

## FORTY-FOURTH DAY

St. Paul, Minnesota, Monday, May 2, 1983

The Senate met at 11:00 a.m. and was called to order by the President.

### CALL OF THE SENATE

Mr. Luther imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rabbi Kassel Abelson.

The roll was called, and the following Senators answered to their names:

Adkins	Diessner	Kronebusch	Pehler	Solon
Anderson	Frank	Laidig	Peterson, C.C.	Spear
Belanger	Frederick	Langseth	Peterson, D.C.	Storm
Benson	Frederickson	Lantry	Peterson, D.L.	Stumpf
Berg	Freeman	Lessard	Peterson, R.W.	Taylor
Berglin	Hughes	Luther	Petty	Ulland
Bernhagen	Isackson	McQuaid	Pogemiller	Vega
Bertram	Johnson, D.E.	Mehrkens	Purfeerst	Waldorf
Brataas	Johnson, D.J.	Merriam	Ramstad	Wegscheid
Chmielewski	Jude	Moe, D.M.	Reichgott	Willet
Dahl	Kamrath	Moe, R.D.	Renneke	
Davis	Knaak	Nelson	Samuelson	
DeCramer	Knutson	Novak	Schmitz	
Dicklich	Kroening	Olson	Sieloff	

The President declared a quorum present.

The reading of the Journal was dispensed with and the Journal, as printed and corrected, was approved.

### EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

April 28, 1983

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

The Honorable Jerome M. Hughes  
President of the Senate

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

S.F. No.	H.F. No.	Session Laws Chapter No.	Date Approved 1983	Date Filed 1983
	413	59	April 28	April 28
	459	60	April 28	April 28
	468	61	April 28	April 28
	552	62	April 28	April 28
	597	63	April 28	April 28
	909	64	April 28	April 28

Sincerely,

Joan Anderson Growe  
Secretary of State

### REPORTS OF COMMITTEES

Mr. Luther moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 862: A bill for an act relating to public employment; providing rights for certain part-time employees; amending the definition of supervisory employee; authorizing recognition of legal strikes by non-members of bargaining units; specifying the relationship between collective bargaining agreements and arbitration awards and municipal charters and ordinances; amending Minnesota Statutes 1982, sections 179.63, subdivisions 7 and 9; 179.64, by adding a subdivision; 179.66, subdivision 5; 179.71, subdivision 3; and 179.72, subdivision 7.

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

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1982, section 179.63, subdivision 7, is amended to read:

Subd. 7. “Public employee” or “employee” means any person appointed or employed by a public employer except:

- (a) elected public officials;
- (b) election officers;
- (c) commissioned or enlisted personnel of the Minnesota national guard;
- (d) emergency employees who are employed for emergency work caused by natural disaster;
- (e) part time employees whose service does not exceed the lesser of 14 hours per week or 35 percent of the normal work week in the employee's bargaining unit;
- (f) employees who hold positions of a basically temporary or seasonal

character for a period not in excess of ~~100~~ 67 working days in any calendar year;

*(g) temporary or part time employees who are under the age of 22, are full time students enrolled in a nonprofit or public educational institution prior to their being hired by an employer and who have indicated, either in their application for employment or by being enrolled at an educational institution for the next academic year or term, an intention to continue as students during or after their temporary or part time employment.*

The exclusions of clauses (e) and (f) shall not apply to:

(1) an employee hired by a school district to replace an absent teacher who at the time of his absence is a "public employee" not within the other exclusions of this subdivision where the replacement employee is employed more than 30 working days as a replacement for that teacher; and

(2) an employee hired by a school district for a teaching position created by increased enrollment, curriculum expansion, courses which are a part of the curriculum whether offered annually or not, or other appropriate reasons.

Employees included as "public employees" pursuant to clauses (1) and (2) shall not be included under master contracts expiring June 30, 1981, for purposes of salary or fringe benefits;

(g) employees of charitable hospitals as defined by section 179.35, subdivision 3;

(h) full time undergraduate students employed by the school which they attend under a work study program or in connection with the receipt of any financial aid, irrespective of number of hours of service per week;

(i) an individual who renders part time teaching service for less than 300 hours in a fiscal year as an instructor in an adult vocational education program.

Sec. 2. Minnesota Statutes 1982, section 179.63, subdivision 9, is amended to read:

Subd. 9. "Supervisory employee", when the reference is to other than essential employees as defined in subdivision 11, means ~~any~~ a person ~~having~~ who has authority in the interests of the employer to hire, transfer, suspend, promote, discharge, assign, reward or discipline other employees or responsibly to direct them or adjust their grievances on behalf of the employer, or to effectively recommend any of the aforesaid actions, if in connection with the foregoing the exercise of ~~such~~ the authority is not merely routine or clerical in nature but requires the use of independent judgment. ~~Any~~ A determination of "supervisory employee" may be appealed to the public employment relations board.

*Effective May 2, 1983, the removal of employees by the employer from non-supervisory bargaining units for the purpose of designating the employees as "supervisory employees" shall require the prior written agreement of the exclusive representative or the written approval of the director before the redesignation is effective.*

Sec. 3. Minnesota Statutes 1982, section 179.66, subdivision 2, is

amended to read:

Subd. 2. A public employer has an obligation to meet and negotiate in good faith with the exclusive representative of the public employees in an appropriate unit regarding grievance procedures and the terms and conditions of employment, but ~~such~~ the obligation does not compel the public employer or its representative to agree to a proposal or require the making of a concession.

*The public employer's duty under this subdivision exists notwithstanding contrary provisions in a municipal charter, ordinance, or resolution. A provision of a municipal charter, ordinance, or resolution which limits or restricts a public employer from negotiating or from entering into binding contracts with exclusive representatives is superseded by this subdivision.*

Sec. 4. [EFFECTIVE DATE.]

*Sections 1 to 3 are effective the day following their final enactment."*

Delete the title and insert:

"A bill for an act relating to public employment; providing rights for certain part-time employees; amending the definition of supervisory employee; authorizing recognition of legal strikes by non-members of bargaining units; providing that the public employer's duty to bargain supersedes all municipal charters, ordinances or resolutions; amending Minnesota Statutes 1982, sections 179.63, subdivisions 7 and 9; and 179.66, subdivision 2."

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

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 206: A bill for an act relating to employment; providing assistance to employees who lose their jobs, affected communities and businesses which may suffer due to business closings, plant relocations, and reductions in operations; requiring advance notification to affected employees, employee organizations, municipalities, and the state, of business closings, plant relocations, and reductions of operations; prescribing duties of certain departments, governmental bodies, and officers with respect to business closings, plant relocations, and reductions of operations; creating the Minnesota community, business, and job preservation board; providing penalties; appropriating money; proposing new law coded as Minnesota Statutes, chapter 268A.

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

Page 2, line 23, after "facility" insert ", including the state and political subdivisions of the state,"

Page 3, line 6, delete "through December 31, 1982"

Page 3, delete subdivision 11

Page 3, line 15, delete "in"

Page 3, line 16, delete "the state" and delete the comma

Page 3, line 17, delete "*, this state, a political subdivision of this state,*"

Renumber the subdivisions in sequence

Page 7, line 33, delete "30" and insert "20"

Page 7, line 36, delete "270" and insert "120"

Page 8, line 19, delete "45" and insert "30"

Page 9, line 22, delete "270" and insert "120"

Page 9, line 28, delete "*and that requiring the employer to remain open*"

Page 9, delete line 29

Page 9, line 30, delete "*to the employer attributable to the affected establishment,*"

Page 9, line 33, delete "45" and insert "30"

Page 9, line 36, delete "270" and insert "120"

Pages 10 and 11, delete section 8

Page 12, line 26, delete "*statement*" and insert "*information*"

Page 12, line 36, delete "12" and insert "11"

Page 13, line 4, delete "12" and insert "11"

Renumber the sections and the proposed coding in sequence

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Solon from the Committee on Economic Development and Commerce, to which was referred

S.F. No. 853: A bill for an act relating to financial institutions; providing for the payment of hearing costs on contested applications; including credit union share insurance corporations and industrial loan and thrift guarantee issuers in the group of organizations permitted to receive examination reports; removing the requirement that a financial institution's board of directors hold qualifying shares; clarifying limitations on junior mortgage loans by banks; establishing application fees; removing a certain filing requirement; reducing the number of savings association incorporators; clarifying the notice requirements for savings association conversions; clarifying the industrial loan and thrift company lending limit and increasing the capital to deposit limitation; providing first installment requirements for regulated lenders and motor vehicle sales finance companies; providing credit insurance disclosure requirements for regulated lenders; clarifying financial corporation organizational requirements; amending Minnesota Statutes 1982, sections 45.04, subdivision 1; 46.07, subdivision 2; 47.54, subdivision 1; 48.06; 48.19, subdivision 1; 48.68; 49.36, subdivision 1; 49.37; 51A.03, subdivisions 1 and 4; 51A.065, subdivision 4; 51A.13, subdivisions 2 and 2a; 52.203; 53.01; 53.03, subdivisions 1, 5, and 6; 53.04, subdivision 3a; 53.05; 53.06; 56.131, subdivision 1; 56.155, subdivision 1; 168.72, subdivision 1; 300.025; and 300.20.

Reports the same back with the recommendation that the bill be amended

as follows:

Page 1, line 36, strike "any" and insert "a"

Page 1, line 37, strike "an" and insert "a written" and strike ", in writing,"

Page 1, line 38, strike ", and shall"

Page 2, line 1, strike "file the same in its office, which" and insert ". The"

Page 2, line 1, strike "shall" and insert "must"

Page 2, line 2, strike ", requesting" and insert "and request"

Page 2, line 4, strike "At the time of"

Page 2, line 5, strike "filing the application"

Page 2, line 5, strike "pay" and insert "file the application with the department with"

Page 2, line 5, before "filing" insert "\$1,000" and strike "of"

Page 2, strike lines 6 and 7

Page 2, line 8, strike "the sum of" and insert "and a"

Page 2, line 8, strike "as a" and insert "investigation"

Page 2, line 8, strike "for investigating the application which"

Page 2, line 9, strike "shall" and insert ". The fees must"

Page 2, line 10, strike "by the treasurer" and "of the state"

Page 2, line 12, strike "at its office at the state"

Page 2, line 13, strike "capitol, at which hearing it shall" and insert "to"

Page 2, line 14, strike the first "shall" and insert "will"

Page 2, line 14, strike the second "shall" and insert "must"

Page 2, line 15, strike "some" and insert "a"

Page 2, line 17, after "there" strike "be" and insert "is"

Page 2, line 19, strike "shall" and insert "must"

Page 2, line 25, after the comma, insert "50 percent of"

Page 2, line 28, delete "shall" and insert "must" and after "by" insert "the"

Page 2, line 28, after "and" insert "50 percent by the"

Page 2, line 29, delete "equally"

Page 3, line 23, strike "an" and insert "a written"

Page 3, line 24, strike ", in writing,"

Page 3, line 25, strike the comma

Page 3, line 26, strike ", together"

Page 3, line 27, after the comma, insert "50 percent of"

Page 3, line 31, after "and" insert "50 percent by the"

Page 3, line 31, delete "equally"

Page 4, line 2, strike "shall" and insert "must"

Page 4, line 5, strike "as" and strike "above" and insert " in section 47.52"

Page 4, line 35, strike "same"

Page 5, line 7, strike "any such" and insert "these"

Page 5, line 11, strike "when"

Page 5, line 12, strike "such" and insert "if the"

Page 5, line 16, strike "providing" and insert "if"

Page 6, line 7, strike "; provided, that" and insert ". However,"

Page 6, after line 9, insert:

"Sec. 7. [48.90] [DISPOSITION OF CREDIT INSURANCE INCOME.]

*Subdivision 1. [DEFINITIONS.] (a) For the purpose of this section, the following terms have the meanings given them.*

*(b) "Credit insurance" means credit life and accident and health insurance as defined in section 62B.02.*

*(c) "Officer", "director", "employee", and "shareholder" include the spouse and minor children of the officer, director, employee, or shareholder.*

*(d) "Interest" includes ownership through a spouse or minor children; ownership through a broker, nominee, or agent; and ownership through a corporation, partnership, association, joint venture, or proprietorship.*

*Subd. 2. [SCOPE AND PURPOSE.] This section applies to sales of credit insurance by employees, officers, directors, and shareholders of a banking institution and by corporations, partnerships, associations, and other entities in which these persons have an interest. The purposes of this section are (1) to prohibit employees, officers, directors, and shareholders of banking institutions from benefiting personally on the sale of credit insurance to loan customers and (2) to encourage marketing of credit insurance through the use of banking facilities only under arrangements which assure that employees, officers, directors, and shareholders do not receive benefits not shared with all stockholders of the banking institution.*

*Subd. 3. [DISTRIBUTION OF CREDIT INSURANCE INCOME.] No employee, officer, director, or shareholder of a banking institution, nor a corporation, partnership, association, or other entity in which these persons have an interest, may retain commissions or other income from the sale of credit insurance in connection with a loan made by the banking institution. All such income received by these persons or by a corporation, partnership, association, or other entity in which these persons have an interest, must be turned over to the banking institution. Nothing in this section prohibits a banking institution from receiving the income directly in the form of commis-*

sions or as compensation for use of its premises, personnel, and good will."

Page 6, line 16, strike the comma and delete "together"

Page 6, line 22, strike "as may be"

Page 6, line 23, strike "requested," and insert "by request"

Page 6, line 23, strike "as may be obtained"

Page 7, line 6, strike ", and" and insert a semicolon

Page 7, line 7, after the semicolon, insert "and stating"

Page 7, line 20, strike "as may be"

Page 8, line 19, strike "same" and insert "them"

Page 8, line 20, strike the comma

Page 9, line 8, strike "so"

Page 9, line 36, strike "; provided, that" and insert ". However,"

Page 10, after line 25, insert:

"Sec. 15. Minnesota Statutes 1982, section 51A.51, subdivision 2, is amended to read:

Subd. 2. [INCORPORATION FEE.] At the time of filing the application for a certificate of incorporation, the incorporators shall pay a \$1,000 filing fee of \$1,000 which shall be paid into the state treasury and credited to the general fund, and shall pay to the banking department the sum of a \$500 as a investigation fee for investigating the application. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by applicant and 50 percent by the intervening parties.

Sec. 16. Minnesota Statutes 1982, section 51A.51, subdivision 3a, is amended to read:

Subd. 3a. [FEE FOR ESTABLISHMENT OF OTHER THAN PRINCIPAL OFFICE.] There shall accompany each application to the commissioner for establishment of other than the principal office a \$1,000 filing fee of \$1,000 payable to the state treasury and \$500 payable to the banking department. If an application is contested, 50 percent of an additional fee equal to the actual costs incurred by the department of commerce in approving or disapproving the application, payable to the state treasurer and credited by the treasurer to the general fund, shall be paid by applicant and 50 percent by the intervening parties."

Page 11, line 35, strike "such"

Page 12, line 27, strike "cause an" and insert "file a written"

Page 12, line 27, strike ", in writing, to"

Page 12, line 28, strike "be made to" and insert "with"

Page 12, line 30, strike "and filed in"

Page 12, line 31, strike "its office"



Page 13, line 2, after "a" insert "\$1,000" and strike "of"

Page 13, line 2, delete "\$1,000" and strike ", to be paid into"

Page 13, strike line 3

Page 13, line 4, strike "shall pay to the commissioner of banks the sum of"

Page 13, line 4, after the stricken "\$250" insert "and a"

Page 13, line 4, strike "as a" and insert "investigation"

Page 13, line 5, strike "for investigating the application, which fee shall" and insert ". The fees must"

Page 13, line 7, strike "of the state, and" and insert ". The applicant shall also"

Page 13, line 9, after "thereto" insert "at that time"

Page 13, line 10, after the stricken "pay" insert "50 percent of"

Page 13, line 13, strike "of the state"

Page 13, line 14, after "and" insert "50 percent by the"

Page 13, line 14, delete "equally"

Page 14, line 4, strike "Where" and insert "The filing fee for a branch application shall be \$500 and the investigation fee \$250. If"

Page 14, line 35, after the comma, insert "50 percent of"

Page 15, line 2, strike "shall" and insert ", must"

Page 15, line 2, after "and" insert "50 percent by the"

Page 15, line 3, delete "equally"

Page 15, line 11, strike "shall" and insert "may"

Page 15, line 17, after "in" delete the remaining new language and insert "amounts in compliance with section 53.05, clause (3), or 56.131, subdivision 1, paragraph (a), whichever is less"

Page 15, lines 18 and 19, delete the new language

Page 16, lines 14 and 15, reinstate the stricken language

Page 16, line 25, strike "provided,"

Page 17, after line 18, insert:

"Sec. 25. Minnesota Statutes 1982, section 56.001, subdivision 3, is amended to read:

Subd. 3. [APPLICABLE CHARGE.] "Applicable charge" means the amount of interest attributable to each monthly installment period of the loan contract. The applicable charge is computed as if each installment period were one month and any charge for extending the first installment period beyond one month, or reduction in charge for a first installment less than one month, is ignored. The applicable charge for any installment period is that which would have been made for the period had the loan been made

on an interest-bearing basis at the single annual percentage rate permitted by section 56.131, subdivision 1, based upon the assumption that all payments were made according to schedule. For convenience in computation, the licensee may round the single annual rate to the nearest one quarter of one percent."

Page 19, line 7, strike "provided further that"

Page 21, line 20, after "borrower" insert "*before the transaction is completed*"

Page 21, line 21, strike "before the transaction is completed"

Page 24, line 6, delete "*making application*" and insert "*applying*"

Page 24, line 9, strike "provided" and insert "*however*"

Page 24, line 14, strike "transacting the same" and insert "*business*"

Page 24, line 16, strike the comma

Page 24, line 26, strike "the same" and insert "*it*"

Page 24, line 28, strike the semicolon and insert a comma

Page 24, line 29, after "each" strike the comma

Page 24, line 36, strike "provided that" and insert "*. However,*"

Page 25, line 14, strike "When" and insert "*If*"

Page 25, line 15, after "provides" insert a comma

Page 25, line 17, after the second "of" insert "*a*"

Page 25, line 18, strike "banks" and after "~~shall~~" insert "*bank*"

Page 25, line 27, delete "26" and insert "30"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 21, after the semicolon, insert "providing that no employee, officer, director, or shareholder of a banking institution, or a corporation, partnership, or association in which these persons have an interest, may retain income from the sale of credit insurance in connection with a loan made by the banking institution; providing that the income must be turned over to the banking institution;"

Page 1, line 26, after "2a;" insert "51A.51, subdivisions 2 and 3a;"

Page 1, line 28, after "53.06;" insert "56.001, subdivision 3;"

Page 1, line 30, after "300.20" insert "; proposing new law coded in Minnesota Statutes, chapter 48"

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

Mr. Moe, D. M. from the Committee on Governmental Operations, to which was re-referred

S.F. No. 810: A bill for an act relating to energy; providing for omnibus

energy measures; creating a department of energy; transferring energy related duties; creating an energy coordination board; creating an intervention office; creating an energy authority; authorizing the Minnesota housing finance agency to participate in energy projects; amending Minnesota Statutes 1982, sections 116C.03, subdivision 2; 116J.09; 116J.10; 462A.02, subdivision 10; 462A.05, by adding subdivisions; and 462A.21, by adding a subdivision; proposing new law coded in Minnesota Statutes, chapters 116H; 216A; 216B; and 462A; repealing Minnesota Statutes 1982, section 116J.28.

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

Delete everything after the enacting clause and insert:

#### “ARTICLE I

#### TRANSFER OF POWERS AND

#### CREATION OF DEPARTMENT OF

#### ENERGY AND ECONOMIC DEVELOPMENT

##### Section 1. [TRANSFER OF POWERS.]

*Subdivision 1. [AUTHORIZATION.] All powers, duties, and functions vested in or imposed on the department of energy, planning and development or the commissioner of energy, planning and development by sections 116J.04 to 116J.36, 116J.58 to 116J.91 and other laws are transferred to, vested in, and imposed on the commissioner of the department of energy and economic development created in section 6, including the following specific powers:*

- (a) community development corporation grants, as provided in 116J.65;*
- (b) the “503” certified state development company, as provided in section 116J.67;*
- (c) the issuance of industrial revenue bonds, as provided in chapter 474;*
- (d) the administration of the area redevelopment act and the federal revolving loan program as provided in chapter 472; and*
- (e) the authority to pass through appropriations to the Duluth port authority, as provided by chapter 116J.*

*The responsibilities of the commissioner of energy, planning, and development that relate to clauses (a) to (e) are transferred to, vested in, and imposed on the economic development division and the Minnesota energy and economic development fund. The division and the fund are deemed to be the successors to these responsibilities as they were constituted immediately prior to the effective date of this article.*

*Subd. 2. [POSITIONS TRANSFERRED.] Personnel positions in the department of energy, planning and development in the classified civil service and temporary positions in the unclassified service established pursuant to section 43A.08, and the small business finance agency formerly assigned to functions that are transferred by this section to the department of energy and economic development are continued and transferred with their incumbents to the department of energy and economic development along with the func-*

tions transferred. Nothing in this subdivision shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the managerial or commissioner's plans or under the terms of an agreement between an exclusive representative of public employees and the state or one of its appointing authorities.

*Subd. 3. [BALANCES TRANSFERRED.] The unexpended balance of any appropriation to the department of energy, planning and development which was assigned to the energy and development divisions of the department or to any office within the energy and development divisions is transferred to the commissioner of energy and economic development who shall pay all valid claims presented against those appropriations.*

*Subd. 4. [RECORDS TRANSFERRED.] The commissioner of energy, planning and development, the assistant commissioners for the economic development and energy divisions, and office directors within the economic development and energy divisions shall transfer to the commissioner of the department of energy and economic development all contracts, books, maps, plans, papers, records, and property of every description within their jurisdiction or control which are relevant to the activities and functions transferred by this section to the commissioner of the department of energy and economic development.*

*Subd. 5. [PROCEEDINGS CONTINUED.] Any proceeding, court action, prosecution, or other business or matter that is pending on the effective date of this section and that involved or was commenced by the commissioner of energy, planning and development and which involved personnel or functions transferred to the department of energy and economic development by this section may be conducted and completed by the commissioner of the department of energy and economic development in the same manner, under the same terms and conditions, and with the same effect as though it involved or was commenced and conducted or completed by the officer who began it.*

*Subd. 6. [AUTHORITY CONTINUED.] The authority of the commissioner of the department of energy and economic development regarding functions transferred to the commissioner by this section is a continuation of the authority of the officer from which it was transferred regarding those functions, with the same force and effect as though the functions, powers, or duties of the officer had not been assigned or transferred, and does not constitute a new authority for the purposes of succession to all rights, powers, duties, and obligations of the officer, as constituted at the time of the assignment or transfer. All rules adopted under authority of power, duty, or responsibility transferred by this section to the commissioner of the department of energy and economic development shall remain in full force and effect until amended or repealed.*

Sec. 2. Minnesota Statutes 1982, section 116C.03, subdivision 2, is amended to read:

*Subd. 2. The board shall include as permanent members the commissioner of the department of energy, planning and development, the director of the pollution control agency, the commissioner of natural resources, the commissioner of agriculture, the commissioner of energy and economic development, 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.

Sec. 3. Minnesota Statutes 1982, section 116J.03, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] As used in sections ~~116J.05 to 116J.35~~; 116J.41 to 116J.54; ~~116J.58 to 116J.91~~; ~~299A.03~~; and ~~299A.04~~, the terms defined in this section have the meaning given them.

Sec. 4. [216A.096] [INTERVENTION OFFICE.]

*There is created in the department of public service an intervention office to carry out intervention activities before federal and other energy regulatory agencies outside of the state. The office shall be staffed by one full-time staff member appointed by the director of the department of public service to serve in the unclassified service, and as the need arises by appropriate employees of the departments and agencies represented on the energy coordination board. Policies and functions of the intervention office shall be carried out under the direction of the director of the department of public service. The director shall keep the energy coordination board apprised of all intervention activities.*

Sec. 5. [116J.281] [CERTIFICATE OF NEED.]

*Subdivision 1. [ASSESSMENT OF NEED CRITERIA.] The commissioner of energy and economic development shall, pursuant to chapter 14 and sections 116J.05 to 116J.30, adopt assessment of need criteria to be used in the determination of need for large energy facilities pursuant to this section.*

*Subd. 2. [TRANSFER OF CERTIFICATE OF NEED PROGRAM.] All powers, responsibilities, and authorities for the issuance of certificates of need for large energy facilities are transferred from the department of energy, planning and development or its successor agency to the department of energy and economic development.*

Sec. 6. [116L.01] [DEPARTMENT OF ENERGY AND ECONOMIC DEVELOPMENT.]

*Subdivision 1. [CREATION.] A department of energy and economic development is created as the principal agency of the state for the administration of laws, including this chapter, relating to energy and economic development. The department of energy and economic development is the successor to the department of energy, planning and development in the administration of those laws.*

*Subd. 2. [COMMISSIONER.] A commissioner of the department of energy and economic development shall be appointed by the governor in accordance with section 15.06, and shall be compensated in accordance with section 15A.081. The commissioner shall be knowledgeable in issues relating to energy and economic development.*

*Subd. 3. [ORGANIZATION.] The department shall be organized into three divisions which shall be designated the energy division, the economic development division, and the financial management division. Each division shall be responsible for administering the duties and functions assigned to it by law. When the duties of the divisions are not allocated by law, the com-*

*missioner may establish and revise the assignments of each division. Each division shall be under the direction of a deputy commissioner.*

*Subd. 4. [DEPUTY COMMISSIONERS.] The deputy commissioners of the energy, economic development, and financial management divisions shall be in the unclassified service and shall be appointed by and serve at the pleasure of the commissioner.*

*Subd. 5. [CONFIDENTIAL SECRETARY.] The commissioner may appoint a confidential secretary, who shall serve at the pleasure of the commissioner in the unclassified service.*

**Sec. 7. [INSTRUCTIONS TO THE REVISOR.]**

*Subdivision 1. [TERMS.] (a) The revisor of statutes shall substitute the terms "commissioner of the department of energy and economic development" or "commissioner" for the terms meaning the commissioner or department of energy, planning and development, where those terms appear in sections 116J.04 to 116J.36 and 116J.58 to 116J.91, and other laws relating to the energy and development functions of the department of energy, planning and development.*

*(b) The revisor of statutes shall remove the terms "energy and development" wherever it appears in Minnesota Statutes in reference to the department of energy, planning and development, the commissioner of energy, planning and development or similar terms to reflect the removal of the energy and development functions from that department.*

*Subd. 2. [SUBSTITUTION OF TERMS.] The revisor of statutes is directed to change the words "commissioner," "commissioner of energy, planning and development," "agency," "state agency," or similar terms to "the economic development division" wherever it appears in sections 116J.65 and 116J.67; and in chapters 472 and 474.*

*The revisor of statutes is directed to change "development revolving fund" or similar terms to "Minnesota economic development fund" wherever it appears in section 472.13.*

*The revisor of statutes is directed to change the words "agency" or "small business finance agency" or similar terms to "energy and economic development authority" wherever it appears in chapter 116J and other laws to reflect the transfer of that authority to the energy and economic development authority.*

*Subd. 3. [RENUMBERING.] The revisor of statutes shall in Minnesota Statutes renumber each section specified in column A with the numbers set forth in column B. The revisor shall also make necessary cross-reference changes consistent with the renumbering.*

Column A	Column B
116J.04	116L.02
116J.05	116L.03
116J.06	116L.04
116J.07	116L.05
116J.08	116L.06
116J.09	116L.07
116J.10	116L.08

116J.11	116L.09
116J.12	116L.10
116J.13	116L.11
116J.14	116L.12
116J.15	116L.13
116J.16	116L.14
116J.17	116L.15
116J.18	116L.16
116J.19	116L.17
116J.20	116L.18
116J.21	116L.19
116J.22	116L.20
116J.23	116L.21
116J.24	116L.22
116J.25	116L.23
116J.26	116L.24
116J.27	116L.25
116J.28	116L.26
116J.29	116L.27
116J.30	116L.28
116J.31	116L.29
116J.32	116L.30
116J.33	116L.31
116J.34	116L.32
116J.35	116L.33
116J.36	116L.34
116J.58	116L.52
116J.59	116L.53
116J.60	116L.54
116J.61	116L.55
116J.62	116L.56
116J.63	116L.57
116J.64	116L.58
116J.65	116L.59
116J.66	116L.60
116J.67	116L.61
116J.68	116L.62
116J.69	116L.63
116J.70	116L.64
116J.71	116L.65
116J.72	116L.66
116J.73	116L.67
116J.74	116L.68
116J.75	116L.69
116J.76	116L.70
116J.77	116L.71
116J.78	116L.72
116J.79	116L.73
116J.80	116L.74
116J.81	116L.75
116J.82	116L.76
116J.83	116L.77
116J.84	116L.78
116J.85	116L.79
116J.86	116L.80

116J.87	116L.81
116J.88	116L.82
116J.89	116L.83
116J.90	116L.84
116J.91	116L.85

*Sec. 8. [REPEALER.]*

*Minnesota Statutes 1982, sections 116J.62; 116J.88, subdivision 3; and 116J.89, subdivisions 8, 9, and 10, are repealed.*

ARTICLE 2

POWERS AND DUTIES OF THE DEPARTMENT OF ENERGY AND  
ECONOMIC DEVELOPMENT

Section 1. Minnesota Statutes 1982, section 116J.09, is amended to read:

116J.09 [DUTIES.]

The commissioner shall:

(a) Manage the department as the central repository within the state government for the collection of data on energy;

(b) Prepare and adopt an emergency allocation plan specifying actions to be taken in the event of an impending serious shortage of energy, or a threat to public health, safety, or welfare;

(c) Undertake a continuing assessment of trends in the consumption of all forms of energy and analyze the social, economic, and environmental consequences of these trends;

(d) Carry out energy conservation measures as specified by the legislature and recommend to the governor and the legislature additional energy policies and conservation measures as required to meet the objectives of sections 116J.05 to 116J.30;

(e) Collect and analyze data relating to present and future demands and resources for all sources of energy, and specify energy needs for the state and various service areas as a basis for planning large energy facilities;

(f) Require certificate of need for construction of large energy facilities;

(g) Evaluate policies governing the establishment of rates and prices for energy as related to energy conservation, and other goals and policies of sections 116J.05 to 116J.30, and make recommendations for changes in energy pricing policies and rate schedules;

(h) Study the impact and relationship of the state energy policies to international, national, and regional energy policies;

(i) Design and implement a state program for the conservation of energy; this program shall include but not be limited to, general commercial, industrial, and residential, and transportation areas; such program shall also provide for the evaluation of energy systems as they relate to lighting, heating, refrigeration, air conditioning, building design and operation, and appliance manufacturing and operation;

(j) Inform and educate the public about the sources and uses of energy and



the ways in which persons can conserve energy;

(k) Dispense funds made available for the purpose of research studies and projects of professional and civic orientation, which are related to either energy conservation, *resource recovery*, or the development of alternative energy technologies which conserve nonrenewable energy resources while creating minimum environmental impact;

(l) Charge other governmental departments and agencies involved in energy related activities with specific information gathering goals and require that those goals be met;

*(m) Serve as a member of the environmental quality board.*

Sec. 2. Minnesota Statutes 1982, section 116J.10, is amended to read:

116J.10 [POWERS.]

The commissioner may:

(a) Adopt rules pursuant to chapter 14 as necessary to carry out the purposes of sections 116J.05 to 116J.30 and, when necessary for the purposes of section 116J.15, adopt temporary rules pursuant to sections 14.29 to 14.36;

(b) Make all contracts pursuant to sections 116J.05 to 116J.30 and do all things necessary to cooperate with the United States government, and to qualify for, accept and disburse any grant intended for the administration of sections 116J.05 to 116J.30. Notwithstanding any other law the commissioner is designated the state agent to apply for, receive and accept federal or other funds made available to the state for the purposes of sections 116J.05 to 116J.30.

(c) Contract for professional services if such work or services cannot be satisfactorily performed by employees of the department or by any other state agency;

(d) Enter into interstate compacts to jointly carry out such research and planning with other states or the federal government where appropriate;

(e) Distribute informational material at no cost to the public upon reasonable request;

(f) Provide on-site technical assistance to units of local government in order to enhance local capabilities for dealing with energy problems;

(g) Administer for the state, energy programs pursuant to federal law, regulations or guidelines, except for the crisis fuel assistance and low income weatherization programs administered by the department of economic security, and coordinate the programs and activities with other state agencies, units of local government and educational institutions;

*(h) Intervene in certificate of need proceedings;*

*(i) Design and administer a statewide program and actively involve major organizations and community leaders in its work and shall solicit funds from all sources;*

*(j) Develop a state energy investment plan with yearly energy conservation and alternative energy development goals, investment targets, and market-*

ing strategies;

(k) *Perform market analysis studies relating to conservation, alternative and renewable energy resources, and energy recovery;*

(l) *Provide general technical assistance to project applicants to assure the preparation of complete, fully descriptive proposals for projects;*

(m) *Assist with the preparation of proposals for innovative conservation, renewable, alternative, or energy recovery projects;*

(n) *Manage and disburse funds made available for the purpose of research studies or demonstration projects related to energy conservation or other activities deemed appropriate by the commissioner.*

### ARTICLE 3

#### ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY

##### Section 1. [116L.35] [CITATION.]

*Sections 1 to 34 may be cited as the Minnesota energy and economic development authority law of 1983.*

##### Sec. 2. [POLICIES.]

*Subdivision 1. [FINDINGS.] A reliable, economic supply of energy is essential for the state's households and local governments. Imported supplies are increasingly costly, unreliable, and environmentally disadvantageous. As a result, a partnership of the private and public sectors is needed to provide leadership, cooperation, and aid for the purposes of planning, developing, and managing economically viable energy conservation programs.*

*Subd. 2. [FUNDING POLICY.] It is further declared that adequate funds and assistance must be provided to assist and to encourage the establishment, maintenance, and growth of energy conservation and indigenous energy resources in the state and to reduce to a manageable level the cost of energy to households and local governments, including, without limitation, the provision of loans to assist households and municipalities in the design, distribution, promotion, maintenance, installation, or acquisition of energy conservation and alternative energy resource materials and devices.*

*Subd. 3. [PARTNERSHIP POLICY.] It is further declared that a partnership of the private and public sectors, established through the creation of an energy and economic development authority, will promote the purpose of reducing energy costs, increasing energy efficiency, and developing Minnesota's indigenous energy resources. By providing an arrangement where monies, personnel, information, material, and technologies can be pooled and costs shared, the partnership between the public and private sectors will promote the policies declared in this section more effectively than would be the case if these sectors acted independently.*

*Subd. 4. [HEALTH AND WELFARE PROMOTED.] It is further declared that a partnership of the private and public sectors and the creation of an energy and economic development authority will promote the welfare and prosperity of the state by maintaining and increasing the career and job opportunities of the citizens of the state, by reducing waste of resources, and by protecting and enhancing the tax base on which state and local govern-*

ments depend for the financing of public services.

Sec. 3. [116L.36] [DEFINITIONS.]

*Subdivision 1. [GENERAL.] For purposes of sections 3 to 10, the terms defined in this section have the meanings ascribed to them unless the context in which they are used clearly indicates otherwise or another meaning is specifically provided.*

*Subd. 2. [COMMISSIONER.] "Commissioner" means the commissioner of the department of energy and economic development.*

*Subd. 3. [DEPARTMENT.] "Department" means the department of energy and economic development.*

*Subd. 4. [AUTHORITY.] "Authority" means the Minnesota energy and economic development authority created in section 4.*

*Subd. 5. [PERSON.] "Person" includes an individual, firm, partnership, corporation, or association.*

*Subd. 6. [CONSERVATION.] "Conservation" means a capital investment designed to reduce the use of energy so that the resulting fuel savings amortize the cost of the investment over a period of ten years or less.*

*Subd. 7. [MUNICIPALITY.] "Municipality" means a city, town, county, school district, special taxing district, or a municipal power agency governed by chapter 453, or a group or combination of those units operating under an agreement to jointly undertake projects authorized by this article.*

*Subd. 8. [ALTERNATIVE ENERGY RESOURCE.] "Alternative energy resource" means a source of energy available from indigenous Minnesota resources including but not limited to peat, biomass, solar energy, wind, municipal wastes, agricultural or forestry wastes, hydro-power, and agricultural crops suitable for conversion to an energy fuel.*

*Subd. 9. [RENEWABLE ENERGY RESOURCE.] "Renewable energy resource" means a source of energy occurring in Minnesota which, when consumed for energy purposes, is replaced within a matter of days, months, or years by new or additional supplies of the energy source. Renewable energy resources include, but are not limited to, forestry products and forest harvest residues, solar energy, wind energy, water-power, and agricultural wastes.*

*Subd. 10. [ENERGY RECOVERY.] "Energy recovery" means the extraction of energy from materials, components, or processes which would normally represent wasted energy resources. Municipal solid wastes, volatile sewer gases, and power plant waste heat, among others, offer the potential for energy recovery.*

*Subd. 11. [FINANCIAL INSTITUTION.] "Financial institution" means a bank or other financial corporation described in chapter 47, an insurance company licensed to do business under chapter 60A, a securities broker-dealer licensed under chapter 80A, or a credit union.*

Sec. 4. [116L.37] [CREATION OF AUTHORITY; MEMBERS.]

*Subdivision 1. [MEMBERS.] There is created an authority of the state to be known as the "Minnesota energy and economic development authority,"*

*which shall perform the functions and exercise the powers given to it by law. The authority shall have nine members, including the commissioner, and eight members appointed by the governor with the advice and consent of the senate.*

*Subd. 2. [TERMS; COMPENSATION; REMOVAL; VACANCIES.] Compensation, removal of members, and filling of vacancies of the members of the authority appointed by the governor shall be as provided in section 15.0575. The commissioner of energy and economic development shall be the chair of the authority.*

*Subd. 3. [STAFF.] The authority shall be under the administrative control of the commissioner. The financial management division shall provide administrative and technical support to the authority and the commissioner may enter into agreements under which staff from private corporations, agencies, or other organizations are loaned to the authority for the purpose of fulfilling its prescribed duties.*

*Subd. 4. [SERVICES.] The authority shall identify general consultative and technical services to assist in financing and marketing household and municipal energy conservation or alternative energy development. It may enter into agreements or other transactions concerning the receipt or provisions of those services.*

*Subd. 5. [LIABILITY OF MEMBERS.] The members of the authority shall not be liable personally, either jointly or severally, for any debt or obligation created or incurred by the authority.*

#### **Sec. 5. [116L.43] [GENERAL POWERS OF THE AUTHORITY.]**

*Subdivision 1. For the purpose of exercising the specific powers granted to the authority, it shall have the general powers granted in this section.*

*Subd. 2. It may sue and be sued.*

*Subd. 3. It may have a seal and alter the same at will.*

*Subd. 4. It may make, and from time to time, amend and repeal rules and temporary rules not inconsistent with this article.*

*Subd. 5. It may acquire, hold and dispose of personal property for its corporate purposes.*

*Subd. 6. It may enter into agreements or other transactions with any federal or state agency, any person and any domestic or foreign partnership, corporation, association or organization.*

*Subd. 7. It may acquire real property, or an interest therein, in its own name, by purchase or foreclosure, where the acquisition is necessary or appropriate to protect any loan in which the authority has an interest and may sell, transfer and convey any such property to a buyer and, in the event such sale, transfer or conveyance cannot be effected with reasonable promptness or at a reasonable price, may lease such property to a tenant.*

*Subd. 8. It may sell, at public or private sale, any note, mortgage or other instrument or obligation evidencing or securing a loan.*

*Subd. 9. It may procure insurance against any loss in connection with its property in such amounts, and from such insurers, as may be necessary or*

*desirable.*

*Subd. 10. It may consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment or any installment of principal or interest, or any other term, of any loan, loan commitment, contract or agreement of any kind to which the authority is a party.*

*Subd. 11. It may borrow money to carry out and effectuate its corporate purpose and may issue its negotiable bonds or notes as evidence of any such borrowing in accordance with sections 3 to 10.*

**Sec. 6. [116L.431] [DATA PRIVACY.]**

*Financial information, including but not limited to credit reports, financial statements and net worth calculations, received or prepared by the agency regarding any loan or loan guarantee issued by the authority is private data on individuals, pursuant to section 13.02, subdivision 12.*

**Sec. 7. [116L.39] [POWERS AND DUTIES OF THE AUTHORITY RELATING TO ENERGY.]**

*Subdivision 1. [BROAD INTERPRETATION.] The authority through the commissioner shall perform, direct, or closely oversee the functions and programs delegated to it.*

*The powers granted to the authority shall be broadly interpreted to facilitate innovative leadership in all areas of energy including policy setting, goal definition, strategy planning, conservation, development of renewable and alternative energy resources, energy recovery, and monitoring.*

*Subd. 2. [CAMPAIGN FOR ENERGY EFFICIENCY.] The authority shall promote a campaign for energy efficiency. The authority shall actively promote public awareness of the potentials and benefits of energy efficiency.*

*Subd. 3. [JOB CREATION, LOW INCOME.] The authority shall assure that programs under its control and direction make accommodation whenever possible for job creation and the needs of low income families and persons.*

*Subd. 4. [LOAN GUARANTEES.] The authority shall operate a program of loan guarantees for commercial projects as specified in section 8.*

*Subd. 5. [REVENUE BONDS.] The authority shall operate a revenue bonding program for commercial projects as specified in section 9.*

*Subd. 6. [BONDS IN OWN NAME.] The authority shall issue revenue bonds in its own name for purposes of the program authorized in subdivision 5 and section 9.*

*Subd. 7. [LOANS TO MUNICIPALITIES.] The authority shall operate a program of loans to municipalities for capital expenses relating to energy conservation, recovery, or development as specified in section 10.*

*Subd. 8. [GENERAL OBLIGATION BOND LOANS.] The authority shall determine the use of and allocate the proceeds of the general obligation bonds issued by the commissioner of finance for purposes of the program established in section 10. Financial and technical support for this program shall be provided to the authority through the commissioner by the financial*

management division.

*Subd. 9. [DISTRICT HEATING LOAN PROGRAM.] The authority shall administer the district heating loan program established in section 116J.36 on behalf of the commissioner.*

*Subd. 10. [RULES.] The authority may adopt temporary or permanent rules necessary to operate the programs authorized in subdivisions 4 to 8. The rules authorized under this section may be adopted without complying with the administrative procedure act contained in chapter 14.*

*Subd. 11. [PROGRAMS.] (a) The authority may assist energy efficiency improvements in low income housing and municipal facilities through (1) loans, (2) loan guarantees, (3) interest subsidies, (4) grants, and (5) other forms of assistance.*

*(b) The authority shall adopt a plan to use as the basis for its investment decisions.*

*(c) By the start of the 1984 legislative session, (1) the authority shall have identified various nongovernmental funding sources; (2) provided for the efficient administration of its affairs; (3) solicited public comment on its plans; and (4) prepared recommendations as to appropriate reserve and guarantee fund levels required by this article.*

*(d) The authority shall annually report not later than February 1 to the legislature. The report should contain recommendations for legislation as necessary to better coordinate its activities and the energy activities of state government.*

*Subd. 12. [CONSERVATION EQUIPMENT.] The authority may assist in the financing of the development and operation of conservation or alternative or renewable energy system equipment if the federal government or another funding source provides assistance in connection with the development and operation.*

*Subd. 13. [GIFTS, GRANTS.] The authority may accept appropriations, gifts, grants, bequests, and devise and utilize or dispose of the same to carry out any provision of this article. All gifts, grants, bequests, and revenues from those sources are appropriated to the authority for the purposes of this act. The funding may include, but is not limited to, public utility investments and expenditures ordered by the public utilities commission pursuant to the provisions of section 216B.241.*

#### **Sec. 8. [116L.40] [ENERGY LOAN GUARANTY PROGRAM.]**

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

*(a) "Fund" means the energy loan guaranty fund created by subdivision 2.*

*(b) "Lender" means any state or federally chartered bank, credit union, savings bank, savings and loan association, savings association, trust company or a lender certified by the secretary of housing and urban development or the administrator of veterans affairs or approved or certified by the administrator of the farmers home administration.*

*(c) "Loan" means a loan or advance of credit, secured by a mortgage, to a borrower for purposes specified by authority rule.*

(d) "Mortgage" means (1) a second mortgage on the real property on which equipment is to be installed or a first mortgage on the property, if there is no outstanding mortgage on the property at the time the loan is made, and (2) any security interest, under sections 336.9-101 to 336.9-508, in personal property or fixtures acquired with the proceeds of an insured loan, which the authority may require by rule.

(e) "Qualified energy project" means acquiring, installing or constructing any conservation, renewable energy, alternative energy or other capital improvements for use in a trade or business and other projects described by rule of the authority.

**Subd. 2. [ENERGY LOAN GUARANTY FUND.]** An energy loan guaranty fund is created. The fund shall be used by the authority as a revolving fund for carrying out the provisions of this section with respect to loans insured under subdivision 3.

**Subd. 3. [INSURANCE OF LOANS.] (a) [AUTHORIZATION.]** The authority is authorized, upon application by a lender, to insure any eligible loan as provided in this section; and under terms as the authority may prescribe by rule, to make commitments for the insuring of loans prior to the date of their execution or disbursement.

**(b) [ELIGIBILITY REQUIREMENTS.]** To be eligible for insurance under this section:

(1) A loan shall be in an original principal amount not to exceed \$.....

(2) The proceeds of the loan shall be used solely for the purpose of financing a qualified energy project.

(3) The loan agreement shall have a maturity satisfactory to the authority, but not to exceed ——— years unless the loan is made in connection with financing for the purchase or construction of the building, in which case the maturity shall not exceed the maturity of the loan financing or 30 years, whichever is less.

(4) The loan agreement shall contain complete amortization provisions satisfactory to the authority requiring periodic payments by the borrower not in excess of his reasonable ability to pay as determined by the authority.

(5) The loan agreement shall contain terms and provisions with respect to insurance, repairs, alterations, payment of taxes, foreclosure proceedings, acceleration of maturity, delinquency charges and any other matters as the authority may prescribe.

(6) The loan shall be secured by a mortgage which has priority over any other liens against the property, except a contract for deed or first mortgage securing a loan, the proceeds of which were used to acquire or construct the property.

**(c) [CONCLUSIVE EVIDENCE OF INSURABILITY.]** Any contract of insurance executed by the authority under this section shall be conclusive evidence of the eligibility of the loan for insurance, and the validity of any contract of insurance properly executed and in the hands of any approved lender shall not be contestable, except for fraud or misrepresentation on the part of the lender.

(d) [PREMIUMS.] *The authority is authorized by rule to fix premium charges for the insurance of loans under this section.*

(e) [PROCEDURES UPON DEFAULT.] *The failure of the borrower to make any payment as provided by any loan agreement insured under this section shall be considered a default under the loan. If the default continues for a period of 30 days, the lender shall be entitled to receive the benefits of the insurance upon assignment, transfer, and delivery to the authority, within 120 days of the default, of the following:*

(1) *all rights and interests arising under the loan, mortgage, and any other security interests securing the loan;*

(2) *all claims of the lender against the borrower or others, arising out of the mortgage transactions;*

(3) *all policies of insurance, surety bonds or other guarantees and any claims thereunder;*

(4) *any balance of the loan not advanced to the borrower;*

(5) *any cash or property held by the lender, or to which it is entitled, including deposits made to the account of the borrower which have not been applied in reduction of the principal of the loan indebtedness; and*

(6) *all records, documents, books, papers, and accounts relating to the loan transaction.*

*Alternatively, the lender may in the event of default under the loan, in accordance with rules of and within a period to be determined by the authority, obtain possession of the property, through foreclosure or otherwise, and receive the benefits of the insurance as provided in paragraph (f) upon:*

(1) *prompt conveyance to the authority of title to the property, as provided in rules promulgated by the authority, and*

(2) *assignment to the authority of all claims of the lender against the borrower or others, arising out of the loan transaction or foreclosure, except claims which have been released with the consent of the authority.*

(f) [PAYMENT OF INSURANCE.] *Upon the lender's compliance with the requirements provided in or established under paragraph (e) the authority shall pay to the lender an amount equal to the outstanding unpaid principal indebtedness at the time of default less ——— percent, plus interest at ——— percent per annum from the date of default.*

Subd. 4. [INVESTMENT INTEREST.] *All interest and profits accruing from investment of the fund's money shall be credited to and be a part of the fund, and any loss incurred in the principal of the investments of the fund shall be borne by the fund.*

Subd. 5. [MAXIMUM AUTHORIZED INSURANCE.] *The authority may not at any time issue insurance under this section aggregating in excess of an amount equal to the current balance contained in the fund multiplied by ten.*

#### Sec. 9. [116L.41] [ENERGY LOAN PROGRAM.]

Subdivision 1. [AUTHORITY TO MAKE LOANS.] *The authority may make loans to individuals, partnerships, corporations, or other entities for*



*the financing of capital improvements to be used in connection with a trade or business if the principal purpose of improvement is energy conservation, to reduce the usage of conventional fuels as a source of energy, or to develop Minnesota's alternative energy resources as provided by the authority's rules.*

*Subd. 2. [BONDING AUTHORITY.] The authority may borrow money and may issue bonds, notes, or other obligations as evidence of the borrowing in accordance with sections 462A.08 to 462A.17, all with the force and effect stated and the incidental powers granted and duties imposed in those sections. The authority may sell any of its obligations at public or private sale, at the price or prices as the authority determines are appropriate, notwithstanding the limitations on sale price in section 462A.09.*

*Subd. 3. [LIMITATIONS ON OBLIGATIONS.] Neither the state nor any agency or political subdivision of the state shall be liable on bonds, notes, or other obligations issued by the authority. No bond, note, or other obligation of the authority shall constitute a debt or loan of the credit of the state or any political subdivision or any individual member of the authority.*

*Subd. 4. [ENERGY DEVELOPMENT FUND.] An energy development fund is created and is eligible to receive appropriations. The authority may irrevocably pledge and appropriate all or a segregated portion of the energy development fund to make principal and interest payments when due on all or one or more series of its obligations for which other funds are not available, pursuant to the terms and conditions the authority shall prescribe. Unless the energy development fund has been pledged and appropriated to secure the obligations, the energy development fund shall not be available to make principal or interest payments on the obligations.*

*Subd. 5. [LOAN PAYMENTS; FEES.] The authority may impose and collect interest and amortization payments on loans, may authorize the collection of fees and charges, and may require funds to be placed in escrow. The payments, fees, charges and amounts placed in escrow shall be sufficient to provide for the payment and security of the obligations issued and for their servicing, to provide for insurance against losses, and to cover the cost of issuance of the obligations and technical, consultative and other assistance services.*

*Subd. 6. [INVESTMENT INCOME.] All interest and profits accruing from investment of the reserve fund's moneys shall be credited to and be part of the reserve fund, and any loss incurred in the principal of the investment of the reserve fund shall be borne by the fund. The assets of the reserve fund shall be invested only in direct obligations or agencies of the United States or in insured depository accounts up to the amount of the insurance, in any institution insured by an agency of the United States government.*

*Subd. 7. [ADDITIONAL POWERS.] In addition to the powers specifically enumerated, the authority shall have any corporate powers necessary to effectuate or appropriate to the efficient implementation and operation of the revenue bond loan program authorized by this section, except to the extent explicitly limited by this section.*

*Subd. 8. [INVESTMENTS.] The authority may invest any funds not required for immediate disbursement in direct obligations of or obligations*

guaranteed as to principal and interest by the United States, or in insured savings accounts, up to the amount of the insurance, in any institution the accounts of which are insured by the federal savings and loan insurance corporation or in a savings or other account in a bank insured by the federal deposit insurance corporation or in time certificates of deposit issued by a bank insured by the federal deposit insurance corporation and maturing within one year or less. It may deposit funds in excess of the amount insured with security as provided in chapter 118. Notwithstanding the foregoing, it may invest and deposit funds in accounts established pursuant to resolutions or indentures securing its bonds or notes in the investments and deposit accounts or certificates, and with the security, as may be agreed to with the holders or a trustee for the holders.

Subd. 9. [FUNDING.] All proceeds of the authority's bonds, notes and other obligations, any amounts granted or appropriated to the authority to make, purchase, insure, or guarantee loans or for bond reserves, all income from the investment thereof and all revenues from loans, fees, and charges of the authority are annually appropriated to the authority to accomplish its corporate purposes and shall be expended, administered, and accounted for in accordance with the applicable provisions of all bond and note resolutions, indentures, and other instruments, contracts, and agreements of the authority.

Subd. 10. [LIABILITY.] Neither the state nor any other agency or political subdivision of the state shall be liable on any bond, note, or other obligation of the authority, and no bond, note, or other obligation of the authority shall constitute a debt or loan of credit of the state or any political subdivision.

Subd. 11. [LIMIT OF STATE ACTION.] The state pledges and agrees with all holders of obligations of the authority that it will not limit or alter the rights vested in the authority to fulfill their terms, and it will not in any way impair the rights or remedies of the holders, until all of the obligations and interest on them, with interest on any unpaid installments of interest and all costs and expenses in connection with any action or proceeding by or on behalf of the holders to enforce the payment and other provisions of the obligations, are fully met and discharged. The authority may include and recite this pledge and agreement of the state in any obligation or related document. This section does not affect the power of the state to supervise and control the authority or to discontinue its operation or alter its organization, programs, or activities or transfer its powers to a successor agency, but the action of the state must be consistent with this article and title to all property owned by the authority at the time of the state's action must remain or vest in the authority, its successor, or the state, as the case may be.

Subd. 12. [TAXES.] The property of the authority and its income and operation shall be exempt from all taxation by the state or any of its political subdivisions and all bonds and notes of the authority shall be exempt from all taxation by the state or any of its political subdivisions.

Subd. 13. [BONDS; TAX STATUS.] The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the authority, in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the authority issued pursuant to

*this article and the income from them and all the authority's fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received pledged to pay or secure the payment of the notes or bonds shall at all times be free and exempt from all state, city, county, or other taxation provided by the laws of the state, except for estate and gift taxes, taxes on transfers, and the Minnesota corporate franchise tax measured by income so long as the interest on federal bonds is included in the income by which the corporate franchise tax is measured.*

#### Sec. 10. [116L.42] [LOANS TO MUNICIPALITIES.]

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

*(a) "Municipality" means a statutory or home rule charter city, county, township, school district, or other political subdivision with ad valorem taxing authority.*

*(b) "Qualified improvements" means improvements to public land, buildings or other improvements undertaken by a municipality for the principal purpose of energy conservation or to reduce usage of conventional energy sources, as provided by rules adopted by the authority.*

*Subd. 2. [AUTHORITY TO MAKE LOANS.] The authority may make loans to municipalities to finance the acquisition or construction of qualified improvements, including interest costs incurred during the first three years after the loans are made.*

*Subd. 3. [APPLICATIONS.] Application for a loan to be made pursuant to this section shall be made by the municipality to the authority. The authority shall establish procedures, form, and the required contents of the applications.*

*Subd. 4. [MUNICIPAL OBLIGATION.] The authority shall not make a loan until it has entered into an agreement with the municipality providing that the municipality shall make payments equal to the principal and interest payments on the state bonds at the times transfers are required to be made pursuant to sections 16A.64 and 16A.65. The agreement shall obligate the municipality to levy an ad valorem property tax equal to the amounts necessary to make the payments. The amount required to be levied may be reduced by any other available amounts contained in a special fund dedicated to payment of the loan obligation.*

*Subd. 5. [RECEIPTS.] The principal and interest in repayment of the loans authorized by this section shall be deposited in the state treasury and credited to the state bond fund and are appropriated to the commissioner of finance for the purpose of that fund.*

#### POWERS AND DUTIES RELATING TO ECONOMIC DEVELOPMENT

Sec. 11. Minnesota Statutes 1982, section 116J.88, subdivision 4, is amended to read:

Subd. 4. [ELIGIBLE SMALL BUSINESS.] "*Eligible small business*" means an enterprise determined by the ~~agency~~ authority to constitute a small business concern as defined in regulations of the United States small business administration pursuant to ~~45 U. S. Code~~ *United States Code, title 15,*

sections 631 to 647, as in effect March 1, 1980, which is engaged in any industrial or commercial activity except:

- (a) banking or other financial service;
- (b) real estate brokerage, management, sale, ownership, or leasing;
- (c) legal, medical, dental, accounting, engineering, or any other professional or consulting service;
- (d) furnishing recreational or athletic facilities; and
- (e) serving food or beverages to be consumed on or adjacent to the premises where they are sold amended through December 31, 1982.

Sec. 12. Minnesota Statutes 1982, section 116J.88, subdivision 5, is amended to read:

Subd. 5. [TARGETED SMALL BUSINESS.] ~~“Eligible Targeted~~ small business” for the purpose of section 116J.90, subdivision 5, means a business entity organized for profit, including but not limited to any individual, partnership, corporation, joint venture, association or cooperative, which entity:

(a) has 20 or fewer full time employees or not more than the equivalent of \$1,000,000 in annual gross revenues in the preceding fiscal year; and

(b) is not at least 20 percent owned by a business dominant in its field of operation, or by partners, officers, directors, majority stockholders, or their equivalent, of a business dominant in its field of operation. For the purpose of this subdivision, “dominant in its field of operation” means having more than 20 full time employees and more than \$1,000,000 in annual gross revenues.

~~“Farm business” means a business entity “Targeted small business” includes a farm business engaged in farming, agricultural production or processing, or storage of agricultural products, which otherwise qualifies as a small business.~~

Sec. 13. Minnesota Statutes 1982, section 116J.88, subdivision 6, is amended to read:

Subd. 6. [FINANCIAL INSTITUTION.] “Financial institution” means ~~any~~ a bank or other financial corporation described in chapter 47, ~~any~~ an insurance company licensed to do business under chapter 60A, ~~and any~~ a securities broker-dealer licensed under chapter 80A, ~~and financial organizations relating to commercial credit or venture capital.~~

Sec. 14. Minnesota Statutes 1982, section 116J.88, subdivision 7, is amended to read:

Subd. 7. [BUSINESS LOAN.] “Business loan” means a loan, other than a pollution control loan, to the owner of a ~~an eligible~~ small business for the ~~interim or long term~~ financing of (a) capital expenditures for the acquisition or improvement of land, acquisition, construction, removal, or improvement of buildings, or acquisition and installation of fixtures and equipment useful for the conduct of the business; or (b) short-term costs of conducting ~~an eligible small business.~~

Subd. 7a. [FARM LOAN.] “Farm loan” means a loan to a farm business

for the acquisition, installation, improvement, construction or removal of buildings, or acquisition and installation of fixtures or equipment, useful for the conduct of a farm business.

Sec. 15. Minnesota Statutes 1982, section 116J.88, subdivision 8, is amended to read:

Subd. 8. [POLLUTION CONTROL LOAN.] "Pollution control loan" means a loan to ~~the owner of a~~ *an eligible* small business for the acquisition, construction, or improvement of pollution control facilities *or operations*. Pollution control facilities *or operations* may include real and personal property likely to help prevent, reduce, abate, or control noise, air, or water pollution or contamination by removing, altering, disposing, or storing pollutants, contaminants, wastes, or heat, and real and personal property to be used for the collection, storage, treatment, utilization, processing, or final disposal of solid or liquid waste.

Sec. 16. Minnesota Statutes 1982, section 116J.88, is amended by adding a subdivision to read:

Subd. 9. [FUND.] "*Fund*" means the Minnesota economic development fund.

Sec. 17. Minnesota Statutes 1982, section 116J.89, subdivision 1, is amended to read:

Subdivision 1. [~~CREATION ENERGY AND ECONOMIC DEVELOPMENT AUTHORITY; PURPOSES.~~] ~~A small business finance agency~~ *The energy and economic development authority is hereby created and is constituted as an* the authority to act on behalf of the state within the scope of the powers granted to it in sections ~~116J.63~~ 116J.62 and 116J.88 to 116J.91 to implement a ~~loan program~~ *financing programs* by which, in cooperation with cities, towns, counties, and private or public lenders, adequate funds may be provided on sufficiently favorable terms to assist and encourage the establishment, maintenance, and growth of *eligible* small ~~business~~ *businesses* in Minnesota and to reduce to a manageable level the cost of the control of pollution and disposal of waste resulting from the operations of small ~~business~~ *businesses*.

Because of its ability to pool or combine loans to be funded from one or more issues of bonds, ~~whether or not the interest on the bonds is exempt from federal income taxes,~~ the agency will be able to spread its financing costs among the *eligible* small businesses to which the agency makes loans, thereby reducing costs incurred by each *eligible* small business.

Sec. 18. Minnesota Statutes 1982, section 116J.89, subdivision 2, is amended to read:

Subd. 2. [PUBLIC PURPOSES.] Sections ~~116J.63~~ 116J.62 and 116J.88 to 116J.91 are enacted to promote the welfare and prosperity of the state by maintaining and increasing the career and job opportunities of its citizens; by reducing, controlling, and preventing environmental pollution and waste of resources; and by protecting and enhancing the tax base on which state and local governments depend for the financing of public services.

Sec. 19. Minnesota Statutes 1982, section 116J.89, subdivision 7, is amended to read:

Subd. 7. [TAXATION OF AGENCY NOTES AND BONDS.] The state covenants with the purchasers and all subsequent holders and transferees of notes and bonds issued by the agency in consideration of the acceptance of and payment for the notes and bonds, that the notes and bonds of the agency issued pursuant to sections 116J.88 to 116J.91 and the income therefrom and all its fees, charges, gifts, grants, revenues, receipts, and other moneys received or to be received, pledges to pay or secure the payment of such notes or bonds shall at all times be free and exempt from all state, city, county or other taxation provided by the laws of the state, except for estate and gift taxes and taxes on transfers, and except for the Minnesota corporate franchise tax measured by income, so long as the interest on federal bonds is included in the income by which such tax is measured.

Sec. 20. Minnesota Statutes 1982, section 116J.89, is amended by adding a subdivision to read:

*Subd. 1a. In addition, the energy and economic development authority may use the Minnesota economic development fund to provide financial assistance to eligible small businesses as follows:*

- (a) to provide loan guarantees to eligible small businesses;*
- (b) to invest directly and indirectly in eligible small businesses or to participate with other financial resources;*
- (c) to provide direct loans to eligible small businesses;*
- (d) to participate in other investment programs as appropriate under the terms of sections 1 to 34;*
- (e) to purchase loan packages made to eligible small businesses by financial institutions in the state;*
- (f) to enter into or to pay fees on insurance contracts, letters of credit, municipal bond insurance, surety bonds, or other agreements or contracts with financial institutions;*
- (g) to guarantee bonds and notes of the agency, the proceeds of which are used to make business loans;*
- (h) to create accounts within the fund for the separate purposes listed in this section and in section 2, and including without limitation the payment of the cost of issuing authority bonds and notes;*
- (i) to enter into contract with note and bond holders or other persons interested in the disposition of the fund; and*
- (j) for any legal purpose or program of the authority.*

Sec. 21. Minnesota Statutes 1982, section 116J.89, is amended by adding a subdivision to read:

*Subd. 1b. (a) The following eligible small businesses have preference among business applicants:*

- (1) businesses located in areas of the state that are experiencing the most severe unemployment rates in the state;*
- (2) eligible small businesses that are likely to expand and provide additional permanent employment;*

(3) *businesses located in border communities that experience a competitive disadvantage due to location;*

(4) *businesses that have been unable to obtain traditional financial assistance due to a disadvantageous location, minority ownership, or other factors rather than due to the business having been considered a poor financial risk;*

(5) *businesses that utilize state resources, thereby reducing state dependence on outside resources, and that produce products or services consistent with the long-term social and economic needs of the state; and*

(6) *businesses located in designated enterprise zones, as described in section 273.1312, subdivision 4.*

(b) *Direct equity or loan investments in particular businesses are not prohibited, but the division shall prefer indirect investment such as loan guarantees or the purchase of loan packages. Except in the issuance of authority bonds or notes, the authority may not invest the fund in a program that does not have financial participation from the private sector, as determined by the division.*

Sec. 22. Minnesota Statutes 1982, section 116J.89, is amended by adding a subdivision to read:

*Subd. 1c. [MINNESOTA ECONOMIC DEVELOPMENT FUND.] There is created the Minnesota economic development fund to be administered by the energy and economic development authority created in section 4. The fund consists of appropriations to the authority to effectuate the authority's purposes.*

Sec. 23. Minnesota Statutes 1982, section 116J.90, subdivision 2, is amended to read:

Subd. 2. The ~~agency~~ authority may make or purchase or participate with financial institutions in making or purchasing business loans not exceeding \$1,000,000 in principal amount; ~~to be serviced by such institutions; provided that:~~

(a) ~~The agency's share shall not exceed 90 percent of the total principal amount, and shall be payable with interest at the same times but not necessarily at the same interest rate as the share of the financial institution, and both shares shall be equally and ratably secured by a valid mortgage on or security interest in real or personal property or by any other security satisfactory to the agency to secure payment of the loan provided; that the agency's share may equal 100 percent of the total principal amount of the business loan if the financial institution participating in the making or purchasing of the business loan by servicing the loan, purchases 100 percent of the total amount of the bonds issued by the agency in connection with the loan;~~

(b) ~~The total principal amount shall not exceed 90 percent of the value of the property securing the loan, unless the amount in excess of 90 percent is:~~

(1) ~~Loaned from available funds which are not proceeds received directly from the sale of the agency's bonds or notes and are not restricted under the terms of any resolution or indenture securing bonds or notes; or~~

(2) ~~Insured or guaranteed by a federal agency or by a private insurer qualified~~

to write such insurance in the state, insuring a percentage of any claim for loss at least equal to that percentage of the value by which the loan exceeds 90 percent thereof;

(c) The value of the property securing the loan shall be certified by the participating financial institution, on the basis of such appraisals, bids, purchase orders, and engineers' certificates as the agency may require; provided that the value of items purchased and constructed from the proceeds of the loan shall not be deemed to exceed the contract price of purchase or construction;

(d) The agency shall not disburse funds under a commitment to participate in a loan for the construction or substantial improvement of property until the construction or improvement has been completed; unless a financial institution furnishes an irrevocable letter of credit or a qualified corporate surety furnishes payment and performance bonds, satisfactory to the agency and in an aggregate amount equal to the amount payable under the construction contract; and

(e) No other indebtedness may be secured by a mortgage on or security interest in property securing a business loan made or purchased pursuant to this subdivision without the prior express written authorization of the agency.

Sec. 24. Minnesota Statutes 1982, section 116J.90, subdivision 4, is amended to read:

Subd. 4. The agency authority may make pollution control loans which are fully secured by the guarantee or insurance of any agency or instrumentality of the United States or by a private insurer qualified to write the insurance in the state, or by reserves provided by the agency or any combination of the foregoing.

Sec. 25. Minnesota Statutes 1982, section 116J.90, subdivision 5, is amended to read:

Subd. 5. The agency authority shall make every effort to assure that at least 50 percent of the principal amount of the loans made or purchased by the agency authority in each fiscal year consists of loans with a principal amount of \$100,000 or less to eligible targeted small businesses as defined in section 116J.88, subdivision 4 5, and the financial management division shall provide technical assistance needed by eligible targeted small business owners businesses to complete applications and meet other requirements for those loans. The agency authority shall report to the legislature annually on or before October February 1 as to its compliance with the requirements of this subdivision during the preceding fiscal year. The inability of the authority to comply with this subdivision does not affect the validity of bonds and notes heretofore or hereafter issued.

Sec. 26. Minnesota Statutes 1982, section 116J.91, subdivision 1, is amended to read:

Subdivision 1. In implementing its corporate the purposes and the programs described in sections ~~116J.63~~ 116J.62 and 116J.88 to 116J.91, the agency authority shall have the powers and duties set forth in this section.

Sec. 27. Minnesota Statutes 1982, section 116J.91, subdivision 4, is amended to read:

Subd. 4. It may adopt, amend and repeal rules not inconsistent with the



provisions of sections ~~116J.63~~ 116J.62 and 116J.88 to 116J.91 as necessary to effectuate its corporate purposes.

Sec. 28. Minnesota Statutes 1982, section 116J.91, subdivision 10, is amended to read:

Subd. 10. It may consent, whenever it deems it necessary or desirable in the fulfillment of its corporate purpose, to the modification of the rate of interest, time of payment, or any installment of principal or interest, or any other term, of any mortgage loan, mortgage loan commitment, construction loan, temporary loan, a contract or agreement of any kind to which the agency is a party.

Sec. 29. Minnesota Statutes 1982, section 116J.91, subdivision 11, is amended to read:

Subd. 11. It may borrow money to carry out and effectuate its corporate purpose purposes and may issue its negotiable bonds or notes as evidence of any such borrowing in accordance with sections 462A.08 to 462A.13, 462A.16 and 462A.17, all with the force and effect stated and the incidental powers granted and duties imposed in those sections. *The authority may refund bonds and notes and may guarantee its bonds and notes with money from the economic development fund.* The aggregate principal amount of the agency's bonds and notes outstanding at any one time, excluding the amount satisfied and discharged by payment or provision for payment in accordance with their terms, and deducting amounts held in debt service reserve funds therefor and amounts used to make loans guaranteed or insured by an agency or instrumentality of the federal government or by a private insurer or guarantor authorized to do business in the state of Minnesota and acceptable to the authority, shall not exceed \$30,000,000 unless authorized by another law.

Sec. 30. Minnesota Statutes 1982, section 116J.91, subdivision 12, is amended to read:

Subd. 12. It may issue and sell bonds, notes, and other obligations payable solely from particular moneys, assets, or revenues derived from its programs notwithstanding section 462A.08, subdivision 3. Obligations issued to participate in making or purchasing business loans pursuant to section 116J.90, subdivision 2, shall be payable solely from revenues derived by the agency from repayments of such loans and from enforcement of the security therefor, or from a debt service reserve fund or funds, or from a general reserve fund or from a segregated portion thereof, irrevocably pledged and appropriated to pay principal and interest due, for which other funds are not available. A general reserve fund is hereby created and is eligible to receive direct appropriations from the state treasury or a transfer from the economic development fund as the authority may provide by resolution. The agency may irrevocably pledge and appropriate all or a segregated portion of the general reserve fund to pay principal and interest due on all or one or more series of its obligations for which other funds are not available, pursuant to the terms and conditions that the agency shall determine. Until so pledged and appropriated by the agency the general reserve fund shall not be available to pay principal and interest on the agency's obligations. ~~No obligations shall be issued to participate in making or purchasing business loans pursuant to section 116J.90, subdivision 2, unless the obligations are~~

secured at the time of issuance by a debt service reserve fund, a portion of the general reserve fund segregated to secure one or more series of bonds, or the portion of the general reserve fund not segregated to secure one or more series of bonds; and unless the amount then held or then deposited in the fund or segregated portion is at least equal to ten percent of the aggregate principal amount of all obligations secured by the fund or segregated portion thereof. The authority may at its option provide by resolution that obligations issued to participate in making or purchasing business loans be secured at the time of issuance in whole or in part by a debt service reserve fund or funds, a portion of the general reserve fund segregated to secure one or more series of bonds, or the portion of the general reserve fund not segregated to secure one or more series of bonds. The operation of the debt service reserve fund or funds and other relevant terms or provisions shall be determined by resolution of the authority.

Sec. 31. Minnesota Statutes 1982, section 116J.91, subdivision 14, is amended to read:

Subd. 14. It may establish and collect reasonable interest and amortization payments on loans, and in connection therewith may establish and collect or authorize the collection of reasonable fees and charges or require funds to be placed in escrow, sufficient to provide for the payment and security of its bonds, notes, commitments and other obligations and for the servicing thereof, to provide reasonable allowances for or insurance against losses which may be incurred and to cover the cost of issuance of obligations and technical, consultative, and project assistance services. ~~It shall require the payment of all processing, administrative and guarantee fees and the deposit in escrow of all funds required by the small business administration or other federal agency or instrumentality guaranteeing any loan and shall comply and enforce compliance with all terms and conditions of each guarantee, and the prompt filing of all claims which may arise thereunder.~~

Sec. 32. Minnesota Statutes 1982, section 116J.91, subdivision 16, is amended to read:

Subd. 16. It may provide general consultative and technical services to assist in financing small business facilities for which loans may be made ~~pursuant to section 116J.90.~~ It may enter into agreements or other transactions concerning the receipt or provision of those services.

Sec. 33. Minnesota Statutes 1982, section 116J.91, subdivision 19, is amended to read:

Subd. 19. ~~All~~ Proceeds of the ~~agency's~~ authority's bonds, notes, and other obligations; ~~any~~; amounts granted or appropriated to the agency for the making or purchase or the insurance or guaranty of loans or for bond reserves; ~~all~~; income from ~~their~~ investment; ~~money in the economic development fund~~; and all revenues from loans, fees, and charges of the ~~agency division~~ are annually appropriated to the agency for the accomplishment of its corporate purposes and shall be expended, administered, and accounted for in accordance with the applicable provisions of all bond and note resolutions, indentures, and other instruments, contracts, and agreements of the agency. Notwithstanding section 16A.28, these appropriations are available until expended.

Sec. 34. Minnesota Statutes 1982, section 116J.91, is amended by adding

a subdivision to read:

*Subd. 20. The authority may do all things necessary and proper to fulfill its purpose and the purposes of the economic development fund as provided in sections 22 to 35.*

#### Sec. 35. [APPROPRIATIONS.]

*There is appropriated from the general fund to the Minnesota economic development fund the total sum of \$30,000,000 for the biennium ending June 30, 1985, to hire staff, consultants, and other necessities of administration of the division and for the purposes provided in sections 1 to 33. The appropriation is deemed expended upon deposit in the Minnesota economic fund. There is appropriated from the general fund to the energy loan guarantee fund the sum of \$10,000,000 for the biennium ending June 30, 1985, for the purposes provided in this article. The appropriation is deemed expended upon deposit in the Minnesota energy loan guarantee fund. There is appropriated from the general fund to the commissioner of energy and economic development the sum of ..... for activities of the financial management division for the biennium ending June 30, 1985.*

### ARTICLE 4

#### HOUSING FINANCE AGENCY

Section 1. Minnesota Statutes 1982, section 462A.02, subdivision 10, is amended to read:

*Subd. 10. It is further declared that supplies of conventional energy resources are rapidly depleting in quantity and rising in price and that the burden of these occurrences falls heavily upon the citizens of Minnesota generally and persons of low and moderate income in particular. These conditions are adverse to the health, welfare, and safety of all of the citizens of this state. It is further declared that it is a public purpose to ensure the availability of financing to be used by low and moderate income people all citizens of the state, while giving preference to low and moderate income people, to ~~install~~ assist in the installation in their dwellings of reasonably priced energy conserving systems ~~using~~ including the use of alternative energy resources and equipment so that by the improvement of the energy efficiency of all housing, the adequacy of the total energy supply may be preserved for the benefit of all citizens.*

Sec. 2. Minnesota Statutes 1982, section 462A.05, is amended by adding a subdivision to read:

*Subd. 14b. It may agree to purchase, make, or otherwise participate in the making, and may enter into commitments for the purchase, making, or participating in the making, of loans to persons and families, without limitations relating to the maximum incomes of the borrowers, to assist in energy conservation rehabilitation measures for existing housing owned by those persons or families including, but not limited to: weatherstripping and caulking, chimney construction or improvement, furnace or space heater repair, cleaning or replacement, insulation, storm windows and doors, and structural or other directly related repairs essential for energy conservation. Loans shall be made only when the agency determines that financing is not otherwise available, in whole or in part, from private lenders upon equiva-*

*lent terms and conditions.*

Sec. 3. Minnesota Statutes 1982, section 462A.05, is amended by adding a subdivision to read:

*Subd. 22. The agency may participate in loans or establish a fund to insure loans, or portions of loans, which are made by any banking institution, savings and loan association, or other lender approved by the agency, organized under the laws of this or any other state or of the United States having an office in this state, to owners of renter occupied homes or apartments which do not comply with standards set forth in section 116J.27, subdivision 3, without limitations relating to the maximum incomes of the owners or tenants. The proceeds of the insured portion of the loan must be used to pay the costs of improvements, including all related structural and other improvements, which will reduce energy consumption.*

Sec. 4. [462A.072] [PROVISION OF FINANCIAL EXPERTISE TO OTHER AGENCIES.]

*Upon request of the commissioner of energy and economic development, the director shall provide financial management assistance to the energy authority. Reimbursement for these services shall be at a reasonable rate established by negotiation between the director and the commissioner of energy and economic development.*

Sec. 5. [462A.27] [RULES.]

*The agency may adopt temporary and permanent rules necessary for the efficient administration of sections 1 to 5. The rules authorized under this section may be adopted without complying with the administrative procedure act contained in chapter 14.*

Sec. 6. [COST CEILING AND COMPLEMENT.]

*The spending limit of the Minnesota housing finance agency for general administration is increased by \$350,000 for both fiscal years 1984 and 1985.*

*The authorized complement of the Minnesota housing finance agency is increased by three.*

Sec. 7. [APPROPRIATION.]

*The sum of \$5,000,000 is appropriated from the general fund to the housing development fund created in section 462A.20, for the purposes specified in section 462A.05, subdivision 14b, and for the payment of related costs and expenses.*

*The sum of \$5,000,000 is appropriated from the general fund to the housing development fund created in section 462A.20, for the purposes specified in section 462A.05, subdivision 22, and for the payment of related costs and expenses."*

Delete the title and insert:

*"A bill for an act relating to energy; providing for comprehensive energy programs; reorganizing the energy functions of state government; providing for energy related bonds; appropriating money; amending Minnesota Statutes 1982, sections 116C.03, subdivision 2; 116J.03, subdivision 1; 116J.09; 116J.10; 116J.88, subdivisions 4, 5, 6, 7, and 8, and by adding a*

subdivision; 116J.89, subdivisions 1, 2, and 7, and by adding subdivisions; 116J.90, subdivisions 2, 4, and 5; 116J.91, subdivisions 1, 4, 10, 11, 12, 14, 16, and 19, and by adding a subdivision; 462A.02, subdivision 10; 462A.05, by adding subdivisions; proposing new law coded in Minnesota Statutes, chapters 116J; 216A; and 462A; proposing new law coded as Minnesota Statutes, chapter 116L; repealing Minnesota Statutes 1982, sections 116J.62; 116J.88, subdivision 3; and 116J.89, subdivisions 8, 9, and 10.”

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

Mr. Chmielewski from the Committee on Employment, to which was referred

S.F. No. 6: A bill for an act relating to workers' compensation; creating a competitive state workers' compensation insurance fund; changing benefits; requiring notices of injury; providing for rules related to excessive health care services; providing for the release of medical data; providing for a panel to review clinical health care services provided to injured workers; regulating supplemental benefits; providing for benefit adjustments; providing for interest on delayed benefit payments; providing for a legislative commission to study various aspects of workers' compensation; defining terms; providing for continuance of certain insurance coverages; providing for deductible workers' compensation insurance policies; clarifying the responsibilities of governmental licensing and contracting agencies regarding workers' compensation insurance; amending Minnesota Statutes 1982, sections 62A.10, subdivision 1; 62C.14, by adding a subdivision; 62D.10, by adding a subdivision; 79.25, subdivision 1, and by adding a subdivision; 79.34, subdivision 2; 79.63, subdivisions 1, 2, and 4; 147.20; 176.011, subdivisions 3 and 9, and by adding a subdivision; 176.021, subdivisions 3 and 3a, and by adding a subdivision; 176.081, subdivisions 1, 2, 3, 4, and 6; 176.101, subdivisions 1, 2, and 3, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and 12, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 1, 18, and 21, and by adding subdivisions; 176.121; 176.131, subdivisions 1, 1a, 8, and 10; 176.132, subdivisions 1 and 2; 176.133; 176.135, subdivisions 1 and 1a; 176.136; 176.182; 176.221, subdivisions 2, 3, and 7; 176.225, subdivisions 1 and 5; 176.231, subdivision 10; 176.235, by adding a subdivision; 176.241, subdivision 4; 176.331; 176.391, subdivision 3; 176.591, subdivisions 1 and 3; 176.641; and 352E.04; amending Laws 1981, chapter 346, section 145; proposing new law coded in Minnesota Statutes, chapters 79 and 176; proposing new law coded as Minnesota Statutes, chapter 176A; repealing Minnesota Statutes 1982, sections 79.211, subdivision 1; 79.63, subdivision 3; 176.011, subdivisions 14 and 18; 176.061, subdivisions 8 and 9; 176.095; 176.101, subdivisions 4 and 5; 176.102, subdivision 1a; 176.105, subdivisions 1, 2 and 3; 176.152; 176.541, subdivisions 2, 3, 4, 5, 6, and 8; 176.551; 176.561; 176.571; 176.581; 176.603; and 176.611.

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

Delete everything after the enacting clause and insert:

## "ARTICLE 1

Section 1. Minnesota Statutes 1982, section 79.071, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written until January 1, ~~1986~~ 1984. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. In adopting a schedule of rates, the commissioner may act on the written petition of the association or any other interested party requesting that a hearing be held for modification of the schedule of rates. The commissioner may include the expense of a reasonable charge for the services of an agent of record, for the service of rejected risks as set forth in sections 79.24 to 79.27.

Sec. 2. Minnesota Statutes 1982, section 79.211, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 1982, section 79.34, subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.40 or any amendments thereto, sections 79.34 to 79.40 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. *As a condition of its authority to self-insure*

*workers' compensation liability, and for losses incurred on or after January 1, 1984, the state shall be a member of the reinsurance association and is bound by its plan of operation. The commissioner of labor and industry represents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The reinsurance association shall is not be deemed a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association shall are not be subject to chapter chapters 13, 14, and 15. The reinsurance association shall be is exempt from taxation under the laws of this state and all property owned by the association shall be is exempt from taxation. The reinsurance association shall is not be obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.*

Sec. 4. Minnesota Statutes 1982, section 79.34, subdivision 2, is amended to read:

Subd. 2. The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of \$300,000 or \$100,000 retention limit, at the option of the member. In case of occupational disease causing disablement on and after October 1, 1979, each person suffering such disablement shall be considered to be involved in a separate loss occurrence. The ~~lesser~~ lower retention limit shall be increased to the nearest \$10,000, on January 1, 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the ~~greater~~ higher retention limit shall be increased by the amount necessary to retain a \$200,000 difference between the two retention limits. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. *Any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association.* A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in excess of the higher retention limit in effect at the time the loss was incurred. Each member is liable for payment of its ultimate loss and shall be entitled to

indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

A member that chooses the higher retention limit shall retain the liability for all losses below the higher retention limit itself and shall not transfer the liability to any other entity or reinsure or otherwise contract for reimbursement or indemnification for losses below its retention limit, except in the following cases: (a) when the reinsurance or contract is with another member which, directly or indirectly, through one or more intermediaries, control or are controlled by or are under common control with the member; (b) when the reinsurance or contract provides for reimbursement or indemnification of a member if and only if the total of all claims which the member pays or incurs, but which are not reimbursable or subject to indemnification by the reinsurance association for a given period of time, exceeds a dollar value or percentage of premium written or earned and stated in the reinsurance agreement or contract; (c) when the reinsurance or contract is a pooling arrangement with other insurers where liability of the member to pay claims pursuant to chapter 176 is incidental to participation in the pool and not as a result of providing workers' compensation insurance to employers on a direct basis under chapter 176; (d) when the reinsurance or contract is limited to all the claims of a specific insured of a member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the insured of the member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the insured of a member is not inconsistent with the bases of exception provided under clauses (a), (b) and (c) above; or (e) when the reinsurance or contract is limited to all claims of a specific self-insurer member which are reimbursed or indemnified by a reinsurer which, directly or indirectly, through one or more intermediaries, controls or is controlled by or is under common control with the self-insurer member so long as any subsequent contract or reinsurance of the reinsurer relating to the claims of the self-insurer member are not inconsistent with the bases for exception provided under clauses (a), (b) and (c) above.

Whenever it appears to the commissioner that any member that chooses the higher retention limit has participated in the transfer of liability to any other entity or reinsured or otherwise contracted for reimbursement or indemnification of losses below its retention limit in a manner inconsistent with the bases for exception provided under clauses (a), (b), (c), (d), and (e), the commissioner may, after giving notice and an opportunity to be heard, order the member to pay to the state of Minnesota an amount not to exceed twice the difference between the reinsurance premium for the higher and lower retention limit applicable to the member for each year in which the prohibited reinsurance or contract was in effect. Any member subject to this penalty provision shall continue to be bound by its selection of the higher retention limit for purposes of membership in the reinsurance association.

Sec. 5. Minnesota Statutes 1982, section 79.34, is amended by adding a subdivision to read:

*Subd. 7. For losses incurred on or after January 1, 1984, the reinsurance association shall indemnify the member for the ultimate loss, in excess of the*



*retention limit in effect at the time of the loss occurrence, sustained in each loss occurrence relating to one or more claims arising out of a single compensable event in another state provided that:*

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

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

Sec. 6. Minnesota Statutes 1982, section 79.35, is amended to read:

**79.35 [DUTIES; RESPONSIBILITIES; POWERS.]**

The reinsurance association shall do the following on behalf of its members:

(a) Assume 100 percent of the liability as provided in section 79.34;

(b) Establish procedures by which members shall promptly report to the reinsurance association each claim which, on the basis of the injury sustained, may reasonably be anticipated to involve liability to the reinsurance association if the member is held liable under chapter 176. Solely for the purpose of reporting claims, the member shall in all instances consider itself legally liable for the injury. The member shall advise the reinsurance association of subsequent developments likely to materially affect the interest of the reinsurance association in the claim;

(c) Maintain relevant loss and expense data relative to all liabilities of the reinsurance association and require each member to furnish statistics in connection with liabilities of the reinsurance association at the times and in the form and detail as may be required by the plan of operation;

(d) Calculate and charge to members a total premium sufficient to cover the expected liability which the reinsurance association will incur in excess of the higher retention limit but less than the prefunded limit, together with incurred or estimated to be incurred operating and administrative expenses for the period to which this premium applies and actual claim payments to be made by members, during the period to which this premium applies, for claims in excess of the prefunded limit in effect at the time the loss was incurred. The prefunded limit shall be \$2,500,000 on and after October 1, 1979, provided that the prefunded limit shall be increased on January 1, 1983 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, to the nearest \$100,000, as determined in accordance with section 176.011, subdivision 20. Each member shall be charged a proportion of the total premium in an amount equal to its proportion of the ~~total standard earned premium~~ *exposure base* of all members during the period to which the reinsurance association premium will apply, ~~as determined by the commissioner.~~ *The exposure base shall be determined by the board and is subject to the approval of the commissioner. In determining the exposure base, the board shall consider, among other things, equity, administrative convenience, records maintained by members, amenability to audit, and degree of risk refinement.* Each member exercising the lower

retention option shall also be charged a premium established by the board as sufficient to cover incurred or estimated to be incurred claims for the liability the reinsurance association is likely to incur between the lower and higher retention limits for the period to which the premium applies. Each member shall also be charged a premium determined by the board to equitably distribute excess or deficient premiums from previous periods including any excess or deficient premiums resulting from a retroactive change in the prefunded limit. ~~An equitable basis for determining standard earned premium for self-insurers shall be established by the commissioner.~~ The premiums charged to members shall not be unfairly discriminatory as defined in section 79.074. All premiums shall be approved by the commissioner;

(e) Require and accept the payment of premiums from members of the reinsurance association;

(f) Receive and distribute all sums required by the operation of the reinsurance association;

(g) Establish procedures for reviewing claims procedures and practices of members of the reinsurance association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the reinsurance association, the reinsurance association may undertake, or may contract with another person, including another member, to adjust or assist in the adjustment of claims which create a potential liability to the association ~~and~~. *The reinsurance association may charge the cost of the adjustment under this paragraph to the member, except that any penalties or interest incurred under sections 176.183, 176.221, 176.225, and 176.82 as a result of actions by the reinsurance association after it has undertaken adjustment of the claim shall not be charged to the member but shall be included in the ultimate loss and listed as a separate item; and*

(h) Provide each member of the reinsurance association with an annual report of the operations of the reinsurance association in a form the board of directors may specify.

Sec. 7. Minnesota Statutes 1982, section 79.37, is amended to read:

79.37 [BOARD OF DIRECTORS.]

A board of directors of the reinsurance association is created and ~~shall be~~ *is* responsible for the operation of the reinsurance association consistent with the plan of operation and sections 79.34 to 79.42. The board ~~shall consist~~ *consists of* ~~nine~~ 13 directors and the ~~commissioner~~ *commissioners of insurance who shall be an ex officio member and labor and industry, both of whom are voting members*. Four members of the board shall represent insurers, ~~three~~ *six* members of the board shall represent employers, at least one, but not more than ~~two~~ *three*, of whom shall represent self-insurers, and ~~two~~ *three* members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner of insurance shall appoint the employer and employee directors, for the terms authorized in the plan of operation. Each board member ~~shall be~~ *is* entitled to one vote. Terms of the directors shall be staggered so that the terms of all the directors do not expire at the same time and so that a director does not serve a term of more than four years. The board shall select a chairman and other officers it deems appropriate.

A majority of the board ~~shall constitute~~ *constitutes* a quorum, notwithstanding any vacancies. Action may be taken by a majority vote of the directors present.

Sec. 8. Minnesota Statutes 1982, section 79.51, subdivision 2, is amended to read:

Subd. 2. [TRANSITION PERIOD; RULES GOVERN.] Insurance rates from July 1, 1983, to December 31, ~~1985~~ 1983, shall be determined in accordance with rules adopted by the commissioner. The rules shall require (1) that a hearing be held pursuant to the provisions of section 79.071 to consider any petition requesting modification of rates and (2) that following the hearing the commissioner shall adopt a schedule of rates.

Sec. 9. Minnesota Statutes 1982, section 79.51, subdivision 3, is amended to read:

Subd. 3. [RULES; SUBJECT MATTER.] (a) The commissioner in issuing rules shall consider:

(1) Data reporting requirements, including types of data reported, such as loss and expense data;

(2) Experience rating plans;

(3) Retrospective rating plans;

(4) General expenses and related expense provisions;

(5) Minimum premiums;

(6) Classification systems and assignment of risks to classifications;

(7) Loss development and trend factors;

(8) The workers' compensation reinsurance association;

(9) Restrictions, prohibitions, and requirements with respect to the activities of the workers' compensation insurers rating association of Minnesota during the period from July 1, 1983 to January 1, ~~1986~~ 1984;

(10) Requiring substantial compliance with the rules mandated by this section as a condition of workers' compensation carrier licensure;

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

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

(13) Any other factors that the commissioner deems relevant to achieve the purposes of chapter 79.

(b) The rules shall provide for the following:

(1) Competition in workers' compensation insurance rates in such a way that the advantages of competition are introduced with a minimum of employer hardship during the transition period;

(2) Adequate safeguards against excessive or discriminatory rates in workers' compensation during the transition period;

(3) Encouragement of workers' compensation insurance rates which are

as low as reasonably necessary, but shall make provision against inadequate rates, insolvencies and unpaid benefits;

(4) Assurances that employers are not unfairly relegated to the assigned risk pool;

(5) Requiring all appropriate data and other information from insurers for the purpose of issuing rules and making legislative recommendations pursuant to this section; and

(6) Preserving a framework for risk classification, data collection, and other appropriate joint insurer services where these will not impede the introduction of competition in premium rates.

(c) The rules shall expire on January 1, 1986 1984.

Sec. 10. Laws 1981, chapter 346, section 145, is amended to read:

Sec. 145. [REPEALER.]

Minnesota Statutes 1980, Sections 79.071, Subdivision 1; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15; 79.16; 79.17; 79.171; 79.18; 79.19; 79.20; 79.21; 79.22, Subdivision 1; 79.221; 79.23; 79.24; 79.25; 79.26; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33 are repealed effective July 1, 1983. Minnesota Statutes 1980, Sections 79.071, Subdivisions 2, 3, 4, 5, 6, and 7; 79.072; and 79.073 are repealed effective January 1, 1986 1984. Minnesota Statutes 1980, Sections 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2, are repealed.

Sec. 11. Minnesota Statutes 1982, section 79.52, is amended by adding a subdivision to read:

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

Sec. 12. Minnesota Statutes 1982, section 175.006, subdivision 1, is amended to read:

Subdivision 1. [CREATION AND ORGANIZATION.] The division of workers' compensation, generally administering the workers' compensation law, is created within the department of labor and industry. ~~There is created as a separate appellate tribunal for workers' compensation, the workers' compensation court of appeals.~~

~~The workers' compensation court of appeals shall be composed of five judges each serving in the unclassified service of the state civil service. Of the five judges, at least three shall be learned in the law. Each judge of the workers' compensation court of appeals shall be appointed by the governor, by and with the advice and consent of the senate, for a term of six years. The judges of the workers' compensation court of appeals as now created shall be the judges of the workers' compensation court of appeals until the expiration of the terms for which they have been appointed and qualified.~~

Sec. 13. Minnesota Statutes 1982, section 175.007, subdivision 1, is amended to read:

Subdivision 1. The commissioner shall appoint an advisory council on workers' compensation, which ~~shall consist~~ *consists* of five representatives of employers and five representatives of employees and ~~three~~ *five* nonvoting members representing the general public. The council may consult with ~~the judges of the workers' compensation court of appeals~~ *any party it so desires*. ~~The council shall expire and the terms,~~ *compensation* and removal of members shall be as provided in section 15.059. ~~The council is not subject to section 15.059, subdivision 5.~~

Sec. 14. Minnesota Statutes 1982, section 175.08, is amended to read:

175.08 [OFFICE.]

~~The workers' compensation court of appeals and the department of labor and industry shall maintain their~~ *its* ~~main offices~~ *office* within the Minneapolis-Saint Paul metropolitan area and be provided by the commissioner of administration with suitable rooms and necessary furniture. ~~The offices of the workers' compensation court of appeals and the department of labor and industry shall be in separate buildings. They~~ *It* may hold sessions at any other place in the state when ~~their convenience and that of the parties interested so requires it is convenient.~~

Sec. 15. Minnesota Statutes 1982, section 175.10, is amended to read:

175.10 [SESSIONS TO BE PUBLIC.]

The department of labor and industry shall be open for the transaction of business during all business hours of each and every day, excepting Saturdays, Sundays and legal holidays. The hearings of ~~the workers' compensation court of appeals and the workers' compensation division~~ shall be open to the public and may be adjourned from time to time. All the proceedings of ~~the workers' compensation court of appeals and the division~~ shall be shown on their records, which shall be public records.

Sec. 16. Minnesota Statutes 1982, section 175.101, subdivision 1, is amended to read:

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

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

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

(c) ~~separate and limit the functions and responsibilities of the existing workers' compensation court of appeals to those appropriate to an independent appellate reviewing body.~~

The commissioner of ~~the department of labor and industry~~ as head of the workers' compensation division is the administrator of the workers' compensation division. ~~He~~ *The commissioner* shall possess only ~~such~~ *the* powers and shall perform only ~~such~~ *the* duties as are specifically prescribed by law.

Sec. 17. Minnesota Statutes 1982, section 175.101, subdivision 2, is

amended to read:

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

Sec. 18. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

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

Sec. 19. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

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

Sec. 20. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

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

Sec. 21. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

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

Sec. 22. Minnesota Statutes 1982, section 176.012, is amended to read:

#### 176.012 [ELECTION OF COVERAGE.]

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

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

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

(c) A family farm corporation as defined in section 500.24, subdivision 2,

clause (c) may elect coverage for any executive officer.

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

*(e) Persons who are independent contractors as defined by rules adopted by the commissioner.*

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

Notice of election of coverage or of termination of election under this section shall be provided in writing to the insurer. Coverage or termination of coverage is effective the day following receipt of notice by the insurer or at a subsequent date if so indicated in the notice. The insurance policy shall be endorsed to indicate the names of those persons for whom coverage has been elected or terminated under this section. An election of coverage under this section shall continue in effect as long as a policy or renewal policy of the same insurer is in effect.

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

Sec. 23. Minnesota Statutes 1982, section 176.021, subdivision 3, is amended to read:

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

payment is for minimum permanent partial disability or final and eventual disability. ~~Compensation for permanent partial disability~~ After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to compensation for temporary total disability and temporary partial disability pursuant to section 176.101, subdivisions 1 and 2, as provided in subdivision 3a. ~~Compensation for permanent partial disability~~ Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101, subdivision 5, as provided in subdivision 3a. ~~Compensation for permanent partial disability~~ Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total and temporary partial disability but shall not be withheld pending payment of compensation for permanent total disability, and no credit shall be taken for payment of ~~permanent partial disability~~ economic recovery compensation or impairment compensation against liability for temporary total or permanent total disability. Liability on the part of an employer or ~~his~~ the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and shall be compensation is payable accordingly, subject to subdivision 3a section 176.101. ~~Permanent partial disability~~ Economic recovery compensation or impairment compensation is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to subdivision 3a section 176.101. The right to receive temporary total, temporary partial, ~~permanent partial~~ or permanent total disability payments shall vest vests in the injured employee or ~~his~~ the employee's dependents under this chapter or, if none, in ~~his~~ the employee's legal heirs at the time the disability can be ascertained and the right shall is not be abrogated by the employee's death prior to the making of the payment.

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

Sec. 24. Minnesota Statutes 1982, section 176.041, subdivision 1, is amended to read:

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



partners engaged in a business and the spouse, parent, and child, regardless of age, of any of the partners of the farm operation or business; an executive officer of a family farm corporation; an executive officer of a closely held corporation referred to in section 176.012; any spouse, parent, or child, regardless of age, of an executive officer of a family farm corporation as defined in section 500.24, subdivision 2, employed by that family farm corporation; any spouse, parent, or child, regardless of age, of an executive officer of a closely held corporation referred to in section 176.012; or other farmers or members of their families exchanging work with the farmer employer or family farm corporation operator in the same community, or persons whose employment at the time of the injury is casual, and not in the usual course of the trade, business, profession, or occupation of his employer; *persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83*; nor does it apply to officers or members of veteran's organizations whose employment relationship arises solely by virtue of attending meetings or conventions of their organization, unless the veteran's organizations elect by resolution to provide coverage under this chapter for the officers or members. Neither shall the chapter apply to any person employed as a household worker in, for, or about, a private home or household who earns less than \$500 in cash in any three month period from a single private home or household provided that any household worker who has earned \$500 or more from his present employer in any three month period within the previous year shall be covered by this chapter regardless of whether or not he has in the present quarter earned \$500. This chapter does not apply to those persons employed by a corporation where those persons are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to all of the officers of the corporation, and if the corporation files a written election with the commissioner of labor and industry to have those persons excluded from this chapter *except that a written election is not required for a person who is otherwise excluded from this chapter by this section*. This chapter does not apply to a nonprofit association which does not pay more than \$500 in salary or wages in a year.

Sec. 25. Minnesota Statutes 1982, section 176.061, is amended to read:

#### 176.061 [THIRD PARTY LIABILITY.]

Subdivision 1. [ELECTION OF REMEDIES.] Where an injury or death for which benefits are payable occurs under circumstances which create a legal liability for damages on the part of a party other than the employer and at the time of ~~such~~ the injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or ~~his~~ the employee's dependents, in case of death, may proceed either at law against that party to recover damages or against the employer for benefits, but not against both.

Subd. 2. [ACTION FOR RECOVERY OF DAMAGES.] If the employee, in case of injury, or ~~his~~ the employee's dependents, in case of death, brings an action for the recovery of damages, the amount thereof, the manner in which, and the persons to whom the same are payable, shall be as provided in this chapter. In no case shall ~~such~~ the party be liable to any person other than the employee or ~~his~~ the employee's dependents for any damages resulting from ~~such~~ the injury or death.

Subd. 3. [ELECTION TO RECEIVE BENEFITS FROM EMPLOYER; SUBROGATION.] If the employee or ~~his~~ *the employee's* dependents elect to receive benefits from the employer, or the special compensation fund, the employer, or the special compensation fund, *has a right of indemnity or is* subrogated to the right of the employee or ~~his~~ *the employee's* dependents to recover damages against the other party. The employer, or the attorney general on behalf of the special compensation fund, may bring legal proceedings against ~~such~~ *the* party and recover the aggregate amount of benefits payable to or on behalf of the employee or ~~his~~ *the employee's* dependents, together with costs, disbursements, and reasonable attorney's fees of the action.

If an action as provided in this chapter prosecuted by the employee, the employer, or the attorney general on behalf of the special compensation fund, against the third person, results in judgment against the third person, or settlement by the third person, the employer ~~shall have~~ *has* no liability to reimburse or hold the third person harmless on the judgment or settlement in absence of a written agreement to do so executed prior to the injury.

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

Subd. 5. [CUMULATIVE REMEDIES.] Where an injury or death for which benefits are payable is caused under circumstances which created a legal liability for damages on the part of a party other than the employer, that party being then insured or self-insured in accordance with this chapter, and the provisions of subdivisions 1, 2, 3, and 4 do not apply, or the party other than the employer is not then insured or self-insured as provided by this chapter, legal proceedings may be taken by the employee or ~~his~~ *the employee's* dependents in accordance with clause (a), or by his employer, or by the attorney general on behalf of the special compensation fund, in accordance with clause (b), against the other party to recover damages, notwithstanding the payment by the employer, or the special compensation fund or their liability to pay benefits.

(a) If an action against the other party is brought by the injured employee or ~~his~~ *the employee's* dependents and a judgment is obtained and paid or settlement is made with the other party, the employer or the special compensation fund may deduct from the benefits payable the amount actually received by the employee or dependents or paid on their behalf in accordance with subdivision 6. If the action is not diligently prosecuted or if the court deems it advisable in order to protect the interests of the employer, or the special compensation fund, upon application the court may grant the employer, or the special compensation fund, the right to intervene in ~~any~~ *such* the action for the prosecution ~~thereof~~ *of the action*. If the injured employee or ~~his~~ *the employee's* dependents or any party on their behalf receives benefits from the employer, or the special compensation fund, or institute proceedings to recover ~~the same~~ *benefits* or accept from the employer, or the special compensation fund, any payment on account of the benefits, the

employer, or the special compensation fund, is subrogated to the rights of the employee or ~~his the employee's dependents or has a right of indemnity against a third party.~~ This employer, or the attorney general on behalf of the special compensation fund, may maintain ~~an a separate~~ action or continue an action already instituted. This action may be maintained in the name of the employee or the names of the *employee's* dependents, or in the name of the employer or in the name of the attorney general on behalf of the special compensation fund against ~~such the~~ other party for the recovery of damages. If the action is not diligently prosecuted by the employer, or the attorney general on behalf of the special compensation fund, or the court deems it advisable in order to protect the interest of the employee, the court, upon application, may grant to the employee or ~~his the employee's dependents~~ the right to intervene in the action for the prosecution ~~thereof of the action.~~ The proceeds of ~~such the~~ action or settlement ~~thereof of the action~~ shall be paid in accordance with subdivision 6.

(b) If an employer, being then insured, sustains damages due to a change in workers' compensation insurance premiums, whether by a failure to achieve a decrease or by a retroactive or prospective increase, as a result of the injury or death of ~~his an~~ employee which was caused under circumstances which created a legal liability for damages on the part of a party other than the employer, the employer, notwithstanding other remedies provided, may maintain an action against the other party for recovery of ~~such the~~ premiums. This cause of action may be brought either by joining in an action described in clause (a) or by a separate action. Damages recovered under this clause ~~shall be~~ are for the benefit of the employer and the provisions of subdivision 6 ~~shall are not be~~ applicable to ~~such the~~ damages.

(c) The third party is not liable to any person other than the employee or ~~his the employee's dependents, or his the~~ employer, or the special compensation fund, for any damages resulting from the injury or death.

A co-employee working for the same employer is not liable for a personal injury incurred by another employee unless the injury resulted from the gross negligence of the co-employee or was intentionally inflicted by the co-employee.

Subd. 6. [COSTS, ATTORNEY FEES, EXPENSES.] The proceeds of all actions for damages or settlement ~~thereof of an action~~ under this section, except for damages received under subdivision 5, clause (b) received by the injured employee or ~~his the employee's dependents~~ or by the employer, or the special compensation fund, as provided by subdivision 5, shall be divided as follows:

(a) After deducting the reasonable cost of collection, including but not limited to attorneys fees and burial expense in excess of the statutory liability, then

(b) One-third of the remainder shall in any event be paid to the injured employee or ~~his the employee's dependents~~, without being subject to any right of subrogation.

(c) Out of the balance remaining, the employer, or the special compensation fund, shall be reimbursed in an amount equal to all benefits paid under this chapter to or on behalf of the employee or ~~his the employee's dependents~~

by the employer, or special compensation fund, less the product of the costs deducted under clause (a) divided by the total proceeds received by the employee or his dependents from the other party multiplied by all benefits paid by the employer, or the special compensation fund, to the employee or ~~his~~ the employee's dependents.

(d) Any balance remaining shall be paid to the employee or ~~his~~ the employee's dependents, and shall be a credit to employer, and the special compensation fund, for any benefits which employer is obligated to pay, but has not paid, and for any benefits that ~~such~~ the employer ~~shall be~~ is obligated to make in the future.

There shall be no reimbursement or credit to the employer, or the special compensation fund, for interest or penalties.

Subd. 7. [MEDICAL TREATMENT.] The liability of an employer, or the special compensation fund, for medical treatment *or payment of any other compensation* under this chapter ~~shall is not be~~ affected by the fact that ~~his~~ the employee was injured through the fault or negligence of a third party, against whom the employee may have a cause of action which may be sued under this chapter, but the employer, or the attorney general on behalf of the special compensation fund, ~~shall have~~ has a separate additional cause of action against ~~such~~ the third party to recover any amounts paid for medical treatment *or for other compensation payable* under this section resulting from the negligence of ~~such~~ the third party. This separate cause of action of the employer, or the attorney general on behalf of the special compensation fund, may be asserted in a separate action brought by the employer, or the attorney general on behalf of the special compensation fund, against ~~such~~ the third party or in the action commenced by the employee or the employer, or the attorney general on behalf of the special compensation fund, under this chapter, but in the latter case the cause of action shall be separately stated, the amount awarded thereon shall be separately set out in the verdict, and the amount recovered by suit or otherwise as reimbursement for medical expenses *or other compensation* shall be for the benefit of the employer, or the special compensation fund, to the extent that the employer, or the special compensation fund, has paid or will be required to pay *compensation* or for medical treatment of the injured employee and ~~shall~~ does not affect the amount of periodic compensation to be paid.

Subd. 8. [STATE AS EMPLOYER.] ~~In every case arising under subdivision 5 when the state is the employer and a settlement between the third party and the employee is made it is not valid unless prior notice thereof is given to the state within a reasonable time. If the state pays compensation to the employee under the provisions of this chapter and becomes subrogated to the rights of the employee or his dependents any settlement between the employee or his dependents and the third party is void as against the state's right of subrogation. When an action at law is instituted by an employee or his dependents against a third party for recovery of damages a copy of the complaint and notice of trial or note of issue in such action shall be served on the state. Any judgment rendered therein is subject to a lien of the state for the amount to which it is entitled to be subrogated under the provisions of subdivision 5.~~

Subd. 8a. [NOTICE TO EMPLOYER.] *In every case arising under subdivision 5, a settlement between the third party and the employee is not valid unless prior notice of the intention to settle is given to the employer within a reasonable time. If the employer or insurer pays compensation to the employee under the provisions of this chapter and becomes subrogated to the*

*right of the employee or the employee's dependents or has a right of indemnity, any settlement between the employee or the employee's dependents and the third party is void as against the employer's right of subrogation or indemnity. When an action at law is instituted by an employee or the employee's dependents against a third party for recovery of damages, a copy of the complaint and notice of trial or note of issue in the action shall be served on the employer or insurer. Any judgment rendered in the action is subject to a lien of the employer for the amount to which it is entitled to be subrogated or indemnified under the provisions of subdivision 5.*

Subd. 9. [SERVICE OF NOTICE ON ATTORNEY GENERAL.] In every case in which the state is liable to pay compensation or is subrogated to the rights of the employee or ~~his the employee's dependents or has a right of indemnity~~, all notices required to be given the state shall be served on the attorney general and the commissioner of the ~~department of labor and industry~~.

Subd. 10. [INDEMNITY.] *Notwithstanding the provisions of chapter 65B or any other law to the contrary, an employer has a right of indemnity for any compensation paid or payable pursuant to this chapter, including temporary total compensation, temporary partial compensation, permanent partial disability, economic recovery compensation, impairment compensation, medical compensation, rehabilitation, death, and permanent total compensation.*

Sec. 26. Minnesota Statutes 1982, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] In all cases of temporary partial disability the compensation shall be 66 2/3 percent of the difference between the ~~daily weekly~~ wage of the ~~worker~~ employee at the time of injury and the wage ~~he the employee~~ is able to earn in ~~his the employee's~~ partially disabled condition. This compensation shall be paid during the period of disability *except as provided in section 176.101*, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to the statewide average weekly wage. ~~If the employer does not furnish the worker with work which he can do in his temporary partially disabled condition and he is unable to procure such work with another employer, after reasonably diligent effort, the employee shall be paid at the full compensation rate for his or her temporary total disability.~~

Sec. 27. Minnesota Statutes 1982, section 176.101, subdivision 3, is amended to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] For permanent partial disability compensation shall be that named in the following schedule, subject to a maximum compensation equal to the statewide weekly wage:

(1) For the loss of a thumb, 66 2/3 percent of the daily wage at the time of injury during 65 weeks;

(2) For the loss of a first finger, commonly called index finger, 66 2/3 percent of the daily wage at the time of injury during 40 weeks;

(3) For the loss of a second finger, 66 2/3 percent of the daily wage at the time of injury during 35 weeks;

(4) For the loss of a third finger,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 25 weeks;

(5) For the loss of a fourth finger, commonly called the little finger,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 20 weeks;

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

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

(8) For the loss of a great toe,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 35 weeks;

(9) For the loss of a toe other than a great toe,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 15 weeks;

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

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

(12) For the loss of a hand, not including the wrist movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(13) For the loss of a hand, including wrist movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;

(14) For the loss of an arm,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 270 weeks;

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

(16) For the loss of a foot, not including ankle movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 140 weeks;

(17) For the loss of a foot, including ankle movement,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 165 weeks;

(18) For the loss of a leg, if enough of the leg remains to permit the use of an effective artificial member,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 195 weeks;

(19) For the loss of a leg so close to the hip that no effective artificial member can be used,  $66 \frac{2}{3}$  percent of the daily wage at the time of injury during 220 weeks;

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

equal to the loss of a leg;

(21) For the loss of an eye, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 160 weeks;

(22) For the complete permanent loss of hearing in one ear, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 85 weeks;

(23) For the complete permanent loss of hearing in both ears, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 170 weeks;

(24) For the loss of an eye and a leg, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(25) For the loss of an eye and an arm, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 475 weeks;

(26) For the loss of an eye and a hand, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 450 weeks;

(27) For the loss of an eye and a foot, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 400 weeks;

(28) For the loss of two arms, other than at the shoulder, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(29) For the loss of two hands, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(30) For the loss of two legs, other than so close to the hips that no effective artificial member can be used, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(31) For the loss of two feet, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(32) For the loss of one arm and the other hand, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(33) For the loss of one hand and one foot, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(34) For the loss of one leg and the other foot, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(35) For the loss of one leg and one hand, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(36) For the loss of one arm and one foot, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(37) For the loss of one arm and one leg, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(38) For loss of the voice mechanism, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury during 500 weeks;

(39) For head injuries, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury for that proportion of 500 weeks which is represented by its percentage of the permanent partial disability to the entire body as is determined from competent testimony at a hearing before a compensation judge or as

determined by the workers' compensation court of appeals in cases on appeal;

(40) For permanent partial disability resulting from injury to any internal organ until such time as the commissioner of labor and industry shall promulgate a schedule of internal organs and thereafter for internal organs covered by the schedule of internal organs established by the commissioner, 66 2/3 percent of the daily wage at time of injury for that proportion of 500 weeks, not to exceed 500 weeks, as determined by the commissioner, which is the proportionate amount of permanent partial disability caused to the entire body by the injury as is determined from competent testimony at a hearing before a compensation judge or the workers' compensation court of appeals;

(41) For disfigurement or scarring not resulting from the loss of a member or other injury specifically compensated, affecting the employability or advancement opportunity of the injured person in the employment in which he was injured or other employment for which the employee is then qualified or for which the employee has become qualified, 66 2/3 percent of the daily wage at the time of injury during the period the parties agree to or the compensation judge or the workers' compensation court of appeals in cases on appeal determines, not exceeding 90 weeks;

(42) For permanent partial disability resulting from injury to the back, 66 2/3 percent of the daily wage at the time of injury for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge, the commissioner, or the workers' compensation court of appeals;

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

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

In the event a worker has been awarded or is entitled to receive compensation for loss of use of a member under any workers' compensation law, and thereafter sustains loss of the member under circumstances entitling him to compensation therefor under this subdivision, the amount of compensation awarded, or that he is entitled to receive, for the loss of use, is to be deducted from the compensation due under the schedules of this section for the loss of the member, provided, that the amount of compensation due for the loss of the member caused by the subsequent accident is in no case less than 25 percent of the compensation payable under the schedule of this section for the loss of the member;

(45) In cases of permanent partial disability due to injury to a member,



resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

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

(47) The commissioner may make or revise rules for the determination of the extent of the impairment of the industrial use of one or both eyes taking into account all primary coordinate factors of vision. These rules shall be made or revised after consultation with experts on industrial vision and after public notice to and hearing of interested parties;

(48) For permanent partial disability resulting from injury to the body as a whole due to burns, 66  $\frac{2}{3}$  percent of the daily wage at the time of injury, for that proportion of 350 weeks which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge or as determined by the workers' compensation court of appeals in cases on appeal, the compensation to be paid in addition to the compensation as employee would otherwise be entitled to for loss of use of a member in accordance with this section;

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

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

Sec. 28. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

that percent.

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

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

Sec. 29. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

Percent of disability	Amount
0-25	\$ 75,000
26-30	80,000
31-35	85,000
36-40	90,000
41-45	95,000
46-50	100,000
51-55	120,000
56-60	140,000
61-65	160,000
66-70	180,000
71-75	200,000
76-80	240,000
81-85	280,000
86-90	320,000
91-95	360,000
96-100	400,000

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

Sec. 30. Minnesota Statutes 1982, section 176.101, is amended by adding

a subdivision to read:

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

Sec. 31. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

*Subd. 3d. [GENERAL.] An employee who has incurred a personal injury resulting in a permanent partial disability shall receive compensation as provided in this section.*

Sec. 32. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

*Subd. 3e. [END OF TEMPORARY TOTAL COMPENSATION.] (a) 90 days after an employee has reached maximum medical improvement or 90 days after the end of an approved retraining program, whichever is later, the employee's temporary total compensation shall cease. This cessation shall occur at an earlier date if otherwise provided by this section. If during this 90-day period the employer furnishes work to the employee that the employee can do in his or her physical condition and that job produces an economic status as close as possible to that the employee would have enjoyed without the disability, or the employer procures this employment with another employer, the employee shall receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation. Temporary total compensation and impairment compensation shall not be paid concurrently.*

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

*If the job offered is the same job that the employee held at the time of injury, the offer shall be in writing but need not recite the details in this clause.*

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

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

Sec. 33. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

*Temporary total compensation shall cease upon the employee's return to the job offered under subdivision 3e even if that return occurs prior to the end of the 90-day period specified in subdivision 3e. Once temporary total compensation ceases no further temporary total compensation is payable except as provided in subdivision 3i.*

Sec. 34. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

Sec. 35. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

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

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

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

Sec. 36. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

*Subd. 3i. [MEDICALLY UNABLE TO CONTINUE WORK.] (a) If the employee has started the job offered under subdivision 3e and is medically unable to continue at that job, that employee shall receive temporary total*

compensation pursuant to clause (b). In addition, the employer who was the employer at the time of the injury shall provide rehabilitation consultation by a qualified rehabilitation consultant. Further rehabilitation, if deemed appropriate, is governed by section 176.102.

(b) Temporary total compensation shall be paid for up to 90 days after the employee has reached maximum medical improvement or 90 days after the end of an approved retraining plan, whichever is later. The temporary total compensation shall cease at any time within the 90-day period that the employee begins work meeting the requirements of subdivision 3e. No further impairment or economic recovery compensation is payable to this employee if that compensation has previously been paid under this section, except as provided in subdivision 3s.

Sec. 37. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

*Subd. 3j. [UNEMPLOYMENT DUE TO SEASONAL CONDITION.] If an employee has started the job offered under subdivision 3e and is subsequently unemployed from that job because of the job's seasonal nature, the employee shall receive any unemployment compensation the employee is eligible for pursuant to chapter 268. The employee shall receive, in addition and concurrently, the amount that the employee was receiving for temporary partial disability at the time of the layoff. No further or additional compensation is payable under this chapter because of the seasonal layoff.*

Sec. 38. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

*Subd. 3k. [FAILURE TO ACCEPT JOB OFFER.] If the employee has been offered a job under subdivision 3e and has refused the offer, the impairment compensation shall not be paid in a lump sum but shall be paid in the same interval and amount that temporary total compensation was paid. Temporary total compensation shall cease upon the employee's refusal to accept the job offered and no further or additional temporary total compensation is payable. The payment of the periodic impairment compensation shall cease when the amount the employee is eligible to receive under subdivision 3b is reached, after which time the employee shall not receive additional impairment compensation or any other compensation under this chapter unless the employee has a greater permanent partial disability than already compensated for.*

Sec. 39. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

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

*Subd. 3m. [NO TEMPORARY PARTIAL COMPENSATION OR REHABILITATION IF JOB OFFER REFUSED.] An employee who has been of-*

*ferred a job under subdivision 3e and has refused that offer and who subsequently returns to work shall not receive temporary partial compensation pursuant to subdivision 2 if the job the employee returns to provides a wage less than the wage at the time of the injury. No rehabilitation shall be provided to this employee.*

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

*Subd. 3n. [INABILITY TO RETURN TO WORK.] (a) An employee who is permanently totally disabled pursuant to subdivision 5 shall receive impairment compensation pursuant to subdivision 3b. This compensation is payable in addition to permanent total compensation pursuant to subdivision 4 and is payable concurrently. In this case the impairment compensation shall be paid in the same intervals and amount as the permanent total compensation is paid, and the impairment compensation shall cease when the amount due under subdivision 3b is reached. If this employee returns to work at any job during the period the impairment compensation is being paid, the remaining impairment compensation due shall be paid in a lump sum 30 days after the employee has returned to work.*

*(b) If an employee is receiving or has received economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against permanent total compensation for the compensation paid. No further economic recovery compensation is payable even if the amount due the employee pursuant to subdivision 3a has not yet been reached.*

*(c) If the employee has or is receiving impairment compensation and is determined to be permanently totally disabled no credit shall be taken for the compensation received or if any of this compensation remains to be paid, it shall continue to be paid until exhausted, but no additional impairment compensation shall be paid.*

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

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

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

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

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

*Subd. 3p. [METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation is payable at the same intervals and in the same amount as temporary total compensation was*

*paid. If the employee returns to work and the economic recovery compensation is still being paid, the remaining economic recovery compensation due without further adjustments under section 176.645 shall be paid in a lump sum 30 days after the employee has returned to work.*

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

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

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

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

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

*(c) Payment of compensation under this subdivision shall cease prior to the end of the ten-year periods in this subdivision if the amount to which the employee is entitled to receive under subdivision 3, 3a, or 3b, is reached prior to the end of the ten-year period.*

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

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

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

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

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

sation would be payable if paid weekly.

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

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

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

*Subd. 3u. [ADMINISTRATIVE CONFERENCE.] The provisions of article 1, section 122 apply if there exists a dispute regarding maximum medical improvement or whether the job offered meets the criteria under subdivision 3e.*

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

*Subd. 4a. [PREEXISTING CONDITION OR DISABILITY; APPORTIONMENT.] (a) If a personal injury results in a disability which is attributable in part to a preexisting disability that arises from a congenital condition or is the result of a traumatic injury or incident, whether or not compensable under this chapter, the compensation payable for the permanent partial disability pursuant to subdivision 3 shall be reduced by the proportion of the disability which is attributable only to the preexisting disability. An apportionment of a permanent partial disability under this subdivision shall be made only if the preexisting disability is registered under section 176.131, or is clearly evidenced in a medical report or record made prior to the current personal injury. Evidence of registration or a copy of the medical report or record upon which apportionment is based shall be made available to the employee by the employer at the time compensation for the permanent partial disability is begun.*

*(b) The compensable portion of the permanent partial disability under this section shall be paid at the rate at which the entire disability would be compensated but for the apportionment.*

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

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

Sec. 51. Minnesota Statutes 1982, section 176.101, subdivision 6, is amended to read:

*Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which he the employee is entitled for said the injury the compensation rate for temporary total, temporary partial, ~~retrain-~~*



~~ing, a permanent partial or permanent total disability or economic recovery compensation shall be the larger of either the statewide average weekly wage or the employees weekly wage, but in no case shall the compensation exceed the maximum weekly compensation rate payable under this chapter.~~

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

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

Sec. 53. Minnesota Statutes 1982, section 176.102, subdivision 1, is amended to read:

*Subdivision 1. [SCOPE.] Vocational Rehabilitation shall train an is intended to restore the injured employee, through physical and vocational rehabilitation, so he the employee may be returned return to a job related to his the employee's former employment or to a job in another work area which produces an economic status as close as possible to that he the employee would have enjoyed without disability. Rehabilitation to a job with a higher economic status than would have occurred without disability is permitted if it can be demonstrated that this rehabilitation is necessary to increase the likelihood of reemployment. Economic status is to be measured not only by opportunity for immediate income but also by opportunity for future income.*

Sec. 54. Minnesota Statutes 1982, section 176.102, subdivision 2, is amended to read:

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

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

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

Sec. 55. Minnesota Statutes 1982, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner of labor and industry or his a designee, who shall serve as an ex officio member and two members each from labor, employers, insurers, vocational rehabilitation, and medicine and, one member representing chiropractors, four members representing employers and four members representing labor. The members shall be appointed by the governor commissioner and shall serve four year four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chairman. The panel shall ~~(a)~~ review and make a determination with respect to (a) appeals regarding eligibility for rehabilitation services, rehabilitation plans and rehabilitation benefits under subdivision 9; (b) ~~hold~~ appeals on any other rehabilitation issue the commissioner determines under this section; and (c) appeals regarding fee disputes, penalties, discipline, certification approval or revocation of certification approval hearings; ~~(e)~~ of registration of qualified rehabilitation consultants and approved vendors. The panel shall continuously study rehabilitation services and delivery and ~~(d)~~ develop and recommend rehabilitation rules as necessary to the commissioner of labor and industry. A majority vote of those attending a panel hearing under subdivision 6 shall constitute the decision of the board.

Sec. 56. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

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

Sec. 57. Minnesota Statutes 1982, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] Within 30 days of the time an employer or his insurer has medical information that an employee is unable due to a personal injury or occupational disease to return to his preinjury occupation the employer shall provide rehabilitation consultation for

the employee. The employee, however, has the final decision on which rehabilitation agency is to be utilized pursuant to the provisions of this section. The consultation shall be done by any person or public or private institution approved by the commissioner of labor and industry. If the consultant determines rehabilitation would significantly reduce or eliminate the decrease in employability, the employer or insurer in conjunction with the rehabilitation consultant shall submit a specific plan of rehabilitation to the commissioner. If the employer does not provide rehabilitation consultation, when required by this section, within the time specified by this subdivision, the commissioner of labor and industry shall notify the employer and insurer that should they fail to provide rehabilitation consultation within 15 days from the receipt of the commissioner's notice, the division of vocational rehabilitation shall be authorized to provide the rehabilitation consultation for the employee. If the employee refuses to submit to any reasonable examinations and evaluative procedures to determine the need for and the details of a plan of rehabilitation, the amount of compensation may be reduced or the right to compensation may be suspended by an order of the division or workers' compensation court of appeals in a matter before it. In developing a plan, consideration shall be given to the employee's age, education, previous work history, interests and skills.

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

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

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

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

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

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

required.

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

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

Sec. 58. Minnesota Statutes 1982, section 176.102, subdivision 5, is amended to read:

Subd. 5. [ON THE JOB TRAINING.] On the job training is to be given consideration in developing a rehabilitation plan especially where it would produce an economic status similar to that enjoyed prior to disability. When a rehabilitation plan includes on the job training, the employee shall receive compensation while employed in an amount equal to the after tax wage the employee received at the time of the personal injury. This compensation shall be paid in whole or in part by the insurer liable for compensation for the employee's personal injury. The amount of compensation to be paid by this insurer shall be determined in the rehabilitation plan prepared pursuant to this section. Any difference between the amount of compensation the insurer is paying and the after tax wage the employee received at the time of the personal injury shall be paid by the on the job employer, but in no case shall this employer's amount exceed the prevailing wage for the job. After tax wage shall be determined by subtracting federal and state income tax from the employee's gross wage.

A rehabilitation plan which includes on the job training shall attempt to create an incentive for an employer to hire the employee for on the job training. This incentive may be in the form of reducing the on the job training employer's wages paid to the employee to a level which is less than the prevailing wage for the job, provided that the total compensation from the insurer, required by this section, and the wages paid by the on the job training employer is not less than the after tax wage received by the employee at the time of the personal injury. The compensation from the insurer and the on the job training employer paid pursuant to this subdivision is in lieu of temporary total disability payments and the additional compensation provided in subdivision 11.

Sec. 59. Minnesota Statutes 1982, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner of labor and industry shall determine eligibility for rehabilitation services and shall review, approve, modify or reject rehabilitation plans developed under subdivision 4. The commissioner shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivision 9 to which an employee is entitled. Any persons aggrieved by A decision of the commissioner may appeal be appealed to the rehabilitation review panel within 30 days of the commissioner's decision. The

decision of the panel may be appealed to the workers' compensation court of appeals in the same manner as other matters appealed to the court. The panel may approve or reject the decision of the commissioner. If it rejects the commissioner's decision it may formulate its own rehabilitation plan.

Sec. 60. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

*Subd. 6a. [ELIGIBILITY DETERMINATION.] The commissioner has the sole authority under this chapter to determine eligibility for rehabilitation services under this section and to review, approve, modify, or reject rehabilitation plans and make other rehabilitation determinations pursuant to this chapter. These determinations shall not be made by a compensation judge but may be appealed to the rehabilitation review panel and workers' compensation court of appeals as provided by subdivision 6.*

Sec. 61. Minnesota Statutes 1982, section 176.102, subdivision 7, is amended to read:

*Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] Upon request by the commissioner, insurer or, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner of labor and industry, insurer and, employer or employee of an employee's progress under a plan.*

Sec. 62. Minnesota Statutes 1982, section 176.102, subdivision 8, is amended to read:

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

*(a) a physical impairment that does not allow the employee to pursue the vocation being trained for rehabilitation plan;*

*(b) the employee's performance level indicates he cannot complete the plan will not be successfully completed; or*

*(c) an employee does not cooperate with a plan.*

An employee may request a change in a rehabilitation plan once because he the employee feels he is not suited ill-suited for the type of work for which training rehabilitation is being provided if the request is made within 90 days of the start of the plan. Any decision of the commissioner regarding a change in a plan may be appealed to the rehabilitation review panel within 45 30 days of the decision.

Sec. 63. Minnesota Statutes 1982, section 176.102, subdivision 9, is amended to read:

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

*(a) Cost of vocational rehabilitation diagnosis evaluation and preparation of a plan;*

*(b) Cost of all rehabilitation services and supplies necessary for implementation of the plan;*

(c) Reasonable cost of tuition, books and travel; and, in addition, reasonable costs of board ~~and~~, lodging ~~and custodial daycare~~ when rehabilitation requires residence away from the employee's customary residence; ~~and~~

(d) *Reasonable costs of travel and custodial daycare during the job interview process;*

(e) *Reasonable cost for moving expenses of the employee and family if a job is found in a geographic area beyond reasonable commuting distance after a diligent search within the present community. Relocation shall not be paid more than once during any rehabilitation program, and relocation shall not be required if the new job is located within the same standard metropolitan statistical area as the employee's job at the time of injury; and*

~~(d)~~ (f) Any other expense agreed to be paid.

Sec. 64. Minnesota Statutes 1982, section 176.102, subdivision 10, is amended to read:

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

Sec. 65. Minnesota Statutes 1982, section 176.102, subdivision 11, is amended to read:

Subd. 11. [COMPENSATION DURING REHABILITATION RETRAINING.] ~~The insurer or employer shall pay up Retraining is limited to 156 weeks of compensation during rehabilitation under a plan in an amount equal to 125 percent of the employee's rate for temporary total disability. This payment is in lieu of payment for temporary total, temporary partial, or permanent total disability to which the employee might otherwise be entitled for this period under this chapter, but shall be considered to be the equivalent of temporary total disability for the purposes of section 176.132. If on the job training is part of the rehabilitation program, the weeks during which the insurer or employer pays compensation pursuant to subdivision 5 shall be subtracted from the 156 weeks of retraining compensation which has been paid, if any, pursuant to this subdivision. This subdivision shall not apply to retraining benefits for which liability has been established prior to July 1, 1979.~~

Sec. 66. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

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

Sec. 67. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 13. [DISCONTINUANCE.] *All benefits payable under chapter 176 may, after a determination and order by the commissioner, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commis-*

sioner 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 article 1, section 122.

Sec. 68. [176.103] [MEDICAL HEALTH CARE REVIEW.]

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

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

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

*Subd. 3. [MEDICAL SERVICES REVIEW BOARD; SELECTION; POWERS.] (a) There is created a medical services review board composed of the commissioner or the commissioner's designee, one person representing chiropractic and seven medical practitioners representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have one person representing employees, one person representing employers or insurers, and one person representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board shall appoint from among its members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members.*

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

*The clinical cost containment subcommittee shall review and recommend to the commissioner rates for individual clinical procedures and aggregate*

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

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

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

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

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

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

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

#### Sec. 69. [176.104] [REHABILITATION PRIOR TO DETERMINATION OF LIABILITY.]

Subdivision 1. [DISPUTE.] If there exists a dispute regarding whether an injury arose out of and in the course and scope of employment and an employee has been disabled for the requisite time under section 176.102, subdivision 4, prior to determination of liability, the employee shall be referred by the commissioner to the division of vocational rehabilitation which shall



*provide rehabilitation consultation and other rehabilitation services. The services provided by the division of vocational rehabilitation and the scope and term of the rehabilitation are governed by section 176.102 and rules adopted pursuant to that section. Rehabilitation costs and services under this subdivision shall be approved, rejected, or modified by the commissioner.*

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

*Sec. 70. Minnesota Statutes 1982, section 176.105, is amended by adding a subdivision to read:*

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

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

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

*The commissioner shall consider, among other factors, the following factors in developing rules for the evaluation and rating of functional disability and the schedule for permanent partial disability benefits:*

*(a) the workability and simplicity of the procedures with respect to the evaluation of functional disability;*

*(b) the consistency of the procedures with accepted medical standards;*

*(c) rules, guidelines, and schedules that exist in other states that are related to the evaluation of permanent partial disability or to a schedule of benefits for functional disability;*

*(d) rules, guidelines, and schedules that have been developed by profes-*

sional associations or organizations;

(e) the effect the rules may have on reducing litigation;

(f) the treatment of preexisting disabilities with respect to the evaluation of permanent functional disability provided that any preexisting disabilities must be objectively determined by medical evidence; and

(g) the employee's symptomatology and loss of function and use of the injured member.

Sec. 71. Minnesota Statutes 1982, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] (a) If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse; at the option of the spouse; either:

(1) A lump sum settlement equal to ten full years of compensation at 50 percent of the daily wage at the time of the injury of the deceased; computed without regard to section 176.645; or

(2) weekly workers' compensation benefits at 50 percent of the daily wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

(b) A dependent surviving spouse who has not accepted a lump sum settlement pursuant to clause (a)(1) and who remarries shall receive the lesser of either:

(1) A lump sum settlement equal to two full years of compensation at 50 percent of the daily wage at the time of the injury of the deceased; computed without regard to section 176.645; or

(2) The remaining weekly workers' compensation benefits pursuant to clause (a)(2) at 50 percent of the daily wage; including adjustments as provided in section 176.645.

Sec. 72. Minnesota Statutes 1982, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] (a) If the deceased employee leaves a surviving spouse and one dependent child, there shall be paid to the surviving spouse for the benefit of the spouse and child 60 percent of the daily wage at the time of the injury of the deceased until the child is no longer a dependent as defined in subdivision 1. At that time there shall be paid to the dependent surviving spouse; at the option of the spouse; either:

(1) A lump sum settlement equal to ten full years of compensation at a rate which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent; computed without regard to section 176.645; or

(2) weekly benefits at a rate which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, including adjustments as provided in section 176.645.

(b) A surviving spouse who remarries shall receive:

(1) Compensation, for the benefit of the dependent child, according to the allocation provided in subdivision 10, until the child is no longer a dependent as defined in subdivision 1; and

(2) A lump sum settlement, for the benefit of the surviving spouse, equal to two full years of weekly benefits in an amount which equals the difference between the benefit otherwise payable under clause (a) and the amount payable to the dependent child pursuant to clause (b)(1).

Sec. 73. Minnesota Statutes 1982, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] (a) If the deceased employee leaves a surviving spouse and two dependent children, there shall be paid to the surviving spouse for the benefit of the spouse and children 66 2/3 percent of the daily wage at the time of the injury of the deceased until the youngest dependent child is no longer dependent. At that time the dependent surviving spouse shall be paid, at the option of the spouse, either:

(1) A lump sum settlement equal to ten full years of compensation at a rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the last surviving child was a dependent, computed without regard to section 176.645; or

(2) weekly benefits at a rate which is 25 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a, while the surviving child was a dependent, for a period of ten years, adjusted according to section 176.645.

(b) A surviving spouse who remarries shall receive compensation, for the benefit of the children, allocated according to subdivision 10, until the youngest dependent child is no longer dependent as defined in subdivision 1 and, for the benefit of the surviving spouse, a lump sum settlement equal to two full years of weekly benefits in an amount which equals the difference between the benefit otherwise payable pursuant to clause (a) and the amount payable to the dependent children allocated according to subdivision 10, computed without regard to section 176.645.

Sec. 74. Minnesota Statutes 1982, section 176.111, is amended by adding a subdivision to read:

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

Sec. 75. Minnesota Statutes 1982, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount \$1,000 \$2,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, such its reasonable value shall be determined and approved by the commissioner of the department of labor and industry, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after such reasonable

notice to interested parties as is required by the commissioner of the ~~department of labor and industry~~. If the deceased leave no dependents, no compensation is payable, except as provided by this chapter.

Sec. 76. Minnesota Statutes 1982, section 176.121, is amended to read:

176.121 [COMMENCEMENT OF COMPENSATION.]

In cases of temporary total or temporary partial disability no compensation ~~shall be~~ is allowed for the three *calendar* days after the disability commenced, except as provided by section 176.135, nor in any case unless the employer has actual knowledge of the injury or is notified thereof within the period specified in section 176.141. If ~~such~~ the disability continues for 10 *calendar* days or longer, ~~such~~ the compensation ~~shall be~~ is computed from the commencement of the disability. *Disability is deemed to commence on the first calendar day or fraction of a calendar day that the employee is unable to work.*

Sec. 77. [176.129] [CREATION OF THE SPECIAL COMPENSATION FUND.]

*Subdivision 1. [DEPOSIT OF FUNDS.] The special compensation fund is created for the purposes provided for in this chapter. The state treasurer is the custodian of the special compensation fund. Sums paid to the commissioner pursuant to this section shall be deposited with the state treasurer for the benefit of the fund and used to pay the benefits under this chapter. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund.*

*Subd. 2. [PAYMENTS TO FUND, DEATH.] In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to monetary benefits of dependency compensation, the employer shall pay to the commissioner the sum of \$5,000 for the benefit of the special compensation fund. In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to at least \$5,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner for the benefit of the special compensation fund the difference between the amounts actually paid for the dependency benefits and \$5,000; but in no event shall the employer pay the commissioner less than \$1,000.*

*Subd. 3. [PAYMENTS TO FUND, INJURY.] If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation, medical or rehabilitative services under sections 176.101, 176.102, 176.111, or 176.135, the employer shall pay to the commissioner a lump sum amount determined by the commissioner pursuant to subdivision 4 without any interest deduction. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.*

*Subd. 4. [DETERMINATION OF AMOUNT OF PAYMENT.] The amount payable by the employer to the special compensation fund under subdivision*

3 shall be determined by the commissioner pursuant to article 1, section 147.

*Subd. 5. [TIME OF INJURY.] Subdivisions 2 and 3 apply to all workers' compensation payments paid under sections 176.101, 176.102, 176.111, or 176.135, for an injury or death occurring on or after the effective date of this section.*

*Payments made for personal injuries that occurred prior to the effective date of this section shall be assessed at the rate in effect on the date of payment.*

*Subd. 6. [PAYMENTS OUT OF FUND.] The workers' compensation division, a compensation judge, the workers' compensation court of appeals, or district court in cases before them shall direct the distribution of benefits provided by this chapter. These benefits are payable in the same manner as other payments of compensation.*

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

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

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

*(a) sue and be sued in its own name;*

*(b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;*

*(c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter; and*

*(d) take any other action which an insurer is permitted by law to take in operating within this chapter.*

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

*Subd. 11. [ADMINISTRATIVE PROVISIONS.] The accounting, investigation, and legal costs necessary for the administration of the programs financed by the special compensation fund shall be paid from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the special compensation fund shall be approved through the regular budget and appropriations process.*

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

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

Sec. 78. Minnesota Statutes 1982, section 176.131, subdivision 1, is amended to read:

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

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

Sec. 79. Minnesota Statutes 1982, section 176.131, subdivision 1a, is amended to read:

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

Sec. 80. Minnesota Statutes 1982, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury ~~shall result~~ *results* in disability or death, and if the injury, death, or disability would not have occurred except for the pre-existing physical impairment *registered with the special*

*compensation fund, the employer shall pay all compensation provided by this chapter, but and shall be reimbursed from the special compensation fund for such the compensation only where the permanent physical impairment contributing to the second injury is diabetes, hemophilia or seizures except that this reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clauses (t) or (u) unless the commissioner by rule provides otherwise.*

Sec. 81. Minnesota Statutes 1982, section 176.131, subdivision 3, is amended to read:

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

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

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

Sec. 82. Minnesota Statutes 1982, section 176.131, subdivision 4, is amended to read:

Subd. 4. Any employer who hires or retains in his its employment any person who has a physical impairment shall file a formal registration for each such the employee with the commissioner of the department of labor and industry in such on a form as prescribed by the commissioner may require.

Sec. 83. Minnesota Statutes 1982, section 176.131, subdivision 5, is amended to read:

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

(a) Registration shall be is accompanied by satisfactory evidence of such the physical impairment;

(b) Registration shall be is in effect as long as said the impairment exists;

(c) Upon request, a registered employee shall be furnished by the commissioner of the department of labor and industry with a registration card evidencing the fact of registration, and such other facts as the commissioner of the department of labor and industry deems advisable.

Sec. 84. Minnesota Statutes 1982, section 176.131, subdivision 6, is amended to read:

Subd. 6. When the employer claims reimbursement from the special compensation fund after paying compensation as prescribed by this section, he the employer shall file with the commissioner of the department of labor and industry written notice of intention to claim reimbursement in accordance with the rules and regulations of adopted by the commissioner of the department of labor and industry.

Sec. 85. Minnesota Statutes 1982, section 176.131, subdivision 7, is amended to read:

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

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

Sec. 86. Minnesota Statutes 1982, section 176.131, subdivision 8, is amended to read:

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

“Physical impairment” means any physical or mental condition that is permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment ~~provided except that;~~ physical impairment ~~as used herein~~ is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,
- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,
- (n) Thrombophlebitis,
- (o) Brain tumors,
- (p) Pott's disease,
- (q) Seizures,
- (r) Cancer of the bone,
- (s) Leukemia,

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



~~(p)~~ (u) Any other physical impairments of a permanent nature which the ~~workers' compensation court of appeals~~ commissioner may by rule prescribe;

"Compensation" has the meaning defined in section 176.011;

"Employer" includes insurer;

"Disability" means, unless otherwise indicated, any condition causing either temporary total, temporary partial, permanent total, permanent partial, death, medical expense, or ~~retraining~~ rehabilitation.

Sec. 87. Minnesota Statutes 1982, section 176.132, subdivision 1, is amended to read:

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

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

Sec. 88. Minnesota Statutes 1982, section 176.132, is amended by adding a subdivision to read:

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

Sec. 89. Minnesota Statutes 1982, section 176.134, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATION.] The commissioner ~~of labor and industry~~ shall administer the reopened case fund *as part of the special compensation fund provided that the reopened case fund is under separate accounting and audit procedures from the special fund.*

Sec. 90. Minnesota Statutes 1982, section 176.135, subdivision 1, is amended to read:

Subdivision 1. [MEDICAL, CHIROPRACTIC, PODIATRIC, SURGICAL, HOSPITAL.] The employer shall furnish ~~such~~ any medical, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any

time thereafter to cure and relieve from the effects of the injury. ~~Such~~ This treatment shall include treatments necessary to physical rehabilitation. The employer shall furnish replacement or repair for artificial members, glasses, or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. In case of his inability or refusal seasonably to do so the employer ~~shall be~~ is liable for the reasonable expense incurred by or on behalf of the employee in providing the same. The employer shall pay for the reasonable value of nursing services by a member of the employee's family in cases of permanent total disability. Orders of a ~~compensation judge~~ *the commissioner or medical services review board* with respect to this subdivision may be reviewed by the workers' compensation court of appeals on petition of an aggrieved party or by writ of certiorari to the supreme court.

Sec. 91. Minnesota Statutes 1982, section 176.135, subdivision 3, is amended to read:

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

Sec. 92. Minnesota Statutes 1982, section 176.136, is amended to read:

#### 176.136 [MEDICAL FEE REVIEW.]

The commissioner ~~of insurance~~ shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner ~~of insurance~~ shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner ~~of insurance~~ shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, to the 75th percentile of usual and customary fees or charges based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees. If the commissioner ~~of insurance, a compensation judge, medical services review board~~, the workers' compensation court of appeals or a district court determines that the charge for a health

service or medical service is excessive, no payment in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter; however, the commissioner of insurance shall by rule establish procedures allowing for a provider to appeal such determination. The commissioner of insurance shall contract with a review organization as defined in section 145.61 for the purposes listed in section 145.61, subdivision 5, and report to the legislature by January 15, 1983 and thereafter on January 15 of every odd-numbered year, regarding the delivery of medical and health care services, including rehabilitation services, under the workers' compensation laws of this state.

The commissioner of insurance shall also conduct a study of the qualifications and background of rehabilitation consultants and vendors providing services under section 176.102 for the purpose of determining whether there are adequate professional standards provided, including safeguards to protect against conflicts of interest. *If upon the effective date of this section this study has already been conducted by the commissioner of insurance, the commissioner is not required to conduct the study.*

The commissioner of insurance shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 14.14, subdivision 1, and any amendments, the temporary rules adopted by the commissioner of insurance pursuant to this subdivision may be extended for an additional 180 days if the procedures for adoption of a rule pursuant to sections 14.13 to 14.20 or 14.21 to 14.28, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

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

#### Sec. 93. [176.138] [MEDICAL DATA; ACCESS.]

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

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

*this section is guilty of a misdemeanor.*

Sec. 94. Minnesota Statutes 1982, section 176.155, subdivision 3, is amended to read:

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

Sec. 95. Minnesota Statutes 1982, section 176.155, subdivision 5, is amended to read:

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

Sec. 96. Minnesota Statutes 1982, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

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

suror. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a credit against future benefit entitlement; provided, however, that the credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits or death benefits shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 97. Minnesota Statutes 1982, section 176.182, is amended to read:

**176.182 [BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.]**

Every state or local licensing agency shall withhold the issuance of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

Neither the state nor any governmental subdivision thereof shall enter into any contract *for the doing of any public work* before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

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

Sec. 98. Minnesota Statutes 1982, section 176.183, subdivision 1, is amended to read:

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

Sec. 99. Minnesota Statutes 1982, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or ~~his~~ *the employee's* dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but ~~the self-insurer fails to be paid~~ *they pay the benefits*, the employee or ~~his~~ *the employee's* dependents, regardless of the date when the accident, personal injury, occupational dis-

ease, or death occurred, shall nevertheless receive ~~such the~~ benefits from the special compensation fund; and. The ~~state treasurer as custodian of such fund shall have~~ commissioner has a cause of action against ~~such the~~ self-insuring employer for reimbursement; for all ~~moneys~~ benefits and other expenditures paid out or to be paid out and, in the discretion of the court, as the self-insurer is liable for punitive damages in an ~~additional~~ amount not to exceed 50 percent of the total of all ~~moneys~~ benefits and other expenditures paid out or to be paid out. The commissioner shall institute an action to recover ~~such moneys shall be instituted~~ the total expenditures from the fund unless the ~~eustodian~~ commissioner determines that no recovery is possible. All ~~moneys~~ proceeds recovered shall be deposited in the general fund.

Sec. 100. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

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

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

Sec. 101. Minnesota Statutes 1982, section 176.183, is amended by adding a subdivision to read:

*Subd. 4. If the commissioner authorizes the special fund to commence payment under this section, the commissioner shall serve by certified mail notice upon the employer and other interested parties of the intention to commence payment. This notice shall be served at least ten calendar days before commencing payment and shall be mailed to the last known address of the parties. The notice shall include a statement that failure of the employer to respond within ten calendar days of the date of service will be deemed acceptance by the employer of the proposed action by the commissioner and will be deemed a waiver of defenses the employer has to a subrogation or indemnity action by the commissioner. At any time prior to final determination of liability, the employer may appear as a party and present defenses the employer has, whether or not an appearance by the employer has previously been made in the matter. The commissioner has a cause of action against the employer to recover compensation paid by the special fund under this section.*

Sec. 102. Minnesota Statutes 1982, section 176.185, is amended by adding a subdivision to read:

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

Sec. 103. [176.186] [RECORDS FROM OTHER STATE AGENCIES.] *Notwithstanding any other state law to the contrary, the commissioner may obtain from the department of revenue, department of economic security, and office of the secretary of state, or any other state agency, upon request, names or lists of employers doing business in the state. This information shall*

*be treated by the commissioner in the manner provided by chapter 13 and shall be used only for insurance verification by the commissioner.*

Sec. 104. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

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

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

Sec. 105. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

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

Sec. 106. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

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

Sec. 107. Minnesota Statutes 1982, section 176.191, is amended by adding a subdivision to read:

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

Sec. 108. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

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

Sec. 109. Minnesota Statutes 1982, section 176.195, subdivision 2, is amended to read:

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

Sec. 110. Minnesota Statutes 1982, section 176.195, is amended by adding a subdivision to read:

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

Sec. 111. Minnesota Statutes 1982, section 176.221, is amended to read:

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

*Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation due pursuant to section 176.101, subdivision 1, shall commence. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer may have on any claim or incident either with respect to the compensability of the claim under chapter 176 or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. When If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be discontinued terminated upon notice of discontinuance pursuant to section 176.241 the filing of a notice of denial of liability. Upon the determination termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.*

*Subd. 2. [GRANT OF EXTENSION.] Upon application made within 30*



days after the date on which the first payment was due of notice to or knowledge by the employer of the injury, the commissioner may grant an extension of time within which to determine liability. The extension shall not exceed 30 days from the date the request for extension is made. The application or grant of extension does not release the employer of the obligation to commence payment under subdivision 1 or to continue payments.

Subd. 3. [PAYMENTS TO SPECIAL COMPENSATION FUND.] Where an employer or insurer fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 pursuant to subdivision 1, or to file a denial of liability within the 14-day period referred to in subdivision 1, or to request an extension of time within 30 days after the date on which the first payment was due, he it shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled because of the injury. In addition, each day subsequent to the end of the period and until a to receive up to the date compensation payment is made to the injured employee, the person responsible for payment of compensation shall pay to the special compensation fund an amount equal to the total compensation to which the injured employee is entitled.

Subd. 4. [FAILURE TO MAKE PAYMENTS AFTER EXTENSION.] Where an employer or insurer has been granted an extension of time within which to determine liability and fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 or to file a denial of liability within such extended period, he shall make the payments provided in subdivision 3.

Subd. 5. [DOUBLE PAYMENTS TO SPECIAL COMPENSATION FUND.] Where an employer or insurer has failed to make the payments required by subdivision 3 or subdivision 4 within 30 days from the end of the period or the extended period, the division may require him to pay to the special compensation fund, each day subsequent to the end of the period and until a compensation payment is made to the injured employee, a sum equal to double the total amount of compensation to which the employee is entitled because of the injury. In addition, the person responsible for compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled.

Subd. 6. [ASSESSMENT OF PENALTIES.] The division or compensation judge shall assess the penalty payments provided for by subdivisions subdivision 3 to 5, and any increase in benefit payments provided by section 176.225, subdivision 5, against either the employer or the insurer depending upon to whom the delay is attributable in making payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9. The insurer is not liable for a penalty payment assessed against it even if the delay is attributable to the employer.

*An insurer who has paid a penalty under this section may recover from the employer the portion of the penalty attributable to the acts of the employer which resulted in the delay. This recovery may be sought before a compensation judge or hearing examiner, whomever the chief hearing examiner deems appropriate.*

Subd. 6a. [MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT COMPENSATION.] *The penalties provided by this section apply in cases where payment for treatment under section 176.135,*

*rehabilitation expenses under section 176.102, subdivision 9, economic recovery compensation or impairment compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.*

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

Subd. 8. [METHOD AND TIMELINESS OF PAYMENT.] Payment of compensation under this chapter shall be by immediately payable negotiable instrument, or if by any other method, arrangements shall be available to provide for the immediate negotiability of the payment instrument.

All payment of compensation shall be made within 14 days of *the filing of an appropriate order by the division or a compensation judge*, unless the order is ~~to be~~ *appealed*; or ~~where~~ *if a different time period is provided by this chapter.*

Sec. 112. Minnesota Statutes 1982, section 176.225, subdivision 1, is amended to read:

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

- (a) instituted a proceeding or interposed a defense which does not present a real controversy but which is frivolous or for the purpose of delay; or,
- (b) unreasonably or vexatiously delayed payment; or,
- (c) neglected or refused to pay compensation; or,
- (d) intentionally underpaid compensation.

Sec. 113. Minnesota Statutes 1982, section 176.225, subdivision 2, is amended to read:

Subd. 2. [EXAMINATION OF BOOKS AND RECORDS.] To determine whether an employer or insurer ~~has become subject to~~ *is liable for* the payment provided by subdivision 1, the division, *a compensation judge*, or the workers' compensation court of appeals upon appeal may examine the books and records of the ~~person~~ *employer or insurer* relating to the payment of compensation, and may require ~~him~~ *the employer or insurer* to furnish any other information relating to the payment of compensation.

Sec. 114. Minnesota Statutes 1982, section 176.225, subdivision 3, is amended to read:

Subd. 3. [DEFIANCE OF DIVISION, COMPENSATION JUDGE, OR WORKERS' COMPENSATION COURT OF APPEALS, COMPLAINT.] ~~Where~~ *If* an insurer persists in an action or omission listed in subdivision 1, or does not permit the examination of ~~his~~ *the* books and records, or fails to furnish ~~such~~ *the* information as required, the commissioner *or the chief hearing examiner* shall file a written complaint with the insurance commissioner.

The complaint shall specify the facts and recommend the revocation of the license of the insurer to do business in this state. The workers' compensation court of appeals may also file ~~such~~ a written complaint.

Sec. 115. Minnesota Statutes 1982, section 176.231, subdivision 3, is amended to read:

Subd. 3. [PHYSICIANS, CHIROPRACTORS, OR SURGEONS OTHER HEALTH CARE PROVIDERS TO REPORT INJURIES.] ~~Where~~ A physician ~~or surgeon, chiropractor, or other health care provider who~~ has examined, treated, or has special knowledge of an injury to an employee which may be compensable under this chapter, ~~he~~ shall report to the commissioner of the ~~department of labor and industry~~ all facts relating to the nature and extent of the injury and disability, ~~and the treatment provided for the injury or disability,~~ within ten days after ~~he~~ the health care provider has received a written request for ~~such~~ the information from the commissioner of the ~~department of labor and industry~~ or any member or employee thereof an authorized representative of the commissioner.

Sec. 116. Minnesota Statutes 1982, section 176.231, subdivision 4, is amended to read:

Subd. 4. [SUPPLEMENTARY REPORTS.] The commissioner of the ~~department of labor and industry,~~ or any member or employee thereof, an authorized representative may require the filing of ~~such~~ supplementary reports of accidents as ~~it deems~~ is deemed necessary to provide information required by law.

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

Sec. 117. Minnesota Statutes 1982, section 176.231, subdivision 5, is amended to read:

Subd. 5. [FORMS FOR REPORTS.] The commissioner of the ~~department of labor and industry~~ shall by rule prescribe forms for use in making the reports required by this section. The *first report of injury* form which the employer submits ~~with reference to an accident~~ shall include a declaration by the employer that he ~~will~~ of a promise to pay the compensation the law requires. *Forms for reports required by this section shall be as prescribed by the commissioner and shall be the only forms used by an employer, insurer, self-insurer, group self-insurer, and all health care providers.*

Sec. 118. Minnesota Statutes 1982, section 176.231, subdivision 9, is amended to read:

Subd. 9. [USES WHICH MAY BE MADE OF REPORTS.] Reports filed with the commissioner of the ~~department of labor and industry~~ under this section may be used in hearings held under this chapter, and for the purpose of state investigations and for statistics.

The division or office of administrative hearings or workers' compensation court of appeals may permit an attorney at law who represents an employer, insurer, or an employee or ~~his~~ a dependent to examine its file in a compensation case if the attorney furnishes written authorization to do so

from ~~his~~ the attorney's client. Reports filed under this section and other information the commissioner has regarding injuries or deaths shall be made available to the workers' compensation reinsurance association for use by the association in carrying out its responsibilities under chapter 79.

Sec. 119. Minnesota Statutes 1982, section 176.231, subdivision 10, is amended to read:

Subd. 10. [FAILURE TO FILE REQUIRED REPORT, PENALTY.] ~~Where~~ If an employer, physician, ~~or surgeon has failed~~ chiropractor, or other health provider fails to file with the commissioner of the department of labor and industry any report required by this section in the manner and within the time limitations prescribed, ~~he shall forfeit to the state \$50 or otherwise fails to provide a report required by this section in the manner provided by this section, the commissioner may impose a penalty of up to \$200 for each such failure.~~

The attorney general shall sue in a civil action to collect this penalty upon notification of the matter by the commissioner of the department of labor and industry. The commissioner of the department of labor and industry shall certify to the attorney general each failure to report immediately upon its occurrence.

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

Sec. 120. Minnesota Statutes 1982, section 176.241, subdivision 2, is amended to read:

Subd. 2. [CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.] Except ~~where~~ when the commissioner orders otherwise, until the copy of the notice and reports have been filed with the division, the liability of the employer to make payments of compensation continues.

When the division has received a copy of the notice of discontinuance, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended pending an investigation, hearing, and determination of the matter by the division ~~or compensation judge~~ as provided in the following subdivisions.

Sec. 121. Minnesota Statutes 1982, section 176.241, subdivision 4, is amended to read:

Subd. 4. [ORDER.] When the hearing has been held, and ~~he has~~ *duly considered* the evidence *duly considered*, the person who held the hearing shall promptly enter an order directing the payment of further compensation or confirming the termination of compensation. ~~Where~~ If the order confirms a termination of compensation, ~~the commissioner of labor and industry shall notify the employer of the action.~~ This notification *the service and filing of the order* relieves the employer from further liability for compensation subject to the right of review afforded by this chapter, and to the right of the ~~division~~ *compensation judge* to set aside the order at any time prior to the review and to grant a new hearing pursuant to this chapter. *Once an appeal to the workers' compensation court of appeals is filed, a compensation judge may not set aside the order but the court of appeals may remand the matter to a compensation judge for a new hearing.*

**Sec. 122. [176.242] [ADMINISTRATIVE CONFERENCE PRIOR TO DISCONTINUANCE OF COMPENSATION.]**

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

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

*(b) If the employee does not, in a timely manner, request that the commissioner schedule an administrative conference, or fails to appear at a scheduled conference unless a continuance is granted under clause (c), compensation may be discontinued, subject to the employee's right under section 176.241. This discontinuance shall occur when the commissioner notifies the employer or insurer of the employee's failure to request a conference or of the employee's failure to appear at a scheduled conference.*

*(c) An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner determines that a continuance is appropriate the commissioner may grant the continuance which shall not exceed ten calendar days. No more than one continuance shall be granted.*

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

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

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

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

sented by an attorney at a hearing before a compensation judge.

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

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

**Subd. 7. [DECISION AS NOTICE.]** *If a party proceeds under subdivision 5, the commissioner's administrative decision under this section is deemed required notice to interested parties under section 176.241 and the commissioner's obligations under section 176.241 are deemed to be met.*

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

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

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

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

**Sec. 123. [176.243] [ADMINISTRATIVE CONFERENCE FOLLOWING RETURN TO WORK, SUBSEQUENT INABILITY TO WORK.]**

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

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

**Subd. 3. [EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFER-**

ENCE.] *If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee, the employee may request an administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.*

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

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

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

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

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

*Subd. 9. [APPLICATION OF SECTION.] This section applies only when the employee has received at least 60 days of temporary total or temporary partial compensation prior to return to work.*

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

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

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

Sec. 124. Minnesota Statutes 1982, section 176.281, is amended to read:

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

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

Sec. 125. Minnesota Statutes 1982, section 176.285, is amended to read:

## 176.285 [SERVICE OF PAPERS AND NOTICES.]

Service of papers and notices shall be by mail or ~~by such other means otherwise as the commissioner of the department of labor and industry directs or the chief hearing examiner may by rule direct.~~ Where service is by mail, service is effected at the time mailed if properly addressed and stamped. If it is so mailed, it is presumed the paper or notice reached the party to be served. However, a party may show by competent evidence that ~~he that~~ party did not receive it or that it had been delayed in transit for an unusual or unreasonable period of time. In case of ~~such~~ non-receipt or delay, an allowance shall be made for the party's failure to assert a right within the prescribed time.

The commissioner of ~~the department of labor and industry and the chief hearing examiner shall keep a careful record of each service including the time when made ensure that proof of service of all papers and notices served by their respective agencies is placed in the official file of the case.~~

## Sec. 126. [176.312] [AFFIDAVIT OF PREJUDICE.]

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

Sec. 127. Minnesota Statutes 1982, section 176.321, subdivision 1, is amended to read:

Subdivision 1. [FILING, SERVICE.] Within ~~twenty~~ 20 days after he has been served with a copy service of the petition, an adverse party ~~may~~ shall serve and file a ~~verified~~ answer to the petition. ~~When he files the answer,~~ The party shall ~~also~~ serve a copy of the answer on the petitioner or his the petitioner's attorney.

~~Within five days after he has been served with a copy of the answer, the petitioner may file a verified reply admitting or denying new matter set forth in the answer.~~

Sec. 128. Minnesota Statutes 1982, section 176.331, is amended to read:

## 176.331 [AWARD BY DEFAULT.]

~~Where~~ If an adverse party has failed fails to file and serve an answer, if and



the petitioner presents proof of ~~such~~ *this* fact, the *commissioner* or compensation judge ~~shall may~~ enter whatever award or order to which *the* petitioner is entitled on the basis of the facts alleged in the petition, but the compensation judge may require proof of an alleged fact. If the commissioner requires ~~such~~ proof, ~~he~~ *the commissioner* shall request the chief hearing examiner to assign the matter to a compensation judge to ~~summarily hear and determine the same for an immediate hearing and to promptly make an prompt~~ award or other order.

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

Sec. 129. Minnesota Statutes 1982, section 176.341, is amended to read:

#### 176.341 [HEARING ON PETITION.]

Subdivision 1. [TIME.] ~~When the reply has been filed or the time has expired in which to file a reply~~ *Upon receipt of a matter from the commissioner, the chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held as soon as practicable and at a time and place determined by the chief hearing examiner to be the most convenient for the parties, keeping in mind the intent of chapter 176 as expressed in* ~~section 176.001 and the requirements of section 176.306.~~

Subd. 2. [PLACE.] Unless otherwise ordered by the ~~commissioner of the department of labor and industry or compensation judge~~ *chief hearing examiner*, the hearing shall be held in the county where the injury or death occurred.

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

Sec. 130. Minnesota Statutes 1982, section 176.361, is amended to read:

#### 176.361 [INTERVENTION.]

~~Where~~ A person *who* has an interest in any matter before the workers' compensation court of appeals, or commissioner, or compensation judge ~~of such a character that he the person may either gain or lose by an order or decision; he~~ may intervene in the proceeding by filing an application in writing stating the facts which show ~~such~~ *the* interest.

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

Sec. 131. Minnesota Statutes 1982, section 176.371, is amended to read:

#### 176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hear-

ing, shall hear all competent, relevant evidence produced at the hearing; ~~and, as soon after the hearing as possible, make findings of fact, conclusions of law.~~ All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner within 60 days after the submission, unless sickness or casualty prevents a timely filing, or the time is extended by written consent of the parties, or the chief hearing examiner extends the time for good cause. The compensation judge's decision shall include a determination of all contested issues of fact and law and an award or disallowance of compensation or other order as the pleadings, evidence, this chapter and rule require. A compensation judge's decision shall include a memorandum only if necessary to delineate the reasons for the decision or to discuss the credibility of witnesses. A memorandum shall not contain a recitation of the evidence presented at the hearing but shall be limited to the compensation judge's basis for the decision.

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

Sec. 132. Minnesota Statutes 1982, section 176.421, subdivision 3, is amended to read:

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

- (1) the order appealed from;
- (2) that appellant appeals from the order to the workers' compensation court of appeals;
- (3) the particular finding of fact or conclusion of law which ~~he~~ *the appellant* claims was unwarranted by the evidence or procured by fraud, coercion, or other improper conduct; *and*
- (4) ~~the testimony or other part of the record of the hearing necessary to be transcribed in order for the court of appeals to consider the appeal; and,~~
- (5) any other ground upon which the appeal is taken.

Sec. 133. Minnesota Statutes 1982, section 176.421, subdivision 4, is amended to read:

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

- (1) Serve a copy of the notice of appeal on each adverse party;
- (2) File the original notice, with proof of service by admission or affidavit, with the chief hearing examiner and file a copy with the commissioner;
- (3) In order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25; and
- (4) Submit a request that the chief hearing examiner order the preparation of a transcript of ~~that part of the hearing delineated in the notice of appeal.~~

A party who desires a transcript of more of the hearing than has been re-

~~quested by the appellant shall, within five working days of service of the notice of appeal, make a request of the chief hearing examiner that the additional testimony be transcribed.~~

~~The first party requesting the preparation of the transcript or any part to file an appeal is liable for the original cost of preparation of the transcript. Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy. The cost of a transcript prepared by a non-governmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.~~

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

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

Sec. 134. Minnesota Statutes 1982, section 176.421, subdivision 6, is amended to read:

Subd. 6. [POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.] On an appeal taken under this section, the workers' compensation court of ~~appeals~~ *appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:*

- (1) disregard the findings of fact which the compensation judge has made;
- (2) examine the record;
- (3) substitute for the findings of fact made by the compensation judge such findings as the total evidence requires; and,
- (4) make an award or disallowance of compensation or other order as the facts and findings require.

Sec. 135. Minnesota Statutes 1982, section 176.421, subdivision 7, is amended to read:

Subd. 7. [RECORD OF PROCEEDINGS.] At the division's own expense, the commissioner shall make a complete record of all proceedings before ~~himself~~ *the commissioner and shall provide a stenographer or an audio magnetic recording device to make a the record of the proceedings before him.*

The commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge ~~and shall fix the amount of this charge which shall be set by the commissioner.~~ *Upon a showing of cause, the commissioner may direct that a transcript be prepared without expense to the person requesting the transcript, in which case the*

*cost of the transcript shall be paid by the division. Transcript fees received under this subdivision shall be paid to the workers' compensation division account in the state treasury and shall be annually appropriated to the division for the sole purpose of providing a record and transcripts as provided in this subdivision.*

Sec. 136. Minnesota Statutes 1982, section 176.442, is amended to read:

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

*Any decision or determination of the commissioner of the department of labor and industry affecting a right, privilege, benefit, or duty which is imposed or conferred under this chapter is subject to review by the workers' compensation court of appeals. A person aggrieved by such the determination may appeal to the workers' compensation court of appeals by filing a notice of appeal with the commissioner in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals.*

Sec. 137. Minnesota Statutes 1982, section 176.461, is amended to read:

**176.461 [SETTING ASIDE AWARD.]**

*Except where when a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or where if as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five working days after written notice to all interested parties, may set the award aside and grant a new hearing and refer the matter for a determination on its merits to the chief hearing examiner for assignment to a compensation judge, who shall make such findings of fact, conclusions of law, and an order of award or disallowance of compensation or other order as based on the pleadings and the evidence produced and as required by the provisions of this chapter shall require or rules adopted under it.*

Sec. 138. Minnesota Statutes 1982, section 176.521, subdivision 2, is amended to read:

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

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

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

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

Sec. 139. Minnesota Statutes 1982, section 176.521, subdivision 2a, is amended to read:

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

Sec. 140. Minnesota Statutes 1982, section 176.521, subdivision 3, is amended to read:

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

Sec. 141. Minnesota Statutes 1982, section 176.561, is amended to read:

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

The division, a compensation judge and the workers' compensation court of appeals have the same powers and duties in matters relating to state employees as they have in relation to other employees.

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

Sec. 142. Minnesota Statutes 1982, section 176.571, subdivision 6, is amended to read:

Subd. 6. [FORMAL HEARING ON OBJECTIONS.] ~~If the commissioner of the department of labor and industry shall hold~~ *determines that a formal hearing on the objections which have been filed to the proposed order where the circumstances warrant such is warranted, the commissioner shall refer the matter to the chief hearing examiner for the assignment of a compensation judge who shall hold a hearing. The hearing shall be before a compensation judge.*

Sec. 143. Minnesota Statutes 1982, section 176.645, subdivision 1, is amended to read:

Subdivision 1. [AMOUNT.] For injuries occurring after October 1, 1975 for which benefits are payable under section 176.101, subdivisions 1, 2, 3a,

and 4, and section 176.111, subdivision 5, the total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, 1981, and thereafter on the anniversary of the date of the employee's injury the total benefits due shall be adjusted by multiplying the total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, of the year two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, of the year previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, 1977 or thereafter under this section shall exceed six percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be six percent.

Sec. 144. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

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

Sec. 145. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

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

Sec. 146. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

*Subd. 12. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease shall be 66-2/3 percent of the employee's weekly wage on the date of last exposure to the hazard of the occupational disease claimed, subject to a maximum compensation equal to the maximum compensation in effect on the date of injury as determined under subdivision 11.*

Sec. 147. [176.83] [RULES.]

*In addition to any other section under this chapter giving the commissioner the authority to adopt rules, the commissioner may adopt, amend, or repeal rules to implement the provisions of this chapter. The rules shall have the force and effect of law and are binding on a compensation judge, workers' compensation court of appeals, the rehabilitation review panel, and the medical services advisory board and shall include but not be limited to:*

(a) rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services including registration fees to be paid by rehabilitation consultants and approved vendors under section 176.102. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102. Registration fees set by the commissioner shall be set so that the total fees received approximate the amount appropriated for the function, plus the portion of general support costs and statewide indirect costs of the agency that is attributable to the function for which the fee is charged. Subsequent fee adjustments may be made without a public hearing when the total fees estimated to be received during the fiscal biennium will not exceed the sum of all direct appropriations, indirect costs, transfers in, and salary supplements for that purpose for the biennium;

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

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

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

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

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

A health or rehabilitation provider who is determined by the commissioner to be consistently performing procedures or providing services at an excessive level or cost may be prohibited from receiving any further reimbursement for procedures or services provided under chapter 176. A prohibition imposed on a provider under this clause may be grounds for revocation or

suspension of the provider's license or certificate of registration to provide health care or rehabilitation service in Minnesota by the appropriate licensing or certifying body.

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

(e) rules establishing procedures and standards for the certification of physicians, chiropractors, podiatrists, and other health care providers, including rules related to additional training and continuing education, in order to assure the coordination of treatment, rehabilitation, and other services and requirements of chapter 176 for carrying out the purposes and intent of this chapter;

(f) rules necessary for implementing and administering the provisions of sections 176.001, 176.131, 176.132, 176.134, article 1 of this act, sections 122 and 123; sections 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111;

(g) procedures required for the implementation and administration of article 1, section 77, including, but not limited to, determining the method by which an employer will be assessed for payments due under article 1, section 77, subdivision 3, and the amount of the assessment. In adopting the rule regarding the assessment, the commissioner shall consider among other things, the expenditures to be made from the fund in the next calendar year, the current fund balance, and future expenditure trends;

(h) rules establishing standards or criteria under which a physician, podiatrist, or chiropractor is selected or under which a change of physician, podiatrist, or chiropractor is allowed under section 176.135, subdivision 2;

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

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

(k) rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "suitable gainful employment" and "independent contractor";

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

(m) any other rules necessary to implement, administer, or clarify the intent of a provision of chapter 176 which are not inconsistent with the law.

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

The commissioner may adopt rules regarding requirements which must be met by individuals who are employed by insurers or self-insurers or claims



*servicing or adjusting agencies and who work as claims adjusters in the field of workers' compensation insurance.*

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

**Sec. 148. [176.84] [SPECIFICITY OF NOTICE OR STATEMENT.]**

*All notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102; article 1, section 68; 176.221; 176.241; article 1, sections 122 and 123, shall be sufficiently specific to convey clearly, without further inquiry, the basis upon which the party issuing the notice or statement is acting. If the commissioner or compensation judge determines that a notice or statement is not sufficiently specific to meet the standard under this section, the notice or statement may be rejected as unacceptable and the party issuing it shall be informed of this. The rejected notice or statement may be amended to meet the requirement of this section or a new one may be filed.*

**Sec. 149. [176.85] [PENALTIES; APPEALS.]**

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

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

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

*Subd. 2. [EXCEPTION.] This section does not apply to penalties for which another appeal procedure is provided, including but not limited to penalties imposed pursuant to section 176.102 or article 1, section 68.*

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

**Sec. 150. [176.86] [DISCRIMINATION AGAINST INJURED EMPLOYEE.]**

*It is unlawful for an employer to refuse to hire or to discharge an employee who has suffered a disability as a result of a personal injury unless the employee is physically or medically unable because of the injury to perform the employee's usual and customary job duties or there exists a reasonable probability that the employee will suffer a greater degree of disability if the employee performs those usual and customary job duties.*

*This section does not limit any provision in chapter 363.*

Sec. 151. Minnesota Statutes 1982, section 268.08, subdivision 3, is amended to read:

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

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

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

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

(4) 50 percent of the pension payments from any fund, annuity or insurance maintained or contributed to by a base period employer including the armed forces of the United States if the employee contributed to the fund, annuity or insurance and all of the pension payments if the employee did not contribute to the fund, annuity or insurance; or

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

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

Sec. 152. Minnesota Statutes 1982, section 471.982, subdivision 2, is amended to read:

Subd. 2. The commissioner of insurance is authorized to ~~promulgate~~ *adopt* administrative rules, including emergency rules pursuant to sections 14.01 to 14.70. These rules may provide standards or guidelines governing the formation, operation, administration, dissolution of self insurance pools, and other reasonable requirements to further the purpose of this section *and. In developing the rules under this section, the commissioner shall at a minimum require consider the following:*

(a) *The requirements for self-insuring pools of political subdivisions shall*

*be no more restrictive and may be less restrictive than the requirements for self-insuring pools of private employers;*

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

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

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

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

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

~~(f)~~ (g) Premiums shall ~~either be established by an actuary approved by the commissioner or shall be premiums filed by a licensed rate service organization with reductions permitted solely for administrative or premium tax savings neither excessive, inadequate, nor unfairly discriminatory;~~

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

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

~~(i)~~ (j) ~~Whether~~ limitations on the payment of dividends to pool members ~~may be established as~~ are necessary to assure the solvency of the pool ~~in view of the taxing and levying authority of political subdivisions;~~

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

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

~~(l)~~ (m) The investment policies of the pool shall be governed by the laws

governing investments by cities pursuant to section 475.66;

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

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

Sec. 153. Minnesota Statutes 1982, section 471.982, is amended by adding a subdivision to read:

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

Sec. 154. [CITY OF DULUTH; GROUP WORKER'S COMPENSATION SELF-INSURANCE POOLS.]

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

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

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

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

*(d) Investment of assets of the fund.*

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

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

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

*(h) Delineation of authority granted to the administrator.*

*(i) Delineation of authority granted to the service company.*

*(j) Basis for determining premium contributions by members including any experience rating program.*

*(k) Procedures for resolving disputes between members of the group, which shall not include submitting them to the commissioner.*

*(l) Basis for determining distribution of any surplus to the members, or assessing the membership to make up any deficit.*

*(m) Provisions for security to be furnished by private employers to insure*

assessments are paid in case of private employer insolvency.

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

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

**Sec. 155. [APPROPRIATIONS; COMPLEMENT INCREASE.]**

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

1984	1985
\$2,159,901	\$2,516,169

*The approved complement of the department of labor and industry is increased by 103 of which 3.8 shall be federally funded. The increased complement shall be allocated as follows:*

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

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

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

1984	1985
\$437,500	\$875,000

*The appropriation provided by this clause (b) is for the purpose of paying the state's premium to the workers' compensation reinsurance association.*

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

1984	1985
\$476,985	\$449,855

*The funds appropriated by this clause (c) are to be deposited in the special compensation fund to pay the expenses of the increased complement provided for the fund by clause (a) and expenses related to their duties.*

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

1984	1985
\$127,400	\$130,050

*The approved complement of the office of administrative hearings is increased by four. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expenses related to their duties.*

*Subd. 3. [INSURANCE DIVISION.] There is appropriated to the department of commerce for its insurance division for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984	1985
\$213,600	\$218,650

*The approved complement of the insurance division of the department of commerce is increased by seven. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expense related to their duties.*

*Subd. 4. [ATTORNEY GENERAL.] There is appropriated to the office of the attorney general for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:*

1984	1985
\$204,500	\$206,062

*The approved complement of the office of attorney general is increased by six. The appropriation provided by this subdivision is for the purpose of providing for the increased complement and expenses related to their duties.*

#### Sec. 156. [REPEALER.]

*Minnesota Statutes 1982, sections 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262 are repealed.*

#### Sec. 157. [SEVERABILITY.]

*If any provision of this act is found to be unconstitutional and void, the*

*remaining provisions of the act shall remain valid, unless the court finds the valid provisions of the act are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.*

Sec. 158. [EFFECTIVE DATE.]

*This article is effective \_\_\_\_\_*

ARTICLE 2

Section 1. [176A.01] [DEFINITIONS.]

*Subdivision 1. [APPLICATION.] For the purposes of sections 1 to 12, the terms defined in this section have the meanings given them.*

*Subd. 2. "Manager" means the manager of the state compensation insurance fund.*

*Subd. 3. "Fund" means the state compensation insurance fund.*

*Subd. 4. "Board" means the board of directors of the state compensation insurance fund.*

*Subd. 5. "Personal injury" or "injury" has the meaning given to it in section 176.011, subdivision 16.*

Sec. 2. [176A.02] [CREATION; PURPOSE; ORGANIZATION OF THE FUND.]

*Subdivision 1. [FUND CREATED.] The fund is created as a nonprofit independent public corporation for the purpose of insuring employers against liability for personal injuries for which their employees may be entitled to benefits under chapter 176.*

*Subd. 2. [BOARD OF DIRECTORS.] The board of directors consists of seven members and the commissioner of labor and industry who shall be an ex officio member. Each director shall hold office until a successor is appointed and qualifies. Each director shall represent a policyholder and may be an employee of a policyholder. A policyholder may designate a person to represent them on the board. The initial board of directors shall be appointed by the governor and shall consist of seven members, and the commissioner of labor and industry. Each member of the initial board shall be either an employer or employee. If the fund is operational and issuing policies upon the expiration of the terms of the initial board and thereafter, the governor shall appoint every other director until the governor has made four appointments. The remaining three directors shall be chosen by the fund's policyholders. In addition to the commissioner, no more than one member of the board shall be a representative of a governmental entity. At least two members of the board shall represent private, for profit, enterprises. No member of the board may represent or be an employee of an insurance company.*

*The membership terms shall be as provided in section 15.0575. The membership compensation shall be set by the board.*

*The board shall annually elect a chairman from among its members and*

*other officers it deems necessary for the performance of its duties.*

*Subd. 3. [FUND MANAGEMENT.] The management and control of the fund is vested solely in the board.*

*Subd. 4. [POWERS AND DUTIES OF THE BOARD.] The board is vested with full power, authority, and jurisdiction over the fund. The board may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by it under the provisions of this chapter, as fully and completely as the governing body of a private insurance carrier to fulfill the objectives and intent of this chapter.*

*Subd. 5. [MANAGER.] The fund is under the administrative control of the manager appointed by the board pursuant to section 5.*

*Subd. 6. [PERSONAL LIABILITY, EXCLUDED.] The members of the board and officers or employees of the fund are not liable personally, either jointly or severally, for any debt or obligation created or incurred by the fund.*

### **Sec. 3. [176A.03] [SPECIFIC POWERS OF THE FUND.]**

*Subdivision 1. [GENERAL.] For the purpose of carrying out its function the fund has the powers specified in this section.*

*Subd. 2. [INSURE WORKERS' COMPENSATION LIABILITY.] The fund may insure an employer against any workers' compensation claim arising out of and in the course of employment, as fully as any other insurer.*

*Subd. 3. [SELF-INSURED COVERAGE.] The fund may furnish advice, services, and employer liability insurance to any employer qualified as a self-insured employer.*

### **Sec. 4. [176A.04] [GENERAL POWERS.]**

*For the purpose of exercising the specific powers granted in this chapter and effectuating the other purposes of this chapter, the fund:*

- (a) may sue and be sued;*
- (b) may have a seal and alter it at will;*
- (c) may make, amend, and repeal rules relating to the conduct of the business of the fund;*
- (d) may enter into contracts relating to the administration of the fund;*
- (e) may rent, lease, buy, or sell property in its own name and may construct or repair buildings necessary to provide space for its operations;*
- (f) may declare a dividend when there is an excess of assets over liabilities, and minimum surplus requirements as consistent with chapter 60A;*
- (g) may pay medical expenses, rehabilitation expenses, compensation due claimants of insured employers, pay salaries, and pay administrative and other expenses;*
- (h) may hire personnel and set salaries and compensation; and*
- (i) may perform all other functions that are necessary or appropriate to*



*administer the fund.*

**Sec. 5. [176A.05] [MANAGER.]**

*Subdivision 1. [APPOINTMENT, QUALIFICATIONS.] The board shall appoint a manager of the fund who shall be in charge of the day-to-day operation of the fund. The manager shall have proven successful experience as an executive at the general management level. The manager shall receive compensation as set by the board and shall serve at the pleasure of the board.*

*Subd. 2. [BOND.] Before entering on the duties of the office, the manager shall qualify by giving an official bond in an amount and with sureties approved by the board. The manager shall file the bond with the secretary of state. The premium for the bond shall be paid by the fund from the account established in section 7.*

**Sec. 6. [176A.06] [MANAGER'S POWERS.]**

*Subdivision 1. [GENERAL.] Subject to the authority of the board and the provisions of this chapter the manager has the powers and duties prescribed in this section.*

*Subd. 2. [SAFETY INSPECTION.] The manager may make safety inspections of risks and furnish advisory services to employers on safety and health measures.*

*Subd. 3. [DISBURSEMENT OF FUNDS.] The manager may act for the fund in collecting and disbursing money necessary to administer the fund and conduct the business of the fund.*

*Subd. 4. [ABSTRACT SUMMARY.] The manager shall have an abstract summary of any audit or survey conducted.*

*Subd. 5. [GENERAL AUTHORITY.] The manager may perform all acts necessary or convenient in the exercise of any power, authority, or jurisdiction over the fund, either in the administration of the fund or in connection with the insurance business to be carried on by the fund under this chapter, including the establishment of premium rates.*

**Sec. 7. [176A.07] [ACCOUNT.]**

*Subdivision 1. [STATE COMPENSATION ACCOUNT.] There is created and established under the jurisdiction and control of the fund a revolving account known as the "state compensation account."*

*The manager shall deliver all money collected or received under this chapter to the account.*

*The money in the account may be used by the fund in carrying out its purpose under this chapter.*

*Subd. 2. [PROPERTY OF FUND.] All premiums and other money paid to the fund, all property and securities acquired through the use of money belonging to the fund, and all interest and dividends earned upon money belonging to the fund and deposited or invested by the fund, are the sole property of the fund and shall be used exclusively for the operation and obligations of the fund. The money of the fund is not state money. The property of the fund is not state property.*

*Subd. 3. [NO STATE APPROPRIATION.] The fund shall not receive any*

*state appropriation at any time other than as provided by section 10.*

**Sec. 8. [176A.08] [EXEMPTION FROM AND APPLICABILITY OF CERTAIN LAWS.]**

*The fund shall not be considered a state agency for any purpose including, but not limited to, chapters 13, 14, 15, 15A, and 43A. However, the fund shall be subject to sections 179.61 to 179.76. The insurance operations of the fund are subject to all of the provisions of chapters 60A and 60B. The commissioner of insurance has the same powers with respect to the board as the commissioner has with respect to a private workers' compensation insurer under chapters 60A and 60B. The fund is considered an insurer for the purposes of chapters 60C, 72A, 79, and 176. The fund is subject to the same tax liability as a mutual insurance company in this state pursuant to section 60A.15, subdivision 2. As a condition of its authority to transact business in this state the fund shall be a member of the workers' compensation reinsurance association and is bound by its plan of operation.*

**Sec. 9. [176A.09] [ANNUAL REPORT.]**

*The manager shall submit an annual report pursuant to section 3.195 to the governor and legislature indicating the business done by the fund during the previous year and containing a statement of the resources and liabilities of the fund.*

**Sec. 10. [176A.10] [APPROPRIATION.]**

*There is appropriated from the general fund to the state compensation insurance fund a sum of \$3,000,000 to be available until expended. This amount plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year.*

**Sec. 11. [IMPLEMENTATION.]**

*The members of the board of directors shall be appointed no later than September 1, 1983. The board shall act promptly to hire a manager, hire necessary employees, and acquire necessary facilities and supplies to begin operation. The fund shall begin providing workers' compensation insurance coverage when the board determines that the fund is able to do so and all requirements under state law have been met.*

**Sec. 12. [REPORT TO THE LEGISLATURE AND GOVERNOR.]**

*The commissioner of labor and industry shall, no later than March 1, 1986, report to the legislature and governor the operations of the fund up to that date. The report shall include but not be limited to:*

*(1) the volume of premiums insured through the state fund and its share of the state workers' compensation insurance market;*

*(2) the percent division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the state fund;*

*(3) the average rate of return enjoyed by the state fund on its invested assets;*

*(4) recommendations concerning desirable changes in the state fund to*

*promote its prompt and efficient administration of policies and claims;*

*(5) a recommendation to the legislature and governor regarding the continued operation of the fund; and*

*(6) any other information the commissioner deems appropriate.*

Sec. 13. [EFFECTIVE DATE.]

*This article is effective \_\_\_\_\_*

Delete the title and insert:

“A bill for an act relating to workers’ compensation; providing for comprehensive reform of all aspects of workers’ compensation; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 79.071, subdivision 1; 79.211, subdivision 1; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 2 and 3; 79.52, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, section 145; proposing new law coded in Minnesota Statutes, chapter 176; proposing new law coded as Minnesota Statutes, chapter 176A; repealing Minnesota Statutes 1982, sections 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262.”

And when so amended the bill do pass and be re-referred to the Committee on Finance. Amendments adopted. Report adopted.

#### REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the Frederick amendment to S.F. No. 6.

There were yeas 9 and nays 5, as follows:

Those who voted in the affirmative were:

Messrs. Chmielewski, Belanger, Mrs. Brataas, Messrs. Diessner, Frederick, Nelson, Pehler, Ramstad and Taylor.

Those who voted in the negative were:

Messrs. Dicklich; Frank; Kroening; Peterson, C.C. and Vega.

The amendment was adopted.

### REPORT OF VOTE IN COMMITTEE

Pursuant to Rule 60, upon the request of three members, a roll call was taken on the Taylor amendment to S.F. No. 6.

There were yeas 9 and nays 5, as follows:

Those who voted in the affirmative were:

Messrs. Chmielewski; Diessner; Dicklich; Frank; Kroening; Nelson; Pehler; Peterson, C.C. and Vega.

Those who voted in the negative were:

Mr. Belanger, Mrs. Brataas, Messrs. Frederick, Ramstad and Taylor.

The amendment was adopted.

### SECOND READING OF SENATE BILLS

S.F. Nos. 862 and 853 were read the second time.

### MOTIONS AND RESOLUTIONS

Mr. Freeman moved that H.F. No. 455, No. 92 on Special Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Mr. Luther moved that the Senate take up the Consent Calendar. The motion prevailed.

### CONSENT CALENDAR

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Novak	Samuelson
Anderson	Diessner	Kroening	Olson	Solon
Belanger	Frank	Kronebusch	Pehler	Spear
Benson	Frederick	Langseth	Peterson, C.C.	Storm
Berg	Frederickson	Lantry	Peterson, D.C.	Stumpf
Berglin	Freeman	Lessard	Peterson, D.L.	Taylor
Bernhagen	Hughes	Luther	Peterson, R.W.	Ulland
Bertram	Isackson	McQuaid	Petty	Vega
Brataas	Johnson, D.E.	Mehrkens	Pogemiller	Waldorf
Chmielewski	Jude	Merriam	Purfeerst	Wegscheid
Dahl	Kamrath	Moe, D. M.	Ramstad	Willet
Davis	Knaak	Nelson	Renneke	

So the bill passed and its title was agreed to.

## MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Luther moved that the Senate take up the Special Orders Calendar. The motion prevailed.

### SPECIAL ORDER

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

Mr. Vega moved to amend S.F. No. 812 as follows:

Page 2, line 3, strike "three" and insert "six"

The motion prevailed. So the amendment was adopted.

S.F. No. 812 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 57 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Pehler	Solon
Anderson	Frank	Kronebusch	Peterson, C.C.	Spear
Belanger	Frederick	Laidig	Peterson, D.C.	Storm
Benson	Frederickson	Langseth	Peterson, D.L.	Stumpf
Berg	Freeman	Lantry	Peterson, R.W.	Taylor
Berglin	Hughes	Lessard	Petty	Ulland
Bernhagen	Isackson	Luther	Pogemiller	Vega
Bertram	Johnson, D.E.	McQuaid	Purfeerst	Wegscheid
Brataas	Jude	Mehrkins	Ramstad	Willet
Dahl	Kamrath	Moe, D. M.	Reichgott	
Davis	Knaak	Nelson	Renneke	
DeCramer	Knutson	Olson	Sieloff	

Mr. Merriam voted in the negative.

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

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

Mr. Merriam moved to amend S.F. No. 985 as follows:

Page 2, line 2, reinstate the stricken language

Page 2, lines 2 to 4, delete the new language

Page 2, after line 4, insert:

"Sec. 3. Minnesota Statutes 1982, section 100.29, is amended by adding a subdivision to read:

*Subd. 9a. Between the hours of 10:00 p.m. and 6:00 a.m. from September 1 to December 31, it is unlawful to cast the rays of a spotlight, headlight or other artificial light in any field, woodland or forest for the purpose of spotting, locating or taking any wild animal except for observing bear at waste disposal sites, or taking raccoons in accordance with the provisions of subdivision 10.*

*It is not a violation of this subdivision for any person to carry out any agricultural, occupational or recreational practice, including snowmobiling, which is not related to spotting, locating or taking any wild animal."*

Amend the title as follows:

Page 1, line 7, before the period, insert " , and by adding a subdivision"

Mr. Willet moved to amend the Merriam amendment to S.F. No. 985 as follows:

Page 1, lines 11 and 12, delete "*observing bear at waste disposal sites, or*"

The motion prevailed. So the amendment to the Merriam amendment was adopted.

Mr. Kamrath moved to amend the Merriam amendment to S.F. No. 985 as follows:

Page 1, line 7, delete "*the hours of 10:00 p.m. and 6:00 a.m.*" and insert "*sunset and sunrise*"

The motion did not prevail. So the amendment to the Merriam amendment was not adopted.

The question recurred on the Merriam amendment, as amended.

The motion prevailed. So the amendment, as amended, was adopted.

S.F. No. 985 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 58 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kronebusch	Pehler	Sietloff
Belanger	Diessner	Laidig	Peterson, C.C.	Solon
Benson	Frank	Langseth	Peterson, D.C.	Spear
Berg	Frederick	Lantry	Peterson, D.L.	Storm
Berglin	Frederickson	Lessard	Peterson, R.W.	Taylor
Bernhagen	Freeman	Luther	Petty	Ulland
Bertram	Hughes	McQuaid	Purfeerst	Vega
Brataas	Johnson, D.E.	Mehrkens	Ramstad	Waldorf
Chmielewski	Jude	Merriam	Reichgott	Wegscheid
Dahl	Kamrath	Moe, R. D.	Renneke	Willet
Davis	Knutson	Novak	Samuelson	
DeCramer	Kroening	Olson	Schmitz	

Messrs. Anderson, Isackson, Knaak and Stumpf voted in the negative.

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 904: A bill for an act relating to transportation; establishing

collective rate-making procedure for motor vehicle carriers; proposing new law coded in Minnesota Statutes, chapter 221.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Olson	Schmitz
Anderson	Diessner	Kroening	Pehler	Sieloff
Belanger	Frank	Kronebusch	Peterson, C. C.	Solon
Benson	Frederick	Laidig	Peterson, D. C.	Spear
Berg	Frederickson	Lantry	Peterson, D. L.	Storm
Berglin	Freeman	Luther	Peterson, R. W.	Stumpf
Bernhagen	Hughes	McQuaid	Petty	Taylor
Bertram	Isackson	Mehrkens	Purfeerst	Ulland
Brataas	Johnson, D. E.	Merriam	Ramstad	Waldorf
Chmielewski	Jude	Moe, D. M.	Reichgott	Wegscheid
Dahl	Kamrath	Moe, R. D.	Renneke	Willet
Davis	Knaak	Novak	Samuelson	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Knaak	Novak	Schmitz
Anderson	Dicklich	Knutson	Olson	Sieloff
Belanger	Diessner	Kroening	Pehler	Solon
Benson	Frank	Kronebusch	Peterson, C. C.	Spear
Berg	Frederick	Laidig	Peterson, D. L.	Storm
Berglin	Frederickson	Langseth	Peterson, R. W.	Stumpf
Bernhagen	Freeman	Lantry	Petty	Taylor
Bertram	Hughes	Lessard	Purfeerst	Ulland
Brataas	Isackson	Luther	Ramstad	Waldorf
Chmielewski	Johnson, D. E.	McQuaid	Reichgott	Wegscheid
Dahl	Jude	Merriam	Renneke	Willet
Davis	Kamrath	Moe, D. M.	Samuelson	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Knutson	Olson	Schmitz
Anderson	Dicklich	Kroening	Pehler	Sieloff
Belanger	Diessner	Kronebusch	Peterson, C. C.	Solon
Benson	Frank	Laidig	Peterson, D. C.	Spear
Berg	Frederickson	Lantry	Peterson, D. L.	Storm
Berglin	Freeman	Lessard	Peterson, R. W.	Stumpf
Bernhagen	Hughes	Luther	Petty	Taylor
Bertram	Isackson	McQuaid	Purfeerst	Ulland
Brataas	Johnson, D. E.	Merriam	Ramstad	Waldorf
Chmielewski	Jude	Moe, D. M.	Reichgott	Wegscheid
Dahl	Kamrath	Moe, R. D.	Renneke	Willet
Davis	Knaak	Novak	Samuelson	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 849: A bill for an act relating to state lands; authorizing the sale of a certain lakeshore lot in Douglas County.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Knutson	Novak	Renneke
Anderson	Dicklich	Kronebusch	Olson	Samuelson
Belanger	Diessner	Laidig	Pehler	Sieloff
Benson	Frank	Langseth	Peterson, C. C.	Solon
Berg	Frederickson	Lantry	Peterson, D. C.	Spear
Berglin	Freeman	Lessard	Peterson, D. L.	Storm
Bernhagen	Hughes	Luther	Peterson, R. W.	Stumpf
Bertram	Isackson	McQuaid	Petty	Taylor
Brataas	Johnson, D. E.	Mehrkens	Pogemiller	Ulland
Chmielewski	Jude	Merriam	Purfeerst	Waldorf
Dahl	Kamrath	Moe, D. M.	Ramstad	Willet
Davis	Knaak	Moe, R. D.	Reichgott	

Mr. Kroening voted in the negative.

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 61 and nays 0, as follows:

Those who voted in the affirmative were:



Adkins	Diessner	Kronebusch	Peterson, C. C.	Solon
Anderson	Frank	Laidig	Peterson, D. C.	Spear
Belanger	Frederickson	Langseth	Peterson, D. L.	Storm
Benson	Freeman	Lantry	Peterson, R. W.	Stumpf
Berg	Hughes	Lessard	Petty	Taylor
Berglin	Isackson	Luther	Pogemiller	Ulland
Bernhagen	Johnson, D. E.	McQuaid	Purfeerst	Waldorf
Bertram	Johnson, D. J.	Mehrkins	Ramstad	Wegscheid
Brataas	Jude	Merriam	Reichgott	Willet
Dahl	Kamrath	Moe, D. M.	Renneke	
Davis	Knaak	Novak	Samuelson	
DeCramer	Knutson	Olson	Schmitz	
Dicklich	Kroening	Pehler	Sieloff	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

H.F. No. 599: A bill for an act relating to labor; regulating fair labor standards record keeping; changing the civil and criminal penalties on employers for violations of the record keeping and posting requirements of the fair labor standards act; amending Minnesota Statutes 1982, sections 177.27, subdivision 2; 177.30; 177.31; and 177.32, subdivision 1.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Laidig	Pehler	Sieloff
Belanger	Frank	Langseth	Peterson, C. C.	Solon
Benson	Frederick	Lantry	Peterson, D. C.	Spear
Berg	Freeman	Lessard	Peterson, D. L.	Storm
Berglin	Hughes	Luther	Peterson, R. W.	Stumpf
Bernhagen	Johnson, D. E.	McQuaid	Petty	Taylor
Bertram	Johnson, D. J.	Mehrkins	Pogemiller	Ulland
Chmielewski	Jude	Merriam	Purfeerst	Waldorf
Dahl	Knaak	Moe, D. M.	Reichgott	Wegscheid
Davis	Knutson	Moe, R. D.	Renneke	Willet
DeCramer	Kroening	Novak	Samuelson	
Dicklich	Kronebusch	Olson	Schmitz	

Messrs. Anderson, Frederickson, Isackson and Kamrath voted in the negative.

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 60 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kamrath	Moe, D. M.	Reichgott
Anderson	Dicklich	Knaak	Novak	Renneke
Belanger	Diessner	Kroening	Olson	Samuelson
Benson	Frank	Kronebusch	Pehler	Schmitz
Berg	Frederick	Laidig	Peterson, C. C.	Sieloff
Berglin	Frederickson	Langseth	Peterson, D. C.	Solon
Bernhagen	Freeman	Lantry	Peterson, D. L.	Spear
Bertram	Hughes	Lessard	Peterson, R. W.	Storm
Brataas	Isackson	Luther	Petty	Stumpf
Chmielewski	Johnson, D. E.	McQuaid	Pogemiller	Ulland
Dahl	Johnson, D. J.	Mehrkens	Purfeerst	Waldorf
Davis	Jude	Merriam	Ramstad	Willet

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Mr. Kroening moved to amend S.F. No. 132 as follows:

Page 1, delete lines 10 to 12 and insert:

*"The commissioner shall establish a classification titled "chiropractor". A position allocated to the chiropractor classification may be in the classified or unclassified service."*

The motion prevailed. So the amendment was adopted.

S.F. No. 132 was read the third time, as amended, and placed on its final passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 61 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kronebusch	Pehler	Sieloff
Anderson	Frank	Laidig	Peterson, C. C.	Solon
Belanger	Frederick	Langseth	Peterson, D. C.	Spear
Benson	Frederickson	Lantry	Peterson, D. L.	Storm
Berg	Freeman	Lessard	Peterson, R. W.	Stumpf
Berglin	Hughes	Luther	Petty	Taylor
Bernhagen	Isackson	McQuaid	Pogemiller	Ulland
Bertram	Johnson, D. E.	Mehrkens	Purfeerst	Waldorf
Brataas	Johnson, D. J.	Merriam	Ramstad	Willet
Chmielewski	Jude	Moe, D. M.	Reichgott	
Dahl	Kamrath	Moe, R. D.	Renneke	
Davis	Knutson	Novak	Samuelson	
DeCramer	Kroening	Olson	Schmitz	

Mr. Knaak voted in the negative.

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

S.F. No. 548: A bill for an act relating to traffic regulations; providing for

mandatory alcohol assessment for drivers in certain cases; providing for commitment of certain driving while intoxicated offenders to detoxification facilities; providing for detoxification evaluation, assessment, and referral; withholding driving privileges for offenders until they have paid the costs for the detoxification services; amending Minnesota Statutes 1982, sections 169.121, subdivision 8; 169.123, subdivision 3; and 169.1231.

Mr. Ramstad moved that S.F. No. 548 be stricken from Special Orders and returned to its author. The motion prevailed.

### SPECIAL ORDER

H.F. No. 159: A bill for an act relating to education; requiring school boards to adopt and review discipline policies including rules of conduct for pupils, and grounds and procedures for removal of pupils from class; amending Minnesota Statutes 1982, section 127.27, subdivision 2; proposing new law coded in Minnesota Statutes, chapter 127.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 64 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knutson	Nelson	Samuelson
Anderson	Diessner	Kroening	Novak	Schmitz
Belanger	Frank	Kronebusch	Olson	Sieloff
Benson	Frederick	Laidig	Pehler	Solon
Berg	Frederickson	Langseth	Peterson, C. C.	Spear
Berglin	Freeman	Lantry	Peterson, D. C.	Storm
Bernhagen	Hughes	Lessard	Peterson, D. L.	Stumpf
Bertram	Isackson	Luther	Peterson, R. W.	Taylor
Brataas	Johnson, D. E.	McQuaid	Pogemiller	Ulland
Chmielewski	Johnson, D. J.	Mehrkens	Purfeerst	Waldorf
Dahl	Jude	Merriam	Ramstad	Wegscheid
Davis	Kamrath	Moe, D. M.	Reichgott	Willet
DeCramer	Knaak	Moe, R. D.	Renneke	

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 59 and nays 1, as follows:

Those who voted in the affirmative were:

Adkins	DeCramer	Kamrath	Nelson	Renneke
Anderson	Dicklich	Knaak	Novak	Samuelson
Belanger	Diessner	Knutson	Olson	Schmitz
Benson	Frank	Kroening	Pehler	Sieloff
Berg	Frederick	Kronebusch	Peterson, C. C.	Spear
Berglin	Frederickson	Laidig	Peterson, D. C.	Storm
Bernhagen	Freeman	Langseth	Peterson, R. W.	Taylor
Bertram	Hughes	Lantry	Petty	Ulland
Brataas	Isackson	Lessard	Pogemiller	Waldorf
Chmielewski	Johnson, D. E.	Luther	Purfeerst	Wegscheid
Dahl	Johnson, D. J.	McQuaid	Ramstad	Willet
Davis	Jude	Merriam	Reichgott	

Mr. Peterson, D.L. voted in the negative.

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 51 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Knaak	Nelson	Schmitz
Anderson	Diessner	Knutson	Novak	Sieloff
Belanger	Frank	Kronebusch	Olson	Stumpf
Berglin	Frederickson	Laidig	Peterson, C. C.	Ulland
Bernhagen	Freeman	Langseth	Peterson, D. C.	Vega
Bertram	Hughes	Lantry	Peterson, R. W.	Wegscheid
Brataas	Isackson	Lessard	Petty	Willet
Chmielewski	Johnson, D. E.	McQuaid	Pogemiller	
Dahl	Johnson, D. J.	Merriam	Purfeerst	
Davis	Jude	Moe, D. M.	Ramstad	
DeCramer	Kamrath	Moe, R. D.	Renneke	

Those who voted in the negative were:

Kroening	Luther	Pehler	Storm	Waldorf
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So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 10, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Peterson, C.C.	Storm
Anderson	Frederick	Kronebusch	Peterson, D.L.	Stumpf
Belanger	Frederickson	Langseth	Peterson, R.W.	Taylor
Benson	Hughes	Lantry	Purfeerst	Ulland
Bernhagen	Isackson	Luther	Ramstad	Vega
Bertram	Johnson, D.E.	McQuaid	Reichgott	Waldorf
Brataas	Jude	Moe, R. D.	Renneke	Wegscheid
Chmielewski	Kamrath	Novak	Samuelson	Willet
Dahl	Knaak	Olson	Schmitz	
Davis	Knutson	Pehler	Solon	

Those who voted in the negative were:

Berglin	Dicklich	Freeman	Merriam	Peterson, D.C.
DeCramer	Frank	Johnson, D.J.	Nelson	Petty

So the bill passed and its title was agreed to.

### SPECIAL ORDER

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

Mr. Peterson, C.C. moved to amend S.F. No. 1048 as follows:

Page 3, after line 12, insert:

“Sec. 5. Minnesota Statutes 1982, section 97.45, is amended by adding a subdivision to read:

*Subd. 4a. After a licensed resident has transported a big game animal to his residence and has registered the animal, another person may transport the big game animal by the most direct route to another location for processing, provided there shall be attached to the animal a tag marked in ink showing the name and address of the licensee and the number of the license under which it was taken.”*

Page 5, line 11, delete everything after “bear”

Page 5, line 12, delete “clause (b)”

Page 5, line 25, after the period, insert “Deer and bear may be transported only during the time provided in subdivision 4, clause (b).”

Page 5, line 35, after “any” insert “tag,”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after “12” insert “, and by adding a subdivision”

The motion prevailed. So the amendment was adopted.

S.F. No 1048 was read the third time, as amended, and placed on its final

passage.

The question was taken on the passage of the bill, as amended.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kroening	Olson	Schmitz
Anderson	Frank	Kronebusch	Pehler	Solon
Belanger	Frederick	Laidig	Peterson, C.C.	Spear
Benson	Frederickson	Langseth	Peterson, D.C.	Storm
Berglin	Freeman	Lantry	Peterson, D.L.	Stumpf
Bernhagen	Hughes	Lessard	Peterson, R.W.	Taylor
Bertram	Isackson	Luther	Petty	Ulland
Brataas	Johnson, D.E.	McQuaid	Pogemiller	Vega
Chmielewski	Johnson, D.J.	Mehrkins	Purfeerst	Waldorf
Dahl	Jude	Merriam	Ramstad	Wegscheid
Davis	Kamrath	Moe, R. D.	Reichgott	Willet
DeCramer	Knaak	Nelson	Renneke	
Dicklich	Knutson	Novak	Samuelson	

So the bill, as amended, passed and its title was agreed to.

### SPECIAL ORDER

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

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kronebusch	Olson	Schmitz
Anderson	Frank	Laidig	Pehler	Solon
Belanger	Frederick	Langseth	Peterson, C.C.	Spear
Benson	Frederickson	Lantry	Peterson, D.C.	Storm
Berglin	Freeman	Lessard	Peterson, D.L.	Stumpf
Bernhagen	Hughes	Luther	Peterson, R.W.	Taylor
Bertram	Isackson	McQuaid	Petty	Ulland
Brataas	Johnson, D.E.	Mehrkins	Pogemiller	Vega
Chmielewski	Jude	Merriam	Purfeerst	Waldorf
Dahl	Kamrath	Moe, D. M.	Ramstad	Wegscheid
Davis	Knaak	Moe, R. D.	Reichgott	Willet
DeCramer	Knutson	Nelson	Renneke	
Dicklich	Kroening	Novak	Samuelson	

So the bill passed and its title was agreed to.

### MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate revert to the Order of Business of Reports of Committees and Second Reading of House Bills. The motion prevailed.

### REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now

adopted. The motion prevailed.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 582 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
582	713				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 672 for comparison with companion Senate File, reports the following House File was found not identical with its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F.No.	S.F.No.
672	726				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 672 be amended as follows:

Page 2, line 3, delete "Such" and insert "This type of"

Page 3, lines 22 to 31, delete the new language

Page 4, delete lines 34 and 35

Page 4, line 36, delete "require"

Page 5, line 4, delete "to" and insert "shall"

Page 5, line 13, before the period insert "and which would not qualify as an isolated or occasional sale pursuant to section 297A.25, subdivision 1, clause (k)"

Page 5, line 24, delete "for the purpose of evading" and insert "with the intent to evade"

Page 6, line 10, before the semicolon insert "except candy or candy products sold by a nonprofit organization operated primarily for the social and educational benefit of children aged 18 and younger"

Page 10, line 7, delete everything after "to"

Page 10, delete lines 8 to 10 and insert *"building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract for use in the construction, alteration or repair of a building or facility;"*

Page 10, line 15, before the semicolon insert *"For purposes of this subdivision, sales by a nonprofit organization shall be deemed to be "isolated or occasional" if they occur at sale events that have a duration of three or fewer consecutive days. The granting of the privilege of admission to places of amusement and the privilege of use of amusement devices by a nonprofit organization at an isolated or occasional event conducted on property owned or leased for a continuous period of more than 30 days by the nonprofit organization are also exempt. The exemption provided for isolated sales of tangible personal property and of the granting of admissions or the privilege of use of amusement devices by nonprofit organizations pursuant to this clause shall be available only if the sum of the days on which the organization and any subsidiary nonprofit organization sponsored by it that does not have a separate sales tax exemption permit conduct sales of tangible personal property, plus the days with respect to which the organization charges for the use of amusement devices or admission to places of amusement, does not exceed eight days in a calendar year. For purposes of this clause, a "nonprofit organization" means any corporation, society, association, foundation, or institution organized and operated exclusively for charitable, religious, or educational purposes, no part of the net earnings of which inures to the benefit of a private individual"*

Page 11, delete lines 19 to 22 and insert *"building, construction or reconstruction materials purchased by a contractor or a subcontractor as a part of a lump-sum contract for use in the construction, alteration or repair of a building or facility;"*

Page 13, line 11, after "of" insert *"Minnesota Statutes 1980,"*

Page 13, line 19, strike "1978" and insert "1982"

Page 14, line 19, delete *"that is now"*

Page 15, line 19, delete *"generally acceptable"*

Page 15, line 19, after *"techniques"* insert *"consistent with generally acceptable accounting principles"*

Page 17, line 3, strike "\$4,000" and insert "\$6,000"

And when so amended H.F. No. 672 will be identical to S.F. No. 726, and further recommends that H.F. No. 672 be given its second reading and substituted for S.F. No. 726, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 519 for comparison with companion Senate File, reports the



following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
519	958				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 375 for comparison with companion Senate File, the following House File was found not identical with its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F.No.	S.F.No.
375	572				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 375 be amended as follows:

Page 1, line 11, after "and" insert "training and"

Page 1, line 13, delete "is authorized to" and insert "may"

Page 1, line 14, delete "have"

Page 1, line 15, delete everything before the colon

Page 1, line 23, delete everything after the period

Page 1, delete lines 24 and 25 and insert "*The commissioner shall prohibit use of participants in the programs to do work that was part or all of the duties or responsibilities of an authorized public employee position established as of January 1, 1983.*"

Page 2, line 3, after "implementation" insert "and on the cost effectiveness"

And when so amended H.F. No. 375 will be identical to S.F. No. 572, and further recommends that H.F. No. 375 be given its second reading and substituted for S.F. No. 572, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 794 for comparison with companion Senate File, reports the

following House File was found identical and recommends the House File be given its second reading and substituted for its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
794	919				

and that the above Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 606 for comparison with companion Senate File, reports the following House File was found not identical with its companion Senate File as follows:

SPECIAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F.No.	S.F.No.
606	732				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 606 be amended as follows:

Page 1, line 36 to page 2, line 14, delete section 2

Page 3, after line 11, insert:

“Sec. 5. Minnesota Statutes 1982, section 253B.03, subdivision 6, is amended to read:

Subd. 6. [CONSENT FOR MEDICAL PROCEDURE.] A patient has the right to prior consent to any medical or surgical treatment, other than the treatment of mental illness, mental retardation or chemical dependency. The following procedures shall be used to obtain consent for any treatment necessary to preserve the life or health of any committed patient:

(1) The consent of a competent adult patient for the treatment is sufficient.

(2) If the patient is subject to guardianship or conservatorship which includes the provision of medical care, the consent of the guardian or conservator for the treatment is sufficient.

(3) If the head of the treatment facility determines that the patient is not competent to consent to the treatment and the patient has not been adjudicated incompetent, consent for the surgery shall be obtained from the nearest proper relative. For this purpose, the following persons are proper relatives, in the order listed: the patient's spouse, parent, adult child, or adult sibling. If the nearest proper relatives cannot be located or refuse to consent to the procedure, the head of the treatment facility or an interested person may petition the committing court for approval for the treatment or may petition an appropriate court for the appointment of a guardian or conservator. The determination that the patient is not competent, and the

reasons for the determination, shall be documented in the patient's clinical record.

(4) ~~Consent for a medical procedure upon a minor shall be governed by other provisions of law relating to the provision of treatment to minors to treatment of any minor patient shall be secured in accordance with sections 144.341 to 144.346, except that a minor 16 years of age or older may give valid consent for hospitalization, routine diagnostic evaluation, and emergency or short term acute care.~~

(5) In the case of an emergency and when the persons ordinarily qualified to give consent cannot be located, the head of the treatment facility may give consent.

No person who consents to treatment pursuant to the provisions of this subdivision shall be civilly or criminally liable for the performance or the manner of performing the treatment. No person shall be liable for performing treatment without consent if consent was given pursuant to this subdivision. This provision shall not affect any other liability which may result from the manner in which the treatment is performed."

Page 3, line 21, delete ", so long as" and insert "if"

Page 3, line 25, delete everything after the period

Page 3, delete lines 26 to 28

Page 3, line 29, delete the new language

Page 5, line 8, after the period insert " *The physician shall be knowledgeable and trained in the diagnosis of the alleged disability related to the need for admission as a mentally ill or mentally retarded person.*"

Page 5, line 16, delete "mentally ill,"

Page 5, line 17, delete "mentally retarded, or"

Page 8, line 1 to page 9, line 13, delete sections 14, 15, and 16

Page 10, line 4, delete "public" and insert "a"

Page 10, line 4, after "health" insert "officer"

Page 10, line 5, delete "personnel, welfare personnel" and insert "a welfare officer"

Page 10, line 7, delete "as" and insert "which"

Page 13, line 30, delete "shall have the authority to" and insert "may"

Page 13, line 31, delete "U.S. Department of Health and Human Services"

Page 13, line 32, delete the parentheses

Page 13, line 32, before "for" insert "of the United States Department of Health and Human Services"

Page 13, line 36, after "dependency." insert "The contract shall provide that the Indian Health Service may not transfer any person for admission to a regional center unless the commitment procedure utilized by the tribal court provided due process protections similar to those afforded by sections

253B.05 to 253B.10."

Page 14, line 6, delete "; then" and insert ";

Page 14, line 6, delete "shall have authority"

Page 14, line 7, delete "to hold and" and insert "may"

Page 14, line 8, delete everything after "Service"

Page 14, delete lines 9 to 11

Page 14, line 13, delete "shall have" and insert "has"

Page 14, line 32, strike "or" and insert a comma

Page 14, line 33, after "retardation" insert ", or chemical dependency,"

Page 14, line 33, delete the new language

Page 14, delete lines 34 and 35

Page 14, line 36, delete the new language

Page 16, line 4, delete "29" and insert "26"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, delete "removing the 60-day"

Page 1, delete line 10

Page 1, line 18, delete "13,"

Page 1, line 19, delete "subdivision" and insert "subdivisions"

Page 1, line 19, after "2" insert "and 6"

Page 1, line 22, delete "subdivisions" and insert "subdivision"

Page 1, line 22, delete everything after "1"

Page 1, line 23, delete the first "subdivision"

And when so amended H.F. No. 606 will be identical to S.F. No. 732, and further recommends that H.F. No. 606 be given its second reading and substituted for S.F. No. 732, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

## SECOND READING OF HOUSE BILLS

H.F. Nos. 582, 672, 519, 375, 794 and 606 were read the second time.

## MOTIONS AND RESOLUTIONS - CONTINUED

Ms. Peterson, D.C. moved that S.F. No. 497, No. 17 on Special Orders, be stricken and re-referred to the Committee on Finance. The motion prevailed.

Mr. Moe, R.D. moved that House Concurrent Resolution No. 4 be taken from the table. The motion prevailed.

House Concurrent Resolution No. 4: A House concurrent resolution providing for a joint convention of the Senate and the House of Representatives to elect members of the Board of Regents of the University of Minnesota.

BE IT RESOLVED by the House of Representatives of the State of Minnesota, the Senate concurring:

(1) The House of Representatives and the Senate shall meet in joint convention on Tuesday, May 3, 1983, in the chamber of the House of Representatives to elect members to the Board of Regents of the University of Minnesota.

(2) The Education Committee of the Senate and the Education Committee of the House of Representatives, in a joint meeting, are appointed to submit a slate of nominations and to report the slate at the meeting of the joint convention.

Mr. Moe, R.D. moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

### MEMBERS EXCUSED

Mr. Dieterich was excused from the Session of today. Mr. Johnson, D.J. was excused from the Session of today until 1:45 p.m. Mr. Schmitz was excused from the Session of today until 1:00 p.m. Mr. Vega was excused from the Session of today at 1:30 p.m. Mr. Wegscheid was excused from the Session of today from 1:30 to 2:10 p.m.

### ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 9:30 a.m., Tuesday, May 3, 1983. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate