

FIFTY-THIRD DAY

St. Paul, Minnesota, Friday, May 13, 1983

The Senate met at 9:00 a.m. and was called to order by the President.

CALL OF THE SENATE

Mr. Moe, R.D. imposed a call of the Senate. The Sergeant at Arms was instructed to bring in the absent members.

Prayer was offered by the Chaplain, Rev. Robert Moritz.

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

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

The President declared a quorum present.

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Nelson moved that the following members be excused for a Conference Committee on H.F. No. 92:

Messrs. Nelson; Pehler; Merriam; Peterson, R.W. and Peterson, D.L. The motion prevailed.

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communication was received.

May 12, 1983

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 664, 987, 1067 and 1104.

Sincerely,
Rudy Perpich, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, herewith returned: S.F. No. 883.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 11, 1983

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1233: A bill for an act relating to the organization and operation of state government; appropriating money for the department of transportation and for other agencies with certain conditions; fixing and limiting fees; providing for adjustments of responsibilities of the department of agriculture for soil and water conservation; allowing limited donation of accumulated vacation time by certain law enforcement employees to their union representative; providing for deposit of proceeds of assessment by the assigned risk review board; regulating financial assistance to public transit systems; limiting certain hearing functions of the transportation regulation board; transferring certain rules authority to the transportation regulation board; reducing membership and establishing terms of members of the public utilities commission; defining enforcement powers of the hazardous material specialists and transportation representatives of the department of transportation; defining terms and requirements for building movers; crediting certain receipts of the commissioner of transportation to the trunk highway fund; providing for certain costs to be paid from the trunk highway fund; authorizing the commissioner of transportation to enforce certain carrier regulations; extending retirement coverage of certain employees of the department of transportation from age 60 to age 62 and providing for disability benefits; transferring and renaming the air transportation revolving account; instructing the commissioner of transportation to charge users of certain air transportation services for certain costs; limiting fare increases by the metropolitan transit commission; basing taxing for the metropolitan transit taxing district upon the level of transit service provided; providing for the disposition of proceeds of certain trunk highway bonds; reducing the amount appropriated from the bridge construction account in the trunk highway fund to the department of transportation; amending Minnesota Statutes 1982, sections 12.14; 17A.04, subdivision 5; 18.51, subdivision 2; 18.52, subdivision 5; 18.53; 18.54; 18A.22, subdivisions 5 and 7; 18A.26; 27.041, subdivision 2; 28A.08; 28A.09; 32.075; 32.59; 34.02; 34.05, sub-

division 1; 40.03, subdivision 2, as amended; 43A.04, by adding a subdivision; 79.251, subdivision 1; 155A.07, subdivision 7; 155A.08, subdivision 5; 169.81, subdivision 3b; 169.86, subdivision 5; 169.862; 170.23; 171.26; 171.29, subdivision 2; 173.07, subdivision 2; 173.08, subdivision 1; 173.13, subdivision 4; 174.24, subdivision 3; 174A.02, subdivision 2; 174A.06; 216A.03, subdivision 1; 221.061; 221.071; 221.131; 221.221; 221.296, subdivision 5; 221.64; 221.81; 296.17, subdivisions 10, 17, and 20; 296.25, subdivision 1; 299C.46, subdivision 3; 352.86, subdivisions 1, 2, and by adding a subdivision; 360.018, subdivision 1; 360.63; 473.408, subdivision 3 and by adding a subdivision; 473.446, subdivision 1, as amended; 500.221, subdivision 4; 626.88, subdivision 2; Laws 1975, chapter 235, section 2; Laws 1977, chapter 277, sections 1 and 3, subdivision 1; and Laws 1983, chapter 17, section 12; proposing new law coded in Minnesota Statutes, chapters 10A; 221; 299C; and 360; repealing Minnesota Statutes 1982, sections 24.24; 24.25; 24.26; 24.27; 24.28; 24.29; 24.30; 24.31; 160.26, subdivision 3; 174.265; and 174A.07.

Senate File No. 1233 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. Langseth moved that the Senate do not concur in the amendments by the House to S.F. No. 1233, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 3 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 292: A bill for an act relating to public welfare; defining persons responsible for a child's care under the child abuse reporting law; amending Minnesota Statutes 1982, section 626.556, subdivisions 2, 7, and 10.

There has been appointed as such committee on the part of the House:

Ellingson, Scheid and Olsen.

Senate File No. 292 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. President:

I have the honor to announce that the House has acceded to the request of the Senate for the appointment of a Conference Committee, consisting of 5 members of the House, on the amendments adopted by the House to the following Senate File:

S.F. No. 1234: A bill for an act relating to the organization and operation of state government; appropriating money for welfare, corrections, health,

and other purposes with certain conditions; providing appropriations for the departments of public welfare, economic security, corrections, health, sentencing guidelines commission, corrections ombudsman, and health related boards; providing an entitlement to certain child care services; increasing marriage license and dissolution fees; providing for distribution of federal maternal and child health block grant money; requiring cost increase limits and other cost containment measures in medical care programs; amending eligibility standards; changing general assistance to allow flat grants, employment through grant diversion and work registration requirements, and federal benefit application incentives; providing for job training for certain persons; appropriating money for welfare, corrections, health, and other purposes with certain conditions; providing appropriations for the departments of public welfare, economic security, corrections, health, sentencing guidelines commission, corrections ombudsman, and health related boards; amending Minnesota Statutes 1982, sections 129A.03; 144.653, subdivision 2; 144A.04, subdivision 5; 144A.10, subdivision 2; 145.882; 145.921, subdivision 1; 245.62; 245.66; 245.83; 245.84, subdivisions 1, 2, and 5; 245.85; 245.86; 245.87; 256.045, subdivision 3; 256.82, by adding a subdivision; 256.966, subdivision 1; 256.968; 256B.02, subdivision 8; 256B.04, subdivision 14, and by adding a subdivision; 256B.06, subdivision 1; 256B.07; 256B.14, subdivision 2; 256B.17, subdivision 4, and by adding subdivisions; 256B.27, subdivision 3; 256B.48, by adding a subdivision; 256D.01, subdivision 1; 256D.02, subdivision 4; 256D.03, subdivisions 3 and 4, and by adding subdivisions; 256D.05, subdivision 1a; 256D.06, subdivision 5; 256D.09, subdivision 2, and by adding a subdivision; 260.191, subdivision 2; 260.242, subdivision 2; 261.23; 357.021, subdivisions 2 and 2a; 401.14, by adding a subdivision; 401.15, subdivision 1; 517.08, subdivisions 1b and 1c; proposing new law coded in Minnesota Statutes, chapters 145; 252; 256; 256B; 256D; and 268; repealing Minnesota Statutes 1982, sections 256D.02, subdivision 14; 256D.05, subdivision 1a; 256D.06, subdivision 1a; 256D.22; and Laws 1981, chapter 360, article II, section 54, as amended.

There has been appointed as such committee on the part of the House:

Wynia, Greenfield, Murphy, Staten and St. Onge.

Senate File No. 1234 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on Senate File No. 280, and repassed said bill in accordance with the report of the Committee, so adopted.

S.F. No. 280: A bill for an act relating to data privacy; establishing standards and procedures for the release of financial information; proposing new law coded as Minnesota Statutes, chapter 13A.

Senate File No. 280 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 409.

H.F. No. 409: A bill for an act relating to liquor; restrictions upon joint purchases and volume discounts at wholesale; amending Minnesota Statutes 1982, sections 340.408; and 340.983.

And the House respectfully requests that a Conference Committee of three members be appointed thereon.

Jacobs, St. Onge and Dempsey have been appointed as such committee on the part of the House.

House File No. 409 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 12, 1983

Mr. Purfeerst moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 409, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 72: A bill for an act relating to occupations and professions; authorizing the commissioner of public safety to provide administrative support services to the board of peace officer standards and training; amending Minnesota Statutes 1982, sections 214.04, subdivision 1; 626.843, subdivision 1; 626.845, subdivision 1; and 626.849.

Senate File No. 72 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. Wegscheid moved that the Senate do not concur in the amendments by the House to S.F. No. 72, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 652: A bill for an act relating to agriculture; adopting recom-

mended federal rules relating to milk quality for manufacturing purposes; providing for phase in of inspections and compliance; proposing new law coded in Minnesota Statutes, chapter 32.

Senate File No. 652 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. Wegscheid moved that the Senate do not concur in the amendments by the House to S.F. No. 652, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1029.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 12, 1983

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 1029: A bill for an act relating to transportation; modifying the definition of truck-tractor to include the power unit of automobile carriers; adjusting the motor vehicle registration tax on certain trailers; requiring proof of payment of the federal heavy use tax on heavy trucks; increasing the maximum allowable width on vehicles from 8 to 8-1/2 feet; modifying vehicle length requirements to allow longer semitrailers and vehicle combinations; modifying the gross weight seasonal increase to include all axle combinations; modifying the distance a peace officer may require a vehicle to travel to a scale; increasing width requirement on loads of baled hay before flashing amber lights are required; amending Minnesota Statutes 1982, sections 168.011, subdivision 12; 168.013, subdivision 1d, and by adding a subdivision; 169.01, subdivision 7; 169.80, subdivision 2; 169.81, subdivisions 2 and 3; 169.825, subdivision 11; 169.85; 169.862; 169.871, subdivision 1; and 169.872, by adding a subdivision; repealing Minnesota Statutes 1982, sections 169.80, subdivision 2a; and 169.81, subdivisions 3a, 3b, and 7.

Mr. Novak moved that H.F. No. 1029 be laid on the table. 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 under Rule 35, together with the committee report thereon,

S.F. No. 920: A bill for an act relating to metropolitan government; regulating airport development; amending Minnesota Statutes 1982, section 473.611, subdivision 5.

Reports the same back with the recommendation that the report from the Committee on Local and Urban Government, shown in the Journal for April 26, 1983, be amended to read:

"the bill be amended and when so amended the bill do pass and be referred to the Committee on Transportation". Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 709: A bill for an act relating to liens on personal property; adopting the Council of State Government Model Act; proposing new law coded in Minnesota Statutes, chapter 514.

Reports the same back with the recommendation that the report from the Committee on Judiciary, shown in the Journal for April 20, 1983, be adopted; that committee recommendation being

"the bill be amended and when so amended the bill do pass." Amendments adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 1124: A bill for an act relating to Minnesota Statutes; correcting erroneous, ambiguous, omitted, and obsolete references and text; eliminating certain redundant, conflicting, and superseded provisions; providing instructions to the revisor; amending Minnesota Statutes 1982, sections 10A.275; 10A.31, subdivision 2; 10A.32, subdivision 3b; 10A.335; 11A.24, subdivision 6; 15.06, subdivision 1; 16.861, subdivision 3; 17A.06, subdivision 3; 32.212; 32.213; 35.251; 43A.18, subdivision 5; 45.16, subdivision 2; 48.605, subdivision 1; 60A.07, subdivision 8; 60A.17, subdivision 7a; 93.20, subdivision 9; 98.46, subdivision 16; 100.27, subdivision 9; 112.85, subdivision 2; 116D.05; 116G.03, subdivision 5; 116J.70, subdivision 2a; 120.80, subdivision 1; 120.81, subdivision 1; 121.904, subdivision 11b; 168.021, subdivision 2; 169.451; 169.974, subdivision 2; 169.974, subdivision 6; 169.99, subdivision 1; 171.131, subdivision 2; 179.70, subdivision 1; 238.04, subdivision 2; 244.09, subdivision 1; 252A.13, subdivision 2; 253B.19, subdivision 5; 256.871, subdivision 7; 256.976, subdivision 4; 260.185, subdivision 1; 260.193, subdivision 6; 268.18, subdivision 2; 273.13, subdivisions 6 and 7d; 275.125, subdivision 1; 282.38, subdivisions 1 and 2; 290.012, subdivision 2; 297.02, subdivision 5; 298.28, subdivision 1; 326.241, subdivision 1; 327B.01, subdivisions 11 and 14; 327B.04, subdivision 4; 327B.05, subdivision 1; 327B.09, subdivision 1; 340.069; 354.532, subdivision 4; 363.03, subdivision 10; 367.41, subdivisions 1 and 5; 367.42, subdivision 1; 375B.01; 381.12, subdivision 2; 383A.35; 398A.01, subdivision 8; 462.355, subdivision 4; 462.36, subdivision 1; 462.445, subdivision 14;

462C.04, subdivision 2; 474.03; 508A.46; 515A.1-102; 518.24; and 525.619; amending Laws 1982, chapter 581, section 18, subdivision 4; and Laws 1982, Third Special Session chapter 1, article II, section 7; repealing Minnesota Statutes 1982, section 609.01, subdivision 2; repealing Laws 1976, chapters 2, section 62; and 173, section 53; Laws 1981, chapter 224, section 18; Laws 1982, chapters 416, section 1; 424, sections 3 and 8; and 642, section 8.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred under Rule 35, together with the committee report thereon,

S.F. No. 1041: A bill for an act relating to the city of Plymouth; giving the city the powers of a port authority.

Reports the same back with the recommendation that the report from the Committee on Local and Urban Government, shown in the Journal for April 26, 1983, be adopted; that committee recommendation being

“the bill do pass”. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

S.F. No. 863: A resolution memorializing the President and Secretary of State of the United States to protest discrimination against Soviet Jews and seek an end to restrictions on their emigration.

Reports the same back with the recommendation that the resolution do pass. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred

S.F. No. 531: A resolution memorializing the President and Congress of the United States to provide medical care for former members of the military forces who were exposed to atomic radiation in the course of their duties.

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

Page 1, line 17, delete “all”

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred

S.F. No. 1126: A resolution memorializing the United States Congress to conduct an in-depth investigation of the steel industry.

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

Page 2, line 8, delete "RESOVLED" and insert "RESOLVED"

Page 2, line 9, after "investigation" insert "be conducted"

Page 2, line 9, after "the" insert "trade policies and practices of the United States government as they affect the American steel industry and the"

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was re-referred

S.F. No. 751: A resolution memorializing the Commission on Wartime Relocation and Internment of Civilians to recommend to the United States Congress to provide adequate compensation to internees.

Reports the same back with the recommendation that the resolution do pass. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 836: A bill for an act relating to the legislative reference library; permitting the library to require certain identification of documents deposited; amending Minnesota Statutes 1982, sections 3.195; and 3.302, by adding a subdivision.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 415: A bill for an act relating to state government; providing for salaries for constitutional officers, agency heads, metropolitan agency heads, and certain judicial positions; establishing a compensation council; limiting local government salaries; prohibiting cash payments for accumulated vacation pay; expanding the authority of the commissioner of employee relations to set salaries; requiring the governor to recommend certain salaries; removing salary setting authority of certain state agencies; removing additional compensation for the career executive service; requiring approval of the Minneapolis city council of compensation and benefits of employees of the Minneapolis employees retirement fund board; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; amending Minnesota Statutes 1982, sections 3.855, subdivision 3; 3.922, subdivision 5; 15A.081, subdivisions 1, 6, and 7; 15A.083, subdivisions 1, 2, and 4; 43A.17, by adding a subdivision; 43A.18, subdivisions 3, 4, and 5; 43A.21, by adding a subdivision; 105.71, subdivision 2; 136.034; 136A.03; 179.741, subdivision 1; 244.09, subdivision 10; 256.482, subdivision 2; 298.22, subdivision 1; 326.241, subdivision 2; 352.03, subdivision 4; 354.06, subdivision 2; 422A.03, subdivision 2; 484.68, subdivision 6; and Laws 1980, chapter 564, article XII, section 1, subdivision 3; proposing new law coded in Minnesota Statutes, chapter 15A; repealing Minnesota Statutes 1982, section

136A.035.

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

Page 8, lines 10 to 12, after the stricken language, insert:

*“Effective
July 1
1983”*

Page 8, line 13, reinstate “Governor” and after the stricken language, insert “\$70,000”

Page 8, line 14, reinstate “Attorney general” and after the stricken language, insert “62,500”

Page 8, line 15, reinstate “Lieutenant governor” and after the stricken language, insert “43,000”

Page 8, line 16, reinstate “Auditor” and after the stricken language, insert “43,000”

Page 8, line 17, reinstate “Secretary of state” and after the stricken language, insert “43,000”

Page 8, line 18, reinstate “Treasurer” and after the stricken language, insert “43,000”

Page 8, delete lines 19 to 27

Page 10, line 35, strike the second “Effective”

Page 10, line 36, strike the second “July 1,”

Page 11, line 2, delete “1984”

Page 11, line 5, delete “\$65,000” and insert “\$70,000” and delete “\$73,000”

Page 11, line 8, delete “61,000” and insert “62,500” and delete “68,000”

Page 11, line 10, delete “61,000” and insert “62,500” and delete “68,000”

Page 11, line 12, delete “58,000” and insert “60,000” and delete “63,000”

Page 11, strike line 15

Page 11, line 18, delete “53,000” and insert “54,000” and delete “58,000”

Page 11, lines 19 to 22, strike the old language and delete the new language

Page 12, line 21, delete “and fourth” and insert “, fourth, and sixth”

Page 13, line 6, delete “58,000” and insert “54,000”

Page 13, line 10, delete “adopt or approve” and insert “recommend”

Page 13, line 13, delete “be paid cash for” and insert “convert”

Page 13, line 14, after "*leave*" insert "*into cash or deferred compensation*"

Page 22, line 35, delete "*section*" and insert "*chapter*"

Pages 25 and 26, delete section 25

Page 28, line 20, delete "*29*" and insert "*28*"

Page 28, line 20, delete "*30*" and insert "*29*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 27, delete "*422A.03, subdivision 2;*"

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

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

Senate Resolution No. 35: A Senate resolution urging various officials and groups to assist on raising funds for an epilepsy education center.

Reports the same back with the recommendation that the resolution be adopted. Report adopted.

Mr. Moe, R.D. from the Committee on Rules and Administration, to which was referred

H.F. No. 652 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.
652	660				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 652 be amended as follows:

Page 1, line 16, delete "*teachers*" and insert "*teachers*"

Page 1, line 23, delete "*teachers*" and insert "*teachers*"

Page 1, line 26, before the period insert "*thereof and all substitutes therefor*"

Page 3, delete subdivision 5

Pages 3 and 4, delete section 3

Renumber the sections in sequence

Amend the title as follows:

Page 1, delete line 4

Page 1, line 8, delete "*sections 356.61;*" and insert "*section*"

And when so amended H.F. No. 652 will be identical to S.F. No. 660, and further recommends that H.F. No. 652 be given its second reading and

substituted for S.F. No. 660, 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. Willet from the Committee on Finance, to which was referred

H.F. No. 575: A bill for an act relating to labor; providing for comprehensive reform of all aspects of workers' compensation; ratifying changes in the state employee bargaining unit composition schedule; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23, by adding a subdivision; 79.071, subdivisions 1 and 1a; 79.211, subdivision 1; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivisions 1 and 3; 79.52, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.101, subdivisions 2, 3, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 179.741, subdivision 1, and by adding a subdivision; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262.

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 179.741, subdivision 1, is amended to read:

Subdivision 1. [STATE EMPLOYEES.] Subject to the provisions of section 179.742, subdivision 5, all appropriate units of state employees certified as of April 25, 1980 are abolished. The following shall be the appro-

priate units of executive branch state employees for the purposes of sections 179.61 to 179.76. All units shall exclude employees excluded by section 179.74, subdivision 4 and supervisory employees shall only be assigned to units 12 and 16. Unclassified employees, unless otherwise excluded, are included within the units which include the classifications to which they are assigned for purposes of compensation. No additional units of executive branch state employees shall be recognized for the purpose of meeting and negotiating.

(1) Law enforcement unit. This unit shall consist of all sworn state patrol personnel, all uniformed conservation officers, and all criminal apprehension agents.

(2) Craft, maintenance, and labor unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(3) Service unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(4) Health care non-professional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(5) Health care professional unit. This unit shall consist of all positions which are required to be filled by registered nurses.

(6) Clerical and office unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(7) Technical unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(8) Correctional Guards unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(9) State university instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(10) Community college instructional unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(11) State university administrative unit. This unit shall consist of those

positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(12) Professional engineering ~~supervisory~~ unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(13) Health treatment unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(14) General professional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(15) Professional state residential instructional unit. This unit shall consist of those classifications assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

(16) Supervisory employees unit. This unit shall consist of those positions assigned to this unit in the unit composition schedule adopted by the legislative commission on employee relations on March 24, 1980, as amended through ~~June 16, 1981~~ May 4, 1982.

Sec. 2. Minnesota Statutes 1982, section 179.741, is amended by adding a subdivision to read:

Subd. 1a. [UNIT 12 EMPLOYEES.] Notwithstanding the changes made in the composition of unit 12 by this act, employees in unit 12 shall continue to be treated as supervisory employees for purposes of the right to strike and for purposes of interest arbitration.

Sec. 3. [AMENDED UNIT COMPOSITION SCHEDULE.]

The unit composition schedule for state employees adopted by the legislative commission on employee relations on March 24, 1980, as amended through the effective date of this section, is amended by striking the job classifications entitled "police training course supervisor" and "police training instructor" from unit (14) and inserting those job classifications into unit (1).

Sec. 4. [STATE EMPLOYEE RATIFICATION.]

Subdivision 1. [NEGOTIATED SUPPLEMENTAL AGREEMENTS.] The supplemental agreements negotiated between the state and the exclusive representatives of state bargaining units 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 14, and 16, providing for early retirement incentives, which were given interim approval by the legislative commission on employee relations after adjournment of the 1982 legislature, are ratified.

Subd. 2. [COMMISSIONER'S PLAN.] The terms of the commissioner of employee relations' plan for unrepresented state employees, as amended and given interim approval by the legislative commission on employee relations

after adjournment of the 1982 legislature, are ratified.

Sec. 5. [UNIVERSITY RATIFICATION.]

Subdivision 1. [EARLY RETIREMENT.] The supplemental labor agreements and other compensation plans approved by the board of regents, providing early retirement incentives for University of Minnesota employees, as approved by the legislative commission on employee relations after adjournment of the 1982 legislature, are ratified.

Subd. 2. [UNREPRESENTED EMPLOYEES SALARY SUPPLEMENTS.] The salary supplements provided in the University of Minnesota regents' compensation plans, as approved by the legislative commission on employee relations after adjournment of the 1982 legislature, are approved for the following groups of unrepresented employees: nursing, clerical and office, technical, twin city instructional, noninstructional professional, out-state instructional, supervisory, managerial and confidential, and graduate assistants.

Subd. 3. [DULUTH AND WASECA.] The salary supplements provided in the labor agreement between the regents of the University of Minnesota and the university education association, representing the organized faculty at the Duluth and Waseca campuses, is ratified, as approved by the legislative commission on employee relations on January 31, 1983.

Sec. 6. [EFFECTIVE DATE.]

Sections 1, 2, 4, and 5 are effective the day following final enactment. Section 3 is effective July 1, 1983.

Article 2

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

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

Sec. 2. Minnesota Statutes 1982, section 79.071, subdivision 1, is amended to read:

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

Sec. 3. Minnesota Statutes 1982, section 79.071, subdivision 1a, is amended to read:

Subd. 1a. If the legislature enacts amendments to the workers' compensation laws of this state which indicate a reduction in the schedule of rates, or the commissioner determines that the loss experience of Minnesota workers' compensation insurers indicates a change in the existing schedule of rates, the commissioner may, in his discretion, order a change in the schedule of rates or order a hearing to determine whether and by what percentage the schedule of rates should be changed. A hearing held pursuant to this subdivision is not subject to the contested case proceeding requirements of sections 79.071 and 79.072, notwithstanding section 79.076. *The commissioner is prohibited from granting approval of any proposed increase in rates after May 1, 1983.*

Sec. 4. 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.*

Sec. 5. Minnesota Statutes 1982, section 79.251, is amended to read:

79.251 [ADMINISTRATION OF ASSIGNED RISK PLAN.]

Subdivision 1. [ASSIGNED RISK PLAN REVIEW BOARD.] (1) An assigned risk plan review board is created for the purposes of review of the operation of sections ~~79.24 to 79.27 6 and 79.251~~. The board shall have all the usual powers and authorities necessary for the discharge of its duties under this section and may contract with individuals in discharge of those duties.

(2) The board shall consist of ~~five~~ six members to be appointed by the commissioner of insurance. ~~Two~~ Three members shall be insureds holding policies or contracts of coverage issued pursuant to ~~section 79.25 subdivision 4~~. Two members shall be ~~members of the association~~ insurers licensed pursuant to section 60A.06, subdivision 1, clause (5), paragraph (b). The commissioner shall be the ~~fifth~~ sixth member and shall vote.

Initial appointments shall be made by September 1, 1981, and terms shall be for three years duration. Removal, the filling of vacancies and compensation of the members other than the commissioner shall be as provided in section 15.059.

(3) The assigned risk plan review board shall audit the reserves established ~~by insurers~~ (a) for individual cases arising under policies and contracts of coverage issued under ~~section 79.25 subdivision 4~~ and (b) for the total book of business issued under ~~section 79.25 subdivision 4~~.

(4) The assigned risk plan review board shall monitor the operations of sections ~~79.24 to 79.27 6 and 79.251~~ and shall periodically make recommendations to the commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections.

(5) All ~~members of the association~~ insurers and self-insurance administra-

tors issuing policies or contracts under section 79.25 subdivision 4 shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies and contracts of coverage issued under section 79.25 subdivision 4 for the purpose of defraying the costs of the assigned risk plan review board.

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

Subd. 2. [APPROPRIATE MERIT RATING PLAN.] The commissioner shall develop an appropriate merit rating plan which shall be applicable to all insureds holding policies or contracts of coverage issued pursuant to section 79.25 whose premium is less than the amount necessary to qualify for experience rating subdivision 4 and to the insurers or self-insurance administrators issuing those policies or contracts. The plan shall provide a maximum merit payment adjustment equal to ten percent of earned premium. The actual payment adjustment may vary with insured's loss experience.

Subd. 3. [RATES.] Insureds served by the assigned risk plan shall be charged premiums based upon a rating plan, including a merit rating plan adopted by the commissioner by rule. The commissioner shall annually, not later than January 1 of each year, establish the schedule of rates applicable to assigned risk plan business. Assigned risk premiums shall not be lower than rates generally charged by insurers for the business. The commissioner shall fix the compensation received by the agent of record. The establishment of the assigned risk plan rates and agent fees are not subject to chapter 14.

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

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

Sec. 6. [79.252] [ASSIGNED RISK PLAN.]

Subdivision 1. [PURPOSE.] The purpose of the assigned risk plan is to provide workers' compensation coverage to employers rejected by a li-

censed insurance company, pursuant to subdivision 2.

Subd. 2. [REJECTED RISKS.] An insurer that refuses to write insurance for an employer shall furnish the employer a written notice of refusal. The employer shall file a copy of the notice of refusal with the data service organization under contract with the commissioner pursuant to section 79.251, subdivision 4.

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

Subd. 4. [RESPONSIBILITIES.] Assigned risk policies and contracts of coverage shall be subject to premium tax pursuant to section 60A.15, and special compensation fund assessments pursuant to section 176.131, subdivision 10. The assigned risk plan shall be a member of the reinsurance association for the purposes of sections 79.34 to 79.40 and shall be deemed to have selected the higher retention limit provided in section 79.34, subdivision 2.

Subd. 5. [RULES.] The commissioner may adopt rules, including temporary rules, as may be necessary to implement sections 6 and 79.251.

Sec. 7. 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 rep-

resents the state in the exercise of all the rights and duties of membership in the reinsurance association. The state treasurer shall pay the premium to the reinsurance association from the state compensation revolving fund upon warrants of the commissioner of labor and industry. For the purposes of this section "state" means the administrative branch of state government, the legislative branch, the judicial branch, the University of Minnesota, and any other entity whose workers' compensation liability is paid from the state revolving fund. The commissioner may calculate, prorate, and charge a department or agency the portion of premiums paid to the reinsurance association for employees who are paid wholly or in part by federal funds, dedicated funds, or special revenue funds. The reinsurance association shall is not be deemed a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association shall are not be subject to chapter chapters 13, 14, and 15. The reinsurance association shall be is exempt from taxation under the laws of this state and all property owned by the association shall be is exempt from taxation. The reinsurance association shall is not be obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 8. 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 due to occupational disease is considered to be involved in a separate loss occurrence. The lesser lower retention limit shall be increased to the nearest \$10,000, on January 1, 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the greater higher retention limit shall be increased by the amount necessary to retain a \$200,000 difference between the two retention limits. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. For losses incurred on or after January 1, 1979, any amounts paid by a member pursuant to sections 176.183, 176.221, 176.225, and 176.82 shall not be included in ultimate loss and shall not be indemnified by the reinsurance association. A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in excess of the higher retention limit in effect at the time the loss was

incurred. Each member is liable for payment of its ultimate loss and shall be entitled to indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

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

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

Sec. 9. 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. 10. 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. 11. 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 and labor and industry* who shall be ~~an~~ ex officio ~~member~~ *members*. Four members of the board shall represent insurers, ~~three~~ six members of the board shall represent employers, at least one, but not more than ~~two~~ three, of whom shall represent self-insurers, and ~~two~~ three members of the board shall represent employees. Members shall elect the insurer directors, and the commissioner of insurance shall appoint the employer and employee directors *from a list presented to the commissioner by the workers' compensation advisory council established in chapter 175*, 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. 12. Minnesota Statutes 1982, section 79.51, subdivision 3, is amended to read:

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

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

(2) Experience rating plans;

(3) Retrospective rating plans;

(4) General expenses and related expense provisions;

(5) Minimum premiums;

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

(7) Loss development and trend factors;

(8) The workers' compensation reinsurance association;

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

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

~~(11)~~ (10) Imposing limitations on the functions of workers' compensation data service organizations consistent with the introduction of competition;

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

~~(13)~~ (12) Any other factors that the commissioner deems relevant to achieve the purposes of chapter 79.

(b) The rules shall provide for the following:

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

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

(3) Encouragement of workers' compensation insurance rates which are as low as reasonably necessary, but shall make provision against inadequate rates, insolvencies and unpaid benefits;

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

(5) Requiring all appropriate data and other information from insurers for

the purpose of issuing rules ~~and~~, making legislative recommendations pursuant to this section ~~and monitoring the effectiveness of competition~~; and

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

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

Sec. 13. 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. 14. 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; and 79.26; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33~~ are repealed effective July 1, 1983. Minnesota Statutes 1980, Sections ~~79.071, Subdivisions 2, 3, 4, 5, 6, and 7; 79.072; and 79.073; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15; 79.16; 79.17; 79.171; 79.18; 79.19; 79.20; 79.21; 79.22, Subdivision 1; 79.221; 79.23; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; and 79.33~~ are repealed effective January 1, ~~1986~~ 1984. Minnesota Statutes 1980, Sections 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2, are repealed.

Sec. 15. Laws 1981, chapter 346, section 146, is amended to read:

Sec. 146. [EFFECTIVE DATE.]

Sections 11, 21, 22, 23, 35, 36, 37, 38, 53, 54, 141, and 142 are effective the day following enactment. Sections 1 to 8, 12, 39 to 52, 55 to 95, 99 to 138, 140, and 143 to 145 are effective July 1, 1981. Sections 96 to 98 are effective October 1, 1981. Sections 9, 10, and 13 to 20 are effective January 1, 1982. Sections ~~24~~ 30 to 34 are effective July 1, 1983. ~~Sections 24 to 29 are effective January 1, 1984.~~ Section 139 is effective retroactively to April 12, 1980.

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

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

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

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

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

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

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

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

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

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

175.08 [OFFICE.]

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

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

175.10 [SESSIONS TO BE PUBLIC.]

The department of labor and industry shall be open for the transaction of business during all business hours of each and every day, excepting Saturdays, Sundays and legal holidays. The hearings of ~~the workers' compensa-~~

tion 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 its records, which shall be are public records.

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

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

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

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

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

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

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

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

Sec. 24. Minnesota Statutes 1982, section 176.011, subdivision 9, is amended to read:

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

(1) an alien;

(2) a minor;

(3) a sheriff, deputy sheriff, constable, marshal, policeman, firefighter, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in and about the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has

escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;

(4) a county assessor;

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

(6) an executive officer of a corporation except an officer of a family farm corporation as defined in section 500.24, subdivision 1, clause (c), nor shall it include an executive officer of a closely held corporation who is referred to in section 176.012;

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

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

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensated worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

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

(11) a member of the military forces, as defined in section 190.05, while in "active service" or "on duty" as defined in section 190.05, when the

service or duty is ordered by state authority. The daily wage of the member for the purpose of calculating compensation payable under this chapter shall be based on the member's usual earnings in civil life. If there is no evidence of previous occupation or earning, the trier of fact shall consider the member's earnings as a member of the military forces;

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

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

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

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

(16) those students enrolled in and regularly attending the medical school of the University of Minnesota, whether in the graduate school program or the post graduate program, as provided in section 147.20, notwithstanding that the students shall not be considered employees for any other purpose. In the event of the student's injury or death, the weekly wage of the student for the purpose of calculating compensation payable under chapter 176, shall be the annualized educational stipend awarded to the student, divided by 52 weeks. The institution in which the student is enrolled shall be considered the "employer" for the limited purpose of determining responsibility for paying benefits payable under chapter 176.

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

Sec. 25. 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. 26. 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. 27. Minnesota Statutes 1982, section 176.011, is amended by adding a subdivision to read:

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

Sec. 28. 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. 29. Minnesota Statutes 1982, section 176.012, is amended to read:

176.012 [ELECTION OF COVERAGE.]

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

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

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

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

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

(e) A person, partnership, or corporation hiring an independent contractor, as defined by rules adopted by the commissioner, may elect to provide coverage for that independent contractor.

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. 30. 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 lump sum or periodic payment of impairment compensation*, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based and *all other medical reports which the insurer has that indicate a permanent partial disability rating*, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. ~~Compensation for permanent partial disability~~ *After receipt of all reports available to the insurer that indicate a permanent partial disability rating, the employee shall make available or permit the insurer to obtain any medical report that the employee has or has knowledge of that contains a permanent partial disability rating which the insurer does not already have. Economic recovery compensation or impairment compensation pursuant to section 176.101 is payable in addition to but not concurrently with compensation for temporary total disability and but is payable concurrently with 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 pursu-*

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

Sec. 31. 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 who 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 the farmer employer; 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 ex-

changing 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 the employer; persons who are independent contractors as defined by rules adopted by the commissioner pursuant to section 176.83 except that this exclusion does not apply to an employee of an independent contractor;~~ nor does 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 ~~also does not~~ 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 the household worker's~~ present employer in any three month period within the previous year ~~shall be~~ is covered by this chapter regardless of whether or not ~~he the household worker has earned \$500 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. 32. Minnesota Statutes 1982, section 176.061, is amended to read:

176.061 [THIRD PARTY LIABILITY.]

Subdivision 1. [ELECTION OF REMEDIES.] ~~Where~~ If 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 of the~~ damages, the manner in which ~~they are paid,~~ and the persons to whom ~~the same they~~ are payable, ~~shall be~~ are 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 *is* prosecuted by the employee, the employer, or the attorney general on behalf of the special compensation fund, against the third person, *and* 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~~ *if* 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~~ *If* 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 *of benefits* 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~~ *institutes* proceedings to recover ~~the same benefits~~ or ~~accept~~ *accepts* 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~~ *The* 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 ~~of a 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 ~~the employer, and~~ or the special compensation fund, for any benefits which ~~the employer or the special~~

compensation fund is obligated to pay, but has not paid, and for any benefits that ~~such the employer shall be or the special compensation fund~~ is obligated to make in the future.

There shall be no reimbursement or credit to the employer, ~~or to 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 in the action~~ 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 pay~~ 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. 33. Minnesota Statutes 1982, section 176.081, subdivision 1, is amended to read:

Subdivision 1. No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this chapter is an enforceable lien against the compensation or is valid or binding in any other respect unless approved in writing by the division, a compensation judge, a judge of the district court, or the workers' compensation court of appeals, if the claim arises out of a proceeding for compensation under this chapter, or by the judge presiding at the trial in an action for damages, or by a judge of the district court in a settlement of a claim for damages without trial. The division, a compensation judge, a judge of the district court or the workers' compensation court of appeals shall in matters before them, including settlement proceedings, have authority to approve (a) A fee for legal services of up to 25 percent of the first \$4,000 of compensation awarded to the employee and up to 20 percent of the next \$27,500 of compensation awarded to employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in clause (b). If the employer or ~~his the~~ insurer or the defendant is given written notice of such claims for legal services or disbursements, the same claim shall be a lien against the amount paid or payable as compensation, subject to determination of the amount and approval provided by this chapter. Provided, however, that In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan.

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

subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee.

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

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

Sec. 34. Minnesota Statutes 1982, section 176.081, subdivision 2, is amended to read:

Subd. 2. ~~Any~~ An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the ~~workers' compensation court of appeals division, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision on additional fees may be made to the workers' compensation court of appeals.~~ The application shall set forth the fee requested and the basis for ~~such~~ the request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of ~~such~~ the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 35. Minnesota Statutes 1982, section 176.081, subdivision 5, is amended to read:

Subd. 5. In the determination of ~~the reasonable value of attorney fees arising out of a claim or proceeding under this chapter~~ an award of fees in excess of the amount authorized under subdivision 1, the following principles are to be applied:

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

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

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

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

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

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

(g) The determiner of attorney fees in each case must personally see that

the workers' compensation file contains fully adequate information to justify the fee that is determined.

Sec. 36. Minnesota Statutes 1982, section 176.081, subdivision 6, is amended to read:

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

Sec. 37. Minnesota Statutes 1982, section 176.081, subdivision 7, is amended to read:

Subd. 7. If the employer or insurer ~~shall file~~ *files* a denial of liability, notice of discontinuance, or ~~shall fail~~ *fails* to make payment of compensation or medical expenses within the statutory period after notice of injury or occupational disease, or ~~shall otherwise resist~~ *unsuccessfully resists* the payment of compensation or medical expenses, or ~~unsuccessfully disputes the payment of rehabilitation benefits or other aspects of a rehabilitation plan,~~ and the injured person ~~shall have~~ *has* employed an attorney at law, who successfully procures payment on behalf of the employee or *who enables the resolution of a dispute with respect to a rehabilitation plan,* the compensation judge, commissioner of the department of labor and industry, or the workers' compensation court of appeals upon appeal, upon application, shall award to the employee against the insurer or self-insured employer or uninsured employer, in addition to the compensation benefits paid or awarded to the employee, an amount equal to 25 percent of that portion of the attorney's fee which has been awarded pursuant to this section that is in excess of \$250.

Sec. 38. Minnesota Statutes 1982, section 176.081, is amended by adding a subdivision to read:

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

Sec. 39. Minnesota Statutes 1982, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] For injury producing temporary total disability, *the compensation is* $66\frac{2}{3}$ percent of the *daily* weekly wage at the time of injury

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

(2) The minimum weekly compensation benefits for temporary total disability shall be not less than 50 percent of the statewide average weekly wage or the injured employee's actual weekly wage, whichever is less. In no case shall a weekly benefit be less than 20 percent of the statewide average weekly wage.

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

payable, as nearly as may be.

Sec. 40. Minnesota Statutes 1982, section 176.101, subdivision 2, is amended to read:

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

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

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

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 section 176.1011 and in cases not covered by that section according to rules adopted by the commissioner.

Sec. 42. 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 according to section 176.1011 and in cases not covered by that section according to rules adopted by the commissioner.

Sec. 43. 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 100 percent 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. 44. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

Sec. 45. 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 chapter. If during this 90-day period the employee retires or the employer furnishes work to the employee that is consistent with an approved plan of rehabilitation or, if no

plan has been approved, that the employee can do in his or her physical condition and that job produces an economic status as close as possible to that the employee would have enjoyed without the disability, or the employer procures this employment with another employer or the employee accepts this job with another employer, temporary total compensation shall cease and the employee shall, if appropriate, receive impairment compensation pursuant to subdivision 3b. This impairment compensation is in lieu of economic recovery compensation under subdivision 3a, and the employee shall not receive both economic recovery compensation and impairment compensation. Temporary total compensation and impairment compensation shall not be paid concurrently. Once temporary total compensation ceases no further temporary total compensation is payable except as specifically provided by this section.

Upon receipt of a written medical report indicating that the employee has reached maximum medical improvement, the employer or insurer shall serve a copy of the report upon the employee and shall file a copy with the division.

(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 and shall state the nature of the job, the rate of pay, the physical requirements of the job, and any other information necessary to fully and completely inform the employee of the job duties and responsibilities.

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

(c) Self employment may be an appropriate job under this subdivision. The commissioner shall monitor application of this subdivision and may adopt rules to assure its proper application.

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

Subd. 3f. [JOB PRIOR TO MAXIMUM MEDICAL IMPROVEMENT.] If the employer offers a job prior to the employee reaching maximum medical improvement and the job is consistent with an approved plan of rehabilitation or if no rehabilitation plan has been approved and the job is within the employee's physical limitations, or the employer procures a job for the employee with another employer which meets the requirements of this subdivision or the employee accepts this job with another employer, the employee's temporary total compensation shall cease. However, no economic recovery compensation or impairment compensation is due or payable until the employee reaches maximum medical improvement and a job offer consistent with the requirements of subdivision 3e is made and the other conditions in subdivision 3e are also met.

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

Subd. 3g. [ACCEPTANCE OF JOB OFFER.] If the employee accepts a job offer described in subdivision 3e and begins work at that job, not necessarily within the 90-day period specified in that subdivision the impairment compensation shall be paid in a lump sum 30 calendar days after the return to work.

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

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

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

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

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

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

Subd. 3j. [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 because of the permanent partial disability, 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 con-

sultant. 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. If no job is offered to the employee by the end of this 90-day period, the employee shall receive economic recovery compensation pursuant to this section but reduced by the impairment compensation previously received by the employee for the same disability.*

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

Subd. 3k. [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. 52. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3l. [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 initially 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 for that injury. 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. 53. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3m. [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. 54. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3n. [NO TEMPORARY PARTIAL COMPENSATION OR REHABILITATION IF JOB OFFER REFUSED.] An employee who has been offered a job under subdivision 3e and has refused that offer and who sub-

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

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

(b) If an employee is receiving or has received economic recovery compensation and is determined to be permanently totally disabled no offset shall be taken against future 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) An employee who has received periodic economic recovery compensation and who meets the criteria under clause (b) of this subdivision shall receive impairment compensation pursuant to clause (a) of this subdivision even if the employee has previously received economic recovery compensation for that disability.

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

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

Subd. 3p. [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. 57. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3q. [METHOD OF PAYMENT OF ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation is payable at the

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

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

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

Subd. 3r. [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 last child is no longer dependent after which time payments and future entitlement to the compensation ceases.*

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

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

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

Subd. 3s. [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. 60. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 3t. [MINIMUM ECONOMIC RECOVERY COMPENSATION.] (a) Economic recovery compensation pursuant to this section shall be at least

120 percent of the impairment compensation the employee would receive if that compensation were payable to the employee. The monitoring period shall be at least 120 percent of the weeks during which impairment compensation would be payable if paid weekly.

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

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

Subd. 3u. [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. 62. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

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

Sec. 63. Minnesota Statutes 1982, section 176.101, is amended by adding a subdivision to read:

Subd. 4a. [PREEXISTING CONDITION OR DISABILITY; APPORTIONMENT.] (a) If a personal injury results in a disability which is attributable in part to a preexisting disability that arises from a congenital condition or is the result of a traumatic injury or incident, whether or not compensable under this chapter, the compensation payable for the permanent partial disability pursuant to this section shall be reduced by the proportion of the disability which is attributable only to the preexisting disability. An apportionment of a permanent partial disability under this subdivision shall be made only if the preexisting disability is clearly evidenced in a medical report or record made prior to the current personal injury. Evidence of 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. 64. Minnesota Statutes 1982, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which he the employee is entitled for said the injury the compensation rate for temporary total, temporary partial, ~~retraining, permanent partial or~~ a 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. 65. 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. 66. [176.1011] [PERMANENT PARTIAL DISABILITY, WHOLE BODY SCHEDULE.]

Subdivision 1. [GENERAL.] For permanent partial disability the percentage loss of a part of the body as it relates to the whole body is as indicated in this section.

Subd. 2. [MEMBERS.] (a) For the loss of a hand, not including wrist movement, 42 percent of the whole body;

(b) For the loss of a hand, including wrist movement, 48 percent of the whole body;

(c) For the loss of an arm, 60 percent of the whole body;

(d) For the loss of a foot, including ankle movement, 32 percent of the whole body;

(e) For loss of a leg, if enough remains to permit the use of an effective artificial member, 40 percent of the whole body;

(f) For the loss of a leg so close to the hip that no effective artificial member can be used, 50 percent of the whole body;

(g) For loss of the great toe, eight percent of the whole body;

(h) For loss of a toe other than the great toe, three percent of the whole body;

Subd. 3. [VISION.] For the complete loss of vision, 85 percent of the whole body. In determining the degree of vision impairment as it relates to complete loss of vision, clauses (1) to (6) must be used.

(1) [MAXIMUM AND MINIMUM LIMITS OF THE PRIMARY COORDINATE FACTORS OF VISION.] In order to determine the various degrees of visual efficiency, normal or maximum, and minimum, limits for each coordinate function must be established those being, the 100 percent point and the zero percent point.

(a) [MAXIMUM LIMITS.] The maximum efficiency for each of these is established by existing and accepted standards.

1. [CENTRAL VISUAL ACUITY.] The ability to recognize letters or characters which subtend an angle of five minutes, each unit part of which subtends a one-minute angle at the distance viewed is accepted as standard. Therefore a 20/20 Snellen or A.M.A. and a 14/14 A.M.A. are employed as the maximum acuity of central vision, or 100 percent acuity for distance vision and near vision respectively.

2. [FIELD VISION.] A visual field having an area which extends from the point of fixation outward 65 degrees, down and out 65 degrees, down 55 degrees, down and in 5 degrees, inward 45 degrees, in and up 45 degrees, upward 45 degrees, and up and out 55 degrees is accepted as 100 percent industrial visual field efficiency.

3. [BINOCULAR VISION.] Maximum binocular vision is present if there is absence of diplopia in all parts of the field of binocular fixation, and if the two eyes give useful binocular vision.

(b) [MINIMUM LIMITS.] The minimum limit, or the zero percent of the coordinate functions of vision, is established at that degree of efficiency which reduces vision to a state of industrial uselessness.

1. [CENTRAL VISUAL ACUITY.] The minimum limit of this function is established as the loss of light perception, light perception being qualitative vision. The practical minimum limit of quantitative visual acuity is established as the ability to distinguish form. Experience, experiment, and authoritative opinion show that for distance vision 20/200 Snellen or A.M.A. Chart is 80 percent loss of visual efficiency, 20/380 is 96 percent loss, and 20/800 is 99.9 percent loss, and that for near vision 14/141 A.M.A. Reading Card is 80 percent loss of visual efficiency, 14/266 is 96 percent loss, and 14/560 is 99.9 percent loss. Table 1 shows the percentage loss of visual efficiency corresponding to the Snellen and other notations for distance and for near vision, for the measurable range of quantitative visual acuity.

2. [FIELD VISION.] The minimum limit for this function is established as a concentric central contraction of the visual field to five degrees. This degree of contraction of the visual field of an eye reduces the visual efficiency to zero.

3. [BINOCULAR VISION.] The minimum limit is established by the presence of diplopia in all parts of the motor field, or by lack of useful binocular vision. This condition constitutes 50 percent motor field efficiency.

TABLE 1

Percentage of Central Visual Efficiency Corresponding to
Specified Readings for Distance and for Near Vision for
Measurable Range of Quantitative Visual Acuity

A.M.A. Test Chart or Snellen Reading for Distance	A.M.A. Card Reading for Near	Percentage of Visual Efficiency	Percent- age Loss of Vision
20/20	14/14	100.00	0.0
20/15	14/17.5	95.7	4.3
20/25.7	—	95.0	5.0
20/30	14/21	91.5	8.5
20/32.1	—	90.0	10.0
20/35	14/24.5	7.5	12.5
20/38.4	—	85.0	15.0
20/40	14/28	83.6	16.4
20/44.9	14/31.5	80.0	20.0
20/50	14/35	76.5	23.5

20/52.1	—	75.0	25.0
20/60	14/42	69.9	30.1
20/60.2	—	70.0	30.0
20/68.2	—	65.0	35.0
20/70	14/49	64.0	36.0
20/77.5	—	60.0	40.0
20/80	14/56	58.5	41.5
20/86.8	—	55.0	45.0
20/90	14/63	53.4	46.6
20/97.5	—	50.0	50.0
20/100	14/70	48.9	51.1
20/109.4	—	45.0	55.0
20/120	14/84	40.9	59.1
—	14/89	38.4	61.6
20/122.5	—	40.0	60.0
20/137.3	—	35.0	65.0
20/140	14/98	34.2	65.8
20/155	—	30.0	70.0
20/160	14/112	28.6	71.4
20/175	—	25.0	75.0
20/180	14/126	23.9	76.1
20/200	14/141	20.0	80.0
20/220	14/154	16.7	83.3
20/240	14/168	14.0	86.0
14/178	—	12.3	87.7
20/260	14/182	11.7	88.3
20/280	14/196	9.7	90.3
20/300	14/210	8.2	91.8
20/320	14/224	6.8	93.2
20/340	14/238	5.7	94.3
20/360	14/252	4.8	95.2
20/380	14/266	4.0	96.0
20/400	14/280	3.3	96.7
20/450	14/315	2.1	97.9
20/500	14/350	1.4	98.6
20/600	14/420	0.6	99.4
20/700	14/490	0.3	99.7
20/800	14/560	0.1	99.9

Where distance vision is less than 20/200 and the A.M.A. Chart is used, readings will be at ten feet. The percentage of efficiency and loss may be obtained from this table by comparison with corresponding readings on the basis of 20 feet, interpolating between readings if necessary. In view of the lack of uniform standards among the various near vision charts, readings for near vision, within the range of vision covered thereby, are to be according to the American Medical Association Rating Reading Card of 1932.

(2) [MEASUREMENT OF COORDINATE FACTORS OF VISION AND THE COMPUTATION OF THEIR PARTIAL LOSS.] (a) [Central visual acuity.] 1. Central visual acuity shall be measured both for distance and for near, each eye being measured separately, both with and without correction. Where the purpose of the computation is to determine loss of vision resulting from injury, if correction is needed for a presbyopia due to age or for some other condition clearly not due to the injury, the central visual acuity "without correction," as the term is used in this section, shall be measured with a correction applied for the presbyopia or other preexisting condition but without correction for any condition which may have resulted from the in-

jury. The central visual acuity with correction shall be measured with correction applied for all conditions present.

2. The percentage of central visual acuity efficiency of the eye for distance vision shall be based on the best percentage of central visual acuity between the percentage of central visual acuity with and without correction. No subtraction for glasses may be taken at more than 25 percent, or less than five percent, of total central visual acuity efficiency. If a subtraction of five percent reduces the percentage of central visual acuity efficiency below that obtainable without correction, the percentage obtainable without correction shall be adopted unless correction is necessary to prevent eye strain or for other reasons.

3. The percentage of central visual acuity efficiency of the eye for near vision shall be based on a similar computation from the near vision readings, with and without correction.

4. The percentage of central visual acuity efficiency of the eye in question shall be the result of the weighted values assigned to these two percentages for distance and for near. A onefold value is assigned to distance vision and a twofold value to near vision. If the central visual efficiency for distance 70 percent and that for near is 40 percent, the percentage of central visual efficiency for the eye in question would be:

Distance (taken once)	70 percent
Near (taken twice)	40
	40
	150 divided by 3 = 50 percent
	central visual acuity efficiency

5. The Snellen test letters or characters as published by the Committee on Compensation for Eye Injuries of the American Medical Association and designated "Industrial Vision Test Charts" subtend a five-minute angle, and their component parts a one-minute angle. These test letters or the equivalent are to be used at an examining distance of 20 feet for distant vision (except as otherwise noted on the chart where vision is very poor), and 14 inches for near vision, from the patient. The illumination is to be not less than three-foot candles, nor more than ten-foot candles on the surface of the chart.

6. Table 1 shows the percentage of central visual acuity efficiency and the percentage loss of efficiency, both for distance and for near, for partial loss between 100 percent and zero vision for either eye.

(b) [FIELD VISION.] 1. The extent of the field of vision shall be determined by the use of the usual perimetric test methods, a white target being employed which subtends a one-degree angle under illumination of not less than three-foot candles, and the result plotted on the industrial visual field chart. The readings should be taken, if possible, without restriction to the field covered by the correction worn.

2. The amount of radial contraction in the eight principal meridians shall be determined. The sum of the degrees of field vision remaining on these meridians, divided by 420 (the sum of the eight principal radii of the industrial visual field) will give the visual field efficiency of one eye in percent, except that a concentric central contraction of the field to a diameter of five degrees reduces the visual efficiency to zero.

3. Where the impairment of field is irregular and not fairly disclosed by the eight radii, the impaired area should be sketched upon the diagram on the report blank, and the computation be based on a greater number of radii, or

otherwise, as may be necessary to a fair determination.

(c) [BINOCULAR VISION.] 1. Binocular vision shall be measured in all parts of the motor field, recognized methods being used for testing. It shall be measured with any useful correction applied.

2. Diplopia may involve the field of binocular fixation entirely or partially. When diplopia is present, this shall be plotted on the industrial motor field chart. This chart is divided into 20 rectangles, four by five degrees in size. The partial loss due to diplopia is that proportional area which shows diplopia as indicated on the plotted chart compared with the entire motor field area.

3. If diplopia involves the entire motor field, causing an irremediable diplopia, or when there is absence of useful binocular vision due to lack of accommodation or other reason, the loss of coordinate visual efficiency is equal to 50 percent loss of the vision existing in one eye (ordinarily the injured, or the more seriously injured, eye). If the diplopia is partial, the loss in visual efficiency shall be proportional and based on the efficiency factor value of one eye as stated in table 2. If useful correction is applied to relieve diplopia, five percent of total motor field efficiency of one eye shall be deducted from the percent of the efficiency obtainable with the correction. A correction which does not improve motor field efficiency by at least five percent of total will not ordinarily be considered useful.

TABLE 2

Loss in Binocular Vision

No loss	equals	100.0%	Motor Field Efficiency
1/20	equals	99.0	Motor Field Efficiency
2/20	equals	97.7	Motor Field Efficiency
3/20	equals	96.3	Motor Field Efficiency
4/20	equals	95.0	Motor Field Efficiency
5/20	equals	93.7	Motor Field Efficiency
6/20	equals	92.3	Motor Field Efficiency
7/20	equals	90.7	Motor Field Efficiency
8/20	equals	89.0	Motor Field Efficiency
9/20	equals	87.3	Motor Field Efficiency
10/20	equals	85.7	Motor Field Efficiency
11/20	equals	83.7	Motor Field Efficiency
12/20	equals	81.7	Motor Field Efficiency
13/20	equals	79.7	Motor Field Efficiency
14/20	equals	77.3	Motor Field Efficiency
15/20	equals	75.0	Motor Field Efficiency
16/20	equals	72.7	Motor Field Efficiency
17/20	equals	69.7	Motor Field Efficiency
18/20	equals	66.0	Motor Field Efficiency
19/20	equals	61.0	Motor Field Efficiency
20/20	equals	50.0	Motor Field Efficiency

(3) [INDUSTRIAL VISUAL EFFICIENCY OF ONE EYE.] The industrial visual efficiency of one eye is determined by obtaining the product of the computed coordinate efficiency values of central visual acuity, of field of vision, and of binocular vision. Thus, if central visual acuity efficiency is 50 percent, visual field efficiency is 80 percent and the binocular vision efficiency is 100 percent, the resultant visual efficiency of the eye will be 50 times 80 times 100 equals 40 percent. Should useful binocular vision be absent in all of the motor field so that binocular efficiency is reduced to 50

percent, the visual efficiency would be 50 times 80 times 50 equals 20 percent.

(4) [COMPUTATION OF COMPENSATION FOR IMPAIRMENT OF VISION.] When the percentage of industrial visual efficiency of each eye has been determined, it is subtracted from 100 percent. The difference represents the percentage impairment of each eye for industrial use. These percentages are applied directly to the specific schedules of chapter 176.

(5) [TYPES OF OCULAR INJURY NOT INCLUDED IN THE DISTURBANCE OF COORDINATE FACTORS.] Certain types of ocular disturbance are not included in the foregoing computations and these may result in disabilities, the value of which cannot be computed by any scale as yet scientifically possible of deduction. These are disturbances of accommodation not previously provided for in these rules, of color vision, of adaptation to light and dark, metamorphopsia, entropion, ectropion, lagophthalmos, epiphora, and muscle disturbances not included under diplopia. For these disabilities additional compensation shall be awarded, but in no case shall the additional award make the total compensation for loss in industrial visual efficiency greater than that provided by law for total permanent disability.

(6) [MISCELLANEOUS RULES.] (a) Compensation shall not be computed until all adequate and reasonable operations and treatment known to medical science have been attempted to correct the defect. Prior to the final examination on which compensation is to be computed, at least three months shall have elapsed after the last trace of visible inflammation has disappeared. If in cases of disturbance of extrinsic ocular muscles, optic nerve atrophy, injury of the retina, sympathetic ophthalmia, and traumatic cataract, at least 12 months and preferably not more than 16 months shall intervene before the examination is made on which final compensation is to be computed. In case the injury is one which may cause cataract, optic atrophy, disturbance of the retina, or other conditions, which may further impair vision after the time of the final examination, a note of that fact should be made by the examining physician on his report.

(b) In cases of additional loss in visual efficiency, when it is known that there was present a preexisting subnormal vision, compensation shall be based on the loss incurred as a result of eye injury or occupational condition specifically responsible for the additional loss. If there exists no record or no adequate and positive evidence of preexisting subnormal vision, it shall be assumed that the visual efficiency prior to any injury was 100 percent. An examining physician must carefully distinguish, in regard to each of the coordinate factors, between impairments resulting from the injury and impairments not so resulting. Other impairments should be reported separately.

Subd. 3. [AUDITORY.] For complete loss of hearing; 35 percent of the whole body. In determining the degree of hearing loss as it relates to complete hearing loss, clauses (1) to (9) must be used:

(1) [HARMFUL NOISE.] Hearing loss resulting from hazardous noise exposure depends upon several factors, namely, the overall intensity (sound pressure level), the daily exposure, the frequency characteristic of the noise spectrum and the total lifetime exposure. Noise exposure level of 90 decibels or more as measured on the A scale of a sound level meter for eight hours a day is considered to be harmful.

(2) [MEASUREMENT OF NOISE.] Noise shall be measured with a sound level meter which meets ANSI standard S1.4-1971 and shall be measured on the "A" weighted network for "slow response". Noise levels reaching

maxima at intervals of one second or less shall be classified as being continuous. The measurement of noise is primarily the function of acoustical engineers and properly trained personnel. Noise should be scientifically measured by properly trained individuals using approved calibrated instruments which at the present time include sound level meters, octave band analyzers and oscilloscopes, the latter particularly for impact-type noises.

(3) [MEASURE OF HEARING ACUITY.] *The use of pure tone air conduction audiometry performed under proper testing conditions is recommended for establishing the hearing acuity of workers. The audiometer should be one which meets the specifications of ANSI standard 53.6-1969 (4). The audiometer should be periodically calibrated. Preemployment records should include a satisfactory personal and occupational history on hearing status. Otological examination should be made where indicated.*

(4) [FORMULA FOR MEASURING HEARING IMPAIRMENT.] *For the purpose of determining the hearing impairment, pure tone air conduction audiometry is used, measuring all frequencies between 500 and 6,000 Hz. This formula uses the average of the three speech frequencies of 1,000, 2,000, and 3,000 Hz. Audiometric measurement for these three frequencies averaging 35 decibels or less on the ANSI calibration does not constitute any practical hearing impairment. A table for evaluating hearing impairment based upon the average readings of these three frequencies follows below. No deduction is made for presbycusis.*

(5) [DIAGNOSIS AND EVALUATION.] *The diagnosis of occupational hearing loss is based upon the occupational and medical history, the results of the otological and audiometric examinations and their evaluation.*

(6) [TREATMENT.] *There is no known medical or surgical treatment for improving or restoring hearing loss due to hazardous noise exposure.*

(7) [ALLOWANCE FOR TINNITUS.] *In addition to the above impairment, if tinnitus has permanently resulted due to work exposure, an allowance of five percent loss of hearing impairment for the affected ear or ears shall be computed.*

(8) [HEARING IMPAIRMENT TABLE.]

Average Decibel Loss ANSI	Percent of Compensable Hearing Impairment	Average Decibel Loss ANSI	Percent of Compensable Hearing Impairment
35	0	66	54.25
36	1.75	67	56.00
37	3.50	68	57.75
38	5.25	69	59.50
39	7.00	70	61.25
40	8.75	71	63.00
41	10.50	72	64.75
42	12.25	73	66.50
43	14.00	74	68.25
44	15.75	75	70.00
45	17.50	76	71.75
46	19.25	77	73.50
47	21.00	78	75.25
48	22.75	79	77.00
49	24.50	80	78.75
50	26.25	81	80.50

51	28.00	82	82.25
52	29.75	83	84.00
53	31.50	84	85.75
54	33.25	85	87.50
55	35.00	86	89.25
56	36.75	87	91.00
57	38.50	88	92.75
58	40.25	89	94.50
59	42.00	90	96.25
60	43.75	91	98.00
61	45.50	92	99.75
62	47.25	92	99.75
63	49.00	92	99.75
64	50.75	92	99.75
65	52.50	92	99.75

(9) [METHOD FOR DETERMINING PERCENT OF HEARING IMPAIRMENT.] Obtain for each ear the average hearing level in decibels at the three frequencies, 1,000, 2,000, and 3,000 Hz.

See table for converting to percentage of hearing impairment in each ear.

To determine the percentage of impairment for both ears, multiply the lesser loss by four, add the greater loss and divide by five.

Subd. 4. [HEAD INJURIES.] (a) For head injuries, the percentage of permanent partial disability to the whole body multiplied by 95 percent. The percentage shall be determined from competent testimony at a hearing before a compensation judge or by the workers' compensation court of appeals in cases upon appeal except in cases where clause (b) is applicable.

(b) Skull defect:

	Unfilled defect Percent	Filled defect Percent
1 square inch	10 whole body	3 whole body
2 square inches	15 whole body	4 whole body
3 square inches	20 whole body	5 whole body
5 square inches	25 whole body	7 whole body
8 or more square inches	30 whole body	10 whole body

Subd. 5. [INTERNAL ORGANS.] For permanent partial disability to an internal organ, until the commissioner adopts a schedule of degree of disability for internal organs, that percent, not to exceed 100 percent, which is percent of permanent partial disability caused to the whole body by the injury as is determined from competent testimony at a hearing before a compensation judge or the workers' compensation court of appeals.

Subd. 6. [DISFIGUREMENT; SCARRING.] 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, the percentage the parties agree to or the compensation judge or the workers' compensation court of appeals in cases on appeal determines, not exceeding 15 percent of the whole body.

Subd. 7. [BURNS.] For permanent partial disability resulting from injury to the body as a whole due to thermal injury from extreme heat, radiation, cold, or chemical resulting in permanent injury to the skin including heat

intolerance, cold intolerance, and loss of durability; skin sensitivity and altered sweating with apocrine gland dysfunction; decreased sensation of the hand not directly related to nerve injury; and pain, loss of pigment, contraction and edema, that proportion of 70 percent which is represented by the percentage of the permanent partial disability as is determined from competent testimony at a hearing before a compensation judge or as determined by the workers' compensation court of appeals in cases on appeal, the percentage to be in addition to the rating the employee would otherwise be entitled to for loss of use of a member in accordance with this section.

Subd. 8. [ORTHOPAEDIC INJURIES.] For the purpose of chapter 176, unless the context requires otherwise "manual" means the "manual for orthopaedic surgeons in evaluating permanent physical impairment" published by the American Academy of Orthopaedic Surgeons. The manual is incorporated by reference into this chapter. Unless a contrary provision specifically exists in this chapter or in rules, the manual shall be used to determine all permanent partial disabilities which are specifically listed in the manual. The most recent manual as of May 1, 1983, shall be used for purposes of this subdivision and future amended versions shall not be used. All references to percent of permanent physical impairment and loss of physical function in the manual are the proportion that the specified impairment bears to the entire member unless otherwise specified in the manual. The proportion that the member bears to the whole body is to be determined pursuant to this subdivision.

Subd. 9. [CENTRAL NERVOUS SYSTEM.] For permanent partial disability to the central nervous system the percentage of disability of the whole body is as listed in the following:

DISABILITY — PERCENT OF WHOLE BODY

A. Trigeminal

- (1) Unilateral sensory loss — 5 percent
- (2) Bilateral sensory loss — 20 percent
- (3) Trigeminal neuralgia — 20 percent
- (4) Atypical facial pain — 10 percent
- (5) Unilateral motor loss — 5 percent
- (6) Bilateral motor loss — 30 percent

B. Facial

- (1) Total loss of taste — 3 percent
- (2) Unilateral motor loss — 10 percent
- (3) Bilateral motor loss — 25 percent

C. Vestibular loss (bilateral) — 20 percent

D. Vertigo

- (1) Interference with operating motor vehicle or riding a bicycle — 8 percent
- (2) Cannot perform activities of daily living without assistance except self-care, household duties, walking on the street, riding in a car — 25 percent
- (3) Cannot perform activities of daily living without assistance except self-care — 35 percent

- (4) Same as (3) and confined to premises — 60 percent

E. Glossopharyngeal, Vagus, Cranial Accessory

(1) Swallowing impairment due to any one or two combinations of these nerves:

- (a) diet restricted to semi-solids — 10 percent

- (b) diet restricted to liquids — 25 percent

- (c) diet by tube feeding or gastrostomy — 50 percent

(2) Speech impairment due to any one or two combinations of these nerves:

- (a) can produce speech for all to most needs — 0-2 percent

- (b) can produce speech for many needs — 5 percent

- (c) can produce speech for some needs — 15 percent

- (d) can produce speech for few needs — 25 percent

- (e) cannot produce speech for any needs — 33 percent

F. Hypoglossal

(1) Bilateral paralysis

Swallowing impairment

- (a) diet restricted to semi-solids — 10 percent

- (b) diet restricted to liquids — 25 percent

- (c) diet by tube feeding or gastrostomy — 50 percent

(2) Speech impairment

- (a) can produce speech for all to most needs — 0-2 percent

- (b) can produce speech for many needs — 5 percent

- (c) can produce speech for some needs — 15 percent

- (d) can produce speech for few needs — 25 percent

- (e) cannot produce speech for any needs — 33 percent

G. Spinal Cord and Brain

Supporting objective neurological findings are presupposed.

(1) Spinal cord

Use of lower extremities

- (a) can stand but walks with difficulty — 15 percent

- (b) can stand but walks only on the level — 30 percent

- (c) can stand but cannot walk — 45 percent

- (d) can neither stand nor walk — 65 percent

(2) Use of upper extremities

	(Preferred extremity)	Percentage (Nonpreferred extremity)	(Both)
(a) some difficulty with digital dexterity	10	5	15
(b) has no digital dexterity	20	10	30
(c) has difficulty with self care	30	20	50
(d) cannot carry out self care	50	35	85

(3) Respiration

(a) Difficulty only where extra exertion required — 5 percent

(b) restricted to limited ambulation — 25-50 percent

(c) restricted to bed — 75 percent

(d) has no spontaneous respiration — 95 percent

(4) Urinary Bladder function

(a) impairment in form of urgency — 5 percent

(b) good reflex activity without voluntary control — 20 percent

(c) poor reflex activity and no voluntary control — 35 percent

(d) no reflex or voluntary control — 50 percent

(5) Anorectal function

(a) limited voluntary control — 5 percent

(b) has reflex regulation but no voluntary control — 15 percent

(c) no reflex regulation or voluntary control — 20 percent

Sexual function	Percentage
Mild difficulties	5
Reflex function possible but no awareness	20
No sexual function	30

H. Brain - Supporting objective evidence of structural injury, neurological deficit or psychomotor findings is required

(1) community disturbances, mild difficulties — 5 percent

(2) Comprehends but requires adaptive communication — 20 percent

(3) comprehends but cannot produce sufficient or appropriate language — 30 percent

(4) cannot comprehend or produce intelligible or appropriate language — 60 percent

(5) cannot comprehend or produce language — 95 percent

(6) complex integrated cerebral function disturbances

- must be substantiated by medical observation in a controlled setting and supported by psychometric testing for organic dysfunction.

- functional overlay or primary psychiatric disturbances shall not be rated

under this category.

(a) can carry out daily living tasks — 10 percent

(b) needs some supervision — 30 percent

(c) needs confinement — 65 percent

(d) cannot care for self — 95 percent

(7) Emotional disturbances (personality changes)

-must be substantiated by medical observation in a controlled setting and supported by psychometric testing for organic dysfunction.

(a) only present under unusual stress — 10 percent

(b) present in mild to moderate degree under ordinary stress — 30 percent

(c) present in moderate to severe degree under ordinary stress — 55 percent

(d) severe degree; continually endangers self or others — 95 percent

(8) Consciousness mental content

-must be substantiated by medical observation in a controlled setting and supported by psychometric testing for organic dysfunction.

(a) mild confusion — 40 percent

(b) moderate confusion — 60 percent

(c) lethargy — 80 percent

(d) stupor — 95 percent

(e) coma — 95 percent

(9) Memory function

(a) able to carry out limited vocational tasks with supporting devices — 15 percent

(b) needs direction but can carry through tasks — 30 percent

(c) needs supervised living and vocational supervision — 65 percent

(d) cannot remember from moment to moment — 95 percent

(10) Paralysis

(a) one side of body

(1) slight — 20 percent

(2) moderate — 55 percent

(3) severe — 95 percent

(11) Epilepsy

(a) well controlled on medication for one year or more. Able to enter work force but with restrictions — 10 percent

(b) not well controlled. Spells interfering with activities at least once a year — 15 percent

(c) poorly controlled, having several spells per year, with moderate inter-

ference with daily living — 35 percent

(d) requires supervised, protective care or confinement — 75 percent

(e) totally incapacitated — 95 percent

1. Headaches

vascular with nausea - vomiting — 5 percent

Subd. 10. [LOSS OF USE OF MEMBER.] 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.

Subd. 11. [MEMBER NOT IN SCHEDULE.] In cases of permanent partial disability to a body part not listed in this schedule or the manual, the percentage loss of function which the disability bears to the whole body shall be determined pursuant to rules adopted by the commissioner.

Subd. 12. [INJURY TO MORE THAN ONE BODY PART.] If an employee suffers a permanent functional disability of more than one body part due to a personal injury incurred in a single occurrence, the percent of the whole body which is permanently partially disabled shall be determined by the following formula so as to ensure that the percentage for all functional disability combined does not exceed the total for the whole body:

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

where: A is the greater percentage whole body loss of the first body part; and B is the lesser percentage whole body loss otherwise payable for the second body part.

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

Sec. 67. 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. 68. Minnesota Statutes 1982, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner of ~~labor and industry~~

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

Sec. 69. 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, 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 subdivisions 9 and 11; (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. 70. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

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

evidence previously submitted to the commissioner. A record of the proceeding shall be made by the panel. Upon determination of the issue presented, the panel shall issue to the interested parties a written decision and order. The decision need not contain a recitation of the evidence presented at the hearing, but shall be limited to the panel's basis for the decision.

Sec. 71. 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 or by another person permitted by rule to provide consultation to an injured employee within five days after the employee has 60 days of lost work time due to the personal injury, except as otherwise provided in this subdivision. Where an employee has incurred an injury to the back, the consultation shall 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 commis-

sioner 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 or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner determines the consultation is not required.

(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. 72. 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. 73. 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 subdivisions 9 and 11 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. 74. 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. 75. 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. 76. 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;

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

the rehabilitation plan objectives.

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

Sec. 77. 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. An employee shall not be required to relocate and a refusal to relocate shall not result in a suspension or termination of compensation under this chapter; and*

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

Sec. 78. 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. 79. 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. An employee who has been approved for retraining may petition the commissioner for additional compensation not to exceed 25 percent of the compensation otherwise payable. If the commissioner determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner may award additional compensation in an amount the commissioner determines is appropriate, not to exceed the employee's request. This additional compensation shall cease at any time the commissioner determines the special circumstances are no longer present.

Sec. 80. 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. 81. Minnesota Statutes 1982, section 176.102, is amended by adding a subdivision to read:

Subd. 12. [DISCONTINUANCE.] All benefits payable under chapter 176 may, after a determination and order by the commissioner, be discontinued or forfeited for any time during which the employee refuses to submit to any reasonable examinations and evaluative procedures ordered by the commissioner to determine the need for and details of a plan of rehabilitation, or refuses to participate in rehabilitation evaluation as required by this section or does not make a good faith effort to participate in a rehabilitation plan. A discontinuance under this section is governed by article 1, section 122.

Sec. 82. [176.103] [MEDICAL HEALTH CARE REVIEW.]

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

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

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

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

Subd. 2. [SCOPE.] The commissioner shall monitor the medical and sur-

gical 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 as an ex officio member, two persons representing chiropractic, one person representing hospital administrators, and six medical practitioners representing different specialties which the commissioner determines are the most frequently utilized by injured employees. The board shall also have two persons representing employees, two persons representing employers or insurers, and two persons representing the general public. The members shall be appointed by the commissioner and shall be governed by section 15.0575. Terms of the board's members may be renewed. The board shall appoint from among its clinical members a clinical advisory subcommittee on clinical quality and a clinical advisory subcommittee on clinical cost containment. Each subcommittee shall consist of at least three members one of whom shall be a member who is not a chiropractor or licensed physician.

The 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 full 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. 83. [176.104] [REHABILITATION PRIOR TO DETERMINATION OF LIABILITY.]

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

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

lished is governed by section 176.102.

Sec. 84. 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, for any body part or disability not scheduled in section 176.1011 or the manual. The authority to adopt, modify, or repeal these rules expires on January 1, 1987, but any rules already adopted shall remain in effect.

Sec. 85. 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. 86. 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. 87. 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 last 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. 88. Minnesota Statutes 1982, section 176.111, is amended by adding a subdivision to read:

Subd. 9a. [REMARRIAGE OF SPOUSE.] A surviving spouse who remarries and is receiving benefits under subdivisions 6, 7, or 8 shall continue to be eligible to receive weekly benefits for the remaining period that the spouse is entitled to receive benefits pursuant to this section.

Sec. 89. 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. 90. 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. 91. [176.129] [CREATION OF THE SPECIAL COMPENSATION FUND.]

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

Subd. 2. [PAYMENTS TO FUND, DEATH.] In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to monetary benefits of dependency compensation, the employer shall pay to the commissioner the sum of \$25,000 for the benefit of the special compensation fund. In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to at least \$25,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner for the benefit of the special compensation fund the difference between the amounts actually paid for the dependency benefits and \$25,000; but in no event shall the employer pay the commissioner less than \$5,000.

Subd. 3. [PAYMENTS TO FUND, INJURY.] If an employee suffers a personal injury resulting in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability, or death and the employee or the employee's dependents are entitled to compensation under sections 176.101 or 176.111 the employer shall pay to the commis-

sioner a lump sum amount, without any interest deduction, equal to 20 percent of the total compensation payable. The rate under this subdivision shall remain constant and applies to injuries occurring after June 1, 1971, and prior to January 1, 1984, for payments made on or after January 1, 1984. This payment is to be credited to the special compensation fund and shall be in addition to any compensation payments made by the employer under this chapter. Payment shall be made as soon as the amount is determined and approved by the commissioner.

Subd. 4. [TIME OF INJURY.] Subdivision 3 applies 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 June 1, 1971, but before January 1, 1984.

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

Subd. 5. [DETERMINATION OF AMOUNT PAYABLE.] (a) In addition to assessments under subdivisions 2 and 3, an employer shall, beginning in calendar year 1984, pay an assessment as provided in this subdivision. The assessment base shall be determined according to a method established by rule adopted by the commissioner. In determining this method, the commissioner shall consider, among other things, the frequency of indemnity claims, equity, potential for retaliation by other states against Minnesota insurers, administrative convenience, records maintained by employer's insurers and self-insurers, verification of underlying records, and degree of risk refinement. The assessment base shall not be determined by paid losses.

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

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

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

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

Subd. 7. [REFUNDS.] In case deposit is or has been made under subdivision 2 and dependency later is shown, or if deposit is or has been made

pursuant to subdivision 2 or 3 by mistake or inadvertence, or under circumstances that justice requires a refund, the state treasurer is authorized to refund the deposit under order of the commissioner, a compensation judge, the workers' compensation court of appeals, or a district court. There is appropriated to the commissioner from the fund an amount sufficient to make the refund and payment.

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

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

(a) sue and be sued in its own name;

(b) intervene in or commence an action under this chapter or any other law, including, but not limited to, intervention or action as a subrogee to the division's right in a third-party action, any proceeding under this chapter in which liability of the special compensation fund is an issue, or any proceeding which may result in other liability of the fund or to protect the legal right of the fund;

(c) enter into settlements including but not limited to structured, annuity purchase agreements with appropriate parties under this chapter;

(d) contract with another party to administer the special compensation fund; and

(e) 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. 92. 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~~ *section 176.1011 or 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. 93. 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. 94. 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 fully 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 full 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. 95. 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. 96. 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. 97. 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. 98. 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. 99. 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. 100. Minnesota Statutes 1982, section 176.131, subdivision 8, is amended to read:

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

"Physical impairment" means any physical or mental condition that is

permanent in nature, whether congenital or due to injury, disease or surgery and which is or is likely to be a hindrance or obstacle to obtaining employment ~~provided~~ *except* that, physical impairment as ~~used herein~~ is limited to the following:

- (a) Epilepsy,
- (b) Diabetes,
- (c) Hemophilia,
- (d) Cardiac disease,
- (e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,
- (f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,
- (g) Residual disability from poliomyelitis,
- (h) Cerebral Palsy,
- (i) Multiple Sclerosis,
- (j) Parkinson's disease,
- (k) Cerebral vascular accident,
- (l) Chronic Osteomyelitis,
- (m) Muscular Dystrophy,
- (n) Thrombophlebitis,
- (o) Brain tumors,
- (p) Pott's disease,
- (q) Seizures,
- (r) Cancer of the bone,
- (s) Leukemia,

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

~~(u)~~ (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. 101. 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 who has suffered personal injury after the effective date of this clause is eligible to receive supplementary benefits after the employee has been receiving temporary total or permanent total benefits for 208 weeks. Regardless of the number of weeks of total disability, no person who is receiving temporary total compensation shall be ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, provided that all periods of disability are caused by the same injury.

Sec. 102. 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 nearest whole dollar.

Sec. 103. 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. 104. 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. 105. 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. 106. 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.

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 remain in effect but may be amended, modified, or repealed only by the commissioner of labor and industry.

Sec. 107. [176.138] [MEDICAL DATA; ACCESS.]

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

Medical data related to a previous injury or disability which is an issue in a claim for apportionment shall not be released without prior authorization of the employee.

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

Sec. 108. 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 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. 109. 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 evidence related to health care 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 evidence relating to health care must be submitted prior to or at the time of the hearing and no evidence shall be considered which was submitted after the hearing unless the compensation judge orders otherwise.

Sec. 110. Minnesota Statutes 1982, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or his the employee's survivors, and received in good faith by the employee or his the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a credit against future benefit entitlement; provided, however, that the credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits or death benefits shall not exceed 20 percent of the amount that would otherwise be payable.

Sec. 111. Minnesota Statutes 1982, section 176.181, is amended by adding a subdivision to read:

Subd. 2a. [APPLICATION FEE.] Every initial application filed pursuant

to subdivision 2 requesting authority to self-insure shall be accompanied by a fee of \$1,000. The fee is not refundable.

Sec. 112. 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. 113. 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 ~~eustodian 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. 114. Minnesota Statutes 1982, section 176.183, subdivision 1a, is amended to read:

Subd. 1a. When an employee or ~~his~~ *the employee's* dependent is entitled to benefits under this chapter from a self-insurer, present or past, other than the state and its municipal subdivisions, but ~~the self-insurer fails to be paid them~~ *pay the benefits*, the employee or ~~his~~ *the employee's* dependents, regardless of the date when the accident, personal injury, occupational disease, or death occurred, shall nevertheless receive ~~such the~~ benefits from the special compensation fund; and. The ~~state treasurer as custodian of such fund~~ *shall have commissioner* has a cause of action against ~~such the~~ self-insuring employer for reimbursement; for all ~~moneys~~ *benefits and other expenditures* paid out or to be paid out and, in the discretion of the court, ~~as the self-insurer is liable~~

for punitive damages in an ~~additional~~ amount not to exceed 50 percent of the total of all ~~moneys~~ benefits and other expenditures paid out or to be paid out. The commissioner shall institute an action to recover ~~such moneys~~ shall be ~~instituted~~ the total expenditures from the fund unless the ~~eustodian~~ commissioner determines that no recovery is possible. All ~~moneys~~ proceeds recovered shall be deposited in the general fund.

Sec. 115. 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. 116. 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. 117. Minnesota Statutes 1982, section 176.185, subdivision 1, is amended to read:

Subdivision 1. [NOTICE OF COVERAGE, TERMINATION, CANCELLATION.] Within 10 days after the issuance of a policy of insurance covering the liability to pay compensation under this chapter written by ~~any~~ an insurer licensed to insure such liability in this state, the insurer shall file notice of coverage with the commissioner ~~of the department of labor and industry~~ under regulations and on forms prescribed by the commissioner ~~of the department of labor and industry~~. No policy shall be canceled by the insurer within the policy period nor terminated upon its expiration date until a notice in writing ~~shall be~~ is delivered or mailed to the insured and filed with the commissioner ~~of the department of labor and industry~~, fixing the date on which it is proposed to cancel it, or declaring that the insurer does not intend to renew the policy upon the expiration date. ~~Such~~ A cancellation or termination ~~shall~~ is not ~~become~~ effective until 30 days after written notice has

been filed with the commissioner of the department of labor and industry in a manner prescribed by the commissioner unless prior to the expiration of said the 30 day period the employer obtains other insurance coverage or an order exempting him the employer from carrying insurance as provided in section 176.181. Upon receipt of said the notice the commissioner of the department of labor and industry shall notify the insured that he the insured must obtain coverage from some other licensed carrier and that, if unable to do so, he the insured shall request the Compensation Rating Bureau commissioner of insurance to designate some carrier to issue a require the issuance of a policy as provided in section 79.25 79.251, subdivision 4. Upon a cancellation or termination of a policy by the insurer the employer is entitled to have a policy assigned to him in accordance with sections 79.24 to 79.27 79.251 and 79.252. Notice of cancellation or termination by the insured shall be served upon the insurer by written statement to that effect mailed or delivered to the insurer. Upon receipt of such the notice the insurer shall notify the commissioner of the department of labor and industry of the cancellation or termination and thereupon the commissioner of the department of labor and industry shall ask the employer for the reasons for his the cancellation or termination and notify him the employer of his the duty under this chapter to insure his the employer's employees.

Sec. 118. 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. 119. [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. 120. 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. Arbitration costs shall be paid by the parties, except the employee, on a pro rata basis.

Sec. 121. 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. 122. 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. 123. 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. 124. 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. 125. 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. 126. 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. 127. Minnesota Statutes 1982, section 176.221, is amended to read:

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

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of *temporary total* compensation ~~due pursuant to section 176.101, subdivision 1,~~ shall commence. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer may have on any claim or incident either with respect to the compensability of the claim under chapter 176 or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. ~~When~~ *If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be discontinued terminated upon notice of discontinuance pursuant to section 176.241 the filing of a notice of denial of liability.* Upon the ~~determination~~ *termination*, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. *A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.*

Subd. 2. [GRANT OF EXTENSION.] Upon application made within 30 days after the date on which the first payment was due, the commissioner may grant an extension of time within which to determine liability. The extension shall not exceed 30 days.

Subd. 3. [PAYMENTS TO SPECIAL COMPENSATION FUND.] Where an employer or insurer fails to begin payment of compensation, ~~charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 pursuant to subdivision 1, or to file a denial of liability within the 14-day period referred to in subdivision 1, or to request an extension of time within 30 days after the date on which the first payment was due, he or she shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled because of the injury. In addition, each day subsequent to the end of the period and until a to receive up to the date compensation payment is made to the injured employee, the person responsible for payment of compensation shall pay to the special compensation fund an amount equal to the total compensation to which the injured employee is entitled.~~

Subd. 4. [FAILURE TO MAKE PAYMENTS AFTER EXTENSION.] Where an employer or insurer has been granted an extension of time within

which to determine liability and fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 or to file a denial of liability within such extended period, he shall make the payments provided in subdivision 3.

Subd. 5. [DOUBLE PAYMENTS TO SPECIAL COMPENSATION FUND.] Where an employer or insurer has failed to make the payments required by subdivision 3 or subdivision 4 within 30 days from the end of the period or the extended period, the division may require him to pay to the special compensation fund, each day subsequent to the end of the period and until a compensation payment is made to the injured employee, a sum equal to double the total amount of compensation to which the employee is entitled because of the injury. In addition, the person responsible for compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled.

Subd. 6. [ASSESSMENT OF PENALTIES.] The division or compensation judge shall assess the penalty payments provided for by subdivisions subdivision 3 to 5, and any increase in benefit payments provided by section 176.225, subdivision 5, against either the employer or the insurer depending upon to whom the delay is attributable in making payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9. The insurer is not liable for a penalty payment assessed against it even if the delay is attributable to the employer.

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

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

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

Subd. 8. [METHOD AND TIMELINESS OF PAYMENT.] Payment of compensation under this chapter shall be by immediately payable negotiable instrument, or if by any other method, arrangements shall be available to provide for the immediate negotiability of the payment instrument.

All payment of compensation shall be made within 14 days of the filing of an appropriate order by the division or a compensation judge, unless the order is to be appealed, or where if a different time period is provided by this chapter.

Subd. 9. [PAYMENT OF FULL WAGES.] An employer who pays full wages to an injured employee is not relieved of the obligation for reporting the injury and making a liability determination within the times specified in this chapter. If the full wage is paid the employer or insurer or self-insurer shall report the amount of this payment to the division and determine the portion which is temporary total compensation for purposes of administering this chapter and special compensation fund assessments. The employer shall also make appropriate adjustments to the employee's payroll records to assure that the employee's sick leave or vacation time is not inappropriately charged against the employee, and to assure the proper income tax treatment for the payments.

Sec. 128. 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. 129. 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. 130. Minnesota Statutes 1982, section 176.225, subdivision 3, is amended to read:

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

Sec. 131. 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. 132. 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. 133. 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 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 the employer will 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. 134. 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. 135. 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. 136. 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. 137. 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. 138. [176.242] [ADMINISTRATIVE CONFERENCE PRIOR TO DISCONTINUANCE OF COMPENSATION.]

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

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

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

(c) An employee or employer may request a continuance of a scheduled administrative conference. If the commissioner determines that good cause exists for granting a continuance, the commissioner may grant the continuance which shall not exceed ten calendar days. No more than one continuance shall be granted. If the employee is granted a continuance, compensation need not be paid during the period of continuance but shall recommence upon the date of the conference unless the commissioner orders otherwise.

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

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

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

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

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

Subd. 6. [EFFECT OF DECISION, APPEAL.] If an objection or a petition

is filed under subdivision 5, the commissioner's administrative decision remains in effect and the parties obligations or rights to pay or receive compensation are governed by the commissioner's administrative decision, pending a determination by a compensation judge.

Subd. 7. [DECISION AS NOTICE.] If a party proceeds under subdivision 5, the commissioner's administrative decision under this section is deemed required notice to interested parties under section 176.241 and the commissioner's obligations under section 176.241 are deemed to be met.

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

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

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

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

Sec. 139. [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 employee 14 calendar days after return to work. The insurer shall determine whether the employee is still employed after 14 days and shall also ascertain the wages being paid to the employee.

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

Subd. 3. [EMPLOYEE REQUEST FOR ADMINISTRATIVE CONFERENCE.] If the employee objects to the action of the insurer regarding payment of compensation upon the cessation of work by the employee, the employee may request an administrative conference with the commissioner to resolve disputed issues. A request for an administrative conference shall be made within ten calendar days after service of the notice on the employee. If the employee requests an administrative conference the commissioner shall schedule a conference to be held within 14 calendar days after the commissioner receives the request.

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

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

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

Subd. 7. [OBLIGATIONS PRIOR TO ADMINISTRATIVE DECISION.] If an insurer has not voluntarily commenced 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 commenced.

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 45 days of temporary total or temporary partial compensation prior to return to work and if no rehabilitation plan has been approved.

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.

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.

Sec. 140. 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 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. 141. 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. 142. [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. 143. Minnesota Statutes 1982, section 176.321, subdivision 1, is amended to read:

Subdivision 1. [FILING, SERVICE.] Within ~~twenty~~ 20 days after he has been served with a copy service of the petition, an adverse party may shall serve and file a ~~verified~~ an answer to the petition. ~~When he files the answer,~~ The party shall also serve a copy of the answer on the petitioner or his the petitioner's attorney.

~~Within five days after he has been served with a copy of the answer, the petitioner may file a verified reply admitting or denying new matter set forth in the answer.~~

Sec. 144. 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. 145. 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. 146. 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. 147. Minnesota Statutes 1982, section 176.371, is amended to read:

176.371 [AWARD OR DISALLOWANCE OF COMPENSATION.]

The compensation judge to whom a petition has been assigned for hearing, shall hear all competent, *relevant* evidence produced at the hearing; ~~and, as soon after the hearing as possible, make findings of fact, conclusions of law.~~ *All questions of fact and law submitted to a compensation judge at the hearing shall be disposed of and the judge's decision shall be filed with the commissioner within 60 days after the submission, unless sickness or casu-*

alty 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. 148. Minnesota Statutes 1982, section 176.421, subdivision 3, is amended to read:

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

- (1) the order appealed from;
- (2) that appellant appeals from the order to the workers' compensation court of appeals;
- (3) the particular finding of fact or conclusion of law which ~~he~~ *the* appellant claims was unwarranted by the evidence or procured by fraud, coercion, or other improper conduct; and
- (4) ~~the testimony or other part of the record of the hearing necessary to be transcribed in order for the court of appeals to consider the appeal; and,~~
- (5) any other ground upon which the appeal is taken.

An appeal initiates the preparation of a typewritten transcript of the entire record unless the appeal is solely from an award of attorney's fees or an award of costs and disbursements or unless otherwise ordered by the court of appeals. On appeals from an award of attorney's fees or an award of costs and disbursements, the appellant must specifically delineate in the notice of appeal the portions of the record to be transcribed in order for the court of appeals to consider the appeal.

Sec. 149. Minnesota Statutes 1982, section 176.421, subdivision 4, is amended to read:

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

- (1) Serve a copy of the notice of appeal on each adverse party;
- (2) File the original notice, with proof of service by admission or affidavit, with the chief hearing examiner and file a copy with the commissioner;
- (3) In order to defray the cost of the preparation of the record of the proceedings appealed from, pay to the state treasurer, office of administrative hearings account the sum of \$25; and
- (4) ~~Submit a request that the chief hearing examiner order the preparation of~~

a transcript of that part of the hearing delineated in the notice of appeal.

A party who desires a transcript of more of the hearing than has been requested by the appellant shall, within five working days of service of the notice of appeal, make a request of the chief hearing examiner that the additional testimony be transcribed.

The first party requesting the preparation of the transcript or any part to file an appeal is liable for the original cost of preparation of the transcript. Cross-appellants or any other persons requesting a copy of the transcript are liable for the cost of the copy. The cost of a transcript prepared by a non-governmental source shall be paid directly to that source and shall not exceed the cost that the source would be able to charge the state for the same service.

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

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

Sec. 150. 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 based on the total evidence requires~~; and,
- (4) make an award or disallowance of compensation or other order ~~as based on the facts and findings require~~.

Sec. 151. 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. 152. 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. 153. 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. 154. Minnesota Statutes 1982, section 176.521, subdivision 2, is amended to read:

Subd. 2. [APPROVAL.] Settlements shall be approved only ~~where~~ if 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 the employee's~~ dependent and the employer or insurer and intervenors in the matter are represented by an attorney shall be conclusively presumed to be reasonable, fair, and in conformity with this chapter ~~except when the settlement purports to be a full, final, and complete settlement of an employee's right to medical compensa-~~

tion 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. 155. 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. 156. 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. 157. 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. 158. 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. 159. [176.572] [CONTRACT WITH INSURANCE CARRIERS.]

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

Sec. 160. 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. 161. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

Subd. 10. [MULTIPLE EMPLOYERS OR INSURERS; LIABILITY.] The employer liable for the compensation for a personal injury under this chapter is the employer in whose employment the employee was last exposed in a significant way to the hazard of the occupational disease. 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 significant exposure to the hazard of the occupational disease is the liable party. Where there is a dispute as to which employer is liable under this section, the employer in whose employment the employee is last exposed to the hazard of the occupational disease shall pay benefits pursuant to section 176.191, subdivision 1.

Sec. 162. Minnesota Statutes 1982, section 176.66, is amended by adding a subdivision to read:

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

Sec. 163. [176.83] [RULES.]

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

rules to implement the provisions of this chapter. The rules include but are not limited to:

(a) rules necessary to implement and administer section 176.102, including the establishment of qualifications necessary to be a qualified rehabilitation consultant and the requirements to be an approved registered vendor of rehabilitation services.

In this regard, the commissioner shall impose fees under section 16A.128 sufficient to cover the cost of approving, registering and monitoring qualified rehabilitation consultants and approved vendors of rehabilitation services. The rules may also provide for penalties to be imposed by the commissioner against insurers or self-insured employers who fail to provide rehabilitation consultation to employees pursuant to section 176.102.

These rules may also establish criteria for determining "reasonable moving expenses" under section 176.102.

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

(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) in consultation with the medical services review board or the rehabilitation review panel, rules establishing standards and procedures for determining whether a provider of health care services and rehabilitation services, including a provider of medical, chiropractic, podiatric, surgical, hospital or other services, is performing procedures or providing services at a level or with a frequency that is excessive, based upon accepted medical standards for quality health care and accepted rehabilitation standards.

If it is determined by the 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 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 176.131, 176.132, 176.134, sections 176.242 and 176.243; sections 176.251, 176.66 to 176.669, and rules regarding proper allocation of compensation under section 176.111. Under the rules adopted under section 176.111 a party may petition for a hearing before a compensation judge to determine the proper allocation. In this case the compensation judge may order a different allocation than prescribed by rule;

(g) 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;

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

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

(j) rules establishing criteria to be used by the division, compensation judge, and workers' compensation court of appeals to determine "suitable gainful employment" and "independent contractor".

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 im-

posed 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.

The commissioner may prescribe 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.

Sec. 164. [176.84] [SPECIFICITY OF NOTICE OR STATEMENT.]

All notices or statements required by this chapter including, but not limited to, notices or statements pursuant to sections 176.102; 176.221; and 176.241; 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. 165. [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. 166. 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 3k; 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. 167. 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;

(e) (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. 168. Minnesota Statutes 1982, section 471.982, is amended by adding a subdivision to read:

Subd. 3. 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 are exempt from the requirements of this section.

Sec. 169. [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 Minne-

sota 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. 170. [APPROPRIATIONS; COMPLEMENT INCREASE.]

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

1984	1985
\$1,947,500	\$2,142,400

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

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

The appropriation provided by this clause (a) is for the purpose of paying for the increased general fund complement and expenses related to their duties except that \$100,000 shall be used for the recodification of chapter 176.

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

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

1984	1985
\$437,500	\$875,000

The appropriation provided by this clause (b) is for the purpose of paying the state's premium to the workers' compensation reinsurance association. The commissioner of finance shall transfer to the general fund from each federal fund, dedicated or special revenue fund, or revolving fund the pro-

portion of premium costs attributable to that fund as calculated pursuant to section 10. The amounts necessary for this transfer are appropriated from the various funds in the state treasury from which salaries are paid.

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

1984	1985
\$614,000	\$646,400

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

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

1984	1985
\$85,400	\$86,300

The approved complement of the office of administrative hearings is increased by two. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expenses related to their duties.

Subd. 3. [INSURANCE DIVISION.] There is appropriated to the department of commerce for its insurance division for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$230,800	\$229,100

The approved complement of the insurance division of the department of commerce is increased by seven. The appropriation provided by this subdivision is for the purpose of paying for the increased complement and expense related to their duties.

Subd. 4. [ATTORNEY GENERAL.] There is appropriated to the office of the attorney general for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1984	1985
\$201,500	\$204,900

The approved complement of the office of attorney general is increased by six. The appropriation provided by this subdivision is for the purpose of providing for the increased complement and expenses related to their duties.

Sec. 171. [REPEALER.]

Minnesota Statutes 1982, sections 79.51, subdivision 2; and 79.63 are repealed effective July 1, 1983. Minnesota Statutes 1982, sections 175.07; 175.101, subdivision 3; 175.36; 176.101, subdivision 3; 176.102, subdivision 12; 176.131, subdivisions 9, 10, 11, and 12; 176.152; and 176.262 are repealed effective January 1, 1984.

Sec. 172. [SEVERABILITY.]

If any provision of this article is found to be unconstitutional and void, the remaining provisions of the article shall remain valid, unless the court finds the valid provisions of the article are so essentially and inseparably connected with, and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Sec. 173. [EFFECTIVE DATE.]

Article 2, sections 1 to 3, 5, 6, 12, 18 to 23, 26, 32 to 38, 67 to 81, 83, 84, 90, 93 to 99, 108 to 159, 163 to 165, 167 to 170, and 172 are effective July 1, 1983. Article 2, sections 4, 16, 17, 24, 25, 29, 31, 102, 103, and 107 are effective October 1, 1983. Article 2, sections 7, 8, 10, 11, 13, 27, 28, 30, 39 to 66, 82, 85 to 89, 91, 92, 100, 101, 104 to 106, 160 to 162, and 166 are effective January 1, 1984. Sections 14, 15, and 171 are effective the day after final enactment.

ARTICLE 3

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 mem-

bers 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.

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 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 \$125,600 to be available until expended. There is appropriated from the general fund to the commissioner of finance the amounts of \$1,176,900 in fiscal year 1984, and \$4,424,900 in fiscal year 1985, for the purpose of transfer to the state compensation insurance fund upon certification of need in accordance with procedures developed by the commissioner. If the appropriation for either year is insufficient, the appropriation for the other year is available for it. Any amount appropriated or transferred plus interest at eight percent a year shall be amortized over a ten-year period and shall be repaid by the fund to the general fund in equal installments at the end of each fiscal year with the first payment occurring on June 30, 1986, provided that the fund shall not begin repayment on this date unless there exists sufficient earned surplus to comply with state law. Repayment shall then begin under the terms of this subdivision when sufficient earned surplus exists.

Sec. 11. [IMPLEMENTATION.]

The members of the board of directors shall be appointed no later than September 1, 1983. The board shall act promptly to hire a manager, hire necessary employees, and acquire necessary facilities and supplies to begin operation. The fund shall begin providing workers' compensation insurance coverage when the board determines that the fund is able to do so and all requirements under state law have been met.

Sec. 12. [REPORT TO THE LEGISLATURE AND GOVERNOR.]

The commissioner of labor and industry shall, no later than March 1, 1986, report to the legislature and governor the operations of the fund up to

that date. The report shall include but not be limited to:

(1) the volume of premiums insured through the state fund and its share of the state workers' compensation insurance market;

(2) the percent division of premium dollars among various types of benefit payments and administrative costs for policies and claims under the state fund;

(3) the average rate of return enjoyed by the state fund on its invested assets;

(4) recommendations concerning desirable changes in the state fund to promote its prompt and efficient administration of policies and claims;

(5) a recommendation to the legislature and governor regarding the continued operation of the fund; and

(6) any other information the commissioner deems appropriate.

Sec. 13. [EFFECTIVE DATE.]

This article is effective July 1, 1983."

Delete the title and insert:

"A bill for an act relating to labor; providing for comprehensive reform of all aspects of workers' compensation; providing for a competitive state insurance fund; ratifying changes in the state employee bargaining unit composition schedule; ratifying state and University of Minnesota labor agreements, compensation plans, and plans for early retirement incentives; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 43A.23, by adding a subdivision; 79.071, subdivisions 1 and 1a; 79.211, subdivision 1; 79.251; 79.34, subdivisions 1, 2, and by adding a subdivision; 79.35; 79.37; 79.51, subdivision 3; 79.52, by adding a subdivision; 147.02, by adding a subdivision; 175.006, subdivision 1; 175.007, subdivision 1; 175.08; 175.10; 175.101, subdivisions 1 and 2; 176.011, subdivision 9, and by adding subdivisions; 176.012; 176.021, subdivision 3; 176.041, subdivision 1; 176.061; 176.081, subdivisions 1, 2, 5, 6, 7, and by adding a subdivision; 176.101, subdivisions 1, 2, 6, and by adding subdivisions; 176.102, subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, and by adding subdivisions; 176.105, by adding a subdivision; 176.111, subdivisions 6, 7, 8, and 18, and by adding a subdivision; 176.121; 176.131, subdivisions 1, 1a, 2, 3, 4, 5, 6, 7, and 8; 176.132, subdivision 1, and by adding a subdivision; 176.134, subdivision 4; 176.135, subdivisions 1 and 3; 176.136; 176.155, subdivisions 3 and 5; 176.179; 176.181, by adding a subdivision; 176.182; 176.183, subdivisions 1, 1a, and by adding subdivisions; 176.185, subdivision 1, and by adding a subdivision; 176.191, by adding subdivisions; 176.195, subdivision 2, and by adding subdivisions; 176.221; 176.225, subdivisions 1, 2, and 3; 176.231, subdivisions 3, 4, 5, 9, and 10; 176.241, subdivisions 2 and 4; 176.281; 176.285; 176.321, subdivision 1; 176.331; 176.341; 176.361; 176.371; 176.421, subdivisions 3, 4, 6, and 7; 176.442; 176.461; 176.521, subdivisions 2, 2a, and 3; 176.561; 176.571, subdivision 6; 176.645, subdivision 1; 176.66, by adding subdivisions; 179.741, subdivision 1, and by adding a subdivision; 268.08, subdivision 3; and 471.982, subdivision 2, and by adding a subdivision; Laws 1981, chapter 346, sections 145 and 146; proposing new law coded in Minnesota Statutes, chapters 79;

148; and 176; proposing new law coded as Minnesota Statutes, chapter 176A; repealing Minnesota Statutes 1982, sections 79.51, subdivision 2; 79.63; 175.07; 175.101, subdivision 3; 175.36; 176.101, subdivision 3; 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. Amendments adopted. Report adopted.

SECOND READING OF SENATE BILLS

S.F. Nos. 709, 1041, 863, 531, 1126, 751 and 415 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1124, 836, 652 and 575 were read the second time.

MOTIONS AND RESOLUTIONS

Ms. Peterson, D.C. moved that H.F. No. 30 be taken from the table. The motion prevailed.

H.F. No. 30: A bill for an act relating to veterans affairs; providing residents of the Minnesota veterans home with a right to complain about home accommodations and services; prohibiting retaliatory eviction of residents who exercise their right to complain; proposing new law coded in Minnesota Statutes, chapter 198.

Ms. Peterson, D.C. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 30, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Ms. Peterson, D.C. moved that the name of Mr. Pogemiller be added as a co-author to S.F. No. 1243. The motion prevailed.

Mr. Schmitz moved that Senate Concurrent Resolution No. 12 be taken from the table. The motion prevailed.

Senate Concurrent Resolution No. 12: A Senate concurrent resolution proclaiming September 25 to October 8 as Germanfest in Minnesota.

WHEREAS, October 6, 1983, will mark the Three Hundredth Anniversary of German immigration to America commencing with the sail vessel Concord, and that 1983 has been declared as the "Tricentennial Anniversary Year of German Settlement in America;" and

WHEREAS, Minnesota, throughout its history, has greatly benefited from the presence of German Americans through their leadership in education, agriculture, government, trade, industry, religion, and all other aspects of daily life within our state; and

WHEREAS, much of what we perceive to be the American way of life and culture can be attributed to those values and identities which come to Minnesota with various cultures, among which are the Germans; and

WHEREAS, the descendants of German-speaking immigrants form the largest single ethnic group in Minnesota and have maintained their mother tongue through succeeding generations to a greater extent than any other language group; and

WHEREAS, Americans of German-speaking ancestry continue to provide valuable contributions to life in Minnesota; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota, the House of Representatives concurring, that the period of September 25 to October 8, 1983, be specifically designated to honor and celebrate German immigration to Minnesota through an appreciation of German American contribution to our state. A special five-day ethnic festival called the "Germanfest for a Heritage Fulfilled" will be established to celebrate this event.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to prepare an enrolled copy of this resolution, to be authenticated by his signature and those of the Chairman of the Rules and Administration Committee of the Senate, the Chief Clerk of the House, and the Speaker of the House, and present it to the chairperson of the organizing committee of Germanfest.

Mr. Schmitz moved the adoption of the foregoing resolution. The motion prevailed. So the resolution was adopted.

Mrs. Lantry moved that Senate Resolution No. 35, as reported to the Senate by the Committee on Rules and Administration May 13, 1983, be now adopted.

Senate Resolution No. 35: A Senate resolution urging various officials and groups to assist on raising funds for an epilepsy education center.

WHEREAS, the legislature created the Minnesota Advisory Task Force on Epilepsy to study and report on the state of programs, services, and facilities for persons with seizure disorders in Minnesota; and

WHEREAS, the Advisory Task Force has commendably fulfilled its charge and has reported to the legislature on a series of recommendations addressed to the prevention, treatment, and comprehensive education in the area of epilepsy; and

WHEREAS, approaches to addressing these recommendations have been well documented in the report of the Task Force; and

WHEREAS, the several identified governmental and private groups with interest and responsibilities toward individuals with seizure disorders and/or their prevention should review these recommendations; and

WHEREAS, implementation of these recommendations will reduce the health and welfare costs of the state, and improve the personal health of the citizens of the state; and

WHEREAS, the legislature faces extreme and unusual fiscal constraints this year and cannot undertake new initiatives; NOW, THEREFORE,

BE IT RESOLVED by the Senate of the State of Minnesota that the Governor, the University, local units of government, the Minnesota Medical Association, other professional associations, and private foundations should

review the report of the Task Force and undertake what actions they can to help meet these needs. Immediate attention should be devoted to raising funds to support the creation of the University affiliated epilepsy education center. The Senate Health and Human Services Committee and the House Health and Welfare Committee will seek recommendations from interested groups.

BE IT FURTHER RESOLVED that the Secretary of the Senate is directed to enroll copies of this resolution, to be authenticated by his signature and that of the Chairman of the Senate Rules and Administration Committee, and present them to those persons designated by the sponsor of this resolution.

The motion prevailed. So the resolution was adopted.

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate proceed to the Order of Business of Introduction and First Reading of Senate Bills. The motion prevailed.

INTRODUCTION AND FIRST READING OF SENATE BILLS

The following bills were read the first time and referred to the committees indicated.

Mr. Dahl introduced—

S.F. No. 1245: A bill for an act relating to insurance; requiring automobile insurers to notify secured parties prior to cancellation of comprehensive and collision automobile coverage; amending Minnesota Statutes 1982, sections 65B.16; 65B.17; and 65B.18; proposing new law coded in Minnesota Statutes, chapter 65B.

Referred to the Committee on Economic Development and Commerce.

Mr. Dahl introduced—

S.F. No. 1246: A bill for an act relating to insurance; credit life and accident and health; requiring insurers to notify creditors of policy lapses and cancellations; proposing new law coded in Minnesota Statutes, chapter 62B.

Referred to the Committee on Economic Development and Commerce.

Mr. Waldorf introduced—

S.F. No. 1247: A bill for an act relating to state income tax refunds; requiring proper notice before the state can collect debts by taking tax refunds; amending Minnesota Statutes 1982, section 270A.08, subdivisions 1 and 2.

Referred to the Committee on Taxes and Tax Laws.

Messrs. Peterson, R.W. and Merriam introduced—

S.F. No. 1248: A bill for an act relating to civil actions; confirming that non-residents may assert certain damage claims in Minnesota courts; enacting the Uniform Transboundary Pollution Reciprocal Access Act; proposing new law coded in Minnesota Statutes, chapter 543.

Referred to the Committee on Judiciary.

Mr. Peterson, R.W. introduced—

S.F. No. 1249: A bill for an act relating to civil actions; regulating the application of statutes governing the limitation of actions; enacting the Uniform Conflict of Laws - Limitations Act; proposing new law coded in Minnesota Statutes, chapter 541.

Referred to the Committee on Judiciary.

Mr. Willet, for the Committee on Finance, introduced—

S.F. No. 1250: A bill for an act relating to appropriations; reducing appropriations for the fiscal year ending June 30, 1983; appropriating money; amending Minnesota Statutes 1982, section 41.61, subdivision 1; 270.18; repealing Minnesota Statutes 1982, section 41.61, subdivisions 2 and 3.

Under the rules of the Senate, laid over one day.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Johnson, D.J. moved that the following members be excused for a Conference Committee on H.F. No. 1259:

Messrs. Johnson, D.J.; Peterson, C.C.; Dieterich; Novak and Ms. Berglin. The motion prevailed.

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the Special Orders Calendar. The motion prevailed.

SPECIAL ORDER

H.F. No. 636: A bill for an act relating to local government; authorizing sewer and water commissions to obtain accountant services; amending Minnesota Statutes 1982, section 116A.24, subdivision 2.

Mr. Peterson, C.C. moved that the amendment made to H.F. No. 636 by the Committee on Rules and Administration in the report adopted May 10, 1983, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

H.F. No. 636 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 3, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knutson	Peterson, C.C.	Storm
Anderson	DeCramer	Kroening	Peterson, D.C.	Stumpf
Belanger	Dicklich	Kronebusch	Peterson, D.L.	Ulland
Benson	Frank	Lantry	Petty	Vega
Berg	Frederickson	Lessard	Pogemiller	Waldorf
Berglin	Freeman	Luther	Ramstad	Wegscheid
Bernhagen	Hughes	McQuaid	Reichgott	Willet
Bertram	Isackson	Mehrken	Renneke	
Brataas	Johnson, D.E.	Nelson	Samuelson	
Chmielewski	Jude	Olson	Schmitz	
Dahl	Kamrath	Pehler	Sieloff	

Messrs. Diessner, Knaak and Laidig voted in the negative.

So the bill passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Hughes moved that the following members be excused for a Conference Committee on H.F. No. 653:

Messrs. Hughes; Johnson, D.E. and Ms. Peterson, D.C. The motion prevailed.

SPECIAL ORDER

H.F. No. 360: A bill for an act relating to education; transferring authority for appointing the commissioner of education from the state board of education to the governor; amending Minnesota Statutes 1982, section 121.16.

Mr. Nelson moved that the amendment made to H.F. No. 360 by the Committee on Rules and Administration in the report adopted May 10, 1983, pursuant to Rule 49, be stricken. The motion prevailed. So the amendment was stricken.

CALL OF THE SENATE

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

Ms. Olson moved to amend H.F. No. 360 as follows:

Page 1, after line 7, insert:

“Section 1. Minnesota Statutes 1982, section 121.02, subdivision 1, is amended to read:

121.02 [STATE BOARD OF EDUCATION.]

Subdivision 1. A state department of education is hereby created which shall be maintained under the direction of a state board of education composed of nine representative citizens of the state, at least one of whom shall reside in each congressional district in the state.

Of the nine representative citizens of the state who are appointed to the state board of education not less than three members ~~thereof~~ shall previously ~~thereto~~ have served as an elected member of a board of education of a school district however organized.

The members of the state board shall be appointed by the governor, with the advice and consent of the senate. *In each odd-numbered year*, one member shall be chosen ~~annually~~ *by the board* as president, but no member shall serve as president for more than ~~three~~ *four* consecutive years. The state board shall hold its annual meeting in August. It shall hold meetings on dates and at places as it designates. No member shall hold any public office, or represent or be employed by any board of education or school district, public or private, and shall not voluntarily have any personal financial interest in any contract with a board of education or school district, or be engaged in any capacity where a conflict of interest may arise.”

Page 1, line 13, strike “secretary” and insert “*president*”

Page 1, line 14, after “board” insert “*as chosen pursuant to section*

121.02, subdivision 1"

Page 1, line 15, reinstate the stricken language

Page 1, line 16, after the period, insert "*Notwithstanding any other law to the contrary, the term, compensation, and removal of the commissioner shall be governed by the provisions of section 15.0575, except that the term of the commissioner shall be two years.*"

Page 1, lines 16 and 17, reinstate the stricken language

Page 1, strike lines 18 to 21

Page 1, line 22, strike "this code." and insert:

"*Subd. 1a.*"

Page 1, line 22, after "Notwithstanding" insert "*section 15.06, subdivision 8, or*"

Page 1, line 23, strike "two" and insert "three"

Page 1, line 24, after the period, insert "*The commissioner may delegate to the deputy commissioners the exercise of any of the commissioner's statutory powers and duties. The delegation of authority includes authority related to budget, personnel, and general administration as well as the authority to decide and issue orders in contested cases, rulemaking proceedings, and other hearings held under chapter 14.*"

Subd. 1b."

Page 2, after line 9, insert:

"Sec. 3. Minnesota Statutes 1983, section 121.16, is amended by adding a subdivision to read:

"*Subd. 3. [REVIEW BY COMMISSIONER.] An order issued by a deputy commissioner under subdivision 1a may be appealed to the commissioner or reviewed by the commissioner at the commissioner's discretion within 15 days after receipt of the order. If no appeal is filed and no discretionary review is made, the deputy commissioner's order is the final order, unless otherwise provided by law. Review of the appeal shall be on the record and shall be subject to the procedures prescribed by rule by the commissioner. Appeal of the commissioner's order, or the order of the deputy commissioner if no appeal is made to the commissioner, shall be as provided under the provisions of chapter 14, unless otherwise provided by law.*"

Page 2, line 11, delete "Section 1" and insert "This act"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 2, delete everything after the semicolon and insert "providing for the selection of the president of the state board of education;"

Page 1, delete line 3

Page 1, line 4, delete everything before "amending" and insert "appointment of deputy commissioners; review of appeals by commissioners;"

Page 1, line 5, delete "section" and insert "sections 121.02, subdivision

1; and''

Page 1, line 5, before the period, insert “, and by adding a subdivision”

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 20 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Knaak	Mehrkens	Renneke
Belanger	Isackson	Kronebusch	Olson	Sieloff
Benson	Johnson, D.E.	Laidig	Peterson, D.L.	Storm
Bernhagen	Kamrath	McQuaid	Ramstad	Ulland

Those who voted in the negative were:

Adkins	Dieterich	Lantry	Peterson, D.C.	Spear
Berg	Frank	Lessard	Peterson, R.W.	Vega
Bertram	Frederickson	Luther	Petty	Waldorf
Chmielewski	Freeman	Merriam	Pogemiller	Wegscheid
Davis	Johnson, D.J.	Moe, D. M.	Purfeerst	Willett
DeCramer	Jude	Nelson	Reichgott	
Dicklich	Kroening	Pehler	Schmitz	
Diessner	Langseth	Peterson, C.C.	Solon	

The motion did not prevail. So the amendment was not adopted.

H.F. No. 360 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

Mr. Hughes moved that those not voting be excused from voting. The motion did not prevail.

Mr. Ulland moved that those not voting be excused from voting. The motion did not prevail.

Mr. Belanger moved that those not voting be excused from voting. The motion did not prevail.

The roll was called, and there were yeas 35 and nays 32, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Langseth	Peterson, C.C.	Samuelson
Berglin	Diessner	Lessard	Peterson, D.C.	Schmitz
Bertram	Dieterich	Luther	Peterson, R.W.	Solon
Chmielewski	Freeman	Merriam	Petty	Spear
Dahl	Johnson, D.J.	Moe, D. M.	Pogemiller	Stumpf
Davis	Jude	Nelson	Purfeerst	Wegscheid
DeCramer	Kroening	Pehler	Reichgott	Willett

Those who voted in the negative were:

Anderson	Frederick	Knutson	Novak	Taylor
Belanger	Frederickson	Kronebusch	Olson	Ulland
Benson	Hughes	Laidig	Peterson, D.L.	Vega
Berg	Isackson	Lantry	Ramstad	Waldorf
Bernhagen	Johnson, D.E.	McQuaid	Renneke	
Brataas	Kamrath	Mehrkens	Sieloff	
Frank	Knaak	Moe, R. D.	Storm	

So the bill passed and its title was agreed to.

Mr. Purfeerst moved that H.F. No. 77 be taken from the table and given its

second reading. The motion prevailed.

H.F. No. 77: A bill for an act relating to horse racing; creating a Minnesota racing commission and providing for its membership, powers, and duties; authorizing the licensing of persons to operate racetracks, conduct horse racing, engage in certain occupations, and conduct pari-mutuel betting on horse racing; prescribing taxes and license fees; establishing a Minnesota breeders fund; providing penalties; appropriating money; amending Minnesota Statutes 1982, sections 38.04; 273.76, by adding a subdivision; 609.75, subdivision 3; and 609.761; proposing new law coded as Minnesota Statutes, chapter 240.

H.F. No. 77 was read the second time.

Mr. Purfeerst moved to amend H.F. No. 77 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 77, and insert the language after the enacting clause, and the title, of S.F. No. 79, the Fifth Engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Purfeerst then moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 27, line 29, delete "MINNESOTA-OWNED" and insert "MINNESOTA-FOALED"

Page 27, line 32, delete "*Minnesota-owned*" and insert "*Minnesota-foaled*"

Page 31, line 23, delete "*Minnesota-owned*" and insert "*Minnesota-foaled*"

The motion prevailed. So the amendment was adopted.

CALL OF THE SENATE

Mr. Purfeerst imposed a call of the Senate for the balance of the proceedings on H.F. No. 77. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Purfeerst then moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 37, line 12, delete "*shall*" and insert "*may*"

Page 37, line 16, before the period insert "*, subdivision 1*"

Page 37, line 19, delete "*shall*" and insert "*may*"

Page 37, line 21, delete "*shall apply*" and insert "*applies*"

Page 53, line 2, delete "*11*" and insert "*6, 10*"

Page 53, line 2, after the second comma insert "*13*" and delete "*14*" and insert "*15*"

Mr. Sieloff requested division of the amendment as follows:

First portion:

Page 37, line 12, delete "*shall*" and insert "*may*"

Page 37, line 16, before the period insert "*, subdivision 1*"

Page 37, line 19, delete "*shall*" and insert "*may*"

Page 37, line 21, delete "*shall apply*" and insert "*applies*"

Second portion:

Page 53, line 2, delete "*11*" and insert "*6, 10*"

Page 53, line 2, after the second comma insert "*13*" and delete "*14*" and insert "*15*"

The question was taken on the adoption of the first portion of the Purfeerst amendment. The motion prevailed. So the first portion of the amendment was adopted.

Mr. Purfeerst withdrew the second portion of his amendment.

Mr. Frank moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 37, delete section 4

Renumber the sections in sequence and correct internal references

Amend the title as follows:

Page 1, lines 26 and 27, delete "*273.76, by adding a subdivision;*"

CALL OF THE SENATE

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

The question recurred on the Frank amendment.

The roll was called, and there were yeas 42 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Kronebusch	Peterson, C.C.	Solon
Anderson	Diessner	Laidig	Peterson, D.L.	Storm
Belanger	Frank	Langseth	Petty	Stumpf
Benson	Hughes	Lantry	Purfeerst	Vega
Berg	Isackson	Lessard	Ramstad	Wegscheid
Brataas	Jude	Mehrkens	Reichgott	Willett
Chmielewski	Kamrath	Moe, R. D.	Samuelson	
Dahl	Knaak	Nelson	Schmitz	
DeCramer	Knutson	Novak	Sieloff	

Those who voted in the negative were:

Berglin	Frederickson	Luther	Pehler	Spear
Bernhagen	Freeman	McQuaid	Peterson, D.C.	Ulland
Bertram	Johnson, D.E.	Merriam	Peterson, R.W.	Waldorf
Davis	Johnson, D.J.	Moe, D. M.	Pogemiller	
Dieterich	Kroening	Olson	Renneke	

The motion prevailed. So the amendment was adopted.

Mr. Merriam moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 35, after line 5, insert:

“ARTICLE 7

Section 1. Minnesota Statutes 1982, section 349.26, subdivision 2, is amended to read:

Subd. 2. “Gambling devices” means those gambling devices known as “paddlewheels” or “tipboards”, “pull-tabs” (or “ticket jars”), or apparatus used in conducting raffles, or *gambling devices used in games of chance normally found in casinos, including blackjack, poker, dice, keno, and roulette.*

Sec. 2. Minnesota Statutes 1982, section 349.26, is amended by adding a subdivision to read:

Subd. 6a. “*Casino night*” means an event at which persons are given the opportunity to participate in games of chance normally found in casinos, including blackjack, poker, dice, keno and roulette. Winnings from these games in the form of scrip or other redeemable tokens are then used to purchase items of value which have been acquired for this purpose.

Sec. 3. Minnesota Statutes 1982, section 349.26, subdivision 8, is amended to read:

Subd. 8. Any county or city may establish a system for the licensing of organizations to operate gambling devices and to conduct raffles or *casino nights*. The system may include a fee for each license in an amount to be determined by the local governing body. Licenses issued pursuant to this section shall be valid for one year, and may be suspended or revoked for any violation of this section. A local governing body shall act on a license application within 180 days from the date of application, but shall not issue a license until at least 30 days after the date of the application. Nothing in this section shall be construed to prohibit a county or city from adopting rules or ordinances for the operation of gambling devices or the conduct of raffles or *casino nights* that are more restrictive than state law, including rules or ordinances prohibiting the operation of such devices.

Sec. 4. Minnesota Statutes 1982, section 349.26, subdivision 10, is amended to read:

Subd. 10. Profits from the operation of gambling devices or the conduct of raffles or *casino nights* shall be used solely for lawful purposes as defined in section 349.12, subdivision 6, and as authorized at a regular meeting of the organization.

Sec. 5. Minnesota Statutes 1982, section 349.26, subdivision 11, is amended to read:

Subd. 11. All operation of gambling devices and the conduct of raffles or *casino nights* shall be under the supervision of a single gambling manager designated by the organization. The gambling manager shall be responsible for gross receipts and profits from gambling devices, *casino nights*, and

raffles and for their operation. The gambling manager shall give a fidelity bond in the sum of \$10,000 in favor of the organization conditioned on the faithful performance of his duties, and the bond and the waiver thereof shall be subject to the same provisions as those applying to the bond required of a bingo manager pursuant to section 349.17, subdivision 7. A person may act as both gambling manager and bingo manager for a single organization, but a gambling manager for a single organization shall not act as either a gambling manager or bingo manager for any other organization. A gambling manager for an organization shall be an active member of the organization, as defined in section 349.12, subdivision 2.

Sec. 6. Minnesota Statutes 1982, section 349.26, subdivision 12, is amended to read:

Subd. 12. No compensation in excess of \$25 a week, shall be paid in connection with the operation of a gambling device or the conduct of a raffle *or casino night* by a licensed organization except a licensed organization may elect to pay a percent of raffle ticket sales to nonprofit organizations selling for the licensed organization. No person who is not an active member of an organization, or its auxiliary, or the spouse or surviving spouse of an active member may participate in the organization's operation of a gambling device or conduct of a raffle *or casino night* except the licensed organization may utilize nonmember nonprofit organizations in raffle ticket sales.

Sec. 7. Minnesota Statutes 1982, section 349.26, subdivision 13, is amended to read:

Subd. 13. Each organization licensed to operate gambling devices shall keep records of its gross receipts, quantity of free plays, if any, expenses and profits for each single gathering or occasion at which gambling devices are operated or a raffle *or casino night* is conducted. All deductions from gross receipts for each single gathering or occasion shall be documented with receipts or other records indicating the amount, a description of the purchased item or service or other reason for the deduction, and the recipient. The distribution of profits shall be itemized as to payee, purpose, amount and date of payment.

Gross receipts from the operation of gambling devices and the conduct of raffles *or casino nights* shall be segregated from other revenues of the organization, including bingo gross receipts, and placed in a separate account. Each organization shall have separate records of its gambling operations. The person who accounts for gross receipts, expenses and profits from the operation of gambling devices or the conduct of raffles *or casino nights* may be the same person who accounts for bingo gross receipts, expenses and profits.

Each organization licensed to operate gambling devices or to conduct raffles *or casino nights* shall report monthly to its membership, and to the licensing local unit of government, its gross receipts, expenses and profits from gambling devices ~~or~~, raffles *or casino nights*, and the distribution of profits itemized as required in this subdivision.

Records required by this section shall be preserved for three years, and organizations shall make available their records relating to operation of gambling devices and the conduct of raffles *or casino nights* for public

inspection at reasonable times and places.

Sec. 8. Minnesota Statutes 1982, section 349.26, subdivision 14, is amended to read:

Subd. 14. Gambling devices shall be operated and raffles *and casino nights* conducted by a licensed organization only upon premises which it owns or leases except that tickets for raffles conducted in accordance with this section may be sold off the premises. Leases, unless authorized in another location by the local unit of government, shall be for a period of not less than one year and shall be in writing. The local unit of government may authorize raffles *or casino nights* to be conducted by a licensed organization on premises not owned or leased by the organization. No lease shall provide that rental payments be based on a percentage of receipts or profits from gambling devices ~~or~~, raffles *or casino nights*. Copies of all leases shall be provided to the licensing local unit of government.

Sec. 9. Minnesota Statutes 1982, section 349.26, subdivision 15, is amended to read:

Subd. 15. [TOTAL PRIZE AWARD LIMITS.] Total prizes from the operation of paddlewheels, tipboards and pull-tabs (or ticket jars) awarded in any single day in which they are operated shall not exceed \$1,000. Total prizes resulting from any single spin of a paddlewheel, or from any single seal of a tipboard, each tipboard limited to a single seal, or from a single pull-tab (or ticket jar), shall not exceed \$150. Total prizes awarded in any calendar year by any organization from the operation of paddlewheels, tipboards and pull-tabs (or ticket jars) and the conduct of raffles *or casino nights*, except as provided in subdivision 15a, shall not exceed \$35,000. Merchandise prizes shall be valued at fair market retail value.

The county attorney of each county shall be responsible for investigating and, if appropriate, prosecuting organizations for violations of this section.

Sec. 10. Minnesota Statutes 1982, section 349.26, subdivision 15a, is amended to read:

Subd. 15a. [EXCEPTION; TOTAL PRIZE AWARDS LIMITATIONS.] (a) An organization which directly or under contract to the state or a political subdivision delivers health or social services and which is exempt from taxation pursuant to section 501(c)(3) of the Internal Revenue Code of 1954, as amended through December 30, ~~1981~~ 1982, may award total prizes in a calendar year from the conduct of raffles *or casino nights*, in excess of the limitation provided in subdivision 15, provided the prizes consist of real or personal property donated to the organization by an individual, corporation, or other organization and, except as provided in clause (b), provided the organization complies with the other requirements and restrictions of section 349.26.

(b) For the purposes of this subdivision, an organization covered by clause (a) is not subject to the membership limitations of subdivisions 9, 11, and 12, nor to the compensation limitations of subdivision 12. Subject to the other requirements of subdivision 13, the person who accounts for gross receipts, expenses, and profits from the conduct of raffles *or casino nights* may be the same person who accounts for other revenues of the organization.

Sec. 11. Minnesota Statutes 1982, section 349.31, subdivision 1, is

amended to read:

Subdivision 1. [INTENTIONAL POSSESSION; WILFUL KEEPING.] The intentional possession or wilful keeping of a gambling device upon any licensed premises is cause for the revocation of any license under which the licensed business is carried on upon the premises where the gambling device is found; ~~provided that. However,~~ possession of gambling devices commonly known as "paddlewheels" or "tipboards" or "pull-tabs" (or "ticket jars") ~~or, apparatus used in conducting raffles, or gambling devices used in games of chance normally found in casinos, including black jack, poker, dice, keno, and roulette,~~ on the premises of a nonprofit organization and operated by organizations licensed for ~~such the~~ operation pursuant to section 349.26 and the manufacture of gambling devices for use in jurisdictions where use of the gambling device is legal as provided for by section 349.40 ~~shall are not be~~ ~~cause causes~~ for revocation of a license.

Sec. 12. Minnesota Statutes 1982, section 541.20, is amended to read:

541.20 [RECOVERY OF MONEY LOST.]

Every person who, by playing at cards, dice, or other game, or by betting on the hands or sides of such as are gambling, shall lose to any person so playing or betting any sum of money or any goods, and pays or delivers the same, or any part thereof, to the winner, may sue for and recover ~~such this~~ money by a civil action, before any court of competent jurisdiction, ~~except those losses incurred as a result of playing legal games of chance under chapter 349.~~

Sec. 13. Minnesota Statutes 1982, section 541.21, is amended to read:

541.21 [COMMITMENTS FOR GAMBLING DEBT VOID.]

~~Every~~ A note, bill, bond, mortgage, or other security or conveyance in which the whole or any part of the consideration ~~shall be is~~ for any money or goods won by gambling or playing at cards, dice, or any other game whatever, or by betting on the sides or hands of any person gambling, or for reimbursing or repaying any money knowingly lent or advanced at the time and place of ~~such the~~ gambling or betting, or lent and advanced for any gambling or betting to any persons so gambling or betting, ~~shall be is~~ void and of no effect as between the parties to ~~the same it,~~ and as to all persons except ~~such as hold persons holding or claim claiming under them it~~ in good faith, without notice of the illegality of the consideration of ~~such the~~ contract or conveyance. ~~Losses incurred as a result of playing legal games of chance under chapter 349 are not void gambling debts under this section.~~

Sec. 14. Minnesota Statutes 1982, section 609.75, subdivision 3, is amended to read:

Subd. 3. [WHAT ARE NOT BETS.] The following are not bets:

(1) A contract to insure, indemnify, guarantee or otherwise compensate another for a harm or loss sustained, even though the loss depends upon chance.

(2) A contract for the purchase or sale at a future date of securities or other commodities.

(3) Offers of purses, prizes or premiums to the actual contestants in any

bona fide contest for the determination of skill, speed, strength, endurance, or quality or to the bona fide owners of animals or other property entered in such a contest.

(4) The game of bingo when conducted in compliance with sections 349.11 to 349.23.

(5) A private social bet not part of or incidental to organized, commercialized, or systematic gambling.

(6) The operation of a gambling device or the conduct of a raffle or casino night as defined in section 349.26, by an organization licensed for such this operation by a local unit of government pursuant to section 349.26."

Renumber the articles in sequence

Amend the title as follows:

Page 1, line 24, after "proceeds;" insert "allowing certain organizations to conduct casino nights under specified conditions;"

Page 1, line 28, after "subdivisions;" insert "349.26, subdivisions 2, 8, 10, 11, 12, 13, 14, 15, 15a, and by adding a subdivision; 349.31, subdivision 1; 541.20; 541.21;"

The question was taken on the adoption of the amendment.

Mr. Purfeerst moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 40 and nays 10, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Luther	Peterson, D.C.	Solon
Anderson	Frank	McQuaid	Peterson, R.W.	Spear
Belanger	Frederick	Mehrkins	Petty	Storm
Benson	Jude	Merriam	Pogemiller	Stumpf
Berg	Knaak	Moe, D. M.	Purfeerst	Taylor
Bertram	Kronebusch	Moe, R. D.	Ramstad	Ulland
Dahl	Lantry	Nelson	Reichgott	Vega
Davis	Lessard	Pehler	Schmitz	Wegscheid

Those who voted in the negative were:

Bernhagen	Isackson	Kamrath	Olson	Renneke
Chmielewski	Johnson, D.E.	Laidig	Peterson, D.L.	Sieloff

The motion prevailed. So the amendment was adopted.

Mr. Lessard moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Pages 33 to 35, delete article 6

Page 35, line 6, delete "7" and insert "6"

Page 53, line 1, delete "7" and insert "6"

Amend the title as follows:

Page 1, delete lines 16 and 17

Page 1, line 18, delete "compulsive gamblers;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 34 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Diessner	Kronebusch	Pehler	Storm
Anderson	Frank	Lantry	Peterson, C.C.	Stumpf
Benson	Isackson	Lessard	Peterson, D.L.	Taylor
Bertram	Johnson, D.E.	Mehrkens	Petty	Ulland
Dahl	Johnson, D.J.	Moe, R. D.	Purfeerst	Vega
Davis	Kamrath	Novak	Schmitz	Wegscheid
DeCramer	Knaak	Olson	Solon	

Those who voted in the negative were:

Belanger	Chmielewski	Knutson	Moe, D. M.	Renneke
Berg	Dieterich	Laidig	Peterson, D.C.	Sieloff
Berglin	Frederick	Luther	Pogemiller	Spear
Bernhagen	Freeman	McQuaid	Ramstad	
Brataas	Jude	Merriam	Reichgott	

The motion prevailed. So the amendment was adopted.

Mr. Renneke moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 17, line 5, delete "and that" and insert a comma

Page 17, line 7, after the comma, insert "and the license has been approved by referendum as provided in subdivision 5,"

Page 17, after line 8, insert:

"Subd. 5. [REFERENDUM.] No class D license may be issued unless approved by the voters of the county at a regular or special election. A special election must be conducted in accordance with section 375.20, and the county board may assess the cost of the special election against the license applicant. If the voters of the county disapprove the granting of the license, no election on the question may again be submitted to the voters for a period of one year."

Page 17, line 9, delete "5" and insert "6"

Page 17, line 12, delete "6" and insert "7"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 12 and nays 40, as follows:

Those who voted in the affirmative were:

Benson	Dieterich	Knutson	McQuaid	Renneke
Brataas	Hughes	Kronebusch	Olson	Sieloff
Chmielewski	Kamrath			

Those who voted in the negative were:

Adkins	DeCramer	Knaak	Novak	Samuelson
Anderson	Diessner	Laidig	Pehler	Schmitz
Berg	Frank	Lantry	Peterson, D.C.	Solon
Berglin	Frederick	Lessard	Petty	Spear
Bernhagen	Isackson	Luther	Pogemiller	Stumpf
Bertram	Johnson, D.E.	Mehrkens	Purfeerst	Ulland
Dahl	Johnson, D.J.	Merriam	Ramstad	Vega
Davis	Jude	Moe, R. D.	Reichgott	Wegscheid

The motion did not prevail. So the amendment was not adopted.

Mr. Stumpf moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 31, line 15, after "*research*" insert "*and education*"

The motion prevailed. So the amendment was adopted.

Mr. Purfeerst moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 47, line 7, delete "*in an amount of \$200 or*"

Page 47, line 8, delete "*more to the same individual*" and insert "*on which withholding is required under section 34.02(q) of the Internal Revenue Code of 1954, as amended through January 15, 1983,*"

Page 47, line 9, delete "*11*" and insert "*8*"

Page 47, line 34, delete "*11*" and insert "*7*"

Page 47, line 36, delete "*\$200*" and insert "*\$700*"

Mr. Sieloff requested division of the amendment as follows:

First portion:

Page 47, line 7, delete "*in an amount of \$200 or*"

Page 47, line 8, delete "*more to the same individual*" and insert "*on which withholding is required under section 34.02(q) of the Internal Revenue Code of 1954, as amended through January 15, 1983,*"

Second portion:

Page 47, line 9, delete "*11*" and insert "*8*"

Page 47, line 34, delete "*11*" and insert "*7*"

Page 47, line 36, delete "*\$200*" and insert "*\$700*"

The question was taken on the adoption of the first portion of the amendment. The motion prevailed. So the first portion of the amendment was adopted.

The question was taken on the second portion of the amendment. The motion did not prevail. So the second portion of the amendment was not adopted.

Mr. Purfeerst then moved to amend H.F. No. 77, as amended by the Senate

May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Pages 52 and 53, delete section 17

Renumber the sections in sequence

The motion prevailed. So the amendment was adopted.

Mr. Chmielewski moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 18, line 15, before the period, insert *"and, with respect to the state fair only, during the seven days preceding or following the fair"*

The motion did not prevail. So the amendment was not adopted.

Mr. Pogemiller moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Pages 49 and 50, delete sections 12 and 13

Page 53, line 2, delete *"11, 12, and 14"* and insert *"6, 10, and 13"*

Amend the title as follows:

Page 1, line 22, delete everything after the semicolon

Page 1, line 23, delete *"felony;"*

Page 1, line 29, delete *"and by adding a subdivision"*

Page 1, line 30, delete *"609.76;"*

The motion did not prevail. So the amendment was not adopted.

Mr. Pogemiller then moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 50, line 2, delete *"\$300"* and insert *"\$3,000"*

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 23 and nays 39, as follows:

Those who voted in the affirmative were:

Adkins	Dicklich	Moe, R. D.	Peterson, D.C.	Schmitz
Bertram	Dieterich	Nelson	Pogemiller	Taylor
Chmielewski	Johnson, D.J.	Novak	Purfeerst	Vega
Davis	Kronebusch	Pehler	Ramstad	
DeCramer	Lessard	Peterson, C.C.	Samuelson	

Those who voted in the negative were:

Anderson	Frank	Kroening	Moe, D. M.	Spear
Belanger	Frederickson	Laidig	Olson	Storm
Berg	Freeman	Langseth	Peterson, D.L.	Stumpf
Berglin	Isackson	Lantry	Peterson, R.W.	Ulland
Bernhagen	Johnson, D.E.	Luther	Petty	Waldorf
Brataas	Jude	McQuaid	Reichgott	Wegscheid
Dahl	Kamrath	Mehrkins	Renneke	Willet
Diessner	Knaak	Merriam	Sieloff	

The motion did not prevail. So the amendment was not adopted.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Merriam moved that the following members be excused for a Conference Committee on H.F. No. 672:

Messrs. Merriam, Vega and Sieloff. The motion prevailed.

Mr. Pehler moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 3, line 7, delete "seven" and insert "nine"

Page 3, line 9, after the period, insert "At least one member must be from each congressional district."

Page 3, line 9, delete "four" and insert "five"

Page 3, lines 12 and 13, delete "two" and insert "three"

Mr. Wegscheid requested division of the amendment as follows:

First portion:

Page 3, line 7, delete "seven" and insert "nine"

Page 3, line 9, delete "four" and insert "five"

Page 3, lines 12 and 13, delete "two" and insert "three"

Second portion:

Page 3, line 9, after the period, insert "At least one member must be from each congressional district."

The question was taken on the adoption of the first portion of the amendment.

The roll was called, and there were yeas 44 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Novak	Renneke
Belanger	DeCramer	Kroening	Olson	Samuelson
Berg	Dicklich	Kronebusch	Pehler	Schmitz
Berglin	Frank	Langseth	Peterson, C. C.	Stumpf
Bernhagen	Frederickson	Lessard	Peterson, D. C.	Taylor
Bertram	Freeman	Luther	Peterson, D. L.	Ulland
Brataas	Johnson, D. E.	Mehrkens	Pogemiller	Waldorf
Chmielewski	Johnson, D. J.	Moe, R. D.	Purfeerst	Wegscheid
Dahl	Kamrath	Nelson	Reichgott	

Those who voted in the negative were:

Anderson	Isackson	Lantry	Peterson, R. W.	Sieloff
Diessner	Jude	McQuaid	Petty	Spear
Dieterich	Laidig	Moe, D. M.	Ramstad	Storm

The motion prevailed. So the first portion of the amendment was adopted.

The question was taken on the adoption of the second portion of the amendment.

The roll was called, and there were yeas 37 and nays 18, as follows:

Those who voted in the affirmative were:

Anderson	DeCramer	Kamrath	Nelson	Solon
Benson	Dicklich	Knaak	Novak	Stumpf
Berg	Diessner	Kronebusch	Olson	Taylor
Bernhagen	Frank	Langseth	Pehler	Ulland
Bertram	Frederick	Lantry	Peterson, D.L.	Willet
Brataas	Frederickson	Lessard	Purfeerst	
Dahl	Johnson, D.E.	Luther	Renneke	
Davis	Jude	Mehrkens	Samuelson	

Those who voted in the negative were:

Adkins	Laidig	Peterson, R.W.	Schmitz	Waldorf
Belanger	McQuaid	Petty	Sieloff	Wegscheid
Freeman	Moe, D. M.	Ramstad	Spear	
Kroening	Peterson, D.C.	Reichgott	Storm	

The motion prevailed. So the second portion of the amendment was adopted.

Mr. Frank moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 50, line 2, delete "\$300" and insert "\$1,500"

The question was taken on the adoption of the amendment.

Mr. Belanger moved that those not voting be excused from voting. The motion prevailed.

The roll was called, and there were yeas 30 and nays 31, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Nelson	Ramstad
Benson	DeCramer	Kronebusch	Novak	Schmitz
Berg	Dicklich	Langseth	Pehler	Solon
Bertram	Dieterich	Lessard	Peterson, C.C.	Stumpf
Chmielewski	Frank	Mehrkens	Pogemiller	Vega
Dahl	Freeman	Moe, R. D.	Purfeerst	Willet

Those who voted in the negative were:

Anderson	Frederickson	Lantry	Petty	Ulland
Belanger	Isackson	Luther	Reichgott	Waldorf
Berglin	Johnson, D.E.	McQuaid	Renneke	Wegscheid
Bernhagen	Jude	Moe, D. M.	Sieloff	
Brataas	Knaak	Olson	Spear	
Diessner	Kroening	Peterson, D.L.	Storm	
Frederick	Laidig	Peterson, R.W.	Taylor	

The motion did not prevail. So the amendment was not adopted.

Mr. Renneke moved to amend H.F. No. 77, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 79.)

Page 16, line 22, delete "it" and insert "the board"

Page 16, line 23, delete "does not object to it" and insert "that two-thirds of the board is in support of granting a license to the applicant"

The motion prevailed. So the amendment was adopted.

SUSPENSION OF RULES

Mr. Purfeerst moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H. F. No. 77 and that the rules of the Senate be so far suspended as to give H. F. No. 77 its third reading and place it on its final passage. The motion prevailed.

H.F. No. 77 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 8, as follows:

Those who voted in the affirmative were:

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

Those who voted in the negative were:

Berglin	Chmielewski	Kamrath	Pogemiller	Renneke
Bernhagen	Johnson, D. E.	Moe, D. M.		

So the bill, as amended, passed and its title was agreed to.

Mr. Purfeerst moved that S.F. No. 79, No. 56 on Special Orders, be stricken and laid on the table. The motion prevailed.

Without objection, the Senate reverted to the Order of Business of Messages From the House and First Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 300.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 13, 1983

FIRST READING OF HOUSE BILLS

The following bill was read the first time.

H.F. No. 300: A bill for an act relating to energy; creating the Minnesota energy authority; establishing a program of loans and financial assistance for households and municipalities; authorizing the issuance of bonds; appropriating money; transferring powers; amending Minnesota Statutes 1982,

sections 116C.03, subdivision 2; 116J.03, subdivision 1; 116J.09; 116J.10; 216B.16, by adding a subdivision; 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; 216B; and 462A.

SUSPENSION OF RULES

Mr. Vega moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 300 and that the rules of the Senate be so far suspended as to give H.F. No. 300 its second and third reading and place it on its final passage. The motion prevailed.

H. F. No. 300 was read the second time.

Mr. Vega moved to amend H.F. No. 300 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 300, and insert the language after the enacting clause, and the title, of S.F. No. 810, the Third Engrossment.

The motion prevailed. So the amendment was adopted.

Mr. Moe, D.M. moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 69, after line 12, insert:

"Sec. 101. Minnesota Statutes 1982, section 116C.24, is amended by adding a subdivision to read:

Subd. 2a. "Commissioner" means the commissioner of energy and economic development.

Sec. 102. Minnesota Statutes 1982, section 116C.24, subdivision 3, is amended to read:

Subd. 3. "Coordination unit" means the environmental coordination unit bureau of business licenses established pursuant to section 116C.25 sections 362.461 to 362.467.

Sec. 103. Minnesota Statutes 1982, section 116C.25, is amended to read:

116C.25 [ENVIRONMENTAL PERMITS COORDINATION UNIT.]

The board shall establish an environmental permits commissioner of the department of energy and economic development shall direct the bureau of business licenses to act as the coordination unit to implement and administer the provisions of sections 116C.22 to 116C.34 and. The chairman of the board commissioner shall employ necessary staff to work for the coordination unit on a continuous basis.

Sec. 104. Minnesota Statutes 1982, section 116C.32, is amended to read:

116C.32 [RULES; COOPERATION.]

The board commissioner shall as soon as practicable adopt rules, not inconsistent with rules of procedure established by the office of administra-

tive hearings, to implement the provisions of sections 116C.22 to 116C.34, including master application procedures, notice procedures, and public hearing procedures and costs. *Pursuant to section 15.039, rules adopted by the environmental quality board under Minnesota Statutes 1982, section 116C.32, shall remain in effect and be enforced by the commissioner until amended by the commissioner. Transfer of other powers, personnel, records, and funds shall also be governed by section 15.039.*

Sec. 105. Minnesota Statutes 1982, section 116C.33, subdivision 2, is amended to read:

Subd. 2. The ~~board~~ commissioner, to the limited extent necessary to comply with procedural requirements of federal statutes relating to permit systems operated by the state, may modify the notice, timing, hearing and related procedural matters provided in sections 116C.22 to 116C.34.

Sec. 106. Minnesota Statutes 1982, section 116C.34, is amended to read:

116C.34 ~~[PERMIT INFORMATION CENTERS BUREAU OF BUSINESS LICENSES.]~~

Subdivision 1. The ~~board shall establish a permit information center in its office at St. Paul, which center~~ bureau of business licenses shall establish and maintain an information and referral system to assist the public in the understanding and compliance with the requirements of state and local governmental regulations concerning the use of natural resources and protection of the environment. The system shall provide a telephone information service and disseminate printed materials. The ~~board~~ bureau shall provide assistance to regional development commissions desiring to create a permit information center.

Subd. 2. The ~~permit information center in St. Paul~~ bureau shall:

(a) Identify all existing state licenses, permit certifications, approvals, compliance schedules, or other programs which pertain to the use of natural resources and to protection of the environment.

(b) Standardize permit titles and assign designation codes to all such permits which would thereafter be imprinted on all permit forms.

(c) Develop permit profiles including applicable rules and regulations, copies of all appropriate permit forms, statutory mandate and legislative history, names of individuals administering the program, permit processing procedures, documentation of the magnitude of the program and of geographic and seasonal distribution of the workload, and estimated application processing time.

(d) Identify the public information procedures currently associated with each permit program.

(e) Identify the data monitored or acquired through each permit and ascertain current users of that data.

(f) Recommend revisions to the list of natural resource management and development permits contained in Minnesota Statutes 1974, Section 116D.04, Subdivision 5.

(g) Recommend legislative or administrative modifications of existing

permit programs to increase their efficiency and utility.

Subd. 3. The auditor of each county shall post in a conspicuous place in his office the telephone numbers of the ~~permit information centers established in St. Paul and~~ bureau of business licenses and the permit information center in the office of the applicable regional development commission; copies of any master applications or permit applications forwarded to the auditor pursuant to section 116C.27, subdivision 1; and copies of any information published by ~~any permit the bureau or an~~ information center pursuant to subdivision 1."

Renumber the sections in sequence and correct the internal references

Amend the title as follows:

Page 1, line 23, after the first semicolon insert "transferring the functions of the environmental quality board under the Environmental Procedures Act to the commissioner of energy and economic development and the bureau of business licenses;"

Page 1, line 29, after the semicolon insert "116C.24, subdivision 3, and by adding a subdivision; 116C.25; 116C.32; 116C.33, subdivision 2; 116C.34;"

The motion prevailed. So the amendment was adopted.

Mr. Freeman moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 3, delete lines 20 to 33, and insert:

"Subd. 7. [PERSONNEL.] ~~The~~ All classified and unclassified positions associated with the responsibilities being transferred are ~~abolished in transferred with their incumbents to the new agency whose responsibilities are transferred.~~ The approved staff complement for ~~that the agency whose responsibilities are being transferred~~ is decreased accordingly. ~~The employees who fill the abolished positions are employees of the agency receiving the new responsibilities.~~ The approved staff complement for ~~that the new agency~~ is increased accordingly. Personnel changes are effective on the date of transfer of responsibilities. *Nothing in this subdivision shall be construed as abrogating or modifying any rights now enjoyed by affected employees under the managerial or commissioner's plan under section 43A.18 or the terms of an agreement between an exclusive representative of public employees and the state or one of its appointing authorities.*"

The motion prevailed. So the amendment was adopted.

Mr. Ulland moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 4, line 4, after "energy" insert ", planning," and delete "economic"

Page 4, line 9, delete the new language

Page 4, line 30, reinstate the stricken language and delete the new language

Page 4, line 35, delete the new language

Page 15, line 13, delete "*three*" and insert "*four*"

Page 15, line 14, after the comma insert "*the planning division,*"

Page 15, lines 34 and 36, reinstate the stricken language and delete the new language

Page 19, lines 6 and 7, reinstate the stricken language and delete the new language

Page 20, line 12, reinstate the stricken language and delete the new language

Page 21, line 25, reinstate the stricken language and delete the new language

Page 22, line 25, reinstate the stricken language and delete the new language

Page 24, line 3, reinstate the stricken language and delete the new language

Page 24, lines 9, 10, 21, and 22, reinstate the stricken language and delete the new language

Pages 57 and 58, delete sections 80 and 81

Pages 61 and 62, delete section 90

Page 67, line 24, delete everything after "[TERMS.]"

Page 67, delete lines 25 to 36

Page 68, delete lines 1 to 9

Page 68, line 10, delete "(d)"

Page 68, delete lines 22 to 33

Page 68, line 34, delete "*116K.15*" and insert "*116J.545*"

ReNUMBER the sections in sequence

Amend the title as follows:

Page 1, line 17, delete "a state"

Page 1, delete line 18

Page 1, line 19, delete "development and"

Page 1, delete line 44

Page 1, line 45, delete "116K;"

CALL OF THE SENATE

Mr. Moe, D.M. imposed a call of the Senate for the balance of the proceedings on H.F. No. 300. The Sergeant at Arms was instructed to bring in the absent members.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Samuelson moved that the following members be

excused for a Conference Committee on H.F. No. 1234:

Messrs. Samuelson, Spear, Dicklich, Knutson and Johnson, D.E. The motion prevailed.

The question recurred on the Ulland amendment.

The roll was called, and there were yeas 17 and nays 34, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Laidig	Ramstad	Ulland
Benson	Isackson	McQuaid	Renneke	
Bernhagen	Kamrath	Mehrkens	Storm	
Dieterich	Kronebusch	Peterson, D.L.	Taylor	

Those who voted in the negative were:

Adkins	Diessner	Langseth	Peterson, C.C.	Solon
Bertram	Frank	Lantry	Peterson, D.C.	Stumpf
Chmielewski	Freeman	Lessard	Peterson, R.W.	Vega
Dahl	Hughes	Luther	Petty	Waldorf
Davis	Johnson, D.J.	Moe, D. M.	Pogemiller	Wegscheid
DeCramer	Jude	Novak	Reichgott	Willet
Dicklich	Kroening	Pehler	Schmitz	

The motion did not prevail. So the amendment was not adopted.

Mr. Laidig moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 36, line 21, delete everything after the period

Page 36, lines 22 to 25, delete the new language

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 18 and nays 29, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Kronebusch	Olson	Storm
Benson	Isackson	Laidig	Peterson, D.L.	Ulland
Berg	Kamrath	McQuaid	Ramstad	
Bernhagen	Knaak	Mehrkens	Renneke	

Those who voted in the negative were:

Adkins	Diessner	Kroening	Peterson, C.C.	Stumpf
Bertram	Dieterich	Langseth	Peterson, D.C.	Vega
Chmielewski	Frank	Lantry	Peterson, R.W.	Waldorf
Dahl	Freeman	Lessard	Petty	Wegscheid
Davis	Hughes	Luther	Pogemiller	Willet
DeCramer	Jude	Moe, D. M.	Reichgott	

The motion did not prevail. So the amendment was not adopted.

Mr. Laidig then moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 36, lines 27 to 29, delete the new language

The motion prevailed. So the amendment was adopted.

Ms. Olson moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 17, line 14, before the period, insert “:

(m) Report to the legislature by February 1 of each year both the processes and results of efforts to communicate the statutory requirements concerning energy efficiency standards under section 116J.27 and the extent of compliance with the requirements”

The motion prevailed. So the amendment was adopted.

Mr. Renneke moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 34, line 24, delete “(a)”

Page 35, delete lines 6 to 13

The motion prevailed. So the amendment was adopted.

Mr. Ulland moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 69, delete section 99

Renumber the sections in sequence and correct internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 19 and nays 34, as follows:

Those who voted in the affirmative were:

Anderson	Frederickson	Kronebusch	Olson	Storm
Benson	Isackson	Laidig	Peterson, D.L.	Taylor
Berg	Kamrath	McQuaid	Ramstad	Ulland
Bernhagen	Knaak	Mehrkins	Renneke	

Those who voted in the negative were:

Adkins	Diessner	Langseth	Pehler	Solon
Berglin	Dieterich	Lantry	Peterson, C.C.	Stumpf
Bertram	Frank	Lessard	Peterson, D.C.	Vega
Chmielewski	Freeman	Luther	Peterson, R.W.	Waldorf
Dahl	Hughes	Merriam	Petty	Wegscheid
Davis	Jude	Moe, D. M.	Pogemiller	Willet
DeCramer	Kroening	Novak	Reichgott	

The motion did not prevail. So the amendment was not adopted.

Mr. Willet moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 49, line 18, delete “may” and insert “shall” and delete “without

complying” and insert “*in compliance*”

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 300, as amended by the Senate May 13, 1983, as follows:

(The text of the amended House File is identical to S.F. No. 810.)

Page 11, lines 27 and 33, delete “*attorney general*” and insert “*commissioner*”

Page 12, lines 2 to 4 reinstate the stricken language

Page 12, line 7, delete “*that*”

Page 13, lines 8, 13, 21, 25, 32, and 36, delete “*attorney general*” and insert “*commissioner*”

Page 14, lines 2, 17, 23, and 32, delete “*attorney general*” and insert “*commissioner*”

Page 14, line 7, delete “*attorney*”

Page 14, line 8, delete “*general*” and insert “*commissioner*”

Page 58, line 7, reinstate the stricken comma

Page 58, line 8, before “*or*” insert “*commissioner of commerce,*”

Page 62, line 28, delete “*public service*” and insert “*commerce*”

Page 67, delete lines 21 and 22

Amend the title accordingly

The motion did not prevail. So the amendment was not adopted.

H.F. No. 300 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 41 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Lessard	Peterson, D.C.	Stumpf
Berglin	Frank	Luther	Peterson, R.W.	Vega
Bertram	Freeman	Merriam	Petty	Waldorf
Chmielewski	Hughes	Moe, D. M.	Pogemiller	Wegscheid
Dahl	Johnson, D.J.	Moe, R. D.	Purfeerst	Willet
Davis	Jude	Nelson	Reichgott	
DeCramer	Kroening	Novak	Samuelson	
Dicklich	Langseth	Pehler	Schmitz	
Diessner	Lantry	Peterson, C.C.	Spear	

Those who voted in the negative were:

Anderson	Brataas	Kamrath	Olson	Storm
Belanger	Frederick	Knaak	Peterson, D.L.	Taylor
Benson	Frederickson	Kronebusch	Ramstad	Ulland
Berg	Isackson	Laidig	Renneke	
Bernhagen	Johnson, D.E.	McQuaid	Sieloff	

So the bill, as amended, passed and its title was agreed to.

Mr. Vega moved that S.F. No. 810, No. 61 on Special Orders, be stricken and laid on the table. The motion prevailed.

SPECIAL ORDER

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; 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.

Mr. Chmielewski moved to amend S. F. No. 862 as follows:

Amend the title as follows:

Page 1, line 4, delete everything after the semicolon

Page 1, delete line 5

The motion prevailed. So the amendment was adopted.

Mr. Nelson moved to amend S. F. No. 862 as follows:

Page 2, line 1, delete "*temporary*" and insert "*employees who hold positions of a basically temporary character for a period not in excess of 100 working days in a calendar year,*" and before "*who*" insert a comma

Page 3, line 12, after "*require*" insert "*either*"

Page 3, line 13, delete "*or*" and insert "*and*"

Page 3, line 13, after "*director*" insert "*or a separate determination by the director*"

Page 3, after line 30, insert:

"Sec. 4. Minnesota Statutes 1982, section 179.71, subdivision 8, is amended to read:

Subd. 8. Hearings and mediation meetings authorized by this section shall be held ~~in the county which best meets the conveniences of the witnesses, but such hearings may be held~~ at a time and place as is agreed to by the petitioner and those parties affected by the petition determined by the director, but, whenever practical, a hearing shall be held in the general geographic area where the question has arisen or exists."

Page 3, line 32, delete "*Sections 1 to 3 are*" and insert "*This act is*" and delete "*their*"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, delete "*and*"

Page 1, line 10, after "*2*" insert "*;* and 179.71, subdivision 8"

The motion prevailed. So the amendment was adopted.

Mr. Vega moved to amend S. F. No. 862 as follows:

Page 3, after line 30, insert:

"Sec. 4. Minnesota Statutes 1982, section 179.70, subdivision 1, is amended to read:

Subdivision 1. A written contract or memorandum of contract containing the agreed upon terms and conditions of employment and such other matters as may be agreed upon by the employer and exclusive representative shall be executed by the parties. The duration of the contract shall be negotiable except in no event shall contracts be for a term exceeding three years. Any contract between employer school board and an exclusive representative of teachers shall in every instance be for a term of two years beginning on July 1 of each odd-numbered year. For contracts effective July 1, 1979 or thereafter, the written contract executed by an employer school board and an exclusive representative of teachers shall contain the teachers' compensation including fringe benefits for the entire two year term and shall not contain a wage reopening clause or any other provision for the renegotiation of the teachers' compensation for the second year of the contract. *A contract between an employer and an exclusive representative of essential employees shall be for a term of not less than two years and no more than three years.* All contracts shall include a grievance procedure which shall provide compulsory binding arbitration of grievances including all disciplinary actions. In the event that the parties cannot reach agreement on the grievance procedure, they shall be subject to the grievance procedure promulgated by the director pursuant to section 179.71, subdivision 5, clause (4) (h). Employees covered by civil service systems created pursuant to chapters 43 43A, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, Chapter 423, may pursue a redress of their grievances through the grievance procedure established pursuant to this section. When the resolution of a grievance is also within the jurisdiction of appeals boards or appeals procedures created by chapters 43 43A, 44, 375, 387, 419 or 420, or by provision of a home rule charter pursuant to chapter 410, or by Laws 1941, Chapter 423, the aggrieved employee shall have the option of pursuing redress through the grievance procedure or the civil service appeals procedure, but once a written grievance or appeal has been properly filed or submitted by the employee or on the employee's behalf with his consent the employee's right to pursue redress in the alternative manner is terminated. This section does not require employers or employee organizations to negotiate on matters other than terms and conditions of employment as defined in section 179.63, subdivision 18."

Page 3, line 32, delete "Sections 1 to 3 are" and insert "This act is" and delete "their"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, delete "and"

Page 1, line 10, after "2" insert "3; and 179.70, subdivision 1"

The motion did not prevail. So the amendment was not adopted.

Mr. Chmielewski moved to amend S. F. No. 862 as follows:

Page 1, line 28, after "year" insert "or, in the case of employees of a

recreational facility or authority, not in excess of 100 working days in any calendar year”

The motion prevailed. So the amendment was adopted.

Mr. Belanger moved to amend S.F. No. 862 as follows:

Page 3, after line 30, insert:

“Sec. 4. [REPEALER.]

Minnesota Statutes 1982, section 179.03, is repealed.”

Page 3, line 32, delete “3” and insert “4”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, before the period, insert “; repealing Minnesota Statutes 1982, section 179.03”

The motion did not prevail. So the amendment was not adopted.

Mr. Frederickson moved to amend S.F. No. 862 as follows:

Page 3, after line 30, insert:

“Sec. 4. Minnesota Statutes 1982, section 179.72, subdivision 6, is amended to read:

Subd. 6. When final positions are certified to the board as provided in section 179.69, the board shall constitute an arbitration panel as follows:

The parties shall, under the direction of the chairman of the board, alternately strike names from a list of seven arbitrators until only three names remain, which three members shall be members of the panel; provided, however, that if ~~either party requests~~ *both parties agree* the parties shall select a single arbitrator to hear the dispute. If the parties are unable to agree on who shall strike the first name, the question shall be decided by the flip of a coin. In submitting names of arbitrators to the parties the board shall endeavor whenever possible to include names of persons from the general geographical area in which the public employer is located. The panel shall assume and have jurisdiction over the items of dispute certified to the board for which the panel was constituted. The panel's orders shall be issued upon a majority vote of members considering a given dispute. The members of the panel shall be paid their actual and necessary traveling and other expenses incurred in the performance of their duties plus a per diem allowance of \$180 for each day or part thereof while engaged in the consideration of a dispute. All fees, expenses and costs of the panel shall be shared and assessed equally to the parties to the dispute. In those cases where a single arbitrator is hearing a dispute, the fees, expenses and costs of the arbitrator shall also be shared and assessed equally by the parties to the dispute.”

Page 3, line 32, delete “3” and insert “4”

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 8, after the semicolon, insert “requiring both parties' consent

for selection of a single arbitrator;"

Page 1, line 9, delete "and"

Page 1, line 10, before the period, insert "; and 179.72, subdivision 6"

The motion did not prevail. So the amendment was not adopted.

Mr. Frederick moved to amend S.F. No. 862 as follows:

Page 1, line 27, after "67" insert "full-time equivalent"

The motion did not prevail. So the amendment was not adopted.

Mr. Frederick then moved to amend S.F. No. 862 as follows:

Page 3, after line 14, insert:

"Sec. 3. Minnesota Statutes 1982, section 179.64, is amended by adding a subdivision to read:

Subd. 8. Public employees, other than those engaged in strikes under subdivision 1 or 1a, or section 179.692, who refuse to cross a picket line shall be deemed to be engaged in an illegal strike and shall be subject to the provisions of this section."

Page 3, line 32, delete "3" and insert "4"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 9, after the semicolon, insert "179.64, by adding a subdivision;"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 23 and nays 36, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Knaak	Peterson, D.L.	Stumpf
Belanger	Frederick	Kronebusch	Ramstad	Taylor
Berg	Frederickson	Laidig	Renneke	Ulland
Bernhagen	Isackson	McQuaid	Sieloff	
Bertram	Kamrath	Olson	Storm	

Those who voted in the negative were:

Adkins	Frank	Lessard	Peterson, D.C.	Vega
Chmielewski	Freeman	Luther	Peterson, R.W.	Waldorf
Dahl	Hughes	Merriam	Petty	Wegscheid
Davis	Johnson, D.J.	Moe, D. M.	Pogemiller	Willet
DeCramer	Jude	Moe, R. D.	Purfeerst	
Dicklich	Kroening	Nelson	Reichgott	
Diessner	Langseth	Novak	Schmitz	
Dieterich	Lantry	Pehler	Spear	

The motion did not prevail. So the amendment was not adopted.

Mrs. McQuaid moved to amend S.F. No. 862 as follows:

Page 3, delete lines 24 to 30

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 25 and nays 37, as follows:

Those who voted in the affirmative were:

Anderson	Bertram	Johnson, D.E.	Laidig	Renneke
Belanger	Brataas	Kamrath	McQuaid	Sieloff
Benson	Frederick	Knaak	Olson	Storm
Berg	Frederickson	Knutson	Peterson, D.L.	Taylor
Bernhagen	Isackson	Kronebusch	Ramstad	Ulland

Those who voted in the negative were:

Adkins	Frank	Luther	Peterson, R.W.	Stumpf
Chmielewski	Freeman	Merriam	Petty	Vega
Dahl	Johnson, D.J.	Moe, R. D.	Pogemiller	Waldorf
Davis	Jude	Nelson	Purfeerst	Wegscheid
DeCramer	Kroening	Novak	Reichgott	Willet
Dicklich	Langseth	Pehler	Samuelson	
Diessner	Lantry	Peterson, C.C.	Schmitz	
Dieterich	Lessard	Peterson, D.C.	Spear	

The motion did not prevail. So the amendment was not adopted.

S.F. No. 862 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 44 and nays 20, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Lessard	Peterson, D.C.	Solon
Bertram	Frank	Luther	Peterson, R.W.	Spear
Brataas	Freeman	Merriam	Petty	Stumpf
Chmielewski	Johnson, D.J.	Moe, D. M.	Pogemiller	Taylor
Dahl	Jude	Moe, R. D.	Purfeerst	Vega
Davis	Knaak	Nelson	Reichgott	Waldorf
DeCramer	Kroening	Novak	Samuelson	Wegscheid
Dicklich	Langseth	Pehler	Schmitz	Willet
Diessner	Lantry	Peterson, C.C.	Sieloff	

Those who voted in the negative were:

Anderson	Bernhagen	Johnson, D.E.	Laidig	Ramstad
Belanger	Frederick	Kamrath	McQuaid	Renneke
Benson	Frederickson	Knutson	Olson	Storm
Berg	Isackson	Kronebusch	Peterson, D.L.	Ulland

So the bill, as amended, passed and its title was agreed to.

Without objection, the Senate reverted to the Order of Business of Messages From the House, First Reading of House Bills, Reports of Committees and Second Reading of House Bills.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 160, 752 and 601.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 297: A bill for an act relating to criminal justice; requiring peace officers to make arrests based on probable cause in cases of domestic assault; requiring peace officers to notify victims of domestic assault of the legal remedies available; amending Minnesota Statutes 1982, section 629.341; and Laws 1983, chapter 52, by adding a section.

Senate File No. 297 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. Petty moved that the Senate do not concur in the amendments by the House to S.F. No. 297, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 473: A bill for an act relating to traffic regulations; removing restrictions on use at trial of an accused's refusal to take a chemical test; providing that a suspect be informed that refusal to take a chemical test will be used against him at trial; removing requirements for mandatory detoxification in certain instances; providing penalties; amending Minnesota Statutes 1982, sections 169.121, subdivisions 2, 3, 4, and 8; and 169.123, subdivisions 2, 3, and 4; repealing Minnesota Statutes 1982, section 169.1231.

Senate File No. 473 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1983

Mr. Freeman moved that the Senate do not concur in the amendments by the House to S.F. No. 473, and that a Conference Committee of 5 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 683: A bill for an act relating to education; prohibiting certain licenses for teachers; proposing new law coded in Minnesota Statutes, chapter 125.

Senate File No. 683 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1983

Mr. Kroening moved that the Senate do not concur in the amendments by the House to S.F. No. 683, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 695: A bill for an act relating to public welfare; requiring new procedures for determining nursing home payment rates; requiring a moratorium on certification or welfare licensure of new beds with certain exceptions; providing for an interagency board for quality assurance; appropriating money; amending Minnesota Statutes 1982, sections 144A.10, subdivisions 4, 6, and by adding a subdivision; 256B.091, subdivisions 1, 2, 4, and 8; 256B.41; 256B.47; and 256B.48; proposing new law coded in Minnesota Statutes 1982, chapters 144A and 256B; repealing Minnesota Statutes 1982, sections 256B.42; 256B.43; 256B.44; 256B.45; and 256B.46; and 12 MCAR 2.049.

Senate File No. 695 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Ms. Berglin moved that the Senate do not concur in the amendments by the House to S.F. No. 695, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 923: A bill for an act relating to libraries; prohibiting the theft or damage of library materials; restricting tort liability for public libraries; prescribing a penalty; amending Minnesota Statutes 1982, section 466.01, subdivision 1; proposing new law coded in Minnesota Statutes, chapter 609.

Senate File No. 923 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 12, 1983

Mr. Wegscheid moved that the Senate do not concur in the amendments by the House to S.F. No. 923, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the

House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 989: A bill for an act relating to collection and dissemination of data; classifying government data as public, private, and nonpublic; clarifying issues relating to classifications of data, access to data, the effect of death of individuals on classifications, and the temporary classification of data; refining provisions of the data practice act; amending Minnesota Statutes 1982, sections 13.02, subdivision 8, and by adding a subdivision; 13.03, subdivisions 3 and 4, and by adding subdivisions; 13.04, subdivision 2; 13.05, subdivisions 3, 7, 9, and 10, and by adding a subdivision; 13.06, subdivisions 1 and 6; 13.31, subdivision 2; 13.41, by adding a subdivision; 13.43, subdivision 2; 13.44; 13.46, subdivision 2, and by adding subdivisions; 13.67; 144.335, subdivision 2; and 253B.03, subdivision 8; proposing new law coded in Minnesota Statutes, chapter 13.

Senate File No. 989 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1983

Mr. Peterson, R.W. moved that the Senate do not concur in the amendments by the House to S.F. No. 989, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1146: A bill for an act relating to statutes; conforming certain laws to judicial decisions of unconstitutionality; amending Minnesota Statutes 1982, sections 65B.51, subdivision 1; 154.03; 570.02, subdivision 2; and 573.01.

Senate File No. 1146 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1983

Mr. Jude moved that S.F. No. 1146 be laid on the table. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1189: A bill for an act relating to employment; exempting search

firms from employment agency licensing; subjecting certain search firms to fee and bond requirements; requiring certain statements, fees, and bonds to be submitted at the time a search firm is established; amending Minnesota Statutes 1982, sections 184.22, subdivision 2, and by adding subdivisions; 184.29; 184.30, subdivision 1; and 184.41.

Senate File No. 1189 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 13, 1983

Mr. Freeman moved that the Senate do not concur in the amendments by the House to S.F. No. 1189, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee to be appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House has adopted the recommendation and report of the Conference Committee on House File No. 365 and repassed said bill in accordance with the report of the Committee, so adopted.

H.F. No. 365: A bill for an act relating to health care facilities; clarifying the rights and responsibilities of patients and residents; amending Minnesota Statutes 1982, sections 144.651; and 144.652.

House File No. 365 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 13, 1983

CONFERENCE COMMITTEE REPORT ON H.F. NO. 365

A bill for an act relating to health care facilities; clarifying the rights and responsibilities of patients and residents; amending Minnesota Statutes 1982, sections 144.651; and 144.652.

May 6, 1983

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

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 365, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment and that H.F. No. 365 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1982, section 144.651, is amended to read:

144.651 [PATIENTS AND RESIDENTS OF HEALTH CARE FACILITIES; BILL OF RIGHTS.]

Subdivision 1. [LEGISLATIVE INTENT.] It is the intent of the legislature and the purpose of this section to promote the interests and well being of the patients and residents of health care facilities. No health care facility may require a patient or resident to waive these rights as a condition of admission to the facility. Any guardian or conservator of a patient or resident or, in the absence of a guardian or conservator, an interested person, may seek enforcement of these rights on behalf of a patient or resident. It is the intent of this section that every patient's civil and religious liberties, including the right to independent personal decisions and knowledge of available choices, shall not be infringed and that the facility shall encourage and assist in the fullest possible exercise of these rights.

Subd. 2. [DEFINITIONS.] For the purposes of this section, "patient" means a person who is admitted to an acute care inpatient facility for a continuous period longer than 24 hours, for the purpose of diagnosis or treatment bearing on the physical or mental health of that person. "Resident" means a person who is admitted to a non-acute care facility including extended care facilities, nursing homes, and board and care homes for care required because of prolonged mental or physical illness or disability, recovery from injury or disease, or advancing age.

Subd. 3. [PUBLIC POLICY DECLARATION.] It is declared to be the public policy of this state that the interests of each patient and resident be protected by a declaration of a patients' bill of rights which shall include but not be limited to the following:

(1) Every patient and resident shall have the right to considerate and respectful care;

(2) Every patient and resident can reasonably expect to obtain from his physician or the resident physician of the facility complete and current information concerning his diagnosis, treatment and prognosis in terms and language the patient can reasonably be expected to understand. In cases in which it is not medically advisable to give the information to the patient or resident the information may be made available to the appropriate person in his behalf;

(3) Every patient and resident shall have the right to know by name and specialty, if any, the physician responsible for coordination of his care;

(4) Every patient and resident shall have the right to every consideration of his privacy and individuality as it relates to his social, religious, and psychological well being;

(5) Every patient and resident shall have the right to respectfulness and privacy as it relates to his medical care program. Case discussion, consultation, examination, and treatment are confidential and should be conducted discreetly;

(6) Every patient and resident shall have the right to expect the facility to make a reasonable response to his requests;

(7) Every patient and resident shall have the right to obtain information as to any relationship of the facility to other health care and related institutions insofar as his care is concerned;

(8) Every patient and resident shall have the right to expect reasonable continuity of care which shall include but not be limited to what appointment

times and physicians are available;

(9) Every resident shall be fully informed, prior to or at the time of admission and during his stay, of services available in the facility, and of related charges including any charges for services not covered under medicare or medicaid or not covered by the facility's basic per diem rate;

(10) Every patient and resident shall be afforded the opportunity to participate in the planning of his medical treatment and to refuse to participate in experimental research;

(11) No resident shall be arbitrarily transferred or discharged but may be transferred or discharged only for medical reasons, for his or other residents' welfare, or for nonpayment for stay unless prohibited by the welfare programs paying for the care of the resident, as documented in the medical record. Reasonable advance notice of any transfer or discharge must be given to a resident;

(12) Every resident may manage his personal financial affairs, or shall be given at least a quarterly accounting of financial transactions on his behalf if he delegates this responsibility in accordance with the laws of Minnesota to the facility for any period of time;

(13) Every resident shall be encouraged and assisted, throughout his period of stay in a facility, to understand and exercise his rights as a patient and as a citizen, and to this end, he may voice grievances and recommend changes in policies and services to facility staff and outside representatives of his choice, free from restraint, interference, coercion, discrimination or reprisal;

(14) Every resident shall be free from mental and physical abuse, and free from chemical and physical restraints, except in emergencies, or as authorized in writing by his physician for a specified and limited period of time, and when necessary to protect the resident from injury to himself or to others;

(15) Every patient and resident shall be assured confidential treatment of his personal and medical records, and may approve or refuse their release to any individual outside the facility, except as otherwise provided by law or a third party payment contract;

(16) No resident shall be required to perform services for the facility that are not included for therapeutic purposes in his plan of care;

(17) Every resident may associate and communicate privately with persons of his choice, and send and receive his personal mail unopened, unless medically contraindicated and documented by his physician in the medical record;

(18) Every resident may meet with representatives and participate in activities of commercial, religious, and community groups at his discretion; provided, however, that the activities shall not infringe upon the right to privacy of other residents;

(19) Every resident may retain and use his personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients or residents, and unless medically contraindicated and documented by his physician in the medical record;

(20) Every resident, if married, shall be assured privacy for visits by his or her spouse and if both spouses are residents of the facility, they shall be

permitted to share a room, unless medically contraindicated and documented by their physicians in the medical record;

(21) Every patient or resident shall be fully informed, prior to or at the time of admission and during his stay at a facility, of the rights and responsibilities set forth in this section and of all rules governing patient conduct and responsibilities; and

(22) Every patient or resident suffering from any form of breast cancer shall be fully informed, prior to or at the time of admission and during her stay, of all alternative effective methods of treatment of which the treating physician is knowledgeable, including surgical, radiological, or chemotherapeutic treatments or combinations of treatments and the risks associated with each of those methods rights specified in this section.

Subd. 4. [INFORMATION ABOUT RIGHTS.] Patients and residents shall, at admission, be told that there are legal rights for their protection during their stay at the facility and that these are described in an accompanying written statement of the applicable rights and responsibilities set forth in this section. Reasonable arrangements shall be made for those with communication impairments and those who speak a language other than English. Current facility policies, inspection findings of state and local health authorities, and further explanation of the written statement of rights shall be available to patients, residents, their guardians or their chosen representatives upon reasonable request to the administrator or other designated staff person.

Subd. 5. [COURTEOUS TREATMENT.] Patients and residents have the right to be treated with courtesy and respect for their individuality by employees of or persons providing service in a health care facility.

Subd. 6. [APPROPRIATE HEALTH CARE.] Patients and residents shall have the right to appropriate medical and personal care based on individual needs. Appropriate care for residents means care designed to enable residents to achieve their highest level of physical and mental functioning. This right is limited where the service is not reimbursable by public or private resources.

Subd. 7. [PHYSICIAN'S IDENTITY.] Patients and residents shall have or be given, in writing, the name, business address, telephone number, and specialty, if any, of the physician responsible for coordination of their care. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's care record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as his or her representative.

Subd. 8. [RELATIONSHIP WITH OTHER HEALTH SERVICES.] Patients and residents who receive services from an outside provider are entitled, upon request, to be told the identity of the provider. Residents shall be informed, in writing, of any health care services which are provided to those residents by individuals, corporations, or organizations other than their facility. Information shall include the name of the outside provider, the address, and a description of the service which may be rendered. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's care record, the information shall be given to the

patient's or resident's guardian or other person designated by the patient or resident as his or her representative.

Subd. 9. [INFORMATION ABOUT TREATMENT.] Patients and residents shall be given by their physicians complete and current information concerning their diagnosis, treatment, alternatives, risks, and prognosis as required by the physician's legal duty to disclose. This information shall be in terms and language the patients or residents can reasonably be expected to understand. Patients and residents may be accompanied by a family member or other chosen representative. This information shall include the likely medical or major psychological results of the treatment and its alternatives. In cases where it is medically inadvisable, as documented by the attending physician in a patient's or resident's medical record, the information shall be given to the patient's or resident's guardian or other person designated by the patient or resident as his or her representative. Individuals have the right to refuse this information.

Subd. 10. [PARTICIPATION IN PLANNING TREATMENT.] Patients and residents shall have the right to participate in the planning of their health care. This right includes the opportunity to discuss treatment and alternatives with individual caregivers, the opportunity to request and participate in formal care conferences, and the right to include a family member or other chosen representative. In the event that the patient or resident cannot be present, a family member or other representative chosen by the patient or resident may be included in such conferences.

Subd. 11. [CONTINUITY OF CARE.] Patients and residents shall have the right to be cared for with reasonable regularity and continuity of staff assignment as far as facility policy allows.

Subd. 12. [RIGHT TO REFUSE CARE.] Competent patients and residents shall have the right to refuse treatment based on the information required in subdivision 9. Residents who refuse treatment, medication, or dietary restrictions shall be informed of the likely medical or major psychological results of the refusal, with documentation in the individual medical record. In cases where a patient or resident is incapable of understanding the circumstances but has not been adjudicated incompetent, or when legal requirements limit the right to refuse treatment, the conditions and circumstances shall be fully documented by the attending physician in the patient's or resident's medical record.

Subd. 13. [EXPERIMENTAL RESEARCH.] Written, informed consent must be obtained prior to a patient's or resident's participation in experimental research. Patients and residents have the right to refuse participation. Both consent and refusal shall be documented in the individual care record.

Subd. 14. [FREEDOM FROM ABUSE.] Patients and residents shall be free from mental and physical abuse as defined in the Vulnerable Adults Protection Act. "Abuse" means any act which constitutes assault, sexual exploitation, or criminal sexual conduct as described in section 626.557, subdivision 2d, or the intentional and nontherapeutic infliction of physical pain or injury, or any persistent course of conduct intended to produce mental or emotional distress. Every patient and resident shall also be free from nontherapeutic chemical and physical restraints, except in fully docu-

mented emergencies, or as authorized in writing after examination by a patient's or resident's physician for a specified and limited period of time, and only when necessary to protect the resident from self-injury or injury to others.

Subd. 15. [TREATMENT PRIVACY.] Patients and residents shall have the right to respectfulness and privacy as it relates to their medical and personal care program. Case discussion, consultation, examination, and treatment are confidential and shall be conducted discreetly. Privacy shall be respected during toileting, bathing, and other activities of personal hygiene, except as needed for patient or resident safety or assistance.

Subd. 16. [CONFIDENTIALITY OF RECORDS.] Patients and residents shall be assured confidential treatment of their personal and medical records, and may approve or refuse their release to any individual outside the facility. Residents shall be notified when personal records are requested by any individual outside the facility and may select someone to accompany them when the records or information are the subject of a personal interview. Copies of records and written information from the records shall be made available in accordance with this subdivision and section 144.335. This right does not apply to complaint investigations and inspections by the department of health, where required by third party payment contracts, or where otherwise provided by law.

Subd. 17. [DISCLOSURE OF SERVICES AVAILABLE.] Patients and residents shall be informed, prior to or at the time of admission and during their stay, of services which are included in the facility's basic per diem or daily room rate and that other services are available at additional charges. Facilities shall make every effort to assist patients and residents in obtaining information regarding whether the medicare or medical assistance program will pay for any or all of the aforementioned services.

Subd. 18. [RESPONSIVE SERVICE.] Patients and residents shall have the right to a prompt and reasonable response to their questions and requests.

Subd. 19. [PERSONAL PRIVACY.] Patients and residents shall have the right to every consideration of their privacy, individuality, and cultural identity as related to their social, religious, and psychological well-being. Facility staff shall respect the privacy of a resident's room by knocking on the door and seeking consent before entering, except in an emergency or where clearly inadvisable.

Subd. 20. [GRIEVANCES.] Patients and residents shall be encouraged and assisted, throughout their stay in a facility, to understand and exercise their rights as patients, residents, and citizens. Patients and residents may voice grievances and recommend changes in policies and services to facility staff and others of their choice, free from restraint, interference, coercion, discrimination, or reprisal, including threat of discharge. Notice of the facility's grievance procedure, as well as addresses and telephone numbers for the office of health facility complaints and the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12) shall be posted in a conspicuous place.

Subd. 21. [COMMUNICATION PRIVACY.] Patients and residents may

associate and communicate privately with persons of their choice and enter and, except as provided by the Minnesota Commitment Act, leave the facility as they choose. Patients and residents shall have access, at their expense, to writing instruments, stationery, and postage. Personal mail shall be sent without interference and received unopened unless medically or programmatically contraindicated and documented by the physician in the medical record. There shall be access to a telephone where patients and residents can make and receive calls as well as speak privately. Facilities which are unable to provide a private area shall make reasonable arrangements to accommodate the privacy of patients' or residents' calls. This right is limited where medically inadvisable, as documented by the attending physician in a patient's or resident's care record. Where programmatically limited by a facility abuse prevention plan pursuant to section 626.557, subdivision 14, clause 2, this right shall also be limited accordingly.

Subd. 22. [PERSONAL PROPERTY.] *Patients and residents may retain and use their personal clothing and possessions as space permits, unless to do so would infringe upon rights of other patients or residents, and unless medically or programmatically contraindicated for documented medical, safety, or programmatic reasons. The facility must either maintain a central locked depository or provide individual locked storage areas in which residents may store their valuables for safekeeping. The facility may, but is not required to, provide compensation for or replacement of lost or stolen items.*

Subd. 23. [SERVICES FOR THE FACILITY.] *Patients and residents shall not perform labor or services for the facility unless those activities are included for therapeutic purposes and appropriately goal-related in their individual medical record.*

Subd. 24. [CHOICE OF SUPPLIER.] *A resident may purchase or rent goods or services not included in the per diem rate from a supplier of his or her choice unless otherwise provided by law. The supplier shall ensure that these purchases are sufficient to meet the medical or treatment needs of the resident.*

Subd. 25. [FINANCIAL AFFAIRS.] *Competent residents may manage their personal financial affairs, or shall be given at least a quarterly accounting of financial transactions on their behalf if they delegate this responsibility in accordance with the laws of Minnesota to the facility for any period of time.*

Subd. 26. [RIGHT TO ASSOCIATE.] *Residents may meet with visitors and participate in activities of commercial, religious, political, as defined in section 203B.11 and community groups without interference at their discretion if the activities do not infringe on the right to privacy of other residents or are not programmatically contraindicated. This includes the right to join with other individuals within and outside the facility to work for improvements in long-term care.*

Subd. 27. [ADVISORY COUNCILS.] *Residents and their families shall have the right to organize, maintain, and participate in resident advisory and family councils. Each facility shall provide assistance and space for meetings. Council meetings shall be afforded privacy, with staff or visitors attending only upon the council's invitation. A staff person shall be designated the responsibility of providing this assistance and responding to written*

requests which result from council meetings. Resident and family councils shall be encouraged to make recommendations regarding facility policies.

Subd. 28. [MARRIED RESIDENTS.] Residents, if married, shall be assured privacy for visits by their spouses and, if both spouses are residents of the facility, they shall be permitted to share a room, unless medically contraindicated and documented by their physicians in the medical records.

Subd. 29. [TRANSFERS AND DISCHARGES.] Residents shall not be arbitrarily transferred or discharged. Residents must be notified, in writing, of the proposed discharge or transfer and its justification no later than 30 days before discharge from the facility and seven days before transfer to another room within the facility. This notice shall include the resident's right to contest the proposed action, with the address and telephone number of the area nursing home ombudsman pursuant to the Older Americans Act, section 307(a)(12). The resident, informed of this right, may choose to relocate before the notice period ends. The notice period may be shortened in situations outside the facility's control, such as a determination by utilization review, the accommodation of newly-admitted residents, a change in the resident's medical or treatment program, the resident's own or another resident's welfare, or nonpayment for stay unless prohibited by the public program or programs paying for the resident's care, as documented in the medical record. Facilities shall make a reasonable effort to accommodate new residents without disrupting room assignments.

Sec. 2. Minnesota Statutes 1982, section 144.652, is amended to read:

144.652 ~~[POLICY STATEMENT]~~ BILL OF RIGHTS NOTICE TO PATIENT OR RESIDENT; VIOLATION.]

Subdivision 1. [DISTRIBUTION; POSTING.] ~~The policy statement contained in~~ Except as provided below, section 144.651 shall be posted conspicuously in a public place in all facilities licensed under the provisions of sections 144.50 to 144.58, or 144A.02 ~~or any law providing for the licensure of nursing homes.~~ Copies of the ~~policy statement~~ law shall be furnished the patient or resident and the patient or resident's guardian or conservator upon admittance to the facility. ~~Facilities providing services to patients may delete section 144.651, subdivisions 24 to 29, and those portions of other subdivisions that apply only to residents, from copies posted or distributed to patients with appropriate notation that residents have additional rights under law.~~ The policy statement shall include the address and telephone number of the board of medical examiners and/or the name and phone number of the person within the facility to whom inquiries about the medical care received may be directed. The notice shall include a brief statement describing how to file a complaint with the ~~nursing home complaint team of the health department or any division or agency of state government which succeeds it~~ office of health facility complaints established pursuant to section 144A.52 concerning a violation of section 144.651 or any other state statute or rule. This notice shall include the address and phone number of the office of health facility complaints.

Subd. 2. [CORRECTION ORDER; EMERGENCIES.] A substantial violation of the rights of any patient or resident as defined in section 144.651, shall be grounds for issuance of a correction order pursuant to section 144.653 or 144A.10. The issuance or nonissuance of a correction order shall

not preclude, *diminish, enlarge, or otherwise alter* private action by or on behalf of a *patient or resident* to enforce any unreasonable violation of his rights. Compliance with the provisions of section 144.651 shall not be required whenever emergency conditions, as documented by the attending physician in a patient's medical record or a resident's care record, indicate immediate medical treatment, including but not limited to surgical procedures, is necessary and it is impossible or impractical to comply with the provisions of section 144.651 because delay would endanger the patient's or resident's life, health, or safety.

Sec. 3. Minnesota Statutes 1982, section 145.93, subdivision 3, is amended to read:

Subd. 3. [GRANT AWARD; DESIGNATION; PAYMENTS UNDER GRANT.] ~~Each~~ Every odd-numbered year the commissioner shall give reasonable public notice of the availability of ~~moneys~~ money appropriated pursuant to Laws 1980, Chapter 577, Section 2 or otherwise available for the purposes of this section. After consulting with the advisory council, the commissioner shall select as grantee a nonprofit corporation or unit of government which applies for the moneys and best fulfills the criteria specified in subdivision 4. The grantee selected shall be designated the Minnesota poison information center. ~~Moneys~~ Money appropriated under Laws 1980, Chapter 577, Section 2 or otherwise available for the purposes of this section shall be paid to the grantee quarterly beginning on July 1."

Delete the title and insert:

"A bill for an act relating to health care facilities; clarifying the rights and responsibilities of patients and residents; amending Minnesota Statutes 1982, sections 144.651; 144.652; and 145.93, subdivision 3."

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

House Conferees: (Signed) Karen Clark, Tony Onnen, Lee Greenfield

Senate Conferees: (Signed) Linda Berglin, Nancy Brataas, Marilyn M. Lantry

Ms. Berglin moved that the foregoing recommendations and Conference Committee Report on H.F. No. 365 be now adopted, and that the bill be repassed as amended by the Conference Committee. The motion prevailed. So the recommendations and Conference Committee Report were adopted.

H.F. No. 365 was read the third time as amended by the Conference Committee, and placed on its repassage.

The question was taken on the repassage of the bill, as amended by the Conference Committee.

The roll was called, and there were yeas 65 and nays 0, as follows:

Those who voted in the affirmative were:

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

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MESSAGES FROM THE HOUSE - CONTINUED

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 253, 559, 257, 572, 1149 and 1236.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 12, 1983

Mr. President:

I have the honor to announce the passage by the House of the following House File, herewith transmitted: H.F. No. 1106.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 13, 1983

FIRST READING OF HOUSE BILLS

The following bills were read the first time and referred to the committees indicated.

H.F. No. 253: A bill for an act relating to the operation of state government; clarifying certain provisions regarding the term of the legislative auditor; providing for the review of audit contracts; amending Minnesota Statutes 1982, sections 3.97, subdivision 4; 3.972; and 462A.22, subdivision 10.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 20, now on Special Orders.

H.F. No. 559: A bill for an act relating to courts; providing for interest rates on judgments; amending Minnesota Statutes 1982, section 549.09, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 588, now on Special Orders.

H.F. No. 257: A bill for an act relating to motor vehicles; providing for special license plates for certain motor vehicles owned by certain members of the Minnesota national guard; imposing fees; appropriating money;

amending Minnesota Statutes 1982, section 168.12, by adding a subdivision.

Mr. Moe, R.D. moved that H.F. 257 be laid on the table. The motion prevailed.

H.F. No. 572: A bill for an act relating to economic development; creating the office of tourism; assigning powers and duties; appropriating money; proposing new law coded in Minnesota Statutes, chapter 4.

Mr. Moe, R.D. moved that H.F. No. 572 be laid on the table. The motion prevailed.

H.F. No. 1149: A bill for an act relating to liens; right of possession and liens on fabrication molds and patterns; providing a nonpossessory lien on personal property; lengthening the time limit for veterinary liens; amending Minnesota Statutes 1982, sections 514.18; 514.19; and 514.92, subdivision 1.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 731, now on Special Orders.

H.F. No. 1236: A bill for an act relating to local government; permitting certain land transfers by the metropolitan sports facilities commission; permitting certain land acquisitions by the Bloomington port authority; amending Minnesota Statutes 1982, section 473.556, subdivision 6.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1109, now on Special Orders.

H.F. No. 1106: A bill for an act relating to insurance; correcting certain errors; removing certain deficiencies and ambiguities; correcting certain omissions; expanding certain insurers' investment authority; providing standards for application or reporting requirements; authorizing the commissioner to adopt rules; providing for miscellaneous changes and clarifications; amending Minnesota Statutes 1982, sections 60A.11, subdivisions 9, 10, 14, 18, 20, 21, 23, and 24; 60A.111, subdivision 2, and by adding subdivisions; 61A.28, subdivisions 3, 6, and 12; 61A.29, subdivision 2; 61A.31, subdivision 3; repealing Minnesota Statutes 1982, section 60A.111, subdivision 4.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1052, now on Special Orders.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Reports at the Desk be now adopted. The motion prevailed.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 860: A bill for an act relating to motor vehicles; providing for special license plates for certain motor vehicles owned by certain members of the Minnesota national guard; imposing fees; appropriating money; amending Minnesota Statutes 1982, section 168.12, by adding a subdivision.

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

Page 2, delete section 2

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 5, delete "appropriating money;"

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

Mr. Willet from the Committee on Finance, to which was referred

H.F. No. 1067: A bill for an act relating to state government; authorizing the commissioner of the department of economic security to accept gifts; designating the commissioner as administrator of weatherization programs; providing for weatherization grants; regulating summer youth programs; providing financial assistance allocations for community action agencies; amending Minnesota Statutes 1982, sections 268.011, subdivision 2; 268.34; 268.37, subdivisions 2, 4, and 5; and 268.52, subdivision 2.

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

Amend the title as follows:

Page 1, line 3, delete "the department of"

Page 1, delete lines 4 to 6 and insert "accept gifts; removing certain restrictions on administration of summer youth employment programs and weatherization"

Page 1, line 7, delete "programs"

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 1031: A bill for an act relating to agriculture; regulating commerce in seeds; establishing a seed laboratory for the regulatory and service testing of seeds; imposing penalties; proposing new law coded in Minnesota Statutes, chapter 21; repealing Minnesota Statutes 1982, sections 21.47 to 21.58.

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

Page 4, line 8, delete "percent"

Page 7, line 25, before "If" insert "If any one kind or kind and variety of seed present in excess of five percent is hybrid seed, it must be designated hybrid on the label."

Page 21, after line 30, insert:

"Sec. 14. [APPROPRIATIONS CANCELED.]

The sums appropriated by any other law from the general fund to the commissioner of agriculture for purposes of the Minnesota Seed Law for the fiscal years ending June 30, 1984, and June 30, 1985, are canceled and shall be credited to the general fund."

Page 21, line 36, delete “/4” and insert “/5”

Renumber the sections in sequence

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

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 511: A bill for an act relating to low-level radioactive waste; entering the Midwest Interstate Low-Level Radioactive Waste Compact; assessing certain low-level radioactive waste generators; providing for enforcement of the compact; providing for civil and criminal penalties; appropriating money; proposing new law coded in Minnesota Statutes, chapter 116C.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 949: A bill for an act relating to agriculture; appropriating money for the Minnesota Corn Research and Promotion Council; providing for repayment to the state.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet from the Committee on Finance, to which was referred

S.F. No. 1241: A bill for an act relating to claims against the state; providing for payment of various claims; appropriating money.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 486: A bill for an act relating to agriculture; appropriating money for the Minnesota barley research and promotion council; providing for repayment to the state.

Reports the same back with the recommendation that the bill do pass. Report adopted.

Mr. Willet from the Committee on Finance, to which was re-referred

S.F. No. 183: A bill for an act relating to labor; providing for occupational safety and health; defining “hazardous substance” and “harmful physical agent”; requiring manufacturers of hazardous substances or harmful physical agents to provide certain information; creating a right to refuse to work under conditions violating the state occupational safety and health act; creating a right to refuse to work with a hazardous substance or harmful physical agent under certain conditions; requiring employers using hazardous substances and harmful physical agents to provide employees with certain training and information; creating a presumption that hazardous substances and harmful physical agents must be labeled under certain circumstances; pro-

hibiting waiver of any employee rights under the state occupational safety and health act; clarifying relation of bargaining agreements to safety laws; providing protection for trade secrets; providing penalties; amending Minnesota Statutes 1982, sections 182.651, by adding subdivisions; 182.653, by adding subdivisions; 182.654, subdivision 7, and by adding subdivisions; 182.655, subdivisions 4, 10, 11, and by adding a subdivision; 182.658; 182.66, subdivision 1; 182.663, subdivision 3; 182.666, by adding a subdivision; and 182.668; proposing new law coded in Minnesota Statutes, chapter 182.

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

Page 2, line 34, before the period, insert *" , or in a pharmacy registered and licensed under chapter 151"*

Page 3, line 5, delete everything after *"employee"*

Page 3, delete lines 6 to 8

Page 3, line 9, delete everything before the period

Page 3, lines 13 and 18, delete *"handled"* and insert *"utilized"*

Page 3, line 16, before the period, insert *" , or in a pharmacy registered and licensed under chapter 151"*

Page 3, line 24, after *"with"* delete *"the"* and insert *"each"*

Page 3, line 25, after *"handled"* insert *"or utilized"*

Page 3, line 26, after the first *"or"* insert a comma and delete *"his or her"* and insert *"the person's"* and after *"supervision"* insert *" , by other technically qualified individuals"*

Page 5, line 26, after *"9"* insert *"or 10"*

Page 6, line 13, after the period, insert *"The term 'routinely exposed' includes the exposure of an employee to a hazardous substance when assigned to work in an area where a hazardous substance has been spilled."*

Page 6, line 14, delete *"or harmful physical agent"*

Page 6, lines 17 and 21, delete *"or physical agent"*

Page 6, line 22, delete *"hazardous"* and insert *"safe"*

Page 6, line 29, after *"the"* insert *"known"*

Page 6, line 31, before *"symptoms"* insert *"known"*

Page 6, line 33, delete *"or physical agent"*

Page 6, line 35, after *"(g)"* insert *"the known"*

Page 6, line 36, delete *"or physical agent"*

Page 7, line 3, delete *"or harmful physical agent"*

Page 7, line 4, after *"information"* insert *"which shall be readily accessible in the area or areas in which the hazardous substance is used or handled"*

Page 7, line 11, after *"be"* insert *"routinely"*

Page 7, line 13, delete the period and insert *"including but not limited to:*

(a) the name or names of the physical agent including any commonly used synonym;

(b) the level, if any and if known, at which exposure to the physical agent has been determined to be safe according to standards adopted by the commissioner, or, if no standard has been adopted, according to guidelines established by competent professional groups including but not limited to the American Conference of Governmental Industrial Hygienists, the Center for Disease Control, the Bureau of Radiological Health, and the American National Standards Institute;

(c) the known acute and chronic effects of exposure at hazardous levels;

(d) the known symptoms of the effects;

(e) appropriate emergency treatment;

(f) the known proper conditions for safe use of and exposure to the physical agent;

(g) the name, phone number and address, if appropriate, of the manufacturer of the harmful physical agent; and

(h) a written copy of all of the above information which shall be readily accessible in the area or areas in which the harmful physical agent is present and where the employee may be exposed to the agent through use, handling or otherwise.

Every employer shall maintain current information for training under this subdivision or for information requests by employees under section 13."

Page 8, line 9, delete *"and an association, union,"*

Page 8, line 13, after *"9"* insert *"or 10"* and after the period, insert *"For the purposes of this subdivision and section 24, subdivision 5, "designated representative" means a labor organization, as defined in section 179.01, subdivision 6, that represents employees under a valid collective bargaining agreement, or another employee whom an employee or former employee has authorized, in writing, to exercise the employee's rights under chapter 182."*

Page 8, line 18, delete *"constitute a violation of chapter 182 because they"*

Page 8, line 26, after the second comma, insert *"section 10, clause (f),"*

Page 8, line 30, delete *"or attempted to request"*

Page 9, line 6, delete the semicolon and insert a comma and after *"(4)"* insert *"the commissioner determines that"*

Page 9, lines 7 and 11, after *"9"* insert *"or 10"*

Page 10, line 21, delete the new language

Page 10, delete lines 22 to 29 and insert:

"In the case of containers containing a hazardous substance or a harmful physical agent, a label is required as an appropriate form of warning in

providing the same information as required under sections 9 or 10. A label may be a coded reference to an appropriate and accessible data sheet containing the information required under sections 9 or 10. When appropriate, a current data sheet may be affixed to or posted in accessible close proximity to a container containing a hazardous substance or a harmful physical agent in satisfaction of standards adopted for labels under this chapter. Containers may be labeled pursuant to federal or state labeling requirements that the commissioner certifies as satisfying the labeling standards adopted under this chapter."

Page 11, line 12, delete "on request of the employer"

Page 11, line 36, delete "section 182.654" and insert "this chapter" and after "or" insert "under"

Pages 13 to 15, delete section 24 and insert:

"Sec. 24. Minnesota Statutes 1982, section 182.668, is amended to read:

182.668 [PROTECTION OF TRADE SECRETS.]

Subdivision 1. [REGISTRATION.] A manufacturer or employer who believes that all or a part of the information required under sections 9 or 10 or requested under section 13 is a trade secret as defined in section 325C.01, subdivision 5, may register the information with the commissioner as trade secret information.

Subd. 2. [CLASSIFICATION OF DATA.] Information that has been registered pursuant to subdivision 1 shall be classified as nonpublic or private data as defined in section 13.02, subdivisions 9 and 12.

All other information reported to or otherwise obtained by the commissioner or his a representative in connection with any inspection or proceeding under ~~Laws 1973, chapter 732~~ 182 which contains or which might reveal a trade secret shall be ~~considered confidential except that such~~ classified as nonpublic or private data as defined in section 13.02, subdivisions 9 and 12. Information classified as nonpublic or private may be disclosed to other officers or employees concerned with carrying out ~~Laws 1973, chapter 732~~ 182 or when relevant in any proceeding under ~~Laws 1973, this chapter 732~~ or when otherwise required in order to comply with federal law or regulation but only to the extent required by the federal law or regulation.

Subd. 3. [DETERMINATION BY COMMISSIONER.] On the request of a manufacturer, employer, employee or employee representative, the commissioner shall determine whether information registered pursuant to subdivision 1 or otherwise reported to or obtained by the commissioner is a trade secret as defined in section 325C.01, subdivision 5. In making a determination the commissioner shall also determine whether the information should in any event be disclosed in order to properly protect the health and safety of employees.

An employer or manufacturer that disagrees with a determination under this subdivision may pursue its remedies as provided in chapter 325C or other relevant law.

Subd. 4. [ORDERS.] The commissioner shall issue ~~such~~ orders as may be appropriate to protect the ~~confidentiality~~ classification of trade secrets by

~~allowing and may, upon~~ at the request of an employer ~~any authorized representative of employees~~, in inspections of trade secrets areas or in discussions involving trade secrets, ~~allow an authorized representative of employees to be replaced by an employee authorized by the employer; by permitting.~~ The commissioner may also allow the employer to screen out trade secret details where photographs are deemed essential to the investigation; and ~~by allowing the employer to restrict samples to be taken where trade secrets might be exposed.~~

Subd. 5. [RESTRICTIONS ON DISCLOSURE.] Information provided to an employee or designated representative pursuant to sections 8, 9, 10, or 13 which has been determined by the commissioner to be a trade secret shall not be disclosed to anyone except as required for medical treatment or as otherwise required in chapter 182. An employee, designated representative or other person who knowingly discloses information in violation of this subdivision or any person knowingly receiving the information is subject to the provisions of section 609.52 relating to the theft of trade secrets and to the civil liabilities provided by chapter 325C or other relevant law."

Page 16, after line 6, insert:

"Sec. 27. [APPROPRIATION.]

The sum of \$100,000 is appropriated from the general fund to the commissioner of labor and industry to administer the Employee Right to Know Act, to be available for the fiscal year ending June 30 in the years indicated. Any unencumbered balance remaining in the first year does not cancel but is available for the second year of the biennium.

1984	1985
\$50,000	\$50,000

The approved complement of the department of labor and industry is increased by two positions."

Page 16, line 7, delete "27" and insert "28"

Page 16, line 9, delete "and 25" and insert ", 25 and 27"

Amend the title as follows:

Page 1, line 20, after the semicolon, insert "appropriating money;"

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

SECOND READING OF SENATE BILLS

S.F. Nos. 860, 1031, 511, 949, 1241, 486 and 183 were read the second time.

SECOND READING OF HOUSE BILLS

H.F. No. 1067 was read the second time.

MOTIONS AND RESOLUTIONS

Mr. Knaak moved that his name be stricken as a co-author to S.F. No. 901.

The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess subject to the call of the President. The motion prevailed.

After a brief recess, the President called the Senate to order.

APPOINTMENTS

Mr. Moe, R.D. from the Subcommittee on Committees recommends that the following Senators be and they hereby are appointed as a Conference Committee on:

H.F. No. 30: Ms. Peterson, D.C.; Messrs. Bertram and Isackson.

S.F. No. 652: Messrs. Wegscheid, Merriam, Davis, Berg and DeCramer.

S.F. No. 72: Messrs. Wegscheid, Pogemiller and Ms. Olson.

S.F. No. 297: Mr. Petty, Ms. Reichgott and Mr. Knaak.

S.F. No. 695: Ms. Berglin, Mrs. Lantry and Mr. Benson.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Kroening moved that H.F. No. 1290 be taken from the table and given its second reading. The motion prevailed.

H.F. No. 1290: A bill for an act relating to the organization and operation of state government; appropriating money for the general legislative, judicial, and administrative expenses of state government with certain conditions; providing for the transfer of certain money in the state treasury; authorizing land acquisition in certain cases; fixing and limiting the amount of fees to be collected in certain cases; creating, abolishing, modifying, and transferring agencies and functions; imposing a penalty; amending Minnesota Statutes 1982, sections 3.732, by adding a subdivision; 15.16, subdivision 5; 15A.083, subdivision 1; 16.32, subdivision 2; 16.75, by adding a subdivision; 16.82, subdivision 1; 16.866, subdivision 1; 16A.125, subdivision 5; 16A.127, subdivisions 1 and 7; 16A.36; 16A.50; 16A.64, subdivisions 2 and 4; 16A.66, subdivisions 1, 2, and 3; 40.072, subdivision 3; 43A.05, subdivision 5; 85A.01, subdivision 2; 85A.04, subdivision 3; 98.47, by adding a subdivision; 98.48, subdivision 9; 105.405, subdivision 2; 105.41, subdivision 5; 116.07, subdivision 2a; 124.46, subdivision 2; 136.40, subdivision 8; 169.123, subdivision 6; 175A.05; 176.183, subdivision 2; 179.7411; 181A.12, subdivision 1; 183.375, subdivision 5; 183.411, subdivision 3; 183.545; 183.57, subdivision 2; 256.481; 256.482; 270.18; 271.01, subdivision 1; 290.06, subdivision 13; 296.18, subdivision 1; 296.421, subdivision 5; 309.53, subdivision 2, and by adding a subdivision; 357.08; 363.02, subdivision 1; 363.06, subdivision 4, and by adding a subdivision; 363.071, subdivision 2; 462A.05, by adding a subdivision; 462A.21, by adding a subdivision; 480.09, subdivision 5; 480.241, subdivision 2; 480A.01, subdivision 2; 481.01; and 546.27, subdivision 2; Laws 1976, chapter 314.

section 3; Laws 1980, chapter 614, section 192; proposing new law coded in Minnesota Statutes, chapters 3; 16A; 116C; 198; 270; repealing Minnesota Statutes 1982, sections 3.472; 3.86; 4.073; 105.71; 105.72; 105.73; 105.74; 105.75; 105.751; 105.76; 105.77; 105.78; 105.79; 114A.01; 114A.02; 114A.03; 114A.04; 114A.05; 114A.06; 114A.07; 114A.08; 114A.09; 193.35; 297A.05; and Laws 1965, chapter 66.

H.F. No. 1290 was read the second time.

Mr. Kroening moved to amend H.F. No. 1290 as follows:

Delete everything after the enacting clause, and delete the title, of H.F. No. 1290, and insert the language after the enacting clause, and the title, of S.F. No. 1244, the First Engrossment.

The motion prevailed. So the amendment was adopted.

SUSPENSION OF RULES

Mr. Kroening moved that an urgency be declared within the meaning of Article IV, Section 19, of the Constitution of Minnesota, with respect to H.F. No. 1290 and that the rules of the Senate be so far suspended as to give H.F. No. 1290 its third reading and place it on its final passage. The motion prevailed.

H.F. No. 1290 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 41 and nays 23, as follows:

Those who voted in the affirmative were:

Adkins	Dieterich	Luther	Peterson, D.C.	Stumpf
Berglin	Frank	McQuaid	Peterson, R.W.	Vega
Bertram	Freeman	Merriam	Pogemiller	Waldorf
Chmielewski	Johnson, D.J.	Moe, D. M.	Purfeerst	Wegscheid
Dahl	Jude	Moe, R. D.	Reichgott	Willet
Davis	Kroening	Nelson	Samuelson	
DeCramer	Langseth	Novak	Schmitz	
Dicklich	Lantry	Pehler	Solon	
Diessner	Lessard	Peterson, C.C.	Spear	

Those who voted in the negative were:

Anderson	Frederick	Knaak	Peterson, D.L.	Storm
Belanger	Frederickson	Knutson	Petty	Taylor
Benson	Isackson	Kronebusch	Ramstad	Ulland
Bernhagen	Johnson, D.E.	Laidig	Renneke	
Brataas	Kamrath	Olson	Sieloff	

So the bill, as amended, passed and its title was agreed to.

MEMBERS EXCUSED

Messrs. Solon and Spear were excused from the Session of today from 9:00 to 10:30 a.m. Mr. Lessard was excused from the Session of today from 9:00 to 11:50 a.m. Mr. Bertram was excused from the Session of today from 11:00 to 11:15 a.m. Messrs. Dicklich, Kroening, Langseth, Waldorf and Willet were excused from the Session of today from 1:00 to 3:30 p.m. Mr. Knutson

was excused from the Session of today from 2:45 to 7:00 p.m. Mr. Mehrkens was excused from the Session of today at 6:05 p.m. Mr. Belanger was excused from the Session of today from 4:45 to 6:10 p.m. Ms. Berglin was excused from the Session of today from 6:30 to 7:20 p.m. Mr. Berg was excused from the Session of today at 7:50 p.m. Mr. Hughes was excused from the Session of today at 7:10 p.m.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m., Monday, May 16, 1983. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate