

STATE OF MINNESOTA

SEVENTY-FIFTH SESSION—1987

FORTIETH DAY

SAINT PAUL, MINNESOTA, THURSDAY, APRIL 30, 1987

The House of Representatives convened at 12:00 noon and was called to order by Fred C. Norton, Speaker of the House.

Prayer was offered by Craig Burton, East Chain Evangelical Free Church, East Chain, Minnesota.

The roll was called and the following members were present:

Anderson, G.	Frerichs	Larsen	Onnen	Segal
Anderson, R.	Greenfield	Lasley	Orenstein	Shaver
Battaglia	Gruenes	Lieder	Osthoff	Simoneau
Bauerly	Gutknecht	Long	Otis	Skoglund
Beard	Hartle	Marsh	Ozment	Solberg
Begich	Haukoos	McDonald	Pappas	Sparby
Bennett	Heap	McEachern	Pauly	Stanius
Bertram	Himle	McKasy	Pelowski	Steensma
Bishop	Hugoson	McLaughlin	Peterson	Sviggum
Blatz	Jacobs	McPherson	Poppenhagen	Swenson
Boo	Jaros	Milbert	Price	Thiede
Brown	Jefferson	Miller	Quinn	Tjornhom
Burger	Jennings	Minne	Redalen	Tompkins
Carlson, D.	Johnson, A.	Morrison	Reding	Trimble
Carlson, L.	Johnson, R.	Munger	Rest	Tunheim
Carruthers	Johnson, V.	Murphy	Rice	Uphus
Clark	Kahn	Nelson, C.	Richter	Valento
Clausnitzer	Kalis	Nelson, D.	Riveness	Vanasek
Cooper	Kelly	Nelson, K.	Rodosovich	Vellenga
Dauner	Kelso	Neuenschwander	Rose	Voss
DeBlieck	Kinkel	O'Connor	Rukavina	Wagenius
Dempsey	Kludt	Ogren	Sarna	Waltman
Dille	Knickerbocker	Olsen, S.	Schafer	Wenzel
Dorn	Knuth	Olson, E.	Scheid	Winter
Forsythe	Kostohryz	Olson, K.	Schoenfeld	Wynia
Frederick	Krueger	Omann	Seaberg	Spk. Norton

A quorum was present.

Schreiber and Welle were excused until 1:15 p.m. Quist was excused until 1:45 p.m. Jensen was excused until 2:00 p.m.

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

REPORTS OF CHIEF CLERK

Pursuant to Rules of the House, printed copies of H. F. Nos. 753, 1635, 1365, 1629, 1035, 791, 986, 1200, 1482, 71, 1111, 463 and 856 and S. F. Nos. 678, 863, 1296 and 916 have been placed in the members' files.

S. F. No. 863 and H. F. No. 905, which had been referred to the Chief Clerk for comparison, were examined and found to be identical with certain exceptions.

SUSPENSION OF RULES

Reding moved that the rules be so far suspended that S. F. No. 863 be substituted for H. F. No. 905 and that the House File be indefinitely postponed. The motion prevailed.

REPORTS OF STANDING COMMITTEES

Sarna from the Committee on Commerce to which was referred:

H. F. No. 65, A bill for an act relating to consumer protection; requiring cash refunds for goods returned on certain retail sales; providing an exception; proposing coding for new law in Minnesota Statutes, chapter 325F.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

“Section 1. [325F.80] [RETAIL SALES OF CONSUMER GOODS; REFUNDS.]

Subdivision 1. [DEFINITIONS.] For purposes of this section, the following terms have the meanings given them under this subdivision:

(1) “consumer” means a natural person who buys goods for personal, family, or household purposes and not for commercial, agricultural, or business purposes;

(2) “seller” means a person who regularly sells goods at retail to consumers;

(3) “acceptable” means that the goods returned are in a condition acceptable to the seller using reasonable and objective standards, the goods are returned within a reasonable time from the date of

purchase, and proof of purchase is presented by the consumer at time of return;

(4) "cash refund" means the seller provides the consumer cash at the time of the return; or the seller mails a check to the consumer within a reasonable time following return; or, for sales involving financial transaction cards, as defined in section 325G.02, subdivision 3, or sales in which the seller extends credit to the consumer, the seller credits the account that was charged.

Subd. 2. [CASH REFUNDS REQUIRED.] A seller may not refuse to give a cash refund to a consumer for goods that are acceptable for return unless the seller complies with subdivision 3.

Subd. 3. [NOTICE OF REFUND POLICY.] If a seller wishes to alter the cash refund policy required by this section, written notice of the seller's cash refund policy must be clearly and conspicuously displayed on the premises. The notice must be written in bold face type of a minimum size of 14 points.

Subd. 4. [NONAPPLICATION.] This section does not apply to home solicitation sales, as defined in section 325G.06, goods custom ordered or special ordered by the consumer, or a seller licensed under section 168.27.

Subd. 5. [VIOLATION.] A seller who violates this section is subject to the remedies under section 8.31, except that a civil penalty may not exceed \$500."

Delete the title and insert:

"A bill for an act relating to consumer protection; requiring cash refunds for goods returned on certain retail sales; providing enforcement; proposing coding for new law in Minnesota Statutes, chapter 325F."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 275, A bill for an act relating to agriculture; establishing a commercial fish raising program; proposing coding for new law in Minnesota Statutes, chapter 17.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [17.50] [PROGRAM ESTABLISHMENT.]

The commissioner shall establish and promote a program for the commercial raising of fish in fish farms in consultation with an advisory committee consisting of the University of Minnesota, the commissioner of natural resources, the commissioner of agriculture, the commissioner of energy and economic development, the director of the state planning agency, representatives of private fish raising industry, and the chairs of the environment and natural resources committees of the house of representatives and senate.

Sec. 2. Minnesota Statutes 1986, section 97A.475, is amended by adding a subdivision to read:

Subd. 29a. [FISH FARMS.] The fees for the following licenses to be issued to residents and nonresidents are:

(1) for a fish farm, \$250; and

(2) to take sucker eggs from public waters for a fish farm, \$150, plus \$3 for each quart in excess of 100 quarts.

Sec. 3. [97C.203] [DISPOSAL OF STATE HATCHERY EGGS OR FRY.]

(a) The commissioner shall dispose of game fish eggs and fry according to the following order of priorities:

(1) distribution of fish eggs and fry to state hatcheries to hatch fry or raise fingerlings for stocking waters of the state for recreational fishing;

(2) sale of fish eggs and fry to private fish hatcheries to hatch fry or raise fingerlings to stock waters of this state with fingerlings for recreational fishing; and

(3) sale of fish eggs and fry to private fish hatcheries and fish farms to hatch fry or raise fingerlings for sale.

(b) Until July 1, 1990, the commissioner must make at least two percent of the game fish eggs collected available to private hatcheries.

Sec. 4. [97C.209] [FISH FARMS.]

Subdivision 1. [LICENSE REQUIRED.] A person may not operate a fish farm without a fish farm license. A fish farm is a facility for commercially raising fish for sale or human consumption.

Subd. 2. [ACQUISITION OF FISH.] (a) A person operating a fish farm may not obtain fish or fish eggs outside of the state unless the fish are approved by the commissioner. The commissioner must either approve or deny the acquisition within 30 days after receiving a written request for approval.

(b) If the commissioner denies approval, a written notice must be submitted to the applicant stating the reasons for the denial and the commissioner must:

(1) designate approved sources to obtain the desired fish or fish eggs; or

(2) sell the fish or fish eggs from state fish hatcheries at fair market value.

Subd. 3. [RULES FOR OPERATION.] The commissioner shall prescribe rules that allow a person to maintain and operate a fish farm to raise and dispose of fish. The commissioner shall prescribe and assess a fee to cover the cost of inspection and disease certification of fish farms.

Sec. 5. Minnesota Statutes 1986, section 97C.211, subdivision 1, is amended to read:

Subdivision 1. [LICENSE REQUIRED.] A person may not operate a private fish hatchery without a private fish hatchery license. A private fish hatchery is a facility for raising fish for sale for stocking waters.

Sec. 6. Minnesota Statutes 1986, section 97C.211, subdivision 2, is amended to read:

Subd. 2. [RULES FOR OPERATION.] The commissioner shall prescribe rules that allow a person to maintain and operate a private fish hatchery to raise and dispose of fish indigenous to state waters. The commissioner shall establish and assess a fee to cover the cost of inspection and disease certification of private hatcheries.

Sec. 7. Minnesota Statutes 1986, section 97C.211, is amended by adding a subdivision to read:

Subd. 2a. [ACQUISITION OF FISH.] (a) A private fish hatchery may not obtain fish outside of the state unless the fish are approved by the commissioner. The commissioner must either approve or deny the acquisition within 30 days after receiving a written request for approval.

(b) If the commissioner denies approval, a written notice must be submitted to the applicant stating the reasons for the denial and the commissioner must:

(1) designate approved sources to obtain the desired fish or fish eggs; or

(2) sell the fish or fish eggs from state fish hatcheries at fair market value.

Sec. 8. Minnesota Statutes 1986, section 97C.391, is amended to read:

97C.391 [BUYING AND SELLING FISH.]

Subdivision 1. [GENERAL RESTRICTIONS.] A person may not buy or sell fish taken from the waters of this state, except:

(1) minnows;

(2) rough fish excluding ciscoes;

(3) fish taken under licensed commercial fishing operations;

(4) fish raised in a fish farm that are identified as prescribed by the commissioner;

(4) (5) fish raised in a private hatchery that are tagged or labeled or otherwise identified as prescribed by the commissioner; and

(5) (6) fish lawfully taken and subject to sale from other states and countries.

Subd. 2. [RESTRICTIONS ON CERTAIN GAME FISH.] Largemouth bass, smallmouth bass, rock bass, muskellunge, and sunfish may not be bought or sold, unless bought or sold by a private hatchery or fish farm to stock waters for recreational fishing, or as prescribed by the commissioner."

Delete the title and insert:

"A bill for an act relating to natural resources; establishing a commercial fish raising program; amending Minnesota Statutes 1986, sections 97A.475, by adding a subdivision; 97C.211, subdivisions 1 and 2, and by adding a subdivision; and 97C.391; proposing coding for new law in Minnesota Statutes, chapters 17 and 97C."

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 373, A bill for an act relating to metropolitan water management; authorizing county ground water plans; requiring consistency of watershed and ground water plans; amending Minnesota Statutes 1986, sections 473.875; 473.876, by adding subdivisions; and 473.878, subdivisions 3, 5, 6, 7, and 9; proposing coding for new law in Minnesota Statutes, chapter 473.

Reported the same back with the following amendments:

Page 1, after line 10, insert:

"Section 1. Minnesota Statutes 1986, section 112.53, subdivision 2, is amended to read:

Subd. 2. [MAILING.] The managers shall give notice by mail, within one week after the beginning of publication, to the director and to each person, corporation, and public body that owns property benefited or damaged by the proposed improvement as shown by the engineers and appraisers report. The notice shall contain a brief description of the proposed improvement and state: that the engineer's and appraisers' report are on file with the managers and available for public inspection; the time and place of hearing; and that the addressee's name appears as an affected party.

In the case of a metropolitan county defined in section 473.121, subdivision 4, the notice must also include the following:

- (1) the amount to be specially assessed against the property;
- (2) the right of the property owner to prepay the entire assessment and the person to whom prepayment must be made;
- (3) whether partial prepayment of the assessment is authorized;
- (4) the time within which prepayment may be made without the assessment of interest; and
- (5) the rate of interest to be accrued if the assessment is not prepaid within the required time period."

Page 2, line 15, after the period insert "During a period of five years following the effective date of section 10, an adopted watershed

plan must be reviewed for consistency with an adopted county ground water plan, and revised as necessary, whenever the watershed plan undergoes substantial revision or updating. Thereafter,"

Page 6, line 2, after "and" insert "the performance of"

Page 6, line 12, before "ADVISORY" insert "ASSISTANCE;"

Page 6, line 12, before "To" insert "The county may contract with the Minnesota geological survey, the United States geological survey, a soil and water conservation district, or other public or private agencies or persons for services in performing the county's responsibilities regarding the plan under this section and section 473.878. Counties may enter into agreements with other counties or local units of government under section 471.59 for the performance of these responsibilities."

Page 7, line 8, after "shall" insert "make maximum use of existing and available data and studies in preparing the ground water plan and"

Page 7, line 9, after "plan" insert "relevant data from existing plans and studies and"

Page 9, line 20, delete "1 to 9" and insert "2 to 10"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after "plans;" insert "relating to notice procedures in certain counties;"

Page 1, line 5, after "sections" insert "112.53, subdivision 2;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 819, A bill for an act relating to human services; regulating medical assistance payments for therapies provided to nursing home residents; permitting sanctions for unnecessary services; providing for monitoring of therapy costs; setting payment criteria; setting recordkeeping and cost-allocation requirements; providing penalties; amending Minnesota Statutes 1986, sections 256.421, subdivision 1; 256.433; 256B.064, subdivision 1a; 256B.47,

subdivision 1, and by adding subdivisions; and 256B.48, subdivision 1.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 256B.064, subdivision 1a, is amended to read:

Subd. 1a. [GROUNDS FOR MONETARY RECOVERY AND SANCTIONS AGAINST VENDORS.] The commissioner may seek monetary recovery and impose sanctions against vendors of medical care for any of the following: fraud, theft, or abuse in connection with the provision of medical care to recipients of public assistance; a pattern of presentment of false or duplicate claims or claims for services not medically necessary; a pattern of making false statements of material facts for the purpose of obtaining greater compensation than that to which the vendor is legally entitled; suspension or termination as a Medicare vendor; and refusal to grant the state agency access during regular business hours to examine all records necessary to disclose the extent of services provided to program recipients. No sanction may be imposed or monetary recovery obtained against any vendor of nursing home or convalescent care for providing services not medically necessary when the services provided were ordered by a licensed health professional not an employee of the vendor. The determination of services not medically necessary shall be made by the commissioner in consultation with a provider peer advisory committee appointed by the commissioner on the recommendation of appropriate professional organizations.

Sec. 2. Minnesota Statutes 1986, section 256B.421, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] For the purposes of this section and sections 256B.41, 256B.411, 256B.431, 256B.433, 256B.47, 256B.48, 256B.50, and 256B.502, the following terms and phrases shall have the meaning given to them.

Sec. 3. Minnesota Statutes 1986, section 256B.433, is amended to read:

256B.433 [ANCILLARY SERVICES.]

Subdivision 1. [SETTING PAYMENT; MONITORING USE OF THERAPY SERVICES.] The commissioner shall promulgate rules pursuant to the administrative procedure act to set the amount and method of payment for ancillary materials and services provided to recipients residing in ~~long-term care facilities~~ nursing homes. Payment for materials and services may be made to either the nursing

home in the operating cost per diem, to the vendor of ancillary services pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080 or to a nursing home pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080. Payment for the same or similar service to a recipient shall not be made to both the nursing home and the vendor. The commissioner shall ensure the avoidance of double payments through audits and adjustments to the nursing home's annual cost report as required by section 256B.47, and that charges and arrangements for ancillary materials and services are cost effective and as would be incurred by a prudent and cost conscious buyer. Therapy services provided to a recipient must be medically necessary and appropriate to the medical condition of the recipient. If the vendor, nursing home, or ordering physician cannot provide adequate medical necessity justification, as determined by the commissioner and an advisory committee that meets the requirements of section 256B.064, subdivision 1a, the commissioner may recover or disallow the payment for the services and shall require prior authorization for therapy services as a condition of payment or shall impose administrative sanctions to limit the vendor, nursing home, or ordering physician's participation in the medical assistance program.

Subd. 2. [CERTIFICATION THAT TREATMENT IS APPROPRIATE.] The physical therapist, occupational therapist, speech therapist, or audiologist who provides or supervises the provision of therapy services, other than an initial evaluation, to a medical assistance recipient must certify in writing that the therapy's nature, scope, duration, and intensity are appropriate to the medical condition of the recipient every 30 days. The therapist's statement of certification must be maintained in the recipient's medical record together with the specific orders by the physician and the treatment plan. If the recipient's medical record does not include these documents, the commissioner may recover or disallow the payment for such services. The commissioner shall utilize a peer review program that meets the requirements of section 256B.064, subdivision 1a, to make recommendations regarding the medical necessity of services provided.

Subd. 3. [SEPARATE BILLINGS FOR THERAPY SERVICES.] Until new procedures are developed under subdivision 4, payment for therapy services provided to nursing home residents that are billed separate from nursing home's payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, shall be subject to the following requirements:

(a) The practitioner invoice must include, in a format specified by the commissioner, the provider number of the nursing home where the medical assistance recipient resides regardless of the service setting.

(b) Nursing homes that are related by ownership, control, agreement, affiliation, or employment status to the vendor of therapy

services shall report, in a format specified by the commissioner, the revenues received during the reporting year for therapy services provided to residents of the nursing home. The commissioner shall offset the revenues received during the reporting year for therapy services provided to residents of the nursing home to the total payment rate of the nursing home by dividing the amount of offset by the nursing home's actual resident days. Except as specified in paragraphs (d) and (f), the amount of offset shall be the revenue in excess of 105 percent of the cost removed from the cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. In establishing a new base period for the purpose of setting operating cost payment rate limits and rates, the commissioner shall not include the revenues offset in accordance with this section.

(c) Nursing homes shall limit charges in total to vendors of therapy services for renting space, equipment, or obtaining other services during the rate year to 105 percent of the annualized cost removed from the reporting year cost report resulting from the requirement of the commissioner to ensure the avoidance of double payments as determined by section 256B.47. If the arrangement for therapy services is changed so that a nursing home is subject to this paragraph instead of paragraph (b), the cost that is used to determine rent must be adjusted to exclude the annualized costs for therapy services that are not provided in the rate year. The maximum charges to the vendors shall be based on the commissioner's determination of annualized cost and may be subsequently adjusted upon resolution of appeals.

(d) The commissioner shall require reporting of all revenues relating to the provision of therapy services and shall establish a therapy cost, as determined by section 256B.47, to revenue ratio for the reporting year ending in 1986. For subsequent reporting years, the ratio may increase five percentage points in total until a new base year is established under paragraph (e). Increases in excess of five percentage points may be allowed if adequate justification is provided to and accepted by the commissioner. Unless an exception is allowed by the commissioner, the amount of offset in paragraph (b) is the greater of the amount determined in paragraph (b) or the amount of offset that is imputed based on one minus the lesser of (1) the actual reporting year ratio or (2) the base reporting year ratio increased by five percentage points, multiplied by the revenues.

(e) The commissioner may establish a new reporting year base for determining the cost to revenue ratio.

(f) If the arrangement for therapy services is changed so that a nursing home is subject to the provisions of paragraph (b) instead of paragraph (c), an average cost to revenue ratio based on the ratios of nursing homes that are subject to the provisions of paragraph (b) shall be imputed for paragraph (d).

(g) This section does not allow unrelated nursing homes to reorganize related organization therapy services and provide services among themselves to avoid offsetting revenues. Nursing homes that are found to be in violation of this provision shall be subject to the penalty requirements of section 256B.48, subdivision 1, paragraph (f).

Subd. 4. [ADVISORY GROUP.] The commissioner shall convene an advisory group consisting of nursing home consumers, therapists from each discipline, and representatives of the nursing home industry. The commissioner, in consultation with the advisory group, shall study alternative methods of payment for therapy services provided to nursing home residents and shall prepare a report with recommendations to the legislature before February 1, 1989.

Sec. 4. Minnesota Statutes 1986, section 256B.47, subdivision 1, is amended to read:

Subdivision 1. [NONALLOWABLE COSTS.] The following costs shall not be recognized as allowable: (1) political contributions; (2) salaries or expenses of a lobbyist, as defined in section 10A.01, subdivision 11, for lobbying activities; (3) advertising designed to encourage potential residents to select a particular nursing home; (4) assessments levied by the commissioner of health for uncorrected violations; (5) legal and related expenses for unsuccessful challenges to decisions by governmental agencies; (6) memberships in sports, health or similar social clubs or organizations; and (7) costs incurred for activities directly related to influencing employees with respect to unionization; and (8) direct and indirect costs of providing services which are billed separately from the nursing home's payment rate or pursuant to Minnesota Rules, parts 9500.0750 to 9500.1080. The commissioner shall by rule exclude the costs of any other items not directly related to the provision of resident care.

Sec. 5. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

Subd. 3. [ALLOCATION OF COSTS.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing residents of nursing homes that are not hospital attached with therapy services that are billed separately from the nursing home payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report as follows:

(a) The costs of wages and salaries for employees providing or participating in providing and consultants providing services shall be allocated to the therapy service based on direct identification.

(b) The costs of fringe benefits and payroll taxes relating to the costs in paragraph (a) must be allocated to the therapy service based on direct identification or the ratio of total costs in paragraph (a) to the sum of total allowable salaries and the costs in paragraph (a).

(c) The costs of housekeeping, plant operations and maintenance, real estate taxes, special assessments, property and insurance, other than the amounts classified as a fringe benefit, must be allocated to the therapy service based on the ratio of service area square footage to total facility square footage.

(d) The costs of bookkeeping and medical records must be allocated to the therapy service either by the method in paragraph (e) or based on direct identification. Direct identification may be used if adequate documentation is provided to, and accepted by, the commissioner.

(e) The costs of administrators, bookkeeping, and medical records salaries, except as provided in paragraph (d), must be allocated to the therapy service based on the ratio of the total costs in paragraphs (a) to (d) to the sum of total allowable nursing home costs and the costs in paragraphs (a) to (d).

Sec. 6. Minnesota Statutes 1986, section 256B.47, is amended by adding a subdivision to read:

Subd. 4. [ALLOCATION OF COSTS; HOSPITAL-ATTACHED FACILITIES.] To ensure the avoidance of double payments as required by section 256B.433, the direct and indirect reporting year costs of providing therapy services to residents of a hospital-attached nursing home, when the services are billed separately from the nursing home's payment rate or according to Minnesota Rules, parts 9500.0750 to 9500.1080, must be determined and deducted from the appropriate cost categories of the annual cost report based on the Medicare step-down as prepared in accordance with instructions provided by the commissioner.

Sec. 7. Minnesota Statutes 1986, section 256B.48, subdivision 1, is amended to read:

Subdivision 1. [PROHIBITED PRACTICES.] A nursing home is not eligible to receive medical assistance payments unless it refrains from all of the following:

(a) Charging private paying residents rates for similar services which exceed those which are approved by the state agency for medical assistance recipients as determined by the prospective desk audit rate, except under the following circumstances: the nursing home may (1) charge private paying residents a higher rate for a private room, and (2) charge for special services which are not included in the daily rate if medical assistance residents are charged

separately at the same rate for the same services in addition to the daily rate paid by the commissioner. Services covered by the payment rate must be the same regardless of payment source. Special services, if offered, must be offered to all residents and charged separately at the same rate. Residents are free to select or decline special services. Special services must not include services which must be provided by the nursing home in order to comply with licensure or certification standards and that if not provided would result in a deficiency or violation by the nursing home. Services beyond those required to comply with licensure or certification standards must not be charged separately as a special service if they were included in the payment rate for the previous reporting year. A nursing home that charges a private paying resident a rate in violation of this clause is subject to an action by the state of Minnesota or any of its subdivisions or agencies for civil damages. A private paying resident or the resident's legal representative has a cause of action for civil damages against a nursing home that charges the resident rates in violation of this clause. The damages awarded shall include three times the payments that result from the violation, together with costs and disbursements, including reasonable attorneys' fees or their equivalent. A private paying resident or the resident's legal representative, the state, subdivision or agency, or a nursing home may request a hearing to determine the allowed rate or rates at issue in the cause of action. Within 15 calendar days after receiving a request for such a hearing, the commissioner shall request assignment of an administrative law judge under sections 14.48 to 14.56 to conduct the hearing as soon as possible or according to agreement by the parties. The administrative law judge shall issue a report within 15 calendar days following the close of the hearing. The prohibition set forth in this clause shall not apply to facilities licensed as boarding care facilities which are not certified as skilled or intermediate care facilities level I or II for reimbursement through medical assistance.

(b) Requiring an applicant for admission to the home, or the guardian or conservator of the applicant, as a condition of admission, to pay any fee or deposit in excess of \$100, loan any money to the nursing home, or promise to leave all or part of the applicant's estate to the home;

(c) Requiring any resident of the nursing home to utilize a vendor of health care services who is a licensed physician or pharmacist chosen by the nursing home;

(d) Providing differential treatment on the basis of status with regard to public assistance;

(e) Discriminating in admissions, services offered, or room assignment on the basis of status with regard to public assistance. Admissions discrimination shall include, but is not limited to:

(1) basing admissions decisions upon assurance by the applicant to the nursing home, or the applicant's guardian or conservator, that the applicant is neither eligible for nor will seek public assistance for payment of nursing home care costs; and

(2) engaging in preferential selection from waiting lists based on an applicant's ability to pay privately.

The collection and use by a nursing home of financial information of any applicant pursuant to the preadmission screening program established by section 256B.091 shall not raise an inference that the nursing home is utilizing that information for any purpose prohibited by this paragraph;

(f) Requiring any vendor of medical care as defined by section 256B.02, subdivision 7, who is reimbursed by medical assistance under a separate fee schedule, to pay any amount based on utilization or service levels or any portion of the vendor's fee to the nursing home except as payment for renting or leasing space or equipment of the nursing home or purchasing support services, if these from the nursing home as limited by section 256B.433. All agreements are must be disclosed to the commissioner; and upon request of the commissioner. Nursing homes and vendors of ancillary services that are found to be in violation of this provision shall each be subject to an action by the state of Minnesota or any of its subdivisions or agencies for treble civil damages on the portion of the fee in excess of that allowed by this provision and section 256B.433. Damages awarded must include three times the excess payments together with costs and disbursements including reasonable attorneys' fees or their equivalent.

(g) Refusing, for more than 24 hours, to accept a resident returning to the same bed or a bed certified for the same level of care, in accordance with a physician's order authorizing transfer, after receiving inpatient hospital services.

The prohibitions set forth in clause (b) shall not apply to a retirement home with more than 325 beds including at least 150 licensed nursing home beds and which:

(1) is owned and operated by an organization tax-exempt under section 290.05, subdivision 1, clause (i); and

(2) accounts for all of the applicant's assets which are required to be assigned to the home so that only expenses for the cost of care of the applicant may be charged against the account; and

(3) agrees in writing at the time of admission to the home to permit the applicant, or the applicant's guardian, or conservator, to examine the records relating to the applicant's account upon request, and to receive an audited statement of the expenditures

charged against the applicant's individual account upon request; and

(4) agrees in writing at the time of admission to the home to permit the applicant to withdraw from the home at any time and to receive, upon withdrawal, the balance of the applicant's individual account.

For a period not to exceed 180 days, the commissioner may continue to make medical assistance payments to a nursing home or boarding care home which is in violation of this section if extreme hardship to the residents would result. In these cases the commissioner shall issue an order requiring the nursing home to correct the violation. The nursing home shall have 20 days from its receipt of the order to correct the violation. If the violation is not corrected within the 20-day period the commissioner may reduce the payment rate to the nursing home by up to 20 percent. The amount of the payment rate reduction shall be related to the severity of the violation, and shall remain in effect until the violation is corrected. The nursing home or boarding care home may appeal the commissioner's action pursuant to the provisions of chapter 14 pertaining to contested cases. An appeal shall be considered timely if written notice of appeal is received by the commissioner within 20 days of notice of the commissioner's proposed action.

In the event that the commissioner determines that a nursing home is not eligible for reimbursement for a resident who is eligible for medical assistance, the commissioner may authorize the nursing home to receive reimbursement on a temporary basis until the resident can be relocated to a participating nursing home.

Certified beds in facilities which do not allow medical assistance intake on July 1, 1984, or after shall be deemed to be decertified for purposes of section 144A.071 only."

Amend the title as follows:

Page 1, line 9, delete "256.421" and insert "256B.421" and delete "256.433" and insert "256B.433"

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

The report was adopted.

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

H. F. No. 894, A bill for an act relating to human services; creating a new chapter establishing a single, unitary process for the deter-

mination of residence and financial responsibility for all human service programs; amending Minnesota Statutes 1986, section 253B.23, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 256G; repealing Minnesota Statutes 1986, sections 256.73, subdivision 4; 256.76, subdivision 2; 256.79; 256B.02, subdivisions 1, 2, and 3; 256D.18; 256D.37, subdivision 3; and 256E.08, subdivision 7.

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

The report was adopted.

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

H. F. No. 913, A bill for an act relating to workers' compensation; making technical changes in benefit levels; authorizing the commissioner of labor and industry to perform various tasks; providing for the determination of medical causation; imposing a filing fee for certain appeals; making various administrative changes; providing penalties; amending Minnesota Statutes 1986, sections 176.011, subdivisions 2 and 7a; 176.101, subdivisions 3a, 3b and 3j; 176.102, subdivisions 2, 3, and 3a; 176.103, subdivisions 2 and 3; 176.105, subdivision 4; 176.129, subdivisions 11 and 13; 176.131, subdivisions 1, 1a, and 8; 176.139; 176.179; 176.181, subdivision 3; 176.182; 176.191, subdivisions 1 and 2; 176.225, subdivision 2; 176.2421, subdivision 1; 176.511, subdivisions 1 and 3; repealing Minnesota Statutes 1986, section 176.243.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 14.48, is amended to read:

14.48 [CREATION OF OFFICE OF ADMINISTRATIVE HEARINGS; CHIEF ADMINISTRATIVE LAW JUDGE APPOINTED; OTHER ADMINISTRATIVE LAW JUDGES APPOINTED.]

A state office of administrative hearings is created. The office shall be under the direction of a chief administrative law judge who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. Senate confirmation of the chief administrative law judge shall be as provided by section 15.066. The chief administrative law judge may hear cases and shall appoint additional administrative law judges and compensation judges to serve in the office as necessary to fulfill the duties

prescribed in sections 14.48 to 14.56 and chapter 176. The chief administrative law judge may delegate to a subordinate employee the exercise of a specified statutory power or duty as deemed advisable, subject to the control of the chief administrative law judge. Every delegation must be by written order filed with the secretary of state. All administrative law judges and compensation judges shall be in the classified service except that the chief administrative law judge shall be in the unclassified service, but may be removed only for cause. All administrative law judges shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Sec. 2. Minnesota Statutes 1986, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which consists of five representatives of employers and five representatives of employees; five nonvoting members representing the general public; and two persons who have received or are currently receiving workers' compensation benefits under chapter 176 and the chairpersons of the rehabilitation review panel and the medical services review board. The council may consult with any party it desires. The terms and removal of members shall be as provided in section 15.059. The council is not subject to section 15.059, subdivision 5.

Sec. 3. Minnesota Statutes 1986, section 175.101, subdivision 2, is amended to read:

Subd. 2. The commissioner shall keep a full and true record of all proceedings of the workers' compensation division, issue all necessary processes, writs, warrants, and notices which the division is required or authorized to issue and generally act as the administrator of the division of workers' compensation in the department of labor and industry. Notices and other documents required to be served or filed on the division of workers' compensation ~~or the workers' compensation court of appeals~~ shall be served on the commissioner.

Sec. 4. Minnesota Statutes 1986, section 176.011, subdivision 2, is amended to read:

Subd. 2. [CHILD.] "Child" includes a posthumous child, a child entitled by law to inherit as a child of a deceased person, a child of a person adjudged by a court of competent jurisdiction to be the

father of the child, and a stepchild, grandchild, or foster child who was a member of the family of a deceased employee at the time of injury and dependent upon the employee for support. A stepchild is a "child" within the meaning of section 176.041.

Sec. 5. Minnesota Statutes 1986, section 176.011, subdivision 6, is amended to read:

Subd. 6. (1) "Court of appeals" means the workers' compensation court of appeals of Minnesota.

(2) "Division" means the workers' compensation division of the department of labor and industry.

(3) "Department" means the department of labor and industry.

(4) "Commissioner", unless the context clearly indicates otherwise, means the commissioner of labor and industry.

(5) "Office" means the office of administrative hearings.

Sec. 6. Minnesota Statutes 1986, section 176.011, subdivision 7a, is amended to read:

Subd. 7a. ~~[COMPENSATION JUDGE.] The title referee as used in this chapter, relating to workers' compensation is hereby changed to~~ (1) Compensation judge means a workers' compensation judge at the office of administrative hearings.

(2) "Calendar judge" means a workers' compensation judge at the office of administrative hearings.

(3) "Settlement judge" means a compensation judge at the department of labor and industry. Settlement judges may conduct settlement conferences, issue summary decisions, approve settlements and issue awards thereon, determine petitions for attorney fees and costs, and make other determinations, decisions, orders, and awards as may be delegated to them by the commissioner.

Sec. 7. Minnesota Statutes 1986, section 176.011, subdivision 9, is amended to read:

Subd. 9. [EMPLOYEE.] "Employee" means any person who performs services for another for hire including the following:

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, police officer, firefighter, county highway engineer, and peace officer while engaged in the enforcement of peace or in the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;

(4) a county assessor;

(5) an elected or appointed official of the state, or of any county, city, town, school district or governmental subdivision in it. An officer of a political subdivision elected or appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(6) an executive officer of a corporation, except ~~an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (c), or an executive officer of a closely held corporation who is referred to in section 176.012~~ those executive officers excluded by section 176.041;

(7) a voluntary uncompensated worker, other than an inmate, rendering services in state institutions under the commissioner of human services and state institutions under the commissioner of corrections similar to those of officers and employees of these institutions, and whose services have been accepted or contracted for by the commissioner of human services or the commissioner of corrections as authorized by law, shall be employees. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(8) a voluntary uncompensated worker engaged in peace time in the civil defense program when ordered to training or other duty by the state or any political subdivision of it, shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services where the services are performed by paid employees;

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the

wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

(10) a voluntary uncompensated worker accepted by the commissioner of natural resources who is rendering services as a volunteer pursuant to section 84.089 shall be an employee. The daily wage of the worker for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(11) a member of the military forces, as defined in section 190.05, while in state active service, as defined in section 190.05, subdivision 5a. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

(12) a voluntary uncompensated worker, accepted by the director of the Minnesota historical society, rendering services as a volunteer, pursuant to chapter 138, shall be an employee. The daily wage of the worker, for the purposes of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of injury or death for similar services where the services are performed by paid employees;

(13) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota School for the Deaf or the Minnesota Braille and Sight-Saving School, and whose services have been accepted or contracted for by the state board of education, as authorized by law, shall be an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(14) a voluntary uncompensated worker, other than a resident of the veterans home, who renders services at a Minnesota veterans home, and whose services have been accepted or contracted for by the commissioner of veterans affairs, as authorized by law, is an employee. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services are performed by paid employees;

(15) a worker who renders in-home attendant care services to a physically handicapped person, and who is paid directly by the commissioner of human services for these services, shall be an employee of the state within the meaning of this subdivision, but for no other purpose;

(16) those students enrolled in and regularly attending the medical school of the University of Minnesota, whether in the graduate school program or the post-graduate program, notwithstanding that the students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation payable under this chapter, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits payable under this chapter;

(17) a faculty member of the University of Minnesota employed for the current academic year is also an employee for the period between that academic year and the succeeding academic year if:

(a) the faculty member has a contract or reasonable assurance of a contract from the University of Minnesota for the succeeding academic year; and

(b) the personal injury for which compensation is sought arises out of and in the course of activities related to the faculty member's employment by the University of Minnesota; and

(18) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(19) a voluntary uncompensated worker, accepted by the commissioner of administration, rendering services as a volunteer at the department of administration. In the event of injury or death of the voluntary uncompensated worker, the daily wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid at the time of the injury or death for similar services in institutions where the services were performed by paid employees.

In the event it is difficult to determine the daily wage as provided in this subdivision, then the trier of fact may determine the wage upon which the compensation is payable.

Sec. 8. Minnesota Statutes 1986, section 176.011, subdivision 16, is amended to read:

Subd. 16. [PERSONAL INJURY.] "Personal injury" means injury arising out of and in the course of employment and includes personal injury caused by occupational disease and mental injury caused by job-related stress; but does not cover an employee except while engaged in, on, or about the premises where the employee's services require the employee's presence as a part of such service at the time of the injury and during the hours of such service. Functional loss of use or impairment of function, permanent in nature, is a permanent injury. Where the employer regularly furnished transportation to employees to and from the place of employment such employees are subject to this chapter while being so transported, but shall not include an injury caused by the act of a third person or fellow employee intended to injure the employee because of personal reasons, and not directed against the employee as an employee, or because of the employment.

Sec. 9. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 27. [ADMINISTRATIVE CONFERENCE.] An "administrative conference" is a meeting conducted by a commissioner's designee where parties can discuss on an expedited basis and in an informal setting their viewpoints concerning disputed issues arising under section 176.102, 176.103, 176.135, 176.136, or 176.239. If the parties are unable to resolve the dispute, the commissioner's designee shall issue an administrative decision under section 176.106 or section 60.

Sec. 10. Minnesota Statutes 1986, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of economic recovery compensation or lump sum or periodic payment of impairment compensation, permanent partial disability the employee and employer shall be furnished with

a copy of the medical report upon which the payment is based and all other medical reports which the insurer has that indicate a permanent partial disability rating, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. ~~Economic recovery compensation or impairment compensation~~ Permanent partial disability pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability but is payable pursuant to section 176.101. ~~Impairment compensation~~ Permanent partial disability is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. ~~Economic recovery compensation or impairment compensation pursuant to section 176.101~~ but shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of ~~economic recovery compensation or impairment compensation~~ permanent partial disability against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. ~~Economic recovery compensation or impairment compensation~~ Permanent partial disability is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to and not contingent upon payment for any other compensation, subject to section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive ~~economic recovery compensation or impairment compensation~~ permanent partial disability vests in an injured employee at the time the disability can be ascertained provided that the employee lives for at least 30 days beyond the date of the injury. Upon the death of an employee who is receiving ~~economic recovery compensation or impairment compensation~~, further compensation is payable pursuant to section 176.101. ~~Impairment compensation~~ is payable under this paragraph if vesting has occurred; the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.

Disability ratings for permanent partial disability shall be based on objective medical evidence.

Sec. 11. Minnesota Statutes 1986, section 176.041, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYMENTS EXCLUDED.] This chapter does not apply to any of the following:

(a) 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~~ (b) a person employed by a family farm as defined by section 176.011, subdivision 11a,

~~or~~ (c) the spouse, parent, and child, regardless of age, of a farmer-employer working for the farmer-employer;

(d) a sole proprietor, or the spouse, parent, and child, regardless of age, of a sole proprietor;

~~to~~ (e) 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~~ (f) an executive officer of a family farm corporation;

to (g) an executive officer of a closely held corporation referred to in section 176.012 having less than 22,880 hours of payroll in the preceding calendar year, if that executive officer owns at least 25 percent of the stock of the corporation;

~~to~~ (h) 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~~ (i) a spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012 who is referred to in paragraph (g);

~~to~~ (j) 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~~ (k) 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;

(l) persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 except that this exclusion does not apply to an employee of an independent contractor; nor does this chapter apply to

(m) 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 (n) a person employed as a household worker in, for, or about a private home or household who earns less than \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$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 \$1,000 in the present quarter;

This chapter does not apply to these (o) persons employed by a closely held corporation if those persons who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to the officers an officer of the corporation, and who is referred to in paragraph (g), if the corporation files a written election with the commissioner to have those persons excluded from this chapter except that exclude such individuals. 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 (p) a nonprofit association which does not pay more than \$1,000 in salary or wages in a year;

This chapter does not apply to (q) persons covered under the Domestic Volunteer Service Act of 1973, as amended, United States Code, title 42, sections 5011, et. seq.

Sec. 12. Minnesota Statutes 1986, section 176.041, is amended by adding a subdivision to read:

Subd. 1a. [ELECTION OF COVERAGE.] The persons, partnerships and corporations described in this subdivision 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, 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 independent contractor (1) elects in writing to be covered, (2) is issued an endorsement setting forth the terms of the coverage, the name of the independent contractors, and the fee and how it is calculated.

The persons, partnerships and corporations described in this subdivision 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 subdivision. 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 subdivision 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 subdivision 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 subdivision. An election of coverage under this subdivision shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

Nothing in this subdivision 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. 13. Minnesota Statutes 1986, section 176.081, subdivision 2, is amended to read:

Subd. 2. An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the division commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a

compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested and the basis for the request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 14. Minnesota Statutes 1986, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] For injury producing temporary total disability, the compensation is 66⅔ percent of the weekly wage 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 percent of the statewide average weekly wage or the injured employee's actual weekly wage, whichever is less. 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.~~

(3) This compensation shall be paid during the period of disability, but not exceeding 500 weeks, payment to be made at the intervals when the wage was payable, as nearly as may be.

Sec. 15. Minnesota Statutes 1986, 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 66⅔ percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition. This compensation shall be paid during the period of disability, but not exceeding 500 weeks, except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage.

If the employer does not furnish the worker with work which the worker can do in a temporary partially disabled condition and the worker is unable to procure such work with another employer, after reasonably diligent effort, the employee shall be paid at the full compensation rate for the temporary total disability.

Sec. 16. Minnesota Statutes 1986, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] For permanent partial disability compensation shall be that named in the following schedule:

(1) For the loss of a thumb the permanent partial disability rate at the time of injury during 65 weeks;

(2) For the loss of a first finger, commonly called index finger the permanent partial disability rate at the time of injury during 40 weeks;

(3) For the loss of a second finger the permanent partial disability rate at the time of injury during 35 weeks;

(4) For the loss of a third finger the permanent partial disability rate at the time of injury during 25 weeks;

(5) For the loss of a fourth finger, commonly called the little finger the permanent partial disability rate at the time of injury during 20 weeks;

(6) The loss of the first phalange of the thumb or of any finger, is considered equal to the loss of one-half of the thumb or finger and compensation shall be paid at the prescribed rate during one-half the time specified for the loss of the thumb or finger;

(7) The loss of one and one-half or more phalanges is considered equal to the loss of the entire finger or thumb; but in no case shall the amount received for more than one finger exceed the amount provided in this schedule for the loss of a hand;

(8) For the loss of a great toe the permanent partial disability rate at the time of injury during 35 weeks;

(9) For the loss of a toe other than a great toe the permanent partial disability rate at the time of injury during 15 weeks;

(10) The loss of the first phalange of any toe is considered equal to the loss of one-half of the toe, and compensation shall be paid at the permanent partial disability rate during one-half the time specified for the loss of the toe;

(11) The loss of one and one-half or more phalanges is considered equal to the loss of the entire toe;

(12) For the loss of a hand, not including the wrist movement, the permanent partial disability rate at the time of injury during 195 weeks;

(13) For the loss of a hand, including wrist movement, the permanent partial disability rate at the time of injury during 220 weeks;

(14) For the loss of an arm the permanent partial disability rate at the time of injury during 270 weeks;

(15) Amputation of the arm below the elbow is considered the loss of a hand, including wrist movement, if enough of the forearm remains to permit the use of an effective artificial member, otherwise it is considered the loss of an arm;

(16) For the loss of a foot, not including ankle movement, the permanent partial disability rate at the time of injury during 140 weeks;

(17) For the loss of a foot, including ankle movement, the permanent partial disability rate at the time of injury during 165 weeks;

(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member the permanent partial disability rate at the time of injury during 195 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used the permanent partial disability rate at the time of injury during 220 weeks;

(20) Amputation of a leg below the knee is considered as equal to the loss of a foot, including ankle movement, if enough of the lower leg remains to permit the use of an effective artificial member, otherwise it is considered as equal to the loss of a leg;

(21) For the loss of an eye the permanent partial disability rate at the time of injury during 160 weeks;

(22) For the complete permanent loss of hearing in one ear the permanent partial disability rate at the time of injury during 85 weeks;

(23) For the complete permanent loss of hearing in both ears the permanent partial disability rate at the time of injury during 170 weeks;

(24) For the loss of an eye and a leg the permanent partial disability rate at the time of injury during 475 weeks;

(25) For the loss of an eye and an arm the permanent partial disability rate at the time of injury during 475 weeks;

(26) For the loss of an eye and a hand the permanent partial disability rate at the time of injury during 450 weeks;

(27) For the loss of an eye and a foot the permanent partial disability rate at the time of injury during 400 weeks;

(28) For the loss of two arms, other than at the shoulder, the permanent partial disability rate at the time of injury during 500 weeks;

(29) For the loss of two hands the permanent partial disability rate at the time of injury during 500 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used, the permanent partial disability rate at the time of injury during 500 weeks;

(31) For the loss of two feet the permanent partial disability rate at the time of injury during 500 weeks;

(32) For the loss of one arm and the other hand the permanent partial disability rate at the time of injury during 500 weeks;

(33) For the loss of one hand and one foot the permanent partial disability rate at the time of injury during 500 weeks;

(34) For the loss of one leg and the other foot the permanent partial disability rate at the time of injury during 500 weeks;

(35) For the loss of one leg and one hand the permanent partial disability rate at the time of injury during 500 weeks;

(36) For the loss of one arm and one foot the permanent partial disability rate at the time of injury during 500 weeks;

(37) For the loss of one arm and one leg the permanent partial disability rate at the time of injury during 500 weeks;

(38) For the loss of the voice mechanism the permanent partial disability rate at the time of injury during 500 weeks;

(39) For head injuries the permanent partial disability rate at the time of injury for that proportion of 500 weeks which is represented by its percentage of the permanent partial disability to the entire

body as is determined from competent testimony at a hearing before a compensation judge or as determined by the workers' compensation court of appeals in cases on appeal;

(40) For permanent partial disability resulting from injury to any internal organ the permanent partial disability rate at time of injury for that proportion of 500 weeks, not to exceed 500 weeks, which is the proportionate amount of permanent partial disability caused to the entire body by the injury as is determined from competent testimony at a hearing before a compensation judge or the workers' compensation court of appeals in cases on appeal;

(41) For disfigurement or scarring not resulting from the loss of a member or other injury specifically compensated affecting the employability or advancement opportunity of the injured person in the employment in which the employee was injured or other employment for which the employee is then qualified or for which the employee has become qualified, the permanent partial disability rate at the time of injury during the period the parties agree to or the compensation judge or the workers' compensation court of appeals in cases on appeal determines, not exceeding 90 weeks;

(42) For permanent partial disability resulting from injury to the back the permanent partial disability rate at the time of the injury for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge, the commissioner, or the workers' compensation court of appeals;

(43) When an employee sustains concurrent injuries resulting in concurrent disabilities the employee shall receive compensation only for the injury which entitled the employee to the largest amount of compensation, but this does not affect liability for disfigurement affecting the employability of the injured person or liability for the concurrent loss of more than one member, for which members compensations are provided in the specific schedule and in subdivision 5;

(44) In all cases of permanent partial disability it is considered that the permanent loss of the use of a member is equivalent to and draws the same compensation as the loss of that member, but the compensation provided by this schedule shall be in lieu of all other compensation in these cases, except as otherwise provided by this section;

In the event a worker has been awarded or is entitled to receive compensation for loss of use of a member under any workers' compensation law, and thereafter sustains loss of the member under circumstances entitling the employee to compensation therefor under this subdivision, the amount of compensation awarded, or that the employee is entitled to receive, for the loss of use, is to be

deducted from the compensation due under the schedules of this section for the loss of the member, provided, that the amount of compensation due for the loss of the member caused by this subsequent accident is in no case less than 25 percent of the compensation payable under the schedule of this section for the loss of the member;

(45) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the permanent partial disability rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

(46) In cases of permanent partial disability caused by simultaneous injury to two or more members, the applicable schedules in this subdivision shall be increased by 15 percent. This clause shall not apply when the injuries are compensated under paragraphs 22 to 37. In cases of permanent partial disability due to injury to both eyes resulting in less than total loss of vision in one or both eyes compensation shall be paid at the permanent partial disability rate during that part of 450 weeks which the extent of the combined injury to both eyes bears to the complete loss of industrial vision;

(47) For permanent partial disability resulting from injury to the body as a whole due to burns the permanent partial disability rate at the time of injury, for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge, the compensation to be paid in addition to the compensation an employee would otherwise be entitled to for loss of use of a member in accordance with this section;

(48) In all cases of permanent partial disability not enumerated in this schedule compensation shall be 66 $\frac{2}{3}$ percent of the difference between the daily wage of the worker at the time of the injury and the daily wage he is able to earn in the partially disabled condition, subject to a maximum equal to the statewide average weekly wage, and continue during disability, not to exceed 350 weeks; and if the employer does not furnish the worker with work which the worker can do in the permanently partially disabled condition and the worker is unable to secure such work with another employer after reasonable diligent effort, the employee shall be paid at the worker's maximum rate of compensation for total disability;

(49) The permanent partial disability payable as the result of any injury shall not exceed 750 weeks;

(50) The compensation rate for permanent partial disability shall be \$300 per week.

Sec. 17. Minnesota Statutes 1986, section 176.101, subdivision 5, is amended to read:

Subd. 5. [TOTAL DISABILITY.] The total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties, or any other injury which totally incapacitates the employee from working at an occupation which brings the employee an income constitutes total disability. Notwithstanding the above, an employee who sustains one or more of the above described disabilities shall not be considered permanently and totally disabled if the employee is able to earn substantial income on a sustained gainful basis.

Sec. 18. Minnesota Statutes 1986, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services; ~~the fitness of qualified rehabilitation consultants and vendors to continue to be approved under this section and has authority to discipline, by fine or otherwise, the consultants or vendors who act in violation of this chapter or rules adopted pursuant to this chapter.~~ The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 19. Minnesota Statutes 1986, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member and two members each from employers, insurers, rehabilitation, and medicine, one member representing chiropractors, and four members representing labor. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to ~~(a) appeals regarding eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivisions 9 and 11; (b) appeals on any other rehabilitation issue the commissioner determines under this section; and (c) appeals from orders of the commissioner regarding fee disputes, penalties, discipline, certification approval or revocation of registration of qualified rehabilitation~~

consultants and approved vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Subd. 3a. [DISCIPLINARY ACTIONS.] The panel has authority to discipline qualified rehabilitation consultants and vendors and may impose a penalty of up to \$1,000 per violation, and may suspend or revoke certification. Complaints against registered qualified rehabilitation consultants and vendors shall be made to the commissioner who shall investigate all complaints. If the investigation indicates a violation of this chapter or rules adopted under this chapter, the commissioner may initiate a contested case proceeding under the provisions of chapter 14. In these cases, the rehabilitation review panel shall make the final decision following receipt of the report of an administrative law judge. The decision of the panel is appealable to the workers' compensation court of appeals in the manner provided by section 176.421. The panel shall continuously study rehabilitation services and delivery and, develop and recommend rehabilitation rules to the commissioner, and assist the commissioner in accomplishing public education.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one labor member, one employer or insurer member, and one member representing medicine, chiropractic, or rehabilitation.

Sec. 20. Minnesota Statutes 1986, section 176.102, subdivision 3a, is amended to read:

Subd. 3a. 3b. [REVIEW PANEL APPEALS DETERMINATIONS.] Appeals to the review panel Recommendations from the administrative law judge following a contested case hearing shall be heard before determined by a panel of five members designated by the review panel. Each five-member panel shall consist of at least one labor member, at least one employer or insurer member, and at least one member representing medicine, chiropractic, or rehabilitation. The number of labor members and employer or insurer members on the five-member panel shall be equal. The determination of the five-member panel shall be by a majority vote and shall represent the determination of the entire review panel and is not subject to review by the panel as a whole. When conducting a review of the commissioner's determination regarding any rehabilitation issue or plan the panel shall give the parties notice that the appeal will be heard. This notice shall be given at least ten working days prior to the hearing. The notice shall state that parties may be represented by counsel at the hearing. In conducting its review the panel shall permit an interested party to present relevant, competent, oral or written evidence and to cross-examine opposing evidence. Evidence presented is not limited to the evidence previously submitted to the

commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision. The panel may adopt rules of procedure which may be joint rules with the medical services review board.

Sec. 21. Minnesota Statutes 1986, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT] (a) An employer or insurer ~~shall~~ may provide rehabilitation consultation by a qualified rehabilitation consultant or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation ~~shall~~ may be made within five days after the employee has 30 days of lost work time due to the injury. The lost work time in either case may be intermittent lost work time. If an employer or insurer has medical information at any time prior to the time specified in this subdivision that the employee will be unable to return to the job the employee held at the time of the injury rehabilitation consultation ~~shall~~ may be provided immediately after receipt of this information.

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

The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest.

The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to the case, including any attorneys, doctors, or chiropractors.

If the employee objects to the employer's selection of a qualified rehabilitation consultant, the employee shall notify the employer and the commissioner in writing of the objection. The notification shall include the name, address, and telephone number of the

qualified rehabilitation consultant chosen by the employee to provide rehabilitation consultation.

Upon receipt of the notice of objection, the commissioner may schedule an administrative conference for the purpose of determining which qualified rehabilitation consultant may be mutually acceptable. The employee has the final decision on which qualified rehabilitation consultant is to be utilized.

The employee may choose a different qualified rehabilitation consultant as follows:

(1) once during the first 60 days following the first in-person contact between the employee and the original consultant;

(2) once after the 60-day period referred to in clause (1); and

(3) subsequent requests shall be determined by the commissioner or compensation judge according to the best interests of the parties.

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

(b) If the employer does not provide rehabilitation consultation as required permitted by this section, the commissioner shall notify the employer that if the employer fails to appoint a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner determines the consultation is not required. the employee may request rehabilitation consultation upon the earliest of the following: (a) 180 days after the injury if the employee has not returned to preinjury employment or to another employment at a wage equal to or in excess of the employee's weekly wage; or (b) has received medical information indicating that the employee will be unable to return to the job held at the time of injury; or (c) agreement of the parties upon the request of the employee, rehabilitation shall be provided by the employer and insurer as provided in this section.

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

(d) The commissioner may waive rehabilitation consultation under this section if the commissioner is satisfied that the employee

will return to work in the near future or that rehabilitation consultation will not be useful in returning an employee to work.

Sec. 22. Minnesota Statutes 1986, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. A decision of the commissioner may be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court.

Sec. 23. Minnesota Statutes 1986, section 176.102, subdivision 8, is amended to read:

Subd. 8. [PLAN MODIFICATION.] Upon request to the commissioner or compensation judge by the employer, the insurer, or employee, or upon the commissioner's own request, the plan may be suspended, terminated or altered upon a showing of good cause, including:

(a) a physical impairment that does not allow the employee to pursue the rehabilitation plan;

(b) the employee's performance level indicates the plan will not be successfully completed;

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

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

(e) that the employee is not likely to benefit from further rehabilitation services.

An employee may request a change in a rehabilitation plan once because the employee feels ill-suited for the type of work for which rehabilitation is being provided. If the rehabilitation plan includes retraining, this request must be made within 90 days of the beginning of the retraining program. Any decision of the commis-

sioner regarding a change in a plan may be appealed to the rehabilitation review panel within 30 days of the decision.

Sec. 24. Minnesota Statutes 1986, section 176.102, subdivision 10, is amended to read:

Subd. 10. [REHABILITATION; CONSULTANTS AND VENDORS.] The commissioner shall approve rehabilitation consultants who may propose and implement plans if they satisfy rules adopted by the commissioner for rehabilitation consultants. A consultant may be an individual or public or private entity, but and except for the division of rehabilitation services, department of jobs and training, a consultant may not be a vendor or the agent of a vendor of rehabilitation services. The commissioner shall also approve rehabilitation vendors if they satisfy rules adopted by the commissioner.

Sec. 25. Minnesota Statutes 1986, section 176.102, subdivision 13, is amended to read:

Subd. 13. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner or compensation judge, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner or compensation judge to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by ~~section 176.242~~ sections 59 and 60.

Sec. 26. [176.1021] [CONTINUING EDUCATION; COMPENSATION JUDGES.]

The commissioner and the chief administrative law judge shall provide continuing education and training for workers' compensation judges in the conduct of administrative hearings, new trends in workers' compensation, techniques of alternative dispute resolution and, at least annually, continuing education in the areas of physical and vocational rehabilitation.

Sec. 27. Minnesota Statutes 1986, 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 treat-

ment, 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 shall report the results of the monitoring to the medical services review board. The commissioner may, either as a result of the monitoring or as a result of an investigation following receipt of a complaint, if the commissioner believes that any provider of health care services has violated any provision of this chapter or rules adopted under this chapter, initiate a contested case proceeding under chapter 14. In these cases, the medical services review board shall make the final decision following receipt of the report of an administrative law judge. 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, but does not include the authority to make the initial determination of primary liability, except as provided by section 176.305.

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. 28. Minnesota Statutes 1986, section 176.103, subdivision 3, is amended to read:

Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six physicians representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members

may be renewed. The board shall appoint from among its clinical members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members one of whom shall be a member who is not a chiropractor or licensed physician. The board may appoint from its members whatever subcommittees it deems appropriate.

The commissioner may appoint alternates for one-year terms to serve as a member when a member is unavailable. The number of alternates shall not exceed one chiropractor, one hospital administrator, three physicians, one employee representative, one employer or insurer representative, and one representative of the general public.

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

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

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

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

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

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

(b) The board shall appoint three of its members to hear appeals from decisions of the commissioner regarding quality control and supervision of medical care; any other disputes regarding medical, surgical, and hospital care; decisions regarding the eligibility of medical providers to receive payments; or any other determinations of the commissioner pursuant to subdivision 2. The three member panel shall be composed of one member who does not represent a health care specialty, one member who represents the same specialty as the specialty at issue or, if the same specialty is not available, one member whose specialty is as close as possible considering the board's composition, and one member representing a different specialty. The three member panel shall conduct a hearing in the same manner, giving the same notice and following other procedures required of the rehabilitation review panel in section 176.102, subdivision 3a. A majority vote of the three member panel constitutes the decision of the full board. This decision may be appealed to the workers' compensation court of appeals. The medical services review board may upon petition from the commissioner and after hearing, issue a penalty of \$100 per violation, disqualify, or suspend a provider from receiving payment for services rendered under this chapter if a provider has violated any part of this chapter or rule adopted under this chapter. The hearings are initiated by the commissioner under the contested case procedures of chapter 14. The board shall make the final decision following receipt of the recommendation of the administrative law judge. The board's decision is appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

(c) In any situation where a conflict of interest prevents the appointment of a full three member panel or in any other situation where the commissioner deems it necessary to resolve a conflict of interest, the commissioner may appoint a temporary substitute board member to serve until the situation creating the conflict of interest has been resolved.

(d) The board may adopt rules of procedure. The rules may be joint rules with the rehabilitation review panel.

Sec. 29. [176.106] [ADMINISTRATIVE CONFERENCE.]

Subdivision 1. [SCOPE.] All determinations by the commissioner pursuant to sections 176.102, 176.103, 176.135, or 176.136 shall be in accordance with the procedures contained in this section.

Subd. 2. [REQUEST FOR CONFERENCE.] Any party may request an administrative conference by filing a request on a form prescribed by the commissioner.

Subd. 3. [CONFERENCE.] The matter shall be scheduled for an administrative conference within 60 days after receipt of the request for a conference. Notice of the conference shall be served on all

parties no later than 14 days prior to the conference, unless the commissioner determines that a conference shall not be held. The commissioner may order an administrative conference whether or not a request for conference is filed.

The commissioner, at his discretion, may refuse to hold an administrative conference and refer the matter for a settlement or pretrial conference or may certify the matter to the office of administrative hearings for a full hearing before a compensation judge.

Subd. 4. [APPEARANCES.] All parties shall appear either personally, by telephone, by representative, or by written submission. The commissioner shall determine the issues in dispute based upon the information available at the conference.

Subd. 5. [DECISION.] A written decision shall be issued by the commissioner or an authorized representative determining all issues considered at the conference or if a conference was not held, based on the written submissions. Disputed issues of fact shall be determined by a preponderance of the evidence. The decision must be issued within 30 days after the close of the conference or if no conference was held, within 60 days after receipt of the request for conference. The decision must include a statement indicating the right to request a de novo hearing before a compensation judge and how to initiate the request.

Subd. 6. [PENALTY.] At a conference, if the insurer does not provide a specific reason for nonpayment of the items in dispute, the commissioner may assess a penalty of \$300 payable to the special compensation fund, unless it is determined that the reason for the lack of specificity was the failure of the insurer, upon timely request, to receive information necessary to remedy the lack of specificity. This penalty is in addition to any penalty that may be applicable for nonpayment.

Subd. 7. [REQUEST FOR HEARING.] Any party aggrieved by the decision of the commissioner may request a formal hearing by filing the request with the commissioner no later than 30 days after the decision. The request shall be referred to the office of administrative hearings for a de novo hearing before a compensation judge. The commissioner shall refer a timely request to the office of administrative hearings within five working days after filing of the request and the hearing at the office of administrative hearings must be held on the first date that all parties are available but not later than 60 days after the office of administrative hearings receives the matter. Following the hearing, the compensation judge must issue the decision within 30 days. The decision of the compensation judge is appealable pursuant to section 176.421.

Subd. 8. [DENIAL OF PRIMARY LIABILITY.] The commissioner does not have authority to make determinations relating to medical or rehabilitation benefits when there is a genuine dispute over whether the injury initially arose out of and in the course of employment, except as provided by section 176.305.

Subd. 9. [SUBSEQUENT CAUSATION ISSUES.] If initial liability for an injury has been admitted or established and an issue subsequently arises regarding causation between the employee's condition and the work injury, the commissioner may make the subsequent causation determination subject to de novo hearing by a compensation judge with a right to review by the court of appeals, as provided in this chapter.

Sec. 30. Minnesota Statutes 1986, section 176.111, subdivision 17, is amended to read:

Subd. 17. [PARTIAL DEPENDENTS.] Partial dependents are entitled to receive only that proportion of the benefits provided for actual dependents which the average amount of wages regularly contributed by the deceased to such partial dependents at the time of and for a reasonable time immediately prior to the injury bore to the total income of the dependent during the same time; and if the amount regularly contributed by the deceased to such partial dependents cannot be ascertained because of the circumstances of the case, the commissioner, compensation judge, or workers' compensation court of appeals, in cases upon appeal, shall make a reasonable estimate thereof taking into account all pertinent factors of the case.

Sec. 31. Minnesota Statutes 1986, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 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), provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983 is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Notwithstanding the above, an employee shall be eligible for supplementary benefits on the date permanent total disability benefits are subject to an offset for any governmental disability

program pursuant to section 176.101, subdivision 4. 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.

Sec. 32. Minnesota Statutes 1986, section 176.133, is amended to read:

176.133 [ATTORNEY'S FEES, SUPPLEMENTARY BENEFITS.]

Attorney's fees may be approved by the commissioner, a compensation judge, or by the workers' compensation court of appeals from the supplementary workers' compensation benefits provided by section 176.132 if the case involves the obtaining of supplementary workers' compensation benefits. When such fees are allowed an amount equal to 25 percent of that portion of the fee which is in excess of \$250 shall be added to the employee's benefit as provided in section 176.081 rather than deducted as a portion thereof. The fees shall be determined according to section 176.081.

Sec. 33. Minnesota Statutes 1986, 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, including costs and attorney fees incurred by the employee or the health care provider. Attorney's fees shall be determined on an hourly basis according to the criteria in section 176.081, subdivision 5. 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. Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with section 29 and section 176.305.

Sec. 34. Minnesota Statutes 1986, section 176.135, subdivision 1a, is amended to read:

Subd. 1a. [NONEMERGENCY 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 when 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. An employee may not be compelled to undergo surgery. If an employee desires a second opinion on the necessity of the surgery, the employer shall pay the costs of obtaining the second opinion. Except in cases of emergency surgery, the employer or insurer may require the employee to obtain a second opinion on the necessity of the surgery, at the expense of the employer, before the employee undergoes surgery. Failure to obtain a second surgical opinion shall not be reason for nonpayment of the charges for the surgery. The employer is required to pay the reasonable value of the surgery unless the commissioner or compensation judge 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. 35. Minnesota Statutes 1986, section 176.135, subdivision 2, is amended to read:

Subd. 2. [CHANGE OF PHYSICIANS, PODIATRISTS, OR CHIROPRACTORS.] The commissioner of the department of labor and industry shall make the necessary adopt rules for establishing standards and criteria to be used when a dispute arises over a change of physicians, podiatrists, or chiropractors in the case that either the employee or the employer desire a change and for the

designation of a physician, podiatrist, or chiropractor suggested by the injured employee or the commissioner of the department of labor and industry. In such case If a change is agreed upon or ordered, the expense thereof medical expenses shall be borne by the employer upon the same terms and conditions as provided in subdivision 1 and for medical, podiatric, chiropractic and surgical treatment and attendance.

Sec. 36. Minnesota Statutes 1986, section 176.135, subdivision 3, is amended to read:

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

Sec. 37. Minnesota Statutes 1986, section 176.135, is amended by adding a subdivision to read:

Subd. 6. [COMMENCEMENT OF PAYMENT.] As soon as reasonably possible, and no later than 30 calendar days after receiving the bill, the employer or insurer shall pay the charge or any portion of the charge which is not denied, deny all or a part of the charge on the basis of excessiveness or noncompensability, or specify the additional data needed, with written notification to the employee and the provider.

Sec. 38. Minnesota Statutes 1986, section 176.135, is amended by adding a subdivision to read:

Subd. 7. [MEDICAL BILLS AND RECORDS.] Health care providers shall submit to the insurer an itemized statement of charges as well as copies of medical records or reports that substantiate the nature of the charge and its relationship to the work injury. No charge may be made for copies of any records or reports that are in existence and directly relate to the items for which payment is sought under this chapter.

A health care provider shall not collect, attempt to collect, refer a bill for collection, or commence an action for collection against the employee, employer, or any other party until the information required by this section has been furnished.

Sec. 39. Minnesota Statutes 1986, section 176.136, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVE FEES.] If the ~~payer~~ employer or insurer determines that the charge for a health service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter unless the commissioner, ~~medical services review board~~ compensation judge, or workers' compensation court of appeals determines otherwise. In such a case, the health care provider may initiate an action under this chapter for recovery of the amounts deemed excessive by the employer or insurer, but the employer or insurer shall have the burden of proving excessiveness.

Sec. 40. Minnesota Statutes 1986, section 176.1361, is amended to read:

176.1361 [TESTIMONY OF PROVIDERS.]

When the commissioner, a compensation judge, or the workers' compensation court of appeals has reason to believe that a medical or other provider of treatment services has submitted false testimony or a false report in any proceeding under this chapter, the commissioner, compensation judge, or the workers' compensation court of appeals shall refer the matter to an appropriate licensing body or other professional certifying organization for review and recommendations. Based upon their recommendation, the commissioner ~~medical services review board~~, after hearing, may bar the provider from making an appearance, and disallow the admission into evidence of written reports of the provider, in any proceeding under this chapter for a period not to exceed one year in the first instance and three years in the second instance, and may permanently bar the provider from appearance and the provider's reports from admission in evidence thereafter.

Sec. 41. Minnesota Statutes 1986, section 176.139, is amended to read:

176.139 [NOTICE OF RIGHTS POSTED.]

A notice, in form approved by the commissioner of labor and industry, shall be posted in a conspicuous place at each place of employment Subdivision 1. [POSTING REQUIREMENT.] All employers required or electing to carry workers' compensation coverage in the state of Minnesota shall post and display in a conspicuous location a notice, in a form approved by the commissioner, advising employees of their rights and obligations under this chapter, assistance available to them, and the operation of the workers' compensation system, the name and address of the workers' compensation carrier insuring them or the fact that the employer is self-insured.

The notice shall be displayed at all locations where the employer is engaged in business.

Subd. 2. [FAILURE TO POST; PENALTY.] The commissioner may assess a penalty of \$300 against the employer payable to the special compensation fund if, after notice from the commissioner, the employer violates the posting requirement of this section.

Sec. 42. Minnesota Statutes 1986, section 176.155, subdivision 1, is amended to read:

Subdivision 1. [EMPLOYER'S PHYSICIAN.] The injured employee must submit 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 a personal physician present at any such examination. Each party shall defray the cost of that party's 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 representative of the employee. The employer shall pay reasonable travel expenses incurred by the employee in attending the examination including mileage, parking, and, if necessary, lodging and meals. The employer shall also pay the employee for any lost wages resulting from attendance at the examination. A self-insured employer or insurer who is served with a claim petition pursuant to section 176.271, subdivision 1, or 176.291, shall schedule any necessary examinations of the employee, if an examination by the employer's physician or health care provider is necessary to evaluate benefits claimed. The examination shall be completed and the report of the examination shall be served on the employee and filed with the commissioner within 120 days of service of the claim petition.

No evidence relating to the examination or report shall be received or considered by the commissioner, a compensation judge, or the court of appeals in determining any issues unless the report has been served and filed as required by this section, unless a written extension has been granted by the commissioner or compensation judge. The commissioner or a compensation judge shall extend the time for completing the adverse examination and filing the report upon good cause shown. The extension must not be for the purpose of delay and the insurer must make a good faith effort to comply with this subdivision. Good cause shall include but is not limited to:

(1) that the extension is necessary because of the limited number of physicians or health care providers available with expertise in the particular injury or disease, or that the extension is necessary due to the complexity of the medical issues, or

(2) that the extension is necessary to gather additional information which was not included on the petition as required by section 176.291.

Sec. 43. Minnesota Statutes 1986, section 176.155, subdivision 3, is amended to read:

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

Sec. 44. Minnesota Statutes 1986, 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, or compensation judge, or ~~workers' compensation court of appeals~~ or whose services are furnished or paid for by the employer, or 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 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 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 a compensation judge. 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 or to be present at a posthearing deposition 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 unless an extension is granted by the chief administrative law judge. 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 chief administrative law

judge. When a written report is used to present the testimony, it shall be admitted into evidence without the necessity for foundational testimony and shall be considered as prima facie evidence of the opinions it contains.

Sec. 45. Minnesota Statutes 1986, 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 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, death benefits, or weekly payments of economic recovery or impairment compensation shall not exceed 20 percent of the amount that would otherwise be payable.

A credit may not be applied against medical expenses due or payable.

Sec. 46. Minnesota Statutes 1986, section 176.185, is amended by adding a subdivision to read:

Subd. 5a. [PENALTY FOR IMPROPER WITHHOLDING.] An employer who violates subdivision 5 after notice from the commissioner is subject to a penalty of 200 percent of the amount withheld from or charged the employee. The penalty shall be imposed by the commissioner. Fifty percent of this penalty is payable to the special compensation fund and 50 percent is payable to the employee.

Sec. 47. Minnesota Statutes 1986, section 176.191, subdivision 1, is amended to read:

Subdivision 1. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner, compensation judge, or ~~workers' compensation~~ court of appeals upon appeal shall direct, unless action is taken under subdivision 2, that one or more of the employers or insurers make payment of the benefits pending a determination of liability. A temporary order may be issued under this subdivision whether or not the employers or insurers agree to pay under the order.

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate of 12 percent a year. The claimant shall also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.

An order directing payment of benefits pending a determination of liability may not be used as evidence before a compensation judge, the workers' compensation court of appeals, or court in which the dispute is pending.

Sec. 48. Minnesota Statutes 1986, section 176.191, subdivision 2, is amended to read:

Subd. 2. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner or a compensation judge upon petition shall authorize order, unless action is taken under subdivision 1, the special compensation fund established in section 176.131 to make payment of the benefits pending a determination of liability.

The personal injury for which the commissioner or a compensation judge shall order compensation from the special fund is not limited by section 176.131, subdivision 8.

When liability has been determined, the party held liable for benefits shall be ordered to reimburse the special compensation fund for payments made, including interest at the rate of 12 percent a year.

Sec. 49. [176.194] [PROHIBITED PRACTICES.]

Subdivision 1. [APPLICATION.] This section applies to insurers, self-insurers, group self-insurers, political subdivisions of the state, and the administrator of state employees' claims.

This section also applies to adjusters and third-party administrators who act on behalf of an insurer, self-insurer, group self-insurer,

the assigned risk plan, the Minnesota insurance guaranty association, a political subdivision, or any other entity.

This section shall be enforceable only by the commissioner of labor and industry. Evidence of violations under this section shall not be admissible in any civil action.

Subd. 2. [PURPOSE.] This section is not intended to replace existing requirements of this chapter which govern the same or similar conduct; these requirements and penalties are in addition to any others provided by this chapter.

Subd. 3. [PROHIBITED CONDUCT.] The following conduct is prohibited:

(1) failing to reply, within 30 calendar days after receipt, to all written communication about a claim from a claimant that requests a response;

(2) failing, within 45 calendar days after receipt of a written request, to commence benefits or to advise the claimant of the acceptance or denial of the claim by the insurer;

(3) failing to pay or deny medical bills within 45 days after the receipt of all information requested from medical providers;

(4) filing a denial of liability for workers' compensation benefits without conducting an investigation;

(5) failing to regularly pay weekly benefits in a timely manner as prescribed by rules adopted by the commissioner once weekly benefits have begun. Failure to regularly pay weekly benefits means failure to pay an employee on more than three occasions in any 12-month period within three business days of when payment was due;

(6) failing to respond to the department within 30 calendar days after receipt of a written inquiry from the department about a claim;

(7) failing to pay pursuant to an order of the department, compensation judge, court of appeals, or the supreme court, within 45 days from the filing of the order unless the order is under appeal; or

(8) advising a claimant not to obtain the services of an attorney or representing that payment will be delayed if an attorney is retained by the claimant.

Subd. 4. [PENALTIES.] The penalties for violations of clauses (1) through (6) are as follows:

<u>1st through 5th violation</u>	<u>written warning</u>
<u>of each paragraph</u>	<u>\$2,500 per violation</u>
<u>6th through 10th violation</u>	<u>in excess of five</u>
<u>of each paragraph</u>	<u>\$5,000 per violation</u>
<u>11th through 30th violation</u>	<u>in excess of ten</u>
<u>of each paragraph</u>	

For violations of clauses (7) and (8), the penalties are:

<u>1st through 5th violation</u>	<u>\$2,500 per violation</u>
<u>of each paragraph</u>	<u>\$5,000 per violation</u>
<u>6th through 30th violation</u>	<u>in excess of five</u>
<u>of each paragraph</u>	

The penalties under this section may be imposed in addition to other penalties under this chapter that might apply for the same violation. The penalties under this section are assessed by the commissioner and are payable to the special compensation fund. A party may object to the penalty and request a formal hearing under section 176.85. If an entity has more than 30 violations within any 12-month period, in addition to the monetary penalties provided, the commissioner may refer the matter to the commissioner of commerce with recommendation for suspension or revocation of the entity's (a) license to write workers' compensation insurance; (b) license to administer claims on behalf of a self-insured, the assigned risk plan, or the Minnesota insurance guaranty association; (c) authority to self-insure; or (d) license to adjust claims. The commissioner of commerce shall follow the procedures specified in section 176.195.

Subd. 5. [RULES.] The commissioner may, by rules adopted in accordance with chapter 14, specify additional misleading, deceptive, or fraudulent practices or conduct which are subject to the penalties under this section.

Sec. 50. Minnesota Statutes 1986, section 176.195, subdivision 3, is amended to read:

Subd. 3. [COMPLAINT, ANSWER; HEARING.] A complaint against an insurer shall include a notice and order for hearing, shall be in writing and shall specify clearly the grounds upon which the license is sought to be suspended or revoked. The insurer may shall file a written answer to the complaint and is entitled to receive a hearing in its own behalf before the commissioner of commerce within 20 days of service of the complaint. The hearing shall be conducted under chapter 14.

Sec. 51. Minnesota Statutes 1986, section 176.221, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within 30 days of notice or knowledge. After the 30-day period, payment may be terminated only by the filing of a notice as provided under section 176.242 60. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 52. Minnesota Statutes 1986, section 176.221, subdivision 3, is amended to read:

Subd. 3. [PENALTY.] If the employer or insurer does not begin payment of compensation within the time limit prescribed under subdivision 1 or 8, the commissioner may assess a penalty, payable to the special compensation fund, of up to 100 percent which shall be a percentage of the amount of compensation to which the employee is entitled because of the injury to receive up to the date compensa-

tion payment is made to the employee or the compensation to which the employee is entitled to receive up to the date the penalty is imposed, in addition to any other penalty otherwise provided by statute. This penalty may also be imposed on an employer or insurer who violates section 176.242 or 176.243 including, but not limited to, violating the commissioner's decision not to discontinue compensation.

The amount of penalty shall be determined as follows:

<u>Numbers of days late</u>	<u>Penalty</u>
<u>1 - 15</u>	<u>25 percent of compensation due, not to exceed \$375,</u>
<u>16 - 30</u>	<u>50 percent of compensation due, not to exceed \$1,140,</u>
<u>31 - 60</u>	<u>75 percent of compensation due, not to exceed \$2,878,</u>
<u>61 or more</u>	<u>100 percent of compensation due, not to exceed \$3,838.</u>

The penalty under this section is in addition to any penalty otherwise provided by statute.

Sec. 53. Minnesota Statutes 1986, section 176.221, subdivision 7, is amended to read:

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

For the purposes of this subdivision, permanent partial disability payment is due 14 days after receipt of the first medical report which contains a disability rating if such payment is otherwise due under this chapter, and charges for treatment under section 176.135 are due 30 calendar days after receiving the bill and necessary medical data.

If the claim of the employee or dependent for compensation is contested in a proceeding before a compensation judge or the commissioner, the decision of the judge or commissioner shall provide for the payment of unpaid interest on all compensation awarded, including interest accruing both before and after the filing of the decision.

Sec. 54. Minnesota Statutes 1986, section 176.225, subdivision 1, is amended to read:

Subdivision 1. [GROUNDS.] Upon reasonable notice and hearing or opportunity to be heard, the ~~division~~ commissioner, 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 or vexatiously discontinued compensation in violation of ~~section 176.242~~ sections 59 and 60.

Sec. 55. Minnesota Statutes 1986, section 176.225, subdivision 4, is amended to read:

Subd. 4. [HEARING BEFORE COMMISSIONER OF COMMERCE.] Upon receipt of a complaint filed under subdivision 3, the commissioner of commerce shall hear and determine the matter in the manner provided by ~~this~~ chapter 14. On finding that a charge made by the complaint is true, the commissioner of commerce ~~shall~~ may suspend or revoke the license of the insurer to do business in this state. The insurer may appeal from the action of the commissioner revoking the license in the manner provided in ~~this~~ chapter 14.

Sec. 56. Minnesota Statutes 1986, section 176.231, subdivision 2, is amended to read:

Subd. 2. [INITIAL REPORT, WRITTEN REPORT.] Where subdivision 1 requires an injury to be reported within 48 hours, the employer may make an initial report by telephone, telegraph, or personal notice, and file a written report of the injury within seven days from its occurrence or within such time as the commissioner of labor and industry designates. All written reports of injuries required by subdivision 1 shall include the date of injury, amounts of payments made, if any, and the date of the first payment. The reports shall be in quadruplicate on a form designed by the commissioner, with two copies the original to the commissioner and, one copy to the insurer, and one copy to the employee.

If an insurer or self-insurer repeatedly fails to pay benefits within three days of the due date, pursuant to section 176.221, the insurer or self-insurer shall be ordered by the commissioner to explain, in person, the failure to pay benefits due in a reasonable time. If prompt payments are not thereafter made, the commissioner shall refer the insurer or self-insurer to the commissioner of commerce for action pursuant to section 176.225, subdivision 4.

Sec. 57. Minnesota Statutes 1986, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] If an employer, insurer, 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 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 special compensation fund.

Sec. 58. Minnesota Statutes 1986, section 176.231, is amended by adding a subdivision to read:

Subd. 11. [FAILURE TO FILE REQUIRED REPORT; SUBSTITUTE FILING.] Where this section requires the employer to file a report of injury with the commissioner, and the employer is unable or refuses to file the report, the insurer shall file the report within ten days of a request from the division. The report shall be filed in the manner prescribed by this section. If both the employer and the insurer fail to file the report within 30 days of notice of the injury, the commissioner shall file the report.

The filing of a report of injury by the commissioner does not subject an employee or the dependents of an employee to the three-year time limitations under section 176.151, paragraphs 1 and 2.

A substitute filing under this subdivision shall not be a defense to a penalty assessed under subdivision 10.

Sec. 59. [176.238] [NOTICE OF DISCONTINUANCE OF TEMPORARY TOTAL, TEMPORARY PARTIAL, OR PERMANENT TOTAL COMPENSATION.]

Subdivision 1. [NECESSITY FOR NOTICE AND SHOWING; CONTENTS.] Except as provided in section 176.221, subdivision 1, once the employer has commenced payment of benefits, the employer may not discontinue payment of compensation until it provides the employee with notice in writing of intention to do so. A copy of the notice shall be filed with the division by the employer. The notice to the employee and the copy to the division shall state the date of intended discontinuance and set forth a statement of facts clearly indicating the reason for the action. Copies of whatever medical reports or other written reports in the employer's possession which are relied on for the discontinuance shall be attached to the notice.

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] (a) [DISCONTINUANCE BECAUSE OF RETURN TO WORK.] If the reason for discontinuance is that the employee has returned to work, temporary total compensation may be discontinued effective the day the employee returned to work. Written notice shall be served on the employee and filed with the division within 14 days of the date the insurer or self-insured employer has notice that the employee has returned to work.

(b) [DISCONTINUANCE FOR REASONS OTHER THAN RETURN TO WORK.] If the reason for the discontinuance is for other than that the employee has returned to work, the liability of the employer to make payments of compensation continues until the copy of the notice and reports have been filed with the division. When the division has received a copy of the notice of discontinuance, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended, except as provided in the following subdivisions and in section 60.

Subd. 3. [INTERIM ADMINISTRATIVE DECISION.] An employee may request the commissioner to schedule an administrative discontinuance conference to obtain an expedited interim decision concerning the discontinuance of compensation. Procedures relating to discontinuance conferences are set forth in section 60.

Subd. 4. [OBJECTION TO DISCONTINUANCE.] An employee may serve on the employer and file with the commissioner an objection to discontinuance if:

(a) the employee elects not to request an administrative conference under section 60;

(b) if the employee fails to timely proceed under that section;

(c) if the discontinuance is not governed by that section; or

(d) if the employee disagrees with the commissioner's decision issued under that section. Within ten calendar days after receipt of an objection to discontinuance, the commissioner shall refer the

matter to the office for a de novo hearing before a compensation judge to determine the right of the employee to further compensation.

Subd. 5. [PETITION TO DISCONTINUE.] Instead of filing a notice of discontinuance, an employer may serve on the employee and file with the commissioner a petition to discontinue compensation. A petition to discontinue compensation may also be used when the employer disagrees with the commissioner's decision under section 60. Within ten calendar days after receipt of a petition to discontinue, the commissioner shall refer the matter to the office for a de novo hearing before a compensation judge to determine the right of the employer to discontinue compensation.

The petition shall include copies of medical reports or other written reports or evidence in the possession of the employer bearing on the physical condition or other present status of the employee which relate to the proposed discontinuance. The employer shall continue payment of compensation until the filing of the decision of the compensation judge and thereafter as the compensation judge, court of appeals, or the supreme court directs, unless, during the interim, occurrences arise justifying the filing of a notice under subdivision 1 or 2 and the discontinuance is permitted by the commissioner's order or no conference under section 60 is requested.

Subd. 6. [EXPEDITED HEARING BEFORE A COMPENSATION JUDGE.] A hearing before a compensation judge shall be held within 30 calendar days after the office receives the file from the commissioner if:

(a) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the notice of discontinuance was filed and where no administrative conference has been held;

(b) an objection to discontinuance has been filed under subdivision 4 within 60 calendar days after the commissioner's decision under this section has been issued;

(c) a petition to discontinue has been filed by the insurer in lieu of filing a notice of discontinuance; or

(d) a petition to discontinue has been filed within 60 calendar days after the commissioner's decision under this section has been issued.

If the petition or objection is filed later than the deadlines listed above, the expedited procedures in this section apply only where the employee is unemployed at the time of filing the objection and shows, to the satisfaction of the chief administrative judge, by sworn affidavit, that the failure to file the objection within the deadlines was due to some infirmity or incapacity of the employee or to circumstances beyond the employee's control. The hearing shall be

limited to the issues raised by the notice or petition unless all parties agree to expanding the issues. If the issues are expanded, the time limits for hearing and issuance of a decision by the compensation judge under this subdivision shall not apply.

Once a hearing date has been set, a continuance of the hearing date will be granted only under the following circumstances:

(a) the employer has agreed, in writing, to a continuation of the payment of benefits pending the outcome of the hearing; or

(b) the employee has agreed, in a document signed by the employee, that benefits may be discontinued pending the outcome of the hearing.

Absent a clear showing of surprise at the hearing or the unexpected unavailability of a crucial witness, all evidence must be introduced at the hearing. If it is necessary to accept additional evidence or testimony after the scheduled hearing date, it must be submitted no later than 14 days following the hearing, unless the compensation judge, for good cause, determines otherwise.

The compensation judge shall issue a decision pursuant to this subdivision within 30 days following the close of the hearing record.

Subd. 7. [ORDER OF COMPENSATION JUDGE.] If the order of the compensation judge confirms a discontinuance of compensation, the service and filing of the order relieves the employer from further liability for compensation subject to the right of review provided by this chapter, and to the right of the compensation judge to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order. In any appeal from the compensation judge's decision under this section, the court of appeals shall conclude any oral arguments by the parties within 60 days following certification of the record from the office.

Subd. 8. [NOTICE FORMS.] Notices under this section shall be on forms prescribed by the commissioner.

Subd. 9. [SERVICE ON ATTORNEY.] If the employee has been presently represented by an attorney for the same injury, all notices required by this section shall also be served on the last attorney of record.

Subd. 10. [FINES; VIOLATION.] An employer who violates requirements set forth in this section or section 60 is subject to a fine of up to \$500 for each violation payable to the special compensation fund.

Subd. 11. [APPLICATION OF SECTION.] This section shall not apply to those employees who have been adjudicated permanently totally disabled, or to those employees who have been administratively determined pursuant to division rules to be permanently totally disabled.

Sec. 60. [176.239] [ADMINISTRATIVE DECISION CONCERNING DISCONTINUANCE OF COMPENSATION.]

Subdivision 1. [PURPOSE.] The purpose of this section is to provide a procedure for parties to obtain an expedited interim administrative decision in disputes over discontinuance of temporary total, temporary partial, or permanent total compensation.

Subd. 2. [REQUEST FOR ADMINISTRATIVE CONFERENCE.] If the employee disagrees with the notice of discontinuance, the employee may request that the commissioner schedule an administrative conference to be conducted pursuant to this section.

If temporary total, temporary partial, or permanent total compensation has been discontinued because the employee has returned to work, and the employee believes benefits should be reinstated due to occurrences during the initial 14 calendar days of the employee's return to work, the employee's request must be received by the commissioner within 30 calendar days after the employee has returned to work. If the employer has failed to properly serve and file the notice as provided in section 59, the employee's time period to request an administrative conference is extended up to and including the 40th calendar day subsequent to the return to work.

If temporary total, temporary partial, or permanent total compensation has been discontinued for a reason other than a return to work, the employee's request must be received by the commissioner within 12 calendar days after the notice of discontinuance is received by the commissioner. If the employer discontinues compensation without giving notice as required by section 59, the employee's time period for requesting an administrative conference is extended up to and including the 40th calendar day after which the notice should have been served and filed.

The commissioner may determine that an administrative conference is not necessary under this section for reasons prescribed by rule and permit the employer to discontinue compensation, subject to the employee's right to file an objection to discontinuance under section 59, subdivision 4.

In lieu of making a written request for an administrative conference with the commissioner, an employee may make an in-person or telephone request for the administrative conference.

Subd. 3. [PAYMENT THROUGH DATE OF DISCONTINUANCE CONFERENCE.] If a notice of discontinuance has been served and filed due to the employee's return to work, and the employee requests a conference, the employer is not obligated to reinstate or otherwise pay temporary total, temporary partial, or permanent total compensation unless so ordered by the commissioner.

When an administrative conference is conducted under circumstances in which the employee has not returned to work, compensation shall be paid through the date of the administrative conference unless:

- (a) the employee has returned to work since the notice was filed;
- (b) the employee fails to appear at the scheduled administrative conference; or
- (c) due to unusual circumstances or pursuant to the rules of the division, the commissioner orders otherwise.

Subd. 4. [SCHEDULING OF CONFERENCE.] If the employee timely requests an administrative conference under this section, the commissioner shall schedule a conference within ten calendar days after receiving the request.

Subd. 5. [CONTINUANCES.] An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner determines there is good cause for a continuance, the commissioner may grant the continuance for not more than 14 calendar days unless the parties agree to a longer continuance. If compensation is payable through the day of the administrative conference pursuant to subdivision 3, and the employee is granted a continuance, compensation need not be paid during the period of continuance unless the commissioner orders otherwise. If the employer is granted a continuance and compensation is payable through the day of the administrative conference pursuant to subdivision 3, then compensation shall continue to be paid during the continuance. The commissioner may grant an unlimited number of continuances provided that payment of compensation during any continuance is subject to this subdivision.

Subd. 6. [SCOPE OF THE ADMINISTRATIVE DECISION.] If benefits have been discontinued due to the employee's return to work, the commissioner shall determine whether, as a result of occurrences arising during the initial 14 calendar days after the return to work, the employee is entitled to additional payment of temporary total, temporary partial, or permanent total compensation.

If periodic payment of temporary total, temporary partial, or permanent total compensation has been discontinued for reasons

other than a return to work, the commissioner shall determine whether the employer has reasonable grounds to support the discontinuance. Only information or reasons specified on the notice of discontinuance shall provide a basis for a discontinuance, unless the parties agree otherwise.

Subd. 7. [INTERIM ADMINISTRATIVE DECISION.] After considering the information provided by the parties at the administrative conference, the commissioner shall issue to all interested parties a written decision on payment of compensation. Administrative decisions under this section shall be issued within five working days from the close of the conference. Disputed issues of fact shall be determined by a preponderance of the evidence.

Subd. 8. [DISAGREEMENT WITH ADMINISTRATIVE DECISION.] An employee who disagrees with the commissioner's decision under this section may file an objection to discontinuance under section 59, subdivision 4. An employer who disagrees with the commissioner's decision under this section may file a petition to discontinue under section 59, subdivision 5.

Subd. 9. [ADMINISTRATIVE DECISION BINDING; EFFECT OF SUBSEQUENT DETERMINATIONS.] The commissioner's decision under this section is binding upon the parties and the rights and obligations of the parties are governed by the decision.

If an objection or a petition is filed under subdivision 8, the commissioner's administrative decision remains in effect and the parties' obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge pursuant to section 59, subdivision 6.

If the commissioner has denied a discontinuance or otherwise ordered commencement of benefits, the employer shall continue paying compensation until an order is issued by a compensation judge, the court of appeals, or the supreme court, allowing compensation to be discontinued, or unless, during the interim, occurrences arise justifying the filing of a notice under section 59, subdivisions 1 or 2, and the discontinuance is permitted by the commissioner or no conference is requested. If a compensation judge, the court of appeals, or the supreme court later rules that the discontinuance was proper or that benefits were otherwise not owing the employee, payments made under the commissioner's administrative decision and order shall be treated as an overpayment which the insurer may recover from the employee subject to section 176.179.

If the commissioner has permitted a discontinuance or otherwise not ordered commencement of benefits, the service and filing of the administrative decision relieves the employer from further liability

for compensation subject to the right of review afforded by this chapter.

Subd. 10. [APPLICATION OF SECTION.] This section is applicable to all cases in which the employee's request for an administrative conference is received by the division after the effective date of this section even if the injury occurred prior to the effective date. This section shall not apply to those employees who have been adjudicated permanently totally disabled, or to those employees who have been administratively determined pursuant to division rules to be permanently totally disabled.

Sec. 61. Minnesota Statutes 1986, section 176.271, subdivision 1, is amended to read:

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

Sec. 62. Minnesota Statutes 1986, section 176.275, is amended to read:

176.275 [FILING OF PAPERS; PROOF OF SERVICE.]

Subdivision 1. [FILING.] If a document is required to be filed by this chapter or any rules adopted pursuant to authority granted by this chapter, the filing shall be completed by the receipt of the document at the division, department, office, or the court of appeals. The workers' compensation division, department, office, and the workers' compensation court of appeals shall file accept any paper document which has been delivered to it for legal filing immediately upon its receipt in the office of the commissioner of the department of labor and industry. The commissioner of the department of labor and industry shall file any paper which has been delivered to the commissioner for filing immediately upon its receipt.

A notice or other document required to be served or filed at either the department, the office, or the court of appeals which is inadvertently served or filed at the wrong one of these agencies shall be deemed to have been served or filed with the proper agency. The receiving agency shall note the date of receipt of a document and shall forward the documents to the proper agency no later than two working days following receipt.

Subd. 2. [PROOF OF SERVICE.] Whenever a provision of this chapter or rules adopted pursuant to authority granted by this chapter require either a proof of service or affidavit of service, the requirement is satisfied by the inclusion of a proof of service on the

document which has been served, in a form acceptable by the state district courts or approved by the commissioner.

Sec. 63. Minnesota Statutes 1986, 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~~ serve on all other parties and file a verified notarized petition to with the commissioner stating the matter in dispute or the fact of default. The petition shall be on a form prescribed by the commissioner.

The petition shall also state and include, where applicable:

- (1) names and residence or business address of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) ~~facts which the commissioner by rule requires; and,~~
- (6) such other facts as are necessary for the information of the commissioner, a compensation judge or the workers' compensation court of appeals copies of written medical reports or other information in support of the claim;
- (6) names and addresses of all known 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) a list of all known third parties, including the departments of human services and jobs and training, who may have paid any medical bills or other benefits to the employee for the injuries or disease alleged in the petition or for the time the employee was unable to work due to the injuries or disease, together with a listing of the amounts paid by each;

(10) the nature and extent of the claim; and

(11) a request for an expedited hearing which must include an attached affidavit of significant financial hardship which complies with the requirements of section 176.341, subdivision 6.

Incomplete petitions may be stricken from the calendar as provided by section 176.305, subdivision 4. Within 30 days of a request by a party, an employee who has filed a claim petition pursuant to section 176.271 or this section shall furnish a list of physicians and health care providers from whom the employee has received treatment for the same or a similar condition as well as authorizations to release relevant information, data, and records to the requester. The petition may be stricken from the calendar upon motion of a party for failure to timely provide the required list of health care providers or authorizations.

Sec. 64. Minnesota Statutes 1986, section 176.301, subdivision 1, is amended to read:

Subdivision 1. [TRIAL BY COURT; REFERENCE TO COMMISSIONER CHIEF ADMINISTRATIVE LAW JUDGE.] When a workers' compensation issue has been joined is present in the district court action, the court may try the action itself without a jury, or refer the matter to the commissioner. In the latter case, the commissioner shall refer the matter to the chief administrative law judge for assignment to a compensation judge. The compensation judge shall report findings and decisions to the district court. The court may approve or disapprove such decision in the same manner as it approves or disapproves the report of a referee. The court shall enter judgment upon such decision.

Sec. 65. Minnesota Statutes 1986, 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 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 within 60 days. If a settlement conference is not appropriate, or if such a conference or conferences do not result in progress toward a settlement, the settlement judge shall certify the matter for a hearing before a compensation judge and shall refer the matter to the chief administrative law judge to be heard by a compensation judge for a settlement conference under this section, for an administrative conference under section 29, or for hearing to the office.

Sec. 66. Minnesota Statutes 1986, section 176.305, is amended by adding a subdivision to read:

Subd. 1a. [SETTLEMENT AND PRETRIAL CONFERENCES; SUMMARY DECISION.] The commissioner shall schedule a settlement conference, if appropriate, within 60 days after receiving the petition. All parties must appear at the conference, either personally or by representative, must be prepared to discuss settlement of all issues, and must be prepared to discuss or present the information required by the joint rules of the division and the office. If a representative appears on behalf of a party, the representative must have authority to fully settle the matter.

If settlement is not reached, the presiding officer may require the parties to present copies of all documentary evidence not previously filed and a summary of the evidence they will present at a formal hearing. If appropriate, a written summary decision shall be issued within ten days after the conference stating the issues and a determination of each issue. If a party fails to appear at the conference, all issues may be determined contrary to the absent party's interest, provided the party in attendance presents a prima facie case.

The summary decision is final unless a written request for a formal hearing is served on all parties and filed with the commissioner within 30 days after the date of service and filing of the summary decision. Within ten days after receipt of the request, the commissioner shall certify the matter to the office for a de novo hearing.

Sec. 67. Minnesota Statutes 1986, section 176.305, subdivision 2, is amended to read:

Subd. 2. [COPY OF PETITION.] The commissioner shall deliver the original petition and answer, after certification for a hearing before a compensation judge by a settlement judge, to the office of administrative hearings for assignment to a compensation judge.

Sec. 68. Minnesota Statutes 1986, section 176.305, is amended by adding a subdivision to read:

Subd. 4. [STRIKING FROM CALENDAR.] A compensation judge or the commissioner, after receiving a properly served motion, may strike a case from the active trial calendar after the employee has been given 30 days to correct the deficiency if it is shown that the information on the petition or included with the petition is incomplete. Once a case is stricken, it may not be reinstated until the missing information is provided to the adverse parties and filed with the commissioner or compensation judge. If a case has been stricken from the calendar for one year or more and no corrective action has been taken, the commissioner or a compensation judge may, upon

the commissioner's or judge's own motion or a motion of a party which is properly served on all parties, dismiss the case. The petitioner must be given at least 30 days advance notice of the proposed dismissal before the dismissal is effective.

Sec. 69. Minnesota Statutes 1986, section 176.306, subdivision 1, is amended to read:

Subdivision 1. [CHIEF ADMINISTRATIVE LAW JUDGE.] The chief administrative law judge shall schedule workers' compensation hearings on as regular a schedule as may be practicable in no fewer than six widely separated locations throughout the state, including at least four locations outside of the seven county metropolitan area and Duluth, for the purpose of providing a convenient forum for parties to a compensation hearing and shall maintain a permanent office in Duluth staffed by at least one compensation judge. Continuances of the scheduled hearing date may be granted only under section 176.341, subdivision 4.

Sec. 70. Minnesota Statutes 1986, section 176.306, is amended by adding a subdivision to read:

Subd. 3. [SCHEDULING MATTERS.] A compensation judge may schedule a pretrial or settlement conference, whether or not a party requests such a conference.

Sec. 71. Minnesota Statutes 1986, section 176.312, is amended to read:

176.312 [AFFIDAVIT AFFIDAVITS OF PREJUDICE AND PETITIONS FOR REASSIGNMENT.]

In accordance with rules adopted by the chief administrative law judge, an affidavit of prejudice for cause may be filed by a each party to the claim against a compensation judge, in the same manner as an affidavit of prejudice is filed pursuant to law or rule of district court assigned to hear a case. The filing of an affidavit of prejudice against a compensation judge has the same effect and shall be treated in the same manner as in district court.

A petition for reassignment of a case to a different compensation judge for hearing may be filed once, in any case, by each party to the claim within ten days after the filing party has received notice of the assigned judge. Upon receipt of a timely petition for reassignment, the chief administrative law judge shall assign the case to another judge.

An affidavit of prejudice or a petition for reassignment shall be filed with the chief administrative law judge and shall not result in

the continuance or delay of a hearing scheduled under section 176.341.

This section does not apply to prehearing or settlement conferences.

Sec. 72: Minnesota Statutes 1986, 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 known witnesses; whether or not the employer intends to schedule an adverse examination and, if known, the date, time, and place of all adverse examinations; the desired location for a hearing; any request for a prehearing or settlement conference; the estimated time needed to present evidence at a hearing; and, if an affidavit of significant financial hardship and request for an expedited hearing are included with the petition, any objection the employer may have to that request. If the date, time, and place of all adverse examinations is unknown at the time the answer is filed, the employer must notify the commissioner in writing of the date, time, and place of all adverse examinations within 50 days of the filing of the claim petition.

Sec. 73. Minnesota Statutes 1986, 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, and provided that the commissioner must be notified in writing by the employer no later than five days beyond the time required for the filing of the answer of the fact that an agreement has been reached, including the length of the extension. 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 received by the office that does not include an answer, written extension order, or written notification of

the extension agreement shall be immediately set for a hearing at the first available date under section 176.331.

Sec. 74. [176.322] [DECISIONS BASED ON STIPULATED FACTS.]

If the parties agree to a stipulated set of facts and only legal issues remain, the commissioner or compensation judge may determine the matter without a hearing based upon the stipulated facts and the determination is appealable to the court of appeals pursuant to sections 176.421 and 176.442. In any case where a stipulated set of facts has been submitted pursuant to this section, upon receipt of the file or the stipulated set of facts the chief administrative law judge shall immediately assign the case to a compensation judge for a determination. The judge shall issue a determination within 60 days after receipt of the stipulated facts.

Sec. 75. Minnesota Statutes 1986, section 176.331, is amended to read:

176.331 [AWARD BY DEFAULT PROCEEDINGS WHEN ANSWER NOT FILED.]

Except in cases involving multiple employers or multiple insurers, if an adverse party fails to file and serve an answer and the petitioner presents proof of this fact, the commissioner or compensation judge may enter whatever award or order to which the petitioner is entitled on the basis of the facts alleged in the petition, but the compensation judge may require proof of an alleged fact. If the commissioner requires proof or obtain an extension from the commissioner or the petitioner as required by section 176.321, subdivision 3, the commissioner shall request refer the matter to the chief administrative law judge to assign the matter to a compensation judge for an immediate hearing and prompt award or other order. The adverse party that failed to file an answer may appear at the hearing, present evidence and question witnesses, but shall not be granted a continuance for any reason.

If an adverse party who fails to serve and file an answer is neither insured for workers' compensation liability nor a licensed self-insured as required by section 176.181 and the special compensation fund is a party to the proceeding, the commissioner or compensation judge may enter an order awarding benefits to the petitioning party without a hearing if so requested by the special compensation fund.

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

Sec. 76. Minnesota Statutes 1986, section 176.341, subdivision 3, is amended to read:

Subd. 3. [NOTICE MAILED TO EACH PARTY.] Unless subdivision 6 applies, at least 30 days prior to the date of hearing, the chief administrative law judge shall mail a notice of the time and place of hearing to each interested party. This subdivision does not apply to hearings which have been continued from an earlier date. In those cases, the notice shall be given in a manner deemed appropriate by the chief administrative law judge after considering the particular circumstances in each case.

Sec. 77. Minnesota Statutes 1986, 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 of a hearing at the office. Except in cases of emergency or other good cause shown, any request for a continuance must be signed by both the party and the attorney seeking the continuance.

A continuance of a hearing will be granted only upon a showing of good cause. Good cause is established when the underlying eventuality is unforeseen, is not due to lack of preparation, is relevant, is brought to the chief administrative law judge's attention in a timely manner and does not prejudice the adversary.

Continuances will not be granted for the reason that an attorney for one of the parties has scheduled a vacation for the date set for the hearing unless the attorney has, prior to the setting of the hearing date, notified the office of the unavailable dates.

Continuances which are requested during the course of a hearing are subject to the same standards but may be granted or denied by the compensation judge assigned to the hearing. Continuances of prehearing or settlement conferences at the department or at the office are subject to the same standards but may be granted or denied by a settlement judge, the calendar judge, compensation judge, or other presiding officer assigned to the prehearing or settlement conference.

Sec. 78. Minnesota Statutes 1986, section 176.341, is amended by adding a subdivision to read:

Subd. 5. [EVIDENCE.] Absent a clear showing of surprise at the hearing or the unexpected unavailability of a crucial witness, all evidence must be submitted at the time of the hearing. Upon a showing of good cause, the compensation judge may grant an extension not to exceed 30 days following the hearing date.

Sec. 79. Minnesota Statutes 1986, section 176.341, is amended by adding a subdivision to read:

Subd. 6. [SIGNIFICANT FINANCIAL HARDSHIP; EXPEDITED HEARINGS.] An employee may file a request for an expedited hearing which must be granted upon a showing of significant financial hardship. In determining whether a significant financial hardship exists, consideration shall be given to whether the employee is presently employed, the employee's income from all sources, the nature and extent of the employee's expenses and debts, whether the employee is the sole support of any dependents, whether either foreclosure of homestead property or repossession of necessary personal property is imminent, and any other matters which have a direct bearing on the employee's ability to provide food, clothing, and shelter for the employee and any dependents.

A request for an expedited hearing must be accompanied by a sworn affidavit of the employee providing facts necessary to satisfy the criteria for a significant financial hardship. The request may be made at the time a claim petition is filed or any time thereafter. Unless the employer objects to the request in the answer to the claim petition or within 20 calendar days of the filing of a request made subsequent to the filing of the claim petition, the affidavit is a sufficient showing of significant financial hardship.

If a request for an expedited hearing has been served and filed, the commissioner or compensation judge shall issue an order granting or denying the request, provided that where the parties agree that significant financial hardship exists or no objection to the request is timely filed, the request is automatically granted and the compensation judge or commissioner need not issue an order. If it is denied, the matter will be returned to the regular calendar of cases and the request for an expedited hearing may be renewed at a settlement conference. If no objection has been timely filed or if the request is granted, the commissioner shall immediately refer the matter to the office to commence prehearing procedures.

The calendar judge shall issue a prehearing order and notice of the date, time, and place for a prehearing conference which shall be set for no later than 45 days following the filing of the affidavit of significant financial hardship. The prehearing order shall require the parties to serve and file prehearing statements no later than five working days prior to the date set for the prehearing conference. The prehearing statements shall include those items listed in the joint rules of the division and the office which the calendar judge deems appropriate.

Following any prehearing conference and absent an agreement or stipulation from the parties, the commissioner or compensation judge shall issue an order establishing deadlines for the parties to complete their preparation for hearing and, after consultation with

the calendar judge, establishing the date, time, and place for a hearing.

Sec. 80. Minnesota Statutes 1986, section 176.351, subdivision 2a, is amended to read:

Subd. 2a. [SUBPOENAS NOT PERMITTED.] A member of the rehabilitation review panel or medical services board or an employee of the department who has conducted an administrative or settlement conference or hearing under ~~section 176.102, 176.103, 176.135, 176.136, 176.242, or 176.243~~ section 29 or 60, shall not be subpoenaed to testify regarding the conference, hearing, or concerning a mediation session. A member of the rehabilitation review panel, medical services board, or an employee of the department may be required to answer written interrogatories limited to the following questions:

(a) Were all statutory and administrative procedural rules adhered to in reaching the decision?

(b) If the answer to question (a) is no, what deviations took place?

(c) Did the person making the decision consider all the information presented prior to rendering a decision?

(d) Did the person making the decision rely on information outside of the information presented at the conference or hearing in making the decision?

(e) If the answer to question (d) is yes, what other information was relied upon in making the decision?

In addition, for a hearing with a compensation judge and with the consent of the compensation judge, an employee of the department who conducted an administrative conference, hearing, or mediation session, may be requested to answer written interrogatories relating to statements made by a party at the prior proceeding. These interrogatories shall be limited to affirming or denying that specific statements were made by a party.

Sec. 81. Minnesota Statutes 1986, 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 commissioner, the office, or to the mediation or rehabilitation and medical services section if the matter is pending in that section court of appeals, whichever is applicable.

(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 30 days after a person has received notice that a claim has been filed or a request for mediation made. An untimely application is subject to denial under subdivision 7.

(b) In any other situation, timeliness will be determined by the commissioner, compensation judge, or awarding authority in each case based on circumstances at the time of filing. The application must show how the 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 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. 82. Minnesota Statutes 1986, section 176.361, subdivision 5, is amended to read:

Subd. 5. [ORDER.] If an objection to intervention remains following settlement or pretrial conferences, the calendar commissioner or compensation judge shall rule on the intervention and the order is binding on the compensation judge to whom the case is assigned for hearing.

Sec. 83. Minnesota Statutes 1986, section 176.361, subdivision 7, is amended to read:

Subd. 7. [EFFECTS OF NONCOMPLIANCE.] Failure to comply with this section shall not result in a denial of the claim for reimbursement unless the compensation judge, or commissioner, or settlement judge determines that the noncompliance has materially prejudiced the interests of the other parties.

Sec. 84. Minnesota Statutes 1986, 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, except where expedited procedures require a shorter time, 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.

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~~ limits prescribed by this ~~section~~ chapter.

Sec. 85. Minnesota Statutes 1986, section 176.411, subdivision 1, is amended to read:

Subdivision 1. [CONDUCT OF HEARINGS AND INVESTIGATIONS.] Except as otherwise provided by this chapter, when a compensation judge makes an investigation or conducts a hearing, the compensation judge is bound neither by the common law or statutory rules of evidence nor by technical or formal rules of pleading or procedure. Hearsay evidence which is reliable is admissible. The investigation or hearing shall be conducted in a manner to ascertain the substantial rights of the parties.

Findings of fact shall be based upon competent relevant and material evidence only, as presented by competent witnesses, and shall comport with section 176.021.

Sec. 86. Minnesota Statutes 1986, section 176.421, is amended by adding a subdivision to read:

Subd. 3a. [CROSS-APPEAL.] The respondent may cross-appeal within the 30-day period for taking an appeal, or within 15 days after service of the notice of appeal on that respondent, whichever is later.

Sec. 87. Minnesota Statutes 1986, section 176.421, subdivision 4, is amended to read:

Subd. 4. [SERVICE AND FILING OF NOTICE; COST OF TRANSCRIPT.] Within the 30-day period for taking an appeal, the appellant shall:

- (1) serve a copy of the notice of appeal on each adverse party;
- (2) file the original notice, with proof of service by admission or affidavit, with the chief administrative law judge and file a copy with the commissioner;

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

The first party to file an appeal is liable for the original cost of preparation of the transcript. Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy. The chief administrative law judge may require payment for transcription costs to be made in advance of the transcript preparation. The cost of a transcript prepared by a nongovernmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

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

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

Sec. 88. Minnesota Statutes 1986, section 176.442, is amended to read:

176.442 [APPEALS FROM DECISIONS OF COMMISSIONER.]

Except for a commissioner's decision which may be heard de novo in another proceeding including but not limited to a decision from an administrative conference under section 176.102, 176.103, 176.242, or 176.243, 29, 60, or a summary decision under section 176.305, any decision or determination of the commissioner affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.

Sec. 89. Minnesota Statutes 1986, section 176.511, subdivision 1, is amended to read:

Subdivision 1. **[PARTIES NOT AWARDED COSTS.]** Except as provided otherwise by this chapter and specifically by this section, in appeals before the ~~workers' compensation~~ court of appeals or hear-

~~ings proceedings before the division or a compensation judge, the rehabilitation review panel, or the medical services review board costs shall not be awarded to either any party.~~

Sec. 90. Minnesota Statutes 1986, section 176.511, subdivision 2, is amended to read:

Subd. 2. [DISBURSEMENTS, TAXATION.] ~~The commissioner or compensation judge, the commissioner on behalf of the rehabilitation review panel or the medical services review board or on appeals to appeal the workers' compensation court of appeals, the workers' compensation court of appeals~~ may award the prevailing party reimbursement for actual and necessary disbursements. These disbursements shall be taxed upon five days written notice to adverse parties.

Sec. 91. Minnesota Statutes 1986, section 176.511, subdivision 3, is amended to read:

Subd. 3. [ATTORNEY'S FEE, ALLOWANCE.] Where upon an appeal to the workers' compensation court of appeals, an award of compensation is affirmed, or modified and affirmed, or an order disallowing compensation is reversed, the workers' compensation court of appeals may include in its award as an incident to its review on appeal an amount to cover a reasonable attorney's fee, or it may allow the fee in a proceeding to tax disbursements.

If the employer or insurer files a notice of discontinuance of an employee's benefits and an administrative conference is held to resolve the dispute, but the employer or insurer fails to attend the administrative conference, the commissioner or compensation judge may order the employer or insurer to pay the employee's attorney fees as a cost under this section if the employee's benefits are continued.

Sec. 92. Minnesota Statutes 1986, section 176.521, is amended to read:

176.521 [SETTLEMENT OF CLAIMS.]

Subdivision 1. [VALIDITY.] An agreement between an employee or an employee's dependent and the employer or insurer to settle any claim, which is not upon appeal before the workers' compensation court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties and intervenors in the matter, and, where one or more of the parties is not represented by an attorney, the ~~division~~ commissioner or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the workers' compensation court of appeals or district court, the workers' compensation court of appeals or district court is the approving body.

Subd. 2. [APPROVAL.] Settlements shall be approved only if the terms conform with this chapter.

The ~~division commissioner~~, a compensation judge, the ~~workers' compensation court of appeals~~, and the district court shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or the employee's dependent and the employer or insurer ~~and intervenors in the matter~~ are represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensation under this chapter or rehabilitation under section 176.102. A settlement which purports to do so must be approved by the ~~division commissioner~~, a compensation judge, or ~~workers' compensation court of appeals~~.

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

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

Subd. 3. [SETTING ASIDE AWARD UPON SETTLEMENT.] Notwithstanding the provisions of 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, the ~~workers' compensation court of appeals~~ may set aside an award made upon a settlement, pursuant to this chapter. In appropriate cases, the ~~workers' compensation court of appeals~~ may refer the matter to the chief administrative law judge for assignment to a compensation judge for hearing.

Sec. 93. [176.540] [TRANSFER OF STATE CLAIMS UNIT TO DEPARTMENT OF EMPLOYEE RELATIONS.]

The responsibilities of the commissioner of labor and industry relating to the administration and payment of workers' compensation benefits to state employees under chapter 176 and the administration of the peace officers benefits fund under chapter 176B, and

the staff assigned to administer these responsibilities, are hereby transferred to the department of employee relations under section 15.039. The complement positions to be transferred shall be determined by the commissioner of administration in consultation with the commissioners of employee relations and labor and industry.

Sec. 94. Minnesota Statutes 1986, section 176.541, subdivision 2, is amended to read:

Subd. 2. [DEFENSE OF CLAIM AGAINST STATE.] When the commissioner of the department of labor and industry employee relations believes that a claim against the state for compensation should be contested, the commissioner shall defend the state claim.

Sec. 95. Minnesota Statutes 1986, section 176.541, subdivision 3, is amended to read:

Subd. 3. [DUTIES OF ATTORNEY GENERAL.] At any stage in such a compensation proceeding, the attorney general may assume the duty of defending the state. When the commissioner of the department of labor and industry employee relations or a department of this state requests the attorney general to assume the defense, the attorney general shall do so.

Sec. 96. Minnesota Statutes 1986, section 176.541, subdivision 4, is amended to read:

Subd. 4. [MEDICAL EXAMINATION OF EMPLOYEE; WITNESSES; CONDUCT OF DEFENSE.] In conducting a defense against a claim for compensation, the commissioner of the department of labor and industry employee relations or the attorney general, as the case may be, may require that an employee submit to a medical examination, procure the attendance of expert and other witnesses at a hearing, and do any other act necessary to conduct a proper defense.

Sec. 97. Minnesota Statutes 1986, section 176.541, subdivision 6, is amended to read:

Subd. 6. [LEGAL AND CLERICAL HELP.] The commissioner of the department of labor and industry employee relations may employ such legal and clerical help as authorized by the department of administration. The salaries of these persons shall be paid from the state compensation revolving fund, but shall be apportioned among the several departments of the state in relation to the amount of compensation paid to employees of any department as against the total amount of compensation paid to employees of all departments.

Sec. 98. Minnesota Statutes 1986, section 176.571, subdivision 1, is amended to read:

Subdivision 1. [PRELIMINARY INVESTIGATION.] When the head of a department has filed a report or the commissioner of ~~the department of labor and industry~~ employee relations has otherwise received information of the occurrence of an injury to a state employee for which liability to pay compensation may exist, the commissioner of ~~the department of labor and industry~~ employee relations shall make a preliminary investigation to determine the question of probable liability.

In making this investigation, the commissioner of ~~the department of labor and industry~~ employee relations may require the assistance of the head of any department or any employee of the state. The commissioner of ~~the department of labor and industry~~ employee relations may require that all facts be furnished which appear in the records of any state department bearing on the issue.

Sec. 99. Minnesota Statutes 1986, section 176.571, subdivision 2, is amended to read:

Subd. 2. [FINDINGS OF FACT, PROPOSED ORDER DETERMINATION BY DEPARTMENT.] When the commissioner of ~~the department of labor and industry~~ employee relations has completed an investigation, the commissioner shall make findings of fact and shall enter an award or other order which the commissioner proposes to make relating to the liability of the state to pay compensation inform the claimant, the head of the employing department, and the commissioner of finance in writing of the action taken.

Sec. 100. Minnesota Statutes 1986, section 176.572, is amended to read:

176.572 [CONTRACT WITH INSURANCE CARRIERS.]

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

Sec. 101. Minnesota Statutes 1986, section 176.581, is amended to read:

176.581 [FINDINGS AND FINAL ORDER PAYMENT TO STATE EMPLOYEES.]

Subdivision 1. [FILING OF CERTIFIED COPIES.] The commissioner of the department of labor and industry shall file a certified

copy of the findings and final order with the attorney general and the commissioner of finance.

Subd. 2. [PAYMENT OF COMPENSATION.] Upon a warrant prepared by the commissioner of the department of ~~labor and industry~~ employee relations and approved by the commissioner of finance, and in accordance with the terms of the order awarding compensation, the state treasurer shall pay compensation to the employee or the employee's dependent. These payments shall be made from money appropriated for this purpose.

Subd. 3. [RECEIPTS FILED.] The person to whom compensation is paid shall file with the commissioner of the department of ~~labor and industry~~ all current interim and final receipts for such payment as is required of employers.

Sec. 102. Minnesota Statutes 1986, section 176.591, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION PAYMENTS UPON WARRANTS.] The state treasurer shall make compensation payments from the fund only as authorized by this chapter upon warrants of the commissioner of the department of ~~labor and industry~~ employee relations.

Sec. 103. Minnesota Statutes 1986, 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~~ employee relations of administering this chapter in relation to state employees and the necessary expenses which the department of ~~labor and industry~~ employee relations or the attorney general incurs in investigating, administering, and defending a claim against the state for compensation shall be paid from the state compensation revolving fund.

Sec. 104. Minnesota Statutes 1986, section 176.66, subdivision 1, is amended to read:

Subdivision 1. [DISABILITY, DISABLEMENT.] The disablement of an employee or functional loss of use or impairment of function, permanent in nature resulting from an occupational disease shall be regarded as a personal injury within the meaning of the workers' compensation law.

Sec. 105. Minnesota Statutes 1986, section 176.83, subdivision 5, is amended to read:

Subd. 5. [EXCESSIVE MEDICAL SERVICES.] In consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the payer that the level, frequency or cost of a procedure or service of a provider is excessive according to the standards established by the rules, the provider shall not be paid for the excessive procedure, service, or cost by an insurer, self-insurer, or group self-insurer, and the provider shall not be reimbursed or attempt to collect reimbursement for the excessive procedure, service, or cost from any other source, including the employee, another insurer, the special compensation fund, or any government program unless the commissioner, ~~medical services review board, or workers' compensation court of appeals~~ or compensation judge determines at a hearing or administrative conference that the level, frequency, or cost was not excessive in which case the insurer, self-insurer, or group self-insurer shall make the payment deemed reasonable.

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

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

Sec. 106. Minnesota Statutes 1986, section 176.83, subdivision 7, is amended to read:

Subd. 7. [MISCELLANEOUS RULES.] Rules necessary for implementing and administering the provisions of sections 176.131, 176.132, 176.134, sections ~~176.242~~ 59 and ~~176.243~~ 60; sections 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111. Under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule.

Sec. 107. Minnesota Statutes 1986, section 176.83, subdivision 11, is amended to read:

Subd. 11. [SUITABLE GAINFUL EMPLOYMENT INDEPENDENT CONTRACTORS.] 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. 108. Minnesota Statutes 1986, section 176.84, is amended to read:

176.84 [SPECIFICITY OF NOTICE OR STATEMENT.]

Subdivision 1. [SPECIFICITY REQUIRED.] ~~All Notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102; 176.221; 176.241; 176.242; and 176.243 of discontinuance and denials of liability shall be sufficiently specific to convey clearly, without further inquiry, the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.~~

Subd. 2. [PENALTY.] The commissioner or compensation judge may impose a penalty of \$300 for each violation of subdivision 1.

Subd. 3. [EFFECTIVE DATE.] This section shall not be effective until the commissioner adopts rules which specify what is required to be contained in the notice of discontinuance and the denial of liability.

Sec. 109. Minnesota Statutes 1986, section 176B.02, is amended to read:

176B.02 [PEACE OFFICERS BENEFIT FUND.]

There is hereby created in the state treasury an account to be known as peace officers benefit fund. Funds in the peace officers benefit fund shall consist of moneys appropriated to that fund. The administrator of the fund is the commissioner of ~~labor and industry~~ employee relations, who shall follow the procedures specified in section 176.541, subdivisions 2, 3, and 4.

Sec. 110. Minnesota Statutes 1986, section 176B.05, is amended to read:

176B.05 [ATTORNEY'S FEES FOR CLAIMING BENEFITS.]

No fee for legal services which is claimed for the work of an attorney relating to a claim made pursuant to the provisions of sections 176B.01 to 176B.05 is binding unless the amount of the fee charged is determined and approved in writing by the commissioner, compensation judge, or the workers' compensation court of appeals.

Sec. 111. [REPEALER.]

Minnesota Statutes 1986, sections 176.011, subdivisions 25 and 26; 176.012; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602, are repealed.

Sec. 112. [EFFECTIVE DATES.]

Sections 42, 44, 49, 56, 57, 58, 63, 72, and 73 are effective October 1, 1987. All other sections are effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to workers' compensation; providing a general administrative reform; providing for certain proceedings to be expedited; regulating the payment and amount of compensation; providing penalties; amending Minnesota Statutes 1986, sections 14.48; 175.007, subdivision 1; 175.101, subdivision 2; 176.011, subdivisions 2, 6, 7a, 9, 16, and by adding a subdivision; 176.021, subdivision 3; 176.041, subdivision 1, and by adding a subdivision; 176.081, subdivision 2; 176.101, subdivisions 1, 2, 5, and by adding a subdivision; 176.102, subdivisions 2, 3, 3a, 4, 6, 8, 10, and 13; 176.103, subdivisions 2 and 3; 176.111, subdivision 17; 176.132, subdivision 1; 176.133; 176.135, subdivisions 1, 1a, 2, 3, and by adding subdivisions; 176.136, subdivision 2; 176.1361; 176.139; 176.155, subdivisions 1, 3, and 5; 176.179; 176.185, by adding a subdivision; 176.191, subdivisions 1 and 2; 176.195, subdivision 3; 176.221, subdivisions 1, 3, and 7; 176.225, subdivisions 1 and 4; 176.231, subdivisions 2, 10, and by adding a subdivision; 176.271, subdivision 1; 176.275; 176.291; 176.301, subdivision 1; 176.305, subdivisions 1, 2, and by adding subdivisions; 176.306, subdivision 1, and by adding a subdivision; 176.312; 176.321, subdivisions 2 and 3; 176.331; 176.341, subdivision 3, and by adding subdivisions; 176.351, subdivision 2a; 176.361, subdivisions 2, 5, and 7; 176.371; 176.411, subdivision 1; 176.421, subdivision 4, and by adding a subdivision; 176.442; 176.511, subdivisions 1, 2, and 3; 176.521; 176.541, subdivisions 2, 3, 4, and 6; 176.571, subdivisions 1 and 2; 176.572; 176.581; 176.591, subdivision 3; 176.603; 176.66, subdivision 1; 176.83, subdivisions 5, 7, and 11; 176.84; 176B.02; and

176B.05; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1986, sections 176.011, subdivisions 25 and 26; 176.012; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 3v; 176.102, subdivision 6a; 176.103, subdivision 4; 176.136, subdivision 4; 176.195, subdivisions 4, 5, and 6; 176.241; 176.242; 176.2421; 176.243; 176.244; 176.271, subdivision 2; 176.501; 176.571, subdivisions 3, 4, 5, 6, and 7; and 176.602."

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

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1002, A bill for an act relating to utilities; establishing program to provide communication-impaired people with devices enabling their use of telephones; creating advisory committee and requiring report; providing for payment of costs of program; proposing coding for new law in Minnesota Statutes, chapter 237.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [237.50] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in sections 1 to 7 have the meanings given them in this section.

Subd. 2. [BOARD.] "Board" means the telecommunication access for communication-impaired persons board established in section 2.

Subd. 3. [COMMUNICATION IMPAIRED.] "Communication impaired" means certified as deaf, severely hearing impaired, hard of hearing, speech impaired, or deaf and blind.

Subd. 4. [COMMUNICATION DEVICE.] "Communication device" means a device that when connected to a telephone enables a communication-impaired person to communicate with another person utilizing the telephone system. A "communication device" includes a ring signaler, an amplification device, a telephone device for the deaf, and a telebraille unit.

Subd. 5. [EXCHANGE.] "Exchange" means a unit area established and described by the tariff of a telephone company for the administration of telephone service in a specified geographical area, usually embracing a city, town, or village and its environs, and

served by one or more central offices, together with associated facilities used in providing service within that area.

Subd. 6. [FUND.] "Fund" means the telecommunication access for communication-impaired persons fund established in section 3.

Subd. 7. [INTEREXCHANGE SERVICE.] "Interexchange service" means telephone service between points in two or more exchanges.

Subd. 8. [INTER-LATA INTEREXCHANGE SERVICE.] "Inter-LATA interexchange service" means interexchange service originating and terminating in different LATAs.

Subd. 9. [LOCAL ACCESS AND TRANSPORT AREA.] "Local access and transport area (LATA)" means a geographical area designated by the Modification of Final Judgment in U.S. v. Western Electric Co., Inc., 552 F. Supp. 131 (D.D.C. 1982), including modifications in effect on the effective date of sections 2 to 5.

Subd. 10. [LOCAL EXCHANGE SERVICE.] "Local exchange service" means telephone service between points within an exchange.

Subd. 11. [MESSAGE RELAY SERVICE.] "Message relay service" means a central statewide service through which a communication-impaired person, using a communication device, may send and receive messages to and from a non-communication-impaired person whose telephone is not equipped with a communication device and through which a non-communication-impaired person may, by using voice communication, send and receive messages to and from a communication-impaired person.

Sec. 2. [237.51] [BOARD.]

Subdivision 1. [CREATION.] The telecommunication access for communication-impaired persons board is established to establish and administer a program to distribute communication devices to eligible communication-impaired persons and to create and maintain a message relay service.

Subd. 2. [MEMBERS.] The board consists of 12 persons to include:

(1) the commissioner of the department of human services or the commissioner's designee;

(2) the director of the department of public service or the director's designee;

(3) five communication-impaired persons appointed by the governor;

(4) one person appointed by the governor who is a professional in the area of communications disabilities;

(5) one person appointed by the governor to represent the telephone company providing local exchange service to the largest number of persons;

(6) one member of the Minnesota Telephone Association appointed by the governor to represent other affected telephone companies;

(7) one person appointed by the governor to represent companies providing inter-LATA interexchange telephone service; and

(8) one person to represent the organization operating the message relay service to be appointed by the governor at the time the board contracts with the organization pursuant to section 5.

Subd. 3. [REMOVAL; VACANCY; EXPENSES.] The removal of members and filling of vacancies shall be handled as provided under section 15.059, subdivision 4. Members of the board may be reimbursed for expenses incurred in attending meetings as authorized by the commissioner's plan adopted under section 43A.18, subdivision 2.

Subd. 4. [MEETINGS.] The board shall meet at least monthly until December 31, 1988, and at least quarterly thereafter.

Subd. 5. [DUTIES.] In addition to any duties specified elsewhere in sections 2 to 7, the board shall:

(1) define economic hardship, special needs, and household criteria so as to determine the priority of eligible applicants for initial distribution of devices and to determine circumstances necessitating provision of more than one communication device per household;

(2) establish a method to verify eligibility requirements;

(3) research and publish lists of available communication devices and compatibility of the devices with available telephone equipment;

(4) enter contracts for the establishment and operation of the message relay service pursuant to section 5;

(5) inform the public and specifically the community of communication-impaired persons of the program;

(6) prepare the reports required by section 6;

(7) administer the fund created in section 3;

(8) retain the services of a program administrator; and

(9) study the potential economic impact of the program on local communication device retailers and dispensers and develop guidelines for the purchase of some communication devices from local retailers and dispensers if the study determines that otherwise they will be economically harmed by implementation of sections 1 to 7.

Subd. 6. [ADMINISTRATIVE SUPPORT.] The director of the department of public service shall provide staff assistance not including the program administrator who is to be chosen by the board, administrative services, and office space under a contract with the board. The board shall reimburse the commissioner for services, staff, and space provided. The board may request necessary information from the supervising officer of any state agency.

Sec. 3. [237.52] [FUND; ASSESSMENT.]

Subdivision 1. [FUND.] A telecommunication access for communication-impaired persons fund is established as an account in the state treasury. Earnings, such as interest, dividends, and any other earnings arising from fund assets, must be credited to the fund.

Subd. 2. [ASSESSMENT.] The board shall annually recommend to the commission an adequate and appropriate mechanism to implement sections 1 to 7. The commission shall annually determine the funding mechanism to be used within 60 days of receipt of the recommendation of the program administrator and shall order the imposition of surcharges effective on the earliest practicable date. The commission shall establish a monthly charge no greater than ten cents for each customer access line, including trunk equivalents as designated by the commission pursuant to section 403.11, subdivision 1.

Subd. 3. [COLLECTION.] Every telephone company providing local service in this state shall collect the charges established by the commission under subdivision 2 and transfer amounts collected to the commissioner of administration in the same manner as provided in section 403.11, subdivision 1, paragraph (c). The commissioner of administration must deposit the receipts in the fund established in subdivision 1.

Subd. 4. [APPROPRIATION.] Money in the fund is appropriated to the board to implement sections 2 to 7.

Subd. 5. [EXPENDITURES.] Money in the fund may only be used for:

(1) program administration including personnel cost, public relations, board members' expenses, preparation of reports, and other reasonable expenses not to exceed 20 percent of total program expenditures;

(2) reimbursing telephone companies for purchases made or services provided pursuant to section 4; and

(3) contracting for establishment and operation of the message relay service required by section 5.

All costs directly associated with the establishment of the board and program, the purchase and distribution of communication devices and the establishment and operation of the message relay service are either reimbursable or directly payable from the fund after authorization by the board.

Sec. 4. [237.53] [COMMUNICATION DEVICES.]

Subdivision 1. [APPLICATION.] A person applying for a communication device under this section must apply to the program administrator on a form prescribed by the board.

Subd. 2. [ELIGIBILITY.] To be eligible to obtain a communication device under this section, a person must be:

(1) at least five years of age;

(2) communication impaired;

(3) a resident of the state;

(4) a resident in a household that has a median income at or below the applicable median household income in the state, except a deaf and blind person applying for a telebraille unit may reside in a household that has a median income no more than 150 percent of the applicable median household income in the state; and

(5) a resident in a household that has telephone service or that has made application for service and has been assigned a telephone number.

Subd. 3. [DISTRIBUTION.] The telephone company providing local exchange service to the largest number of persons in the state shall purchase and distribute to each other telephone company providing local exchange service a sufficient number of communication devices so that each eligible household receives an appropriate

device. Each telephone company providing local exchange service shall distribute the devices to eligible households in its service area free of charge as directed by the program administrator. Initial distribution of the devices will be on a priority basis as determined by the board under section 2.

Subd. 4. [TRAINING; MAINTENANCE.] The company providing local exchange service to an eligible household shall maintain the communication devices and provide training, without charge, to first-time users of the devices.

Subd. 5. [WIRING INSTALLATION.] If a communication-impaired person is not served by telephone service and is subject to economic hardship as determined by the board, the telephone company providing local service shall at the direction of the administrator of the program install necessary outside wiring without charge to the household.

Subd. 6. [OWNERSHIP.] All communication devices purchased pursuant to subdivision 3 will become the property of the company providing the communication device to eligible recipients and are excluded from that company's rate base for the purpose of establishing rates under section 237.075 as applicable.

Subd. 7. [STANDARDS.] The communication devices distributed under this section must comply with the electronic industries association standards and approved by the Federal Communications Commission. Each company must provide each eligible person a choice of several models of devices, the retail value of which may not exceed \$600 for a communication device for the deaf and a retail value of \$7,000 for a telebraille device.

Subd. 8. [REIMBURSEMENT.] The board shall reimburse telephone companies for the cost of any purchase or service required under this section from money in the fund established in section 3.

Sec. 5. [237.54] [MESSAGE RELAY SERVICE.]

Subdivision 1. [ESTABLISHMENT.] The board shall contract with an inter-LATA interexchange telephone service provider to establish a third-party message relay service with an "800" number to enable telecommunication between communication-impaired persons and non-communication-impaired persons.

Subd. 2. [OPERATION.] The board shall contract with a local consumer organization that serves communication-impaired persons for operation of the message relay system. The operator of the system shall keep all messages confidential, shall train personnel in the unique needs of communication-impaired people, and shall inform communication-impaired persons and the public of the availability and use of the system. The operator shall not relay a

message unless it originates or terminates through a communication device for the deaf or a telebraille device.

Sec. 6. [237.55] [REPORTS; PLANS.]

The board shall prepare a report for presentation to the commission not later than December 31, 1987, to include plans for distributing communication devices and establishing a third-party message relay service and a recommendation for a funding mechanism pursuant to section 3, subdivision 2. The provision of service required under sections 1 to 7 may begin when the plan is approved by the commission or March 1, 1988, whichever is earlier.

Beginning in 1988, the board must prepare a report for presentation to the commission by December 31 of each year through the year 1992. Each report must review the accessibility of the telephone system to communication-impaired persons, review the ability of non-communication-impaired persons to communicate with communication-impaired persons via the telephone system, describe services provided, account for money received and disbursed annually for each aspect of the program to date, and include predicted future operation until the final report.

The final report must, in detail, describe program operation and make recommendations for the funding and service level for necessary ongoing services. The commission may recommend changes in the program to the legislature throughout its operation and shall make a recommendation to the legislature by February 1, 1993, for the future provision and maintenance of the services.

Sec. 7. [237.56] [ADEQUATE SERVICE.]

The services required to be provided under sections 1 to 6 may be enforced under section 237.081 upon a complaint of at least two communication-impaired persons within the service area of any one telephone company, provided that if only one person within the service area of a company is receiving service under sections 1 to 6, the commission may proceed upon a complaint from that person.

Sec. 8. [EFFECTIVE DATE.]

Sections 1 to 7 are effective July 1, 1987, and are repealed effective June 30, 1993."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1008, A bill for an act relating to occupations and professions; generally revising and updating the laws relating to licensure of podiatrists; providing for definitions, licensing, practice without a license, disciplinary action, and investigations; providing penalties; amending Minnesota Statutes 1986, sections 153.01, subdivisions 2 and 3; 153.02; 153.03; 214.01; and 319A.02; proposing coding for new law in Minnesota Statutes, chapter 153; repealing Minnesota Statutes 1986, sections 153.01, subdivision 4; 153.04 to 153.09; 153.13; 153.14; and 153.15.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 153.01, subdivision 2, is amended to read:

Subd. 2. [PODIATRY PODIATRIC MEDICINE.] ~~The word "Podiatry" is held to be "Podiatric medicine" means the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand or, foot, ankle, and the soft tissue of the lower leg distal to the tibial tuberosity, including amputation of the toe, but not including amputation of the foot, hand, or fingers, or the use of anesthetics other than local anesthetics. It shall include "Podiatric medicine" includes the fitting prescribing or recommending of appliances, devices, or shoes for the correction or relief of minor foot ailments, except the amputation of the foot, hand, toes, or fingers, or the use of anesthetics other than local. It shall include "Podiatric medicine" includes the prescribing or administering of any drugs or medications necessary or helpful to the practice of podiatry as defined by this subdivision, provided, however, that licensed podiatrists shall be restricted in their prescribing or administering of any drugs or medications by the limitations imposed on the scope of practice of podiatry podiatric medicine as defined in this chapter.~~

Sec. 2. Minnesota Statutes 1986, section 153.01, subdivision 3, is amended to read:

Subd. 3. [BOARD.] ~~The word "Board" means the board of podiatry podiatric medicine of the state of Minnesota.~~

Sec. 3. Minnesota Statutes 1986, section 153.02, is amended to read:

153.02 [BOARD; APPOINTMENT; TERMS; COMPENSATION OF PODIATRIC MEDICINE.]

The governor shall appoint a board of ~~podiatry~~ podiatric medicine consisting of two public members as defined by section 214.02 and five resident podiatrists of good standing in their profession. The podiatrists must each hold a degree of doctor of podiatric medicine and be licensed to practice podiatric medicine under this chapter. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. The provision of staff, administrative services and office space; the review and processing of complaints; the setting of board fees; and other provisions related to board operations shall be as provided in chapter 214 and Laws 1976, chapter 222, sections 2 to 7.

The board shall elect from among its members a president and a secretary-treasurer. The board may adopt rules as necessary to carry out the purposes of this chapter. The members of the board may administer oaths and take testimony as to matters pertaining to the duties of the board. Four members of the board shall constitute a quorum for the transaction of business. The board shall have a common seal, which shall be kept by the executive director.

Sec. 4. Minnesota Statutes 1986, section 153.03, is amended to read:

153.03 [~~APPLICATION FOR REGISTRATION;~~ EXPENSES.]

Application for registration shall be made upon blanks furnished by the board and signed and sworn to by the applicant. The expenses of administering sections ~~153.04~~ 1 to ~~153.15~~ 16 shall be paid from the appropriations made to the board.

Sec. 5. [153.16] [LICENSURE.]

Subdivision 1. [LICENSE REQUIREMENTS.] The board shall issue a license to practice podiatric medicine to a person who meets the following requirements:

(a) The applicant for a license shall file a written notarized application on forms provided by the board, showing to the board's satisfaction that the applicant is of good moral character and satisfies the requirements of this section.

(b) The applicant shall present evidence satisfactory to the board of being a graduate of a podiatric medical school approved by the board based upon its faculty, curriculum, facilities, accreditation by a recognized national accrediting organization approved by the board, and other relevant factors.

(c) The applicant must have passed an examination prepared and graded by the national board of podiatric medical examiners and

also pass a state clinical examination prepared and graded by the state board of podiatric medicine or a national clinical examination prepared and graded by the national board of podiatric medical examiners. The board shall by rule determine what score constitutes a passing score in each examination.

(d) Applicants graduating after 1986 from a podiatric medical school shall present evidence satisfactory to the board of the completion of (1) one year of graduate, clinical residency or preceptorship in a program accredited by a national accrediting organization approved by the board or (2) other graduate training that meets standards equivalent to those of an approved national accrediting organization or school of podiatric medicine.

(e) The applicant shall appear in person before the board or its designated representative to show that the applicant satisfies the requirements of this section. The board may establish as internal operating procedures the procedures or requirements for the applicant's personal presentation.

(f) The applicant shall pay a fee established by the board by rule. The fee shall not be refunded.

(g) The applicant must not have engaged in conduct warranting disciplinary action against a licensee. If the applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions and limitations the board considers appropriate.

(h) Upon payment of a fee as the board may require, an applicant who fails to pass an examination and is refused a license is entitled to reexamination within one year of the board's refusal to issue the license. No more than two reexaminations are allowed without a new application for a license.

Subd. 2. [APPLICANTS LICENSED IN ANOTHER STATE.] The board shall issue a license to practice podiatric medicine to any person currently or formerly licensed to practice podiatric medicine in another state who satisfies the requirements of this section:

(a) The applicant shall satisfy the requirements established in subdivision 1.

(b) The applicant shall present evidence satisfactory to the board indicating the current status of a license to practice podiatric medicine issued by the proper agency in another state or country.

(c) The applicant must not have had a license revoked, engaged in conduct warranting disciplinary action against a licensee, or been

subjected to disciplinary action, in another state. If an applicant does not satisfy the requirements of this paragraph, the board may refuse to issue a license unless it determines that the public will be protected through issuance of a license with conditions or limitations the board considers appropriate.

(d) The applicant shall submit with the license application the following additional information for the five-year period preceding the date of filing of the application: (1) the name and address of the applicant's professional liability insurer in the other state; and (2) the number, date, and disposition of any podiatric medical malpractice settlement or award made to the plaintiff relating to the quality of podiatric medical treatment.

Subd. 3. [TEMPORARY PERMIT.] Upon payment of a fee and in accordance with the rules of the board, the board may issue a temporary permit to practice podiatric medicine to a podiatrist engaged in a clinical residency or preceptorship for a period not to exceed 12 months.

Sec. 6. [153.17] [PRACTICING WITHOUT LICENSE; PENALTY.]

Subdivision 1. [UNLAWFUL PRACTICE OF PODIATRIC MEDICINE.] It is unlawful for any person not holding a valid license or permit issued in accordance with this chapter to practice podiatric medicine as defined in section 153.01, subdivision 2, in this state.

Subd. 2. [PRACTICE OF PODIATRIC MEDICINE DEFINED.] It is unlawful for any person not holding a valid license issued in accordance with this chapter to:

(1) advertise, hold out to the public, or represent in any manner that the person is authorized to practice podiatric medicine in this state;

(2) use in the conduct of any occupation or profession pertaining to the diagnosis or medical, mechanical, or surgical treatment of the ailments of the human hand, foot, ankle, or soft tissue of the lower leg distal to the tibial tuberosity, the designation "doctor of podiatric medicine," "podiatrist," "D.P.M.," "podiatric physician," "chiropractist," "foot specialist," or "foot doctor," or uses any title, degree, letter, syllable, word, or words that would tend to lead the public to believe that person was authorized to practice or assume duties incident to the practice of podiatric medicine.

Subd. 3. [PENALTY.] Any person violating the provisions of subdivision 1 or 2 is guilty of a gross misdemeanor.

Sec. 7. [153.18] [EXEMPTIONS.]

Section 6 does not apply to, control, prevent or restrict the practice, service, or activities of:

(1) a person who is a commissioned medical officer of, a member of, or employed by, the armed forces of the United States, the United States Public Health Service, the Veterans Administration, any federal institution or any federal agency while engaged in the performance of official duties within this state, if the person is licensed elsewhere;

(2) a person licensed by a health related licensing board, as defined in section 214.01, subdivision 2, or registered by the commissioner of health under section 214.13, if the person's professional activities are confined within the scope of the license; or

(3) a Christian Scientist or other person who endeavors to prevent or cure disease or suffering exclusively by mental or spiritual means or by prayer.

Sec. 8. [153.19] [GROUNDS FOR DISCIPLINARY ACTION.]

Subdivision 1. [GROUNDS LISTED.] The board may refuse to grant a license or may impose disciplinary action as described in this section against any doctor of podiatric medicine. The following conduct is prohibited and is grounds for disciplinary action:

(1) failure to demonstrate the qualifications or satisfy the requirements for a license contained in this chapter or rules of the board; the burden of proof shall be upon the applicant to demonstrate the qualifications or satisfaction of the requirements;

(2) obtaining a license by fraud or cheating, or attempting to subvert the licensing examination process;

(3) conviction, during the previous five years, of a felony reasonably related to the practice of podiatric medicine;

(4) revocation, suspension, restriction, limitation, or other disciplinary action against the person's podiatric medical license in another state or jurisdiction, failure to report to the board that charges regarding the person's license have been brought in another state or jurisdiction, or having been refused a license by any other state or jurisdiction;

(5) advertising that is false or misleading;

(6) violating a rule adopted by the board or an order of the board, a state, or federal law that relates to the practice of podiatric medicine, or in part regulates the practice of podiatric medicine, or a state or federal narcotics or controlled substance law;

(7) engaging in any unethical conduct; conduct likely to deceive, defraud, or harm the public, or demonstrating a willful or careless disregard for the health, welfare or safety of a patient; or podiatric medical practice that is professionally incompetent, in that it may create unnecessary danger to any patient's life, health, or safety, in any of which cases, proof of actual injury need not be established;

(8) failure to supervise a preceptor or resident;

(9) aiding or abetting an unlicensed person in the practice of podiatric medicine, except that it is not a violation of this clause for a podiatrist to employ, supervise, or delegate functions to a qualified person who may or may not be required to obtain a license or registration to provide health services if that person is practicing within the scope of that person's license or registration or delegated authority;

(10) adjudication as mentally incompetent, or mentally ill, or as a chemically dependent person, a person dangerous to the public, or a person who has a psychopathic personality by a court of competent jurisdiction, within or without this state;

(11) engaging in unprofessional conduct that includes any departure from or the failure to conform to the minimal standards of acceptable and prevailing podiatric medical practice, but actual injury to a patient need not be established;

(12) inability to practice podiatric medicine with reasonable skill and safety to patients by reason of illness or chemical dependency or as a result of any mental or physical condition, including deterioration through the aging process or loss of motor skills;

(13) revealing a privileged communication from or relating to a patient except when otherwise required or permitted by law;

(14) improper management of medical records, including failure to maintain adequate medical records, to comply with a patient's request made under section 144.335 or to furnish a medical record or report required by law;

(15) accepting, paying, or promising to pay a part of a fee in exchange for patient referrals;

(16) engaging in abusive or fraudulent billing practices, including violations of the federal Medicare and Medicaid laws or state medical assistance laws;

(17) becoming addicted or habituated to a drug or intoxicant;

(18) prescribing a drug for other than medically accepted therapeutic or experimental or investigative purposes authorized by a state or federal agency;

(19) engaging in sexual conduct with a patient or conduct that may reasonably be interpreted by the patient as sexual, or in verbal behavior which is seductive or sexually demeaning to a patient; or

(20) failure to make reports as required by section 13 or to cooperate with an investigation of the board as required by section 9.

Subd. 2. [EVIDENCE.] In disciplinary actions alleging a violation of subdivision 1, clause (3) or (4), a copy of the judgment or proceeding under the seal of the court administrator or of the administrative agency that entered the same is admissible into evidence without further authentication and constitutes prima facie evidence of the contents of that judgment or proceeding.

Sec. 9. [153.20] [PODIATRIST COOPERATION.]

A podiatrist who is the subject of an investigation by or on behalf of the board shall cooperate fully with the investigation. Cooperation includes responding fully and promptly to any question raised by or on behalf of the board relating to the subject of the investigation and providing copies of patient medical records, as reasonably requested by the board, to assist the board in its investigation. The board shall pay for copies requested. If the board does not have a written consent from a patient permitting access to the patient's records, the podiatrist shall delete any data in the record that identifies the patient before providing it to the board. The board shall maintain any records obtained under this section as investigative data under chapter 13.

Sec. 10. [153.21] [MENTAL EXAMINATION; ACCESS TO MEDICAL DATA.]

Subdivision 1. [SUBMISSION TO EXAMINATION.] If the board has probable cause to believe that a doctor of podiatric medicine falls within the provisions of section 8, subdivision 1, clause (12), it may direct the doctor to submit to a mental or physical examination or chemical dependency evaluation. For the purpose of this subdivision, a doctor of podiatric medicine licensed under this chapter is considered to have consented to submit to a mental or physical examination when directed in writing by the board and further to have waived all objections to the admissibility of the examiner's testimony or examination reports on the ground that the same constitute a privileged communication. Failure of a podiatrist to submit to an examination when directed constitutes an admission of the allegations against the podiatrist, unless the failure was due to circumstance beyond the podiatrist's control, in which case a default and final order may be entered without the taking of testimony or

presentation of evidence. A podiatrist affected under this subdivision shall at reasonable intervals be given an opportunity to demonstrate that the podiatrist can resume the competent practice of podiatric medicine with reasonable skill and safety to patients. In any proceeding under this subdivision, neither the record of proceedings nor the orders entered by the board shall be used against a podiatrist in any other proceeding.

Subd. 2. [ACCESS TO MEDICAL DATA.] In addition to ordering a physical or mental examination or chemical dependency evaluation, the board may, notwithstanding section 13.42, 144.651, or any other law limiting access to medical or other health data, obtain medical data and health records relating to a licensee or applicant without the licensee's or applicant's consent if the board has probable cause to believe that a doctor of podiatric medicine falls within the provisions of section 8, subdivision 1, clause (12). The medical data may be requested from a provider, as defined in section 144.335, subdivision 1, paragraph (b), an insurance company, or a government agency, including the department of human services. A provider, insurance company, or government agency shall comply with any written request of the board under this section and is not liable in any action for damages for releasing the data requested by the board if the data are released in accordance with a written request under this section, unless the information is false and the provider giving the information knew, or had reason to believe, the information was false.

Sec. 11. [153.22] [FORMS OF DISCIPLINARY ACTION; DATES; AUTOMATIC SUSPENSION; REISSUANCE.]

Subdivision 1. [FORMS OF DISCIPLINARY ACTION.] When the board finds, after notice and hearing, that a licensed doctor of podiatric medicine has violated a provision or provisions of this chapter, it may do one or more of the following:

- (1) revoke the license;
- (2) suspend the license;
- (3) impose limitations or conditions on the podiatrist's practice of podiatric medicine; the imposition of retraining or rehabilitation requirements; the requirement of practice under supervision; or the conditioning of continued practice on demonstration of knowledge or skills by appropriate examination or other review of skill and competence;
- (4) impose a civil penalty not exceeding \$10,000 for each separate violation, the amount of the civil penalty to be fixed so as to deprive the podiatrist of any economic advantage gained by reason of the violation charged or to reimburse the board for the cost of the investigation and proceeding;

(5) order the podiatrist to provide unremunerated professional service under supervision at a designated public hospital, nursing home, clinic, or other health care institution; or

(6) censure or reprimand the licensed podiatrist.

Subd. 2. [TEMPORARY SUSPENSION OF LICENSE.] In addition to any other remedy provided by law, the board may, without a hearing, temporarily suspend the license of a doctor of podiatric medicine if the board finds that the doctor has violated a statute or rule that the board is empowered to enforce and continued practice by the doctor would create a serious risk of harm to the public. The suspension shall take effect upon written notice to the doctor, specifying the statute or rule violated. The suspension shall remain in effect until the board issues a final order in the matter after a hearing. At the time it issues the suspension notice, the board shall schedule a disciplinary hearing to be held under the contested case procedure of the administrative procedure act. The doctor shall be provided with at least 20 days notice of any hearing held under this subdivision. The hearing shall be scheduled to begin no later than 30 days after the issuance of the suspension order.

Subd. 3. [EFFECTIVE DATES.] A suspension, revocation, condition, limitation, qualification or restriction of a license shall be in effect pending determination of an appeal unless the court, upon petition and for good cause shown, shall otherwise order.

Subd. 4. [AUTOMATIC SUSPENSION.] A license to practice podiatric medicine is automatically suspended if (1) a guardian of the person of a licensee is appointed by order of a probate court under sections 525.54 to 525.61, for reasons other than the minority of the licensee; or (2) the licensee is committed by order of a probate court under chapter 253B or sections 526.09 to 526.11. The license remains suspended until the licensee is restored to capacity by a court and, upon petition by the licensee, the suspension is terminated by the board after a hearing.

Subd. 5. [CONDITIONS ON REISSUED LICENSE.] In its discretion, the board may restore and reissue a license to practice podiatric medicine, but as a condition of the license may impose any disciplinary or corrective measure that it might originally have imposed.

Sec. 12. [153.23] [DISCIPLINARY INVESTIGATION.]

Subdivision 1. [MALPRACTICE COMPLAINTS.] Whenever the files maintained by the board show that a podiatric medical malpractice settlement or award to the plaintiff has been made against a podiatrist as reported by insurers, the executive director may initiate a complaint under section 214.10.

Subd. 2. [ACCESS TO HOSPITAL RECORDS.] The board shall have access to hospital and medical records of a patient treated by the podiatrist under review if the patient signs a written consent permitting that access. If no consent form has been signed, the hospital or podiatrist shall first delete data in the record that identifies the patient before providing it to the board.

Sec. 13. [153.24] [REPORTING OBLIGATIONS.]

Subdivision 1. [PERMISSION TO REPORT.] A person who has knowledge of any conduct constituting grounds for discipline under this chapter may report the violation to the board.

Subd. 2. [INSTITUTIONS.] Any hospital, clinic, prepaid medical plan, or other health care institution or organization located in this state shall report to the board any action taken by the institution or organization or any of its administrators or medical or other committees to revoke, suspend, restrict, or condition a podiatrist's privilege to practice or treat patients in the institution, or as part of the organization, any denial of privileges, or any other disciplinary action. The institution or organization shall also report the resignation of any podiatrists before the conclusion of any disciplinary proceeding, or prior to the commencement of formal charges but after the podiatrist had knowledge that formal charges were contemplated or in preparation. No report shall be required of a podiatrist voluntarily limiting his or her practice at a hospital if the podiatrist notifies all hospitals at which the podiatrist has privileges of the voluntary limitation and the reasons for it.

Subd. 3. [LICENSED PROFESSIONALS.] A licensed health professional shall report to the board personal knowledge of any conduct that the professional reasonably believes constitutes grounds for disciplinary action under this chapter by any podiatrist, including any conduct showing that the podiatrist may be medically incompetent, or may have engaged in unprofessional conduct or may be medically or physically unable to engage safely in the practice of podiatric medicine.

Subd. 4. [INSURERS.] Four times a year as prescribed by the board, each insurer authorized to sell insurance described in section 60A.06, subdivision 1, clause (13), and providing professional liability insurance to podiatrists shall submit to the board a report concerning the podiatrists against whom podiatric medical malpractice settlements or awards have been made to the plaintiff. The report must contain at least the following information:

(1) the total number of podiatric malpractice settlements or awards made to the plaintiff;

(2) the date the podiatric malpractice settlements or awards to the plaintiff were made;

(3) the allegations contained in the claim or complaint leading to the settlements or awards made to the plaintiff;

(4) the dollar amount of each podiatric malpractice settlement or award;

(5) the regular address of the practice of the podiatrist against whom an award was made or with whom a settlement was made; and

(6) the name of the podiatrist against whom an award was made or with whom a settlement was made.

The insurance company shall, in addition to the foregoing information, report to the board any information it has that tends to substantiate a charge that a podiatrist may have engaged in conduct violating this chapter.

Subd. 5. [COURTS.] The court administrators of the district courts or any other court of competent jurisdiction shall report to the board any judgment or other determination of the court that adjudges or includes a finding that a podiatrist is mentally ill, mentally incompetent, guilty of a felony, or guilty of a violation of federal or state narcotics laws or controlled substances act, guilty of an abuse or fraud under Medicare or Medicaid, appoints a guardian of the podiatrist under sections 525.54 to 525.61 or commits a podiatrist under chapter 253B or sections 526.09 to 526.11.

Subd. 6. [SELF-REPORTING.] A podiatrist shall report to the board any personal action that would require that a report be filed with the board by any person, health care facility, business, or organization under subdivisions 2 to 5.

Subd. 7. [DEADLINES; FORMS.] Reports required by subdivisions 2 to 6 must be submitted not later than 30 days after the occurrence of the reportable event or transaction. The board may provide forms for the submission of reports required by this section, may require that reports be submitted on the forms provided, and may adopt rules necessary to assure prompt and accurate reporting.

Sec. 14. [153.25] [IMMUNITY.]

Subdivision 1. [REPORTING.] Any person, health care facility, business, or organization is immune from civil liability or criminal prosecution for submitting a report to the board under section 13 or for otherwise reporting to the board violations or alleged violations of section 8.

Subd. 2. [INVESTIGATION.] Members of the board and persons employed by the board or engaged in the investigation of violations and in the preparation and management of charges of violations of

this chapter on behalf of the board are immune from civil liability and criminal prosecution for any actions, transactions, or publications in the execution of, or relating to, their duties under this chapter.

Sec. 15. Minnesota Statutes 1986, section 214.01, subdivision 2, is amended to read:

Subd. 2. "Health-related licensing board" means the board of examiners of nursing home administrators established pursuant to section 144A.19, the board of medical examiners created pursuant to section 147.01, the board of nursing created pursuant to section 148.181, the board of chiropractic examiners established pursuant to section 148.02, the board of optometry established pursuant to section 148.52, the board of psychology established pursuant to section 148.90, the board of dentistry established pursuant to section 150A.02, the board of pharmacy established pursuant to section 151.02, the board of podiatry podiatric medicine established pursuant to section 153.02, and the board of veterinary medicine, established pursuant to section 156.01.

Sec. 16. Minnesota Statutes 1986, section 319A.02, subdivision 2, is amended to read:

Subd. 2. "Professional service" means personal service rendered by a professional pursuant to a license or certificate issued by the state of Minnesota to practice medicine and surgery pursuant to sections 147.01 to 147.29, chiropractic pursuant to sections 148.01 to 148.101, nursing pursuant to sections 148.171 to 148.285, optometry pursuant to sections 148.52 to 148.62, psychology pursuant to sections 148.88 to 148.98, dentistry pursuant to sections 150A.01 to 150A.12, pharmacy pursuant to sections 151.01 to 151.40, podiatry podiatric medicine pursuant to sections ~~153.01~~ 1 to ~~153.15~~ 16, veterinary medicine pursuant to sections 156.001 to 156.14, architecture, engineering, surveying and landscape architecture pursuant to sections 326.02 to 326.15, accountancy pursuant to sections 326.17 to 326.23, or law pursuant to sections 481.01 to 481.17, or pursuant to a license or certificate issued by another state pursuant to similar laws.

Sec. 17. [REPEALER.]

Minnesota Statutes 1986, sections 153.01, subdivision 4; 153.04; 153.05; 153.06; 153.07; 153.08; 153.09; 153.13; 153.14; and 153.15, are repealed."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1022, A bill for an act relating to human services; establishing a community services conversion project; proposing coding for new law in Minnesota Statutes, chapter 252.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [252.292] [COMMUNITY SERVICES CONVERSION PROJECT.]

Subdivision 1. [COMMISSIONER'S DUTIES; REPORT.] For the purposes of section 252.291, subdivision 3, the commissioner of human services shall ask counties to present proposals for the voluntary conversion of services provided by community intermediate care facilities for persons with mental retardation or related conditions to services provided under home and community-based services.

The commissioner shall report to the legislature by March 1, 1988, on the status of the community services conversion project. The report must include the project's cost, the number of counties and facilities participating, the number and location of decertified community intermediate care beds, and the project's effect on residents, former residents, and employees of community intermediate care facilities for persons with mental retardation or related conditions.

Subd. 2. [COUNTY PROPOSALS.] (a) The commissioner may approve county proposals within the limitations of this section. To be considered for approval, county proposals must contain the following information:

(1) specific plans for the development and provision of alternative services for residents moved from intermediate care facilities for persons with mental retardation or related conditions;

(2) time lines and expected beginning dates for resident relocation and facility closure; and

(3) projected caseloads and expenditures for intermediate care facilities for persons with mental retardation or related conditions and for home and community-based services.

(b) Counties must ensure that residents discharged from facilities participating in the project are moved to their home communities whenever possible. For the purposes of this section, "home community" means the county of financial responsibility or a county

adjacent to the county of financial responsibility. The commissioner shall have the sole authority to waive this requirement based on the choice of the person or the person's legal representative, if any.

(c) County proposals must comply with the need determination procedures in sections 252.28 and 252.291, the responsibility for persons with mental retardation or related conditions specified in section 256B.092, the requirements under United States Code, title 42, sections 1396 et seq., and section 256B.501, and the rules adopted under these laws.

(d) The commissioner shall give first priority to proposals that:

(1) respond to the emergency relocation of a facility's residents;

(2) result in the closing of a facility;

(3) demonstrate that alternative placements will be developed based on individual resident needs and applicable federal and state rules; and

(4) demonstrate savings of medical assistance expenditures. The commissioner shall give second priority to proposals that meet all of the above criteria except clause (1).

(e) The commissioner shall select proposals that best meet the criteria established in this subdivision within the appropriations made available for home and community-based services. The commissioner shall notify counties and facilities of the selections made and approved by the commissioner.

(f) For each proposal approved by the commissioner, a contract must be established between the commissioner, the county where the facility is located, and the participating facility. The contract must address the items in this subdivision and must be consistent with the requirements of this section.

Subd. 3. [HOME AND COMMUNITY-BASED SERVICES.] Home and community-based services shall be allocated to participating counties to replace intermediate care facility services for persons with mental retardation or related conditions that are decertified through the project. One additional home and community-based services placement shall be provided for each current resident of an intermediate care facility for persons with mental retardation or related conditions who chooses and is eligible for home and community-based services. The placement must meet applicable federal and state laws and rules. Additional home and community-based services placements will not be authorized for persons transferred to other intermediate care facilities for persons with mental retardation or related conditions, including state hospitals, or to

nursing homes licensed under chapter 144A, or for persons determined ineligible for home and community-based services.

The county must provide quarterly reports to the commissioner regarding the number of people moving out of participating facilities each month and their alternative placement. County actions that result in a denial of services, failure to act with reasonable promptness, suspension, reduction, or termination of services may be appealed by affected persons under section 256.045.

Subd. 4. [FACILITY RATES.] For purposes of this section, the commissioner shall establish payment rates under section 256B.501 and Minnesota Rules, parts 9553.0010 to 9553.0080, except that, in order to facilitate an orderly transition of residents from community intermediate care facilities for persons with mental retardation or related conditions to services provided under the home and community-based services program, the commissioner may, in a contract with the provider, modify the effect of provisions in Minnesota Rules, parts 9553.0010 to 9553.0080, as stated in clauses (a) to (i):

(a) extend the interim and settle-up rate provisions to include facilities covered by this section;

(b) extend the length of the interim period, but not to exceed 24 months. The commissioner may grant a variance to exceed the 24-month interim period, as necessary, for facilities which are licensed and certified to serve more than 99 persons. In no case shall the commissioner approve an interim period which exceeds 36 months;

(c) waive the investment per bed limitations for the interim period and the settle-up rate;

(d) limit the amount of reimbursable expenses related to the acquisition of new capital assets;

(e) prohibit the acquisition of additional capital debt or refinancing of existing capital debt unless prior approval is obtained from the commissioner;

(f) establish an administrative operating cost limitation for the interim period and the settle-up rate;

(g) require the retention of financial and statistical records until the commissioner has audited the interim period and the settle-up rate;

(h) require that the interim period be audited by a certified or licensed public accounting firm; or

(i) change any other provision to which all parties to the contract agree.

Sec. 2. Minnesota Statutes 1986, section 256B.092, subdivision 1, is amended to read:

Subdivision 1. [COUNTY OF FINANCIAL RESPONSIBILITY; DUTIES.] Before any services shall be rendered to persons with mental retardation or related conditions who are in need of social service and medical assistance, the county of financial responsibility shall conduct a diagnostic evaluation in order to determine whether the person is or may be mentally retarded or has or may have a related condition. If a client is diagnosed as mentally retarded or as having a related condition, that county must conduct a needs assessment, develop an individual service plan, provide ongoing case management services at the level identified in the individual service plan, and authorize placement for services. To the extent possible, for wards of the commissioner the county shall consider the opinions of the parent of the person with mental retardation or a related condition when developing the person's individual service plan. If the county of financial responsibility places a client in another county for services, the placement shall be made in cooperation with the host county of service, and arrangements shall be made between the two counties for ongoing social service, including annual reviews of the client's individual service plan. The host county may not make changes in the service plan without approval by the county of financial responsibility."

Amend the title as follows:

Page 1, line 3, after the semicolon insert "requiring counties to consider the opinions of parents when developing service plans for persons with mental retardation and related conditions; amending Minnesota Statutes 1986, section 256B.092, subdivision 1;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1076, A bill for an act relating to health; making nutrition data reporting discretionary rather than mandatory; governing the hazardous substance injury compensation board; authorizing the commissioner to control activities of carriers of communicable diseases; regulating licensure and inspections of hospitals, nursing homes, life support transportation systems, and eating places; clarifying powers of the office of health facility complaints; changing certain duties of the interagency board for

quality assurance; providing penalties; amending Minnesota Statutes 1986, sections 115B.28, subdivision 4; 144.0722; 144.092; 144.50, subdivisions 1 and 2; 144.55, by adding a subdivision; 144.653, subdivision 3; 144.804, subdivision 7; 144A.10, subdivisions 1 and 2; 144A.16; 144A.31; 144A.53, subdivision 1; 145.881, subdivision 1; 157.01; 157.02; 157.04; 157.09; and 157.14; proposing coding for new law in Minnesota Statutes, chapters 144 and 144A; repealing Minnesota Statutes 1986, sections 144.422; 144.424; 144.425; 144.471; 144.49, subdivision 5; 144.692; and 144.94.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 115B.28, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE PERSONNEL AND SERVICES.] The board may appoint an executive director who is not a member of the board. The executive director is in the unclassified service. The commissioner of health shall provide staff assistance, administrative services, and office space under a contract with the board. The board shall reimburse the commissioner for the staff, services, and space provided. In order to perform its duties, the board may request information from the supervising officer of any state agency or state institution of higher education. When requesting health data as defined in section 13.38 or sections 144.67 to 144.69, the board must submit a written release signed by the subject of the data or, if the subject is deceased, a representative of the deceased, authorizing release of the data in whole or in part. The supervising officer shall comply with the board's request to the extent possible considering available agency or institution appropriations and may assign agency or institution employees to assist the board in performing its duties under sections 115B.25 to 115B.37.

Sec. 2. Minnesota Statutes 1986, section 144.0722, is amended to read:

144.0722 [RESIDENT REIMBURSEMENT CLASSIFICATIONS; PROCEDURES FOR RECONSIDERATION.]

Subdivision 1. [RESIDENT REIMBURSEMENT CLASSIFICATIONS.] The commissioner of health shall establish resident reimbursement classifications based upon the assessments of residents of nursing homes and boarding care homes conducted under sections 144.072 and 144.0721, or under rules established by the commissioner of human services under sections 256B.41 to 256B.48. The reimbursement classifications established by the commissioner must conform to the rules established by the commissioner of human services.

Subd. 2. [NOTICE OF RESIDENT REIMBURSEMENT CLASSIFICATION.] The commissioner of health shall notify each resident, and the nursing home or boarding care home in which the resident resides, of the reimbursement classification established under subdivision 1. The notice must inform the resident of the classification that was assigned, the opportunity to review the documentation supporting the classification, the opportunity to obtain clarification from the commissioner, and the opportunity to request a reconsideration of the classification. The notice of resident classification must be sent by first-class mail. The individual resident notices may be sent to the resident's nursing home or boarding care home for distribution to the resident. The nursing home or boarding care home is responsible for the distribution of the notice to each resident, to the person responsible for the payment of the resident's nursing home expenses, or to another person designated by the resident. This notice must be distributed within three working days after the facility's receipt of the notices from the department.

Subd. 3. [REQUEST FOR RECONSIDERATION.] The resident or the nursing home or boarding care home may request that the commissioner reconsider the assigned reimbursement classification. The request for reconsideration must be submitted in writing to the commissioner within ten working 30 days of the receipt of the notice of resident classification. For reconsideration requests submitted by or on behalf of the resident, the time period for submission of the request begins as of the date the resident or the resident's representative receives the classification notice. The request for reconsideration must include the name of the resident, the name and address of the facility in which the resident resides, the reasons for the reconsideration, the requested classification changes, and documentation supporting the requested classification. The documentation accompanying the reconsideration request is limited to documentation establishing that the needs of the resident at the time of the assessment resulting in the disputed classification justify a change of classification.

Subd. 3a. [ACCESS TO INFORMATION.] Upon written request, the nursing home or boarding care home must give the resident or the resident's representative a copy of the assessment form and the other documentation that was given to the department to support the assessment findings. The nursing home or boarding care home shall also provide access to and a copy of other information from the resident's record that has been requested by or on behalf of the resident to support a resident's reconsideration request. A copy of any requested material must be provided within three working days of receipt of a written request for the information. If a facility fails to provide the material within this time, it is subject to the issuance of a correction order and penalty assessment under sections 144.653 and 144A.10. Notwithstanding those sections, any correction order issued under this subdivision must require that the facility immediately comply with the request for information and that as of the

date of the issuance of the correction order, the facility shall forfeit to the state a \$100 fine the first day of noncompliance, and an increase in the \$100 fine by \$50 increments for each day the noncompliance continues. For the purposes of this section, "representative" includes the resident's guardian or conservator, the person authorized to pay the nursing home expenses of the resident, a representative of the nursing home ombudsman's office whose assistance has been requested, or any other individual designated by the resident.

Subd. 3b. [FACILITY'S REQUEST FOR RECONSIDERATION.] In addition to the information required in subdivision 3, a reconsideration request from a nursing home or boarding care home must contain the following information: the date the resident reimbursement classification notices were received by the facility; the date the classification notices were distributed to the resident or the resident's representative; and a copy of a notice sent to the resident or to the resident's representative. This notice must tell the resident or the resident's representative that a reconsideration of the resident's classification is being requested, the reason for the request, that the resident's rate will change if the request is approved by the department and the extent of the change, that copies of the facility's request and supporting documentation are available for review, and that the resident also has the right to request a reconsideration. If the facility fails to provide this information with the reconsideration request, the request must be denied, and the facility may not make further reconsideration requests on that specific reimbursement classification.

Subd. 4. [RECONSIDERATION.] The commissioner's reconsideration must be made by individuals not involved in reviewing the assessment that established the disputed classification. The reconsideration must be based upon the initial assessment and upon the information provided to the commissioner under subdivision 3. If necessary for evaluating the reconsideration request, the commissioner may conduct on-site reviews. In its discretion, the commissioner may review the reimbursement classifications assigned to all residents in the facility. Within 15 working days of receiving the request for reconsideration, the commissioner shall affirm or modify the original resident classification. The original classification must be modified if the commissioner determines that the assessment resulting in the classification did not accurately reflect the needs of the resident at the time of the assessment. The resident and the nursing home or boarding care home shall be notified within five working days after the decision is made. The commissioner's decision under this subdivision is the final administrative decision of the agency.

Subd. 5. [AUDIT AUTHORITY.] The department of health may audit assessments of nursing home and boarding care home residents. These audits may be in addition to the assessments completed

by the department under section 144.0721. The audits may be conducted at the facility, and the department may conduct the audits on an unannounced basis.

Sec. 3. Minnesota Statutes 1986, section 144.092, is amended to read:

144.092 [COORDINATED NUTRITION DATA COLLECTION.]

The commissioner of health ~~shall~~ may develop and coordinate a reporting system to improve the state's ability to document inadequate nutrient and food intake of Minnesota's children and adults and to identify problems and determine the most appropriate strategies for improving inadequate nutritional status. The board on aging ~~shall~~ may develop a method to evaluate the nutritional status and requirements of the elderly in Minnesota. The commissioner of health and the board on aging ~~shall~~ may report to the legislature on each July 1, beginning in 1988, on the results of their investigation and their recommendations on the nutritional needs of Minnesotans.

Sec. 4. [144.4171] [SCOPE.]

Subdivision 1. [AUTHORITY.] Under the powers and duties assigned to the commissioner in sections 144.05 and 144.12, the commissioner shall proceed according to sections 4 to 19 with respect to persons who pose a health threat to others or who engage in noncompliant behavior.

Subd. 2. [PREEMPTION.] Sections 4 to 19 preempt and supersede any local ordinance or rule concerning persons who pose a health threat to others or who engage in noncompliant behavior.

Sec. 5. [144.4172] [DEFINITIONS.]

Subdivision 1. [CARRIER.] "Carrier" means a person who harbors or who the commissioner reasonably suspects of harboring a specific infectious agent whether or not there is present discernible clinical disease and who serves as a potential source of infection. In the absence of a medically accepted test, the commissioner may reasonably suspect an individual of carrier status only when a determination based upon specific facts justifies an inference that the individual harbors a specific infectious agent.

Subd. 2. [COMMUNICABLE DISEASE.] "Communicable disease" means a disease or condition that causes serious illness, serious disability, or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another.

Subd. 3. [COMMISSIONER.] "Commissioner" means the commissioner of health.

Subd. 4. [CONTACT NOTIFICATION PROGRAM.] "Contact notification program" means an ongoing program established by the commissioner to encourage carriers of a communicable disease whose primary route of transmission is through an exchange of blood, semen, or vaginal secretions, such as treponema pallidum, neisseria gonorrhea, chlamydia trachomatis, and human immunodeficiency virus, to identify others who may be at risk by virtue of contact with the carrier.

Subd. 5. [DIRECTLY TRANSMITTED.] "Directly transmitted" means predominately:

- (1) sexually transmitted;
- (2) blood-borne; or
- (3) transmitted through direct or intimate skin contact.

Subd. 6. [HEALTH DIRECTIVE.] "Health directive" means a written statement, or, in urgent circumstances, an oral statement followed by a written statement within three days, from the commissioner, or local board of health with delegated authority from the commissioner, issued to a carrier who constitutes a health threat to others. A health directive must be individual, specific, and cannot be issued to a class of persons. The directive may require a carrier to cooperate with health authorities in efforts to prevent or control transmission of communicable disease, including participation in education, counseling, or treatment programs, and undergoing medical tests necessary to verify the person's carrier status. The written directive shall be served in the same manner as authorized in Minnesota Rules of Civil Procedure.

Subd. 7. [LICENSED HEALTH PROFESSIONAL.] "Licensed health professional" means a person licensed in Minnesota to practice those professions described in section 214.01, subdivision 2.

Subd. 8. [HEALTH THREAT TO OTHERS.] "Health threat to others" means that a carrier demonstrates an inability or unwillingness to conduct himself or herself in such a manner as to not place others at risk of exposure to infection that causes serious illness, serious disability, or death. It includes one or more of the following:

- (1) with respect to an indirectly transmitted communicable disease:

(a) behavior by a carrier which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission of the disease to others; or

(b) a substantial likelihood that a carrier will transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention.

(2) With respect to a directly transmitted communicable disease:

(a) repeated behavior by a carrier of a disease which has been demonstrated epidemiologically to transmit or which evidences a careless disregard for the transmission to others;

(b) a substantial likelihood that a carrier will repeatedly transmit a communicable disease to others as is evidenced by a carrier's past behavior, or by statements of a carrier that are credible indicators of a carrier's intention;

(c) affirmative misrepresentation by a carrier of his or her carrier status prior to engaging in any behavior which has been demonstrated epidemiologically to transmit the disease; or

(d) the activities referenced in subdivision 8, clause (1) if the person whom the carrier places at risk is: (i) a minor, (ii) of diminished capacity by reason of mood altering chemicals, including alcohol, (iii) has been diagnosed as having significantly subaverage intellectual functioning, (iv) has an organic disorder of the brain or a psychiatric disorder of thought, mood, perception, orientation, or memory which substantially impairs judgment, behavior, reasoning or understanding; (v) adjudicated as an incompetent; or (vi) a vulnerable adult as defined in section 626.557.

(3) Violation by a carrier of any part of a court order issued pursuant to this chapter.

Subd. 9. [INDIRECTLY TRANSMITTED.] "Indirectly transmitted" means any transmission not defined by subdivision 5.

Subd. 10. [NONCOMPLIANT BEHAVIOR.] "Noncompliant behavior" means a failure or refusal by a carrier to comply with a health directive.

Subd. 11. [RESPONDENT.] "Respondent" means any person against whom an action is commenced under sections 4 to 19.

Sec. 6. [144.4173] [CAUSE OF ACTION.]

Subdivision 1. [COMPLIANCE WITH DIRECTIVE.] Failure or refusal of a carrier to comply with a health directive is grounds for proceeding under subdivision 2.

Subd. 2. [COMMENCEMENT OF ACTION.] The commissioner, or a local board of health with express delegated authority from the commissioner, may commence legal action against a carrier who is a health threat to others, and unless an emergency court order is sought under section 15, who engages in noncompliant behavior, by filing with the district court in the county in which respondent resides, and serving upon respondent, a petition for relief and notice of hearing.

Sec. 7. [144.4174] [STANDING.]

Only the commissioner, or a local board of health, with express delegated authority from the commissioner, may commence an action under sections 4 to 19.

Sec. 8. [144.4175] [REPORTING.]

Subdivision 1. [VOLUNTARY REPORTING.] Any licensed health professional or other human services professional regulated by the state who has knowledge or reasonable cause to believe that a person is a health threat to others or has engaged in noncompliant behavior, as defined in section 5, may report that information to the commissioner.

Subd. 2. [LIABILITY FOR REPORTING.] A licensed health professional or other human services professional regulated by the state who has knowledge or reasonable cause to believe that a person is a health threat to others or has engaged in noncompliant behavior, and who makes a report in good faith under subdivision 1, is not subject to liability for reporting in any civil, administrative, disciplinary, or criminal action.

Subd. 3. [FALSIFIED REPORTS.] Any person who knowingly or recklessly makes a false report under the provisions of this section shall be liable in a civil suit for any actual damages suffered by the person or persons so reported and for any punitive damages set by the court or jury.

Subd. 4. [WAIVER OF PRIVILEGE.] Any privilege otherwise created in section 595.02, clauses (d), (e), (g) and (j), with respect to persons who make a report under subdivision 1, is waived regarding any information about a carrier as a health threat to others or about a carrier's noncompliant behavior in any investigation or action under sections 4 to 19.

Sec. 9. [144.4176] [PETITION; NOTICE.]

Subdivision 1. [PETITION.] The petition must set forth the following:

(1) the grounds and underlying facts that demonstrate that the respondent is a health threat to others and, unless an emergency court order is sought under section 15, has engaged in noncompliant behavior;

(2) the petitioner's efforts to alleviate the health threat to others prior to the issuance of a health directive, unless an emergency court order is sought under section 15;

(3) the petitioner's efforts to issue the health directive to the respondent in person, unless an emergency court order is sought under section 15;

(4) the type of relief sought; and

(5) a request for a court hearing on the allegations contained in the petition.

Subd. 2. [HEARING NOTICE.] The notice must contain the following information:

(1) the time, date, and place of the hearing;

(2) respondent's right to appear at the hearing;

(3) respondent's right to present and cross-examine witnesses; and

(4) respondent's right to counsel, including the right, if indigent, to representation by counsel designated by the court or county of venue.

Sec. 10. [144.4177] [TIME OF HEARING AND DUTIES OF COUNSEL.]

Subdivision 1. [TIME OF HEARING.] A hearing on the petition must be held before the district court in the county in which respondent resides as soon as possible, but no later than 14 days from service of the petition and hearing notice.

Subd. 2. [DUTIES OF COUNSEL.] In all proceedings under this section, counsel for the respondent shall (1) consult with the person prior to any hearing; (2) be given adequate time to prepare for all hearings; (3) continue to represent the person throughout any proceedings under this charge unless released as counsel by the court; and (4) be a vigorous advocate on behalf of the client.

Sec. 11. [144.4178] [CRIMINAL IMMUNITY.]

In accordance with section 609.09, subdivision 2, no person shall be excused in an action under sections 4 to 19 from giving testimony or producing any documents, books, records, or correspondence, tending to be self-incriminating; but the testimony or evidence, or other testimony or evidence derived from it, must not be used against the person in any criminal case, except for perjury committed in the testimony.

Sec. 12. [144.4179] [STANDARD OF PROOF; EVIDENCE.]

Subdivision 1. [CLEAR AND CONVINCING.] The commissioner must prove the allegations in the petition by clear and convincing evidence.

Subd. 2. [ALL RELEVANT EVIDENCE.] The court shall admit all reliable relevant evidence. Medical and epidemiologic data must be admitted if it otherwise comports with section 145.30, chapter 600, Minnesota Rules of Evidence 803(6), or other statutes or rules that permit reliable evidence to be admitted in civil cases.

Subd. 3. [CARRIER STATUS.] Upon a finding by the court that the commissioner's suspicion of carrier status is reasonable as established by presentation of facts justifying an inference that the respondent harbors a specific infectious agent, there shall exist a rebuttable presumption that the respondent is a carrier. This presumption may be rebutted if the respondent demonstrates noncarrier status after undergoing medically accepted tests.

Subd. 4. [FAILURE TO APPEAR.] If a party fails to appear at the hearing without prior court approval, the hearing may proceed without the absent party and the court may make its determination on the basis of all reliable evidence submitted at the hearing.

Subd. 5. [RECORDS.] The court shall take and preserve an accurate stenographic record of the proceedings.

Sec. 13. [144.4180] [REMEDIES.]

Subdivision 1. [REMEDIES AVAILABLE.] Upon a finding by the court that respondent is a health threat to others and, unless an emergency court order is sought under section 15, has engaged in noncompliant behavior, the court may order that the respondent must:

- (1) participate in a designated education program;
- (2) participate in a designated counseling program;
- (3) participate in a designated treatment program;

(4) undergo medically accepted tests, or treatment that is consistent with standard medical practice as necessary to make respondent noninfectious;

(5) notify or appear before designated health officials for verification of status, testing, or other purposes consistent with monitoring;

(6) cease and desist the conduct which constitutes a health threat to others;

(7) live part-time or full-time in a supervised setting for the period and under the conditions set by the court;

(8) subject to the provisions of subdivision 2, be committed to an appropriate institutional facility for the period and under the conditions set by the court, but not longer than six months, until the respondent is made noninfectious, or until the respondent completes a course of treatment prescribed by the court, whichever occurs first, unless the commissioner shows good cause for continued commitment; and

(9) comply with any combination of the remedies in clauses (1) to (8), or other remedies considered just by the court. In no case may a respondent be committed to a correctional facility.

Subd. 2. [COMMITMENT REVIEW PANEL.] The court may not order the remedy specified in subdivision 1, clause (8), unless it first considers the recommendation of a commitment review panel appointed by the commissioner to review the need for commitment of the respondent to an institutional facility.

The duties of the commitment review panel shall be to:

(1) review the record of the proceeding;

(2) interview the respondent. If the respondent is not interviewed, the reasons must be documented; and

(3) identify, explore, and list the reasons for rejecting or recommending alternatives to commitment.

Subd. 3. [CONSTRUCTION.] This section shall be construed so that the least restrictive alternative is used to achieve the desired purpose of preventing or controlling communicable disease.

Subd. 4. [ADDITIONAL REQUIREMENTS.] If commitment or supervised living is ordered, the court shall require the head of the institutional facility or the person in charge of supervision to submit: (a) a plan of treatment within ten days of initiation of commitment or supervised living; and (b) a written report, with a

copy to both the commissioner and the respondent, at least 60 days, but not more than 90 days, from the start of respondent's commitment or supervised living arrangement, setting forth the following:

(1) the types of support or therapy groups, if any, respondent is attending and how often respondent attends;

(2) the type of care or treatment respondent is receiving, and what future care or treatment is necessary;

(3) whether respondent has been cured or made noninfectious, or otherwise no longer poses a threat to public health;

(4) whether continued commitment or supervised living is necessary; and

(5) other information the court considers necessary.

Sec. 14. [144.4181] [APPEAL.]

The petitioner or respondent may appeal the decision of the district court. The court of appeals shall hear the appeal within 30 days after service of the notice of appeal. However, respondent's status as determined by the district court remains unchanged, and any remedy ordered by the district court remains in effect while the appeal is pending.

Sec. 15. [144.4182] [TEMPORARY EMERGENCY HOLD.]

Subdivision 1. [APPREHEND AND HOLD.] To protect the public health in an emergency, the court may order a health officer or peace officer to take a person into custody and transport the person to an appropriate emergency care or treatment facility for observation, examination, testing, diagnosis, care, treatment, and, if necessary, temporary detention. If the person is already institutionalized, the court may order the institutional facility to hold the person. These orders must be issued in an ex parte proceeding upon an affidavit of the commissioner or a designee of the commissioner. An order shall issue upon a determination by the court that reasonable cause exists to believe that the person is: (a) for indirectly transmitted diseases, an imminent health threat to others; or (b) for directly transmitted diseases a substantial likelihood of an imminent health threat to others.

The affidavit must set forth the specific facts upon which the order is sought and must be served on the person immediately upon apprehension or detention. An order under this section may be executed on any day and at any time.

Subd. 2. [DURATION OF HOLD.] No person may be held under subdivision 1 longer than 72 hours, exclusive of Saturdays, Sundays, and legal holidays, without a court hearing to determine if the emergency hold should continue.

Sec. 16. [144.4183] [EMERGENCY HOLD HEARING.]

Subdivision 1. [TIME OF NOTICE.] Notice of the emergency hold hearing must be served upon the person held under section 15, subdivision 1, at least 24 hours before the hearing.

Subd. 2. [CONTENTS OF NOTICE.] The notice must contain the following information:

- (1) the time, date, and place of the hearing;
- (2) the grounds and underlying facts upon which continued detention is sought;
- (3) the person's right to appear at the hearing;
- (4) the person's right to present and cross-examine witnesses; and
- (5) the person's right to counsel, including the right, if indigent, to representation by counsel designated by the court or county of venue.

Subd. 3. [ORDER FOR CONTINUED EMERGENCY HOLD.] The court may order the continued holding of the person if it finds, by a preponderance of the evidence, that the person would pose an imminent health threat to others if released. However, in no case may the emergency hold continue longer than five days, unless a petition is filed under section 6. If a petition is filed, the emergency hold must continue until a hearing on the petition is held under section 10. That hearing must occur within five days of the filing of the petition, exclusive of Saturdays, Sundays, and legal holidays.

Sec. 17. [144.4184] [CONTACT DATA.]

Identifying information voluntarily given to the commissioner, or an agent of the commissioner, by a carrier through a contact notification program must not be used as evidence in a court proceeding to determine noncompliant behavior.

Sec. 18. [144.4185] [COSTS.]

Subdivision 1. [COSTS OF CARE.] The court shall determine what part of the cost of care or treatment ordered by the court, if any, the respondent can pay. The respondent shall provide the court documents and other information necessary to determine financial

ability. If the respondent cannot pay the full cost of care, the rest must be paid by the county in which respondent resides. If the respondent provides inaccurate or misleading information, or later becomes able to pay the full cost of care, the respondent becomes liable to the county for costs paid by the county.

Subd. 2. [COURT-APPOINTED COUNSEL.] If the court appoints counsel to represent respondent free of charge, counsel must be compensated by the county in which respondent resides, except to the extent that the court finds that the respondent is financially able to pay for counsel's services. In these situations, the rate of compensation for counsel shall be determined by the court.

Subd. 3. [REPORT.] The commissioner shall report any recommendations for appropriate changes in the modes of financing of services provided under subdivision 1 by January 15, 1988.

Sec. 19. [144.4186] [DATA PRIVACY.]

Subdivision 1. [NONPUBLIC DATA.] Data contained in a health directive are classified as protected nonpublic data under section 13.02, subdivision 13, in the case of data not on individuals, and private under section 13.02, subdivision 12, in the case of data on individuals. Investigative data shall have the classification accorded it under section 13.39.

Subd. 2. [PROTECTIVE ORDER.] Once an action is commenced, any party may seek a protective order to protect the disclosure of portions of the court record identifying individuals or entities.

Subd. 3. [RECORDS RETENTION.] A records retention schedule for records developed under sections 4 to 19 shall be established pursuant to section 138.17, subdivision 7.

Sec. 20. Minnesota Statutes 1986, section 144.50, subdivision 1, is amended to read:

Subdivision 1. (a) No person, partnership, association, or corporation, nor any state, county, or local governmental units, nor any division, department, board, or agency thereof, shall establish, operate, conduct, or maintain in the state any hospital, sanatorium or other institution for the hospitalization or care of human beings without first obtaining a license therefor in the manner provided in sections 144.50 to 144.56. No person or entity shall advertise a facility providing services required to be licensed under sections 144.50 to 144.56 without first obtaining a license.

(b) A violation of this subdivision is a misdemeanor punishable by a fine of not more than \$300. The commissioner may seek an injunction in the district court against the continuing operation of

the unlicensed institution. Proceedings for securing an injunction may be brought by the attorney general or by the appropriate county attorney.

(c) The sanctions in this subdivision do not restrict other available sanctions.

Sec. 21. Minnesota Statutes 1986, section 144.50, subdivision 2, is amended to read:

Subd. 2. Hospital, sanatorium or other institution for the hospitalization or care of human beings, within the meaning of sections 144.50 to 144.56 shall mean any institution, place, building, or agency, in which any accommodation is maintained, furnished, or offered for five or more persons for: the hospitalization of the sick or injured; the provision of care in a swing bed authorized under section 144.562; elective outpatient surgery for preexamined, prediagnosed low risk patients; emergency medical services offered 24 hours a day, seven days a week, in an ambulatory or outpatient setting in a facility not a part of a licensed hospital; or the institutional care of human beings. Nothing in sections 144.50 to 144.56 shall apply to a clinic, a physician's office or to hotels or other similar places that furnish only board and room, or either, to their guests.

Sec. 22. [144.555] [HOSPITAL CLOSINGS; PATIENT RELOCATIONS.]

Subdivision 1. [NOTICE OF CLOSING OR CURTAILING SERVICE.] If a facility licensed under sections 144.50 to 144.56 voluntarily plans to cease operations or to curtail operations to the extent that patients or residents must be relocated, the controlling persons of the facility must notify the commissioner of health at least 90 days before the scheduled cessation or curtailment. The commissioner shall cooperate with the controlling persons and advise them about relocating the patients or residents.

Subd. 2. [PENALTY.] Failure to notify the commissioner under subdivision 1 may result in issuance of a correction order under section 144.653, subdivision 5.

Sec. 23. Minnesota Statutes 1986, section 144.653, subdivision 3, is amended to read:

Subd. 3. [ENFORCEMENT.] With the exception of the department of public safety which has the exclusive jurisdiction to enforce state fire and safety standards, the state commissioner of health is the exclusive state agency charged with the responsibility and duty of inspecting facilities required to be licensed under the provisions of sections 144.50 to 144.58 and enforcing the rules and standards prescribed by it.

The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a licensed facility if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

Sec. 24. Minnesota Statutes 1986, section 144.802, subdivision 3, is amended to read:

Subd. 3. (a) Each prospective licensee and each present licensee wishing to offer a new type or types of life support transportation service, to establish a new base of operation, or to expand a primary service area, shall make written application for a license to the commissioner on a form provided by the commissioner.

(b) For applications for the provision of life support transportation services in a service area located within a county, the commissioner shall promptly send notice of the completed application to the health systems agency or agencies, the county board and to each community health service agency or agencies board, regional emergency medical services system designated under section 144.8093, life support transportation service, and each municipality and county in the area in which life support transportation service would be provided by the applicant. The commissioner shall publish the notice, at the applicant's expense, in the state register and in a newspaper in the municipality in which the service would be provided base of operation will be located, or if no newspaper is published in the municipality or if the service would be provided in more than one municipality, in a newspaper published at the county seat of the county or counties in which the service would be provided.

(b) (c) For applications for the provision of life support transportation services in a service area larger than a county, the commissioner shall promptly send notice of the completed application to the municipality in which the service's base of operation will be located and to each community health board, county board, regional emergency medical services system designated under section 144.8093, and life support transportation service located within the service area described by the applicant. The commissioner shall publish this notice, at the applicant's expense, in the State Register and in a newspaper with statewide circulation.

(d) The commissioner shall request that the chief administrative law judge appoint an administrative law judge to hold a public hearing in the municipality in which the service's base of operation will be located. The public hearing shall be conducted as contested case hearing under chapter 14.

(e) Each municipality, county, community health service, regional emergency medical services system, life support transportation service, and other person wishing to make recommendations concerning the disposition of the application shall make written recommendations to the health systems agency in its area administrative law judge within 30 days of the publication of notice of the application in the State Register.

(e) (f) The health systems agency or agencies administrative law judge shall:

(1) hold a public hearing in the municipality in which the service's base of operations is or will be located;

(2) provide notice of the public hearing in the newspaper or newspapers in which notice was published under part (a) (b) or (c) for two successive weeks at least ten days before the date of the hearing;

(3) allow any interested person the opportunity to be heard, to be represented by counsel, and to present oral and written evidence at the public hearing;

(4) provide a transcript of the hearing at the expense of any individual requesting it; and

(5) follow any further procedure not inconsistent with chapter 14, which it deems appropriate.

(d) (g) The health systems agency or agencies administrative law judge shall review and comment upon the application and shall make written recommendations as to its disposition to the commissioner within 90 days of receiving notice of the application. In making the recommendations, the health systems agency or agencies administrative law judge shall consider and make written comments as to whether the proposed service, change in base of operations, or expansion in primary service area is needed, based on consideration of the following factors:

(1) the relationship of the proposed service, change in base of operations or expansion in primary service area to the current health systems and annual implementation plans community health plan as approved by the commissioner under section 145.918;

(2) the recommendations or comments of the governing bodies of the counties and municipalities in which the service would be provided;

(3) the deleterious effects on the public health from duplication, if any, of life support transportation services that would result from granting the license;

(4) the estimated effect of the proposed service, change in base of operation or expansion in primary service area on the public health;

(5) whether any benefit accruing to the public health would outweigh the costs associated with the proposed service, change in base of operations, or expansion in primary service area.

The ~~health systems agency or agencies~~ administrative law judge shall recommend that the commissioner either grant or deny a license or recommend that a modified license be granted. The reasons for the recommendation shall be set forth in detail. The ~~health systems agency or agencies~~ administrative law judge shall make the recommendations and reasons available to any individual requesting them.

Sec. 25. Minnesota Statutes 1986, section 144.802, subdivision 4, is amended to read:

Subd. 4. Within 30 days after receiving the ~~health systems agency recommendations~~ administrative law judge's report, the commissioner shall grant or deny a license to the applicant. In granting or denying a license, the commissioner shall consider the ~~health systems agency recommendations~~ administrative law judge's report, the evidence contained in the application, and any hearing record and other applicable evidence, and whether any benefit accruing to the public health would outweigh the costs associated with the proposed service, change in base of operations, or expansion in primary service area. The commissioner's decision shall be based on a consideration of the factors contained in subdivision 3, clause (f). If the commissioner's decision is different from the ~~health systems agency~~ administrative law judge's recommendations, the commissioner shall set forth in detail the reasons for differing from the recommendations.

Sec. 26. Minnesota Statutes 1986, section 144.804, subdivision 7, is amended to read:

Subd. 7. [DRIVERS OF LIFE SUPPORT TRANSPORTATION SERVICE VEHICLES.] A life support transportation service vehicle may be staffed by a driver possessing a (1) current first responder certificate issued under United States Department of Transportation standards, or (2) a valid class C driver's license provided a siren and flashing lights are not used and the vehicle is driven within legal speed limits; if, in either case, the life support transportation service vehicle is also staffed by two or more attendants meeting the following qualifications: (a) attendants staffing a basic life support transportation service vehicle shall meet the qualifications contained in subdivision 1; and (b) attendants staffing an advanced life support transportation service vehicle shall possess a current certification as an emergency medical technician or an emergency

medical technician-paramedic, provided that at least one attendant is an emergency medical technician-paramedic.

Sec. 27. Minnesota Statutes 1986, section 144A.10, subdivision 1, is amended to read:

Subdivision 1. [ENFORCEMENT AUTHORITY.] The commissioner of health is the exclusive state agency charged with the responsibility and duty of inspecting all facilities required to be licensed under section 144A.02. The commissioner of health shall enforce the rules established pursuant to sections 144A.01 to 144A.17, subject only to the authority of the department of public safety respecting the enforcement of fire and safety standards in nursing homes and the responsibility of the commissioner of human services under sections 245.781 to 245.821 or 252.28.

The commissioner may request and must be given access to relevant information, records, incident reports, or other documents in the possession of a licensed facility if the commissioner considers them necessary for the discharge of responsibilities. For the purposes of inspections and securing information to determine compliance with the licensure laws and rules, the commissioner need not present a release, waiver, or consent of the individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

Sec. 28. Minnesota Statutes 1986, section 144A.10, subdivision 2, is amended to read:

Subd. 2. [INSPECTIONS.] The commissioner of health shall inspect each nursing home to ensure compliance with sections 144A.01 to 144A.17 and the rules promulgated to implement them. The inspection shall be a full inspection of the nursing home. If upon a reinspection provided for in subdivision 5 the representative of the commissioner of health finds one or more uncorrected violations, a second inspection of the facility shall be conducted. The second inspection need not be a full inspection. No prior notice shall be given of an inspection conducted pursuant to this subdivision. Any employee of the commissioner of health who willfully gives or causes to be given any advance notice of an inspection required or authorized by this subdivision shall be subject to suspension or dismissal in accordance with chapter 43A. An inspection required by a federal rule or statute may be conducted in conjunction with or subsequent to any other inspection. Any inspection required by this subdivision may be in addition to or in conjunction with the reinspections required by subdivision 5. Nothing in this subdivision shall be construed to prohibit the commissioner of health from making more than one unannounced inspection of any nursing home during its license year. The commissioner of health shall coordinate inspections of nursing homes with inspections by other state and local

agencies consistent with the requirements of this section and the Medicare and Medicaid certification programs.

The commissioner shall conduct inspections and reinspections of health facilities with a frequency and in a manner calculated to produce the greatest benefit to residents within the limits of the resources available to the commissioner. In performing this function, the commissioner may devote proportionately more resources to the inspection of those facilities in which conditions present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being.

These conditions include but are not limited to: change in ownership; frequent change in administration in excess of normal turnover rates; complaints about care, safety, or rights; where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; and, where persons involved in ownership or administration of the facility have been indicted for alleged criminal activity. Any facility that has none of the above conditions or any other condition established by the commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years.

Sec. 29. [144A.115] [VIOLATIONS; PENALTIES.]

Subdivision 1. [OPERATING WITHOUT A LICENSE.] The operation of a facility providing services required to be licensed under sections 144A.02 to 144A.10 without a license is a misdemeanor punishable by a fine of not more than \$300.

Subd. 2. [ADVERTISING WITHOUT A LICENSE.] A person or entity that advertises a facility required to be licensed under sections 144A.02 to 144A.10 before obtaining a license is guilty of a misdemeanor.

Subd. 3. [OTHER SANCTIONS.] The sanctions in this section do not restrict other available sanctions.

Sec. 30. Minnesota Statutes 1986, section 144A.16, is amended to read:

144A.16 [CESSATION OF OPERATIONS.]

If a nursing home voluntarily plans to cease operations or to curtail operations to the extent that relocation of residents is necessary, the controlling persons of the facility shall notify the commissioner of health at least 90 days prior to the scheduled cessation or curtailment. The commissioner of health shall cooperate with and advise the controlling persons of the nursing home in

the resettlement of residents. Failure to comply with this section shall be a violation of section 144A.10.

Sec. 31. Minnesota Statutes 1986, section 144A.31, is amended to read:

144A.31 [INTERAGENCY BOARD FOR QUALITY ASSURANCE.]

Subdivision 1. [INTERAGENCY BOARD.] The commissioners of health and human services shall establish, by July 1, 1983, an interagency board of employees of their respective departments who are knowledgeable and employed in the areas of long-term care, geriatric care, long-term care facility inspection, or quality of care assurance. The number of interagency board members shall not exceed ~~seven~~ eight; three members each to represent the commissioners of health and human services and one member each to represent the ~~commissioner of public safety in the enforcement of fire and safety standards in nursing homes. The commissioner of human services or a designee shall chair and convene the board~~ directors of state planning and housing finance. The board shall identify long-term care issues requiring coordinated interagency policies and shall conduct analyses, coordinate policy development, and make recommendations to the commissioners for effective implementation of these policies. The commissioner of human services and the commissioner of health or their designees shall annually alternate chairing and convening the board. The board may utilize the expertise and time of other individuals employed by either department as needed. The board may recommend that the commissioners contract for services as needed. The board shall meet as often as necessary to accomplish its duties, but at least ~~monthly~~ quarterly. The board shall establish procedures, including public hearings, for allowing regular opportunities for input from residents, nursing homes, and other interested persons.

Subd. 2. [INSPECTIONS.] No later than January 1, ~~1984~~ 1988, the board shall develop and recommend implementation and enforcement of an effective system to ensure quality of care in each nursing home in the state. Quality of care includes evaluating, using the resident's care plan, whether the resident's ability to function is optimized and should not be measured solely by the number or amount of services provided.

The board shall assist the commissioner of health in ensuring developing methods to ensure that inspections and reinspections of nursing homes are conducted with a frequency and in a manner calculated to most effectively and appropriately fulfill its quality assurance responsibilities and achieve the greatest benefit to nursing home residents. The board shall identify and recommend criteria and methods for identifying those nursing homes that present the most serious concerns with respect to resident health, treatment,

comfort, safety, and well-being. The commissioner of health shall require a higher frequency and extent of inspections with respect to those nursing homes that present the most serious concerns with respect to resident health, treatment, comfort, safety, and well-being. These concerns include but are not limited to: complaints about care, safety, or rights; situations where previous inspections or reinspections have resulted in correction orders related to care, safety, or rights; instances of frequent change in administration in excess of normal turnover rates; and situations where persons involved in ownership or administration of the nursing home have been convicted of engaging in criminal activity. A nursing home that presents none of these concerns or any other concern or condition recommended by the board and established by the board commissioner that poses a risk to resident care, safety, or rights shall be inspected once every two years for compliance with key requirements as determined by the board.

The board shall develop and recommend to the commissioners mechanisms beyond the inspection process to protect resident care, safety, and rights, including but not limited to coordination with the office of health facility complaints and the nursing home ombudsman program.

Subd. 3. [METHODS FOR DETERMINING RESIDENT CARE NEEDS.] The board shall develop and recommend to the commissioners definitions for levels of care and methods for determining resident care needs for implementation on July 1, 1985 in order to adjust payments for resident care based on the mix of resident needs in a nursing home. The methods for determining resident care needs shall include assessments of ability to perform activities of daily living and assessments of medical and therapeutic needs.

Subd. 4. [ENFORCEMENT.] The board shall develop and recommend for implementation effective methods of enforcing quality of care standards. ~~When it deems necessary, and when all other methods of enforcement are not appropriate, the board shall recommend to the commissioner of health closure of all or part of a nursing home or certified boarding care home and revocation of the license.~~ The board shall develop and monitor, and the commissioner of human services shall implement, a resident relocation plan that instructs ~~the a~~ county in which ~~the a~~ nursing home or certified boarding care home is located of procedures to ensure that the needs of residents in nursing homes or certified boarding care homes about to be closed are met. The duties of a county under the relocation plan also apply when residents are to be discharged from a nursing home or certified boarding care home as a result of a change in certification, closure, or loss or termination of the facility's medical assistance provider agreement. The resident relocation plans and county duties required in this subdivision apply to the voluntary or involuntary closure, or reduction in services or size of, an intermediate care facility for the mentally retarded. The relocation plan for

intermediate care facilities for the mentally retarded must conform to Minnesota Rules, parts 4655.6810 to 4655.6830, 9525.0015 to 9525.0165, and 9546.0010 to 9546.0060, or their successors. The commissioner of human services may waive a portion of existing rules that the commissioner determines does not apply to persons with mental retardation or related conditions. The county shall ensure appropriate placement in swing beds in hospitals, placement in unoccupied beds in other nursing homes, utilization of residents in licensed and certified facilities or other alternative care such as home health care on a temporary basis, and foster care placement, or other appropriate alternative care. In preparing for relocation, the board shall ensure that residents and their families or guardians are involved in planning the relocation.

Subd. 5. [REPORTS.] The board shall prepare a report and the commissioners of health and human services shall deliver this report to the legislature no later than January 15, 1984, on the board's proposals and progress on implementation of the methods required under subdivisions subdivision 2, 3, and 4. The commissioners shall recommend changes in or additions to legislation necessary or desirable to fulfill their responsibilities. The board shall prepare an annual report and the commissioners shall deliver this report annually to the legislature, beginning in January, 1985, on the implementation and enforcement of the provisions of this section.

Subd. 6. [DATA.] The interagency board may have access to data from the commissioners of health, human services, and public safety for carrying out its duties under this section. The commissioner of health and the commissioner of human services may each have access to data on persons, including data on vendors of services, from the other to carry out the purposes of this section. If the interagency board, the commissioner of health, or the commissioner of human services receives data on persons, including data on vendors of services, that is collected, maintained, used or disseminated in an investigation, authorized by statute and relating to enforcement of rules or law, the board or the commissioner shall not disclose that information except:

- (a) pursuant to section 13.05;
- (b) pursuant to statute or valid court order; or
- (c) to a party named in a civil or criminal proceeding, administrative or judicial, for preparation of defense.

Data described in this subdivision is classified as public data upon its submission to an administrative law judge or court in an administrative or judicial proceeding.

Sec. 32. Minnesota Statutes 1986, section 144A.53, subdivision 1, is amended to read:

Subdivision 1. [POWERS.] The director may:

(a) Promulgate by rule, pursuant to chapter 14, and within the limits set forth in subdivision 2, the methods by which complaints against health facilities, health care providers or administrative agencies are to be made, reviewed, investigated, and acted upon; provided, however, that a fee may not be charged for filing a complaint;

(b) Recommend legislation and changes in rules to the state commissioner of health, legislature, governor, administrative agencies or the federal government;

(c) Investigate, upon a complaint or upon initiative of the director, any action or failure to act by a health care provider or a health facility;

(d) Request and receive access to relevant information, records, incident reports, or documents in the possession of an administrative agency, a health care provider, or a health facility, and issue investigative subpoenas to individuals and facilities for oral information and written information, including privileged information which the director deems necessary for the discharge of responsibilities. For purposes of investigation and securing information to determine violations, the director need not present a release, waiver, or consent of an individual. The identities of patients or residents must be kept private as defined by section 13.02, subdivision 12.

(e) Enter and inspect, at any time, a health facility and be permitted to interview staff; provided that the director shall not unduly interfere with or disturb the provision of care and services within the facility or the activities of a patient or resident unless the patient or resident consents;

(f) Issue a correction order pursuant to section 144.653 or any other law which provides for the issuance of correction orders to health care facilities; A facility's refusal to cooperate in providing lawfully requested information may also be grounds for a correction order.

(g) Recommend the certification or decertification of health facilities pursuant to Title XVIII or Title XIX of the United States Social Security Act;

(h) Assist patients or residents of health facilities in the enforcement of their rights under Minnesota law; and.

(i) Work with administrative agencies, health facilities, health care providers and organizations representing consumers on programs designed to provide information about health facilities to the public and to health facility residents.

Sec. 33. Minnesota Statutes 1986, section 145.881, subdivision 1, is amended to read:

Subdivision 1. [COMPOSITION OF TASK FORCE.] The commissioner shall establish and appoint a maternal and child health advisory task force consisting of 15 members who will provide equal representation from:

(1) professionals with expertise in maternal and child health services;

(2) representatives of local health boards as defined in section 145.913; and

(3) consumer representatives interested in the health of mothers and children.

No members shall be employees of the state department of health. Task force members shall be appointed and removed as provided in section 15.059, subdivision 6. ~~Notwithstanding section 15.059, subdivisions 5 and 6, 2 and 4. The maternal and child health advisory task force shall terminate on June 30, 1987 the date provided by section 15.059, subdivision 5, and members shall receive compensation as provided in section 15.059, subdivision 6.~~

Sec. 34. Minnesota Statutes 1986, section 145.882, subdivision 4, is amended to read:

Subd. 4. [DISTRIBUTION FORMULA.] The amount available for each community health services area is determined according to the following formula:

(a) Each community health services area is allocated an amount based on the following three variables:

(1) the proportion of resident mothers within the city, county, or counties who are under 20 years of age or over 35 years of age, as determined by averaging the data available for the three most current years;

(2) the proportion of resident infants within the city, county, or counties whose weight at birth is less than 2,500 grams, as determined by averaging the data available for the three most current years; and

(3) the proportion of resident children within the city, county, or counties under the age of 19 who are on general assistance or medical assistance and the proportion of resident women within the city, county, or counties aged 19 to 49 who are on general assistance or medical assistance, as determined by using the data available for the most current year.

(b) Each variable is expressed as a city or county score consisting of the city or county frequency of each variable divided by the statewide frequency of the variable.

(c) A total score for each city or county jurisdiction is computed by totaling the scores of the three factors and dividing the total by three. The resulting amount is added to the total score for the most recent two-year grant period and the sum is divided by two.

(d) Each community health services area is allocated an amount equal to the total score obtained above for the city, county, or counties in its area multiplied by the amount of money available for special projects of local significance.

Sec. 35. Minnesota Statutes 1986, section 157.01, is amended to read:

157.01 [DEFINITIONS.]

Subdivision 1. [TYPES OF ESTABLISHMENTS.] Every building or structure or enclosure, or any part thereof, kept, used as, maintained as, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public and furnishing accommodations for periods of less than one week shall for the purpose of this chapter be deemed a hotel.

Every building or other structure or enclosure, or any part thereof and all buildings in connection, kept, used or maintained as, or advertised as, or held out to the public to be an enclosure where meals or lunches are served or prepared for service elsewhere shall for the purpose of this chapter be deemed to be a restaurant, and the person in charge thereof, whether as owner, lessee, manager or agent, for the purpose of this chapter shall be deemed the proprietor of the restaurant, and whenever the word "restaurant" occurs in this chapter, it shall be construed to mean a structure as described in this section.

Every building or structure, or any part thereof, kept, used as, maintained as, advertised as, or held out to be a place where sleeping accommodations are furnished to the public as regular roomers, for periods of one week or more, and having five or more beds to let to the public, shall, for the purpose of this chapter, be deemed a lodging house.

Every building or structure or enclosure, or any part thereof, used as, maintained as, or advertised as, or held out to be an enclosure where meals or lunches are furnished to five or more regular boarders, whether with or without sleeping accommodations, for periods of one week or more, shall, for the purpose of this chapter, be deemed a boarding house.

Every building or structure, or any part thereof, used as, maintained as, or advertised as, or held out to be a place where confectionery, ice cream, or drinks of various kinds are made, sold or served at retail, shall, for the purpose of this chapter, be deemed to be a place of refreshment. This chapter shall not be applicable in any manner to a general merchandise store, grocery store, oil station, cigar stand, confectionery store, or drug store not providing meals, lunches, lodging, or fountain, bar, booth, or table service.

For the purpose of this chapter, a resort means any building, structure, or enclosure, or any part thereof, located on, or on property neighboring, any lake, stream, or skiing or hunting area for purposes of providing convenient access thereto, kept, used, maintained, or advertised as, or held out to the public to be an enclosure where sleeping accommodations are furnished to the public, and primarily to those seeking recreation, for periods of one day, one week, or longer, and having for rent five or more cottages, rooms, or enclosures.

Subd. 2. [LEVELS OF RISK.] (a) "High-risk establishment" means any lodging house, hotel, motel, restaurant, boarding house, place of refreshment, or resort that:

(1) serves potentially hazardous foods that require extensive processing on the premises, including manual handling, cooling, reheating, or holding for service;

(2) prepares foods several hours or days before service;

(3) serves menu items that epidemiologic experience has demonstrated to be common vehicles of food-borne illness;

(4) has a public swimming pool;

(5) draws its drinking water from a surface water supply; or

(6) has an on-site sewage disposal system and is located in an area where conditions are less favorable for the successful operation of such a system.

(b) "Medium-risk establishment" means a hotel, motel, restaurant, lodging house, boarding house, place of refreshment, or resort that:

(1) serves potentially hazardous foods but with minimal holding between preparation and service;

(2) serves low-risk foods that may or may not be potentially hazardous but require extensive handling, such as baked goods and pizzas;

(3) serves large volumes of food even though the food-borne illness risk is low; or

(4) is a lodging establishment with 25 or more units.

(c) "Low-risk establishment" means a hotel, motel, restaurant, lodging house, boarding house, place of refreshment, or resort that is not a high-risk or medium-risk establishment.

Sec. 36. Minnesota Statutes 1986, section 157.02, is amended to read:

157.02 [HOTEL INSPECTOR INSPECTION RECORDS.]

The hotel inspector commissioner of health shall keep a set of books for public use and inspection showing the condition of all hotels, motels, restaurants, lodging houses, boarding houses, resorts, and places of refreshment, together with the name of the owner, proprietor, or manager thereof, showing their sanitary condition, and any other information that may be for the betterment of the public service, and likewise assist in the enforcement of any orders promulgated by the state commissioner of health and the department of agriculture issue orders for correction of violations relating to hotels, motels, restaurants, lodging houses, boarding houses, resorts, and places of refreshment.

Sec. 37. Minnesota Statutes 1986, section 157.04, is amended to read:

157.04 [ANNUAL INSPECTION.]

It shall be the duty of the hotel inspector commissioner of health to inspect, or cause to be inspected, at least once annually, every hotel, motel, restaurant, lodging house, boarding house, or resort, or place of refreshment in this state. The frequency of inspections must be based on the degree of hazard to the public. High-risk establishments must be inspected at least once a year. Medium-risk establishments must be inspected at least once every 18 months. Low-risk establishments must be inspected at least once every two years. For this the purpose of conducting inspections, the inspector commissioner shall have the right to enter and have access thereto at any time during the conduct of business and when, upon inspection, it shall be found that the business and property so inspected is not

being conducted, or is not equipped, in the manner required by the provisions of this chapter or the rules of the state commissioner of health, or is being conducted in violation of any of the laws of this state pertaining to the business, it shall thereupon be the duty of the hotel inspector commissioner to notify the owner, proprietor, or agent in charge of the business, or the owner or agent of the buildings so occupied, of the condition so found. Each owner, proprietor, or agent shall forthwith comply with the provisions of this chapter or the rules of the commissioner, unless otherwise herein provided. A reasonable time may be granted by the hotel inspector commissioner for compliance with the provisions of this chapter.

Sec. 38. Minnesota Statutes 1986, section 157.09, is amended to read:

157.09 [REVOCATION OF LICENSE.]

It shall be the duty of the state hotel inspector commissioner of health to revoke a license, on the inspector's commissioner's finding that a place of business is being operated in violation of the provisions of this chapter or rules of the state commissioner of health, so as to constitute a filthy, unclean, and insanitary condition and dangerous to public health; or, if the owner or proprietor persistently refuses or fails to comply with the provisions of this chapter or rules of the commissioner. Upon revocation of a license, the place of business shall be immediately closed to public patronage until such time as the owner or proprietor shall have complied with the provisions of this chapter, as certified to by the issuance of a new license.

The third revocation of license in any one year and on any one proprietor shall be made permanent for a period of one year from the date of the last revocation.

Sec. 39. Minnesota Statutes 1986, section 157.14, is amended to read:

157.14 [EXEMPTIONS.]

This chapter shall not be construed to apply to interstate carriers under the supervision of the United States Department of Health, Education and Welfare or to any building constructed and primarily used for religious worship, nor to any building owned, operated and used by a college or university in accordance with regulations promulgated by the college or university. Any person, firm or corporation whose principal mode of business is licensed under sections 28A.04 and 28A.05 is exempt at that premises from licensure as a place of refreshment or restaurant; provided, that the holding of any license pursuant to sections 28A.04 and 28A.05 shall not exempt any person, firm, or corporation from the applicable provisions of the chapter or the rules of the state commissioner of

health relating to food and beverage service establishments. This chapter does not apply to family day-care homes or group family day-care homes governed by sections 245.781 to 245.812.

Sec. 40. [INSTRUCTION TO REVISOR.]

In the next and later editions of Minnesota Statutes, the revisor of statutes shall change the words "life support transportation service" to "ambulance service" in sections 144.801 to 144.8093 and 174.29.

Sec. 41. [REPEALER.]

Minnesota Statutes 1986, sections 144.422; 144.424; 144.425; 144.471; 144.49, subdivision 5; 144.692; 144.801, subdivision 8; and 144.94, are repealed."

Delete the title and insert:

"A bill for an act relating to health; making nutrition data reporting discretionary rather than mandatory; governing the hazardous substance injury compensation board; restructuring the commissioner's authority to control activities of carriers of communicable diseases; regulating licensure and inspections of hospitals, nursing homes, life support transportation systems, and eating places; clarifying powers of the office of health facility complaints; changing certain duties of the interagency board for quality assurance; providing penalties; amending Minnesota Statutes 1986, sections 115B.28, subdivision 4; 144.0722; 144.092; 144.50, subdivisions 1 and 2; 144.653, subdivision 3; 144.802, subdivisions 3 and 4; 144.804, subdivision 7; 144A.10, subdivisions 1 and 2; 144A.16; 144A.31; 144A.53, subdivision 1; 145.881, subdivision 1; 145.882, subdivision 4; 157.01; 157.02; 157.04; 157.09; and 157.14; proposing coding for new law in Minnesota Statutes, chapters 144 and 144A; repealing Minnesota Statutes 1986, sections 144.422; 144.424; 144.425; 144.471; 144.49, subdivision 5; 144.692; 144.801, subdivision 8; and 144.94."

With the recommendation that when so amended the bill pass.

The report was adopted.

Simoneau from the Committee on Governmental Operations to which was referred:

H. F. No. 1095, A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and

economic development to the department of trade and economic development; abolishing and replacing the World Trade Center board; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; appropriating money; amending Minnesota Statutes 1986, sections 15.057; 17.03, subdivision 1; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.37, subdivision 1; 116J.58, subdivision 2; 116J.60; 116J.63, subdivision 2; and 116M.10, subdivision 6; proposing coding for new law in Minnesota Statutes, chapters 17; 116J; and 268; proposing coding for new law as Minnesota Statutes, chapters 44B and 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 116J.404; 116J.405; and chapter 44A.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"ARTICLE 1

ENERGY

Section 1. Minnesota Statutes 1986, section 18.023, subdivision 11, is amended to read:

Subd. 11. [REPORT TO THE LEGISLATURE.] On or before January 31 of each year, the commissioner shall report to the legislature on the preceding year's approved disease control programs and any experimental programs conducted pursuant to subdivision 10a. The commissioner, with the assistance of the commissioner of energy trade and economic development and the director of public service, shall investigate and evaluate the potential uses of wood infected with shade tree disease, including the uses as an alternative energy source and as a component in the construction or manufacture of new products.

Sec. 2. Minnesota Statutes 1986, section 18.024, subdivision 1, is amended to read:

Subdivision 1. The department of agriculture, in cooperation with the commissioner of energy trade and economic development, the director of public service, and the Minnesota shade tree advisory committee, shall draft recommendations for wood utilization or disposal systems as defined in section 18.023. These recommendations shall encourage maximum utilization of diseased shade trees. In addition to insuring maximum utilization, the recommendations

~~shall~~ must be designed to insure public safety and to assure compliance with approved disease control programs.

Sec. 3. Minnesota Statutes 1986, section 104.35, subdivision 2, is amended to read:

Subd. 2. The commissioner shall make the proposed management plan available to affected local governmental bodies, shoreland owners, conservation and outdoor recreation groups, the commissioner of energy trade and economic development, the director of public service, the governor, and the general public. ~~The commissioner of energy trade and economic development, the director of public service,~~ and the governor shall review the proposed management plan ~~pursuant to in accordance with the criteria specified in~~ section 86A.09, subdivision 3, and submit any written comments to the commissioner within 60 days after receipt of the proposed management plan. Not less than 60 days after making such information available, the commissioner shall conduct a public hearing on the proposed management plan in the county seat of each county ~~which~~ that contains a portion of the designated area, in the manner provided in chapter 14.

Sec. 4. Minnesota Statutes 1986, section 104.35, subdivision 3, is amended to read:

Subd. 3. Upon receipt of the administrative law judge's report, the commissioner shall immediately forward the proposed management plan and the administrative law judge's report to the commissioner of energy trade and economic development and the director of public service for review ~~pursuant to under~~ section 86A.09, subdivision 3, except that the review by the commissioner of energy trade and economic development ~~shall~~ and the director of public service must be completed or be deemed completed within 30 days after receiving the administrative law judge's report, and the review by the governor ~~shall~~ must be completed or be deemed completed within 15 days after receipt. Within 60 days after receipt of the administrative law judge's report, the commissioner shall decide whether to designate by order the river or a segment thereof of the river as a wild, scenic, or recreational river and, if so designated, shall adopt a management plan to govern the area. The commissioner shall notify and inform public agencies and private landowners of the plan and its purposes so as to encourage their cooperation in the management and use of their land in a manner consistent with the plan and its purposes.

Sec. 5. Minnesota Statutes 1986, section 115A.12, subdivision 2, is amended to read:

Subd. 2. [TECHNICAL ADVISORY COUNCIL.] The chair of the board shall establish an interagency technical advisory council to advise the board and the chair on matters the board, through its

chair, deems necessary. The members of the council shall be are the commissioner of health; the commissioner of agriculture; the commissioner of natural resources; the director of the pollution control agency; the commissioner of energy trade and economic development; the director of public service; other heads of agency the chair of the board deems necessary; or their designees. The council shall meet at the call of the chair of the board, who shall serve as chair of the council. The members, collectively and individually shall advise the board and the chair on matters within their various areas of expertise and shall provide technical assistance and information as requested by the board through its chair.

Sec. 6. Minnesota Statutes 1986, section 116C.03, subdivision 2, is amended to read:

Subd. 2. The board shall include as members of the board are the director of the state planning agency, the director of public service, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of health, the commissioner of transportation, and a representative of the governor's office designated by the governor. The governor shall appoint five members from the general public to the board, subject to the advice and consent of the senate. At least two of the five public members shall must have knowledge of and be conversant in water management issues in the state.

Sec. 7. [216C.01] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] The definitions in this section apply to section 8 and those sections renumbered by section 10.

Subd. 2. [DIRECTOR.] "Director" means the director of the department of public service.

Subd. 3. [DEPARTMENT.] "Department" means the department of public service.

Sec. 8. [216C.02] [POWERS AND DUTIES OF DIRECTOR; RULES.]

Subdivision 1. [POWERS.] The director may:

(1) apply for, receive, and spend money received from federal, municipal, county, regional, and other government agencies and private sources;

(2) apply for, accept, and disburse grants and other aids from public and private sources;

(3) contract for professional services if work or services required or authorized to be carried out by the director cannot be satisfactorily performed by employees of the department or by another state agency;

(4) enter into interstate compacts to carry out research and planning jointly with other states or the federal government when appropriate;

(5) upon reasonable request, distribute informational material at no cost to the public; and

(6) enter into contracts for the performance of the director's duties with federal, state, regional, metropolitan, local, and other agencies or units of government and educational institutions, including the University of Minnesota, without regard to the competitive bidding requirements of chapters 16A and 16B.

Subd. 2. [RULES.] The director may adopt rules under chapter 14 to carry out the director's duties and responsibilities under this section and those sections renumbered by section 10.

Sec. 9. [FUNCTIONS TRANSFERRED; ENERGY DIVISION ESTABLISHED.]

The functions of the department of energy and economic development energy division are transferred from that division to the public service department and are placed under the jurisdiction and control of the director of public service. The energy division is established within the department of public service. The division shall administer the duties and functions assigned to it by law.

Sec. 10. [INSTRUCTION TO REVISOR.]

Subdivision 1. The revisor of statutes shall renumber the section of Minnesota Statutes specified in column A with the corresponding number in column B. The revisor shall make necessary cross reference changes consistent with the renumbering.

In the statutes listed below, the revisor of statutes shall also change all references to "commissioner" or "commissioner of the department of energy and economic development" in the statutes specified in column A to "director" and all references to "department of energy and economic development" to "department."

Column A

116J.04

116J.05

116J.06

116J.07

116J.08

Column B

216C.04

216C.05

216C.06

216C.07

216C.08

<u>116J.09</u>	<u>216C.09</u>
<u>116J.10</u>	<u>216C.10</u>
<u>116J.11</u>	<u>216C.11</u>
<u>116J.12</u>	<u>216C.12</u>
<u>116J.13</u>	<u>216C.13</u>
<u>116J.14</u>	<u>216C.14</u>
<u>116J.15</u>	<u>216C.15</u>
<u>116J.16</u>	<u>216C.16</u>
<u>116J.17</u>	<u>216C.17</u>
<u>116J.18</u>	<u>216C.18</u>
<u>116J.19</u>	<u>216C.19</u>
<u>116J.20</u>	<u>216C.20</u>
<u>116J.21</u>	<u>216C.21</u>
<u>116J.22</u>	<u>216C.22</u>
<u>116J.23</u>	<u>216C.23</u>
<u>116J.24</u>	<u>216C.24</u>
<u>116J.25</u>	<u>216C.25</u>
<u>116J.26</u>	<u>216C.26</u>
<u>116J.261</u>	<u>216C.261</u>
<u>116J.262</u>	<u>216C.262</u>
<u>116J.27</u>	<u>216C.27</u>
<u>116J.29</u>	<u>216C.29</u>
<u>116J.30</u>	<u>216C.30</u>
<u>116J.31</u>	<u>216C.31</u>
<u>116J.315</u>	<u>216C.315</u>
<u>116J.32</u>	<u>216C.32</u>
<u>116J.33</u>	<u>216C.33</u>
<u>116J.34</u>	<u>216C.34</u>
<u>116J.35</u>	<u>216C.35</u>
<u>116J.373</u>	<u>216C.373</u>
<u>116J.38</u>	<u>216C.38</u>
<u>116J.381</u>	<u>216C.381</u>

Subd. 2. The revisor of statutes shall change all references to the "commissioner of energy and economic development" or the "commissioner" (meaning the commissioner of energy and economic development) to the "director of public service" or the "director" in the statutes listed below:

13.68

325F.19

325F.20

325F.21

325F.22

325F.23

325F.24

16B.56, subd. 1

115A.15

126.111

174.03, subd. 7

AGRICULTURE AND TRADE

Sec. 11. Minnesota Statutes 1986, section 17.03, is amended by adding a subdivision to read:

Subd. 6. [COOPERATION WITH MINNESOTA TRADE OFFICE.] The commissioner of agriculture, the commissioner of trade and economic development, and the director of the Minnesota trade office shall cooperate with each other to promote the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office have primary responsibility for promoting state agricultural interests to national and international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting agricultural interests of the state in cooperative production and marketing efforts with other states.

Sec. 12. Minnesota Statutes 1986, section 17.101, subdivision 1, is amended to read:

~~Subdivision 1. [DEPARTMENTAL DUTIES.]~~ For the purposes of expanding, improving, and developing the markets for products of Minnesota agriculture, the commissioner shall encourage and promote the marketing of these products by means of:

- (a) advertising Minnesota agricultural products;
- (b) assisting state agricultural commodity organizations;
- (c) developing methods to increase processing and marketing of agricultural commodities including commodities not being produced in Minnesota on a commercial scale, but which may have economic potential in national and international markets;
- (d) investigating and identifying new marketing technology and methods to enhance the competitive position of Minnesota agricultural products;
- (e) evaluating livestock marketing opportunities;

(f) assessing and developing national and international markets for Minnesota agricultural products;

(g) studying the conversion of raw agricultural products to manufactured products including ethanol;

(h) hosting the visits of foreign trade teams to Minnesota and defraying the teams' expenses;

(i) assisting Minnesota agricultural businesses desiring to sell their products ~~in national and international markets~~; and

(j) other activities the commissioner deems appropriate to promote Minnesota agricultural products ~~in national and international markets~~.

Sec. 13. Minnesota Statutes 1986, section 43A.08, subdivision 1, is amended to read:

Subdivision 1. [UNCLASSIFIED POSITIONS.] Unclassified positions are held by employees who are:

(a) Chosen by election or appointed to fill an elective office;

(b) Heads of agencies required by law to be appointed by the governor or other elective officers, and the executive or administrative heads of departments, bureaus, divisions and institutions specifically established by law in the unclassified service;

(c) Deputy and assistant agency heads, and one confidential secretary in the agencies listed in subdivision 1a;

(d) The confidential secretary to each of the elective officers of this state and, for the secretary of state, state auditor, and state treasurer, an additional deputy, clerk, or employee;

(e) Intermittent help employed by the commissioner of public safety to assist in the issuance of vehicle licenses;

(f) Employees in the offices of the governor and of the lieutenant governor, and one confidential employee for the governor in the office of the adjutant general;

(g) Employees of the Washington, D.C., office of the state of Minnesota;

(h) Employees of the legislature and of legislative committees or commissions; provided that employees of the legislative audit commission, except for the legislative auditor, the deputy legislative

auditors, and their confidential secretaries, shall be employees in the classified service;

~~(h)~~ (i) Presidents, vice presidents, deans, other managers and professionals in academic and academic support programs, administrative or service faculty, teachers, research assistants and student employees eligible under terms of the federal economic opportunity act work study program in the state universities and community colleges. ~~This paragraph shall, but not be construed to include the~~ custodial, clerical, or maintenance employees, or any professional or managerial employee performing duties in connection with the business administration of these institutions;

~~(i)~~ (j) Officers and enlisted persons in the national guard;

~~(j)~~ (k) Attorneys, legal assistants, examiners, and three confidential employees appointed by the attorney general or employed with the attorney general's authorization;

~~(k)~~ (l) Judges and all employees of the judicial branch, referees, receivers, jurors, and notaries public, except referees and adjusters employed by the department of labor and industry;

~~(l)~~ (m) Members of the state patrol; provided that selection and appointment of state patrol troopers shall be made in accordance with applicable laws governing the classified service;

~~(m)~~ (n) Chaplains employed by the state;

~~(n)~~ (o) Examination monitors and intermittent training instructors employed by the departments of employee relations and commerce;

~~(o)~~ (p) Student workers; and

~~(p)~~ (q) Employees unclassified pursuant to other statutory authority.

Sec. 14. Minnesota Statutes 1986, section 116J.01, is amended to read:

116J.01 [DEPARTMENT OF ENERGY TRADE AND ECONOMIC DEVELOPMENT.]

Subdivision 1. [APPOINTMENT] The department of energy trade and economic development ~~shall be~~ is supervised and controlled by the commissioner of energy trade and economic development, who ~~shall be~~ is appointed by the governor and ~~serve~~ serves under the ~~provisions of~~ section 15.06.

Subd. 2. [CONFIDENTIAL SECRETARY.] The commissioner may appoint a confidential secretary in the unclassified service.

Subd. 3. [DEPARTMENTAL ORGANIZATION.] The commissioner shall organize the department as provided in section 15.06. The department shall be organized into four divisions, ~~which shall be designated as the energy business promotion and marketing division, the community development division, the economic development policy analysis division, and the financial management Minnesota trade office division; and one office, the office of tourism.~~ Each division and office is responsible for administering shall administer the duties and functions assigned to it by law. When the duties of the divisions or office are not allocated by law, the commissioner may establish and revise the assignments of each division and office. Each division shall be is under the direction of a deputy commissioner in the unclassified service.

The office of tourism is under the direction of a director of tourism in the unclassified service. The governor shall appoint the director of tourism.

Sec. 15. Minnesota Statutes 1986, section 116J.03, is amended to read:

116J.03 [DEFINITIONS.]

Subdivision 1. [SCOPE.] As used in chapter 116J, the terms defined in this section have the meaning given them.

Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of energy trade and economic development.

Subd. 3. [DEPARTMENT.] "Department" means the department of energy trade and economic development.

Sec. 16. Minnesota Statutes 1986, section 116J.58, subdivision 2, is amended to read:

Subd. 2. [PROMOTIONAL CONTRACTS.] In order to best carry out duties and responsibilities and to serve the people of the state in the promotion of tourism, trade, and economic development, the commissioner may engage in programs and projects jointly with a private person, firm, corporation or association and may enter into contracts under terms to be mutually agreed upon to carry out such programs and projects not including acquisition of land or buildings. Such Contracts may be negotiated and shall are not be subject to the provisions of chapter 16, insofar as such provisions relate 16B relating to competitive bidding.

Sec. 17. Minnesota Statutes 1986, section 116J.60, is amended to read:

116J.60 [PROMOTIONAL EXPENSES.]

In the promotion of tourism, trade, and economic development of the state, the commissioner of ~~energy~~ trade and economic development may expend money appropriated by the legislature for these purposes in the same manner as private persons, firms, corporations, and associations make expenditures for these purposes. An expenditure for food, lodging, or travel is not governed by the travel rules of the commissioner of employee relations. No money shall be expended for the appearance in radio or television broadcasts by an elected public official.

Sec. 18. [116J.613] [WASHINGTON OFFICE.]

The commissioner may appoint employees in the Washington, D.C., office of the state of Minnesota in accordance with chapter 43A, and prescribe their duties.

In the operation of the Washington, D.C., office of the state of Minnesota, the commissioner may expend money appropriated by the legislature for promotional purposes in the same manner as private persons, firms, corporations, and associations expend money for promotional purposes. Promotional expenditures for food, lodging, or travel are not governed by the travel rules of the commissioner of employee relations.

Sec. 19. Minnesota Statutes 1986, section 116J.63, subdivision 2, is amended to read:

Subd. 2. ~~The commissioner shall recommend a schedule of fees pursuant to section 16A.128 to be charged for these materials and for services rendered by the department in furnishing them. Fees for reports, publications, or related publicity or promotional material are not subject to the rulemaking requirements of chapter 14 and are not subject to sections 16A.128 and 16A.1281. The fees prescribed by the commissioner shall must be commensurate with the distribution objective of the department for the material produced or with the cost of furnishing the services. All fees for materials and services shall must be deposited in the general fund.~~

Sec. 20. [116J.966] [COMMISSIONER'S POWERS AND DUTIES; TRADE OFFICE.]

Subdivision 1. [TRADE PROMOTION DUTIES GENERALLY.] The commissioner shall promote, develop, and facilitate trade and foreign investment in Minnesota. In furtherance of these goals, and in addition to the powers granted by section 116J.035, the commissioner may:

(1) locate, develop, and promote international markets for Minnesota products and services;

(2) locate, develop, and promote domestic and international markets for Minnesota agricultural products and services;

(3) arrange and lead trade missions to countries with promising international markets for Minnesota goods, technology, services, and agricultural products;

(4) promote Minnesota products and services at international trade shows;

(5) promote Minnesota agricultural products and services at domestic and international trade shows;

(6) organize, promote, and present international trade shows featuring Minnesota products and services;

(7) organize, promote, and present domestic and international trade shows featuring Minnesota agricultural products;

(8) host trade delegations and assist foreign traders in contacting appropriate Minnesota businesses and investments;

(9) develop contacts with Minnesota businesses and gather and provide information to assist them in locating and communicating with international trading or joint venture counterparts;

(10) provide information, education, and counseling services to Minnesota businesses regarding the economic, commercial, legal, and cultural contexts of international trade;

(11) provide Minnesota businesses with international trade leads and information about the availability and sources of services relating to international trade, such as export financing, licensing, freight forwarding, international advertising, translation, and custom brokering;

(12) locate, attract, and promote foreign investment and business development in Minnesota to enhance employment opportunities in Minnesota;

(13) provide foreign businesses and investors desiring to locate facilities in Minnesota information regarding sources of governmental, legal, real estate, financial, and business services;

(14) undertake activities to support the world trade center; and

(15) enter into contracts or other agreements with private persons and public entities to carry out the purposes of promoting international trade and attracting investment from foreign countries to Minnesota and to carry out this section, without regard to sections 16B.07 and 16B.09.

Subd. 2. [AGRICULTURAL PROMOTION.] The commissioner of trade and economic development and the director of the Minnesota trade office shall cooperate and consult with the commissioner of agriculture in promoting the beneficial agricultural interests of the state. The commissioner of trade and economic development and the director of the Minnesota trade office shall have the primary responsibility for promoting state agricultural interests to national and international markets. The commissioner of agriculture has primary responsibility for promoting the agricultural interests of producers, promoting state agricultural markets, and promoting the agricultural interests of the state in cooperative production and marketing efforts with other states.

Subd. 3. [ADMINISTRATIVE SUPPORT.]

The commissioner of agriculture in consultation with the director of the Minnesota trade office shall provide administrative staff and support to the Interstate Agricultural Grain Marketing Commission members from this state.

JUVENILE JUSTICE AND YOUTH INTERVENTION

Sec. 21. [268.29] [JUVENILE JUSTICE PROGRAM.]

The governor shall designate the department of jobs and training as the sole agency responsible for supervising the preparation and administration of the state plan for juvenile justice required by the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

The governor shall designate the juvenile justice advisory committee as the supervisory board for the department of jobs and training with respect to preparation and administration of the state plan and award of grants.

The governor shall appoint members to the juvenile justice advisory committee in accordance with the membership requirements of the Juvenile Justice and Delinquency Prevention Act of 1974, as amended.

Sec. 22. [268.30] [GRANTS-IN-AID TO YOUTH INTERVENTION PROGRAMS.]

Subdivision 1. [GRANTS.] The commissioner may make grants to nonprofit agencies administering youth intervention programs in communities where the programs are or may be established.

"Youth intervention program" means a nonresidential community-based program providing advocacy, education, counseling, and referral services to youth and their families experiencing personal, familial, school, legal, or chemical problems with the goal of resolving the present problems and preventing the occurrence of the problems in the future.

Subd. 2. [APPLICATIONS.] Applications for a grant-in-aid shall be made by the administering agency to the commissioner. The grant-in-aid is contingent upon the agency having obtained from the community in which the youth intervention program is established local matching money two times the amount of the grant that is sought.

The commissioner shall provide by rule the application form, procedures for making application form, criteria for review of the application, and kinds of contributions in addition to cash that qualify as local matching money. No grant to any agency shall exceed \$25,000.

Sec. 23. [REPEALER.]

Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 116J.404; and 116J.405 are repealed.

Sec. 24. [INSTRUCTION TO REVISOR.]

Subdivision 1. The revisor of statutes shall renumber each section of Minnesota Statutes in column A with the corresponding number in column B. The revisor shall also make necessary cross reference changes consistent with the renumbering and change the words "commissioner of agriculture" or similar words to "commissioner of the department of trade and economic development" or similar words.

<u>Column A</u>	<u>Column B</u>
<u>17.103</u>	<u>116J.972</u>
<u>17.104</u>	<u>116J.973</u>
<u>17.105</u>	<u>116J.974</u>

Subd. 2. The revisor of statutes shall, except in those sections listed in section 10, change all references to the commissioner or the department of energy and economic development to the commissioner or department of trade and economic development, as appropriate, whenever those words appear in Minnesota Statutes.

Sec. 25. [EFFECTIVE DATE.]

This article is effective the day following final enactment.

ARTICLE 2

WORLD TRADE CENTER

Section 1. [44A.001] [DEFINITIONS.]

Subdivision 1. [APPLICABILITY.] For purposes of this chapter, the following terms have the meaning given them in this section.

Subd. 2. [BOARD.] "Board" means the governing board of the Minnesota world trade center corporation.

Subd. 3. [CONFERENCE AND SERVICE CENTER.] "Conference and service center" means the approximately 20,000 square feet of space on the third and fourth floors of the Minnesota world trade center that the state of Minnesota has the right to possess, occupy and use subject to the terms and conditions of the development agreement.

Subd. 4. [CORPORATION.] "Corporation" means the Minnesota world trade center corporation established by section 44A.01.

Subd. 5. [DEVELOPMENT AGREEMENT.] "Development agreement" means the agreement entered into by and between the world trade center board, as agent of the state of Minnesota, and Oxford Development Minnesota, Inc., dated July 27, 1984, and the amendments to that agreement, for development and construction of a world trade center at a designated site in Minnesota.

Subd. 6. [MINNESOTA WORLD TRADE CENTER.] "Minnesota world trade center" means the facility constructed in accordance with the development agreement.

Sec. 2. Minnesota Statutes 1986, section 44A.01, is amended to read:

44A.01 [WORLD TRADE CENTER BOARD CORPORATION.]

Subdivision 1. [MEMBERSHIP ESTABLISHMENT.] (a) A world trade center board is created to facilitate and support Minnesota world trade center programs and services and promote the growth of international trade in Minnesota. The world trade center board consists of nine voting members and four legislators serving as nonvoting members. Three members are representatives of the

membership of the Minnesota world trade center, one member is a representative of the international business community, and one member is a representative of the agricultural community.

(b) The initial voting members are appointed by the governor with the advice and consent of the senate. The terms of five of the initial voting members shall expire the first Monday in January 1987. The terms of the remaining four initial voting members shall expire the first Monday in January 1989. A vacancy is filled in the same manner as the appointment. The Minnesota world trade center corporation is a public corporation. The corporation is established to facilitate and support Minnesota world trade center programs and services and to promote the Minnesota world trade center. The corporation is a state agency but is not subject to chapters 14, 16A, 16B, 43A, 179, and 179A.

Subd. 2. [BOARD MEMBERSHIP.] (a) The Minnesota world trade center corporation is governed by a board of directors consisting of (1) nine members elected by the association of members established under section 4, subdivision 2, clause (5); (2) three members appointed by the governor; and (3) six legislators.

(b) The members elected by the association shall be elected from members of the international business community and shall serve terms of six years.

(c) The three members appointed by the governor shall be appointed with the advice and consent of the senate and serve terms of six years.

(e) (d) Legislator members are two three members of the senate appointed under the rules of the senate and two three members of the house of representatives appointed by the speaker. At least one member from each house must be appointed from the minority party of that house. Except for the initial members, who are to be appointed following enactment, they are appointed at the beginning of each regular session of the legislature for two-year terms. A legislator who remains a member of the body from which the legislator was appointed may serve until a successor is appointed and qualifies. A vacancy in a legislator member's term is filled for the unexpired portion of the term in the same manner as the original appointment.

Subd. 2. 3. [TERMS; COMPENSATION; REMOVAL.] Except as provided in this section, terms, compensation, and removal of members who are not legislators are as provided in section 15.059.

Subd. 3. 4. [ORGANIZATION.] The chair of the world trade center board is selected by the board members. The board shall elect a chair and an executive committee from its members.

Sec. 3. Minnesota Statutes 1986, section 44A.02, is amended to read:

44A.02 [PRESIDENT.]

Subdivision 1. [SELECTION.] The president of the world trade center ~~board~~ corporation is selected by a majority of the board and serves at the pleasure of the board. The president must be familiar with the international business community, and have demonstrated proficiency in communication skills, administration, and management. The salary of the president is set by the board ~~within the limit set by sections, but may not exceed 95 percent of the salary for the governor under section 15A.081, subdivision 1, and 43A.17 6.~~

Subd. 2. [DUTIES.] The president is the chief administrative officer of the ~~board~~ corporation and is responsible for performing the executive duties of the ~~board~~ corporation. The president is not a member of the board.

Subd. 3. [EMPLOYEES.] The president may appoint ~~unclassified~~ employees ~~in accordance with chapter 43A~~ and prescribe their duties. Employees and officers of the corporation are not state employees, but at the option of the board may participate in the following plans for employees in the unclassified service: the state retirement plan, the state deferred compensation plan, and the health insurance and life insurance plans. The president may delegate to a subordinate the exercise of specified statutory powers or duties as the president deems advisable, subject to the control of the president.

Sec. 4. [44A.023] [POWERS.]

Subdivision 1. [LEGAL ACTION.] The corporation may sue, and be sued in the manner and subject to the limitations of other state agencies.

Subd. 2. [OTHER POWERS.] The board may directly, or authorize others in the corporation to:

(1) define, formulate, administer, and deliver programs and services through the world trade center;

(2) establish satellite operations of the Minnesota world trade center within the continental United States;

(3) accept gifts and grants from other sources;

(4) set and collect fees for services and programs;

(5) adopt membership requirements for an association of members of the Minnesota world trade center;

(6) participate jointly with private persons, firms, corporations, or organizations or with public entities in appropriate programs or projects and enter into contracts to spend money to carry out those programs or projects;

(7) have a seal and alter it at will;

(8) acquire and dispose of personal property, including inchoate and intellectual property, royalties, stock, and stock warrants;

(9) enter into contracts or agreements with a federal or state agency, individual, business entity, or other organization;

(10) acquire and dispose of real property or an interest in real property;

(11) purchase insurance;

(12) spend money appropriated to it for its purposes, including expenditures for the food, lodging, and travel of consultants and speakers hired by the board, and for publications, advertising, and promotional activities; and

(13) hold and maintain, with the owner of the Minnesota world trade center, membership for the Minnesota world trade center in the world trade centers association.

Sec. 5. [44A.025] [DUTIES.]

The board shall directly, or authorize others in the corporation to:

(1) promote and market the Minnesota world trade center;

(2) sponsor conferences or other promotional events in the conference and service center;

(3) adopt bylaws governing operation of the corporation by November 1, 1987;

(4) establish a Minnesota world trade center club program in accordance with the development agreement;

(5) conduct public relations and liaison activities between the corporation and the international business community; and

(6) establish and maintain an office in the Minnesota world trade center.

Sec. 6. Minnesota Statutes 1986, section 44A.031, is amended to read:

44A.031 [PROMOTIONAL EXPENSES.]

The world trade center board may directly, or authorize others in the corporation to, expend money in the world trade center fund, and any other money appropriated by the legislature, for the purpose of promotion of world trade in Minnesota to carry out sections 4 and 5. Promotional expenses include, but are not limited to, expenses for the food, lodging and travel of consultants and, speakers and corporation employees hired by the board, and publications and other forms of advertising. Promotional expenditures may be made in the same manner as expenditures made by private persons, firms, corporations, or associations for similar purposes, and are not subject to regulation by the commissioner of employee relations.

Sec. 7. [44A.031] [WORLD TRADE CENTER CORPORATION FUND.]

A world trade center corporation fund is established as an account in the state treasury. All money received by the corporation, including money generated from the use of the conference and service center, except money generated from the use of the center by the Minnesota trade office, shall be deposited in the fund. Money in the fund including interest earned is appropriated to the board and shall be used exclusively for corporation purposes.

Sec. 8. [44A.11] [USE OF CONFERENCE AND SERVICE CENTER.]

The board shall operate or provide for the operation of the conference and service center. Priority use of the conference and service center shall be given to programs and activities related to international trade. The board may provide for the use of the center for public benefits and other revenue raising purposes only after all other uses of the center for international business have been accommodated.

Sec. 9. [TRANSITION.]

(a) Nine members of the first Minnesota world trade center corporation board of directors are the nine members of the Minnesota world trade center board on the effective date of this section. Three of these members shall serve a term of two years, three a term of four years, and three a term of six years. The determination of members who serve these terms shall be made by lot. On expiration

of a member's term under this paragraph, a successor shall be elected under section 2, subdivision 2, paragraph (b).

(b) Three members of the first Minnesota world trade center corporation board of directors shall be appointed by the members of the first Minnesota world trade center corporation board of directors chosen under section 2, paragraph (d) and paragraph (a) of this section. One of these members shall serve a term of two years, one a term of four years, and one a term of six years. The determination of members who serve these terms shall be made by lot. On expiration of a member's term under this paragraph, a successor shall be chosen under section 2, subdivision 2, paragraph (c).

Sec. 10. [MEMBERSHIP AGREEMENT.]

The Minnesota world trade center corporation may request the executive board of the world trade centers association to transfer the membership of the Minnesota world trade center board in the world trade centers association to the corporation and the owner of the Minnesota world trade center.

Sec. 11. [TRANSFERS; APPROPRIATIONS; COMPLEMENT.]

Subdivision 1. [DEFINITIONS.] The definitions in section 1 apply to this section.

Subd. 2. [TRANSFER.] All of the state of Minnesota's rights and obligations under the development agreement and all existing contracts related to the approximately 20,000 square feet to which the world trade center board is a party or beneficiary is transferred to the board of the corporation. All other property of the world trade center board, including any unexpended balance of the world trade center board 1987 appropriation and matching funds, is transferred and appropriated to the board of the corporation.

Subd. 3. [OPERATING EXPENSES APPROPRIATION.] \$..... is appropriated from the general fund to the commissioner of administration to pay the operating expenses of the Minnesota world trade center conference and service center as required by the development agreement, to be available until June 30, 1989.

Sec. 12. [REPEALER.]

Minnesota Statutes 1986, sections 44A.03; 44A.04; 44A.05; and 44A.07, are repealed.

Sec. 13. [EFFECTIVE DATE.]

Sections 1 to 12 are effective July 1, 1987."

Delete the title and insert:

"A bill for an act relating to state government; reorganizing the department of agriculture, the department of energy and economic development, and the department of public service, and providing for the powers and duties of the three departments; changing the name of the department of energy and economic development to the department of trade and economic development; designating the department of jobs and training as the administrative agency for certain juvenile justice and delinquency prevention purposes; providing grants for youth intervention programs; creating the Minnesota world trade center corporation and providing for its powers and duties; changing the membership of the world trade center board; authorizing the board to contract for certain services and programs; establishing the conference and service facility fund; appropriating money; amending Minnesota Statutes 1986, sections 17.03, subdivision 1, and by adding a subdivision; 18.023, subdivision 11; 18.024, subdivision 1; 43A.08, subdivision 1; 44A.01; 44A.02; 44A.031; 104.35, subdivisions 2 and 3; 115A.12, subdivision 2; 116C.03, subdivision 2; 116J.01; 116J.03; 116J.58, subdivision 2; 116J.60; and 116J.63, subdivision 2; proposing coding for new law in Minnesota Statutes, chapters 44A; 116J; and 268; proposing coding for new law as Minnesota Statutes, chapter 216C; repealing Minnesota Statutes 1986, sections 4.09; 17.03, subdivision 5; 44A.03; 44A.04; 44A.05; 44A.07; 116J.404; and 116J.405."

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

The report was adopted.

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

H. F. No. 1203, A bill for an act relating to human services; requiring court-ordered group health insurance benefits be paid to providers; requiring all parties to sign workers' compensation settlement agreements; requiring notification to commissioner regarding workers' compensation payments; establishing a public assistance lien; establishing third party payer liability; requiring reporting of group insurance coverage; providing for reimbursement of benefits from programs with federal participation; amending Minnesota Statutes 1986, sections 62A.046; 176.191, subdivision 4; 176.521, subdivisions 1, 3, and by adding a subdivision; 256B.02, by adding a subdivision; 256B.042, subdivisions 2, 3, and by adding subdivisions; 256B.37, subdivisions 1, 2, and by adding subdivisions; 256D.03, by adding a subdivision; 268.121; 473.405, subdivision 13; and 514.69; proposing coding for new law in Minnesota Statutes, chapter 256.

Reported the same back with the following amendments:

Pages 3 and 4, delete sections 3 to 5

Page 7, line 13, delete "other than Medicare or the medical"

Page 7, line 14, delete "assistance program,"

Page 14, lines 9 to 11, delete the new language

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 12, delete everything after the semicolon

Page 1, line 13, delete "and by adding a subdivision;"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1222, A bill for an act relating to human services; clarifying statutes relating to the preadmission screening program; adjusting state and county shares of costs; amending Minnesota Statutes 1986, section 256B.091, subdivisions 2, 3, 4, 6, and 8.

Reported the same back with the following amendments:

Page 7, line 21, after "program" insert "including a minimum of 14 days written advanced notice of the opportunity to be selected as a service provider and an annual public meeting with providers to explain and review the criteria for selection,"

Page 7, after line 24, insert:

"The county must select providers for contracts or agreements using the following criteria and other criteria established by the county:

(1) the need for the particular services offered by the provider;

(2) the population to be served including the number of clients, the length of time services will be provided, and the medical condition of clients;

(3) the geographic area to be served;

(4) quality assurance methods, including appropriate licensure, certification, or standards, and supervision of employees when needed;

(5) rates for each service and unit of service exclusive of county administrative costs;

(6) evaluation of services previously delivered by the provider; and

(7) contract or agreement conditions including billing requirements, cancellation, and indemnification.

The county must evaluate its own agency services under the criteria established for other providers. The county shall provide a written statement of the reasons for not selecting providers."

Page 7, lines 33 and 34, delete the new language

Page 8, line 18, reinstate the stricken "ten" and delete "twenty"

With the recommendation that when so amended the bill pass.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 1265, A bill for an act relating to alcoholic beverages; providing for the licensing of low-volume brewers; allowing them to be granted an on-sale intoxicating liquor or nonintoxicating malt liquor license; amending Minnesota Statutes 1986, section 340A.301, subdivisions 6 and 7.

Reported the same back with the following amendments:

Page 1, line 23, after "year" insert a comma

Page 1, delete lines 24 and 25 and insert "the entire production of which is solely for consumption on tap on the licensed premises"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1283, A bill for an act relating to health; prohibiting smoking in day care homes and centers, schools, and health care facilities; prohibiting free distribution of smoking tobacco products; restricting sales and advertising of tobacco products; amending Minnesota Statutes 1986, sections 144.412; 144.414; and 325F.77, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 144.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 144.412, is amended to read:

144.412 [PUBLIC POLICY.]

The purpose of sections 144.411 to 144.417 is to protect the public health, comfort and environment by prohibiting smoking in areas where children or ill or injured persons are present, and by limiting smoking in public places and at public meetings except in to designated smoking areas.

Sec. 2. Minnesota Statutes 1986, section 144.414, is amended to read:

144.414 [PROHIBITIONS.]

Subdivision 1. [PUBLIC PLACES.] No person shall smoke in a public place or at a public meeting except in designated smoking areas. This prohibition does not apply in cases in which an entire room or hall is used for a private social function and seating arrangements are under the control of the sponsor of the function and not of the proprietor or person in charge of the place. Furthermore, this prohibition shall not apply to factories, warehouses and similar places of work not usually frequented by the general public, except that the state commissioner of health shall establish rules to restrict or prohibit smoking in those places of work where the close proximity of workers or the inadequacy of ventilation causes smoke pollution detrimental to the health and comfort of nonsmoking employees.

Subd. 2. [DAY CARE PREMISES.] Smoking is prohibited in a day care center licensed under Minnesota Rules, parts 9545.0510 to 9545.0650 during its hours of operation.

Subd. 3. [HEALTH CARE FACILITIES AND CLINICS.] Smoking is prohibited in any area of a hospital, health care clinic, doctor's office, or other health care-related facility, other than a nursing home, boarding care facility, or licensed residential facility. Smoking by patients in a chemical dependency treatment program or mental health program may be allowed in a separated well-ventilated area pursuant to a policy established by the administrator of the program that identifies circumstances in which prohibiting smoking would interfere with the treatment of persons recovering from chemical dependency or mental illness.

Health care-related facilities must report their smoking policies to the commissioner of health by January 1, 1990. Any health care-related facility that is not smoke-free must explain in the report the reason for its policy.

Sec. 3. [EFFECTIVE DATE.]

Section 2 is effective January 1, 1990."

Delete the title and insert:

"A bill for an act relating to health; prohibiting smoking in day care centers and health care facilities; amending Minnesota Statutes 1986, sections 144.412; and 144.414."

With the recommendation that when so amended the bill pass.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

H. F. No. 1343, A bill for an act relating to public safety; providing an exception from certain regulations for steam turbines which receive steam from remote municipal facilities; amending Minnesota Statutes 1986, section 183.56.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 183.56, is amended to read:

183.56 [EXCEPTIONS.]

The provisions of sections 183.38 to 183.62, shall not apply to:

- (1) Boilers in buildings occupied solely for residence purposes with accommodations for not more than five families;
- (2) Railroad locomotives operated by railroad companies for transportation purposes;
- (3) Air tanks installed on the right-of-way of railroads and used directly in the operation of trains;
- (4) Boilers and pressure vessels under the direct jurisdiction of the United States;
- (5) Unfired pressure vessels having an internal or external working pressure not exceeding 15 p.s.i.g. with no limit on size;
- (6) Pressure vessels used for storage of compressed air not exceeding five cubic feet in volume and equipped with an American Society of Mechanical Engineers code stamped safety valve set at a maximum of 100 p.s.i.g.;
- (7) Pressure vessels having an inside diameter not exceeding six inches or a length not exceeding 36 inches;
- (8) Pressure vessels with a nominal water containing capacity of 120 gallons or less for containing water under pressure including those containing air the compression of which serves only as a cushion;
- (9) Boiler or pressure vessels located on farms used solely for agricultural or horticultural purposes;
- (10) Tanks or cylinders used for storage or transfer of liquified petroleum gases;
- (11) Unfired pressure vessels in petroleum refineries;
- (12) An air tank or pressure vessel which is an integral part of a passenger motor bus, truck, or trailer;
- (13) Hot water heating and other hot liquid boilers not exceeding a heat input of 750,000 BTU per hour;
- (14) Hot water supply boilers (water heaters) not exceeding a heat input of 500,000 BTU per hour, a water temperature of 210 degrees Fahrenheit, a nominal water capacity of 120 gallons, or a pressure of 160 p.s.i.g.; and
- (15) Laundry and dry cleaning presser not exceeding five cubic feet of steam volume; and

(16) Steam powered turbines at paper-making facilities which are powered by steam generated by municipal steam district facilities at a remote location if the turbines are operated by persons who have completed the certified training program described in section 2.

An engineers license is not required for hot water supply boilers.

An engineers license is not required for boilers, steam cookers, steam kettles, steam sterilizers or other steam generators not exceeding 100,000 BTU per hour input, 25 kilowatt, 2½ horsepower or a pressure of 15 p.s.i.g.

Electric boilers not exceeding a maximum working pressure of 50 p.s.i.g., maximum of 30 kilowatt input or three horsepower rating shall be inspected as pressure vessels and shall not require an engineer license to operate.

Sec. 2. [183.561] [CERTAIN MANUFACTURING FACILITY TURBINE OPERATORS.]

The commissioner of labor and industry shall certify a training program for turbine operators at manufacturing facilities which purchase steam from a municipal utility to operate the turbine if the commissioner is satisfied that the program provides adequate training for persons who successfully complete the program to safely and competently operate those turbines. The training program need not require training in and a trainee need not have experience in the operation of boilers to produce steam.

Sec. 3. [EFFECTIVE DATE.]

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

Amend the title as follows:

Page 1, line 5, before the period insert "; proposing coding for new law in Minnesota Statutes, chapter 183"

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1350, A bill for an act relating to jobs and training; establishing limits for rates under the child care sliding fee pro-

gram; amending Minnesota Statutes 1986, section 268.91, subdivision 8.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 268.91, subdivision 8, is amended to read:

Subd. 8. [MAXIMUM COUNTY RATE CHILD CARE RATES.]
The county board may limit the subsidy allowed by setting a maximum on the provider child care rate that the county shall subsidize. The rate set by any county shall not be lower than 110 percent or higher than 125 percent of the median rate for like care arrangements in that county. In order to be reimbursed for more than 110 percent of the median rate, a provider with employees must pay wages for teachers, assistants, and aides that are more than 110 percent of the county average rate for child care workers."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

H. F. No. 1417, A bill for an act relating to human services; providing for hospice care payments under medical assistance; amending Minnesota Statutes 1986, section 256B.02, subdivision 8.

Reported the same back with the following amendments:

Page 6, line 22, before the period insert "to the extent authorized by rule"

Page 6, line 24, delete "1987" and insert "1988"

With the recommendation that when so amended the bill pass.

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 1430, A bill for an act relating to utilities; requiring the public utilities commission to annually review authorized rates of return; requiring the commission to consider nonutility income

under certain circumstances; amending Minnesota Statutes 1986, section 216B.16, by adding subdivisions.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1986, section 216B.16, is amended by adding a subdivision to read:

Subd. 11. [ANNUAL REVIEW; RATE OF RETURN.] The commission may annually review the rate of return being earned by each public utility since the utility's most recent general rate case. The commission must examine whether the rate of return being earned by the utility and calculated in the same manner as in the utility's most recent general rate case reflects current market conditions. In making its determination the commission shall determine the utility's cost of capital and consider rates of return being authorized to comparable utilities. If, after a hearing, the commission determines that the rate of return being earned by the public utility is excessive, the commission may order that utility to file a general rate case within 120 days of the order. In a proceeding held under this subdivision, the public utility has the burden to show that its current earned rate of return is reasonable. If the utility fails to comply with the order, the commission shall order that the authorized rate of return be appropriately revised and order the utility to revise its rates accordingly."

Delete the title and insert:

"A bill for an act relating to utilities; providing for the public utilities commission to annually review authorized rates of return; amending Minnesota Statutes 1986, section 216B.16, by adding a subdivision."

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

The report was adopted.

Jacobs from the Committee on Regulated Industries to which was referred:

H. F. No. 1562, A bill for an act relating to alcoholic beverages; authorizing the city of Minneapolis to issue an on-sale liquor license to the American Swedish Institute.

Reported the same back with the following amendments:

Page 1, line 9, after "the" insert "governing body of the"

Page 1, line 9, after "Institute" insert "for the premises known as the American Swedish Institute"

With the recommendation that when so amended the bill pass and be placed on the Consent Calendar.

The report was adopted.

Sarna from the Committee on Commerce to which was referred:

S. F. No. 184, A bill for an act relating to utilities; trade practices; restricting use and connection of automatic dialing-announcing devices to telephone lines; proposing coding for new law in Minnesota Statutes, chapter 325E.

Reported the same back with the following amendments:

Delete everything after the enacting clause and insert:

"Section 1. [325E.26] [DEFINITIONS.]

Subdivision 1. [SCOPE.] The terms used in sections 1 to 7 have the meanings given them in this section.

Subd. 2. [AUTOMATIC DIALING-ANNOUNCING DEVICE.] "Automatic dialing-announcing device" means a device that selects and dials telephone numbers and that, working alone or in conjunction with other equipment, disseminates a prerecorded or synthesized voice message to the telephone number called.

Subd. 3. [CALLER.] "Caller" means an individual, corporation, firm, partnership, association, or legal or commercial entity who attempts to contact, or who contacts, a subscriber in this state by using a telephone or a telephone line.

Subd. 4. [COMMERCIAL TELEPHONE SOLICITATION.] "Commercial telephone solicitation" means any unsolicited call to a residential subscriber when the person initiating the call has not had a prior business or personal relationship with the subscriber, and when the purpose of the call is to solicit the purchase or the consideration of purchase of goods or services by the subscriber. Commercial telephone solicitation does not include calls initiated by organizations listed in section 290.21, subdivision 3, clauses (a) to (e).

Subd. 5. [SUBSCRIBER.] "Subscriber" means an individual who has subscribed to residential telephone service from a telephone company regulated by this state, and the other persons living or residing with the subscribing individual.

Sec. 2. [325E.27] [USE OF PRERECORDED OR SYNTHESIZED VOICE MESSAGES.]

A caller shall not use or connect to a telephone line an automatic dialing-announcing device that delivers a prerecorded or synthesized voice message, unless: (1) the subscriber has knowingly or voluntarily requested, consented to, permitted, or authorized receipt of the message; or (2) the message is immediately preceded by a live operator who obtains the subscriber's consent before the message is delivered. This section does not apply to messages to subscribers with whom the caller has a current business relationship, messages from school districts to students, parents or employees, or messages advising employees of work schedules.

Sec. 3. [325E.28] [REQUIREMENTS ON AUTOMATIC DIALING-ANNOUNCING DEVICES.]

A caller shall not use an automatic dialing-announcing device unless the device is designed and operated so as to disconnect within ten seconds after termination of the telephone call by the subscriber.

Sec. 4. [325E.29] [MESSAGE REQUIREMENTS.]

Where the message is immediately preceded by a live operator, the operator must, at the outset of the message, disclose:

(1) the name of the business, firm, organization, association, partnership, or entity for which the message is being made;

(2) the purpose of the message; and

(3) the identity or kinds of goods or services the message is promoting.

If the message solicits payment or commitment of funds, that must be disclosed.

Sec. 5. [325E.30] [TELEPHONE CONSUMER PREFERENCE OPTION.]

Subdivision 1. [RULES.] The public utilities commission shall adopt rules by October 1, 1988, to adopt a mechanism for creating and maintaining a telephone consumer preference option to enable residential subscribers to be included in a listing of persons who do not want commercial telephone solicitation calls. The mechanism must:

(1) be revenue neutral;

(2) allow semiannual updating of the listing; and

(3) provide that costs be borne by persons acquiring the listings and not by subscribers.

Any listing compiled must be made available to persons who engage in commercial telephone solicitation.

The commission shall annually review the operation of the mechanism it adopts under this subdivision and make adjustments as needed.

Subd. 2. [UNWANTED SOLICITATION PROHIBITED.] No person shall make a commercial telephone solicitation to a residential subscriber who is listed pursuant to the mechanism required in section 1.

Sec. 6. [325E.31] [OPTIONS FOR CALLERS.]

A caller who complies with the requirements of section 5, whether the caller is engaged in commercial telephone solicitation or in relaying other messages, is not subject to the requirements of section 2.

Sec. 7. [325E.32] [PENALTIES; REMEDIES.]

A person who violates sections 2 to 5 is subject to the penalties and remedies, including a private right of action to recover damages, provided in section 8.31. A person who violates section 5 is also guilty of a petty misdemeanor."

Delete the title and insert:

"A bill for an act relating to telephone use; restricting use and connection of automatic dialing-announcing devices to telephone lines; allowing individual residential subscribers to prohibit unwanted commercial telephone solicitation; establishing penalties; proposing coding for new law in Minnesota Statutes, chapter 325E."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 494, A bill for an act relating to the Duluth airport authority; providing that authority employees hired after a certain date are not covered by any civil service system.

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

The report was adopted.

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

S. F. No. 557, A bill for an act relating to Ramsey county; providing for a charter commission to recommend a form of county government and providing for its adoption.

Reported the same back with the following amendments:

Page 2, line 34, delete "civil service commission" and insert "personnel director"

Page 3, line 16, after "agency" insert a period and delete "or any existing elective"

Page 3, delete line 17

Page 3, line 28, after "condemnation" insert "or sell or lease"

Page 3, line 31, delete "continue in effect" and insert "be subject to the charter, provided that the charter provisions are not in conflict with general laws relating to public indebtedness"

Page 3, after line 32, insert:

"Nothing in this section shall be construed to affect collective bargaining agreements between the county and its employees in force on the date a charter adopted pursuant to this act takes effect."

With the recommendation that when so amended the bill pass.

The report was adopted.

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

S. F. No. 737, A bill for an act relating to health; requiring the board of medical examiners to release certain information about disciplinary investigations and proceedings; amending Minnesota Statutes 1986, section 147.01, subdivision 4.

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

The report was adopted.

SECOND READING OF HOUSE BILLS

H. F. Nos. 1635, 65, 275, 373, 894, 1002, 1008, 1022, 1076, 1203, 1222, 1265, 1283, 1343, 1350, 1417 and 1562 were read for the second time.

SECOND READING OF SENATE BILLS

S. F. Nos. 863, 184, 494, 557 and 737 were read for the second time.

INTRODUCTION AND FIRST READING OF HOUSE BILLS

The following House Files were introduced:

Price and Sarna introduced:

H. F. No. 1636, A bill for an act relating to state government; transferring the powers and duties of the department of health and its commissioner with respect to the regulation of health maintenance organizations to the department of commerce and its commissioner; making various technical changes; amending Minnesota Statutes 1986, sections 62D.01, subdivision 2; 62D.02, subdivisions 2, 8, and 12; 62D.03; 62D.04, subdivisions 1 and 2; 62D.06, subdivision 2; 62D.07, subdivision 2; 62D.08, subdivisions 1, 2, and 3; 62D.10, subdivision 4; 62D.11, subdivision 2; 62D.12, subdivisions 1, 2, and 9; 62D.14, subdivisions 1, 3, 5, and 6; 62D.15, subdivisions 1 and 4; 62D.16; 62D.17; 62D.18; 62D.19; 62D.20; 62D.21; 62D.22, subdivisions 4 and 10; 62D.24; and 62D.30, subdivisions 1 and 3; repealing Minnesota Statutes 1986, section 62D.02, subdivision 3.

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

Pappas introduced:

H. F. No. 1637, A bill for an act relating to financial institutions; permitting additional detached facilities; amending Minnesota Statutes 1986, 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.

MESSAGES FROM THE SENATE

The following message was received from the Senate:

Mr. Speaker:

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

S. F. No. 473.

PATRICK E. FLAHAVEN, Secretary of the Senate

FIRST READING OF SENATE BILLS

S. F. No. 473, A bill for an act relating to health; requiring the commissioner of health to transmit the major reports on human health effects of low-level ionizing radiation.

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

SPECIAL ORDERS

S. F. No. 282 was reported to the House.

Nelson, K., moved that S. F. No. 282 be continued on Special Orders for one day. The motion prevailed.

H. F. No. 283 was reported to the House.

Solberg moved to amend H. F. No. 283, the first engrossment, as follows:

Page 7, after line 22, insert:

"Sec. 8. [210A.265] [REPORTING CONTRIBUTIONS FOR COUNTY CANDIDATES.]

Notwithstanding any law to the contrary, a candidate for county office is not required to record or report the name, address, or employer, or occupation if self-employed, of an individual, political committee, or political fund who makes a contribution or donation in kind to the candidate or the candidate's campaign committee, including the purchase of tickets for fund-raising efforts, that in

aggregate does not exceed \$50. The value of a donation in kind is its fair market value."

Amend the title as follows:

Page 1, line 9, before the period insert "; proposing coding for new law in Minnesota Statutes, chapter 210A"

The motion prevailed and the amendment was adopted.

Johnson, A., moved to amend H. F. No. 283, the first engrossment, as amended, as follows:

Page 7, after line 22, insert:

"Sec. 8. Laws 1980, chapter 362, section 4, subdivision 3, is amended to read:

Subd. 3. [USE OF DUES AND MEMBERSHIP FEES.] Notwithstanding subdivision 1, the association may, if not prohibited by other law, deposit in its political fund money derived from dues or membership fees. The treasurer of the fund, in any report required by section 9, shall disclose the name of any member whose dues, membership fees and contributions deposited in the political fund in any one year exceed ~~\$50~~ \$100 in the aggregate."

Amend the title accordingly

The motion prevailed and the amendment was adopted.

H. F. No. 283, A bill for an act relating to elections; requiring confidentiality of certain matters before the ethical practices board; raising certain campaign contribution disclosure limits; changing the method of calculating certain campaign expenditure limits; amending Minnesota Statutes 1986, sections 10A.02, subdivision 11; 10A.12, subdivision 5; 10A.20, subdivisions 3 and 5; 10A.25, subdivisions 2 and 7; and 10A.255; proposing coding for new law in Minnesota Statutes, chapter 210A.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 76 yeas and 43 nays as follows:

Those who voted in the affirmative were:

Anderson, G.
Battaglia

Bauerly
Begich

Bertram
Brown

Carlson, L.
Carruthers

Cooper
Dauner

DeBlieck	Kelso	Minne	Price	Trimble
Forsythe	Kinkel	Murphy	Quinn	Tunheim
Greenfield	Kludt	Nelson, C.	Reding	Vanasek
Gutknecht	Knickerbocker	Nelson, K.	Rice	Vellenga
Heap	Kostohryz	Neuenschwander	Rodosovich	Voss
Jacobs	Krueger	O'Connor	Rukavina	Wagenius
Jaros	Larsen	Ogren	Sarna	Wenzel
Jefferson	Lasley	Olsen, S.	Scheid	Winter
Jennings	Lieder	Olsen, E.	Schoenfeld	Wynia
Johnson, A.	Long	Olsen, K.	Segal	Spk. Norton
Johnson, R.	McEachern	Orenstein	Simoneau	
Kahn	McKasy	Otis	Solberg	
Kalis	McLaughlin	Pappas	Sparby	
Kelly	Milbert	Peterson	Steensma	

Those who voted in the negative were:

Beard	Dorn	Marsh	Pelowski	Swenson
Bennett	Frederick	McDonald	Poppenhagen	Thiede
Bishop	Gruenes	McPherson	Redalen	Tjornhom
Blatz	Hartle	Miller	Richter	Tompkins
Boo	Haukoos	Nelson, D.	Rose	Uphus
Burger	Himle	Omman	Schafer	Valento
Carlson, D.	Hugoson	Onnen	Skoglund	Waltman
Clausnitzer	Johnson, V.	Ozment	Stanis	
Dille	Knuth	Pauly	Sviggum	

The bill was passed, as amended, and its title agreed to.

H. F. No. 1111 was reported to the House.

Otis moved to amend H. F. No. 1111, the second engrossment, as follows:

Page 3, line 7, after "609.344," insert "subdivision 1" and after "609.345," insert "subdivision 1"

The motion prevailed and the amendment was adopted.

H. F. No. 1111, A bill for an act relating to crimes; providing that it is a prima facie case for reference for prosecution as an adult if a child is alleged to have committed an aggravated felony against the person as a member of an organized gang; making it a crime for an alleged or adjudicated juvenile delinquent who is 18 years old to escape from lawful custody; amending Minnesota Statutes 1986, sections 260.125, subdivision 3; and 609.485, subdivisions 2 and 4.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 121 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, G.	Gutknecht	Long	Ozment	Sparby
Battaglia	Hartle	Marsh	Pappas	Stanisus
Bauerly	Haukoos	McDonald	Pauly	Steensma
Beard	Heap	McEachern	Pelowski	Sviggum
Begich	Himle	McKasy	Peterson	Swenson
Bennett	Hugoson	McLaughlin	Poppenhagen	Thiede
Bertram	Jacobs	McPherson	Price	Tjornhom
Blatz	Jaros	Milbert	Quinn	Tompkins
Boo	Jefferson	Miller	Redalen	Trimble
Burger	Jennings	Minne	Reding	Tunheim
Carlson, D.	Johnson, A.	Morrison	Rest	Uphus
Carlson, L.	Johnson, R.	Munger	Rice	Valento
Carruthers	Johnson, V.	Murphy	Richter	Vanasek
Clark	Kalis	Nelson, C.	Rodosovich	Vellenga
Clausnitzer	Kelly	Nelson, D.	Rose	Voss
Cooper	Kelso	Nelson, K.	Rukavina	Wagenius
Dauner	Kinkel	Neuenschwander	Sarna	Waltman
DeBlieck	Kludt	O'Connor	Schaefer	Wenzel
Dempsey	Knickerbocker	Ogren	Scheid	Winter
Dille	Knuth	Olsen, S.	Schoenfeld	Wynia
Dorn	Kostohryz	Olson, K.	Segal	Spk. Norton
Forsythe	Krueger	Omann	Shaver	
Frederick	Larsen	Onnen	Simoneau	
Greenfield	Lasley	Orenstein	Skoglund	
Gruenes	Lieder	Otis	Solberg	

Those who voted in the negative were:

Kahn

The bill was passed, as amended, and its title agreed to.

H. F. No. 1193, A bill for an act relating to independent school district No. 206, Alexandria; providing for elections of the school board.

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 124 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Clark	Hartle	Kelly	McEachern
Battaglia	Clausnitzer	Haukoos	Kelso	McKasy
Bauerly	Cooper	Heap	Kinkel	McLaughlin
Beard	Dauner	Himle	Kludt	McPherson
Begich	DeBlieck	Hugoson	Knickerbocker	Milbert
Bennett	Dempsey	Jacobs	Knuth	Miller
Bertram	Dille	Jaros	Kostohryz	Minne
Blatz	Dorn	Jefferson	Krueger	Morrison
Boo	Forsythe	Jennings	Larsen	Munger
Brown	Frederick	Johnson, A.	Lasley	Murphy
Burger	Frerichs	Johnson, R.	Lieder	Nelson, C.
Carlson, D.	Greenfield	Johnson, V.	Long	Nelson, K.
Carlson, L.	Gruenes	Kahn	Marsh	Neuenschwander
Carruthers	Gutknecht	Kalis	McDonald	O'Connor

Ogren	Pauly	Rodosovich	Solberg	Valento
Olsen, S.	Pelowski	Rose	Sparby	Vanasek
Olson, E.	Peterson	Rukavina	Stanius	Vellenga
Olson, K.	Poppenhagen	Sarna	Steensma	Voss
Omann	Price	Schafer	Sviggum	Wagenius
Onnen	Quinn	Scheid	Swenson	Waltman
Orenstein	Redalen	Schoenfeld	Tjornhom	Wenzel
Osthoff	Reding	Seaberg	Tompkins	Winter
Otis	Rest	Segal	Trimble	Wynia
Ozment	Rice	Simoneau	Tunheim	Spk. Norton
Pappas	Richter	Skoglund	Uphus	

The bill was passed and its title agreed to.

H. F. No. 1308 was reported to the House.

Lieder moved that H. F. No. 1308 be re-referred to the Committee on Appropriations. The motion prevailed.

The Speaker called Simoneau to the Chair.

H. F. No. 1444, A bill for an act relating to towns; providing procedures for their organization and dissolution; amending Minnesota Statutes 1986, sections 365.45; 368.47; and 379.01.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 125 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Lieder	Orenstein	Segal
Battaglia	Gutknecht	Long	Osthoff	Shaver
Bauerly	Hartle	Marsh	Otis	Simoneau
Beard	Haukoos	McDonald	Ozment	Skoglund
Begich	Heap	McEachern	Pappas	Solberg
Bennett	Himle	McKasy	Pauly	Sparby
Bertram	Hugoson	McLaughlin	Pelowski	Stanius
Blatz	Jacobs	McPherson	Peterson	Steensma
Boo	Jaros	Milbert	Poppenhagen	Sviggum
Brown	Jefferson	Miller	Price	Swenson
Burger	Jennings	Minne	Quinn	Thiede
Carlson, D.	Johnson, A.	Morrison	Redalen	Tjornhom
Carlson, L.	Johnson, V.	Munger	Reding	Tompkins
Carruthers	Kahn	Murphy	Rest	Trimble
Clausnitzer	Kalis	Nelson, C.	Rice	Tunheim
Cooper	Kelly	Nelson, D.	Richter	Uphus
Dauner	Kelso	Nelson, K.	Rodosovich	Valento
DeBlick	Kinkel	Neuenschwander	Rose	Vanasek
Dempsey	Kludt	O'Connor	Rukavina	Vellenga
Dille	Knickerbocker	Ogren	Sarna	Voss
Dorn	Knuth	Olsen, S.	Schafer	Wagenius
Forsythe	Kostobryz	Olson, E.	Scheid	Waltman
Frederick	Krueger	Olson, K.	Schoenfeld	Wenzel
Frerichs	Larsen	Omann	Schreiber	Winter
Greenfield	Lasley	Onnen	Seaberg	Wynia

The bill was passed and its title agreed to.

H. F. No. 388 was reported to the House.

Otis moved that H. F. No. 388 be continued on Special Orders for one day. The motion prevailed.

H. F. No. 413 was reported to the House.

There being no objection, H. F. No. 413 was continued on Special Orders for one day.

H. F. No. 609, A bill for an act relating to government data practices; giving the department of energy and economic development access to certain employment data; amending Minnesota Statutes 1986, section 268.12, subdivision 12.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Larsen	Orenstein	Segal
Anderson, R.	Greenfield	Lasley	Osthoff	Shaver
Battaglia	Gruenes	Lieder	Otis	Simoneau
Bauerly	Gutknecht	Long	Ozment	Skoglund
Beard	Hartle	Marsh	Pappas	Solberg
Begich	Haukoos	McDonald	Pauly	Sparby
Bennett	Heap	McEachern	Pelowski	Stanis
Bertram	Himle	McKasy	Peterson	Steensma
Bishop	Hugoson	McLaughlin	Poppenhagen	Swenson
Blatz	Jacobs	McPherson	Price	Thiede
Boo	Jaros	Milbert	Quinn	Tjornhom
Brown	Jefferson	Miller	Redalen	Tompkins
Burger	Jennings	Minne	Reding	Trimble
Carlson, D.	Johnson, A.	Morrison	Rest	Tunheim
Carlson, L.	Johnson, R.	Munger	Rice	Uphus
Carruthers	Johnson, V.	Murphy	Richter	Valento
Clark	Kahn	Nelson, D.	Riveness	Vanasek
Clausnitzer	Kalis	Nelson, K.	Rodosovich	Voss
Cooper	Kelly	Neuenschwander	Rose	Wagenius
Dauner	Kelso	O'Connor	Rukavina	Waltman
DeBlieck	Kinkel	Ogren	Sarna	Welle
Dempsey	Kludt	Olsen, S.	Schafer	Wenzel
Dille	Knickerbocker	Olson, E.	Scheid	Winter
Dorn	Knuth	Olson, K.	Schoenfeld	Wynia
Forsythe	Kostohryz	Omman	Schreiber	
Frederick	Krueger	Onnen	Seaberg	

The bill was passed and its title agreed to.

Kelso was excused between the hours of 1:30 p.m. and 2:30 p.m.

S. F. No. 863 was reported to the House.

SUSPENSION OF RULES

Pursuant to Article IV, Section 19, of the Constitution of the state of Minnesota, Reding moved that the rule therein be suspended and an urgency be declared so that S. F. No. 863 be given its third reading and be placed upon its final passage. The motion prevailed.

Reding moved that the Rules of the House be so far suspended that S. F. No. 863 be given its third reading and be placed upon its final passage.

A roll call was requested and properly seconded.

The question was taken on the Reding motion and the roll was called. There were 104 yeas and 15 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Kostohryz	Olson, K.	Shaver
Battaglia	Greenfield	Krueger	Omann	Simoneau
Bauerly	Gruenes	Larsen	Otis	Solberg
Beard	Gutknecht	Lasley	Ozment	Stanius
Begich	Hartle	Lieder	Pauly	Steensma
Bennett	Haukoos	Long	Pelowski	Sviggum
Bertram	Heap	Marsh	Peterson	Swenson
Bishop	Himle	McDonald	Price	Tompkins
Blatz	Jacobs	McEachern	Quinn	Tunheim
Boo	Jaros	McKasy	Redalen	Uphus
Brown	Jefferson	Minne	Reding	Valento
Burger	Jennings	Morrison	Rest	Vanasek
Carlson, D.	Johnson, A.	Munger	Richter	Vellenga
Carlson, L.	Johnson, R.	Nelson, C.	Riveness	Voss
Carruthers	Johnson, V.	Nelson, D.	Rodosovich	Waltman
Cooper	Kahn	Nelson, K.	Rose	Welle
Dauener	Kalis	Neuenschwander	Rukavina	Wenzel
DeBlieck	Kinkel	O'Connor	Sarna	Winter
Dempsey	Kludt	Ogren	Schoenfeld	Wynia
Dille	Knickerbocker	Olsen, S.	Seaberg	Spk. Norton
Dorn	Knuth	Olson, E.	Segal	

Those who voted in the negative were:

Clark	Hugoson	Miller	Poppenhagen	Skoglund
Clausnitzer	McPherson	Murphy	Rice	Thiede
Forsythe	Milbert	Orenstein	Schafer	Tjornhom

The motion prevailed.

Quinn, Reding, Redalen and Kostohryz moved to amend S. F. No. 863, as follows:

Page 1, line 21, delete "and"

Page 1, line 23, delete the period and insert “; and”

Page 1, after line 23, insert:

“(5) that has a current road or highway system adequate to facilitate present and future vehicular traffic expeditiously to and from the facility.

The consideration of clause (5) shall prevail when two competing licensees are relatively equal regarding other considerations mandated by law or rule.”

The motion prevailed and the amendment was adopted.

McKasy moved to amend S. F. No. 863, as amended, as follows:

Page 1, line 17, delete “25” and insert “20”

A roll call was requested and properly seconded.

The question was taken on the McKasy amendment and the roll was called. There were 81 yeas and 41 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frederick	Lieder	Omman	Shaver
Anderson, R.	Frerichs	Marsh	Onnen	Simoneau
Battaglia	Gruenes	McDonald	Otis	Skoglund
Beard	Gutknecht	McKasy	Ozment	Sparby
Begich	Hartle	McPherson	Pappas	Stanis
Bennett	Haukoos	Milbert	Pauly	Sviggum
Boo	Heap	Miller	Poppenhagen	Thiede
Brown	Himle	Minne	Price	Tompkins
Burger	Hugoson	Morrison	Quist	Trimble
Carlson, D.	Jaros	Munger	Rice	Valento
Cooper	Jennings	Murphy	Richter	Vanasek
DeBlieck	Johnson, V.	Nelson, C.	Rodosovich	Wagenius
Dempsey	Kahn	Nelson, D.	Schafer	Waltman
Dille	Kelly	Neuenschwander	Scheid	Welle
Dorn	Kinkel	Olson, E.	Seaberg	Wenzel
Forsythe	Kludt	Olson, K.	Segal	Wynia
				Spk. Norton

Those who voted in the negative were:

Bauerly	Jacobs	Larsen	Pelowski	Schreiber
Bertram	Jefferson	Lasley	Peterson	Steensma
Carlson, L.	Johnson, A.	McEachern	Quinn	Swenson
Carruthers	Johnson, R.	McLaughlin	Redalen	Tjornhom
Clark	Kalis	O'Connor	Reding	Tunheim
Clausnitzer	Knuth	Ogren	Rose	Uphus
Dauner	Kostohryz	Olsen, S.	Sarna	Vellenga
Greenfield	Krueger	Orenstein	Schoenfeld	Voss
				Winter

The motion prevailed and the amendment was adopted.

Sviggunn moved to amend S. F. No. 863, as amended, as follows:

Page 1, delete lines 17 and 18

Renumber the clauses in order

A roll call was requested and properly seconded.

The Speaker resumed the Chair.

The question was taken on the Sviggunn amendment and the roll was called. There were 33 yeas and 89 nays as follows:

Those who voted in the affirmative were:

Bishop	Haukoos	McKasy	Onnen	Thiede
Boo	Heap	McPherson	Quist	Wagenius
Dempsey	Jensen	Milbert	Rice	Waltman
Dille	Kelly	Miller	Richter	Welle
Forsythe	Kludt	Munger	Schafer	Wenzel
Gruenes	Knickerbocker	Murphy	Skoglund	
Gutknecht	Marsh	Omann	Sviggunn	

Those who voted in the negative were:

Anderson, G.	Hartle	Long	Pelowski	Solberg
Battaglia	Himle	McDonald	Peterson	Sparby
Bauerly	Hugoson	McEachern	Poppenhagen	Stanisus
Beard	Jacobs	McLaughlin	Price	Steensma
Begich	Jaros	Minne	Quinn	Swenson
Bennett	Jefferson	Morrison	Redalen	Tjornhom
Bertram	Jennings	Nelson, C.	Reding	Tompkins
Brown	Johnson, A.	Nelson, D.	Rest	Trimble
Burger	Johnson, R.	Nelson, K.	Riveness	Tunheim
Carlson, L.	Kahn	O'Connor	Rodosovich	Uphus
Carruthers	Kalis	Ogren	Rose	Valento
Clausnitzer	Kinkel	Olsen, S.	Rukavina	Vanasek
Cooper	Knuth	Olson, E.	Sarna	Vellenga
Dauner	Kostohryz.	Olson, K.	Schoenfeld	Voss
DeBlieck	Krueger	Orenstein	Seaberg	Winter
Dorn	Larsen	Ozment	Segal	Wynia
Frerichs	Lasley	Pappas	Shaver	Spk. Norton
Greenfield	Lieder	Pauly	Simoneau	

The motion did not prevail and the amendment was not adopted.

S. F. No. 863, A bill for an act relating to horse racing; authorizing the racing commission to issue an additional license for a racetrack in the seven-county metropolitan area to be used for standard-bred racing; amending Minnesota Statutes 1986, sections 240.06, by adding a subdivision; and 240.14, subdivision 1.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 98 yeas and 30 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Frerichs	Krueger	Olson, E.	Sarna
Battaglia	Gutknecht	Larsen	Olson, K.	Scheid
Bauerly	Hartle	Lieder	Omann	Schoenfeld
Beard	Haukoos	Long	Onnen	Schreiber
Begich	Himle	McDonald	Orenstein	Seaberg
Bennett	Jacobs	McEachern	Osthoff	Segal
Bertram	Jaros	McKasy	Otis	Shaver
Boo	Jefferson	McLaughlin	Ozment	Simoneau
Brown	Jennings	McPherson	Pappas	Solberg
Burger	Jensen	Milbert	Pauly	Stanisus
Carlson, D.	Johnson, A.	Miller	Pelowski	Sviggum
Carlson, L.	Johnson, R.	Minne	Peterson	Swenson
Carruthers	Johnson, V.	Morrison	Price	Tunheim
Clausnitzer	Kahn	Munger	Quinn	Uphus
Cooper	Kalis	Murphy	Redalen	Valento
Dauner	Kinkel	Nelson, C.	Reding	Vanasek
Dempsey	Kludt	Nelson, D.	Rest	Waltman
Dille	Knickerbocker	O'Connor	Richter	Spk. Norton
Dorn	Knuth	Ogren	Riveness	
Frederick	Kostohryz	Olsen, S.	Rukavina	

Those who voted in the negative were:

Bishop	Heap	Poppenhagen	Skoglund	Vellenga
Clark	Hugoson	Quist	Sparby	Wagenius
DeBleck	Kelly	Rice	Steensma	Welle
Forsythe	Marsh	Rodosovich	Thiede	Wenzel
Greenfield	Nelson, K.	Rose	Tjornhom	Winter
Gruenes	Neuenschwander	Schafer	Trimble	Wynia

The bill was passed, as amended, and its title agreed to.

H. F. No. 305, A bill for an act relating to the city of Mankato; authorizing location of certain polling places more than 3,000 feet outside precinct boundaries.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Brown	Dille	Heap	Johnson, V.
Anderson, R.	Burger	Dorn	Himle	Kahn
Battaglia	Carlson, L.	Forsythe	Hugoson	Kalis
Bauerly	Carruthers	Frederick	Jacobs	Kelly
Beard	Clark	Frerichs	Jaros	Kinkel
Begich	Clausnitzer	Greenfield	Jefferson	Kludt
Bennett	Cooper	Gruenes	Jennings	Knickerbocker
Bertram	Dauner	Gutknecht	Jensen	Knuth
Blatz	DeBleck	Hartle	Johnson, A.	Kostohryz
Boo	Dempsey	Haukoos	Johnson, R.	Krueger

Larsen	Nelson, C.	Pelowski	Scheid	Tompkins
Lasley	Nelson, D.	Peterson	Schoenfeld	Trimble
Lieder	Nelson, K.	Poppenhagen	Schreiber	Uphus
Long	Neuenschwander	Price	Seaberg	Valento
Marsh	O'Connor	Quinn	Segal	Vanasek
McDonald	Ogren	Quist	Shaver	Vellenga
McEachern	Olsen, S.	Redalen	Simoneau	Voss
McKasy	Olson, E.	Reding	Skoglund	Wagenius
McLaughlin	Omann	Rest	Solberg	Waltman
McPherson	Onnen	Rice	Sparby	Welle
Milbert	Orenstein	Richter	Stanius	Wenzel
Miller	Osthoff	Rodosovich	Steensma	Winter
Minne	Otis	Rose	Sviggum	Wynia
Morrison	Ozment	Rukavina	Swenson	Spk. Norton
Munger	Pappas	Sarna	Thiede	
Murphy	Pauly	Schafer	Tjornhom	

The bill was passed and its title agreed to.

H. F. No. 630, A bill for an act relating to health; allowing health maintenance organizations to adjust premiums based on actual health services utilization; amending Minnesota Statutes 1986, sections 62D.04, subdivision 1; 62D.08, subdivision 3; and 62D.10, by adding a subdivision.

The bill was read for the third time and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called. There were 126 yeas and 1 nay as follows:

Those who voted in the affirmative were:

Anderson, G.	Gutknecht	McKasy	Quinn	Trimble
Anderson, R.	Hartle	McLaughlin	Quist	Tunheim
Battaglia	Haukoos	McPherson	Redalen	Uphus
Bauerly	Heap	Milbert	Reding	Valento
Beard	Hugoson	Miller	Rest	Vanasek
Begich	Jacobs	Minne	Rice	Vellenga
Bennett	Jaros	Morrison	Richter	Voss
Bertram	Jefferson	Murphy	Riveness	Wagenius
Blatz	Jennings	Nelson, C.	Rodosovich	Waltman
Boo	Jensen	Nelson, D.	Rose	Welle
Brown	Johnson, A.	Nelson, K.	Rukavina	Wenzel
Burger	Johnson, R.	Neuenschwander	Sarna	Winter
Carlson, D.	Johnson, V.	O'Connor	Schafer	Wynia
Carlson, L.	Kahn	Ogren	Scheid	Spk. Norton
Carruthers	Kelly	Olsen, S.	Schoenfeld	
Clark	Kinkel	Olson, E.	Seaberg	
Clausnitzer	Kludt	Olson, K.	Segal	
Cooper	Knickerbocker	Omann	Shaver	
Dauner	Knuth	Onnen	Simoneau	
DeBlieck	Kostohryz	Orenstein	Skoglund	
Dempsey	Krueger	Osthoff	Solberg	
Dille	Larsen	Ozment	Sparby	
Dorn	Lasley	Pappas	Stanius	
Forsythe	Lieder	Pauly	Steensma	
Frederick	Long	Pelowski	Sviggum	
Frerichs	Marsh	Peterson	Thiede	
Greenfield	McDonald	Poppenhagen	Tjornhom	
Gruenes	McEachern	Price	Tompkins	

Those who voted in the negative were:

Swenson

The bill was passed and its title agreed to.

H. F. No. 931, A bill for an act relating to public guardianship; modifying standards and procedures for the appointment of public guardians for mentally retarded persons; providing for powers and duties of public guardians; amending Minnesota Statutes 1986, sections 252.291, subdivision 3; 252A.01; 252A.02, subdivisions 2, 4, 6, 7, 8, 11, 12, and by adding subdivisions; 252A.03, subdivisions 2 and 3; 252A.04, subdivisions 1 and 3; 252A.05; 252A.06; 252A.07, subdivisions 1 and 3; 252A.14; 252A.16; 252A.17; 252A.19, subdivisions 1, 2, and 3, and by adding a subdivision; 252A.20, subdivision 1; 252A.21, subdivision 2; 253B.03, subdivisions 1 and 6; and 525.56, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 252A; repealing Minnesota Statutes 1986, sections 252A.08; 252A.10; 252A.11; 252A.13; 252A.15; and 252A.18.

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 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gutknecht	Marsh	Pappas	Skoglund
Anderson, R.	Hartle	McDonald	Pauly	Solberg
Battaglia	Haukoos	McEachern	Pelowski	Sparby
Bauerly	Heap	McKasy	Peterson	Stanis
Beard	Hugoson	McLaughlin	Poppenhagen	Steensma
Begich	Jacobs	McPherson	Price	Sviggum
Bennett	Jaros	Milbert	Quinn	Swenson
Bertram	Jefferson	Miller	Quist	Thiede
Blatz	Jennings	Minne	Redalen	Tjornhom
Boo	Jensen	Morrison	Reding	Tompkins
Burger	Johnson, A.	Munger	Rest	Trimble
Carlson, D.	Johnson, R.	Murphy	Rice	Tunheim
Carlson, L.	Johnson, V.	Nelson, C.	Richter	Uphus
Carruthers	Kahn	Nelson, D.	Riveness	Valento
Clark	Kalis	Nelson, K.	Rodosovich	Vanasek
Clausnitzer	Kelly	Neuenschwander	Rose	Vellenga
Cooper	Kinkel	O'Connor	Rukavina	Voss
Dauner	Kludt	Ogren	Sarna	Wagenius
DeBlieck	Knickerbocker	Olsen, S.	Schafer	Waltman
Dempsey	Knuth	Olson, E.	Scheid	Welle
Dorn	Kostohryz	Olson, K.	Schoenfeld	Wenzel
Forsythe	Krueger	Omann	Schreiber	Winter
Frederick	Larsen	Onnen	Seaberg	Wynia
Frerichs	Lasley	Orenstein	Segal	Spk. Norton
Greenfield	Lieder	Otis	Shaver	
Gruenes	Long	Ozment	Simoneau	

The bill was passed and its title agreed to.

S. F. No. 482, A bill for an act relating to insurance; regulating terminations of certain agency contracts; requiring companies to attempt to rehabilitate agents before terminating their appointment; regulating these rehabilitation agreements; amending Minnesota Statutes 1986, section 60A.171, subdivisions 1, 3, and by adding a subdivision.

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 127 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Lieder	Ozment	Solberg
Anderson, R.	Gruenes	Long	Pappas	Sparby
Battaglia	Gutknecht	Marsh	Pauly	Stanislaus
Bauerly	Hartle	McDonald	Pelowski	Steensma
Beard	Haukoos	McEachern	Peterson	Svigum
Begich	Heap	McKasy	Poppenhagen	Swenson
Bennett	Himle	McLaughlin	Price	Thiede
Bertram	Hugoson	McPherson	Quinn	Tjornhom
Blatz	Jacobs	Milbert	Quist	Tompkins
Boo	Jefferson	Miller	Redalen	Trimble
Brown	Jennings	Minne	Reding	Tunheim
Burger	Jensen	Morrison	Rest	Uphus
Carlson, D.	Johnson, A.	Munger	Richter	Valento
Carlson, L.	Johnson, R.	Murphy	Riveness	Vanasek
Carruthers	Johnson, V.	Nelson, C.	Rodosovich	Vellenga
Clark	Kahn	Nelson, D.	Rose	Voss
Clausnitzer	Kalis	Nelson, K.	Sarna	Wagenius
Cooper	Kelly	Neuenschwander	Schafer	Waltman
Dauner	Kinkel	O'Connor	Scheid	Welle
DeBlick	Kludt	Ogren	Schoenfeld	Wenzel
Dempsey	Knickerbocker	Olsen, S.	Schreiber	Winter
Dille	Knuth	Olson, E.	Seaberg	Wynia
Dorn	Kostohryz	Olson, K.	Segal	Spk. Norton
Forsythe	Krueger	Omann	Shaver	
Frederick	Larsen	Orenstein	Simoneau	
Frerichs	Lasley	Osthoff	Skoglund	

The bill was passed and its title agreed to.

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

RECESS

RECONVENED

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

Vanasek moved that the remaining bills on Special Orders for today be continued one day. The motion prevailed.

CONSIDERATION UNDER RULE 1.10

Pursuant to rule 1.10, Anderson, G., requested immediate consideration of H. F. No. 753.

H. F. No. 753 was reported to the House.

Solberg and Johnson, V., moved to amend H. F. No. 753, the second engrossment, as follows:

Page 166, delete section 2

Renumber the subsequent section accordingly

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Solberg and Johnson, V., amendment and the roll was called. There were 64 yeas and 68 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Dille	Kelso	Onnen	Seaberg
Anderson, R.	Forsythe	Kinkel	Orenstein	Shaver
Bennett	Frederick	Knickerbocker	Pauly	Solberg
Bishop	Frerichs	Knuth	Pelowski	Stanis
Blatz	Gutknecht	McDonald	Poppenhagen	Steensma
Brown	Hartle	McKasy	Price	Sviggum
Burger	Haukoos	McPherson	Quist	Thiede
Carlson, D.	Heap	Milbert	Redalen	Tjornhom
Clausnitzer	Himle	Miller	Reding	Uphus
Cooper	Hugoson	Morrison	Richter	Valento
Dauner	Jennings	Neuenschwander	Rose	Waltman
DeBlick	Jensen	Olsen, S.	Schafer	Wenzel
Dempsey	Johnson, V.	Olson, E.	Schreiber	

Those who voted in the negative were:

Battaglia	Jefferson	McLaughlin	Pappas	Swenson
Bauerly	Johnson, A.	Minne	Peterson	Tompkins
Beard	Johnson, R.	Munger	Quinn	Trimble
Begich	Kahn	Murphy	Rest	Tunheim
Bertram	Kalis	Nelson, C.	Riveness	Vanasek
Boo	Kelly	Nelson, D.	Rodosovich	Vellenga
Carlson, L.	Kludt	Nelson, K.	Rukavina	Voss
Carruthers	Krueger	O'Connor	Sarna	Wagenius
Clark	Larsen	Ogren	Scheid	Welle
Dorn	Lasley	Olson, K.	Schoenfeld	Winter
Greenfield	Lieder	Omann	Segal	Wynia
Gruenes	Long	Osthoff	Simoneau	Spk. Norton
Jacobs	Marsh	Otis	Skoglund	
Jaros	McEachern	Ozment	Sparby	

The motion did not prevail and the amendment was not adopted.

CALL OF THE HOUSE

On the motion of Vanasek and on the demand of 10 members, a call of the House was ordered. The following members answered to their names:

Anderson, G.	Frerichs	Larsen	Orenstein	Segal
Anderson, R.	Greenfield	Lasley	Osthoff	Shaver
Battaglia	Gruenes	Lieder	Otis	Simoneau
Bauerly	Gutknecht	Marsh	Ozment	Skoglund
Beard	Hartle	McDonald	Pappas	Solberg
Begich	Haukoos	McEachern	Pauly	Sparby
Bennett	Heap	McKasy	Pelowski	Stanius
Bertram	Himle	McLaughlin	Peterson	Steensma
Bishop	Hugoson	McPherson	Poppenhagen	Sviggum
Blatz	Jacobs	Milbert	Price	Swenson
Boo	Jaros	Miller	Quinn	Thiede
Brown	Jefferson	Minne	Quist	Tjornhom
Burger	Jennings	Morrison	Redalen	Tompkins
Carlson, D.	Jensen	Munger	Reding	Trimble
Carlson, L.	Johnson, A.	Murphy	Rice	Tunheim
Carruthers	Johnson, R.	Nelson, C.	Richter	Uphus
Clark	Johnson, V.	Nelson, D.	Riveness	Valento
Clausnitzer	Kahn	Nelson, K.	Rodosovich	Vanasek
Cooper	Kalis	Neuenschwander	Rose	Vellenga
Dauner	Kelly	O'Connor	Rukavina	Voss
DeBlick	Kelso	Ogren	Sarna	Wagenius
Dempsey	Kinkel	Olson, S.	Schafer	Waltman
Dille	Kludt	Olson, E.	Scheid	Welle
Dorn	Knickerbocker	Olson, K.	Schoenfeld	Wenzel
Forsythe	Knuth	Omman	Schreiber	Winter
Frederick	Kostohryz	Onnen	Seaberg	Spk. Norton

Vanasek 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.

Carlson, D., was excused between the hours of 5:00 p.m. and 6:00 p.m.

Quinn and Knickerbocker moved to amend H. F. No. 753, the second engrossment, as follows:

Page 23, after line 29, insert:

"Sec. 33. [USE OF CERTAIN REVENUE INCREASES.]

A district that has an increase in foundation revenue as a result of the pupil unit weighting change made in section 1 must use the additional foundation revenue to decrease class size in grades kindergarten through third grade or to alleviate problems caused by large class sizes in those grades.

In the 1988-89 school year, districts that have increases in foundation revenue as a result of the pupil unit weighting change made in section 1 must submit a report to the department of education

showing that the additional foundation revenue has been used to decrease class size in grades kindergarten through third grade or to alleviate problems caused by large class sizes in those grades."

Renumber sections accordingly

Correct internal cross references

Amend the title accordingly

A roll call was requested and properly seconded.

The question was taken on the Quinn and Knickerbocker amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 119 yeas and 10 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Gruenes	Lieder	Orenstein	Shaver
Anderson, R.	Gutknecht	Long	Osthoﬀ	Simoneau
Battaglia	Hartle	Marsh	Otis	Skoglund
Bauerly	Heap	McDonald	Ozment	Solberg
Beard	Himle	McEachern	Pappas	Sparby
Begich	Hugoson	McKasy	Pauly	Stanisus
Bennett	Jacobs	McLaughlin	Pelowski	Steensma
Bertram	Jaros	McPherson	Peterson	Swenson
Bishop	Jefferson	Milbert	Price	Tjornhom
Blatz	Jennings	Miller	Quinn	Tompkins
Brown	Jensen	Minne	Quist	Trimble
Burger	Johnson, A.	Munger	Redalen	Tunheim
Carlson, L.	Johnson, R.	Murphy	Reding	Uphus
Carruthers	Kahn	Nelson, C.	Rest	Valento
Clark	Kahis	Nelson, D.	Rice	Vanasek
Clausnitzer	Kelso	Nelson, K.	Riveness	Vellenga
Cooper	Kinkel	Neuenschwander	Rodosovich	Voss
Dauner	Kludt	O'Connor	Rose	Wagenius
DeBlieck	Knickerbocker	Ogren	Rukavina	Waltman
Dille	Knuth	Olsen, S.	Sarna	Welle
Dorn	Kostohryz	Olson, E.	Scheid	Wenzel
Forsythe	Krueger	Olson, K.	Schoenfeld	Winter
Frederick	Larsen	Omann	Seaberg	Spk. Norton
Greenfield	Lasley	Onnen	Segal	

Those who voted in the negative were:

Dempsey	Haukoos	Poppenhagen	Schafer	Svigum
Frerichs	Morrison	Richter	Schreiber	Thiede

The motion prevailed and the amendment was adopted.

The Speaker called Long to the Chair.

Carlson, L.; Knuth and Rose moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 107, after line 14, insert:

"Sec. 14. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 4a. [EXCESS TRAINING AND EXPERIENCE LEVY.] For levies certified in 1987 payable in 1988 and each year thereafter, districts that have a training and experience index of 1.6 or greater in the fiscal year the levy is certified, and that have a total foundation revenue increase per actual pupil unit of no more than two percent between the fiscal year in which the levy would be certified and the next fiscal year, may levy an additional 1 mill."

Renumber subsequent sections

Correct internal cross references

Amend the title accordingly

The motion prevailed and the amendment was adopted.

Olson, K., moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 17, line 20, delete "\$2,695" and insert "\$2,785"

Page 24, line 2, delete "\$1,073,638,000" and insert "\$1,088,753,000"

Page 24, line 9, delete "\$909,211,000" and insert "\$924,326,000"

Page 102, line 36, after "two" insert "and seven-tenths"

Page 108, line 1, after "two" insert "and seven-tenths"

Page 117, line 9, delete "\$53,233,500" and insert "\$38,018,500"

Page 117, line 16, delete "\$53,158,000" and insert "\$37,943,000"

Page 117, line 19, delete "\$62,538,800" and insert "\$44,638,800"

A roll call was requested and properly seconded.

Thiede moved to amend the Olson, K., amendment to H. F. No. 753, the second engrossment, as amended, as follows:

Page 1 of the amendment, after line 2, insert:

"Page 4, delete lines 3 to 18

Page 4, delete section 3

Page 5, delete section 4

Page 9, line 7, delete "\$798,862,000" and insert "\$813,362,000"

Page 11, delete sections 18 and 19

Page 12, delete section 20"

Page 1 of the amendment, delete line 3 and insert:

"Page 17, after line 25, insert:

"In addition to the formula equity allowance provided in the 1988-89 school year, each district receiving total foundation revenue of less than \$2,740 per actual pupil unit shall receive an additional \$45 in foundation aid per actual pupil unit for the 1988-89 school year."

Page 1 of the amendment, delete lines 4 to 15

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 46 yeas and 85 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Frederick	Knickerbocker	Pauly	Segal
Bennett	Frerichs	McDonald	Poppenhagen	Stanis
Bishop	Gutknecht	McKasy	Quist	Swiggum
Blatz	Hartle	McPherson	Redalen	Swenson
Burger	Haukoos	Miller	Richter	Thiede
Clausnitzer	Heap	Morrison	Rose	Tompkins
Dempsey	Himle	Olsen, S.	Schafer	Uphus
Dille	Hugoson	Omann	Schreiber	Valento
Forsythe	Johnson, V.	Onnen	Seaberg	Waltman
				Wenzel

Those who voted in the negative were:

Anderson, G.	Beard	Boo	Carlson, L.	Cooper
Battaglia	Begich	Brown	Carruthers	Dauner
Bauerly	Bertram	Carlson, D.	Clark	DeBlick

Dorn	Kludd	Murphy	Peterson	Skoglund
Greenfield	Knuth	Nelson, C.	Price	Solberg
Gruenes	Kostohryz	Nelson, D.	Quinn	Sparby
Jacobs	Krueger	Nelson, K.	Reding	Steensma
Jefferson	Larsen	Neuenschwander	Rest	Tjornhom
Jennings	Lasley	O'Connor	Rice	Trimble
Jensen	Lieder	Ogren	Riveness	Vanasek
Johnson, A.	Long	Olson, E.	Rodosovich	Vellenga
Johnson, R.	Marsh	Olson, K.	Rukavina	Voss
Kahn	McEachern	Orenstein	Sarna	Wagenius
Kalis	McLaughlin	Osthoff	Scheid	Welle
Kelly	Milbert	Otis	Schoenfeld	Winter
Kelso	Minne	Pappas	Shaver	Wynia
Kinkel	Munger	Pelowski	Simoneau	Spk. Norton

The motion did not prevail and the amendment to the amendment was not adopted.

Sviggum moved to amend the Olson, K., amendment to H. F. No. 753, the second engrossment, as amended, as follows:

Page 1 of the Olson, K., amendment, after line 2, insert:

"Page 4, delete lines 3 to 18

Page 9, line 7, delete "\$798,862,000" and insert "\$813,362,000"

Page 1 of the Olson, K., amendment, after line 3, insert:

"Page 17, after line 25, insert:

"In addition to the equity formula allowance provided in the 1988-89 school year, each district receiving total foundation revenue of less than \$2,775 per actual pupil unit shall receive an additional \$80 in foundation aid per actual pupil unit for the 1988-89 school year."

Page 1 of the Olson, K., amendment, delete lines 4 to 15

A roll call was requested and properly seconded.

The question was taken on the amendment to the amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 51 yeas and 81 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Bishop	Burger	Clausnitzer	Dille
Bennett	Blatz	Carlson, D.	Dempsey	Forsythe

Frederick	Knickerbocker	Onnen	Scheid	Tjornhom
Frerichs	Lieder	Ozment	Schreiber	Tompkins
Gutknecht	McDonald	Pauly	Seaberg	Uphus
Hartle	McKasy	Poppenhagen	Segal	Valento
Haukoos	McPherson	Quist	Shaver	Waltman
Heap	Miller	Redalen	Stanius	
Himle	Morrison	Richter	Sviggunn	
Hugoson	Olsen, S.	Rose	Swenson	
Johnson, V.	Omann	Schafer	Thiede	

Those who voted in the negative were:

Anderson, G.	Jacobs	Long	Otis	Sparby
Battaglia	Jefferson	Marsh	Pappas	Steensma
Bauerly	Jennings	McEachern	Pelowski	Trimble
Beard	Jensen	McLaughlin	Peterson	Tunheim
Begich	Johnson, A.	Milbert	Price	Vanasek
Bertram	Johnson, R.	Minne	Quinn	Vellenga
Boo	Kahn	Munger	Reding	Voss
Brown	Kalis	Murphy	Rest	Wagenius
Carlson, L.	Kelly	Nelson, C.	Rice	Welle
Carruthers	Kelso	Nelson, D.	Riveness	Wenzel
Clark	Kinkel	Nelson, K.	Rodosovich	Winter
Cooper	Kludt	Neuenschwander	Rukavina	Wynia
Dauner	Knuth	O'Connor	Sarna	Spk. Norton
DeBlick	Kostohryz	Ogren	Schoenfeld	
Dorn	Krueger	Olson, E.	Simoneau	
Greenfield	Larsen	Olson, K.	Skoglund	
Gruenes	Lasley	Orenstein	Solberg	

The motion did not prevail and the amendment to the amendment was not adopted.

The question recurred on the Olson, K., amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 81 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Jennings	McEachern	Ozment	Solberg
Battaglia	Jensen	McLaughlin	Pappas	Sparby
Bauerly	Johnson, R.	Milbert	Pelowski	Steensma
Beard	Kahn	Minne	Peterson	Sviggunn
Begich	Kalis	Munger	Price	Swenson
Bertram	Kelly	Nelson, C.	Quinn	Tompkins
Brown	Kelso	Nelson, D.	Quist	Trimble
Carlson, L.	Kinkel	Nelson, K.	Reding	Tunheim
Carruthers	Kludt	Neuenschwander	Rest	Vanasek
Clark	Knuth	Ogren	Rice	Vellenga
Cooper	Kostohryz	Olson, E.	Rodosovich	Voss
Dauner	Krueger	Olson, K.	Rukavina	Wagenius
DeBlick	Larsen	Omann	Scheid	Welle
Greenfield	Lasley	Orenstein	Schoenfeld	Wenzel
Jacobs	Lieder	Osthoft	Schreiber	Winter
Jefferson	Long	Otis	Skoglund	Wynia
				Spk. Norton

Those who voted in the negative were:

Anderson, R.	Forsythe	Johnson, A.	Olsen, S.	Shaver
Bennett	Frederick	Johnson, V.	Onnen	Simoneau
Bishop	Frerichs	Knickerbocker	Pauly	Stanius
Blatz	Gruenes	Marsh	Poppenhagen	Thiede
Boo	Gutknecht	McDonald	Redalen	Tjornhom
Burger	Hartle	McKasy	Richter	Uphus
Carlson, D.	Haukoos	McPherson	Rose	Valento
Clausnitzer	Heap	Miller	Sarna	Waltman
Dempsey	Himle	Morrison	Schafer	
Dille	Hugoson	Murphy	Seaberg	
Dorn	Jaros	O'Connor	Segal	

The motion prevailed and the amendment was adopted.

Quinn, Knickerbocker and Olson, E., offered an amendment to H. F. No. 753, the second engrossment, as amended.

POINT OF ORDER

Thiede raised a point of order pursuant to rule 3.10 that the Quinn et al amendment was not in order. Speaker pro tempore Long ruled the point of order well taken and the amendment out of order.

Thiede offered an amendment to H. F. No. 753, the second engrossment, as amended.

POINT OF ORDER

Kostohryz raised a point of order pursuant to rule 3.10 that the Thiede amendment was not in order. Speaker pro tempore Long ruled the point of order well taken and the amendment out of order.

The Speaker resumed the Chair.

Forsythe and Olsen, S., offered an amendment to H. F. No. 753, the second engrossment, as amended.

POINT OF ORDER

McEachern raised a point of order pursuant to rule 3.10 that the Forsythe and Olsen, S., amendment was not in order. The Speaker ruled the point of order well taken and the amendment out of order.

Knuth and Rose moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 107, after line 30, insert:

"Sec. 15. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 9d. [1986 OPERATING DEBT LEVY.] (1) Each year, a district may levy to eliminate a deficit in the net unappropriated balance in the general fund of the district, determined as of June 30, 1986, and certified and adjusted by the commissioner. Each year this levy may be an amount not to exceed the amount raised by a levy of 1.5 mills times the adjusted assessed valuation of the district for the preceding year. However, the total amount of this levy for all years it is made shall not exceed the amount of the deficit in the net unappropriated balance in the general fund of the district as of June 30, 1986. When the cumulative levies made pursuant to this subdivision equal the total amount permitted by this subdivision, the levy shall be discontinued.

(2) A district, if eligible, may levy under this subdivision, subdivision 9b, or 9c, but may levy under only one of these subdivisions.

(3) The proceeds of this levy shall be used only for cash flow requirements and shall not be used to supplement district revenues or income for the purposes of increasing the district's expenditures or budgets.

(4) Any district that levies pursuant to this subdivision shall certify the maximum levy allowable under section 124A.03, subdivision 1 or 3, in that same year."

Renumber the sections in sequence

Correct internal references

The motion did not prevail and the amendment was not adopted.

Segal moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 5, after line 8, insert:

"However, for fiscal year 1989, the amount of the deduction shall be one-sixth of the difference between clauses (1) and (2); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (1) and (2); for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (1) and (2); for fiscal year 1992, the amount of the deduction shall be two-thirds of the difference between clauses (1) and (2); and

for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (1) and (2)."

Page 9, line 7, delete "\$798,862,000" and insert "\$812,862,000"

Page 11, after line 34, insert:

"However, for fiscal year 1989, the amount of the deduction shall be one-sixth of the difference between clauses (1) and (2); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (1) and (2); for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (1) and (2); for fiscal year 1992, the amount of the deduction shall be two-thirds of the difference between clauses (1) and (2); and for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (1) and (2)."

Page 12, after line 25, insert:

"However, for fiscal year 1989, the amount of the deduction shall be one-sixth of the difference between clauses (a) and (b); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (a) and (b); and for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (a) and (b); for fiscal year 1992, the amount of the deduction shall be two-thirds of the difference between clauses (a) and (b); and for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (a) and (b)."

Page 13, after line 15, insert:

"However, for fiscal year 1989, the amount of the deduction shall be one-sixth of the difference between clauses (a) and (b); for fiscal year 1990, the amount of the deduction shall be one-third of the difference between clauses (a) and (b); and for fiscal year 1991, the amount of the deduction shall be one-half of the difference between clauses (a) and (b); for fiscal year 1992, the amount of the deduction shall be two-thirds of the difference between clauses (a) and (b); and for fiscal year 1993, the amount of the deduction shall be five-sixths of the difference between clauses (a) and (b)."

A roll call was requested and properly seconded.

The question was taken on the Segal amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 23 yeas and 98 nays as follows:

Those who voted in the affirmative were:

Blatz	Knickerbocker	O'Connor	Quist	Simoneau
Forsythe	McKasy	Ogren	Redalen	Thiede
Frederick	McPherson	Olsen, S.	Riveness	Tjornhom
Himle	Morrison	Pauly	Seaberg	
Kludt	Munger	Poppenhagen	Segal	

Those who voted in the negative were:

Anderson, G.	Frerichs	Kinkel	Omann	Shaver
Anderson, R.	Greenfield	Knuth	Orenstein	Skoglund
Battaglia	Gruenes	Kostohryz	Osthoff	Sparby
Bauerly	Gutknecht	Krueger	Otis	Stanis
Begich	Hartle	Larsen	Ozment	Steensma
Bennett	Haukoos	Lasley	Pelowski	Swenson
Bertram	Heap	Lieder	Peterson	Tompkins
Bishop	Hugoson	Long	Price	Tunheim
Burger	Jacobs	Marsh	Quinn	Uphus
Carlson, D.	Jaros	McDonald	Reding	Valento
Carlson, L.	Jefferson	McEachern	Rest	Vanasek
Carruthers	Jennings	McLaughlin	Rice	Vellenga
Clark	Jensen	Miller	Richter	Voss
Clausnitzer	Johnson, A.	Minne	Rodosovich	Wagenius
Cooper	Johnson, R.	Murphy	Rose	Waltman
Dauner	Johnson, V.	Nelson, C.	Rukavina	Welle
DeBlieck	Kahn	Nelson, D.	Sarna	Wenzel
Dempsey	Kalis	Nelson, K.	Schafer	Winter
Dille	Kelly	Neuenschwander	Schoenfeld	
Dorn	Kelso	Olson, K.	Schreiber	

The motion did not prevail and the amendment was not adopted.

Olsen, S., moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 140, delete section 24

Renumber sections accordingly

The motion did not prevail and the amendment was not adopted.

Tompkins moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 7, line 17, delete "\$2,085" and insert "\$2,035"

Page 9, line 17, delete "\$798,862,000" and insert "\$789,879,000"

Page 18, line 11, delete "1.02" and insert "1.01"

Page 24, line 2, delete "\$1,073,638,000" and insert "\$1,093,438,000"

Page 24, line 9, delete "\$909,211,000" and insert "\$888,811,000"

Page 59, line 34, delete "65.1" and insert "70"

Page 82, line 3, delete "\$146,782,800" and insert "\$149,881,400"

Page 82, line 4, delete "\$138,802,700" and insert "\$153,352,700"

Page 82, line 6, delete "\$124,935,700" and insert "\$128,034,300"

Page 82, line 8, delete "\$22,422,700" and insert "\$22,594,300"

Page 82, line 9, delete "\$116,380,000" and insert "\$130,758,500"

Page 82, line 15, delete "\$147,358,400" and insert "\$150,628,500"

Page 82, line 15, delete "\$137,292,800" and insert "\$153,833,500"

A roll call was requested and properly seconded.

The question was taken on the Tompkins amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 56 yeas and 71 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Frederick	Johnson, V.	Osthoff	Shaver
Bennett	Frerichs	Kludt	Ozment	Stanisus
Bishop	Gruenes	Knickerbocker	Pauly	Sviggum
Blatz	Gutknecht	Marsh	Poppenhagen	Swenson
Boo	Hartle	McDonald	Quist	Thiede
Burger	Haukoos	McPherson	Richter	Tjornhom
Carlson, D.	Heap	Miller	Rose	Tompkins
Clausnitzer	Himle	Morrison	Schafer	Uphus
Dauner	Hugoson	Olsen, S.	Schreiber	Valento
Dempsey	Johnson, A.	Omman	Seaberg	Waltman
Forsythe	Johnson, R.	Onnen	Segal	Welle
				Winter

Those who voted in the negative were:

Anderson, G.	Cooper	Kelly	McEachern	O'Connor
Battaglia	DeBlieck	Kelso	McLaughlin	Ogren
Bauerly	Dorn	Kinkel	Milbert	Olson, E.
Beard	Greenfield	Knuth	Minne	Olson, K.
Begich	Jaros	Kostohryz	Munger	Orenstein
Bertram	Jefferson	Krueger	Murphy	Otis
Brown	Jennings	Larsen	Nelson, C.	Pappas
Carlson, L.	Jensen	Lasley	Nelson, D.	Pelowski
Carruthers	Kahn	Lieder	Nelson, K.	Peterson
Clark	Kalis	Long	Neuenschwander	Price

Quinn
Redalen
Reding
Rest
Rice

Rodosovich
Rukavina
Sarna
Schoenfeld
Simoneau

Solberg
Sparby
Trimble
Tunheim
Vanasek

Vellenga
Voss
Wagenius
Wenzel
Wynia

Spk. Norton

The motion did not prevail and the amendment was not adopted.

Knickerbocker was excused for the remainder of today's session.

Quinn moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 95, after line 17, insert:

"Section 1. [43A.315] [EMPLOYEES OF SCHOOL DISTRICTS.]

Subdivision 1. [DEFINITIONS.] In this section, the definitions in this subdivision apply.

(a) [COMMISSIONER.] "Commissioner" means the commissioner of the department of employee relations.

(b) [EMPLOYEE.] "Employee" means (1) a person who is a public employee within the definition of section 179A.03, subdivision 14, and is employed by an eligible employer; (2) a person employed by another public educational employer approved by the commissioner of employee relations; or (3) a person employed by a labor organization or employee association certified as an exclusive representative of employees of an eligible employer or by another public employer approved by the commissioner.

(c) [ELIGIBLE EMPLOYER.] "Eligible employer" means one of the following: a school district as defined in section 120.02; an educational cooperative service unit as defined in section 123.58; an intermediate district as defined in section 136C.02, subdivision 7; a cooperative center for vocational education as defined in section 123.351; a regional management information center as defined in section 121.935; or an education unit organized under the joint powers act, section 471.59.

(d) [EXCLUSIVE REPRESENTATIVE.] "Exclusive representative" means an exclusive representative as defined in section 179A.03, subdivision 8.

Subd. 2. [SCHOOL EMPLOYEE PARTICIPATION.] Participation in the basic benefits plan offered according to subdivision 3 is subject to the conditions in this subdivision.

(a) Each exclusive representative for an eligible employer determines whether the employees it represents will participate. The exclusive representative shall give notice to the employer of its determination to participate in the hospital, medical, life, and dental package before the execution of a new collective bargaining agreement or by April 1 of an odd-numbered year, whichever occurs first. The employer and the exclusive representative may by mutual consent make a determination at a later date to participate during the annual enrollment period established by the commissioner. By April 1 of an odd-numbered year, the employer must determine whether its employees who are not represented by an exclusive representative will participate in the hospital, medical, life, and dental package. Either all or none of an employer's unrepresented employees must participate.

(b) The decision to participate is for a one-year term if coverage begins in an even-numbered year and a two-year term if coverage begins in an odd-numbered year. Participation is automatically renewed for an additional four-year term unless the exclusive representative, or the employer in the case of unrepresented employees, gives the commissioner notice of withdrawal.

(c) The exclusive representative shall give notice of intent to withdraw to the commissioner before execution of a new collective bargaining agreement to cover the date on which the term of participation expires, or May 1 of the year in which the term of participation expires, whichever is first. If there is no exclusive representative, the employer shall notify the commissioner by May 1 of the year in which participation expires. A group that withdraws shall wait 18 months before rejoining.

(d) Each participating employer shall notify the commissioner of the individuals who will be participating within three weeks of receiving notice of intent to participate and within three weeks of deciding that its unrepresented employees will participate. The employer shall also submit other information as required by the commissioner for administration of this plan.

Subd. 3. [BENEFITS.] By February 1, 1989, the commissioner of employee relations shall offer a basic benefits plan as provided to employees covered by section 43A.18, subdivision 2, or as modified by the commissioner, in consultation with a labor-management committee appointed by the commissioner. The plan shall include employee hospital, medical, dental, and life insurance for employees and hospital and medical benefits for dependents. Health maintenance organization options and other delivery system options, if they are available, cost effective, and capable of servicing a group of this size, shall be provided. Plans with different deductible amounts may be offered. Participation in optional coverages provided by the plan may be determined by collective bargaining agreements. For employees not represented by an exclusive representative, the em-

ployer may offer the optional coverages to eligible employees and their dependents provided in the plan.

Subd. 4. [PREMIUMS.] Premiums, including an administration fee, shall be established by the commissioner of employee relations. Each eligible employer shall pay monthly the amounts due for employee benefits including the amounts under subdivision 5 to the commissioner on or before the dates established by the commissioner. Failure to pay may result in cancellation of the benefits. The proportions of premium paid by the employer and employee are subject to collective bargaining.

Subd. 5. [FRINGE BENEFIT FUND.] A school employee fringe benefit fund is established in the state treasury. The deposits consist of the premiums received from employers participating in the plan. All money in the fund is appropriated to the commissioner to pay insurance premiums, approved claims, refunds, administrative costs, and other related service costs. The commissioner shall reserve an amount of money to cover the estimated cost of claims incurred but unpaid. The state board of investment shall invest the money according to section 11A.24. Investment income and losses attributable to the fund shall be credited to the fund.

Subd. 6. [CONTINUATION OF COVERAGE.] (a) A participating employee who is laid off or placed on unrequested leave may elect to continue the fringe benefit coverage. This coverage is at the expense of the employee unless otherwise provided by a collective bargaining agreement. Coverage continues until one of the following occurs: (1) the employee is reemployed and eligible for health care coverage under a group policy; or (2) the insurance continuation periods required by state and federal laws expire.

(b) A participating employee who retires and is receiving an annuity or is eligible for and has applied for an annuity under chapter 352, 353, 354, or 354A is eligible to continue to participate in the group hospital, medical, and dental coverage at premiums established by the commissioner. This participation is at the retiree's expense, unless otherwise provided by a collective bargaining agreement. An employer shall notify an employee of this option no later than the effective date of retirement. The retired employee must notify the employer within 30 days after the effective date of retirement of intent to exercise this option. A spouse of a deceased retired employee may purchase the benefits provided at premiums established by the commissioner if the employee received an annuity under chapter 352, 353, 354, or 354A and if the spouse was a dependent under the retired employee's coverage under this section at the time of the death of the retired employee. Coverage under this paragraph must be coordinated with relevant insurance benefits provided through the federally sponsored Medicare program.

(c) The benefits may continue in the event of a strike permitted by section 179A.18, if the exclusive representative chooses to have

coverage continue and the employee pays the total monthly premiums when due.

(d) A person who desires to participate under paragraphs (a) to (c) shall notify the employer or former employer of intent to participate according to timelines established by the commissioner. The employer shall notify the commissioner, and coverage shall begin as soon as permitted by the commissioner. Persons participating under these paragraphs shall make required premium payments in the time and manner established by the employer or the commissioner.

Subd. 7. [LABOR MANAGEMENT COMMITTEE.] A labor management committee of equal numbers of employees and employers or their representatives shall be appointed by the commissioner of employee relations. The committee shall study issues relating to the insurance plan including, but not limited to, flexible benefits, utilization review, quality assessment, and cost efficiency."

Page 101, after line 24, insert:

"Sec. 13. [APPROPRIATIONS; DEPARTMENT OF EMPLOYEE RELATIONS.]

There is appropriated from the general fund to the commissioner of employee relations to establish the fringe benefit plan in section 1:

\$100,000.....1988.

This amount shall be available until June 30, 1989."

A roll call was requested and properly seconded.

The question was taken on the Quinn amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 130 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Blatz	Cooper	Greenfield	Jaros
Anderson, R.	Boo	Dauner	Gruenes	Jefferson
Battaglia	Brown	DeBlieck	Gutknecht	Jennings
Bauerly	Burger	Dempsey	Hartle	Jensen
Beard	Carlson, D.	Dille	Haukoos	Johnson, A.
Begich	Carlson, L.	Dorn	Heap	Johnson, R.
Bennett	Carruthers	Forsythe	Himle	Johnson, V.
Bertram	Clark	Frederick	Hugoson	Kahn
Bishop	Clausnitzer	Frerichs	Jacobs	Kalis

Kelly	Milbert	Orenstein	Rodosovich	Swenson
Kelso	Miller	Osthoff	Rose	Thiede
Kinkel	Minne	Otis	Rukavina	Tjornhom
Kludt	Morrison	Ozment	Sarna	Tompkins
Knuth	Munger	Pappas	Schafer	Trimble
Kostohryz	Murphy	Pauly	Scheid	Tunheim
Krueger	Nelson, C.	Pelowski	Schoenfeld	Uphus
Larsen	Nelson, D.	Peterson	Schreiber	Valento
Lasley	Nelson, K.	Price	Seaberg	Vanasek
Lieder	Neuenschwander	Quinn	Segal	Vellenga
Long	O'Connor	Quist	Shaver	Voss
Marsh	Ogren	Redalen	Simoneau	Wagenius
McDonald	Olsen, S.	Reding	Skoglund	Waltman
McEachern	Olson, E.	Rest	Solberg	Welle
McKasy	Olson, K.	Rice	Sparby	Wenzel
McLaughlin	Omann	Richter	Stanius	Wynia
McPherson	Onnen	Riveness	Sviggum	Spk. Norton

The motion prevailed and the amendment was adopted.

Bishop moved to amend H. F. No. 753, the second engrossment, as amended by the Carlson, L., Knuth and Rose amendment, as follows:

Page 1 of the Carlson, L., et al amendment, line 13, after the period insert: "A school board may not certify a levy authorized under this subdivision unless approved by the voters of the district at a referendum called for the purpose. The referendum shall be held in accordance with the procedures set out in section 124A.03, subdivision 2."

Carlson, L., and Rose moved to amend the Bishop amendment to H. F. No. 753, the second engrossment, as amended, as follows:

Page 1, of the Bishop amendment line 1, delete "A school board" and insert "The school boards of independent school districts Nos. 535 and 271"

The motion prevailed and the amendment to the amendment was adopted.

The question recurred on the Bishop amendment, as amended, to H. F. No. 753, the second engrossment, as amended.

The motion prevailed and the amendment, as amended, was adopted.

Sviggum moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 3, line 36, strike "of the"

Page 4, line 1, delete "second fiscal year of the previous biennium" and insert "1985"

Page 7, line 32, delete "88" and insert "81"

Page 9, line 7, delete "\$798,862,000" and insert "\$805,210,000"

Page 17, after line 25, insert:

"In addition to the formula equity allowance provided in the 1988-89 school year, each district with total foundation revenue of less than \$2,825 per actual pupil unit shall receive an additional \$40 in foundation aid per actual pupil unit for the 1988-89 school year."

A roll call was requested and properly seconded.

The question was taken on the Sviggum amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 47 yeas and 82 nays as follows:

Those who voted in the affirmative were:

Anderson, R.	Frederick	McKasy	Quist	Thiede
Bennett	Frerichs	McPherson	Redalen	Tjornhom
Bishop	Gutknecht	Miller	Richter	Tompkins
Blatz	Hartle	Morrison	Schafer	Uphus
Burger	Haukoos	Olsen, S.	Scheid	Valento
Carlson, D.	Heap	Omann	Schreiber	Waltman
Clausnitzer	Himle	Onnen	Seaberg	Welle
Dempsey	Hugoson	Ozment	Shaver	
Dille	Johnson, V.	Pauly	Sviggum	
Forsythe	McDonald	Poppenhagen	Swenson	

Those who voted in the negative were:

Anderson, G.	Greenfield	Kostohryz	Neuenschwander	Rice
Battaglia	Gruenes	Krueger	O'Connor	Riveness
Bauerly	Jacobs	Larsen	Ogren	Rodosovich
Beard	Jefferson	Lasley	Olson, E.	Rukavina
Begich	Jennings	Lieder	Olson, K.	Sarna
Bertram	Jensen	Long	Orenstein	Schoenfeld
Boo	Johnson, A.	Marsh	Osthoff	Segal
Brown	Johnson, R.	McEachern	Otis	Simoneau
Carlson, L.	Kahn	McLaughlin	Pappas	Skoglund
Carruthers	Kalis	Milbert	Pelowski	Solberg
Clark	Kelly	Minne	Peterson	Sparby
Cooper	Kelso	Murphy	Price	Steensma
Dauner	Kinkel	Nelson, C.	Quinn	Trimble
DeBlieck	Kludt	Nelson, D.	Reding	Tunheim
Dorn	Knuth	Nelson, K.	Rest	Vanasek

Vellenga
Voss

Wagenius
Wenzel

Winter
Wynia

Spk. Norton

The motion did not prevail and the amendment was not adopted.

Quist moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 169, line 16, after "syndrome." insert "This information must emphasize that all persons have an obligation to avoid transmitting deadly communicable diseases to others."

A roll call was requested and properly seconded.

The question was taken on the Quist amendment and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 128 yeas and 0 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	Greenfield	Lieder	Osthoff	Simoneau
Anderson, R.	Gruenes	Long	Otis	Skoglund
Battaglia	Gutknecht	Marsh	Pappas	Solberg
Bauerly	Hartle	McDonald	Pauly	Sparby
Beard	Haukoos	McEachern	Pelowski	Stanius
Begich	Heap	McKasy	Peterson	Steensma
Bennett	Himle	McLaughlin	Poppenhagen	Sviggum
Bertram	Hugoson	McPherson	Price	Swenson
Bishop	Jacobs	Milbert	Quinn	Thiede
Blatz	Jefferson	Miller	Quist	Tjornhom
Boo	Jennings	Minne	Redalen	Tompkins
Brown	Jensen	Morrison	Reding	Trimble
Burger	Johnson, A.	Munger	Rest	Tunheim
Carlson, L.	Johnson, R.	Murphy	Rice	Uphus
Carruthers	Johnson, V.	Nelson, C.	Richter	Valento
Clark	Kahn	Nelson, D.	Riveness	Vanasek
Clausnitzer	Kalis	Nelson, K.	Rodosovich	Vellenga
Cooper	Kelly	Neuenschwander	Rose	Voss
Dauner	Kelso	O'Connor	Sarna	Wagenius
DeBleck	Kinkel	Ogren	Schafer	Waltman
Dempsey	Kludt	Olsen, S.	Scheid	Welle
Dille	Knuth	Olson, E.	Schoenfeld	Wenzel
Dorn	Kostohryz	Olson, K.	Schreiber	Winter
Forsythe	Krueger	Omann	Seaberg	Wynia
Frederick	Larsen	Onnen	Segal	
Frerichs	Lasley	Orenstein	Shaver	

The motion prevailed and the amendment was adopted.

McPherson, Heap and Olsen, S., offered an amendment to H. F. No. 753, the second engrossment, as amended.

POINT OF ORDER

McEachern raised a point of order pursuant to rule 3.10 that the McPherson et al amendment was not in order. The Speaker ruled the point of order well taken and the amendment out of order.

Segal and Forsythe moved to amend H. F. No. 753, the second engrossment, as amended, as follows:

Page 110, after line 32, insert:

"Sec. 17. Minnesota Statutes 1986, section 275.125, is amended by adding a subdivision to read:

Subd. 11d. [CAPITAL LEVY; COMMUNITY CENTER.] In addition to other levies, a school district may levy not more than \$3 per district resident, if the district has a surplus school building that is being used as a community center. The proceeds of the levy may be used only for capital expenditures otherwise allowed in this section that are related to the community center building. If a petition signed by a number of voters of the district equal to five percent of the number voting at the most recent district election is filed with the board calling for an election upon the levy, the levy shall only be made after approval at the next regular or special election in the district."

The motion did not prevail and the amendment was not adopted.

H. F. No. 753, A bill for an act relating to education; providing aids to education, aids to libraries, appropriations to the state academies for the deaf and blind, and the department of education; changing secondary pupil unit weighting; establishing a formula equity allowance; changing the calculation of special education aid; increasing the community education formula; changing the capital expenditure formula; changing the secondary vocational funding formula; increasing desegregation levies and appropriating desegregation aid; appropriating money; amending Minnesota Statutes 1986, sections 43A.08, subdivisions 1 and 1a; 43A.18, subdivision 4; 118.12; 118.13; 118.14; 120.03, subdivision 1; 120.0752, by adding a subdivision; 120.17, subdivisions 1, 2, 3, 3A, 3b, 5, 7a, 12, and by adding subdivisions; 121.609, subdivision 4; 121.612, subdivisions 3, 5, and by adding subdivisions; 121.87, subdivision 1, and by adding a subdivision; 121.88, subdivision 2, and by adding a subdivision; 121.935, subdivision 6; 121.936, subdivision 1; 122.541, subdivision 2; 123.36, subdivision 13; 123.39, subdivision 1, and by adding a subdivision; 123.58, subdivisions 6 and 8a; 123.705, subdivision 1; 124.05, subdivision 1; 124.17, subdivisions 1 and 1a; 124.195, subdivision 9; 124.2138, subdivision 4, and by adding a subdivision; 124.2162, by adding a subdivision; 124.223; 124.225, subdivisions 1,

4b, 7b, 8a, 8i, 10, and by adding a subdivision; 124.245, subdivisions 1, 3, and by adding subdivisions; 124.246, subdivision 2; 124.247, subdivision 3; 124.252, subdivision 3; 124.271, subdivision 2b; 124.2711, subdivision 1; 124.272, subdivision 1; 124.273, subdivision 1b, and by adding subdivisions; 124.32; 124.481; 124.524, by adding a subdivision; 124.573; 124.574, subdivisions 2b, 3, 4, and by adding subdivisions; 124.646, subdivision 1; 124A.01; 124A.02, subdivisions 7, 8, 9, 16, and by adding subdivisions; 124A.03, subdivisions 1a, 3, and by adding a subdivision; 124A.033, subdivision 2; 124A.036, by adding a subdivision; 124A.06; 124A.08, subdivisions 1, 3a, and 5; 124A.10, subdivision 1, and by adding a subdivision; 124A.12, subdivision 1; 124A.14, subdivision 4; 125.03, subdivision 5; 125.05, subdivision 1; 125.185, subdivision 4; 125.611, subdivisions 10, 11, 12, and 13; 126.02, subdivision 2; 126.48, by adding a subdivision; 126.56, subdivisions 3 and 6; 126.65; 126.66, subdivisions 1, 6, and by adding subdivisions; 126.67, subdivisions 1, 1a, 2a, 3a, 6, and 9; 126.81, subdivision 2; 129B.041, subdivisions 1 and 3; 134.10; 136D.27; 136D.71; 136D.74, subdivision 2; 136D.87; 275.125, subdivisions 5, 6e, 8c, 9, 11a, 11c, and by adding subdivisions; Laws 1984, chapter 463, article 6, section 15, subdivision 1; Laws 1986, First Special Session chapter 1, article 5, section 9; proposing coding for new law in Minnesota Statutes, chapters 43A; 121; 122; 123; 124A; 125; 126; 128A; 129B; and 134; repealing Minnesota Statutes 1986, sections 120.17, subdivision 13; 123.937; 124.05, subdivision 2; 124.185; 124.2161; 124.2162; 124.2163; 124.225, subdivision 1a; 124.273, subdivision 2b; 124.275; 124A.20; 125.611, subdivisions 8 and 9; 129B.01; 129B.02; 129B.04; 129B.041, subdivision 4; 129B.05; 129B.17; 129B.20; 129B.21; 129B.35; 129B.37; and 275.125, subdivision 5d.

The bill was read for the third time, as amended, and placed upon its final passage.

The question was taken on the passage of the bill and the roll was called.

Vanasek moved that those not voting be excused from voting. The motion prevailed.

There were 81 yeas and 52 nays as follows:

Those who voted in the affirmative were:

Anderson, G.	DeBlieck	Kalis	Long	Ogren
Battaglia	Dorn	Kelly	McEachern	Olson, E.
Bauerly	Greenfield	Kelso	McLaughlin	Olson, K.
Beard	Jacobs	Kinkel	Milbert	Omann
Begich	Jaros	Kludt	Minne	Onnen
Bertram	Jefferson	Knuth	Munger	Orenstein
Brown	Jennings	Kostohryz	Nelson, C.	Osthoff
Carruthers	Jensen	Krueger	Nelson, D.	Otis
Clark	Johnson, A.	Larsen	Nelson, K.	Ozment
Cooper	Johnson, R.	Lasley	Neuenschwander	Pappas
Dauner	Kahn	Lieder	O'Connor	Pelowski

Peterson	Rukavina	Steensma	Vellenga	Wynia
Price	Sarna	Sviggum	Voss	Spk. Norton
Quinn	Schoenfeld	Tompkins	Wagenius	
Reding	Skoglund	Trimble	Welle	
Rice	Solberg	Tunheim	Wenzel	
Rodosovich	Sparby	Vanasek	Winter	

Those who voted in the negative were:

Anderson, R.	Forsythe	Marsh	Redalen	Simoneau
Bennett	Frederick	McDonald	Rest	Stanis
Bishop	Frerichs	McKasy	Richter	Swenson
Blatz	Gruenes	McPherson	Riveness	Thiede
Boo	Gutknecht	Miller	Rose	Tjornhom
Burger	Hartle	Morrison	Schafer	Uphus
Carlson, D.	Haukoos	Murphy	Scheid	Valento
Carlson, L.	Heap	Olsen, S.	Schreiber	Waltman
Clausnitzer	Himle	Pauly	Seaberg	
Dempsey	Hugoson	Poppenhagen	Segal	
Dille	Johnson, V.	Quist	Shaver	

The bill was passed, as amended, and its title agreed to.

GENERAL ORDERS

Vanasek moved that the bills on General Orders for today be continued for one day. The motion prevailed.

MOTIONS AND RESOLUTIONS

Kahn moved that the name of Skoglund be added as an author on House Advisory No. 28. The motion prevailed.

Skoglund moved that the name of Segal be added as an author on H. F. No. 392. The motion prevailed.

Clark moved that the name of Skoglund be added as an author on H. F. No. 1144. The motion prevailed.

Segal moved that the name of Trimble be added as an author on H. F. No. 1631. The motion prevailed.

Greenefield moved that S. F. No. 593 be recalled from the Committee on Health and Human Services and together with H. F. No. 1222, now on Technical General Orders, be referred to the Chief Clerk for comparison. The motion prevailed.

Munger moved that H. F. No. 275, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Clark moved that H. F. No. 1002, now on Technical General Orders, be re-referred to the Committee on Appropriations. The motion prevailed.

Nelson, D., moved that the name of Valento be stricken and the name of Anderson, G., be added as chief author on H. F. No. 837. The motion prevailed.

Wynia moved that the name of Clark be stricken and the name of Anderson, G., be added as chief author on H. F. No. 243. The motion prevailed.

Sarna moved that his name be stricken as an author on H. F. No. 1397. The motion prevailed.

ADJOURNMENT

Vanasek moved that when the House adjourns today it adjourn until 12:00 noon, Friday, May 1, 1987. The motion prevailed.

Vanasek moved that the House adjourn. The motion prevailed, and the Speaker declared the House stands adjourned until 12:00 noon, Friday, May 1, 1987.

EDWARD A. BURDICK, Chief Clerk, House of Representatives

