cause prior to completion of a project without incurring liability for damages for noncompletion.*

(i) *The employer may change the homemaker's work assignment.*

Sec. 106. [176C.11] [LABORERS.]

Subdivision 1. [DEFINITION.] Laborers are people whose work usually requires strength rather than skill, such as laborers, char-women, coal hustlers, gardeners, yard maintenance workers, landscaping and planting workers, tree trimmers, handy men, janitors, odd-job men, porters, window washers, and other unskilled workers.

Subd. 2. [INDEPENDENT CONTRACTOR.] The laborer is an independent contractor if all of the following criteria are substantially met.

(a) *The laborer generally must use business judgment to earn a livelihood. The laborer's success or failure depends on how assistants are managed, the protection of investment through proper care of tools and equipment, and the reputation established as a result of methods of doing business.*

(b) *The services need not be performed personally.*

(c) *The laborer holds out to the public as available for furnishing a certain type of service on a job basis.*

(d) *The laborer is free to hire assistants and the assistants are the laborer's own responsibility, that is, the laborer directs them, pays them, and is liable for the payment of taxes on their wages.*

(e) *The laborer furnishes tools.*

(f) *The laborer obtains work by recommendation, advertising in newspapers, or maintaining a business listing in a telephone or service directory.*

(g) *The laborer is responsible only for completion of the job within a certain time and is free to use personal methods and means for doing the work.*

(h) *The laborer agrees to provide lien waivers upon completion of the job.*

Subd. 3. [EMPLOYEE.] A laborer is an employee if all of the following criteria are substantially met.

(a) *The services must be performed personally.*

(b) *The laborer works on employer premises or at locations assigned by the employer, at specified times, and with tools and facilities furnished by the employer. The services may be provided on a permanent, recurring, or itinerant basis.*

(c) *Pay is computed on a time rather than a lump-sum basis.*

(d) *The employer has the right to stop the laborer on one job and start on another, to speed up or slow down the worker, and to express dissatisfaction with the work and to have it redone.*

(e) *The laborer is not responsible for damages for noncompletion of the work. If the laborer quits prior to completing the job, the laborer is not responsible for finding a replacement.*

Sec. 107. [176C.12] [MUSICIANS; GENERAL.]

The status of musicians or groups in sections 176C.12 to 176C.14 is not affected by the fact that an American Federation of Musicians Form B Contract, to which the leader is a party, purports to make the purchaser their employer. The actual relationship, rather than the terms of the contract, controls.

Sec. 108. [176C.13] [MUSICIANS; COOPERATIVE ORCHESTRAS.]

Subdivision 1. [DEFINITION.] A cooperative orchestra is a musical group operated on a cooperative or partnership basis.

All of the members have a voice in determining the membership, the engagements to be accepted, the division of the money received, and all other phases of the orchestra's operations. By common consent of the members one of the group may be designated as a leader whose duties are to act as spokesperson for the group and to negotiate engagements in the orchestra's name. A business manager or set manager or other nonplaying member may be a member of a cooperative orchestra.

Subd. 2. [INDEPENDENT CONTRACTOR.] All the members, including the leader, of an orchestra are independent contractors if all of the following criteria are met.

(a) Payment is not on an hourly basis. Proceeds from engagements are used to pay expenses and the remainder is distributed as determined by members.

(b) The group is free to work for other purchasers of its services.

(c) The purchaser does not have the right to discharge a member of the group, or to dictate the style or manner of playing the music.

(d) The group may be liable for damages for nonperformance if it quits prior to completing its engagement with a purchaser.

Subd. 3. [EMPLOYEE.] Members of a cooperative orchestra are employees if all the following criteria are substantially met.

(a) The individuality of the orchestra is subordinated to the enhancement of the purchaser's reputation.

(b) The work relationship is not short term but is of a continuing nature.

(c) The purchaser has the right to discharge the leader or any of the orchestra members, to change the style or type of music, to have first call on the services, and to restrict the orchestra's outside activities.

(d) The purchaser pays the members on an hourly or time basis and bears the expenses of the orchestra.

Sec. 109. [176C.14] [MUSICIAN; ORCHESTRA LEADER.]

Subdivision 1. [DEFINITION.] An orchestra leader or union contractor is the assembler or leader of a musical group that plays music in public for compensation.

Subd. 2. [INDEPENDENT CONTRACTOR.] An orchestra leader is an independent contractor if all of the following conditions are substantially met.

(a) The leader selects the members and rehearses and directs them.

(b) The leader holds out to the public as being able to furnish a musical organization and enter into contracts to furnish music.

(c) The leader has the primary right to control the orchestra members as to how, when, and where they work.

(d) The leader is charged with all expenses the orchestra incurs, and, after paying expenses and the salaries or hourly wages of the other members, suffers a loss or realizes a profit from the undertaking.

(e) The leader is paid a lump sum for an engagement.

(f) The purchaser of the music deals directly with the leader.

(g) The purchaser retains only such control over the leader as to ensure the attainment of the desired result, such as the privilege of making suggestions on the type or style of music and number of musicians wanted.

Subd. 3. [SUBCONTRACTOR.] Where the leader is an independent contractor, the purchaser of music is responsible for the workers' compensation coverage of group members other than the leader under Minnesota Statutes, section 176.205, unless those members are independent contractors with respect to the leader or the purchaser.

Subd. 4. [EMPLOYEE.] The orchestra leader or assembler and members of the musical group are employees of the purchaser of musical services if all of the following criteria are substantially met.

(a) The purchaser hires a musician (usually called a union contractor) to assemble an orchestra to play at the purchaser's establishment. The purchaser specifies the number of musicians, the type of instruments, and the price per musician.

(b) The assembler of the group may be the orchestra leader if the purchaser designates the assembler as the leader.

(c) The purchaser may accept all the musicians who have been assembled or make changes in the personnel with or without an audition.

(d) The purchaser pays for the services on an hourly basis and is responsible for the business expenses of the group.

Sec. 110. [176C.15] [OUTSIDE COMMISSION SALES-
PEOPLE OR MANUFACTURER'S REPRESENTATIVES;
GENERAL.]

The following factors, taken together, are not sufficient to establish an employment relationship for an outside commission salesperson or manufacturer's representative under sections 176C.16 to 176C.18, territorial restrictions, fixing of sales prices and terms by the companies, the furnishing of leads, working off premises of the employer, and requirements that the salesmen investigate customers' complaints, collect delinquent accounts, and refrain from selling for competitors.

Sec. 111. [176C.16] [TRAVELING SALESPEOPLE.]

Subdivision 1. [DEFINITION.] A traveling salesperson is associated with a manufacturer or distributor whose products the salesperson sells directly to wholesalers or retailers. The salesperson is assigned to territories and furnished with price lists and samples or descriptions of the merchandise to be sold. The salesperson is required to sell the merchandise at prices set by the firm and the firm reserves the right to accept or reject orders. The firm fills the orders by shipping directly to the customers and billing the customers directly. The salesperson receives compensation from the firm in the form of a percentage of the price the customers pay for the merchandise. The salesperson may be required to work full time, to not work for competitors, or to produce a certain amount of business regularly.

Subd. 2. [INDEPENDENT CONTRACTOR.] A traveling salesperson is an independent contractor if all the following conditions are substantially met.

(a) The salesperson is free to solicit when, where, and how the salesperson pleases.

(b) The salesperson chooses working hours and schedule of calls.

(c) The salesperson chooses the means of travel and is responsible for the costs of travel.

(d) The salesperson pays expenses.

Subd. 3. [EMPLOYEE.] A traveling salesperson is an employee if all the following conditions are substantially met.

(a) The salesperson is required to appear at or report to the firm's offices regularly.

(b) The salesperson must work during fixed hours or at certain times.

- (c) *The salesperson must follow and report on leads.*
- (d) *The salesperson is required to take part in sales meetings or training courses.*
- (e) *The salesperson is required to canvass territory at regular intervals.*
- (f) *The firm is dependent principally on the services of traveling salespersons for the disposition of its merchandise.*

Sec. 112. [176C.17] [HOUSE-TO-HOUSE COMMISSION SALESPeOPLE.]

Subdivision 1. [DEFINITION.] A house-to-house commission salesperson sells door-to-door at retail prices to the customer. The salesperson does not purchase stock at wholesale, maintain that stock for resale, or retain the risk of loss if the stock is not sold.

Subd. 2. [INDEPENDENT CONTRACTOR.] A house-to-house commission salesperson is an independent contractor if all of the following criteria are substantially met.

(a) *If assigned to territories, the salesperson is not granted exclusive rights to them.*

(b) *The salesperson is not required to canvass territories within any specified time or to work during fixed hours or at certain times.*

(c) *The salesperson receives no training, is not required to follow an established routine or schedule, and devises individual methods and means of selling.*

(d) *The salesperson pays business expenses.*

(e) *The salesperson is not required to produce any minimum volume of business or follow leads furnished by the company.*

Subd. 3. [EMPLOYEE.] A house-to-house commission salesperson is an employee if all of the following criteria are substantially met.

(a) *The salesperson works for only one company and on a full-time basis.*

(b) *The services of the salesperson are an important part of the company's business.*

(c) *Although the salesperson may not be required to report to the company's office at regular intervals, the salesperson*

often receives leads and instructions through the mail which must be followed.

(d) The salesperson is required to file regularly a report of activities with the company.

(e) The salesperson is required to canvass a territory regularly.

(f) The salesperson is required to attend sales meetings or take part in training courses.

(g) The salesperson may be visited by a sales manager or supervisor who instructs and helps in developing sales techniques and other matters.

(h) The salesperson is expected to produce a certain amount of business to continue the relationship.

Sec. 113. [176C.18] [HOUSE-TO-HOUSE DEALER SALESPEOPLE.]

Subdivision 1. [DEFINITION.] A house-to-house dealer salesperson buys stocks of commodities at wholesale from a company and sells them at retail. In other respects, the dealer is similar to ordinary retail merchants and house-to-house commission salespeople.

Subd. 2. [INDEPENDENT CONTRACTOR.] A dealer is an independent contractor if all of the following criteria are substantially met.

(a) The dealer is not required to work during fixed hours or at certain times, to follow any particular routes or schedules or to report on activities.

(b) The dealer keeps substantial inventories and has automobiles or trucks to deliver merchandise.

(c) The dealer may employ others.

(d) Compliance with suggestions or attendance at salesmanship meetings are optional with the dealers.

(e) The dealer is not required to solicit prospective purchasers identified by the company.

(f) The dealer chooses working hours and methods of solicitation.

(g) The dealer pays business expenses and, by selling on credit, takes a risk of loss.

(h) *The dealer is dependent for a livelihood on personal efforts and ingenuity in establishing clienteles and good reputations.*

Subd. 3. [EMPLOYEE.] *A dealer is an employee if all of the following criteria are substantially met.*

(a) *The dealer must report regularly on sales, prospects, and work activities.*

(b) *The dealer must report regularly for sales meetings and pep talks.*

(c) *Although not usually required to work during hours fixed by the firm, the dealer is expected to meet a certain quota.*

(d) *The dealer is restricted from selling on credit and must abide by prices set by the company.*

(e) *Merchandise may be returned to company with no loss to the dealer.*

(f) *The dealer is furnished leads and required to follow-up and report.*

(g) *The dealer is required to concentrate on certain products listed as "specials" and follow schedules or routes worked out by the company.*

(h) *If sales fall off, a manager or other company representative investigates and instructs the dealer how to increase sales.*

(i) *Helpers may be provided by the company for dealers who maintain large volumes of sales.*

(j) *The relationship is terminable by either party on short notice and without liability to the employee for noncompletion.*

(k) *Where the dealer trains others, the dealer is paid and may be elevated to a managership.*

Sec. 114. [176C.19] [AGENT DRIVERS.]

Subdivision 1. [DEFINITION.] *An agent driver is a salesperson who drives a truck in selling and delivering bread, milk, meat, beverages, laundry, dry-cleaning, or similar services. The driver may sell to consumers at retail prices or at wholesale to retailers.*

Subd. 2. [INDEPENDENT CONTRACTOR.] *An agent driver is an independent contractor if all of the following criteria are substantially met.*

(a) *The driver does not contract with the firm to render personal services but only to buy a certain amount of a firm's products regularly.*

(b) *The driver may hire and pay helpers or use substitutes.*

(c) *Although the driver may work full time, the driver does so by choice; and selects working hours.*

(d) *The driver selects customers, sets prices, and often sells on credit.*

(e) *The driver pays truck maintenance costs and other business expenses.*

(f) *The driver cannot return unsold products to the firm.*

(g) *Either party may terminate the relationship at any time without incurring liability.*

Subd. 3. [EMPLOYEE.] *An agent driver is an employee if all the following criteria are substantially met.*

(a) *The driver is assigned a route and required to cover it at regular intervals.*

(b) *Helpers or substitutes are not permitted.*

(c) *Prices are set by the company.*

(d) *The driver cannot handle competing lines.*

(e) *The driver is required to keep reports of sales and other matters.*

(f) *The driver collects from customers and turns money over to the company.*

(g) *The driver has no authority to determine whether sales may be made on credit.*

(h) *The driver reports to the company office at specified times to load trucks, return unsold goods, and report on activities as requested.*

(i) *The driver is required to follow leads.*

(j) *The driver is expected to solicit new customers and adjust complaints.*

(k) *The driver may quit or a firm may fire the driver on short notice, and neither is liable for damages for noncompletion.*

(l) *The driver receives paid vacation, sick benefits, or other similar benefits offered to nondriver employees of the firm.*

Sec. 115. [176C.20] [PHOTOGRAPHERS' MODELS.]

Subdivision 1. [DEFINITION.] A photographer's model is a professional who poses for photographs that are used for commercial purposes. The photographs are reproduced and appear in magazines, newspapers, or similar media to aid in advertising commercial products. The model is knowledgeable or trained in such subjects as the art of make-up, fashion, hairstyling, acting, and posture.

Subd. 2. [INDEPENDENT CONTRACTOR.] A photographer's model is an independent contractor if all of the following criteria are substantially met.

(a) *The model engages a booking agent for a certain compensation, usually ten percent of the model's fees. The agent makes and arranges appointments for the model.*

(b) *Fees are fixed by the agent, usually on an hourly basis.*

(c) *The model reserves the right to limit the time or period of work and the right to work only during certain hours.*

(d) *The model releases property rights in each specific photograph that is to be used commercially.*

(e) *The model supplies wardrobes appropriate to the roles the model is engaged to portray.*

(f) *The model is free to pose for anyone who desires the model's services.*

(g) *The model is not engaged on a permanent or periodic basis but solely for specific jobs and the model reserves the right to cancel bookings made by agents.*

(h) *The creation and enactment of the roles assigned them are left to the models' own discretion and initiative.*

(i) *The model is free to use skill and training in other fields of business activity, such as radio, movie shorts, fashion shows, and television shows.*

Subd. 3. [EMPLOYEE.] A photographer's model is an employee if all of the following criteria are substantially met.

(a) *The model works for only one or two photographers or firms and is paid a salary or guaranteed minimum wage to work during fixed hours on the employer's premises.*

(b) *The model is required to conform to instructions or suggestions on, among others, costume, coiffure, general make-up, posture, or the position and expression to assume in an assigned role.*

(c) *The model is paid a salary for first call on the model's services and on a full-time basis or part-time basis.*

(d) *The work is performed mostly on company premises and is done in accordance with a supervisor's or manager's views on the best method of illustrating the good points of the garments or other products being modeled.*

(e) *Either party may terminate the relationship at any time.*

Sec. 116. [176C.21] [PROFESSIONAL PERSONS.]

Subdivision 1. [DEFINITION.] A professional is a person in an occupation that requires education equivalent to college graduation or beyond and involves compliance with professional and statutory licensing or registration standards before the individual can practice. The professional field includes architects, attorneys, certified public accountants, and engineers.

Subd. 2. [INDEPENDENT CONTRACTOR.] A professional is an independent contractor when all of the following criteria are substantially met.

(a) *The professional sets up a business office.*

(b) *The professional hires and directs assistants or helpers.*

(c) *The professional pays all expenses in connection with the business.*

(d) *The professional offers services to the public.*

(e) *The professional works at hours of the professional's own choice.*

(f) *The professional is dependent for a livelihood upon the amount of time, energy, and ingenuity applied to the work.*

Subd. 3. [EMPLOYEE.] A professional is an employee if all of the following criteria are substantially met.

(a) *The professional subordinates activities to the interests of the employer by working under conditions that make the professional's services an integral part of another's business.*

(b) *The professional works when and where a firm dictates.*

(c) *The professional is furnished an office and office facilities, and business expenses are met by the firm.*

(d) *The professional is paid a fixed salary determined on a weekly, monthly, annual, or similar basis.*

(e) *The professional's services are subject to supervision and review.*

(f) *The professional cannot hire a substitute or helper.*

(g) *The professional may be discharged at will and has the right to terminate the relationship at any time without liability.*

(h) *The professional incurs no expenses nor makes any investment.*

(i) *The relationship is continuing.*

Sec. 117. [176C.22] [DOCTORS OF MEDICINE; PART-TIME SERVICES FOR INDUSTRIAL FIRMS.]

Subdivision 1. [DEFINITION.] *Doctors are persons whose work requires licensure pursuant to section 147.02.*

Subd. 2. [INDEPENDENT CONTRACTOR.] *Doctors who, in addition to their private practices, enter into arrangements with industrial firms to examine and treat the firm's employees on a part-time basis, are independent contractors if all of the following criteria are met.*

(a) *The firm is interested in securing a medical service rather than the personal service of the doctor and an employment relationship is not contemplated under the terms of the agreement between the parties. The doctor, in effect, accepts the firm as an additional client in the doctor's private practice.*

(b) *The doctor has the right to leave the firm's premises during working hours if an emergency arises in private practice.*

(c) *The doctor has the right to send a substitute to perform the services.*

(d) *The doctor does not have the right to terminate the relationship on short notice.*

(e) *Direct supervision and control over the services were not contemplated by the parties to the agreement.*

Subd. 3. [EMPLOYEES.] Doctors described in subdivision 1 are employees if all of the following criteria are substantially met.

(a) *The doctor's services are materially integrated into the operating organization of the firm.*

(b) *The doctor performs services of a substantial nature for the firm on a regular and continuing basis.*

(c) *The doctor is subject to supervision and control by the firm to the extent necessary to require compliance with its general policies and procedures.*

(d) *The doctor is accorded the rights and privileges that the firm extends to its employees generally.*

Subd. 4. [DEFINITION OF FACTORS.] This subdivision explains the factors listed in subdivision 3.

(a) *Materially integrated is determined by factors such as:*

(1) *the payment of a salary or fixed rate of pay as compared to remuneration on a fee basis;*

(2) *a contract term indicating a mutual intention to create an employer and employee relationship;*

(3) *the firm engages the services of a substitute in the event of the doctor's absence;*

(4) *the remuneration is reported as wages for social security purposes; and*

(5) *the doctor, for income tax purposes, reported the remuneration as wages.*

(b) *Regular and continuing basis means agreement to a schedule of definite and fixed hours of service and the requirement to follow the schedule without substantial deviation.*

(c) *Compliance with policies and procedures exists where the methods, routines, and procedures followed by the doctor are subject to supervision. The supervision may be of varying*

degree and nature, for example, supervision exercised by a medical director may include somewhat detailed control over the physician's medical routines where the supervision exercised by a hospital administrator may lay less emphasis on this aspect. However, the factor of compliance is met where the physician is required to follow the employer's rules regarding the physician's methods of operation generally, including the obligation to treat assigned patients, the report the physician must submit, the priorities the physician must follow both medically and administratively, and the standards the physician must maintain regarding equipment and cleanliness.

(d) *Rights and privileges include vacation and sick leave with pay, holiday pay, severance pay, and pension and insurance plans.*

Sec. 118. [176C.23] [REAL ESTATE AND SECURITIES SALESPEOPLE.]

Subdivision 1. [DEFINITION.] Real estate salespeople are persons licensed as real estate salespersons under chapter 82. Securities salespeople are persons licensed as agents under chapter 80A.

Subd. 2. [INDEPENDENT CONTRACTOR, REAL ESTATE.] A real estate salesperson who is a qualified real estate agent under the Internal Revenue Code of 1954, section 3508(b)(1) is an independent contractor. The Internal Revenue Code of 1954, section 3508(b)(1) is incorporated by reference as the standard to be used under this chapter. A real estate salesperson who is not a qualified real estate agent under that standard is nonetheless an independent contractor if all the following conditions are substantially met.

(a) *The salesperson is licensed to one broker and the cost of the license is paid by the salesperson.*

(b) *The broker makes available to the salesperson office facilities and property listing, and assists the salesperson by giving advice and by cooperating in the salesperson's endeavors.*

(c) *The broker furnishes the salesperson with necessary business forms, stationery, cards, and instructions in office procedures and business policies either verbally or by means of written instructions, such as sales manuals.*

(d) *The salesperson agrees to work diligently for the broker and to conduct business and regulate habits so as to maintain and increase the good will and reputation of the broker.*

(e) *The salesperson agrees not to sell for other brokers.*

(f) *The salesperson provides transportation and pays all expenses incurred in the solicitation of business.*

(g) *The salesperson generally reports to work daily but works no fixed number of hours.*

(h) *Meetings are held in the broker's office on a regular basis, usually weekly, but attendance at these meetings is voluntary.*

(i) *Sales are closed in the name of the broker.*

(j) *The money is turned over to the broker who pays the salesperson commissions at periodic intervals.*

(k) *The salesperson's success is primarily dependent on the salesperson's own initiative and effort.*

Subd. 3. [INDEPENDENT CONTRACTOR, SECURITIES.]
A securities salesperson is an independent contractor if all the following conditions are substantially met.

(a) *The securities dealer engages the salesperson in the furtherance of the business.*

(b) *The salesperson is licensed to a particular dealer.*

(c) *The dealer furnishes the salesperson with desk space, telephone and telegraph facilities, market quotations, statistical and bookkeeping services, and clerical assistance.*

(d) *The salesperson agrees to work diligently for the dealer and to abide by all laws, rules, and regulations under which the dealer operates the business.*

(e) *The salesperson is not required to work fixed hours.*

(f) *The salesperson concludes sales in the name of the dealer and pays over the money to the dealer.*

(g) *The salesperson is paid on a commission basis at periodic intervals.*

(h) *Under certain circumstances, the salesperson may bear a part of the losses resulting from a transaction.*

(i) *Sales meetings are held regularly, but attendance is voluntary.*

(j) *The salesperson's income is primarily dependent on the salesperson's own initiative and effort.*

Subd. 4. [EMPLOYEE.] A salesperson is an employee when all of the following criteria are substantially met.

(a) the salesperson is paid a salary or guaranteed minimum wage;

(b) the employer requires fixed hours of work;

(c) the employer requires that nearly all work be done on the broker's or dealer's premises;

(d) the employer requires attendance at employer's office at specific times;

(e) the broker or dealer has the right to interrupt or set the order of services;

(f) the employer provides instruction or training in how the salesperson approaches prospects, closes sales, and works on particular problems; and

(g) the employer requires the salesperson to report on activities.

Sec. 119. [176C.24] [REGISTERED AND PRACTICAL NURSES.]

Subdivision 1. [DEFINITION.] Registered nurses are persons licensed as such pursuant to Minnesota Statutes. Practical nurses are persons licensed as such pursuant to Minnesota Statutes.

Subd. 2. [INDEPENDENT CONTRACTOR.] A nurse is an independent contractor if:

(a) The nurse holds out to the public as exercising an independent calling requiring specialized skills.

(b) The nurse has full discretion in administering the nurse's professional services. Full discretion is present even through the nurse may be subject to the supervision of the attending physician.

(c) The nurse is retained full time by the purchaser and the work relationship between the purchaser and the nurse is expected to terminate when the job is completed.

(d) The nurse is not retained full time by a purchaser and the nurse is available to others for private duty nursing.

Subd. 3. [EMPLOYEE.] A nurse who works for a hospital, clinic, nursing home, public health agency, or as an office at-

tendant for a private physician is an employee if all the following criteria are substantially met.

(a) *The nurse works full time on the regular staff of the firm.*

(b) *The nurse works for a salary and follows prescribed routines during fixed hours when not available for private duty nursing.*

(c) *The nurse's services are integrated into the employer's business.*

(d) *The employer has the right to set the order of and supervise the services.*

Sec. 120. [176C.25] [UNLICENSED "NURSES."]

Nurses' aides, domestics, and other unlicensed individuals who continue to classify themselves as practical nurses are, in general, insufficiently trained or equipped to render professional or semi-professional "nursing." Their services are normally those expected of maids, servants, and domestics, for example, bathing the individual, combing the individual's hair, reading, arranging bedding and clothing, preparing or serving meals, and occasionally giving oral medication left in their custody. The status of these persons is determined pursuant to section 176C.08.

Sec. 121. [176C.26] [TAXICAB DRIVERS.]

Subdivision 1. [DEFINITION.] Taxicab drivers are persons who offer fee for service auto transportation within a limited area.

Subd. 2. [INDEPENDENT CONTRACTOR.] A driver is an independent contractor if all of the following criteria are substantially met.

(a) *The driver owns and drives the driver's own cab, or leases it on a flat rate basis and pays a specified rental on a daily, weekly, or similar time basis.*

(b) *The driver is free to work the shift of choice, and there is no control over when and where the driver works.*

(c) *The driver's sole compensation is the fares and tips collected from patrons.*

(d) *The driver is required to comply with government rules and regulations and with firm regulations that are meant to ensure proper care and handling of the cab.*

(e) *The driver is not required to report whereabouts and is not subject to instructions on where to seek patrons.*

(f) *If the driver leases the cab, the lessor is interested only in receiving the cab rental and, in many cases, payment for gasoline and oil that the driver is required to buy from the lessor.*

(g) *The opportunity for profit or risk of loss rests with the driver, not the lessor.*

Subd. 3. [EMPLOYEE.] *A taxicab driver is an employee if all the following criteria are substantially met.*

(a) *The employer exercises control over the driver while the driver is in possession of the cab.*

(b) *The driver must work during specified hours or on assigned shifts, pick up passengers on call, and report whereabouts periodically.*

(c) *The driver must account for fares collected.*

(d) *The employer requires that the driver perform the services personally.*

(e) *The employer gives instructions on matters of appearance, behavior, manner of seeking patrons, routes, order of services, and time off from duty.*

(f) *Payment is in the form of a salary or salary plus a percentage of fares.*

(g) *The driver is required to report personally and regularly or furnish written reports.*

(h) *There are no business expenses on the part of the driver.*

(i) *Both parties have the right to terminate the relationship at any time.*

(j) *There is no investment or opportunity for profit or risk of loss on the part of the driver.*

Sec. 122. [176C.27] [TIMBER FELLERS, BUCKERS, SKIDDERS, AND PROCESSORS.]

Subdivision 1. [DEFINITION.] *Timber fellers employ chainsaws or other mechanical devices mounted on logging vehicles to fell trees. Trees so felled may either be delimbed at the site or subsequently at roadside landings.*

Buckers cut trees into merchantable lengths, with either chain-saw or heavier machinery such as slashers, harvesters, and processors. These operations may also be conducted either at the felling site or at roadside. In either case the product is piled or otherwise accumulated to facilitate subsequent transportation.

Skidders or forwarders either drag logs or trees to roadside landings, or load and transport logs or shortwood (fuelwood or pulpwood) to similar destinations.

Timber harvesters and processors combine two or more of the operations described above.

Mechanical debarking or chipping may also be coordinated with skidding or forwarding operations.

Chips are usually blown into semi-trailer vans for delivery to mills for remanufacture or to furnaces for fuel.

Subd. 2. [NEUTRAL FACTORS.] Due to the nature of the work and certain customs in the field, the following factors are neutral: lack of fixed hours of work, payment on a piecework basis, ownership of small tools, and requirements that the product of the work be within overall specifications.

Subd. 3. [INDEPENDENT CONTRACTOR.] A feller, buckler, skidder, or processor is an independent contractor if all of the following criteria are substantially met.

(a) The worker is granted timber rights to tracts of land and is legally bound to remove all or certain parts of the timber within specified times at set prices.

(b) The worker bargains for "package" jobs which the worker will do by methods of personal choice subject to production specifications required by the contracting company.

(c) The worker is paid to obtain a result, which does not necessarily depend on the worker's own personal services.

(d) The worker is free to hire and direct others to do the work and the worker is responsible for expenses incurred in fulfilling the contract.

(e) The worker supplies the necessary equipment and sometimes the tools used by the helpers.

(f) The worker determines the working hours and rates of pay, and otherwise controls the helpers' working conditions.

(g) The worker is held out to the public as a contractor and sometimes holds several logging contracts at the same time.

(h) *The worker is in a position to make a profit or suffer a loss, depending on the management of helpers, the care of the tools and equipment, and the methods used for doing the work.*

(i) *As long as the worker produces final results that measure up to specifications, there is no desire or legal right to interfere with the worker's methods.*

Subd. 4. [EMPLOYEE.] *A feller, buckeer, skidder, or processor is an employee if all of the following criteria are substantially met.*

(a) *The feller buckeer, skidder, or processor is assigned specific portions of the area to be harvested, but the right to work in other portions is not given exclusively.*

(b) *The company assigns a number of workers to each area. They are told the kind and size of trees to cut. Trees designated to be cut because of a conservation or sustained-yield program do not indicate employment.*

(c) *The company foreman periodically inspects the work area to be harvested and, if not satisfied with the progress being made, replaces the workers with another crew.*

(d) *The crews may be shifted from one work area to another to speed up operations and if a worker is ill or not doing satisfactory work the foreman may replace the worker.*

(e) *The worker chooses the hours of work, but is required to finish each work area within a certain time and to do so usually requires long and regular hours of work.*

(f) *The worker may be paid on a piecework basis or by the cord, but generally the company will not pay for products that do not measure up to specifications. Keeping records of wages paid and hours worked is not indicative of employment if it is required only to ensure that the products may be shipped in interstate commerce.*

Sec. 123. [176C.28] [SAWMILL OPERATORS.]

Subdivision 1. [DEFINITION.] *Sawmill operators manage sawmills. A sawmill is used to convert logs into lumber or other forest products. The mills may be stationary or portable. Moving the logs into position, the sawing operation itself, and the stacking or removal of the products often require the services of a crew of workers.*

Subd. 2. [INDEPENDENT CONTRACTOR.] *A sawmill operator is an independent contractor if all of the following criteria are substantially met.*

(a) *The operator has a substantial investment because the operator owns all or part of the mill and equipment used to move logs, lumber, or other forest products.*

(b) *The operator contracts to saw, or harvest and saw, timber at so much per thousand board feet. The operator may be bound by contract to complete the job within a set time or to produce a daily or weekly quota.*

(c) *The work calls for independent thought and action based on business judgment, experience, and training.*

(d) *The operator contracts to do a specific job, using personal methods. The only control over the work concerns attainment of an acceptable result.*

(e) *The operator hires, pays, and directs the operator's own crews.*

(f) *The operator is not required to do the work personally, but is responsible for its being done.*

(g) *The operator is in a position to lose or profit from management of the workers and care of the equipment.*

(h) *The operator is free to work for others.*

(i) *There is no restriction of activities so long as the sawmill turns out products that meet the overall specifications in the contract.*

Subd. 3. [EMPLOYEE.] A sawmill operator is an employee if all of the following criteria are substantially met.

(a) *The purchaser of the services pays the cost of running the mill, even though the operator may own the mill.*

(b) *The operator may pick a crew to operate the mill, but the company pays them and can fire them for poor work.*

(c) *The company has the right to tell the operator what hours to work and require the operator to keep records of the amount produced and on hand daily.*

(d) *The mill is moved from one tract to another as the company requires.*

(e) *The operator may be paid a salary or pay may be computed on a piecework basis.*

(f) *The services are terminable by either party at any time.*

(g) *The operator has no business expenses nor opportunity for profit or risk of loss.*

(h) *The operator cannot work for others.*

Sec. 124. [176C.29] [TRUCK OWNER-DRIVERS.]

Subdivision 1. [DEFINITION.] A truck owner-driver is any individual, partnership, or corporation (all referred to in this section as "individual") who owns or holds a vehicle as defined in subdivision 2 under a bona fide lease and who leases that vehicle together with driver services to an entity which holds itself out to and does transport freight as a for-hire or private motor carrier.

Subd. 2. [INDEPENDENT CONTRACTOR.] In the trucking industry, an owner-operator of a vehicle that is licensed and registered as a truck, tractor, or truck-tractor by a governmental motor vehicle regulatory agency is an independent contractor, not an employee, while performing services in the operation of the owner-operator's truck, if each of the following factors are substantially present.

(a) *The individual owns the equipment or holds it under a bona fide lease arrangement.*

(b) *The individual is responsible for the maintenance of the equipment.*

(c) *The individual bears the principal burden of the operating costs, including fuel, repairs, supplies, vehicle insurance, and personal expenses while on the road.*

(d) *The individual is responsible for supplying the necessary personal services to operate the equipment.*

(e) *The individual's compensation is based on factors related to the work performed including a percentage of any schedule of rates or lawfully published tariff and not on the basis of the hours or time expended.*

(f) *The individual generally determines the details and means of performing the services, in conformance with regulatory requirements, operating procedures of the carrier, and specifications of the shipper.*

(g) *The individual enters into a contract that specifies the relationship to be that of an independent contractor and not that of an employee.*

Subd. 3. [EMPLOYEE.] An owner operator of a vehicle as defined in subdivision 2 is an employee, not an independent con-

tractor, while performing services in the operation of the individual's truck, if all of the following criteria are substantially met.

(a) *The individual is paid compensation for personal services:*

(1) *based solely on wage by the hour or a similar time unit that is not related to a specific job or freight movement;*

(2) *on a premium basis for services performed in excess of a specified amount of time; and*

(3) *from which FICA and income tax is withheld.*

(b) *The individual is treated as an employee by the firm with respect to fringe benefits offered to employees by the firm.*

(c) *The individual usually works defined hours.*

(d) *The employer requires that the individual must perform the work personally and cannot change drivers.*

(e) *The individual has no choice in the acceptance or rejection of a load.*

(f) *The individual and firm have no written contract; or, if there is a written contract, it does not specify the individual's relationship with the firm as being that of independent contractor.*

Sec. 125. [176C.30] [WASTE MATERIALS HAULERS.]

Section 176C.29 applies to truck owner-drivers who meet the definition of section 176C.29, subdivision 1, except that they transport waste materials instead of freight.

Sec. 126. [176C.35] [MESSENGERS/COURIERS.]

Subdivision 1. [DEFINITION.] Messenger/couriers are vehicle drivers who transport property for a company operating under a permit or certificate pursuant to chapter 221 in local or intrastate commerce or operating as an exempt carrier pursuant to the Interstate Commerce Act.

Subd. 2. [INDEPENDENT CONTRACTOR.] A messenger/courier is an independent contractor if all of the following criteria are substantially met.

(a) *The messenger/courier owns or holds a vehicle under a bona fide lease or leases a vehicle and provides driver services*

in local or intrastate transportation and in interstate commerce the messenger/courier provides the means for the transportation of the property.

(b) The messenger/courier is free to accept or reject jobs from a carrier and there is no control over when the individual works.

(c) The messenger/courier's compensation is based on factors related to the work performed including (1) a percentage of any schedule of rates, or (2) a percentage of a lawfully published tariff, or (3) is compensated per delivery.

(d) All expenses are paid by the messenger/courier and the opportunity for profit or loss rests with the messenger/courier.

(e) The messenger/courier is responsible for the operating costs, including fuel, repairs, supplies, and vehicle insurance.

(f) The messenger/courier determines the details and means of performing the services, such as the selection of routes and the order of deliveries.

(g) The messenger/courier is responsible for the completion of a specific job and is liable for failure to complete the job.

(h) The messenger/courier enters into a contract that specifies the relationship to be that of an independent contractor and not that of an employee.

Subd. 3. [EMPLOYEE.] A messenger/courier is an employee if all of the following criteria are substantially met.

(a) The messenger/courier must work during specified hours or an assigned shift.

(b) Payment is based solely by the hour or a similar time unit that is not related to a specific job.

(c) The company utilizing the service of the messenger/courier reimburses all expenses to the messenger/courier including those contained in the company's schedule of rates or lawfully published tariffs.

(d) The company utilizing the services of the messenger/courier is responsible for providing the vehicle and all of its expenses.

(e) There is no investment or opportunity for profit or risk of loss on the part of the messenger/courier.

(f) *The company utilizing the services of the messenger/courier is responsible for all operating expenses, including fuel, repairs, supplies, and vehicle insurance.*

Sec. 127. [176C.32] [VARIETY ENTERTAINERS.]

Subdivision 1. [DEFINITION.] A variety entertainer is a person who entertains and amuses audiences by means of acts or skits, dances, readings, feats of skill, songs, or comedy acts. The entertainer performs in the legitimate and burlesque theaters, movie houses, circuses, fairs, hotels, and night clubs.

Variety entertainers specialize in one or two types of acts. The more talented create and develop their own acts or routines and sometimes train others to help perform them. They often work in pairs or as members of troupes.

Subd. 2. [NEUTRAL FACTORS.] The status of a variety entertainer is not determined by the entertainer's entering into the form B contract of the American Federation of Musicians. This contract purports to establish an employer and employee relationship between the purchaser of the services and the entertainer. The actual relationship, rather than the terms of the contract, governs.

Subd. 3. [INDEPENDENT CONTRACTOR.] A variety entertainer is an independent contractor if all of the following criteria are substantially met.

(a) *The entertainer performs acts or routines as a series of short-term engagements for a number of different operators of theaters, night clubs, restaurants, and similar establishments.*

(b) *The entertainer's contract, which is usually obtained through booking agents or personal representatives, specifies only the time, place, and duration of each engagement, and the pay.*

(c) *The entertainer furnishes the entertainer's own music arrangements, stage props, and dress.*

(d) *The entertainer's act is not an integral part of another's business.*

(e) *The entertainer maintains a high degree of individuality and establishes a reputation based on the acceptance by the audiences for which the entertainer performs.*

Subd. 4. [EMPLOYEE.] A variety entertainer is an employee when all of the following criteria are substantially met.

(a) *The entertainer is subject to supervision over the number, time, place, and length of rehearsals and performances, and as to duty and behavior, and is bound by rules and regulations to the purchaser of the services.*

(b) *The entertainer's variety acts may undergo considerable change in order to suit the employer's purpose. It may be shortened, lengthened, or moved from one spot to another to weld it, with others, into one complete show or to coordinate it with other activities. In that case, individuality of the performer is subordinated to the purpose of enhancing the reputation of the purchaser of the services.*

(c) *The entertainer's performance becomes an integral part of another's business.*

(d) *The entertainer is engaged on a long-term basis.*

(e) *The entertainer may not work for others.*

(f) *The entertainer has no opportunity for profit or risk of loss, must frequently work with others, and can be shifted from one place to another.*

(g) *The entertainer can be discharged at any time.*

(h) *The entertainer cannot hire helpers or substitutes.*

Sec. 128. [176C.33] [SPORTS OFFICIALS.]

Subdivision 1. [DEFINITION.] A sports official is an individual engaged to referee games of sport such as basketball, hockey, or football where the level of competition requires the sports official to be a member of or certified by an organization whose purpose is to maintain minimum standards and qualifications of sports officials.

Subd. 2. [INDEPENDENT CONTRACTOR.] A sports official is an independent contractor if all the following conditions are substantially met.

(a) *There is a written contract between the sports official and the party or association engaging the services of the sports official that states specifically that the sports official is an independent contractor.*

(b) *Payment to the sports official is for a set fee for each game officiated.*

(c) *The official is free under the terms of the contract to accept or reject assignments of any game.*

(d) *The sports official is not limited to exclusively officiating with the party engaging the services as a sports official.*

Subd. 3. [EMPLOYEE.] A sports official is an employee if all of the following criteria are substantially met.

(a) *The official is paid on an hourly, weekly, or similar time basis.*

(b) *The official must work at the times and places designated by the purchaser of the official's services, and is not free to reject assignments.*

(c) *The official is not free to sell the official's services to other parties while working for the purchaser.*

(d) *The relationship is terminable at will without any liability to the official.*

Sec. 129. [176C.34] [JOCKEYS]

Subdivision 1. [DEFINITION.] A jockey is a person who is licensed under Minnesota Statutes, chapter 240 to ride race horses for compensation as a jockey or apprentice jockey.

Subd. 2. [INDEPENDENT CONTRACTOR.] A jockey is an independent contractor with respect to the racetrack, trainer, and horse owner if all of the following criteria are substantially met.

(a) *Arrangements for rides are made by the jockey or by an agent of the jockey who receives a commission from the jockey.*

(b) *The jockey is free to ride the horses of any stable.*

(c) *The jockey is free to accept or reject a call.*

(d) *The jockey provides a saddle.*

(e) *The trainer instructs the jockey regarding the nature of the mount, the setup of the race, and the trainer's expectations of the running of the race. The jockey is free to disregard the instructions of the trainer, and may decide the route to be taken, the rate of speed of the horse, and similar matters regarding the running of the race.*

(f) *Payment is a fee paid on a per-race basis from the horseperson's account of the racetrack.*

Subd. 3. [EMPLOYEE.] A jockey is an employee of the trainer if all of the following criteria are substantially met.

(a) *The jockey rides only for the employing trainer or the jockey rides for other trainers only with the permission of the employing trainer.*

(b) *The jockey is not free to reject the employing trainer's call.*

(c) *The trainer provides or pays for the jockey's saddle.*

(d) *The jockey is not free to disregard the instructions of the trainer regarding the running of the race except for safety reasons.*

(e) *The jockey is paid a salary or wage by the trainer on a time rather than per-race basis; compensation usually includes room and board, and the wage may be paid from the horse-person's account at the racetrack.*

Sec. 130. [176C.35] [TRAINERS.]

Subdivision 1. [DEFINITION.] A trainer is a person who is licensed as a trainer under Minnesota Statutes, chapter 240.

Subd. 2. [INDEPENDENT CONTRACTOR.] A trainer is an independent contractor with respect to the racetrack and to the owners if all of the following criteria are substantially met.

(a) *The trainer sets a fee which covers the daily fee, and bills the owner for the day pay and any additional supplies or services incurred in the care of the horse.*

(b) *Tack, feed, board, and all supplies necessary for the ordinary care of the horse are provided by the trainer.*

(c) *The trainer has a substantial capital investment in tack, equipment, and supplies.*

(d) *The trainer makes all decisions regarding management of the horse while the horse is at the trainer's stable. If the trainer disagrees with instructions of the owner, the trainer is free to tell the owner to remove the horse from the trainer's care, and the owner must comply.*

(e) *The trainer is free to stable and train the horses of other owners.*

Subd. 3. [EMPLOYEE.] A trainer is an employee of an owner if all of the following criteria are substantially met.

(a) *The trainer is paid on salary, wage, or similar time basis.*

(b) *Tack, feed, board, equipment, and supplies for the care of the horse are provided by the owner.*

(c) *The stables are owned or operated by the owner of the horses.*

(d) *The trainer must comply with instructions of the owner regarding management of the horse, although the owner generally relies on the expertise of the trainer.*

(e) *The trainer may stable and train the horses of others only with the permission of the employing owner.*

(f) *The trainer's hours of work are set by the owner of the horse.*

Sec. 131. [176C.36] [GENERAL CRITERIA FOR NON-SPECIFIED OCCUPATIONS.]

Sections 176C.37 and 176C.38 shall be used to determine if an individual is an independent contractor or an employee where the occupation is not defined in sections 176C.02 to 176C.35. Additionally, these sections provide interpretative guidance where the occupation is defined but the safe harbor criteria for that occupation are not all substantially met. Where some but not all of the safe harbor criteria are substantially met, those criteria which are substantially met shall be considered evidence of that status, and shall control where a conflicting result for that criterion is indicated by sections 176C.37 and 176C.38.

Sec. 132. [176C.37] [CONTROL OF METHOD AND MANNER OF PERFORMANCE.]

Subdivision 1. [GENERALLY.] *The most important factor in determining whether a person is an independent contractor is the degree of control which the purported employer exerts over the manner and method of performing the work contracted. The more control there is the more likely the person is an employee and not an independent contractor. Subdivisions 2 to 14 describe criteria for determining if there is control over the method of performing or executing services. The total circumstances, including the practices and the customs of the industry, must be considered to determine if control is present.*

Subd. 2. [AUTHORITY OVER INDIVIDUAL'S ASSISTANTS.] *Control over the individual is indicated when the employing unit hires and pays the individual's assistants and supervises the details of the assistants' work.*

Subd. 3. [COMPLIANCE WITH INSTRUCTIONS.] *Control is indicated when an individual is required to comply with detailed instructions about when, where, and how to work in-*

cluding the order or sequence in which the service is to be performed. Mere suggestions as to detail, or necessary and usual cooperation where the work furnished is part of a larger undertaking, does not normally evince control. Some individuals may work without receiving instructions because they are highly proficient in their line of work; nevertheless, the control is present if the employing unit has the right to instruct or direct the methods for doing the work and the results achieved. Instructions may be oral or may be in the form of manuals or written procedures which show how the desired result is to be accomplished. However, instructions required by state or federal law or regulation or general instructions passed on by the employing unit from a client or customer, do not evince control.

Subd. 4. [ORAL OR WRITTEN REPORTS.] Control is indicated if regular oral or written reports relating to the method in which the services are performed must be submitted to the employing unit. Periodic reports relating to the accomplishment of a specific result may not be indicative of control if, for example, the reports are used to establish entitlement to partial payment based upon percentage of completion of a job, or the reports are needed to determine compliance with the terms of a contract. Completion of receipts, invoices, and other forms customarily used in the particular type of business activity or required by law does not constitute written reports.

Subd. 5. [PLACE OF WORK.] Control is indicated if work which could be done elsewhere is done on the employing units premises, especially when the work could be done elsewhere. When work is done off the premises, freedom from control is indicated except in occupations where the services are necessarily performed away from the premises of the employing unit.

Subd. 6. [PERSONAL PERFORMANCE.] Control is indicated if the services must be personally rendered to the employing unit. Personal performance of a very specialized work, when the worker is hired on the basis of professional reputation, as in the case of a consultant known in the academic and professional circles to be an authority in the field, is a less reliable indicator of control. Lack of control is indicated when an individual has the right to hire a substitute without the employing unit's knowledge or consent.

Subd. 7. [EXISTENCE OF CONTINUING RELATIONSHIP.] The existence of a continuing relationship between an individual and the person for whom the services are performed indicates the existence of an employment relationship. Continuing services may include work performed at frequently recurring, though somewhat irregular intervals, either on call of the employing unit or whenever work is available.

Subd. 8. [SET HOURS OF WORK.] The establishment of set hours of work by the employing unit indicates control. Where

fixed hours are not practical because of the nature of the occupation, a requirement that the worker work at certain times indicates control.

Subd. 9. [TRAINING.] *Training of an individual by an experienced employee, by required attendance at meetings, and by other methods, indicates control, especially if the training is given periodically or at frequent intervals.*

Subd. 10. [AMOUNT OF TIME.] *Control is indicated where the worker must devote full time to the activity. Full time does not necessarily mean an eight-hour day or a five- or six-day week. Its meaning may vary with the intent of the parties, the nature of the occupation, and customs in the locality. Full-time services may be required even though not specified in writing or orally. For example, a person may be required to produce a minimum volume of business which compels the person to devote all working time to that business, or the person may not be permitted to work for anyone else.*

Subd. 11. [SIMULTANEOUS CONTRACTS.] *If an individual works for a number of persons or firms at the same time, lack of control is indicated.*

Subd. 12. [TOOLS AND MATERIALS.] *The furnishing of tools, materials, and supplies by the employing unit indicates control over the worker. When the worker furnishes these items, lack of control is indicated. Lack of control is not indicated if the individual provides tools or supplies customarily furnished by workers in the trade.*

Subd. 13. [EXPENSE REIMBURSEMENT.] *Payment by the employing unit of either the worker's approved business or traveling expenses, or both, indicates control over the worker. A lack of control is indicated when the worker is paid on a job basis and is responsible for all incidental expenses.*

Subd. 14. [SATISFYING REQUIREMENTS OF REGULATORY AND LICENSING AGENCIES.] *Control is not indicated where an employing unit is required to enforce standards or restrictions imposed by regulatory or licensing agencies.*

Sec. 133. [176C.38] [INDEPENDENT CONTRACTOR OR EMPLOYEE, FACTORS TO CONSIDER.]

Subdivision 1. [FACTORS.] *Among the factors to be considered, in addition to factors of control, when determining if services are those of an independent contractor or employee are those listed in subdivisions 2 to 9.*

Subd. 2. [RIGHT TO DISCHARGE.] *The right to discharge exists if the individual may be terminated with little notice, without cause, or for failure to follow specified rules or*

methods. There is no right to discharge if an independent worker produces an end result which measures up to contract specifications. Contracts which provide for termination upon notice or for specified acts of nonperformance or default are not solely determinative of the right to discharge. Restrictions on the right to discharge because of a contract with a labor union or with other entities are not relevant for purposes of this subdivision.

Subd. 3. [AVAILABILITY TO PUBLIC.] *If an individual makes services available to the general public on a continuing basis, independent contractor status is indicated. An individual's services are offered to the public by, among other things:*

- (a) having an office and assistants;*
- (b) displaying a sign in front of a place of business;*
- (c) holding a business license;*
- (d) having a listing in a business director or a business listing in a telephone directory; or*
- (e) advertising in a newspaper, trade journal, or magazine.*

Subd. 4. [COMPENSATION ON JOB BASIS.] *Independent contractor status is indicated by payment on a job basis rather than payment by the hour, week, or month. Payment on a job basis is customary where the worker is independent. Payment by the job may include a predetermined lump sum which is computed by the number of hours required to do the job at a fixed rate per hour or periodic partial payments based upon a percent of the total job price or the amount of the total job completed. The granting of a drawing account at stated intervals with no requirement for repayment of the excess drawn over commissions earned or the guarantee of a minimum salary indicates an employment relationship.*

Subd. 5. [REALIZATION OF PROFIT OR LOSS.] *Independent contractor status is indicated where an individual is in a position to realize a profit or suffer a loss as a result of the individual's services. Opportunity for higher earnings from piecework or commissions does not indicate an opportunity for profit or loss. An opportunity for profit or loss is indicated by the following factors, among others:*

- (a) hire, direct, and pay assistants;*
- (b) provide own office, equipment, materials, or other facilities for doing the work;*
- (c) continuing and recurring financial liabilities or obligations, relating to the work;*

(d) profit or loss in the work depends upon the relationship of receipts to expenditures;

(e) expenses incurred in connection with the work are paid by the individual;

(f) specific jobs are performed for prices agreed upon in advance; and

(g) performance of the services affects the individual's business reputation, and not the business reputation of those who purchase the services.

Subd. 6. [TERMINATION.] *The worker's right to terminate the working relationship with the purported employer at will and without incurring liability for noncompletion indicates employment. A requirement to provide notice of termination for some period in advance of the termination is not relevant for purposes of this subdivision. Independent contractor status is indicated where the individual agrees to complete a specific job, is responsible for its satisfactory completion, and is liable for failure to complete the job.*

Subd. 7. [SUBSTANTIAL INVESTMENT.] *A substantial investment by a person in facilities used in performing services for another indicates an independent contractor status. The furnishing of all necessary facilities by the employing unit indicates the absence of an independent contractor status. Facilities include equipment or premises necessary for the work, but not tools, instruments, clothing, and similar items that are provided by individuals working in employment as a common practice in their particular trade. Substantial investment means a monetary investment representing something of considerable worth, in relation to the overall requirements of the person's chosen profession, trade, occupation, or vocation. A substantial expenditure of time or money for an individual's education is not indicative of an independent contractor status.*

Subd. 8. [RESPONSIBILITY.] *If an employing unit is responsible for the negligence, personal behavior, and work actions of an individual in contacts with customers and the general public during times that services are performed for the employing unit, an employment relationship is indicated.*

Subd. 9. [SERVICES FUNDAMENTAL TO BUSINESS.] *Employment is indicated where the services provided are necessary to the fundamental business purpose for which the organization exists.*

Sec. 134. Minnesota Statutes 1984, 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 *has applied for or is receiving temporary partial compensation pursuant to (SECTION 176.101, SUBDIVISION 3K) chapter 176 or to an individual who has applied for but is not yet receiving temporary total compensation pursuant to chapter 176; 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. If the computation of reduced benefits, required by this subdivision, is not a whole dollar amount, it shall be rounded down to the next lower dollar amount.

Sec. 135. [REPEALER.]

Minnesota Statutes 1984, sections 176.105, subdivisions 1, 2, and 3; 176.265; 176.431; 176.441; and 176.611, subdivisions 3 and 4, are repealed.

Sec. 136. [EFFECTIVE DATE.]

Section 70 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating the obligations and administration of the special compensation fund; restricting liability for out-of-state injuries; defining spendable weekly earnings; changing basis for calculating certain benefits; providing disability rating for certain losses; regulating the payment and right to benefits; eliminating minimum compensation in certain cases; compensation court of appeals; postponing initial adjustment of certain benefits; regulating attorneys' fees; relating to jurisdiction of issues of medical causation; providing for the administration of claims; providing for fees from state insurance fund; authorizing use of fees for administrative conferences; providing penalties; codifying regulations relating to permanent partial disability schedules and to independent contractors; eliminating supplementary benefits for new claims; amending Minnesota Statutes 1984, sections 176.011, subdivision 18, and by adding subdivisions; 176.012; 176.021, subdivision 1; 176.041, subdivisions 1, 2, 3, 4, and by adding a subdivision; 176.081, subdivisions 1 and 7; 176.101, subdivisions 1, 2, 3a, 3b, 3f, and 4, and by adding a subdivision; 176.103, subdivision 2; 176.104, subdivision 1; 176.105, subdivision 4; 176.111, subdivisions 6, 12, 15, and 20; 176.129, subdivision 8, and by adding a subdivision; 176.131, subdivisions 1a and 3; 176.132, subdivision 1; 176.135, subdivisions 1 and 1a; 176.155, subdivisions 1 and 5; 176.179; 176.225, subdivision 1; 176.231, subdivisions 1 and 10; 176.242, subdivision 2, and by adding a subdivision; 176.243, subdivision 3; 176.271; 176.291; 176.305, subdivision 1, and by adding a subdivision; 176.306, by adding a subdivision; 176.321, subdivisions 2 and 3; 176.341, by adding subdivisions; 176.351, subdivision 2; 176.361, subdivisions 1 and 2; 176.371; 176.411, subdivision 2; 176.421, subdivision 6; 176.461; 176.521, subdivision 3; 176.603; 176.611, subdivision 2; 176.645, subdivision 2; 176.83, subdivisions 2 and 11; 268.08, subdivision 3; Minnesota Statutes 1985 Supplement, section 176.101, subdivisions 3e and 3t; and 176.138; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; proposing coding for new law as Minnesota Statutes, chapters 176B and 176C; repealing Minnesota Statutes 1984, sections 176.105, subdivisions 1, 2, and 3; 176.265; 176.431; 176.441; and 176.611, subdivisions 3 and 4."

With the recommendation that when so amended the bill pass.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 1875, A bill for an act relating to health; creating a public corporation to provide health care services and research; providing that subsidiaries govern St. Paul Ramsey Medical Center and a physicians and dentists association; proposing coding for new law as Minnesota Statutes, chapter 246A; repealing Minnesota Statutes 1984, section 383A.41; as amended.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [246A.01] [DEFINITIONS.]

Subdivision 1. [TERMS.] For the purposes of sections 1 to 27, the terms defined in this section have the meanings given them unless the context clearly indicates otherwise.

Subd. 2. [CORPORATION.] "Corporation" means the public corporation created by section 2.

Subd. 3. [HOSPITAL SUBSIDIARY CORPORATION.] "Hospital subsidiary corporation" means the subsidiary corporation created pursuant to section 6, subdivisions 1, clause (9), and 3, and charged with the governance and operation of the St. Paul Ramsey Medical Center.

Sec. 2. [246A.02] [CREATION OF CORPORATION.]

There is created a corporation which shall be public in nature. The corporation shall be known as The purpose of the corporation is to engage in the provision and delivery of health care and related services, including education and research.

Sec. 3. [246A.03] [BOARD OF DIRECTORS.]

Subdivision 1. [GOVERNANCE.] The corporation shall be governed by a board of directors consisting of 15 members. The initial members of the board shall be selected as specified in subdivision 2. The terms of office of members of the board shall be as provided in the corporation's bylaws. No term of office will exceed three years.

Subd. 2. [SELECTION PANEL.] The chairperson of the Ramsey county board of commissioners, the chairperson of the St. Paul Ramsey Medical Center commission, and the chairperson of Ramsey clinic associates shall each appoint three persons to a selection panel. The selection panel shall name

the initial 15 members of the board of directors established in subdivision 1. When the initial members of the board of directors have taken office, the selection panel shall dissolve.

Subd. 3. [NOMINATING COMMITTEE.] Whenever a vacancy occurs on the board of directors of the corporation, whether through resignation, removal, expiration of a director's term of office, or otherwise, the board shall appoint a nominating committee composed of five members, at least one of whom shall be a member of the board of commissioners of Ramsey county. The nominating committee shall meet as soon as practicable for the purpose of nominating individuals to fill the vacancy. The nominating committee shall nominate two candidates in the event there is one vacancy on the board and 1-1/2 candidates for each vacancy should there be more than one vacancy to be filled. In the event an odd number of positions on the board is vacant, the nominating committee is authorized to propose the next highest whole number of candidates when applying the foregoing formula. The board shall elect individuals to fill any vacancy from those individuals nominated by the committee, but no director may vote if that director's position is to be filled by the election.

Subd. 4. [QUORUM.] Unless otherwise specified in the bylaws, eight members of the board of directors constitutes a quorum for the transaction of business.

Subd. 5. [BOARD MEETINGS.] Except when the bylaws prescribe otherwise:

(1) a meeting of the board of directors may be held at any place designated by the board;

(2) notice of every meeting shall be given;

(3) an act of the majority of the directors present at a meeting at which a quorum is present is the act of the board, except that a vote of a majority of the board shall be required to adopt the annual budget or to hire or discharge the chief executive officer;

(4)(a) A conference among directors, or among members of any committee designated by the board of directors, by any means of communication through which the participants may simultaneously hear each other during the conference, constitutes a meeting of the board, or the committee, if the same notice is given of the conference as would be required for a meeting, and if the number of persons participating in the conference would be sufficient to constitute a quorum at the meeting. Participation in a meeting in this manner constitutes personal presence at the meeting.

(b) A director may participate in a meeting of the board or any committee designated by the board not described in paragraph (a) by any means of communication through which the director, other persons so participating, and all persons physically present at the meeting may simultaneously hear each other during the meeting. Participation in a meeting in this manner constitutes personal presence at the meeting.

Sec. 4. [246A.04] [OFFICERS.]

Subdivision 1. [ELECTION, APPOINTMENT.] (a) Unless the bylaws provide otherwise, the board of directors shall elect persons to exercise the functions of the offices of president, secretary, and treasurer and may elect or appoint any other officers and agents deemed to be necessary.

(b) Unless the bylaws prescribe that only directors may be officers, officers need not be directors.

(c) Any of the offices or functions of the offices may be held or exercised by the same person.

Subd. 2. [QUALIFICATIONS.] The president, secretary, and treasurer shall be adult natural persons. The bylaws may prescribe special qualifications for these offices.

Subd. 3. [REMOVAL.] An officer may be removed, with or without cause, by the persons authorized to elect or appoint officers. The removal is without prejudice to the officer's contract rights.

Subd. 4. [AUTHORITY, DUTIES.] (a) Officers have the authority and duties in the management of the business of the corporation that the bylaws prescribe or, in the absence of the prescription, as the board of directors determines.

(b) An officer shall discharge the duties in good faith and with the diligence and care which an ordinarily prudent person, in a like position and under similar circumstances, would exercise.

Sec. 5. [246A.05] [BYLAWS.]

Subdivision 1. [BOARD ADOPTS OR AMENDS.] The board of directors may adopt or amend bylaws which may contain any provision for the purpose of administering and regulating the affairs of the corporation not inconsistent with law.

Subd. 2. [PROCEDURE AND NOTICE.] The procedure for amending the bylaws shall be specified in the bylaws. Notice of the meeting at which the amendment shall be considered and notice of the amendment shall be given as provided in the bylaws.

Sec. 6. [246A.06] [CORPORATE POWERS.]

Subdivision 1. [AUTHORITY AND POWERS OF THE BOARD.] The corporation, through its board of directors, shall have the authority and all necessary power to do the following:

(1) prepare an annual budget governing the affairs of the corporation;

(2) hire and discharge a chief executive officer and assistants or other employees deemed necessary to carry out the corporation's affairs;

(3) establish personnel policies and a system of personnel management governing the employees of the corporation;

(4) acquire, encumber, hold, and convey through lease, purchase, gift, or otherwise any property, either real or personal;

(5) contract for the purchase of or furnishing of medical care and services, including the furnishing of medical care for the indigent;

(6) enter shared service and other cooperative ventures;

(7) join or sponsor membership in organizations intended to benefit the hospital or hospitals in general;

(8) enter partnerships;

(9) incorporate other corporations, both for profit and not for profit;

(10) have members of its governing authority or its officers or administrators serve as directors, officers, or employees of the ventures, associations, or corporations;

(11) own shares of stock in business corporations;

(12) offer, directly or indirectly, products and services of the hospital, organization, association, partnership, or corporation to the general public;

(13) sue and be sued;

(14) continue as a public corporation perpetually;

(15) enter into obligations or contracts and do any act incidental to the transaction of its business or expedient to its purposes, including purchasing insurance;

(16) acquire, hold, mortgage, pledge, or dispose of shares, bonds, securities, and other evidences of indebtedness of any domestic or foreign corporation, either profit or nonprofit and either public or private, and, if the owner thereof, to exercise all the rights, powers, and privileges of ownership, including the right to vote;

(17) conduct its affairs within and without this state;

(18) merge and consolidate with other corporations, domestic or foreign, organized for related purposes;

(19) make donations to other corporations, domestic or foreign, organized for related purposes;

(20) be a member of other corporations, whether domestic or foreign;

(21) obtain funds necessary for its operations by borrowing upon terms and conditions which the corporation finds to be in its best interests;

(22) accept from the United States, the state of Minnesota or its agencies or political subdivisions of government, and from private sources land, money, or other assistance;

(23) take any action relative to the delivery of health care services which could be taken by a nonprofit corporation under chapter 317, and shall, when so acting, have, in addition to any authority vested by law, the authority and legal capacity of a nonprofit corporation under chapter 317;

(24) pay a per diem and expenses to the members of the board of directors; and

(25) exercise any power conferred upon a private nonprofit corporation by chapter 317.

Subd. 2. [OTHER POWERS.] The corporation shall have all the powers necessary and convenient for the operation, administration, management, and control of the corporation's affairs. The enumeration of specific powers in this chapter is not intended to restrict the power of the corporation to take any action which in the exercise of its discretion is necessary or convenient to further the purposes for which the corporation exists, and that is not otherwise prohibited by law, whether or not the power to take the action is necessarily implied from the powers expressly granted.

Subd. 3. [SUBSIDIARY CORPORATIONS.] Pursuant to the authority granted to the corporation in subdivision 1, clause (9), the corporation shall, at a minimum, create two subsidiary

corporations. One subsidiary corporation shall be charged with the governance and operation of the St. Paul Ramsey Medical Center. The other subsidiary corporation shall be an association of physicians and dentists. Both subsidiaries shall be governed by boards of directors that are elected by the corporation's board of directors. The bylaws of both subsidiaries must be ratified by the corporation's board of directors prior to taking effect.

Subd. 4. [EXCEPTION TO OTHER LAW.] Notwithstanding any law to the contrary, the hospital subsidiary corporation shall not be subject to the provisions of chapter 179A and sections 471.345 to 471.37. Notwithstanding any law to the contrary, any organization, association, partnership, or corporation created by, controlled by, or owned by the corporation shall not be subject to the provisions of chapters 13 and 179A, and sections 471.345 to 471.37 and 471.705.

Sec. 7. [246A.07] [CORPORATE SEAL.]

The corporation shall not have a corporate seal.

Sec. 8. [246A.08] [ANNUAL MEETING.]

Each year the corporation shall hold a meeting which must be open to the public. At this meeting the board of directors and the chief executive officers of the corporation shall report on the affairs of the corporation and goals for the future.

Sec. 9. [246A.09] [ANNUAL AUDIT.]

Each year an audit must be conducted regarding the corporation's finances. The audit must be conducted by an independent accountant selected by the board of directors and be performed in accordance with generally accepted accounting practices and auditing standards. The audit report must be available for public inspection.

Sec. 10. [246A.10] [PUBLIC DEPOSITORY.]

The corporation shall have jurisdiction over its accounts and payrolls and shall establish and maintain a public depository. The depository must be subject to chapter 118, except that the corporation shall determine the appropriate security. The corporation shall establish and maintain all necessary accounts. The corporation may establish reserve accounts, depreciation accounts, and working capital funds in order to operate on an accrual basis.

Sec. 11. [246A.11] [TRANSFER OF ASSETS.]

Subdivision 1. [TRANSFER.] Notwithstanding any other law to the contrary, Ramsey county and the city of St. Paul, or either of them, may lease any property, real or personal,

acquired by either or both for the establishment, operation, or maintenance of St. Paul Ramsey Medical Center, created by section 383A.41, or that has been turned over to the center for its use; however, the lease must only be to the corporation or one of its subsidiaries.

Subd. 2. [NO ADVERTISING OR BIDS.] *In the event Ramsey county and the city of St. Paul, or either of them, choose to exercise the authority granted in subdivision 1, they may do so without first advertising for bids and without receipt of any bids.*

Subd. 3. [CORPORATE STATUS.] *The corporation shall be considered a "public corporation" for purposes of section 465.035.*

Subd. 4. [REQUIREMENTS OF TRANSFER.] *In the event Ramsey county and the city of St. Paul, or either of them, choose to exercise the authority granted in subdivision 1, the lease must also address the following:*

(1) *continued primary use of the property for health and hospital services;*

(2) *indigent care; and*

(3) *consideration to be paid for the property.*

Subd. 5. [PROPERTY TRANSFER TO CORPORATION.] *All property, both real and personal, that is held by the St. Paul Ramsey Medical Center commission on the effective date of sections 1 to 27 is transferred to the corporation.*

Sec. 12. [246A.12] [TRANSITIONAL PROVISIONS; STATUS OF PRESENT EMPLOYEES.]

Subdivision 1. [EMPLOYEE TRANSFER.] *All employees of the St. Paul Ramsey Medical Center commission, section 383A.41, shall be transferred to the hospital subsidiary corporation.*

Subd. 2. [CURRENT POSITIONS.] *Each person holding a position with the St. Paul Ramsey Medical Center commission who has acquired permanent tenure or who was serving a probationary period on the effective date of this section may retain employment, seniority, and accrued benefits, including participation in deferred compensation programs. These persons shall not be subject to the Ramsey county civil service personnel system law and the rules related to it.*

Subd. 3. [CHARITABLE HOSPITAL ACT.] *Employees of the hospital subsidiary corporation shall be subject to the charitable hospitals act, sections 179.35 to 179.39.*

Subd. 4. [BARGAINING UNITS.] The hospital subsidiary corporation shall recognize existing bargaining units organized by employees of the St. Paul Ramsey Medical Center commission. The hospital subsidiary corporation shall recognize all current labor agreements and the terms of those agreements shall remain in force until the agreements expire by their terms.

Subd. 5. [RETIREMENT EXCLUSION.] Persons initially employed by the hospital subsidiary corporation following the effective date of this section shall be excluded from the definition of "public employee" pursuant to the public employees retirement act, chapter 353.

Subd. 6. [RETIREMENT ELECTION.] All employees transferred to the hospital subsidiary corporation pursuant to subdivision 2 shall continue to be included in the definition of "public employee" pursuant to the public employees retirement act, chapter 353. The transferred employees shall have the election to terminate their participation in the public employees retirement association created pursuant to chapter 353. Each transferred employee shall have the right to exercise the election annually on the anniversary date of initial employment by the St. Paul Ramsey Medical Center commission. If an employee exercises the right of election, the employee shall be entitled to any benefits that the employee would be entitled if the employee were terminating public employment. An employee exercising the right of election shall be entitled to participate in any retirement program established or negotiated by the hospital subsidiary corporation.

Subd. 7. [POLITICAL SUBDIVISION.] Solely for the purpose of establishing equitable compensation relationships, the hospital subsidiary corporation shall be considered a political subdivision pursuant to Laws 1984, chapter 651. This subdivision shall not be construed to mean that the hospital subsidiary corporation is a political subdivision for any other purpose.

Sec. 13. [246A.13] [TRANSFER OF RIGHTS.]

Subdivision 1. [CORPORATION AS CONTINUATION OF COMMISSION.] The hospital subsidiary corporation created by section 2 shall be considered a continuation of the St. Paul Ramsey Medical Center commission and not the creation of a new authority. The subsidiary corporation succeeds to all rights and contractual obligations of the commission with the same force and effect as if those rights and obligations had been continued in the commission itself.

Subd. 2. [PENDING MATTERS.] The hospital subsidiary corporation may conduct and complete a legal action, administrative proceeding, or other matter commenced by the

St. Paul Ramsey Medical commission before the effective date of sections 1 to 27, and still pending on that date, in the same manner, under the same conditions, and with the same effect as though the action, proceeding, or other matter were conducted or completed by the commission.

Subd. 3. [TRANSFER OF DOCUMENTS REQUIRED.] *The St. Paul Ramsey Medical commission shall transfer and deliver to the hospital subsidiary corporation all contracts, books, bonds, plans, papers, records, and other property of every description within the jurisdiction or control of the commission.*

Subd. 4. [TRANSFER OF FUNDS.] *All unspent funds appropriated to the St. Paul Ramsey Medical Center commission are transferred and appropriated to the hospital subsidiary corporation.*

Sec. 14. [246A.14] [LEGAL COUNSEL.]

The corporation and its subsidiaries may retain the Ramsey county attorney as its attorney and legal advisor. If legal services are provided by the Ramsey county attorney, the corporation and its subsidiaries shall reimburse Ramsey county for the services and the reimbursement is to be credited to the budget of the Ramsey county attorney.

Sec. 15. [246A.15] [BONDING AUTHORITY.]

Subdivision 1. [MUNICIPALITY.] *The corporation shall be considered a "municipality" pursuant to section 475.51, subdivision 2, for purposes of bond issuance and shall have all the authority conferred on municipalities by chapter 475 unless that authority is modified in this section.*

Subd. 2. [SALE OF BONDS.] *Notwithstanding any enumerated powers, the corporation may issue and sell revenue bonds or other revenue obligations to finance capital improvements or for the acquisition and betterment of additional facilities to be utilized for the delivery of health care and related research or for other proper corporate purposes. The revenue bonds or other revenue obligations must be payable solely from all or a portion of the revenues of the corporation.*

Subd. 3. [SECURITY FOR BONDS.] *The bonds may be secured by a mortgage of the site and facilities, or any part of it. The bonds must be in an amount and shall mature as provided by resolution of the board of directors and may be issued in one or more series and shall bear a date or dates, bear interest at a rate or rates, be in a denomination or denominations, be in the form either coupon or registered, carry the conversion or registration privileges, have rank or priority, be executed in the*

manner, be payable in medium of payment at the place or places, and be subject to the terms of redemption with or without premium as the resolution may provide. The bonds may be sold at public or private sale at a price or prices determined by the resolution. Notwithstanding any law to the contrary, the bonds must be fully negotiable. The corporation may enter into the covenants the board by resolution shall deem necessary and proper to secure payment of the bonds. The revenue bonds must state on their face that they are not payable from nor may be a charge upon any funds other than the revenues and property pledged or mortgaged for their payment, nor shall the corporation be subject to any liability on them or have the power to obligate itself to pay or pay the revenue bonds from funds other than the revenues and property pledged and mortgaged. No holder or holders of the bonds shall ever have the right to compel any exercise of any taxing power of Ramsey county or any other public body to pay the principal of or interest on any of them, nor to enforce payment of them against any property of Ramsey county, the corporation, or any other public body other than that expressly pledged or mortgaged for their payment.

Sec. 16. [246A.16] [OPEN MEETINGS.]

Subdivision 1. [CORPORATION AND HOSPITAL SUBSIDIARY SUBJECT TO OPEN MEETING LAW.] The corporation and the hospital subsidiary corporation shall each be a "public body" for purposes of the Minnesota open meeting law, section 471.705.

Subd. 2. [BOARD ACTION.] Notwithstanding any law to the contrary, the corporation and the hospital subsidiary corporation may meet in executive session to discuss and take action on contractual matters or matters relating to marketing activity.

Sec. 17. [246A.17] [GOVERNMENT DATA PRACTICES ACT.]

Subdivision 1. [POLITICAL SUBDIVISION.] The corporation and the hospital subsidiary corporation shall each be a "political subdivision" for purposes of the Minnesota government data practices act, chapter 13.

Subd. 2. [TRADE SECRET INFORMATION.] Notwithstanding any law to the contrary, data concerning contractual matters or matters relating to marketing activity of the corporation or any of its subsidiaries are "trade secret information" for purposes of classification under section 13.37, subdivision 2.

Sec. 18. [246A.18] [TORT LIABILITY.]

The corporation and the hospital subsidiary corporation shall each be a "municipality" for purposes of tort liability pursuant to chapter 466.

Sec. 19. [246A.19] [PURCHASING.]

Subdivision 1. [MUNICIPALITY STATUS.] The corporation shall not be a "municipality" pursuant to section 471.345, subdivision 1, for the purposes of the uniform municipal contracting law, sections 471.345 to 471.37.

Subd. 2. [SERVICE CONTRACTS.] Notwithstanding any law to the contrary, the corporation may purchase directly or utilize the services of a nonprofit cooperative hospital service organization, the city of St. Paul, the state, the University of Minnesota, or any other political subdivision or agency of the state in the purchase of all goods, materials, and services that the corporation may require. These purchases must be made in compliance with laws of the state, except that purchase through a nonprofit cooperative hospital service organization is not subject to sections 471.345 to 471.37.

Sec. 20. [246A.20] [PUBLIC EMPLOYMENT.]

Unless otherwise provided by sections 1 to 27, the employees of the corporation and its subsidiaries are not "public employees" and the corporation is not a "public employer" for purposes of the public employment labor relations act, chapter 179A and the public employees retirement act, chapter 353.

Sec. 21. [246A.21] [EMPLOYEE SALARY LIMITS AND COMPENSATION.]

Subdivision 1. [EMPLOYEE SALARIES.] Notwithstanding section 43A.17, subdivision 9, or any other law to the contrary, the corporation and its subsidiaries have the discretion to set all employee salaries at levels which are considered appropriate by the respective boards of directors.

Subd. 2. [EMPLOYEE COMPENSATION; CONSTRUCTION AND BUILDING TRADE.] The total compensation package, including wage plus benefit rates, of all employees that are members of a construction or building trade for which there is a generally established and recognized scale of wages inside the county, shall be equal to the total compensation package of private sector construction trade employees within the county as established by collective bargaining agreements.

Sec. 22. [246A.22] [WORKERS' COMPENSATION.]

Subdivision 1. [SELF-INSURANCE.] The corporation and its subsidiaries are exempt from insuring their liability for compensation and are permitted to self-insure their liability pursuant to section 176.181, subdivision 2.

Subd. 2. [BENEFITS.] The appointing authority may provide for the payment of additional benefits to employees from

their accumulated vacation, sick leave, or overtime credits if the employees of the corporation and any of its subsidiaries are entitled to the benefits of the workers' compensation law and have at the time of compensable injury accumulated credits under a vacation, sick leave, or overtime plan or system maintained by the corporation by which they are employed. The additional payments to an employee may not exceed the amount of the total sick leave, vacation, or overtime credits accumulated by the employee and shall not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. The additional payments to any employee shall be charged against the sick leave, vacation, and overtime credits accumulated by the employee. Employees of the corporation and any of its subsidiaries entitled to the benefits of the workers' compensation law may receive additional benefits pursuant to a collective bargaining agreement or other plan, entered into or in effect on or after January 1, 1980, providing payments by or on behalf of the employer and these additional benefits may be unrelated to any accumulated sick leave, holiday, or overtime credits and need not be charged against any accumulation; provided that the additional payments must not result in the payment of a total weekly rate of compensation that exceeds the weekly wage of the employee. The corporation and its subsidiaries may adopt rules and regulations consistent with chapter 179 to carry out this section relating to payment of additional benefits to employees from accumulated sick leave, vacation, overtime credits, or other sources.

Sec. 23. [246A.23] [DEFERRED COMPENSATION; INDIVIDUAL ANNUITY CONTRACTS.]

Subdivision 1. [DEFERRAL OF COMPENSATION.] Notwithstanding any law to the contrary, at the request of an employee of the corporation or any of its subsidiaries, the appointing authority shall by payroll deduction defer the payment of part of the compensation of the employee, as provided in a written agreement between the employee and the appointing authority, in a manner that will qualify the deferred amount for benefits afforded under federal and state tax laws, regulations, and rulings.

Subd. 2. [ANNUITY CONTRACT.] At the request of an employee and as part of the employee's compensation arrangement, the corporation, or any of its subsidiaries may negotiate and purchase an individual annuity contract from a company licensed to do business in the state of Minnesota for an employee for retirement or other purposes and may make payroll allocations in accordance with the arrangement for the purpose of paying the entire premium due or to become due under the annuity contract. The allocation shall be made in a manner that will qualify the annuity premiums, or a portion of them, for the benefit afforded under section 403(b) of the Internal Revenue Code of 1954, or any equivalent provisions of subsequent federal income tax law. The employee is the owner of the contract and the em-

ployee's rights under the contract are nonforfeitable except for failure to pay premiums.

Sec. 24. [246A.24] [TAX EXEMPT STATUS.]

The corporation is an organization exempt from taxation pursuant to chapter 290 and chapter 297A.

Sec. 25. [246A.25] [PREPAID HEALTH PLAN.]

The hospital subsidiary corporation is a county affiliated public teaching hospital for purposes of section 256D.03, subdivision 4.

Sec. 26. [246A.26] [LIMITATIONS UPON CORPORATE POWERS.]

Subdivision 1. [ATTEMPTS TO INFLUENCE LEGISLATION.] The corporation shall not create propaganda or otherwise attempt to influence legislation to such an extent as would result in the loss of exemption under section 501(c)(3) of the Internal Revenue Code of 1954. The corporation shall not participate by the publication or distribution of statements or by any other means, in any political campaign on behalf of any candidate for public office.

Subd. 2. [USE OF INCOME.] No part of the assets or income of the corporation shall be used for objects or purposes which are not exclusively charitable, educational, or scientific under section 501(c)(3) of the Internal Revenue Code of 1954, and the laws of the state of Minnesota.

Subd. 3. [COMPENSATION LIMITATIONS.] No compensation or payment shall ever be made or paid to any officer, director, or trustee or the corporation except as reimbursement for actual expenditures made on behalf of the corporation and as reasonable compensation for services actually rendered. No part of the net earnings and assets of the corporation shall inure to the benefit of any private individual, nor shall any part of the income or assets of the corporation be distributed to or divided among any private individual as dividends or otherwise. The corporation shall not afford pecuniary gain, incidentally or otherwise, to its members except that the corporation may afford pecuniary gain to any member, as designated in the bylaws, that is a nonprofit corporation described in section 501(c)(3) of the Internal Revenue Code of 1954.

Subd. 4. [TRANSFER UPON LIQUIDATION.] In the event of the liquidation or dissolution of the corporation, the net assets of the corporation shall be distributed to an entity qualified for exemption under section 501(c)(3) of the Internal Revenue Code of 1954 or to any federal, state, or local governmental unit for use by it for public purposes.

Sec. 27. [246A.27] [INDIGENT CARE.]

Subdivision 1. [SERVICES.] The hospital subsidiary corporation shall provide hospital and medical services for the indigent of Ramsey county. The services shall be equivalent to those made available to nonindigent patients.

Subd. 2. [FUNDS.] Notwithstanding any law to the contrary, Ramsey county may provide funds for the purchase of medical care for the indigent of Ramsey county from a provider selected by the county with or without public bid.

Sec. 28. [REPEALER.]

Minnesota Statutes 1984, section 383A.41, as amended by Laws 1985, chapter 89, section 21, is repealed.

Sec. 29. [EFFECTIVE DATE.]

Sections 11, 12, 13, and 28 are effective when the initial board of directors take office according to section 3. Sections 1 to 10, and 14 to 27 are effective the day after the Ramsey county board files a certificate of local approval in compliance with section 645.021, subdivision 3."

Amend the title as follows:

Page 1, line 3, after "services" insert ", education,"

Page 1, line 4, delete "that subsidiaries govern" and insert "for governance of"

Page 1, line 5, after the first "and" insert "creation of" and delete "association" and insert "subsidiary"

With the recommendation that when so amended the bill pass.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 1894, A bill for an act relating to environment; providing terms and conditions for the administration of wastewater treatment plant construction grants and loans; appropriating money; amending Minnesota Statutes 1984, sections 115.07, subdivision 1; 115A.14, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 115 and 116.

Reported the same back with the following amendments:

Page 2, line 1, delete "*from*" and insert "*by*"

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

The report was adopted.

Rose from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 1918, A bill for an act relating to health; providing that mosquito research and management activities are not ecologically disruptive; amending Minnesota Statutes 1985 Supplement, section 144.95, subdivisions 1, 2, 3, 7, 9, and 10.

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

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 1945, A bill for an act relating to military affairs; authorizing the department of military affairs to purchase certain insurance; amending Minnesota Statutes 1984, section 15.38, by adding a subdivision.

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

The report was adopted.

Halberg from the Committee on Judiciary to which was referred:

H. F. No. 1950, A bill for an act relating to local government; providing immunity to municipalities for certain claims that occur as a result of the use of parks and recreation areas; amending Minnesota Statutes 1984, section 466.03, by adding a subdivision.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [148.975] [LIMITATION ON LIABILITY; VIOLENT BEHAVIOR OF PATIENT.]

Subdivision 1. [DEFINITIONS.] (a) The definitions in this subdivision apply to this section.

(b) "Practitioner" means a physician, psychologist, nurse, chemical dependency counselor, or social worker who is licensed by the state or who performs psychotherapy within a program or facility licensed by the state or established pursuant to rules adopted under section 62A.152.

(c) "Psychotherapy" means the professional treatment, assessment, or counseling of a mental or emotional illness, symptom, or condition.

Subd. 2. [LIABILITY STANDARD.] No monetary liability and no cause of action may arise against a practitioner for failing to predict, warn of, or take precautions to provide protection from, a patient's violent behavior, unless the patient has communicated to the practitioner or the practitioner has identified a specific, serious threat of physical violence against a specific, clearly identified or identifiable potential victim or victims.

Subd. 3. [DUTY TO WARN.] The duty to warn of, or take reasonable precautions to provide protection from, violent behavior arises only under the limited circumstances specified in subdivision 2. The duty is discharged by the practitioner if reasonable efforts are made to communicate the threat to the potential victim or victims and to notify the law enforcement agency closest to the patient's or potential victim's residence of the threat of violence.

Subd. 4. [DISCLOSURE OF CONFIDENCES.] No monetary liability and no cause of action, or disciplinary action by the state board of psychology, may arise against a practitioner for confidences disclosed to third parties in a good faith effort to discharge a duty arising under this section.

Sec. 2. Minnesota Statutes 1984, section 466.03, is amended by adding a subdivision to read:

Subd. 6d. [PARKS AND RECREATION AREAS.] Any claim based upon the construction, operation, or maintenance of any property owned or leased by the municipality that is intended or permitted to be used as a park, as a playground, as an open area for recreational purposes, or for the provision of recreational services, or from any claim based on the clearing of land, removal of refuse, and creation of trails or paths without artificial surfaces, if the claim arises from a loss incurred by a user of park and recreation property or services. Nothing in this subdivision limits the liability of a municipality for conduct that would entitle a trespasser to damages against a private person.

Sec. 3. Minnesota Statutes 1984, section 549.20, is amended by adding a subdivision to read:

Subd. 4. In a civil action, whether based on contract or tort, no original complaint, crossclaim, counterclaim, or third party claim that seeks unliquidated damages may assert a claim for punitive or exemplary damages. A complaint or claim may be amended to include a claim for punitive or exemplary damages by leave of the court only after discovery is completed. The court shall grant leave to amend the complaint or claim if the parties agree or if the moving party presents evidence supporting the claim for punitive or exemplary damages, and that evidence, in relation to the requirements of this section, is sufficient to withstand a motion for a directed verdict against the moving party on the claim for punitive or exemplary damages.

Any amendment made pursuant to this subdivision relates back to the date of the commencement of the original action for the purposes of any applicable statute of limitations.

Sec. 4. [EFFECTIVE DATE.]

Sections 1 and 2 are effective August 1, 1986, and apply to causes of action arising on or after that date. Section 3 is effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to civil liability; limiting the liability of practitioners for the violent acts of patients; providing immunity to municipalities for certain claims that occur as a result of the use of parks and recreation areas; providing for the manner of claiming punitive damages in civil actions; amending Minnesota Statutes 1984, sections 466.03, by adding a subdivision; 549.20, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 148."

With the recommendation that when so amended the bill pass.

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 1951, A bill for an act relating to human services; revising the community social services act; clarifying allocation of funds; expanding responsibilities of county boards; requiring the county boards to publish biennial plans relating to community social services; amending Minnesota Statutes 1984, sections 256E.05, subdivision 3; 256E.06, subdivision 2; 256E.09, subdivi-

sion 1; and Minnesota Statutes 1985 Supplement, section 256E.08, subdivision 1.

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

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 1953, A bill for an act relating to insurance; accident and health; regulating long-term care policies; requiring coverage for home health care and care in skilled or intermediate nursing facilities; amending Minnesota Statutes 1984, section 62A.31; proposing coding for new law in Minnesota Statutes, chapter 62A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 62A.31, subdivision 1, is amended to read:

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract or other evidence of accident and health insurance issued or delivered in this state shall be sold or issued to an individual age 65 or older covered by medicare unless the following requirements are met:

(a) The policy must provide a minimum of the coverage set out in subdivision 2;

(b) The policy must cover pre-existing conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage;

(c) The policy must contain a provision that the plan will not be canceled or nonrenewed on the grounds of the deterioration of health of the insured; and

(d) An outline of coverage as provided in section 62A.39 must be delivered at the time of application and prior to payment of any premium.

Subd. 1a. [APPLICATION TO CERTAIN POLICIES.] The requirements of sections 62A.31 to 62A.44 shall not apply to disability income protection insurance policies, *long-term care policies issued pursuant to sections 2 to 7*, or group policies of acci-

dent and health insurance which do not purport to supplement medicare issued to any of the following groups:

(a) A policy issued to an employer or employers or to the trustee of a fund established by an employer where only employees or retirees, and dependents of employees or retirees, are eligible for coverage.

(b) A policy issued to a labor union or similar employee organization.

(c) A policy issued to an association, a trust or the trustee of a fund established, created or maintained for the benefit of members of one or more associations. The association or associations shall have at the outset a minimum of 100 persons; shall have been organized and maintained in good faith for purposes other than that of obtaining insurance; shall have a constitution and by-laws which provide that (1) the association or associations hold regular meetings not less frequently than annually to further purposes of the members, (2) except for credit unions, the association or associations collect dues or solicit contributions from members, and (3) the members have voting privileges and representation on the governing board and committees.

Sec. 2. [62A.46] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to sections 2 to 7.

Subd. 2. [LONG-TERM CARE POLICY.] "Long-term care policy" means an individual or group policy, certificate, subscriber contract, or other evidence of coverage that provides benefits for medically prescribed long-term care, including nursing facility services and home care services, pursuant to the requirements of sections 2 to 7. Sections 2 to 7 do not apply to a long-term care policy issued to any group specified in section 62A.31, subdivision 1a, clause (a) or (b).

Subd. 3. [NURSING FACILITY.] "Nursing facility" means (1) a facility that is licensed as a nursing home under chapter 144A; (2) a facility that is both licensed as a boarding care home under sections 144.50 to 144.56 and certified as an intermediate care facility for purposes of the medical assistance program; and (3) in states other than Minnesota, a facility that meets licensing and certification standards comparable to those that apply to the facilities described in clauses (1) and (2).

Subd. 4. [HOME CARE SERVICES.] "Home care services" means one or more of the following medically prescribed services for the long-term care and treatment of an insured that are provided by a home health agency in a noninstitutional setting according to a written diagnosis and plan of care:

(1) *nursing and related personal care services under the direction of a registered nurse, including the services of a home health aide;*

(2) *physical therapy;*

(3) *speech therapy;*

(4) *respiratory therapy;*

(5) *occupational therapy;*

(6) *nutritional services provided by a licensed dietician;*

(7) *homemaker services, meal preparation, and similar nonmedical services;*

(8) *medical social services; and*

(9) *other similar medical services and health-related support services.*

Subd. 5. [MEDICALLY PRESCRIBED LONG-TERM CARE.] "*Medically prescribed long-term care*" means a service, type of care, or procedure that is specified in a plan of care prepared by a physician and a registered nurse and is appropriate and consistent with the physician's diagnosis and that could not be omitted without adversely affecting the patient's illness or condition.

Subd. 6. [QUALIFIED INSURER.] "*Qualified insurer*" means an entity licensed under chapter 62A or 62C.

Subd. 7. [PHYSICIAN.] "*Physician*" means a medical practitioner licensed under sections 147.02, 147.03, 147.031, and 147.037.

Subd. 8. [PLAN OF CARE.] "*Plan of care*" means a written document prepared and signed by a physician and registered nurse that specifies medically prescribed long-term care services or treatment that are consistent with the diagnosis and are in accordance with accepted medical and nursing standards of practice and that could not be omitted without adversely affecting the patient's illness or condition.

Subd. 9. [INSURED.] "*Insured*" means a person covered under a long-term care policy.

Subd. 10. [HOME HEALTH AGENCY.] "*Home health agency*" means an entity that provides home care services and

is (1) certified for participation in the medicare program; or (2) licensed as a home health agency where a state licensing statute exists, or is otherwise acceptable to the insurer if licensing is not required.

Sec. 3. [62A.48] [LONG-TERM CARE POLICIES.]

Subdivision 1. [POLICY REQUIREMENTS.] No individual or group policy, certificate, subscriber contract, or other evidence of coverage of nursing home care or other long-term care services shall be offered, issued, delivered, or renewed in this state, whether or not the policy is issued in this state, unless the policy is offered, issued, delivered, or renewed by a qualified insurer and the policy satisfies the requirements of sections 2 to 7. A long-term care policy must cover medically prescribed long-term care in nursing facilities and at least the medically prescribed long-term home care services in section 2, subdivision 4, clauses (1) to (5), provided by a home health agency. Coverage must include a maximum lifetime benefit limit of at least \$100,000 for services. Nursing facility and home care coverages must not be subject to separate lifetime maximums. Coverage may include a waiting period of up to 90 days before benefits are paid. A requirement of prior hospitalization for up to three days may be imposed only for long-term care in a nursing facility. The policy must include a provision that the plan will not be canceled or renewal refused on the grounds of the deterioration of the health of the insured. A nongroup policyholder may return a policy within 30 days of its delivery and have the premium refunded in full, less any benefits paid under the policy, if the policyholder is not satisfied for any reason.

Subd. 2. [PER DIEM COVERAGE.] If benefits are provided on a per diem basis, the minimum daily benefit for care in a nursing facility must be the lesser of \$60 or actual charges and the minimum daily benefit for home care must be the lesser of \$25 or actual charges. If home care services are provided less frequently than daily, the minimum benefit is the lesser of actual charges or an amount determined by multiplying the number of days of the period during which services will be provided, or a reasonable interval of the service period, by \$25 and dividing the resulting amount by the number of days during this period on which home care services were rendered.

Subd. 3. [EXPENSE-INCURRED COVERAGE.] If benefits are provided on an expense-incurred basis, a benefit of not less than 80 percent of covered charges for medically prescribed long-term care must be provided.

Subd. 4. [LOSS RATIO.] The anticipated loss ratio for long-term care policies must not be less than 65 percent for policies issued on a group basis or 60 percent for policies issued on an individual or mass-market basis.

Sec. 4. [62A.50] [DISCLOSURES AND REPRESENTATIONS.]

Subdivision 1. [SEAL OR EMBLEMS.] No graphic seal or emblem shall be displayed on any policy, or in connection with promotional materials on policy solicitations, that may reasonably be expected to convey to the purchaser that the policy form is approved, endorsed, or certified by a state or local unit of government or agency, the federal government, or a federal agency.

Subd. 2. [CANCELLATION NOTICE.] Long-term care policies issued on a nongroup basis must have a notice prominently printed on the first page of the policy stating that the policyholder may return the policy within 30 days of its delivery and have the premium refunded in full if the policyholder is not satisfied for any reason. A solicitation for a long-term care policy to be issued on a nongroup basis pursuant to a direct-response solicitation must state in substance that the policyholder may return the policy within 30 days of its delivery and have the premium refunded in full if the policyholder is not satisfied for any reason.

Subd. 3. [DISCLOSURES.] No long-term care policy shall be offered or delivered in this state, whether or not the policy is issued in this state, and no certificate of coverage under a group long-term care policy shall be offered or delivered in this state, unless a statement containing at least the following information is delivered to the applicant at the time the application is made:

(1) a description of the benefits and coverage provided by the policy;

(2) a statement of the exceptions and limitations in the policy including the following language, as applicable, in bold print: "THIS POLICY DOES NOT COVER ALL NURSING CARE FACILITIES OR NURSING HOME OR HOME CARE EXPENSES AND DOES NOT COVER RESIDENTIAL CARE. READ YOUR POLICY CAREFULLY TO DETERMINE WHICH FACILITIES AND EXPENSES ARE COVERED BY YOUR POLICY.";

(3) a statement of the renewal provisions including any reservation by the insurer of the right to change premiums;

(4) a statement that the outline of coverage is a summary of the policy issued or applied for and that the policy should be consulted to determine governing contractual provisions;

(5) an explanation of the policy's loss ratio including at least the following language: "This means that, on the average, policyholders may expect that \$ of every \$100 in premium

will be returned as benefits to policyholders over the life of the contract." ; and

(6) a statement of the out-of-pocket expenses, including deductibles and copayments for which the insured is responsible, and an explanation of the specific out-of-pocket expenses that may be accumulated toward any out-of-pocket maximum as specified in the policy.

Sec. 5. [62A.52] [REVIEW OF PLAN OF CARE.]

The insurer may review an insured's plan of care at reasonable intervals, but not more frequently than once every 90 days.

Sec. 6. [62A.54] [PROHIBITED PRACTICES.]

Unless otherwise provided for in sections 1 to 7, the solicitation or sale of long-term care policies is subject to the requirements and penalties applicable to the sale of medicare supplement insurance policies as set forth in sections 62A.31 to 62A.44.

Sec. 7. [62A.56] [RULEMAKING.]

The commissioner may adopt rules pursuant to chapter 14 to carry out the purposes of sections 2 to 7. The rules may:

(1) establish additional disclosure requirements for long-term care policies designed to adequately inform the prospective insured of the need and extent of coverage offered;

(2) prescribe uniform policy forms in order to give the purchaser of long-term care policies a reasonable opportunity to compare the cost of insuring with various insurers; and

(3) establish other reasonable minimum standards as needed to further the purposes of sections 2 to 7.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective June 1, 1986."

Amend the title as follows :

Page 1, line 6, after "62A.31" insert " , subdivision 1"

With the recommendation that when so amended the bill pass and be re-referred to the Committee on Financial Institutions and Insurance.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred :

H. F. No. 1970, A bill for an act relating to state lands ; prescribing appraisal for conveyance of surplus state land in Dakota county to city of Hastings ; amending Laws 1985, chapter 61, section 1.

Reported the same back with the following amendments :

Page 1, line 15, strike "before January 1, 1986" and delete "1987"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred :

H. F. No. 2005, A bill for an act relating to labor ; regulating grants to area labor-management committees ; amending Minnesota Statutes 1985 Supplement, sections 179.81, subdivision 2, and by adding a subdivision ; 179.84 ; and 179.85.

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

The report was adopted.

Rose from the Committee on Environment and Natural Resources to which was referred :

H. F. No. 2021, A bill for an act relating to game and fish ; affording protection to crows and authorizing a season on crows ; amending Minnesota Statutes 1984, sections 100.26, subdivision 2 ; and 100.27, by adding a subdivision.

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

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred :

H. F. No. 2037, A bill for an act relating to unemployment compensation ; providing that benefits resulting from acts of

God are nonchargeable to an employer's account; amending Minnesota Statutes 1984, section 268.06, subdivisions 5 and 24.

Reported the same back with the following amendments:

Page 2, lines 13 to 19, delete the new language and insert "*, or (2) that is located in a county that is designated as a distressed county under 297A.257 and that is directly caused by a fire where 70 percent or more of the employees in the employing unit become unemployed as a result, if the employing unit rebuilds the structures destroyed by fire in an area designated at the time of the fire as a distressed county, the employer shall be subject to payment of contributions at a rate equal to that of a new employer under this chapter. Benefits shall be charged to the employer's account where the unemployment is caused by the intentional act of the employer or a person acting on behalf of the employer*"

Pages 2 and 3, delete section 2 and renumber the remaining section

Amend the title as follows:

Page 1, line 5, delete "subdivisions" and insert "subdivision" and delete "and 24"

With the recommendation that when so amended the bill pass.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2039, A bill for an act relating to housing; extending the interest reduction program; amending Minnesota Statutes 1985 Supplement, section 462.445, subdivision 13.

Reported the same back with the recommendation that the bill pass and be re-referred to the Committee on Taxes.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2051, A bill for an act relating to the city of St. Paul; permitting the establishment of special service districts in the city and providing taxing and other authority.

Reported the same back with the following amendments:

Page 1, line 12, delete "*, but not limited to*"

Page 1, delete lines 17 and 18

Page 1, line 19, delete "*(4)*" and insert "*(3)*"

Page 1, line 20, delete the period and insert "*; and*"

Page 1, after line 20, insert:

"(4) the repair, maintenance, operation, and replacement of improvements constructed or to be constructed as part of the Highland Village Improvement Project and the Grand Avenue Neighborhood Partnership projects, which are within the boundaries of the special service districts established under section 2, subdivision 1."

Page 3, line 16, delete "*all classes of*"

Page 3, line 17, delete "*taxable property excluding homestead property*" and insert "*properties within zoning districts classified by the city of St. Paul as OS-1, B-1, B-2, B-2C, B-3, I-1, and P-1,*"

Page 3, line 24, delete everything after the period

Page 3, delete lines 25 to 27

Page 3, line 28, delete "*sufficient to pay for the increase.*"

With the recommendation that when so amended the bill pass.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2068, A bill for an act relating to the city of Litchfield; permitting certain investments of municipal power agency funds.

Reported the same back with the following amendments:

Page 1, line 10, after "*loan*" delete "*money of the agency not*" and insert "*\$750,000 from the public utility fund*"

Page 1, line 11, delete "*required for immediate use*"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 2071, A bill for an act relating to local government; regulating payment of severance pay; amending Minnesota Statutes 1984, section 465.72.

Reported the same back with the following amendments:

Page 2, delete lines 6 to 15, and insert *"requiring that severance pay be paid within five years of retirement or termination of employment and the provisions of Minnesota Statutes, section 465.72, limiting severance pay to an amount equal to one year of pay do not apply to severance pay to governmental subdivision employees in the form of payment of accumulated sick leave that is used to make contributions on behalf of the former employee toward premiums for group insurance policies provided by the governmental subdivision."*

This subdivision applies only to payments made prior to the effective date of this act or to payments under contracts in existence on the effective date of this act. Any payments of severance pay made by governmental subdivisions according to this section before the effective date of this act are validated."

With the recommendation that when so amended the bill pass.

The report was adopted.

Onnen from the Committee on Health and Human Services to which was referred:

H. F. No. 2072, A bill for an act relating to human services; providing for computer services to comply with long-term sheltered employment program evaluation criteria and for training and employment of persons with disabilities; appropriating money.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 129A.08, is amended by adding a subdivision to read:

Subd. 7. [GRANTS.] The commissioner may use funds allocated to the division of vocational rehabilitation for management information systems to provide grants to long-term sheltered workshops to finance and purchase equipment necessary to: (1) provide the information required to comply with the evaluation criteria developed under subdivision 5; (2) increase sheltered

worker productivity; and (3) train severely disabled people in computer and other high-technology applications. As a condition of receiving a grant for the purposes of (2) or (3) above, the commissioner shall require workshops to provide matching funds."

Delete the title and insert :

"A bill for an act relating to human services; providing for computer services to comply with long-term sheltered employment program evaluation criteria and for training and employment of persons with disabilities; amending Minnesota Statutes 1984, section 129A.08, by adding a subdivision."

With the recommendation that when so amended the bill pass.

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred :

H. F. No. 2089, A bill for an act relating to employment; regulating systems of sharing or pooling gratuities; defining service charges; amending Minnesota Statutes 1984, section 177.23, subdivision 9; Minnesota Statutes 1985 Supplement, section 177.24, subdivision 3.

Reported the same back with the following amendments :

Page 2, line 24, after "to" insert "initiate or"

Page 2, line 28, after "system" insert "that shall be limited to the direct service employees serving the same customer"

Page 2, line 30, delete everything after the period

Page 2, delete lines 31 and 32

Page 2, line 33, delete "employees." and insert "If an employee requests the employer to distribute a portion of the employee's tips, the amount of which shall be determined by the employee, to other employees, the employer shall be permitted to do so."

Page 2, line 33, before "The" insert "Neither" and after "employer" insert "nor any management personnel" and delete "not"

With the recommendation that when so amended the bill pass.

The report was adopted.

Fjoslien from the Committee on General Legislation and Veterans Affairs to which was referred:

H. F. No. 2097, A bill for an act relating to charitable gambling; providing an exemption from regulation to organizations conducting certain raffles; amending Minnesota Statutes 1984, section 349.214, subdivision 2.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1984, section 349.214, is amended by adding a subdivision to read:

Subd. 4. [LAWFUL GAMBLING EVENTS.] An organization that meets the qualifications for licensing in section 349.14 may hold not more than five events in a calendar year at which lawful gambling is conducted without complying with sections 349.12 to 349.14 and 349.151 to 349.212 if:

(1) the organization does not conduct lawful gambling on more than five days in any calendar year; and

(2) total prizes for all forms of lawful gambling awarded by the organization at all events in a calendar year does not exceed \$50,000. Merchandise prizes must be valued at their fair market value.

Sec. 2. [349.171] [POSTED INFORMATION.]

The board shall require by rule that each organization which posts or disseminates advertisements, signs, posters, or other devices which announce that a share of the proceeds are used for a specified lawful purpose must use the term "net proceeds" in describing that share. The rule must require such other information in each such device which the board determines is necessary adequately to inform the public that only the net proceeds from lawful gambling after permitted deductions are devoted to lawful purposes."

Delete the title and insert:

"A bill for an act relating to charitable gambling; providing an exemption from regulation to organizations conducting certain raffles; requiring the charitable gambling control board to require by rule the posting of certain information; amending Minnesota Statutes 1984, section 349.214, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 349."

With the recommendation that when so amended the bill pass.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2111, A bill for an act relating to the city of Medina; authorizing a payment by the city for utility construction.

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2131, A bill for an act relating to local government; permitting the establishment of special service districts in the city of Mendota Heights; providing taxing and other financial authority for the city.

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2132, A bill for an act relating to metropolitan government; providing for the appointment of a senior citizen to the regional transit board; amending Minnesota Statutes 1985 Supplement, section 473.373, subdivision 4.

Reported the same back with the following amendments:

Page 1, line 24, delete "*The*" and insert "*At least one of the members appointed by the council must be*"

Page 1, line 25, delete "*council shall also appoint one additional member who is*"

Page 2, line 1, after "*age*" delete "*or older and a resident of the metropolitan area for an*" and insert "*at the time of the appointment.*"

Page 2, lines 2 and 3, delete the new language

With the recommendation that when so amended the bill pass.

The report was adopted.

Redalen from the Committee on Regulated Industries and Energy to which was referred:

H. F. No. 2143, A bill for an act relating to utilities; permitting certain energy cost adjustments; amending Minnesota Statutes 1984, section 216B.16, subdivision 7.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 2156, A bill for an act relating to traffic regulations; extending the prohibition against wearing headphones while operating a motor vehicle to include bicycles; amending Minnesota Statutes 1984, section 169.471, subdivision 2.

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

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2183, A bill for an act relating to labor; creating the labor interpretative center; establishing an advisory council governing policies and program purposes; appropriating money.

Reported the same back with the following amendments:

Page 2, delete section 2

Amend the title as follows:

Page 1, line 4, delete “; appropriating money”

With the recommendation that when so amended the bill pass.

The report was adopted.

Knickerbocker from the Committee on Governmental Operations to which was referred:

H. F. No. 2185, A bill for an act relating to state government; providing for the use, administration, or disposal of cer-

tain fees and property within the jurisdiction of the commissioner of administration; amending Minnesota Statutes 1985 Supplement, sections 16B.29; 16B.42, subdivision 4; and 16B.48, subdivision 2.

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2187, A bill for an act relating to Olmsted county; increasing the amount the county board may appropriate annually for use as a contingent fund; amending Laws 1965, chapter 433, section 1, as amended.

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2188, A bill for an act relating to local government; permitting the establishment of special service districts in the cities of Cambridge and Lindstrom; providing taxing and other powers to the cities of Cambridge and Lindstrom.

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

The report was adopted.

Rose from the Committee on Environment and Natural Resources to which was referred:

H. F. No. 2209, A bill for an act relating to agriculture; establishing a windbreak management program; exempting certain windbreaks from property taxes; providing a state-paid windbreak credit; appropriating money; amending Minnesota Statutes 1985 Supplement, section 272.02, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 40 and 273.

Reported the same back with the following amendments:

Page 1, line 12, after "6" insert "*and 8*"

Page 2, line 5, after the period delete the remainder of the line

Page 2, delete line 6

Page 2, line 7, delete everything before *"The"*

Page 5, line 14, delete *"must"* and insert *"may"*

Page 5, line 15, delete *"conservation reserve"* and insert *"wind-break management"*

Page 5, line 17, delete *"permanent cover"* and insert *"wind-break planting"*

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2216, A bill for an act relating to land surveying; providing for the surveying of lands by a county board; providing for the establishment of an office of county auditor or the assignment of its duties; providing a penalty; amending Minnesota Statutes 1984, sections 381.01; 381.02; 381.03; 381.04; 381.05; 381.06; 381.07; 381.08; 381.09; 381.10; 381.12; 381.13; 389.011; 389.02; 389.03; 389.04; 389.08; Minnesota Statutes 1985 Supplement, section 389.09, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 381; repealing Minnesota Statutes 1984, section 389.06.

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

The report was adopted.

Redalen from the Committee on Regulated Industries and Energy to which was referred:

H. F. No. 2257, A bill for an act relating to horse racing; modifying certain set-asides for purses; modifying certain tax provisions; amending Minnesota Statutes 1984, section 240.15, subdivisions 1 and 2; Minnesota Statutes 1985 Supplement, section 240.13, subdivision 5.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1985 Supplement, section 240.13, subdivision 5, is amended to read:

Subd. 5. [PURSES.] (a) From the amounts deducted from all pari-mutuel pools by a licensee *which is not located in the seven-county metropolitan area*, an amount equal to not less than five percent of all money in all pools must be set aside by the licensee and used for purses for races conducted by him.

(b) *From the amounts deducted for all pari-mutuel pools by a licensee which is located in the seven-county metropolitan area, an amount equal to seven percent of all money in all pools must be set aside by the licensee and used for purses for races conducted by it.*

(c) The commission may by rule provide for the administration and enforcement of this subdivision.

Sec. 2. Minnesota Statutes 1984, section 240.15, subdivision 1, is amended to read:

Subdivision 1. [TAXES IMPOSED.] (a) There is imposed on the total amount bet on all pari-mutuel pools on each racing day a tax at the following rates:

(1) For each racing day in a calendar year *at a licensed racetrack located outside the seven-county metropolitan area* on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year does not exceed \$48,000,000, 1-3/4 percent of the total amount bet in all pari-mutuel pools.

(2) *For each racing day in a calendar year at a licensed racetrack located outside the seven-county metropolitan area on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year exceeds \$48,000,000 but does not exceed \$150,000,000, 2-1/2 percent of the total amount bet in all pari-mutuel pools.*

(3) For each racing day in a calendar year *at a licensed racetrack located outside the seven-county metropolitan area* after the racing day on which the total amount bet in all pari-mutuel pools at the same licensed racetrack in the same calendar year exceeds (\$48,000,000) \$150,000,000, six percent of the total amount bet in all pari-mutuel pools.

(4) *For a licensed racetrack located within the seven-county metropolitan area, until July 1, 1987, or until the date on which the total amount bet at that racetrack in all pari-mutuel pools since January 1, 1986, exceeds \$161,000,000, whichever occurs first:*

(a) for each racing day in a calendar year on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year, does not exceed \$48,000,000, 1-3/4 percent of the total amount bet in all pari-mutuel pools.

(b) for each racing day in a calendar year on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year exceeds \$48,000,000, six percent of the total amount bet in all pari-mutuel pools.

(5) For a licensed racetrack located within the seven-county metropolitan area, for the period beginning July 1, 1987, and ending December 31, 1987:

(a) for each racing day on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days since July 1, 1987, does not exceed \$100,000,000, one percent of the total amount bet in all pari-mutuel pools.

(b) for each racing day on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days since July 1, 1987, exceeds \$100,000,000, four percent of the total amount bet in all pari-mutuel pools.

(6) For a licensed racetrack located within the seven-county metropolitan area after December 31, 1987:

(a) for each racing day in a calendar year on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year does not exceed \$150,000,000, 2-1/2 percent of the total amount bet in all pari-mutuel pools.

(b) for each racing day in a calendar year on which the total amount bet, together with the total amount bet at the same licensed racetrack in all previous racing days in the same calendar year, exceeds \$150,000,000, four percent of the total amount bet in all pari-mutuel pools.

In addition to the above tax, the licensee in the seven-county metropolitan area must designate and pay to the commission a tax for deposit in the Minnesota breeders fund (, AT THE FOLLOWING RATES:)

((1) FOR RACING DAYS ON WHICH THE STATE TAX UNDER CLAUSE (A)(1) IS 1-3/4 PERCENT, ONE-HALF PERCENT OF THE TOTAL AMOUNT BET IN ALL PARI-MUTUEL POOLS.)

(2) FOR RACING DAYS ON WHICH THE STATE TAX UNDER CLAUSE (A)(2) IS SIX PERCENT, ONE PERCENT OF THE TOTAL AMOUNT BET IN ALL PARI-MUTUEL POOLS) *of one percent of the total amount bet on each day, and a licensee which is not in the seven-county metropolitan area must designate and pay to the commission a tax for deposit in the Minnesota breeders fund of one-half percent on the total amount bet on each day.*

The taxes imposed by this clause must be paid from the amounts permitted to be withheld by a licensee under section 240.13, subdivision 4.

(b) The commission shall impose on each paid admission to each licensed racetrack on a racing day a tax of 40 cents. It may impose an additional admissions tax of not more than ten cents at any licensed racetrack if:

(1) the additional tax is requested by a local unit of government within whose borders the track is located;

(2) a public hearing is held on the request; and

(3) the commission finds that the local unit of government requesting the additional tax is in need of its revenue to meet extraordinary expenses caused by the racetrack.

Sec. 3. [EFFECTIVE DATE.]

Sections 1 and 2 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to horse racing; modifying certain set-asides for purses; modifying certain tax provisions; amending Minnesota Statutes 1984, section 240.15, subdivision 1; Minnesota Statutes 1985 Supplement, section 240.13, subdivision 5."

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

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2292, A bill for an act relating to counties; clarifying county commissioner conflict of interest provisions; authorizing counties to develop and market computer software prod-

ucts; providing a method for consolidation of the offices of county auditor and county treasurer; changing certain referendum provisions for adoption of optional forms of county government; amending Minnesota Statutes 1984, sections 375.09; 375.18, subdivision 7; 375A.11, subdivision 3; 375A.12, subdivisions 3 and 4; and 383C.17; proposing coding for new law in Minnesota Statutes, chapter 375; repealing Minnesota Statutes 1984, sections 394.01 to 394.05.

Reported the same back with the following amendments:

Page 2, line 28, before "APPLICATION" insert "NONPUBLIC DATA;"

Page 2, line 29, delete "Subdivision 1. [NONPUBLIC DATA.]"

Page 2, delete lines 34 to 36

Page 3, delete line 1

Page 4, after line 26, insert:

"Sec. 11. [EFFECTIVE DATE.]

Section 1 does not become effective for any county commissioner currently holding two elected offices until the term of one of the offices expires."

With the recommendation that when so amended the bill pass.

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2294, A bill for an act relating to labor; independent school district No. 709, Duluth; removing certain educational assistants from civil service; amending Laws 1967, chapter 252, section 2, as amended.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Bennett from the Committee on Commerce and Economic Development to which was referred:

H. F. No. 2317, A bill for an act relating to corporations; providing for the resignation of registered agents of foreign corpo-

rations; amending Minnesota Statutes 1984, section 303.10, by adding a subdivision.

Reported the same back with the recommendation that the bill pass and be placed on the Consent Calendar.

The report was adopted.

Valento from the Committee on Local and Urban Affairs to which was referred:

H. F. No. 2329, A bill for an act relating to Dakota county; authorizing the issuance of bonds for the construction of library buildings and an annual levy for debt retirement.

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

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2338, A bill for an act relating to employment; providing training opportunities for technically qualified individuals who may be exposed to hazardous substances, harmful physical agents, or infectious agents; amending Minnesota Statutes 1985 Supplement, section 182.653, subdivisions 4b, 4c, and 4f.

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

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 2364, A bill for an act relating to transportation; railroads; permitting transportation regulation board to approve certain rate changes and applications for track abandonment or discontinuance of service in certain cases without a public hearing; amending Minnesota Statutes 1984, section 221.041, subdivision 1; Minnesota Statutes 1985 Supplement, sections 219.741; and 219.85.

Reported the same back with the following amendments:

Page 3, after line 28, insert:

"Sec. 4. Minnesota Statutes 1984, section 221.291, subdivision 3, is amended to read:

Subd. 3. [TRANSPORTATION OF HAZARDOUS MATERIALS.] A person who ships, transports, or offers for transportation hazardous waste or hazardous material in violation of a provision of this chapter or a rule or order of the commissioner or board adopted or issued under this chapter which specifically applies to the transportation of hazardous material or hazardous waste is guilty of a misdemeanor (AND UPON CONVICTION SHALL BE FINED NOT LESS THAN THE MAXIMUM FINE WHICH MAY BE IMPOSED FOR A MISDEMEANOR FOR EACH VIOLATION)."

Amend the title as follows:

Page 1, line 6, after the semicolon insert "providing for imposition of misdemeanor penalty for certain violations relating to movement of hazardous materials;"

Page 1, line 7, delete "section" and insert "sections" and after the semicolon insert "and 221.291, subdivision 3;"

With the recommendation that when so amended the bill pass.

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 2365, A bill for an act relating to transportation; clarifying procedures in certain contested matters brought before the transportation regulation board; amending Minnesota Statutes 1984, sections 174A.02, subdivision 4; and 216A.05, subdivision 5.

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

The report was adopted.

Carlson, D., from the Committee on Transportation to which was referred:

H. F. No. 2370, A bill for an act relating to transportation; railroads; permitting the transportation regulation board to grant clearance variances without evidentiary hearings in certain cases; amending Minnesota Statutes 1985 Supplement, section 219.47, subdivision 1.

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

The report was adopted.

Heap from the Committee on Labor-Management Relations to which was referred:

H. F. No. 2371, A bill for an act relating to commerce; providing for the repeal of statutory law regulating entertainment agencies; repealing Minnesota Statutes 1984, sections 184A.01 to 184A.20.

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

The report was adopted.

Levi from the Committee on Rules and Legislative Administration to which was referred:

S. F. No. 363, A bill for an act relating to state government; proposing an amendment to the Minnesota Constitution, article IV, section 23; article V, sections 1, 3, and 4; article VII, section 8; article VIII, section 2; article XI, sections 6, 7, 8, and 10; and article XIII, section 11; combining the offices of state treasurer, state auditor, and secretary of state into the office of state comptroller; providing that the first comptroller would be elected in 1990; transferring the powers, responsibilities, and duties of the state auditor, the secretary of state, and the state treasurer to the state comptroller.

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

The report was adopted.

Levi from the Committee on Rules and Legislative Administration to which was referred:

House Resolution No. 40, A house resolution congratulating Mankato West High School for winning the 1986 Minnesota State Academic Decathlon.

Reported the same back with the recommendation that the resolution be adopted.

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 124, 397, 1611, 1732, 1746, 1767, 1803, 1863, 1873, 1875, 1918, 1945, 1950, 1951, 1970, 2005, 2021, 2037, 2051, 2068, 2071, 2072, 2089, 2097, 2111, 2131, 2132, 2143, 2156, 2183, 2185, 2187, 2188, 2216, 2292, 2294, 2317, 2329, 2338, 2364, 2365, 2370 and 2371 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 1575, 1587, 1597 and 363 were read for the second time.

INTRODUCTION AND FIRST READING
OF HOUSE BILLS

The following House Files were introduced:

Krueger; Anderson, G.; Kalis; McEachern and Welle introduced:

H. F. No. 2375, A bill for an act relating to insurance; prohibiting certain tying arrangements; providing deposit requirements for domestic companies; extending coverage under the insurance guaranty association act; extending certain filing, approval, and disapproval dates; broadening fair plan coverage; regulating fraternal benefit societies; regulating forms; amending Minnesota Statutes 1984, sections 60A.06, by adding a subdivision; 60C.09, subdivision 1; 62A.02, subdivisions 2 and 3; 62A.17, subdivision 2; 62B.07, subdivisions 2 and 3; 62C.14, subdivision 10; 62E.14, subdivision 3; 62F.06, subdivision 1; 62F.09; 62G.16, subdivision 9; 65A.32; 65A.33; 65A.34, subdivision 1; 65A.35, subdivisions 1 and 2; 65A.37; 70A.06, subdivision 2; 70A.08, by adding a subdivision; 72A.13, subdivision 1; Minnesota Statutes 1985 Supplement, sections 60A.10, subdivision 1; 64B.03; and 64B.06.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Johnson, Lieder, Valan, Waltman and Jennings, L., introduced:

H. F. No. 2376, A bill for an act relating to transportation; bonding; reallocating proceeds of bridge bonds to counties and cities; appropriating money; amending Laws 1979, chapter 280, section 2, as amended.

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

Munger; Murphy; Jaros; Carlson, D., and Battaglia introduced:

H. F. No. 2377, A bill for an act relating to the Duluth zoo; appropriating money for its costs.

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

Hartle, Norton, Boo, Blatz and Sherman introduced :

H. F. No. 2378, A bill for an act relating to financial institutions; permitting additional detached facilities; amending Minnesota Statutes 1984, sections 47.52; and 49.34, subdivision 2.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Johnson; Sparby; Redalen; Anderson, G., and McDonald introduced :

H. F. No. 2379, A bill for an act relating to wildlife; providing for a wildlife damage abatement and claims program.

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

Boerboom introduced :

H. F. No. 2380, A bill for an act relating to education; independent school district No. 409, Tyler; permitting a fund transfer.

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

Segal introduced :

H. F. No. 2381, A bill for an act relating to crimes; making it a felony to assault or injure a pregnant woman; expanding the crime of criminal vehicular operation; imposing penalties; amending Minnesota Statutes 1984, sections 609.035; and 609.21, by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 609.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

Uphus, McDonald, Piepho, Erickson and Beard introduced :

H. F. No. 2382, A bill for an act relating to crimes; making it a misdemeanor to engage in or recklessly permit "hazing"; authorizing civil actions against student organizations for damages relating to "hazing"; proposing coding for new law in Minnesota Statutes, chapters 127 and 609.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

Blatz introduced:

H. F. No. 2383, A bill for an act relating to retirement; authorizing the purchase of prior service credit for a certain city health administrator.

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

Dyke introduced:

H. F. No. 2384, A bill for an act relating to public safety; drivers' licenses; providing conditions for requiring physician reports for driver's license applicants who are subject to periods of unconsciousness; proposing coding for new law in Minnesota Statutes, chapter 171.

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

Schreiber introduced:

H. F. No. 2385, A bill for an act relating to public indebtedness; providing for the power of municipalities to enter into repurchase and reverse repurchase agreements with qualified dealers; providing for the safekeeping of investments by qualified dealers; amending Minnesota Statutes 1984, section 475.66, subdivision 2; and Minnesota Statutes 1985 Supplement, sections 475.66, subdivision 1; and 475.76, subdivision 1.

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

Sparby introduced:

H. F. No. 2386, A bill for an act relating to human services; providing for a 45-day residency requirement in Minnesota for general assistance; proposing coding for new law in Minnesota Statutes, chapter 256D.

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

Sherman introduced :

H. F. No. 2387, A bill for an act relating to the pollution control agency; removing authority to impose certain fees; changing certain appropriations; amending Minnesota Statutes 1985 Supplement, section 116.07, subdivision 4d; and Laws 1985, First Special Session chapter 13, section 26, subdivisions 2 and 3.

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

McKasy introduced :

H. F. No. 2388, A bill for an act relating to nonprofit corporations; providing for succession of fiduciary capacity in mergers and consolidations; clarifying authority for separate entities to hold church employee benefit plans; amending Minnesota Statutes 1984, sections 317.38; and 317.66, subdivision 1, and by adding a subdivision.

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

Ozment introduced :

H. F. No. 2389, A bill for an act relating to environment; prohibiting the storage of hazardous waste at the University of Minnesota's Rosemount research center; proposing coding for new law in Minnesota Statutes, chapter 116.

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

Minne introduced :

H. F. No. 2390, A bill for an act relating to civil actions; providing for changes in certain time periods relating to the commencement of civil actions; amending Minnesota Statutes 1984, section 541.07.

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

Clausnitzer, Segal and Carlson, J., introduced:

H. F. No. 2391, A bill for an act relating to human services; regulating withholding for purposes of child support; amending Minnesota Statutes 1985 Supplement, section 518.611, subdivisions 4 and 6.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

Stanisus and Kiffmeyer introduced:

H. F. No. 2392, A bill for an act relating to child abuse; providing immunity from liability for disclosure; amending Minnesota Statutes 1985 Supplement, section 626.556, subdivision 4.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

Norton and Levi introduced:

H. F. No. 2393, A bill for an act relating to motor vehicles; designating category of collector military vehicle for registration purposes; exempting certain collector military vehicles and trailers from requirement to display license plates under certain conditions; amending Minnesota Statutes 1984, sections 168.10, subdivisions 1, 1e, 1f, and by adding a subdivision; and 169.73, subdivision 1.

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

Fjoslien introduced:

H. F. No. 2394, A bill for an act relating to veterans; requiring the MIA-POW flag to be flown on the capitol.

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

Rose, DenOuden, Krueger and Battaglia introduced:

H. F. No. 2395, A bill for an act relating to game and fish; legislative oversight over federal fund receipts and expenditures.

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

Marsh and Omann introduced :

H. F. No. 2396, A bill for an act relating to the city of Sartell; authorizing the establishment of a redevelopment district.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Frederick introduced :

H. F. No. 2397, A bill for an act relating to alcoholic beverages; authorizing cities to issue temporary off-sale licenses for the sale of rare wine at auctions; amending Minnesota Statutes 1985 Supplement, section 340A.404, by adding a subdivision.

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

Uphus introduced :

H. F. No. 2398, A bill for an act relating to environment; regulating release of radionuclides into groundwater; proposing coding for new law in Minnesota Statutes, chapter 116C.

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

Begich and Battaglia introduced :

H. F. No. 2399, A bill for an act relating to taxation; authorizing the expansion of a certain enterprise zone; providing for the local contribution for that zone; amending Minnesota Statutes 1985 Supplement, section 273.1314, subdivisions 6 and 16a.

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

Begich and Battaglia introduced :

H. F. No. 2400, A bill for an act relating to health; removing a restriction on use of hospital swing beds; amending Minnesota Statutes 1985 Supplement, section 144.562, subdivision 3.

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

Wenzel introduced:

H. F. No. 2401, A bill for an act relating to taxation; tax-forfeited lands; requiring payment for a certain tract in Morrison county by the state of Minnesota.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Sherman introduced:

H. F. No. 2402, A bill for an act relating to drivers' licenses; providing for side-profile photograph on driver's license or identification card of person under the age of 19; amending Minnesota Statutes 1984, section 171.07, subdivisions 1 and 3.

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

Seaberg; Olsen, S.; Clark; Clausnitzer and Backlund introduced:

H. F. No. 2403, A bill for an act relating to housing; landlord and tenant; requiring heating standards; requiring notice by landlords before entering leased premises; amending Minnesota Statutes 1984, section 504.18, subdivisions 1 and 6; proposing coding for new law in Minnesota Statutes, chapter 504.

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

Tjornhom introduced:

H. F. No. 2404, A bill for an act relating to traffic regulations; authorizing insurers to obtain accident reports directly from the appropriate law enforcement agencies; amending Minnesota Statutes 1984, section 169.09, subdivision 13.

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

Sarna introduced:

H. F. No. 2405, A bill for an act relating to the city of Minneapolis; establishing an election day for the park and recreation board.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Zaffke, Frerichs, Johnson and Jennings, L., introduced :

H. F. No. 2406, A bill for an act relating to unclaimed property; requiring that the sum payable on an abandoned warrant issued by a county be conveyed to the issuing county for deposit in the county treasury; amending Minnesota Statutes 1984, section 345.48, subdivision 1.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Thiede introduced :

H. F. No. 2407, A bill for an act relating to state lands; directing transfer of the Croft Mine Park, and all artifacts, machinery, and other personal property used in its operation, to any one or a combination of the city of Ironton, the city of Crosby, and the Croft historical park board.

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

Ogren introduced :

H. F. No. 2408, A bill for an act relating to public works; providing a replacement for an appropriation to the city of Cloquet for the construction of a public water facility.

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

Dyke and Knuth introduced :

H. F. No. 2409, A bill for an act relating to environment; providing for the adoption of a sewage treatment system construction code; requiring certification of sewage system contractors and inspectors in certain counties; providing for the administration of certification laws by the pollution control agency; authorizing adoption of rules; providing penalties; proposing coding for new law in Minnesota Statutes, chapter 116.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Bennett and Kvam introduced:

H. F. No. 2410, A bill for an act relating to insurance; accident and health; authorizing participation by pharmacists in non-profit health service plans and health maintenance contracts; amending Minnesota Statutes 1984, sections 62C.03, by adding a subdivision; and 62D.12, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Thorson, Bennett, Sarna and Sparby introduced:

H. F. No. 2411, A bill for an act relating to commerce; consumer protection; requiring the repair, refund, or replacement of new motor vehicles under certain circumstances; prescribing certain settlement procedures; amending Minnesota Statutes 1984, section 325F.665, as amended.

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

Brinkman introduced:

H. F. No. 2412, A bill for an act relating to independent school district No. 750, Cold Spring; authorizing the district to make an equal levy for debt service over the next five years.

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

McEachern introduced:

H. F. No. 2413, A bill for an act relating to taxes; permitting variable taxation within cities based on variations in services; proposing coding for new law in Minnesota Statutes, chapter 272.

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

McEachern and Schafer introduced:

H. F. No. 2414, A bill for an act relating to game and fish; authorizing special deer seasons for handicapped hunters within refuges and state parks; amending Minnesota Statutes 1984, section 99.26, by adding a subdivision.

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

Miller, Clausnitzer, Burger, Jacobs and Kalis introduced :

H. F. No. 2415, A bill for an act relating to local government; permitting units of local government to employ public accountants to audit records; amending Minnesota Statutes 1984, sections 6.48; 6.55; 6.64; 6.66; 6.67; 6.68, subdivision 1; 6.70; and 6.71; proposing coding for new law in Minnesota Statutes, chapter 6.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Uphus introduced :

H. F. No. 2416, A bill for an act relating to intoxicating liquor; authorizing Pope County to issue one seasonal on-sale license.

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

Haukoos, Price, Jacobs, Tjornhom and Boerboom introduced :

H. F. No. 2417, A bill for an act relating to utilities; prohibiting public utility commissioners from accepting gifts; amending Minnesota Statutes 1984, section 216A.035.

The bill was read for the first time and referred to the Committee on Regulated Industries and Energy.

Price, Beard and Levi introduced :

H. F. No. 2418, A bill for an act relating to Washington county; permitting the county to finance water systems on behalf of cities and towns in the county by the issuance of county general obligation bonds.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Osthoff introduced :

H. F. No. 2419, A bill for an act relating to civil court actions; prohibiting a claim for punitive damages in an initial complaint; amending Minnesota Statutes 1984, section 549.20, by adding a subdivision.

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

Tompkins, Ozment, Rees and Valento introduced :

H. F. No. 2420, A bill for an act relating to metropolitan waste control; appropriating money to reimburse Farmington for excess charges.

The bill was read for the first time and referred to the Committee on Local and Urban Affairs.

Pappas and Clark introduced :

H. F. No. 2421, A bill for an act relating to criminal law; abolishing the crime of criminal syndicalism; repealing Minnesota Statutes 1984, section 609.405.

The bill was read for the first time and referred to the Committee on Crime and Family Law.

McKasy, Halberg, Simoneau, Kostohryz and Fjoslien introduced :

H. F. No. 2422, A bill for an act relating to elections; providing for recall of certain elected county officials; proposing coding for new law in Minnesota Statutes, chapter 351; repealing Minnesota Statutes 1984, sections 351.03; 351.04; 351.08 to 351.11.

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

Shaver, Osthoff, Scheid, Backlund and Fjoslien introduced :

H. F. No. 2423, A bill for an act relating to elections; providing for the use of certain optical scan electronic voting systems; amending Minnesota Statutes 1984, sections 203B.08, subdivision 1a; proposing coding for new law in Minnesota Statutes, chapter 206.

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

Anderson, R., introduced:

H. F. No. 2424, A bill for an act relating to taxation; authorizing certain refunds of sales tax paid on agricultural electricity; amending Minnesota Statutes 1984, section 297A.35, by adding a subdivision.

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

Scheid, Quinn, Ogren, Wynia and Voss introduced:

H. F. No. 2425, A bill for an act relating to insurance; authorizing the commissioner of commerce to collect specific information from insurers; amending Minnesota Statutes 1984, section 60A.13, by adding a subdivision.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Scheid, Quinn, Ogren, Wynia and Voss introduced:

H. F. No. 2426, A bill for an act relating to insurance; specifying the authority of the commissioner of commerce to approve or disapprove insurance rates; creating procedures for approval or disapproval of rates; amending Minnesota Statutes 1984, sections 70A.04, subdivision 2, and by adding a subdivision; 70A.06, subdivision 1; and 70A.08, subdivision 2; repealing Minnesota Statutes 1984, section 70A.06, subdivisions 2 and 4.

The bill was read for the first time and referred to the Committee on Financial Institutions and Insurance.

Norton and Levi introduced:

H. F. No. 2427, A bill for an act relating to state lands; authorizing exchange of state property with Minnesota transportation museum property.

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

Knickerbocker introduced:

H. F. No. 2428, A bill for an act relating to public employment labor relations; regulating fair share fees; regulating arbitration; defining employer and employee; amending Minnesota Statutes 1984, sections 179A.03, subdivisions 14, 15, and by adding a subdivision; 179A.05, subdivision 6; 179A.07, subdivision 2; 179A.13, by adding a subdivision; 179A.16, subdivisions 4 and 8; and 179A.21, subdivision 2.

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

CONSENT CALENDAR

H. F. No. 1727, A bill for an act relating to agriculture; moving Wadena county from area one to area four for purposes of potato industry promotion; amending Minnesota Statutes 1984, section 17.54, subdivision 9.

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 118 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Fjoslien	Lieder	Pappas	Skoglund
Backlund	Forsythe	Long	Pauly	Solberg
Battaglia	Frederick	Marsh	Peterson	Stanis
Beard	Frederickson	McDonald	Piepho	Staten
Becklin	Frerichs	McEachern	Piper	Swigum
Begich	Greenfield	McKasy	Poppenhagen	Thiede
Bennett	Gutknecht	McLaughlin	Quinn	Thorson
Boerboom	Halberg	McPherson	Quist	Tjornhom
Boo	Hartinger	Metzen	Rees	Tomlinson
Brandl	Hartle	Miller	Rest	Tompkins
Brinkman	Haukoos	Minne	Rice	Tunheim
Brown	Heap	Munger	Richter	Uphus
Burger	Himle	Murphy	Riveness	Valento
Carlson, D.	Jacobs	Nelson, D.	Rodosovich	Vanasek
Carlson, J.	Johnson	Neuenschwander	Rose	Vellenga
Carlson, L.	Kalis	Norton	Sarna	Voss
Clark	Kelly	O'Connor	Schafer	Waltman
Clausnitzer	Kiffmeyer	Olsen, S.	Scheid	Welle
Cohen	Knickerbocker	Olson, E.	Schoenfeld	Wenzel
DenOuden	Knuth	Omann	Seaberg	Wynia
Dimler	Kostohryz	Onnen	Segal	Zaffke
Dyke	Krueger	Osthoff	Shaver	Spk. Jennings, D.
Elioff	Kvam	Otis	Sherman	
Erickson	Levi	Ozment	Simoneau	

The bill was passed and its title agreed to.

H. F. No. 2230, A bill for an act relating to highway traffic regulations; clarifying the evidentiary use of partial alcohol concentration breath tests; amending Minnesota Statutes 1984, section 169.121, subdivision 2.

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 120 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Fjoslien	Lieder	Ozment	Sherman
Backlund	Forsythe	Long	Pappas	Simoneau
Battaglia	Frederick	Marsh	Pauly	Skoglund
Beard	Frederickson	McDonald	Peterson	Solberg
Becklin	Frerichs	McEachern	Piepho	Sparby
Begich	Greenfield	McKasy	Piper	Stanius
Bennett	Gruenes	McLaughlin	Poppenhagen	Staten
Blatz	Gutknecht	McPherson	Price	Thiede
Boo	Hartinger	Metzen	Quinn	Thorson
Brinkman	Hartle	Miller	Quist	Tjornhom
Brown	Haukoos	Minne	Rees	Tomlinson
Burger	Heap	Munger	Rest	Tompkins
Carlson, D.	Himle	Murphy	Rice	Tunheim
Carlson, J.	Jacobs	Nelson, D.	Richter	Uphus
Carlson, L.	Johnson	Neuenschwander	Riveness	Valan
Clark	Kalis	Norton	Rodosovich	Valento
Clausnitzer	Kelly	O'Connor	Rose	Vanasek
Cohen	Kiffmeyer	Ogren	Sarna	Voss
Dempsey	Knickerbocker	Olsen, S.	Schafer	Waltman
DenOuden	Knuth	Olson, E.	Scheid	Welle
Dimler	Kostohryz	Omann	Schoenfeld	Wenzel
Dyke	Krueger	Onnen	Seaberg	Wynia
Elioff	Kvam	Osthoff	Segal	Zaffke
Erickson	Levi	Otis	Shaver	Spk. Jennings, D.

The bill was passed and its title agreed to.

REPORT FROM THE COMMITTEE ON RULES AND LEGISLATIVE ADMINISTRATION

Levi, from the Committee on Rules and Legislative Administration, pursuant to Rule 1.9, designated the following bill as a Special Order to be acted upon immediately preceding General Orders pending for Wednesday, February 26, 1986:

H. F. No. 1766.

SPECIAL ORDERS

CALL OF THE HOUSE

On the motion of Levi and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, G.	Fjoslien	Levi	Ozment	Skoglund
Anderson, R.	Forsythe	Lieder	Pappas	Solberg
Backlund	Frederick	McDonald	Pauly	Stanius
Battaglia	Frederickson	McEachern	Piepho	Staten
Beard	Frerichs	McKasy	Piper	Thorson
Becklin	Greenfield	McLaughlin	Poppenhagen	Tjornhom
Begich	Gruenes	McPherson	Price	Tomlinson
Bennett	Halberg	Metzen	Quinn	Tompkins
Boerboom	Hartinger	Miller	Rees	Tunheim
Boo	Hartle	Munger	Rest	Uphus
Brown	Haukoos	Nelson, D.	Rice	Valan
Burger	Heap	Neuenschwander	Rodosovich	Valento
Carlson, L.	Himle	Norton	Rose	Vanasek
Clark	Johnson	O'Connor	Sarna	Waltman
Clausnitzer	Kalis	Ogren	Schafer	Welle
Cohen	Kelly	Olsen, S.	Scheid	Wenzel
Dempsey	Kiffmeyer	Olson, E.	Schoenfeld	Wynia
DenOuden	Knickerbocker	Omann	Schreiber	Zaffke
Dimler	Knuth	Onnen	Seaberg	Spk. Jennings, D.
Dyke	Kostohryz	Osthoff	Shaver	
Ellingson	Krueger	Otis	Sherman	

Levi 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.

Kalis and Tunheim were excused for the remainder of today's session.

H. F. No. 1766 was reported to the House.

Thorson moved to amend H. F. No. 1766, the third engrossment, as follows:

Page 30, after line 12, insert a rider to read:

"The higher education coordinating board shall apply 100 percent of the sum of its reduction in the 1986 and 1987 fiscal years to the 1986 fiscal year when determining its budget base for the 1988-1989 biennium. In no event shall the resulting 1987 budget base exceed the original 1987 level as established in Laws 1985, First Special Session, chapter 11."

Page 30, line 35, delete "50" and insert "100"

Page 30, line 37, delete the second "1987" and insert "1986"

Page 30, line 39, after the period, insert:

"In no event shall the resulting 1987 budget base exceed the original 1987 level as established in Laws 1985, First Special Session, chapter 11."

A roll call was requested and properly seconded.

Norton moved to re-refer H. F. No. 1766 to the Committee on Appropriations.

A roll call was requested and properly seconded.

The question was taken on the Norton motion and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 62 yeas and 69 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Jacobs	Munger	Piper	Solberg
Battaglia	Jennings, L.	Murphy	Price	Sparby
Beard	Kahn	Nelson, D.	Quinn	Staten
Begich	Kelly	Nelson, K.	Rest	Tomlinson
Brandl	Knuth	Neuenschwander	Rice	Vanasek
Brinkman	Kostohryz	Norton	Riveness	Vellenga
Brown	Krueger	O'Connor	Rodosovich	Voss
Carlson, L.	Lieder	Ogren	Sarna	Welle
Clark	Long	Olson, E.	Scheid	Wenzel
Cohen	McEachern	Osthoff	Schoenfeld	Wynia
Elioff	McLaughlin	Otis	Segal	
Ellingson	Metzen	Pappas	Simoneau	
Greenfield	Minne	Peterson	Skoglund	

Those who voted in the negative were:

Anderson, R.	Dimler	Heap	Onnen	Sherman
Backlund	Dyke	Himle	Ozment	Stanias
Becklin	Erickson	Johnson	Pauly	Svigum
Bennett	Fjoslien	Kiffmeyer	Piepho	Thiede
Bishop	Forsythe	Knickerbocker	Poppenhagen	Thorson
Blatz	Frederick	Kvam	Quist	Tjornhom
Boerboom	Frederickson	Levi	Redalen	Tompkins
Boo	Frerichs	Marsh	Rees	Uphus
Burger	Gruenes	McDonald	Richter	Valan
Carlson, D.	Gutknecht	McKasy	Rose	Valento
Carlson, J.	Halberg	McPherson	Schafer	Waltman
Clausnitzer	Hartinger	Miller	Schreiber	Zaffke
Dempsey	Hartle	Olsen, S.	Seaberg	Spk. Jennings, D.
DenOuden	Haukoos	Omann	Shaver	

The motion did not prevail.

The question recurred on the Thorson amendment and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 131 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Ellingson	Levi	Pauly	Solberg
Anderson, R.	Erickson	Lieder	Peterson	Sparby
Backlund	Fjoslien	Long	Piepho	Stanius
Battaglia	Forsythe	Marsh	Piper	Staten
Beard	Frederick	McDonald	Poppenhagen	Sviggunn
Becklin	Frederickson	McEachern	Price	Thiede
Begich	Frerichs	McKasy	Quinn	Thorson
Bennett	Greenfield	McLaughlin	Quist	Tjornhom
Bishop	Gruenes	McPherson	Redalen	Tomlinson
Blatz	Gutknecht	Metzen	Rees	Tompkins
Boerboom	Halberg	Miller	Rest	Tunheim
Boo	Hartinger	Minne	Rice	Uphus
Brandl	Hartle	Munger	Richter	Valan
Brinkman	Haukoos	Murphy	Rivenness	Valento
Brown	Heap	Nelson, D.	Rodosovich	Vanasek
Burger	Himle	Nelson, K.	Rose	Vellenga
Carlson, D.	Jacobs	Neuenschwander	Sarna	Voss
Carlson, J.	Jennings, L.	Norton	Schafer	Waltman
Carlson, L.	Johnson	O'Connor	Scheid	Welle
Clark	Kahn	Ogren	Schoenfeld	Wenzel
Clausnitzer	Kelly	Olsen, S.	Schreiber	Wynia
Cohen	Kiffmeyer	Olson, E.	Seaberg	Zaffke
Dempsey	Knickerbocker	Omann	Segal	Spk. Jennings, D.
DenOuden	Knuth	Onnen	Shaver	
Dimler	Kostohryz	Otis	Sherman	
Dyke	Krueger	Ozment	Simoneau	
Elioff	Kvam	Pappas	Skoglund	

The motion prevailed and the amendment was adopted.

Carlson, D., offered an amendment to H. F. No. 1766, the third engrossment, as amended.

POINT OF ORDER

Rice raised a point of order pursuant to rule 3.10 that the Carlson, D., amendment was not in order. The Speaker deferred his decision.

Kahn requested a division of the Carlson, D., amendment.

POINT OF ORDER

Olsen, S., raised a point of order pursuant to rule 3.6 relating to the division of a question. The Speaker ruled the point of order well taken.

Long offered an amendment to the Carlson, D., amendment.

PENDING POINT OF ORDER

The pending point of order relating to the Carlson, D., amendment to H. F. No. 1766, as amended, and raised by Rice earlier

today pursuant to rule 3.10 and deferred by the Speaker was reported to the House. The Speaker ruled the point of order well taken and the Carlson, D., amendment out of order.

H. F. No. 1766, as amended, was read for the third time.

POINT OF ORDER

Anderson, G., raised a point of order pursuant to rule 5.8 that H. F. No. 1766, as amended, be re-referred to the Committee on Governmental Operations. The Speaker ruled the point of order not well taken.

Anderson, G., appealed the decision of the Chair.

A roll call was requested and properly seconded.

The vote was taken on the question "Shall the decision of the Speaker stand as the judgment of the House?" and the roll was called.

Levi moved that those not voting be excused from voting. The motion prevailed.

There were 69 yeas and 61 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Dimler	Heap	Onnen	Sherman
Backlund	Dyke	Himle	Ozment	Stanius
Becklin	Erickson	Johnson	Pauly	Sviggum
Bennett	Fjoslien	Kiffmeyer	Piepho	Thiede
Bishop	Forsythe	Knickerbocker	Poppenhagen	Thorson
Blatz	Frederick	Kvam	Quist	Tjornhom
Boerboom	Frederickson	Levi	Redalen	Tompkins
Boo	Frerichs	Marsh	Rees	Uphus
Burger	Gruenes	McDonald	Richter	Valan
Carlson, D.	Gutknecht	McKasy	Rose	Valento
Carlson, J.	Halberg	McPherson	Schafer	Waltman
Clausnitzer	Hartinger	Miller	Schreiber	Zaffke
Dempsey	Hartle	Olsen, S.	Seaberg	Spk. Jennings, D.
DenOuden	Haukoos	Omann	Shaver	

Those who voted in the negative were:

Anderson, G.	Elioff	Lieder	Norton	Quinn
Battaglia	Ellingson	Long	O'Connor	Rest
Beard	Greenfield	McEachern	Ogren	Rice
Begich	Jacobs	McLaughlin	Olson, E.	Riveness
Brandl	Jennings, L.	Metzen	Osthoft	Rodosovich
Brinkman	Kahn	Minne	Otis	Sarna
Brown	Kelly	Murphy	Pappas	Scheid
Carlson, L.	Knuth	Nelson, D.	Peterson	Schoenfeld
Clark	Kostohryz	Nelson, K.	Piper	Segal
Cohen	Krueger	Neuenschwander	Price	Simoneau

Skoglund
Solberg
Sparby

Staten
Tomlinson

Vanasek
Vellenga

Voss
Welle

Wenzel
Wynia

So it was the judgment of the House that the decision of the Speaker should stand.

H. F. No. 1766, A bill for an act relating to government in this state; providing for its financing, structure, and components; making and reducing appropriations for the general legislative, judicial, and administrative expenses of state government with certain conditions; providing for the transfer of certain money in the state treasury; providing for contingency expenditures; creating, modifying, transferring, and abolishing agencies, boards, and functions; adjusting complements; creating certain funds and changing others; providing for farm relief; making cash flow changes and budget adjustments; setting and adjusting certain aid and mill rate amounts; providing for community emergency response hazardous substance protection; clarifying the income tax exclusion of income on the sale of certain agricultural property; repealing the suspension of inflation adjustments; proposing tax compliance measures; providing a sales tax on intoxicating liquor at the wholesale level; providing a property tax refund for certain commercial industrial property taxes for 1987 only; providing for the deposit of certain motor vehicle excise tax proceeds in the general fund; transferring funds from the highway user tax distribution fund and the transit assistance fund to the general fund; setting local government aids for 1987; changing certain reimbursement payment dates; prescribing sales ratio study requirements; extending the property tax payment date by 30 days in the case of certain agricultural property; changing property tax distribution and settlement; changing the special homestead classification for certain disabled persons; providing penalties; appropriating money; amending Minnesota Statutes 1984, sections 15.01; 15.057; 16A.72; 16B.20, subdivision 1; 16B.50; 17.717, subdivision 6; 25.39, subdivision 4; 41.57, by adding a subdivision; 46.041, subdivision 1; 46.131, subdivision 10; 47.54, subdivision 1; 51A.51, subdivisions 1, 2, 3, 3a, and 5; 52.06, subdivision 1; 53.03, subdivision 6; 56.02; 60A.03, subdivision 6; 60A.14, subdivision 1; 60A.17, by adding a subdivision; 60A.23, subdivision 7; 62E.52, subdivisions 2 and 3; 62E.53, subdivisions 1 and 2; 62E.531, subdivision 2; 79.251, subdivision 1; 82.22, subdivision 3; 82.27, by adding a subdivision; 84.01, subdivision 3; 84.028, subdivision 3; 84.082; 84.086; 84.54; 85.016; 97.41, subdivision 2; 104.35, subdivisions 2 and 3; 105.40, subdivisions 1 and 2; 112.35, by adding a subdivision; 115A.15, subdivision 5; 115A.912, subdivision 2, and by adding a subdivision; 115B.-20, subdivisions 5 and 6; 116.07, by adding a subdivision; 116C.-24, subdivision 2a; 116C.25; 116J.01, subdivision 3; 116J.16, subdivisions 1, 2, 4, 5, 6, 7, and 8; 116J.29; 116J.36, subdivision 10; 116J.37, subdivision 6; 116J.401; 116J.402; 116J.403; 116J.-404; 116J.405; 116J.406, subdivisions 2, 3, 4, and 5; 116J.58,

subdivisions 2 and 3; 116J.60; 116J.63; 116J.66; 116J.68, subdivision 2; 116J.74, subdivision 5; 116J.80, subdivision 6; 116J.-873, subdivision 4; 116M.03, subdivision 2, and by adding a subdivision; 116M.05, subdivision 1; 116M.06, subdivisions 4, 7, 8, and 10; 116M.07, subdivision 12; 116M.08, subdivisions 2, 3, 4, 5, 6, 7, 8, 9, 10, 17, 19, 20, and 21; 116M.12, subdivision 6; 121.495; 121.901, subdivision 2; 121.934, subdivision 1; 124.195, subdivision 5; 124.32, subdivision 1c; 124A.02, subdivision 15; 129B.02, as amended; 129B.04, subdivisions 1a and 2; 129B.041, subdivisions 1 and 4; 129B.05, subdivision 2; 129B.43; 136.14; 136C.07, by adding a subdivision; 136C.13, by adding a subdivision; 136C.35; 138.65; 144.68; 144.69; 148.10, by adding a subdivision; 150A.08, by adding a subdivision; 160.265, subdivision 1; 161.1419, subdivision 8; 168.67; 169.871, subdivision 5; 176.183, subdivisions 1 and 1a; 176.603; 176.611, subdivision 2; 197.23, subdivision 2; 197.481, by adding subdivisions; 216B.243, subdivision 6; 216B.62, subdivisions 2 and 3; 237.295, subdivisions 1 and 2; 237.30; 239.10; 256.98; 256B.042, subdivisions 2 and 3, and by adding subdivisions; 256B.37, by adding a subdivision; 256D.05, by adding a subdivision; 270.067, subdivision 5; 270.12, subdivision 2; 270.69, by adding a subdivision; 270.72, subdivisions 1, 2, and 3; 271.01, subdivision 1, and by adding a subdivision; 273.1312, subdivision 1; 273.1314, subdivisions 1 and 16; 273.74, subdivision 5; 276.09; 276.10; 276.11; 278.03; 279.01, as amended; 290.069, subdivision 1; 290.53, subdivision 2; 290.61; 296.13; 297A.01, subdivision 9; 297A.02, by adding a subdivision; 297A.03, subdivision 2; 297A.04; 297A.08; 297A.-18; 297A.27, subdivision 1; 297A.275; 297A.28; 297A.43; 297B.-09, subdivision 2; 299D.03, subdivision 5; 301A.07, subdivision 1; 325F.19, subdivision 3; 325F.24, subdivision 3; 326.20, by adding a subdivision; 326.334, subdivision 7; 349.52, subdivisions 2 and 3; 362A.06; 364.09; 462.384, subdivision 7; 462A.03, subdivision 10; 462A.04, subdivisions 1 and 4; 462A.05, subdivisions 15B, 21, and 23; 465.74, subdivisions 1, 4, and 6; 471.992; 471.996; 471.997; 471.9975; 473.448; 477A.015; 480.242, by adding a subdivision; Minnesota Statutes 1985 Supplement, sections 15A.081, subdivision 8; 40A.03, subdivision 2; 53.03, subdivision 1; 60A.17, subdivision 1a; 92.35; 92.36; 110B.02, by adding a subdivision; 110B.08, subdivision 5; 110B.10, subdivision 1; 116J.58, subdivision 4; 116J.951, subdivision 2; 116J.961, subdivisions 1 and 8; 116M.03, subdivision 17; 116M.04, subdivision 8a; 116M.06, subdivision 2; 116M.07, subdivisions 7a, 7b, and 7c; 116M.08, subdivisions 1, 14, and 15; 116M.11; 116M.-12, subdivisions 3 and 4; 124.225, subdivision 7b; 124.245, subdivision 1; 124A.02, subdivision 9; 124A.03, subdivision 1a; 129C.10, subdivision 5; 136C.06; 144.8093, by adding a subdivision; 147.021, by adding a subdivision; 173.085, subdivision 1; 214.06, subdivision 1; 256.01, subdivisions 2 and 4; 256.74, subdivision 1; 256B.06, subdivision 1; 256B.07; 256B.48, subdivision 6; 256C.26; 256D.03, subdivision 4; 256D.05, subdivision 1; 256D.051, subdivisions 4, 5, 6, and by adding a subdivision; 256D.101, subdivisions 1, 2, and by adding a subdivision; 256D.-37, subdivision 1; 268.0122, subdivisions 2, 3, and by adding a

subdivision; 268.36; 268.673, subdivision 5; 268.6751, subdivisions 1 and 2; 268.871, subdivision 1; 270.063; 270.69, subdivisions 2, 3, and 4; 270.76; 270A.07, subdivision 1; 273.124, by adding a subdivision; 273.13, subdivisions 15a and 22; 273.1314, subdivision 9; 273.74, subdivision 2; 278.05, subdivision 5; 290.-491; 297A.257, subdivisions 1 and 3; 298.28, subdivision 1; 326.241, subdivision 3; 326.244, subdivision 2; 340A.904, subdivision 2; 477A.011, subdivisions 10 and 12; 477A.012; 477A.-013; Laws 1979, chapter 280, section 2, as amended; Laws 1985, chapter 19, section 2, subdivisions 1, 2, and by adding a subdivision; section 6, subdivision 6; First Special Session chapter 9, article 1, section 2, subdivision 5; First Special Session chapter 10, sections 1; 4, subdivisions 1, 9, 10, and 11; 5, subdivisions 1, 2, and 6; 7; 8; 9; 10, subdivision 1; and 125; First Special Session chapter 11, section 4, subdivision 3; First Special Session chapter 12, article 1, section 36, subdivision 3; article 2, section 15, subdivision 2; article 3, section 28, subdivision 10; article 4, section 11, subdivision 6; article 5, section 8; article 5, section 10, subdivisions 2 and 4; article 6, section 28, subdivisions 11, 17, and 20; article 8, section 62, subdivisions 2, 3, 4, 6, 8, 9, 13, 14, 15, and 17; article 8, section 63, subdivisions 2 and 3; article 8, section 64, subdivision 2; article 9, section 3, subdivisions 2 and 3; First Special Session chapter 15, section 23, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 16A; 17; 45; 84; 115A; 116J; 116K; 129B; 135A; 144; 216A; 256; 276; 297A; 299F; 340A; 462; and 480; repealing Minnesota Statutes 1984, sections 3.351, subdivisions 1, 2, 4, and 5; 3.865; 16B.21, subdivision 2; 17.101, subdivision 2; 17.104; 17.105; 19.64, subdivision 5; 41A.02, subdivisions 1, 2, 3, 4, 6, 9, 10, 12, 13, 14, and 15; 41A.03, subdivisions 2 and 4; 41A.04, subdivision 2; 41A.05, subdivision 4; 41A.06, subdivisions 2, 3, and 4; 41A.07; 42.06, subdivision 4; 84.081; 84.083; 86A.09, subdivisions 1, 2, 3, and 4; 86A.10; 89.014, subdivision 2; 105.40, subdivision 7; 105.71; 105.72; 105.73; 105.75; 105.751; 105.76; 105.77; 105.78; 105.79; 112.35, subdivision 4; 115A.07, subdivision 1; 115A.08, subdivisions 1, 2, and 3; 115A.162; 115A.90, subdivision 4; 116J.01, subdivisions 1 and 2; 116J.03; 116J.035, as amended; 116J.04; 116J.05; 116J.-06, subdivisions 4, 5, 6, 7, 8, 10, 11, 12, and 13; 116J.07; 116J.08; 116J.09; 116J.10; 116J.11; 116J.12; 116J.13; 116J.14; 116J.15; 116J.17; 116J.18; 116J.19, subdivisions 1, 2, 3, 4, 5, 6, 7, 9, 10, 11, 12, and 14; 116J.20; 116J.21; 116J.22; 116J.23; 116J.24; 116J.26; 116J.261; 116J.262; 116J.27; 116J.30, subdivision 5; 116J.31; 116J.315; 116J.32; 116J.33; 116J.34; 116J.35; 116J.36, subdivisions 1, 2, 3, 3a, 3b, 3c, 4, 4a, 5, 7, 8, 8a, 9, and 11; 116J.37, subdivisions 2, 3, 4, 5, and 7; 116J.373; 116J.-38; 116J.381; 116J.58, subdivision 1; 116J.59; 116J.61; 116J.-873, subdivisions 1, 2, and 3; 116L.01; 116L.02; 116L.03, as amended; 116L.04, as amended; 116L.05; 116M.01; 116M.02; 116M.03, subdivisions 3, 4, 5, 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, and 26; 116M.04, subdivisions 1, 1a, 2, 3, 4, 5, 7, 8, 10, and 11; 116M.05, subdivisions 1, 2, 3, 4, 5, 6, and 7; 116M.06, subdivisions 1, 6, 11, 12, and 13;

116M.07, subdivisions 1, 3, 5, 6, 7, and 10; 116M.08, subdivisions 13, 16, and 18; 116M.09; 116M.10, as amended; 116M.12, subdivisions 1, 2, and 5; 116M.13, subdivisions 1, 2, and 3; 129B.-01; 129B.05; 136.063; 144.66; 144.67; 144A.071, subdivision 5; 161.1419, as amended; 174.03, subdivision 7; 176.611, subdivisions 3 and 4; 177.41; 177.42; 177.43; 177.44; 216B.165, subdivision 2; 270.067, subdivisions 1, 2, 3, and 4; 270.72, subdivision 5; 297A.02, subdivision 3; 301A.01, subdivision 1; 402.045; 402.-062, subdivision 1; 402.095; 451.09, subdivision 2; 462.375; 462.421, subdivision 21; 462.445, subdivision 8; 462.595; 462A.-072; 472.01; 472.02; 472.03, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 10, 11, 12, and 13; 472.04; 472.05; 472.06; 472.07; 472.08, subdivision 2; 472.09; 472.10; 472.11, subdivisions 1, 2, 4, 5, 6, 7, and 8; 472.12; Minnesota Statutes 1985 Supplement, sections 3.303, subdivision 5; 3.351, subdivision 3; 3.875; 13.76; 41A.01; 41A.02, subdivisions 5, 7, 7a, 8, and 11; 41A.03, subdivisions 1, 3, and 5; 41A.04, subdivisions 1, 3, and 4; 41A.05, subdivisions 1, 2, 3, and 5; 41A.06, subdivisions 1 and 5; 41A.08; 86.33, subdivisions 2 and 3; 105.74; 110B.02, subdivision 2; 116J.035, subdivision 3; 116J.19, subdivision 13; 116J.36, subdivision 6; 116J.37, subdivision 1; 116J.94; 116M.03, subdivision 27; 116M.-04, subdivisions 6 and 9; 116M.05, subdivision 8; 116M.06, subdivisions 3 and 5; 116M.07, subdivisions 2, 4, 8, 9, 11, and 13; 116M.08, subdivisions 11 and 12; 116M.105; 136.63, subdivision 1b; 178.03, subdivision 5; 267.01; 267.02; 267.03; 267.04; 267.-05; 267.06; 268.0111, subdivision 3; 268.66, subdivision 2; 268.-89, subdivision 2; 290.06, subdivision 2f; 472.03, subdivision 9; 472.08, subdivision 1; 472.11, subdivisions 3 and 9; 472.125; 472.13; 472.14; 472.15; 472.16; 474.17, subdivision 3; Laws 1984, chapter 654, article 2, section 146.

The bill, as amended, was placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 70 yeas and 61 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Dimler	Heap	Omann	Shaver
Backlund	Dyke	Himle	Onnen	Sherman
Becklin	Erickson	Jennings, L.	Ozment	Stanius
Bennett	Fjoslien	Johnson	Pauly	Sviggun
Bishop	Forsythe	Kiffmeyer	Piepho	Thiede
Blatz	Frederick	Knickerbocker	Poppenhagen	Thorson
Boerboom	Frederickson	Kvam	Quist	Tjornhom
Boo	Frerichs	Levi	Redalen	Tompkins
Burger	Gruenes	Marsh	Rees	Uphus
Carlson, D.	Gutknecht	McDonald	Richter	Valan
Carlson, J.	Halberg	McKasy	Rose	Valento
Clausnitzer	Hartinger	McPherson	Schafer	Waltman
Dempsey	Hartle	Miller	Schreiber	Zaffke
DenOuden	Haukoos	Olsen, S.	Seaberg	Spk. Jennings, D.

Those who voted in the negative were:

Anderson, G.	Beard	Brandl	Brown	Clark
Battaglia	Begich	Brinkman	Carlson, L.	Cohen

Elioff	McEachern	Ogren	Riveness	Tomlinson
Ellingson	McLaughlin	Olson, E.	Rodosovich	Vanasek
Greenfield	Metzen	Osthoff	Sarna	Vellenga
Jacobs	Minne	Otis	Scheid	Voss
Kahn	Munger	Pappas	Schoenfeld	Welle
Kelly	Murphy	Peterson	Segal	Wenzel
Knuth	Nelson, D.	Piper	Simoneau	Wynia
Kostohryz	Nelson, K.	Price	Skoglund	
Krueger	Neuenschwander	Quinn	Solberg	
Lieder	Norton	Rest	Sparby	
Long	O'Connor	Rice	Staten	

The bill was passed, as amended, and its title agreed to.

GENERAL ORDERS

Levi moved that the bills on General Orders for today be continued one day. The motion prevailed.

MOTIONS AND RESOLUTIONS

Sviggum moved that the name of Simoneau be stricken as an author on H. F. No. 1873. The motion prevailed.

Gutknecht moved that the name of Shaver be added as an author on H. F. No. 2020. The motion prevailed.

Hartinger moved that the name of Wenzel be added as an author on H. F. No. 2026. The motion prevailed.

Solberg moved that the name of Gruenes be added as an author on H. F. No. 2071. The motion prevailed.

Carlson, D., moved that the name of Krueger be added as an author on H. F. No. 2160. The motion prevailed.

Sviggum moved that the name of Clark be added as an author on H. F. No. 2338. The motion prevailed.

Sparby moved that the names of Wenzel and Johnson be added as authors on H. F. No. 2342. The motion prevailed.

Sparby moved that the names of Tunheim, Lieder, Segal and Olson, E., be added as authors on H. F. No. 2346. The motion prevailed.

Frerichs moved that the name of Stanius be added as an author on H. F. No. 2350. The motion prevailed.

Tjornhom moved that the name of Riveness be added as an author on H. F. No. 2358. The motion prevailed.

Nelson, D., moved that the name of Quinn be added as an author on H. F. No. 2361. The motion prevailed.

Valan moved that the name of Sparby be added as an author on H. F. No. 2374. The motion prevailed.

Dyke moved that H. F. No. 2409 be recalled from the Committee on Local and Urban Affairs and be re-referred to the Committee on Environment and Natural Resources. The motion prevailed.

Rees moved that H. F. No. 2353 be recalled from the Committee on Environment and Natural Resources and be re-referred to the Committee on Governmental Operations. The motion prevailed.

House Resolution No. 40 was reported to the House.

HOUSE RESOLUTION NO. 40

A house resolution congratulating Mankato West High School for winning the 1986 Minnesota State Academic Decathlon.

Whereas, the Minnesota Academic Decathlon is a scholastic competition for eleventh and twelfth grade high school students; and

Whereas, the decathlon consists of ten challenging activities including giving a speech, writing an essay, communicating through an interview, participating in the Super Quiz, and written comprehensive examinations in six academic areas; and

Whereas, the decathlon encourages students to develop a greater respect for knowledge, promotes wholesome academic competition, stimulates intellectual growth and achievement, encourages public interest and awareness of outstanding programs in education, and recognizes academic achievement among high school students; and

Whereas, the decathlon is sponsored by the Minnesota Academic Excellence Foundation; and

Whereas, after a series of regional contests, twelve schools competed in the state contest on February 14, 1986, at New Ulm High School; and

Whereas, the team from Mankato West High School won the 1986 Minnesota State Academic Decathlon; and

Whereas, it is appropriate and necessary for the House of Representatives to recognize this important academic achievement; *Now, Therefore*,

Be It Resolved by the House of Representatives of the State of Minnesota that it congratulates Mankato West High School not only for the victory of its academic decathlon team but for the academic achievement level indicated by the victory. In particular, congratulations are extended to Samuel Adams, Chrissi Bloom, Scott Burton, Lynn Casey, Jonathan Frisch, Tim Hallett, Wendy Roth, Emily Stanford, Joe Straus, and coaches Roger Wilker and Marty Wiltgen.

Be It Further Resolved that the Chief Clerk of the House of Representatives is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and that of the Speaker, and present it to the principal of Mankato West High School.

Piepho moved that House Resolution No. 40 be now adopted. The motion prevailed and House Resolution No. 40 was adopted.

Rees moved that H. F. No. 1899 be returned to its author. The motion prevailed.

ADJOURNMENT

Levi moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 2:00 p.m., Thursday, February 27, 1986.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

