

EIGHTY-FIFTH DAY

St. Paul, Minnesota, Tuesday, April 12, 1988

The Senate met at 12:00 noon and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by Mr. David Skilbred.

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

Adkins	Davis	Jude	Metzen	Renneke
Anderson	Decker	Knaak	Moe, D.M.	Samuelson
Beckman	DeCramer	Knutson	Moe, R.D.	Schmitz
Belanger	Dicklich	Kroening	Morse	Solon
Benson	Diessner	Laidig	Novak	Spear
Berg	Frank	Langseth	Olson	Storm
Berglin	Frederick	Lantry	Pehler	Stumpf
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Taylor
Bertram	Frederickson, D.R.	Lessard	Peterson, R.W.	Vickerman
Brandl	Freeman	Luther	Piper	Waldorf
Brataas	Gustafson	Marty	Pogemiller	Wegscheid
Chmielewski	Hughes	McQuaid	Purfeerst	
Cohen	Johnson, D.E.	Mehrkins	Ramstad	
Dahl	Johnson, D.J.	Merriam	Reichgott	

The President declared a quorum present.

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

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. 2347, 1681, 1795, 1672, 30 and 1904.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 1721: A bill for an act relating to employment agencies; prohibiting certain action; regulating job listing services; regulating fees and contracts; amending Minnesota Statutes 1986, sections 184.21, subdivision 2, and by adding subdivisions; 184.37, subdivision 1; 184.38, subdivisions 3 and 5; Minnesota Statutes 1987 Supplement, section 181.932, subdivision 1.

Senate File No. 1721 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

CONCURRENCE AND REPASSAGE

Mr. Chmielewski moved that the Senate concur in the amendments by the House to S.F. No. 1721 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1721 was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Jude	Metzen	Renneke
Anderson	DeCramer	Kroening	Moe, R.D.	Schmitz
Beckman	Diessner	Laidig	Morse	Solon
Belanger	Frank	Lantry	Olson	Spear
Benson	Frederickson, D.J.	Larson	Pehler	Storm
Bertram	Frederickson, D.R.	Lessard	Peterson, D.C.	Stumpf
Brandl	Freeman	Luther	Piper	Vickerman
Chmielewski	Gustafson	McQuaid	Pogemiller	Wegscheid
Cohen	Hughes	Mehrkens	Purfeerst	
Davis	Johnson, D.E.	Merriam	Ramstad	

So the bill, as amended, 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 Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 63: A bill for an act relating to motor vehicles; providing that passenger automobile license plates be issued for a six-year period; providing for license plate replacement fees; amending Minnesota Statutes 1986, section 168.12, subdivisions 1, 2a, and 5; repealing Minnesota Statutes 1986, section 168.12, subdivisions 3 and 4.

Senate File No. 63 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

Mrs. Lantry moved that the Senate do not concur in the amendments by

the House to S.F. No. 63, 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. 392: A bill for an act relating to public safety; providing for the mandatory surrender of registration plates and certificates of motor vehicles operated by repeat DWI offenders; providing for administrative review; requiring a report; appropriating money; amending Minnesota Statutes 1986, sections 168.041; 169.123, subdivision 5b; 169.1261; and 171.29, by adding a subdivision; and Minnesota Statutes 1987 Supplement, section 169.121, subdivision 5a.

Senate File No. 392 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

Mr. Spear moved that the Senate do not concur in the amendments by the House to S.F. No. 392, 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. 1268: A bill for an act relating to energy and economic development; providing for the powers and duties of the commissioner of energy and economic development; clarifying definitions; authorizing certain Indian tribes to create community energy councils; providing the purpose for which an appropriation may be spent; amending Minnesota Statutes 1986, sections 116J.09; 116J.10; 116J.19, subdivision 6; 116J.36, subdivision 2; 116J.381, subdivision 2; and Laws 1981, chapter 334, section 11, subdivision 1.

Senate File No. 1268 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

Mr. Moe, R.D. moved that S.F. No. 1268 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. 1388: A bill for an act relating to health; setting forth requirements for statements of exclusions and limitations; requiring detailed statement when coverage is denied; clarifying statement of enrollee bill of rights; setting forth requirements for marketing materials; requiring membership card; requiring written denial of service; prohibiting denial of coverage in certain circumstances; requiring report; amending Minnesota Statutes 1986, sections 62D.07, subdivision 3; 62D.09, subdivision 1, and by adding subdivisions; 62D.11, by adding subdivisions; and 62D.20.

Senate File No. 1388 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

CONCURRENCE AND REPASSAGE

Ms. Berglin moved that the Senate concur in the amendments by the House to S.F. No. 1388 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 1388: A bill for an act relating to health; setting forth requirements for statements of exclusions and limitations; requiring detailed statement when coverage is denied; clarifying statement of enrollee bill of rights; setting forth requirements for marketing materials; requiring membership card; requiring written denial of service; prohibiting denial of coverage in certain circumstances; prohibiting retaliatory action; specifying procedures for prior approval; prohibiting a threat of denial of emergency health care services in collection of delinquent accounts; requiring report; amending Minnesota Statutes 1986, sections 62D.06, subdivision 1; 62D.07, subdivision 3; 62D.09, subdivision 1, and by adding subdivisions; 62D.11, by adding subdivisions; 62D.12, by adding subdivisions; 62D.20 and 325D.44, subdivision 1; Minnesota Statutes 1987 Supplement, section 332.37.

Was read the third time, as amended by the House, and placed on its repassage.

The question was taken on the repassage of the bill, as amended.

The roll was called, and there were yeas 54 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Mehrkens	Ramstad
Anderson	Decker	Jude	Merriam	Renneke
Beckman	DeCramer	Knutson	Metzen	Samuelson
Belanger	Diessner	Kroening	Moe, R.D.	Schmitz
Benson	Frank	Laidig	Morse	Solon
Berglin	Frederick	Langseth	Olson	Spear
Bernhagen	Frederickson, D.J.	Lantry	Pehler	Storm
Bertram	Frederickson, D.R.	Larson	Peterson, D.C.	Stumpf
Brandl	Freeman	Lessard	Piper	Vickerman
Chmielewski	Gustafson	Luther	Pogemiller	Wegscheid
Cohen	Hughes	McQuaid	Purfeerst	

So the bill, as amended, 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 Senate File, AS AMENDED by the House, in which amendments the concurrence of the Senate is respectfully requested:

S.F. No. 1963: A bill for an act relating to public finance; providing requirements for the issuance and use of public debt; amending Minnesota Statutes 1986, sections 123.35, by adding a subdivision; 375.83; 410.32; 475.54, by adding a subdivision; 475.67, subdivision 13; Minnesota Statutes 1987 Supplement, sections 469.012, subdivision 1; 469.015, subdivision 4; 469.071, by adding a subdivision; 469.155, subdivision 12; 475.60, subdivision 2; and 475.66, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 469; repealing Laws 1987, chapter 358, section 31.

Senate File No. 1963 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

Mr. Moe, R.D. moved that S.F. No. 1963 be laid on the table. 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. 1661: A bill for an act relating to charitable gambling; changing the definition of lawful purpose expenditures; clarifying the definition of organization; increasing the percentage of profit that may be used for expenses for certain organizations; licensing bingo halls; changing the definition of bingo occasion; requiring organizations to be directly responsible for the conducting of bingo; changing the definition of gross receipts for the purposes of bingo; changing the prize limits for bingo; amending Minnesota Statutes 1986, sections 349.19, subdivision 1; 349.211, subdivision 1; Minnesota Statutes 1987 Supplement, sections 349.12, subdivision 11; 349.17, subdivisions 1 and 2; proposing coding for new law in Minnesota Statutes, chapter 349; repealing Minnesota Statutes 1986, section 349.211, subdivision 2.

There has been appointed as such committee on the part of the House: Reding, Boo and Kostohryz.

Senate File No. 1661 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 1742: A bill for an act relating to agriculture; clarifying a time-price offer; allowing a preceding former owner to convey the right to receive an offer to buy or lease previously owned agricultural land; restricting the sale or inducement of a sale of agricultural land by a preceding former owner accepting an offer for one year; providing penalties and liability for damages; restricting the period for a debtor to receive a copy of a forbearance policy; amending Minnesota Statutes 1987 Supplement, sections 500.24, subdivisions 6 and 7; and 583.24, subdivision 4.

There has been appointed as such committee on the part of the House: Sparby, Steensma and Redalen.

Senate File No. 1742 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 1727: A bill for an act relating to government data practices; defining employment and training data as private data on individuals; providing for the dissemination of certain data; amending Minnesota Statutes 1986, section 13.46, subdivision 2; Minnesota Statutes 1987 Supplement, section 13.43, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 13.

There has been appointed as such committee on the part of the House: Clark, Greenfield and Stanius.

Senate File No. 1727 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 1871: A bill for an act relating to family law; prohibiting certain false allegations of child abuse; regulating child custody hearings; providing a penalty; amending Minnesota Statutes 1986, section 518.17, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter

609.

There has been appointed as such committee on the part of the House:
Blatz, Kelly and Wagenius.

Senate File No. 1871 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 2119: A bill for an act relating to child abuse reporting; clarifying the assessment duties of the local welfare agency; providing for the retention of records in certain circumstances; amending Minnesota Statutes 1986, section 626.556, subdivisions 5, 10d, and by adding subdivisions; and Minnesota Statutes 1987 Supplement, section 626.556, subdivision 11.

There has been appointed as such committee on the part of the House:
Blatz, Kelly and Vellenga.

Senate File No. 2119 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 2323: A bill for an act relating to financial institutions; authorizing certain investments for banks; amending Minnesota Statutes 1986, sections 48.152, subdivision 10; 48.24, subdivision 5; and 48.61, by adding a subdivision.

There has been appointed as such committee on the part of the House:
Bertram, Scheid and Knickerbocker.

Senate File No. 2323 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned April 11, 1988

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. 1790, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1790 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1988

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1790

A bill for an act relating to commerce; safe deposit companies; providing for performance of will searches upon safe deposit box renter's death; amending Minnesota Statutes 1986, section 55.10, by adding a subdivision.

April 7, 1988

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 1790, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendment.

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Wes Skoglund, David T. Bishop, Jean D. Wagenius

Senate Conferees: (Signed) Sam G. Solon, William V. Belanger, Jr., Ronald R. Dicklich

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1790 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. 1790 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 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Jude	Merriam	Ramstad
Anderson	Decker	Knutson	Metzen	Renneke
Beckman	DeCramer	Kroening	Moe, D.M.	Samuelson
Belanger	Diessner	Laidig	Moe, R.D.	Schmitz
Benson	Frank	Langseth	Morse	Solon
Berg	Frederick	Lantry	Olson	Spear
Berglin	Frederickson, D.J.	Larson	Pehler	Storm
Bernhagen	Frederickson, D.R.	Lessard	Peterson, D.C.	Stumpf
Bertram	Freeman	Luther	Peterson, R.W.	Vickerman
Brandl	Gustafson	Marty	Piper	Wegscheid
Chmielewski	Hughes	McQuaid	Pogemiller	
Cohen	Johnson, D.E.	Mehrkens	Purfeerst	

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 that the House refuses to concur in the Senate amendments to House File No. 2396:

H.F. No. 2396: A bill for an act relating to education; authorizing the sale of college savings bonds; requiring a market study and plan; authorizing the issuance of zero coupon bonds; exempting a specified amount of bonds from consideration in financial aid eligibility; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 16A.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Carlson, L.; Price and Rose have been appointed as such committee on the part of the House.

House File No. 2396 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 April 11, 1988

Mr. Freeman moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2396, 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 that the House refuses to concur in the Senate amendments to House File No. 1000:

H.F. No. 1000: A bill for an act relating to agriculture; making changes in various agriculture programs; establishing agriculture programs; establishing a commodity contract task force; appropriating money; providing penalties; amending Minnesota Statutes 1986, sections 41A.09, by adding a subdivision; 41B.02, by adding a subdivision; and 65A.33, subdivision 3; Minnesota Statutes 1987 Supplement, sections 17.102, subdivision 1; 41B.01, subdivision 2; 41B.03, subdivision 3; 41B.039, subdivisions 1, 2, 4, and by adding a subdivision; 41B.05; Laws 1987, chapter 396, article

9, section 1, subdivision 4; proposing coding for new law in Minnesota Statutes, chapters 17; 31; 124; and 325E; proposing coding for new law as Minnesota Statutes, chapter 32C; repealing Minnesota Statutes 1986, sections 32A.01; 32A.02; 32A.03; 32A.04; 32A.05; 32A.07; 32A.08; and 32A.09; and Laws 1987, chapter 358, section 31.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Wenzel; Sparby; Krueger; Olson, E. and Dille have been appointed as such committee on the part of the House.

House File No. 1000 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 April 11, 1988

Mr. Davis moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1000, 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 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. 2685.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 11, 1988

FIRST READING OF HOUSE BILLS

The following bill was read the first time and referred to the committee indicated.

H.F. No. 2685: A bill for an act relating to human services; clarifying the administration of human services programs; establishing a compliance system for certain public assistance programs; establishing a public assistance incentive fund; appropriating money; amending Minnesota Statutes 1986, sections 256.72; 256.81; 256.82, subdivision 1; 256.871, subdivision 6; 256.935, subdivision 1; 256.991; 256B.041, subdivisions 5 and 7; 256B.05, subdivision 1; 256B.19, subdivision 2; 256D.03, subdivision 6; 256D.04; 256D.36, subdivision 1; and 393.07, subdivision 2; Minnesota Statutes 1987 Supplement, sections 256.01, subdivision 2; 256B.091, subdivision 8; 256B.19, subdivision 1; 256D.03, subdivision 2; 393.07, subdivision 10; proposing coding for new law in Minnesota Statutes, chapter 256; repealing Minnesota Statutes 1987 Supplement, sections 245.775; and 256D.22.

Referred to the Committee on Taxes and Tax Laws.

REPORTS OF COMMITTEES

Mr. Moe, R.D. moved that the Committee Report at the Desk be now adopted. The motion prevailed.

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

H.F. No. 2269 for comparison with companion Senate File, reports the following House File was found not identical with 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.
2269	2145				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 2269 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 2269 and insert the language after the enacting clause of S.F. No. 2145, the first engrossment; further, delete the title of H.F. No. 2269 and insert the title of S.F. No. 2145, the first engrossment.

And when so amended H.F. No. 2269 will be identical to S.F. No. 2145, and further recommends that H.F. No. 2269 be given its second reading and substituted for S.F. No. 2145, and that the Senate File be indefinitely postponed.

Pursuant to Rule 49, this report was prepared and submitted by the Secretary of the Senate on behalf of the Committee on Rules and Administration. Amendments adopted. Report adopted.

SECOND READING OF HOUSE BILLS

H.F. No. 2269 was read the second time.

MOTIONS AND RESOLUTIONS

Mr. Larson introduced—

Senate Resolution No. 140: A Senate resolution congratulating the Lady Cobbers Basketball Team from Concordia College for winning the Division III National Women's Basketball Championship.

Referred to the Committee on Rules and Administration.

Ms. Reichgott and Mr. Ramstad introduced—

Senate Resolution No. 141: A Senate resolution congratulating the Courage Rolling Gophers Women's Wheelchair Basketball Team for winning the 1988 Women's National Wheelchair Basketball Tournament.

Referred to the Committee on Rules and Administration.

Mr. Ramstad, Ms. Reichgott and Mr. Jude introduced—

Senate Resolution No. 142: A Senate resolution congratulating the Armstrong High School Boys Basketball Team of Robbinsdale for winning Second Place in the 1988 State High School Class AA Boys Basketball

Tournament.

Referred to the Committee on Rules and Administration.

Mr. Pogemiller moved that S.F. No. 1963 be taken from the table. The motion prevailed.

S.F. No. 1963: A bill for an act relating to public finance; providing requirements for the issuance and use of public debt; amending Minnesota Statutes 1986, sections 123.35, by adding a subdivision; 375.83; 410.32; 475.54, by adding a subdivision; 475.67, subdivision 13; Minnesota Statutes 1987 Supplement, sections 469.012, subdivision 1; 469.015, subdivision 4; 469.071, by adding a subdivision; 469.155, subdivision 12; 475.60, subdivision 2; and 475.66, subdivision 3; proposing coding for new law in Minnesota Statutes, chapter 469; repealing Laws 1987, chapter 358, section 31.

Mr. Pogemiller moved that the Senate do not concur in the amendments by the House to S.F. No. 1963, 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.

S.F. No. 2137 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2137

A bill for an act relating to education; modifying certain requirements relating to school health services; amending Minnesota Statutes 1986, section 123.35, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 126; repealing Minnesota Statutes 1987 Supplement, sections 123.35, subdivision 16; and 126.201.

April 8, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2137, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendments.

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) James C. Pehler, Donna C. Peterson, Ember D. Reichgott

House Conferees: (Signed) Becky Kelso, Kathleen O. Vellenga, Todd H. Otis

Mr. Pehler moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2137 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.

S.F. No. 2137 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 60 and nays 0, as follows:

Those who voted in the affirmative were:

Anderson	Decker	Knaak	Merriam	Purfeerst
Beckman	DeCramer	Knutson	Metzen	Ramstad
Belanger	Diessner	Kroening	Moe, D.M.	Reichgott
Benson	Frank	Laidig	Moe, R.D.	Renneke
Berg	Frederick	Langseth	Morse	Samuelson
Berglin	Frederickson, D.J.	Lantry	Novak	Schmitz
Bernhagen	Frederickson, D.R.	Larson	Olson	Solon
Bertram	Freeman	Lessard	Pehler	Spear
Brandl	Gustafson	Luther	Peterson, D.C.	Storm
Chmielewski	Hughes	Marty	Peterson, R.W.	Stumpf
Cohen	Johnson, D.E.	McQuaid	Piper	Vickerman
Davis	Jude	Mehrkins	Pogemiller	Wegscheid

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Marty moved that S.F. No. 1268 be taken from the table. The motion prevailed.

S.F. No. 1268: A bill for an act relating to energy and economic development; providing for the powers and duties of the commissioner of energy and economic development; clarifying definitions; authorizing certain Indian tribes to create community energy councils; providing the purpose for which an appropriation may be spent; amending Minnesota Statutes 1986, sections 116J.09; 116J.10; 116J.19, subdivision 6; 116J.36, subdivision 2; 116J.381, subdivision 2; and Laws 1981, chapter 334, section 11, subdivision 1.

CONCURRENCE AND REPASSAGE

Mr. Marty moved that the Senate concur in the amendments by the House to S.F. No. 1268 and that the bill be placed on its repassage as amended.

Mr. Frank moved that the Senate do not concur in the amendments by the House to S.F. No. 1268, 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 question was taken on the adoption of the motion of Mr. Frank.

The roll was called, and there were yeas 35 and nays 30, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Johnson, D.E.	Lessard	Renneke
Anderson	Brataas	Jude	McQuaid	Schmitz
Beckman	Decker	Knaak	Mehrkins	Solon
Belanger	Frank	Knutson	Metzen	Storm
Benson	Frederick	Kroening	Olson	Vickerman
Berg	Frederickson, D.R.	Laidig	Purfeerst	Waldorf
Bernhagen	Gustafson	Larson	Ramstad	Wegscheid

Those who voted in the negative were:

Berglin	DeCramer	Langseth	Moe, R.D.	Piper
Brandl	Dicklich	Lantry	Morse	Pogemiller
Chmielewski	Diessner	Luther	Novak	Reichgott
Cohen	Frederickson, D.J.	Marty	Pehler	Samuelson
Dahl	Freeman	Merriam	Peterson, D.C.	Spear
Davis	Huges	Moe, D.M.	Peterson, R.W.	Stumpf

The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Dahl moved that H.F. No. 1935 be taken from the table. The motion prevailed.

H.F. No. 1935: A bill for an act relating to insurance; accident and health; broadening the average for adopted children; requiring coverage for routine diagnostic procedures for cancer and services provided to ventilator-dependent persons; amending Minnesota Statutes 1987 Supplement, section 62A.27; and proposing coding for new law in Minnesota Statutes, chapter 62A.

Mr. Dahl moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1935, 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.

Mrs. Lantry moved that S.F. No. 1857, No. 30 on Special Orders, be stricken and returned to its author. The motion prevailed.

Mr. Samuelson moved that S.F. No. 632, No. 20 on Special Orders, be stricken and re-referred to the Committee on Taxes and Tax Laws. The motion prevailed.

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate proceeded to the Order of Business of Introduction and First Reading of Senate Bills.

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Luther introduced—

S.F. No. 2575: A bill for an act relating to power of attorney; allowing power of attorney to continue for a period after the principal's death; amending Minnesota Statutes 1986, sections 523.08; and 523.23, subdivision 1.

Referred to the Committee on Judiciary.

Messrs. Pehler and Frederick introduced—

S.F. No. 2576: A bill for an act relating to taxation; exempting certain printed materials from the sales tax; amending Minnesota Statutes 1986, section 297A.25, by adding a subdivision.

Referred to the Committee on Taxes and Tax Laws.

Mr. Storm introduced —

S.F. No. 2577: A bill for an act relating to waste management; providing for the regulation of entities providing solid and hazardous waste disposal and rubbish transportation; amending Minnesota Statutes 1986, sections 216B.01; 216B.02, subdivision 4; and 221.025.

Referred to the Committee on Environment and Natural Resources.

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. 2590:

Messrs. Bernhagen, Brandl, Novak, Pogemiller and Johnson, D.J. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

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. 2341: A bill for an act relating to child support; authorizing parties to waive automatic income withholding when there is a child support or maintenance order; providing that a court shall stay service of an automatic withholding order if an obligor establishes an escrow account for payment of child support or maintenance; amending Minnesota Statutes 1987 Supplement, section 518.613, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 518.

Mr. Pogemiller moved to amend H.F. No. 2341, as amended pursuant to Rule 49, adopted by the Senate March 28, 1988, as follows:

(The text of the amended House File is identical to S.F. No. 2506.)

Page 1, line 18, strike "or modified"

Page 1, line 22, strike "For purposes of this section, "modified" does not"

Page 1, delete line 23

Page 1, line 24, delete the new language and strike the old language

Page 1, line 25, strike "modification of the" and strike "order."

Page 1, after line 25, insert:

"Sec. 2. Minnesota Statutes 1987 Supplement, section 518.613, is amended by adding a subdivision to read:

Subd. 5. [MOTION.] If a court in a county in which this section applies modifies an obligation for child support or maintenance that was determined prior to the effective date of this section in that county, the obligee or the public authority may move the court for an order requiring automatic withholding under this section. The court shall grant the order if it finds that the obligor has failed to pay the support or maintenance within ten days of the due date at least two times in the three months immediately preceding the date of the motion without good cause."

Page 4, line 23, delete "waiver and" and delete "options" and insert "option"

Page 4, line 25, delete "and 2" and insert "to 3"

Page 4, line 29, delete "2" and insert "3"

Page 4, line 33, delete from "move" to page 4, line 35, "1989" and insert "authorize the public authority to direct the employer or payor of funds to terminate automatic income withholding prior to January 1, 1989, by submitting to the public authority a written request for termination of automatic income withholding signed by all parties"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 4, after the semicolon, insert "providing for a motion to implement withholding in certain cases;"

Page 1, line 9, before the semicolon, insert ", and by adding a subdivision"

The motion prevailed. So the amendment was adopted.

Mr. Knaak moved to amend H.F. No. 2341, as amended pursuant to Rule 49, adopted by the Senate March 28, 1988, as follows:

(The text of the amended House File is identical to S.F. No. 2506.)

Page 2, line 13, after the period, insert "*Child support and maintenance obligors subject to automatic income withholding under section 518.613 may elect at any time to place money in escrow under this section and have the public authority direct the employer or payor of funds to terminate the automatic income withholding process, provided the requirements of this subdivision are met.*"

Page 4, line 26, delete from "Child" to page 4, line 31, "process."

CALL OF THE SENATE

Mr. Pogemiller imposed a call of the Senate for the balance of the proceedings on H.F. No. 2341. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Knaak amendment.

The roll was called, and there were yeas 31 and nays 32, as follows:

Those who voted in the affirmative were:

Anderson	Diessner	Knaak	Metzen	Schmitz
Belanger	Frederick	Knutson	Moe, D.M.	Storm
Benson	Frederickson, D.R.	Laidig	Olson	Wegscheid
Bernhagen	Freeman	Larson	Peterson, R.W.	
Chmielewski	Gustafson	Lessard	Ramstad	
Cohen	Johnson, D.E.	McQuaid	Renneke	
Decker	Jude	Mehrkens	Samuelson	

Those who voted in the negative were:

Adkins	Dahl	Langseth	Novak	Spear
Beckman	Davis	Lantry	Pehler	Stumpf
Berg	DeCramer	Luther	Peterson, D.C.	Vickerman
Berglin	Dicklich	Marty	Piper	Waldorf
Bertram	Frank	Merriam	Pogemiller	
Brandl	Frederickson, D.J.	Moe, R.D.	Purfeerst	
Brataas	Hughes	Morse	Reichgott	

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

H.F. No. 2341 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Merriam	Ramstad
Anderson	Davis	Jude	Metzen	Renneke
Beckman	Decker	Knaak	Moe, D.M.	Samuelson
Belanger	DeCramer	Knutson	Moe, R.D.	Schmitz
Benson	Dicklich	Laidig	Morse	Spear
Berg	Diessner	Langseth	Novak	Storm
Berglin	Frank	Lantry	Olson	Stumpf
Bernhagen	Frederick	Larson	Pehler	Vickerman
Bertram	Frederickson, D.J.	Lessard	Peterson, D.C.	Waldorf
Brandl	Frederickson, D.R.	Luther	Peterson, R.W.	Wegscheid
Brataas	Freeman	Marty	Piper	
Chmielewski	Gustafson	McQuaid	Pogemiller	
Cohen	Hughes	Mehrkens	Purfeerst	

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2465: A bill for an act relating to state agencies; amending the authority of the Minnesota amateur sports commission; correcting references; authorizing the commission to establish nonprofit corporations and charitable foundations; providing for an advisory task force on martial arts instruction; amending Minnesota Statutes 1987 Supplement, sections 16A.661, subdivision 3; 240A.02, subdivision 2; 240A.03, subdivision 10, and by adding a subdivision; and 297A.44, subdivision 1; and Laws 1987, chapter 400, section 13.

Mr. Dicklich moved to amend S.F. No. 2465 as follows:

Page 3, line 2, after "*commission*" insert "*, and any other state office, agency, or board owning or operating a sport facility designated as an official training center by the national governing body of that sport,*"

Amend the title as follows:

Page 1, line 4, after "*commission*" insert "*and certain other state entities*"

The motion prevailed. So the amendment was adopted.

Mr. Dicklich then moved to amend S.F. No. 2465 as follows:

Page 3, after line 3, insert:

"Sec. 5. Minnesota Statutes 1987 Supplement, section 240A.03, is amended by adding a subdivision to read:

Subd. 14. [NATIONAL SPORTS EVENTS.] The commission may pay costs incurred by an amateur sports facility in hosting and operating events that are conducted at the facility under an agreement with the national governing body for an amateur sport and sanctioned or sponsored by the commission."

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 10, delete "a subdivision" and insert "subdivisions"

The motion prevailed. So the amendment was adopted.

S.F. No. 2465 was then progressed.

SPECIAL ORDER

H.F. No. 2291: A bill for an act relating to state agencies; amending, enacting and repealing certain laws administered by the department of administration; increasing the powers of the state board for community colleges; changing the criteria for board membership; amending Minnesota Statutes 1986, sections 15.0591, subdivision 2; 15.50, by adding a subdivision; 16A.41, subdivision 1; 16B.07, subdivisions 2 and 3; 16B.08, subdivision 4; 16B.09, subdivision 3; 16B.24, by adding subdivisions; 16B.28; 16B.42, subdivision 1; 16B.48, subdivision 2; 16B.54, subdivision 8; 16B.55, subdivisions 3 and 6; 16B.65, subdivision 3; 16B.85; 94.12; 136.61, subdivision 1; 136.622; 136.67, subdivision 2; 214.07, subdivision 1; 268.0122, by adding a subdivision; and 382.153; Minnesota Statutes 1987 Supplement, sections 16B.09, subdivision 1; 16B.67; 115A.15, subdivision 6; and 168.012, subdivision 1; Laws 1987, chapter 365, section 24; proposing coding for new law in Minnesota Statutes, chapters 16B and 136; repealing Minnesota Statutes 1986, sections 15.38; 16B.29; and 214.07, subdivision 2.

CALL OF THE SENATE

Mr. Wegscheid imposed a call of the Senate for the balance of the proceedings on H.F. No. 2291. The Sergeant at Arms was instructed to bring in the absent members.

H.F. No. 2291 was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Kroening	Moe, D.M.	Renneke
Anderson	DeCramer	Laidig	Moe, R.D.	Samuelson
Beckman	Diessner	Langseth	Morse	Schmitz
Belanger	Frank	Lantry	Novak	Solon
Benson	Frederick	Larson	Olson	Spear
Berglin	Frederickson, D.J.	Lessard	Pehler	Storm
Bernhagen	Freeman	Luther	Peterson, D.C.	Stumpf
Bertram	Gustafson	Marty	Peterson, R.W.	Vickerman
Brandl	Hughes	McQuaid	Piper	Waldorf
Cohen	Johnson, D.E.	Mehrkens	Pogemiller	Wegscheid
Dahl	Jude	Merriam	Ramstad	
Davis	Knaak	Metzen	Reichgott	

So the bill passed and its title was agreed to.

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. 1935: Messrs. Dahl, Dicklich and Lessard.

S.F. No. 63: Mrs. Lantry, Messrs. Purfeerst and Frederick.

H.F. No. 2396: Messrs. Freeman, Pehler and Ms. Peterson, D.C.

S.F. No. 392: Messrs. Spear, Marty and Laidig.

H.F. No. 1000: Messrs. Davis, Stumpf, Morse, Berg and Langseth.

S.F. No. 1885: Ms. Peterson, D.C.; Messrs. Frederick and Solon.

S.F. No. 1963: Mr. Pogemiller, Ms. Reichgott and Mr. Gustafson.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

S.F. No. 2221: A bill for an act relating to motor vehicles; motorcycles; increasing percentage of money appropriated from motorcycle safety fund to commissioner of public safety that may be spent for training and coordinating activities of instructors and making reimbursements to schools and others; increasing the fee for duplicate driver's license obtained to add a two-wheeled vehicle endorsement; increasing portion of two-wheeled endorsement license fee that is dedicated to the motorcycle safety fund; amending Minnesota Statutes 1986, sections 126.115, subdivision 3; and 171.06, subdivision 2a.

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 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Hughes	Mehrkens	Piper
Anderson	Davis	Johnson, D.E.	Merriam	Pogemiller
Beckman	Decker	Jude	Metzen	Reichgott
Belanger	DeCramer	Knutson	Moe, D.M.	Renneke
Benson	Diessner	Kroening	Moe, R.D.	Schmitz
Berg	Frank	Laidig	Morse	Spear
Bernhagen	Frederick	Lantry	Novak	Storm
Bertram	Frederickson, D.J.	Larson	Olson	Stumpf
Brandl	Frederickson, D.R.	Luther	Pehler	Vickerman
Brataas	Freeman	Marty	Peterson, D.C.	Waldorf
Chmielewski	Gustafson	McQuaid	Peterson, R.W.	Wegscheid

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2520: A bill for an act relating to commerce; clarifying certain procedures and fees relating to the statewide uniform commercial code computerized filing system; amending Minnesota Statutes 1987 Supplement, sections 336.9-407; 336.9-411; and 336.9-413.

Mr. Peterson, R.W. moved to amend H.F. No. 2520 as follows:

Page 5, line 6, before the period, insert "*and to provide electronic-view-only access to other computerized records maintained by the secretary of state*".

The motion prevailed. So the amendment was adopted.

H.F. No. 2520 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 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Knaak	Merriam	Ramstad
Anderson	Decker	Knutson	Metzen	Reichgott
Beckman	DeCramer	Kroening	Moe, D.M.	Renneke
Belanger	Diessner	Laidig	Moe, R.D.	Schmitz
Benson	Frank	Langseth	Morse	Spear
Berg	Frederick	Lantry	Novak	Storm
Berglin	Frederickson, D.J.	Larson	Olson	Stumpf
Bernhagen	Frederickson, D.R.	Lessard	Pehler	Vickerman
Bertram	Gustafson	Luther	Peterson, D.C.	Waldorf
Brataas	Hughes	Marty	Peterson, R.W.	Wegscheid
Cohen	Johnson, D.E.	McQuaid	Piper	
Dahl	Jude	Mehrken	Pogemiller	

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2108: A bill for an act relating to state government; ratifying labor agreements, compensation plans, and salaries for state employees, and salaries for certain employees of metropolitan agencies; limiting the number of highway patrol supervisors; amending Minnesota Statutes 1986, section 299D.03, subdivision 2.

Mr. Moe, D.M. moved to amend H.F. No. 2108, the unofficial engrossment, as follows:

Pages 1 and 2, delete section 1

Renumber the sections in sequence

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 37 and nays 26, as follows:

Those who voted in the affirmative were:

Anderson	DeCramer	Knutson	Moe, D.M.	Spear
Beckman	Diessner	Laidig	Moe, R.D.	Storm
Belanger	Frederickson, D.J.	Langseth	Morse	Taylor
Berglin	Frederickson, D.R.	Lantry	Novak	Waldorf
Brandl	Freeman	Luther	Olson	Wegscheid
Cohen	Gustafson	Marty	Peterson, D.C.	
Dahl	Hughes	McQuaid	Peterson, R.W.	
Davis	Johnson, D.E.	Merriam	Piper	

Those who voted in the negative were:

Adkins	Decker	Knaak	Pehler	Stumpf
Benson	Dicklich	Kroening	Purfeerst	Vickerman
Bernhagen	Frank	Larson	Ramstad	
Bertram	Frederick	Lessard	Renneke	
Brataas	Johnson, D.J.	Mehrkens	Schmitz	
Chmielewski	Jude	Metzen	Solon	

The motion prevailed. So the amendment was adopted.

H.F. No. 2108 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 55 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Knaak	Mehrkens	Purfeerst
Anderson	DeCramer	Knutson	Merriam	Ramstad
Beckman	Diessner	Kroening	Metzen	Renneke
Belanger	Frank	Laidig	Moe, D.M.	Schmitz
Berglin	Frederick	Langseth	Moe, R.D.	Solon
Bernhagen	Frederickson, D.J.	Lantry	Olson	Spear
Bertram	Frederickson, D.R.	Larson	Pehler	Storm
Brataas	Freeman	Lessard	Peterson, D.C.	Taylor
Chmielewski	Hughes	Luther	Peterson, R.W.	Vickerman
Cohen	Johnson, D.E.	Marty	Piper	Waldorf
Davis	Jude	McQuaid	Pogemiller	Wegscheid

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2321: A bill for an act proposing an amendment to the Minnesota Constitution, article I, sections 4 and 6; providing for six-member juries in civil and nonfelony cases.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Knaak	Metzen	Schmitz
Anderson	DeCramer	Knutson	Moe, D.M.	Solon
Beckman	Diessner	Kroening	Moe, R.D.	Spear
Belanger	Frank	Laidig	Novak	Storm
Berglin	Frederick	Lantry	Olson	Taylor
Bernhagen	Frederickson, D.J.	Luther	Peterson, D.C.	Vickerman
Bertram	Frederickson, D.R.	Marty	Peterson, R.W.	Waldorf
Brandl	Hughes	McQuaid	Piper	Wegscheid
Chmielewski	Johnson, D.E.	Mehrkens	Pogemiller	
Cohen	Jude	Merriam	Ramstad	

So the bill passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Berg moved that the following members be excused for a Conference Committee on S.F. No. 1742 at 3:00 p.m.:

Messrs. Berg, Freeman and Larson. The motion prevailed.

RECESS

Mr. Moe, R.D. moved that the Senate do now recess until 5:00 p.m. The motion prevailed.

The hour of 5:00 p.m. having arrived, the President called the Senate to order.

CALL OF THE SENATE

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

MOTIONS AND RESOLUTIONS - CONTINUED

Mr. Chmielewski moved that the names of Messrs. Morse and Langseth be added as co-authors to S.F. No. 2428. The motion prevailed.

S.F. No. 2165 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2165

A bill for an act relating to environment; requiring persons to notify the pollution control agency of and take steps to avoid air pollution; proposing coding for new law in Minnesota Statutes, chapter 116.

April 12, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2165, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2165 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. [116.061] [AIR POLLUTION EMISSIONS AND ABATEMENT.]

Subdivision 1. [EMISSION NOTIFICATION REQUIRED.] (a) A person who controls the source of an emission must notify the agency immediately of excessive or abnormal unpermitted emissions that:

- (1) may cause air pollution endangering human health;*
- (2) may cause air pollution damaging property; or*
- (3) cause obnoxious odors constituting a public nuisance.*

(b) If a person who controls the source of an emission has knowledge of an event that has occurred and that will subsequently cause an emission described in paragraph (a), the person must notify the agency when the event occurs.

Subd. 2. [ABATEMENT REQUIRED.] A person who is required to notify the agency under subdivision 1 must take immediate and reasonable steps

to minimize the emissions or abate the air pollution and obnoxious odors caused by the emissions.

Subd. 3. [EXEMPTION.] The following are exempt from the requirements of subdivisions 1 and 2:

(1) emissions resulting from the activities of public fire services or law enforcement services;

(2) emissions from motor vehicles, as defined in section 169.01, subdivision 3;

(3) emissions from an agricultural operation deemed not a nuisance under section 561.19, subdivision 2; or

(4) emissions from agency regulated sources that are routine or authorized by the agency.

Subd. 4. [PENALTY EXCEPTION.] A person who notifies the agency of emissions under subdivision 1 and who complies with subdivision 2 shall not be subject to criminal prosecution under section 115.071, subdivision 2.

Subd. 5. [USE OF NOTIFICATION.] Any notice submitted under subdivision 1 is not admissible in any proceeding as an admission of causation."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Gregory L. Dahl, Bob Lessard, Gen Olson

House Conferees: (Signed) Dennis D. Ozment, Bob Milbert, Arthur W. Seaberg

Mr. Dahl moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2165 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.

S.F. No. 2165 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 56 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Knutson	Morse	Solon
Anderson	Davis	Kroening	Novak	Spear
Beckman	Decker	Laidig	Olson	Storm
Belanger	DeCramer	Lantry	Pehler	Stumpf
Benson	Frank	Larson	Peterson, D.C.	Taylor
Berg	Frederick	Lessard	Piper	Vickerman
Berglin	Frederickson, D.R.	Marty	Pogemiller	Waldorf
Bernhagen	Freeman	McQuaid	Purfeerst	Wegscheid
Bertram	Hughes	Mehrkens	Ramstad	
Brandl	Johnson, D.E.	Merriam	Renneke	
Chmielewski	Jude	Metzen	Samuelson	
Cohen	Knaak	Moe, D.M.	Schmitz	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 321 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 321

A bill for an act relating to public safety; expanding the crimes of driving a motor vehicle or a motorboat while under the influence of alcohol or certain substances; amending Minnesota Statutes 1986, sections 169.121, subdivisions 1 and 2; and 361.12, subdivisions 1 and 4.

April 11, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 321, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate concur in the House amendments and that S.F. No. 321, the unofficial engrossment, be further amended as follows:

Page 2, line 1, delete "*Minnesota*"

Page 2, line 2, delete everything before "*and*" and insert "*rules adopted under section 182.655*"

Page 2, line 3, after "*to*" insert "*substantially*"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Gene Merriam, Randolph W. Peterson, Jim Ramstad

House Conferees: (Signed) Joel Jacobs, Phil Carruthers, Terry M. Dempsey

Mr. Merriam moved that the foregoing recommendations and Conference Committee Report on S.F. No. 321 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.

S.F. No. 321 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Jude	Moe, D.M.	Renneke
Anderson	Decker	Knaak	Moe, R.D.	Samuelson
Beckman	DeCramer	Knutson	Morse	Schmitz
Belanger	Dicklich	Kroening	Novak	Solon
Benson	Diessner	Laidig	Olson	Spear
Berg	Frank	Lantry	Pehler	Storm
Bernhagen	Frederick	Larson	Peterson, D.C.	Stumpf
Bertram	Frederickson, D.R.	Lessard	Peterson, R.W.	Taylor
Brandl	Freeman	Marty	Piper	Vickerman
Brataas	Gustafson	McQuaid	Pogemiller	Waldorf
Chmielewski	Hughes	Mehrkens	Purfeerst	Wegscheid
Cohen	Johnson, D.E.	Merriam	Ramstad	
Dahl	Johnson, D.J.	Metzen	Reichgott	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1727 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1727

A bill for an act relating to government data practices; defining employment and training data as private data on individuals; providing for the dissemination of certain data; amending Minnesota Statutes 1986, section 13.46, subdivision 2; Minnesota Statutes 1987 Supplement, section 13.43, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 13.

April 12, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1727, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment.

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Pat Piper, Tracy L. Beckman, John J. Marty

House Conferees: (Signed) Karen Clark, Lee Greenfield, Brad G. Stanius

Ms. Piper moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1727 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.

S.F. No. 1727 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.J.	Metzen	Renneke
Anderson	Davis	Jude	Moe, D.M.	Samuelson
Beckman	Decker	Knaak	Moe, R.D.	Schmitz
Belanger	DeCramer	Kroening	Morse	Solon
Benson	Dicklich	Laidig	Novak	Spear
Berg	Diessner	Langseth	Olson	Storm
Berglin	Frank	Lantry	Pehler	Stumpf
Bernhagen	Frederickson, D.J.	Larson	Peterson, D.C.	Taylor
Bertram	Frederickson, D.R.	Luther	Peterson, R.W.	Vickerman
Brandl	Freeman	Marty	Piper	Waldorf
Brataas	Gustafson	McQuaid	Pogemiller	
Chmielewski	Hughes	Mehrkens	Purfurst	
Cohen	Johnson, D.E.	Merriam	Ramstad	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 1608 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 1608

A bill for an act relating to the city of Minneapolis; updating references in its development laws; amending Laws 1980, chapter 595, section 3, subdivisions 1, as amended, 3, 6, and 7; and section 4.

April 11, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 1608, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 1608 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Laws 1980, chapter 595, section 3, subdivision 1, as amended by Laws 1985, chapter 194, section 29, is amended to read:

Subdivision 1. Notwithstanding any contrary law or provision of the Minneapolis city charter, the city council may exercise the powers presently, or hereafter granted to a governmental agency or subdivision by Minnesota Statutes, ~~Chapters 458 and 462~~ sections 469.001 to 469.068 except the power to operate and maintain public housing as provided in Minnesota Statutes, Chapter 462. The city council shall not exercise the powers contained in Minnesota Statutes, Chapter 462 sections 469.001 to 469.047 prior to the initial adoption of an ordinance provided for in section 2, subdivision 1, or this subdivision. Notwithstanding any contrary law or provision of the Minneapolis city charter, the agency or the Minneapolis housing and redevelopment authority or the Minneapolis industrial development commission may after approval by the city council by ordinance exercise any of the powers presently or hereafter granted to a governmental subdivision by Minnesota Statutes, Chapters 458, 462, 472, 472A, and 474 sections 469.001 to 469.068, 469.109 to 469.134, and 469.152 to

469.165. The city council or the agency or the Minneapolis housing and redevelopment authority or the Minneapolis industrial development commission may exercise the powers granted by this subdivision and any other development or redevelopment powers authorized by other laws, independently or in conjunction with each other as though all of the powers had been granted to a single entity, provided, however, that any project undertaken pursuant to authority granted by Minnesota Statutes, ~~Chapter 458, 462, 472, 472A, sections 3 to 7, or 474 sections 469.001 to 469.068, 469.109 to 469.134, 469.136 to 469.140, and 469.152 to 469.165~~ is subject to all of the limitations contained within ~~that chapter those sections~~.

Sec. 2. Laws 1980, chapter 595, section 3, subdivision 3, is amended to read:

Subd. 3. The city council may, upon the request of the department, levy a general ad valorem tax for any purpose for which a housing and redevelopment authority pursuant to Minnesota Statutes, ~~Chapter 462 sections 469.001 to 469.047~~ may levy an ad valorem tax. The agency may levy a general ad valorem tax upon all taxable property in the city of Minneapolis for any economic development, housing, or redevelopment purpose for which the city council may levy a tax, or for which a housing and redevelopment authority pursuant to Minnesota Statutes, ~~Chapter 462 sections 469.001 to 469.047~~ may levy a tax. The levy of this tax shall be in the same manner as for a tax levied by the city council. The tax levied by the agency pursuant to this subdivision shall not exceed three mills levied upon all taxable property in the city of Minneapolis, provided that this limitation shall not apply to any levy for the repayment of bonds or obligations of the agency.

Sec. 3. Laws 1980, chapter 595, section 3, subdivision 6, is amended to read:

Subd. 6. Notwithstanding any contrary law or provision of the Minneapolis city charter, the city council may, by resolution, transfer the control, authority, and operation of any project as defined in Minnesota Statutes, section ~~273.73~~ 469.174, Subdivision 8, or any other program or project authorized by Minnesota Statutes, ~~Chapter 462 sections 469.001 to 469.047~~, for the purpose of rehabilitation of housing units or for the purpose of providing public housing as provided in Minnesota Statutes, ~~Chapter 462 sections 469.001 to 469.047~~, located within the city of Minneapolis, from the governmental agency or subdivision which established the project to any other governmental agency or subdivision established in whole or in part for the purpose of economic development housing or redevelopment within the city of Minneapolis, including the city council. The city council may also require acceptance of control, authority, and operation of the project by the governmental entity to which the transfer is intended. The governmental agency or subdivision to which the control, authority, and operation of the project is transferred, may exercise all of the powers and only the powers which the governmental unit which established the project could exercise with respect to the project.

Upon the transfer of a project or program, the receiving agency or body shall covenant and pledge to perform the terms, conditions, and covenants of bond indenture or other agreement executed for the security of any bonds issued by the governmental subdivision which initiated the project or program. The receiving governmental subdivision is granted by this act all powers necessary to perform the terms, conditions, and covenants of any

indenture or other agreement executed for the security of bonds on which it shall become obligated by operation of this subdivision.

The powers authorized by this subdivision may be exercised only after either (a) the city council adopts the first ordinance exercising the powers granted pursuant to section 2, subdivision 1, or (b) the city council adopts the first ordinance granting to the Minneapolis housing and redevelopment authority or the Minneapolis industrial development commission powers authorized pursuant to section 3, subdivision 1.

Sec. 4. Laws 1980, chapter 595, section 3, subdivision 7, is amended to read:

Subd. 7. Notwithstanding any contrary law or provision of the Minneapolis city charter, the city council may, by resolution, require any governmental subdivision which is conducting a project as defined in Minnesota Statutes, section 273.73 469.174, Subdivision 8, or any other program or project authorized by Minnesota Statutes, ~~Chapter 462~~ sections 469.001 to 469.047, for the purpose of rehabilitation of housing units or for the purpose of providing public housing as provided in Minnesota Statutes, ~~Chapter 462~~ sections 469.001 to 469.047, within the city of Minneapolis, to contract for services for administration of the project or any portion of the project with any other governmental subdivision established in whole or in part for the purpose of economic development or redevelopment or housing within the city of Minneapolis, including the city council. The city council may also require the acceptance of the contract for services by the governmental subdivision intended to provide the service for administration.

The powers authorized by this subdivision may be exercised only after either (a) the city council adopts the first ordinance exercising the powers granted pursuant to section 2, subdivision 1, or (b) the city council adopts the first ordinance granting to the Minneapolis housing and redevelopment authority or the Minneapolis industrial development commission powers authorized pursuant to section 3, subdivision 1.

Sec. 5. Laws 1980, chapter 595, section 4, is amended to read:

Sec. 4. [LIMITATIONS.] The city council may, by ordinance, impose the following limitations upon the actions of the agency:

(a) That the sale of any or all bonds or obligations issued by the agency be approved before issuance by the city council by resolution.

(b) That the agency must follow the budget process for city departments as provided in the Minneapolis city charter and as implemented by the city council and mayor.

(c) That all official actions of the agency be consistent with the adopted comprehensive plan of the city of Minneapolis, and any official controls implementing the comprehensive plan.

(d) That the agency submit to the city council for approval by resolution any proposed project as defined in Minnesota Statutes, Section 273.73 469.174, Subdivision 8.

(e) That the agency submit all planned activities for influencing the action of any other governmental agency, subdivision, or body to the city council for approval by resolution.

(f) That the agency submit its administrative structure and management practices to the city council for approval by resolution.

(g) That the levy of any tax by the agency be approved by the city council by ordinance prior to the levy of the tax.

(h) Any other limitation or control established by the city council by ordinance.

Limitations imposed pursuant to this section shall not be applied in a manner which impairs the security of any bonds issued prior to the imposition of the limitation. The city council shall not amend any limitations in effect at the time any bonds or obligations are issued pursuant to this act to the detriment of the holder of the bonds or obligations. A determination by the city council that the limitations imposed pursuant to this section have been complied with by the agency shall be conclusive.

Sec. 6. [SMALL BUSINESS LOANS.]

The city council or the agency may make or guarantee working capital loans in an aggregate principal amount not exceeding \$450,000 outstanding at any time, subject to such terms and conditions as established by ordinance by the city, to expanding small businesses which are located in the city for the purpose of increasing the tax base and providing employment opportunities within the city. As used in this subdivision, the term "small business" has the meaning given it in Minnesota Statutes, section 645.445, subdivision 2. This section expires June 30, 1991.

Sec. 7. [LOCAL APPROVAL.]

Upon compliance with Minnesota Statutes, section 645.021, subdivision 3, by the governing body of the city of Minneapolis, this act takes effect August 1, 1987."

Delete the title and insert:

"A bill for an act relating to the city of Minneapolis; updating references in its development laws; authorizing small business loans; amending Laws 1980, chapter 595, section 3, subdivisions 1, as amended, 3, 6, and 7; and section 4."

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Lawrence J. Pogemiller, Don Frank, Jim Gustafson

House Conferees: (Signed) Todd H. Otis, Daniel J. Knuth, Gerald Knickerbocker

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 1608 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.

S.F. No. 1608 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 61 and nays 5, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Metzen	Samuelson
Anderson	Davis	Johnson, D.J.	Moe, R.D.	Schmitz
Beckman	Decker	Jude	Morse	Solon
Belanger	DeCramer	Knaak	Novak	Spear
Benson	Dicklich	Kroening	Olson	Storm
Berg	Diessner	Laidig	Pehler	Stumpf
Berglin	Frank	Langseth	Peterson, D.C.	Taylor
Bernhagen	Frederick	Lantry	Piper	Vickerman
Bertram	Frederickson, D.J.	Larson	Pogemiller	Waldorf
Brandl	Frederickson, D.R.	Lessard	Purfeerst	
Brataas	Freeman	Marty	Ramstad	
Chmielewski	Gustafson	McQuaid	Reichgott	
Cohen	Hughes	Mehrkins	Renneke	

Those who voted in the negative were:

Knutson	Merriam	Moe, D.M.	Peterson, R.W.	Wegscheid
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So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

S.F. No. 2071 and the Conference Committee Report thereon were reported to the Senate.

CONFERENCE COMMITTEE REPORT ON S.F. NO. 2071

A bill for an act relating to crimes; requiring a neighborhood impact statement to be submitted as part of the presentence investigation report for controlled substance offenses; amending Minnesota Statutes 1987 Supplement, section 609.115, subdivision 1.

April 11, 1988

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for S.F. No. 2071, report that we have agreed upon the items in dispute and recommend as follows:

That the House recede from its amendment and that S.F. No. 2071 be further amended as follows:

Page 2, after line 24, insert:

"Sec. 2. Minnesota Statutes 1986, section 629.53, is amended to read:
629.53 [PROVIDING RELEASE ON BAIL; COMMITMENT.]

A person charged with a criminal offense may be released with or without bail in accordance with Rule 6.02 of the rules of criminal procedure. Money bail is the property of the accused, whether deposited by that person or by a third person on the accused's behalf. When money bail is accepted by a judge, that judge shall order it to be deposited with the court administrator. The court administrator shall retain it until the final disposition of the case and the final order of the court disposing of the case. Upon release, the amount released must be paid to the accused personally or upon that person's written order. In case of conviction ~~of the accused~~, the judge may order the money bail deposit to be applied to any fine or restitution imposed on the defendant by the court and, if the fine or restitution is less than the

deposit, order the balance to be paid to the defendant. If the fine exceeds the money bail deposit, the deposit must be applied to the fine and the defendant committed until the balance is paid. The commitment may not exceed one day's time for each dollar of the unpaid balance of the fine. Money bail in the hands of deposited with the court or any officer of it is exempt from garnishment or levy under attachment or execution."

Renumber the remaining section

Amend the title as follows:

Page 1, line 5, after the semicolon, insert "authorizing courts to apply bail deposits to restitution orders;"

Page 1, line 5, after "Statutes" insert "1986, section 629.53; and Minnesota Statutes"

We request adoption of this report and repassage of the bill.

Senate Conferees: (Signed) Lawrence J. Pogemiller, Donna C. Peterson, William V. Belanger, Jr.

House Conferees: (Signed) Richard Jefferson, Bert McKasy, Randy C. Kelly

Mr. Pogemiller moved that the foregoing recommendations and Conference Committee Report on S.F. No. 2071 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.

S.F. No. 2071 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 63 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Mehrkens	Reichgott
Anderson	Decker	Jude	Merriam	Renneke
Beckman	DeCramer	Knaak	Metzen	Samuelson
Belanger	Dicklich	Knutson	Moe, R.D.	Schmitz
Benson	Diessner	Kroening	Morse	Spear
Berg	Frank	Laidig	Novak	Storm
Berglin	Frederick	Langseth	Olson	Stumpf
Bernhagen	Frederickson, D.J.	Lantry	Pehler	Taylor
Bertram	Frederickson, D.R.	Larson	Peterson, D.C.	Vickerman
Brataas	Freeman	Lessard	Peterson, R.W.	Waldorf
Chmielewski	Gustafson	Luther	Piper	Wegscheid
Cohen	Hughes	Marty	Pogemiller	
Dahl	Johnson, D.E.	McQuaid	Ramstad	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

Without objection, remaining on the Order of Business of Motions and Resolutions, the Senate reverted to the Order of Business of Messages From the House.

MESSAGES FROM THE HOUSE

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. 2038, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 2038 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted April 12, 1988

CONFERENCE COMMITTEE REPORT ON H.F. NO. 2038

A bill for an act relating to employment; regulating youth employment programs; requiring that new jobs do not replace existing jobs; providing for compensation at the state or federal minimum wage; regulating employment contracts; authorizing the department of jobs and training to buy real estate and locate offices in Minneapolis; amending Minnesota Statutes 1986, sections 268.31, 268.32, and 268.34; proposing coding for new law in Minnesota Statutes, chapter 268.

April 8, 1988

The Honorable Robert Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

We, the undersigned conferees for H.F. No. 2038, 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. 2038 be further amended as follows:

Page 2, delete lines 28 to 36

Page 3, delete lines 1 to 5

Page 3, delete lines 30 to 35 and insert:

"Notwithstanding Minnesota Statutes, sections 16B.24 and 268.026 or chapter 94, the commissioner of administration, in consultation with the commissioner of jobs and training, is authorized to buy and sell real property in Minneapolis and the greater Minneapolis area for the purpose of relocating department offices to locations more accessible to the residents of Minneapolis and colocating with other social service agencies."

We request adoption of this report and repassage of the bill.

House Conferees: (Signed) Peter McLaughlin, Wally A. Sparby, John Himle

Senate Conferees: (Signed) Michael O. Freeman, Steven Morse, Earl W. Renneke

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F. No. 2038 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. 2038 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Jude	Merriam	Renneke
Anderson	DeCramer	Knaak	Metzen	Samuelson
Beckman	Dicklich	Knutson	Moe, R.D.	Schmitz
Belanger	Diessner	Kroening	Morse	Spear
Benson	Frank	Laidig	Novak	Storm
Berg	Frederick	Langseth	Olson	Stumpf
Berglin	Frederickson, D.J.	Lantry	Pehler	Taylor
Bernhagen	Frederickson, D.R.	Larson	Peterson, D.C.	Vickerman
Bertram	Freeman	Lessard	Peterson, R.W.	Waldorf
Chmielewski	Gustafson	Luther	Piper	Wegscheid
Cohen	Hughes	Marty	Pogemiller	
Dahl	Johnson, D.E.	McQuaid	Ramstad	
Davis	Johnson, D.J.	Mehrkins	Reichgott	

So the bill, as amended by the Conference Committee, was repassed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

The question recurred on S.F. No. 2465.

S.F. No. 2465: A bill for an act relating to state agencies; amending the authority of the Minnesota amateur sports commission; correcting references; authorizing the commission to establish nonprofit corporations and charitable foundations; providing for an advisory task force on martial arts instruction; amending Minnesota Statutes 1987 Supplement, sections 16A.661, subdivision 3; 240A.02, subdivision 2; 240A.03, subdivision 10, and by adding a subdivision; and 297A.44, subdivision 1; and Laws 1987, chapter 400, section 13.

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 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.E.	Mehrkins	Reichgott
Anderson	Decker	Jude	Merriam	Renneke
Beckman	DeCramer	Knaak	Metzen	Samuelson
Belanger	Dicklich	Knutson	Moe, R.D.	Schmitz
Benson	Diessner	Kroening	Morse	Spear
Berglin	Frank	Laidig	Novak	Storm
Bernhagen	Frederick	Langseth	Olson	Stumpf
Bertram	Frederickson, D.J.	Lantry	Pehler	Taylor
Brataas	Frederickson, D.R.	Larson	Peterson, D.C.	Vickerman
Chmielewski	Freeman	Lessard	Peterson, R.W.	Wegscheid
Cohen	Gustafson	Luther	Purfeerst	
Dahl	Hughes	Marty	Ramstad	

So the bill, as amended, passed and its title was agreed to.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on H.F. No. 2185 from 3:15 to 4:00 p.m.:

Messrs. Lessard, Merriam and Stumpf. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Waldorf moved that the following members be excused for a Conference Committee on S.F. No. 2569 at 6:45 p.m.:

Mrs. Brataas, Messrs. Dahl, Dicklich, Taylor and Waldorf. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

SPECIAL ORDER

H.F. No. 2388: A bill for an act relating to public employees; providing for assignment of University of Minnesota job classifications to appropriate units; amending Minnesota Statutes 1986, sections 179A.10, subdivision 4; and 179A.11, by adding a subdivision.

Was read the third time and placed on its final passage.

The question was taken on the passage of the bill.

The roll was called, and there were yeas 58 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Jude	Merriam	Ramstad
Anderson	DeCramer	Knaak	Metzen	Reichgott
Beckman	Dicklich	Knutson	Moe, D.M.	Renneke
Belanger	Diessner	Kroening	Moe, R.D.	Samuelson
Benson	Frank	Laidig	Morse	Schmitz
Berglin	Frederick	Langseth	Novak	Spear
Bernhagen	Frederickson, D.J.	Lantry	Olson	Storm
Bertram	Frederickson, D.R.	Larson	Pehler	Stumpf
Chmielewski	Freeman	Lessard	Peterson, D.C.	Vickerman
Cohen	Gustafson	Luther	Peterson, R.W.	Wegscheid
Dahl	Hughes	Marty	Piper	
Davis	Johnson, D.E.	McQuaid	Purfeerst	

So the bill passed and its title was agreed to.

SPECIAL ORDER

H.F. No. 2526: A bill for an act relating to consumer protection; regulating the provision of real estate closing services; amending Minnesota Statutes 1986, sections 82.17, by adding a subdivision; and 481.02, subdivision 3; and by adding subdivisions; proposing coding for new law in Minnesota Statutes, chapter 507.

Mr. Peterson, R.W. moved to amend H.F. No. 2526, as amended pursuant to Rule 49, adopted by the Senate April 11, 1988, as follows:

(The text of the amended House File is identical to S.F. No. 2489.)

Page 1, delete section 1.

Renumber the sections in sequence and correct the internal references
Amend the title accordingly

CALL OF THE SENATE

Mr. Metzen imposed a call of the Senate for the balance of the proceedings on H.F. No. 2526. The Sergeant at Arms was instructed to bring in the absent members.

The question was taken on the adoption of the Peterson, R. W. amendment.

The roll was called, and there were yeas 17 and nays 40, as follows:

Those who voted in the affirmative were:

Belanger	Freeman	Luther	Peterson, D.C.	Spear
Berglin	Knaak	Marty	Peterson, R.W.	
Brandl	Knutson	Merriam	Piper	
Davis	Lantry	Moe, D.M.	Reichgott	

Those who voted in the negative were:

Adkins	Diessner	Johnson, D.I.	Mehrkens	Renneke
Anderson	Frank	Jude	Metzen	Samuelson
Beckman	Frederick	Kroening	Morse	Schmitz
Benson	Frederickson, D.I.	Laidig	Novak	Solon
Bernhagen	Frederickson, D.R.	Langseth	Olson	Storm
Bertram	Gustafson	Larson	Pehler	Stumpf
Chmielewski	Hughes	Lessard	Purfeerst	Vickerman
Decker	Johnson, D.E.	McQuaid	Ramstad	Wegscheid

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

Mr. Freeman moved to amend H.F. No. 2526, as amended pursuant to Rule 49, adopted by the Senate April 11, 1988, as follows:

(The text of the amended House File is identical to S.F. No. 2489.)

Page 1, line 25, after "person" insert "acting as an agent for a title company" and delete "except"

The motion prevailed. So the amendment was adopted.

Mr. Freeman then moved to amend H.F. No. 2526, as amended pursuant to Rule 49, adopted by the Senate April 11, 1988, as follows:

(The text of the amended House File is identical to S.F. No. 2489.)

Page 5, after line 31, insert:

"Subd. 4. No financial institution or other person making a mortgage loan may require a borrower to use any particular licensed attorney, real estate broker, real estate salesperson, or real estate closing agent in connection with a residential real estate closing."

The motion prevailed. So the amendment was adopted.

H.F. No. 2526 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 51 and nays 10, as follows:

Those who voted in the affirmative were:

Adkins	Decker	Jude	Morse	Samuelson
Anderson	DeCramer	Kroening	Novak	Schmitz
Beckman	Diessner	Laidig	Olson	Solon
Belanger	Frank	Langseth	Pehler	Storm
Benson	Frederick	Larson	Peterson, D.C.	Stumpf
Berg	Frederickson, D.J.	Lessard	Piper	Vickerman
Berglin	Frederickson, D.R.	Luther	Pogemiller	Wegscheid
Bernhagen	Gustafson	McQuaid	Purfeerst	
Bertram	Hughes	Mehrkens	Ramstad	
Chmielewski	Johnson, D.E.	Metzen	Reichgott	
Davis	Johnson, D.J.	Moe, R.D.	Renneke	

Those who voted in the negative were:

Brandl	Knaak	Lantry	Merriam	Peterson, R.W.
Freeman	Knutson	Marty	Moe, D.M.	Spear

So the bill, as amended, passed and its title was agreed to.

SPECIAL ORDER

S.F. No. 2428: A bill for an act relating to workers' compensation; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; abolishing the workers' compensation court of appeals and transferring its jurisdiction to the court of appeals; requiring certain reports relating to workers' compensation; amending Minnesota Statutes 1986, sections 79.251, subdivisions 2 and 3; 79.252, subdivision 1; 79.56, by adding a subdivision; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3; 176.061, subdivision 10; 176.081, subdivisions 1 and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding a subdivision; 176.102, subdivisions 1, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, and 20; 176.131, subdivisions 1a, 2, 4, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.136, subdivision 1; 176.645, subdivision 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; 480A.06, subdivision 4; Minnesota Statutes 1987 Supplement, sections 176.041, subdivision 4; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, and 6; 176.111, subdivisions 15 and 21; 176.131, subdivisions 1 and 8; proposing coding for new law in Minnesota Statutes, chapter 176; repealing Minnesota Statutes 1986, sections 175A.01 to 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08 to 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6; and Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2.

Mr. Chmielewski moved to amend S.F. No. 2428 as follows:

Delete everything after the enacting clause and insert:

"ARTICLE 1

WORKERS' COMPENSATION SYSTEM CHANGES

Section 1. Minnesota Statutes 1986, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which (1) pays or is obligated to pay less than \$8,000 \$20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, and (2) has total liability and medical payment coverage equal to \$250,000 and \$5,000, respectively, under a farm liability insurance policy. For purposes of this subdivision, farm

laborer does not include any spouse, parent or child, regardless of age, of a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1986, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed $\frac{2}{3}$ 80 percent of the ~~product of the daily wage times the number of days normally worked~~ employee's after-tax weekly wage, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] *After-tax weekly wage means the weekly wage reduced by the amounts required to be withheld by the Federal Insurance Contributions Act, United States Code, Title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents.*

Sec. 4. Minnesota Statutes 1986, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in

the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101 13. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of economic recovery compensation or lump sum or periodic payment of impairment compensation permanent partial disability 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. 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 but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation 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 section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive economic recovery compensation or impairment permanent partial compensation vests in an injured employee or in the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. The right is not abrogated by the employee's death prior to the making of the payment. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable

pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred, the employee dies prior to reaching maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.

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

Sec. 5. Minnesota Statutes 1987 Supplement, section 176.041, subdivision 4, is amended to read:

Subd. 4. [OUT-OF-STATE EMPLOYMENTS.] (a) *Except as provided in paragraph (b), if an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state, receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forego any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.*

(b) An employee who has been hired outside of this state, or regularly performs the primary duties of employment outside of this state, and the employee's employer, are exempt from the provisions of this chapter while the employee is temporarily within this state performing work for the employer provided the employer has furnished workers' compensation insurance coverage under the workers' compensation law or other similar law of another state which covers the employee's employment while in this state. The benefits under the workers' compensation law or similar law of the other state, or other remedies under that state's law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while working for that employer within this state. A certificate from the commissioner of labor and industry or other similar official of another state certifying that the employer is insured in that state and has provided extraterritorial coverage insuring its employees while working within this state is prima facie evidence that the employer carries workers' compensation insurance on those employees.

Sec. 6. Minnesota Statutes 1986, section 176.061, subdivision 10, is amended to read:

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. 7. Minnesota Statutes 1986, section 176.081, subdivision 1, is amended to read:

Subdivision 1. (a) A fee for legal services of 25 percent of the first \$4,000 of compensation awarded to the employee and 20 percent of the next \$27,500 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or

any other party except as provided in ~~clause~~ *paragraph* (b). If the employer or the insurer or the defendant is given written notice of claims for legal services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under ~~section 176.242, 176.2421, 176.243, or 176.244~~ *sections 176.106 and 176.239* shall be determined on an hourly basis, according to the criteria in subdivision 5.

(b) An attorney who is claiming legal fees ~~under this section~~ *for representing an employee in a workers' compensation matter* shall file a statement of ~~attorney's~~ *attorney* fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

(c) *An attorney representing employers or insurers shall file a statement of attorney fees or wages with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. The statement of attorney fees or wages must contain the following information: the average hourly wage or the value of hours worked on that case if the attorney is an employee of the employer or insurer, the number of hours worked on that case, and the average hourly rate or amount charged an employer or insurer for that case if the attorney is not an employee of the employer or insurer.*

(d) *Employers and insurers may not pay attorney fees or wages for legal services of more than \$6,500 per case unless the additional fees or wages are approved under subdivision 2.*

Sec. 8. Minnesota Statutes 1987 Supplement, section 176.081, subdivision 2, is amended to read:

Subd. 2. An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and, the number of hours spent on the case,~~ the basis for the request, and whether or not a

hearing is requested. The application, with affidavit of service upon the ~~employee attorney's client~~, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 9. Minnesota Statutes 1986, section 176.081, subdivision 3, is amended to read:

Subd. 3. ~~An employee who~~ *A party that* is dissatisfied with *its* attorney fees, may file an application for review by the workers' compensation court of appeals. Such application shall state the basis for the need of review and whether or not a hearing is requested. A copy of such application shall be served upon the *party's* attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise the question of the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 10. Minnesota Statutes 1986, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For an injury producing temporary total disability, the compensation is ~~66-2/3~~ 80 percent of the *after-tax* 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, (b) The maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31, of the preceding year.~~

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

~~(d) 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, and shall cease whenever any one of the following occurs:~~

~~(1) the disability ends;~~

~~(2) the employee returns to work;~~

~~(3) the employee retires by withdrawing from the labor market;~~

~~(4) the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner, which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, that the employee can do in the employee's physical condition; or~~

~~(5) 90 days have passed after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).~~

~~(e) For purposes of paragraph (d), clause (5), the 90-day period after maximum medical improvement commences on the earlier of:~~

(1) the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or

(2) the date that the employer or insurer serves the report on the employee and the employee's legal representative and files a copy with the division.

(f) Once compensation has ceased under paragraph (d), clauses (1), (2), and (3), it may be recommenced at a later date if: the employee returns to work, the employee is laid off due to economic conditions or is medically unable to continue at the job, and the layoff or inability to continue occurs prior to 90 days after the employee reaches maximum medical improvement. Compensation recommenced under this paragraph is subject to cessation under paragraph (d). Recommenced compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once compensation has ceased under paragraph (d), clauses (4) and (5), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 11. Minnesota Statutes 1986, section 176.101, is amended by adding a subdivision to read:

Subd. 1a. [EXTENDED DISABILITY COMPENSATION.] (a) If an employee, who has a permanent partial disability, is not working because of the personal injury after payment of permanent partial disability benefits is complete, the employee shall be eligible for extended disability compensation. If an employee received any permanent partial compensation in a lump sum, payment will be considered complete after expiration of the period that the employee would have received permanent partial compensation had it been paid periodically.

(b) Extended disability compensation is paid at the rate for temporary total compensation, escalated under section 176.645, for the number of weeks equal to 246 multiplied by the employee's percentage rating of permanent partial disability, determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. The total extended compensation for any injury may not exceed this product.

(c) Extended disability compensation shall cease if the employee is no longer disabled, returns to work, refuses a job offer described in subdivision 1, paragraph (d), clause (4), or retires from the labor market.

(d) An employee is not eligible for extended disability compensation if, at any time before the employee would have become eligible:

(1) the employee refuses a job offer, as described in subdivision 1, paragraph (d), clause (4); or

(2) the employee returns to work and terminates employment, unless the employee was medically unable to continue work or was terminated without just cause;

(e) An employee is eligible for extended compensation at any time after payment of permanent partial benefits is complete so long as the employee meets the qualifications of this section and has not been paid the maximum number of weeks under paragraph (b) for that injury; provided that, extended compensation may not be paid beyond 350 weeks after the date of injury.

Sec. 12. Minnesota Statutes 1986, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be ~~66-2/3 percent of the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition.~~ paid as follows:

(1) for the first 26 weeks that the employee returns to work, the compensation shall be 80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition;

(2) for the second 26 weeks that the employee returns to work, the compensation shall be 60 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition; and

(3) for the third 26 weeks that the employee returns to work, the compensation shall be 40 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition.

(b) This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to 105 percent of the statewide average weekly wage.

(c) Temporary partial compensation may be paid only while the employee is working and earning less than the employee's weekly wage at the time of the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 78 weeks or after 350 weeks after the date of injury, whichever occurs first.

Sec. 13. Minnesota Statutes 1986, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule, the amount of compensation is 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

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period.

Sec. 14. Minnesota Statutes 1986, section 176.101, subdivision 4, is amended to read:

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

Sec. 15. Minnesota Statutes 1986, section 176.101, subdivision 5, is amended to read:

Subd. 5. [TOTAL DISABILITY DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties; or

(2) any other injury which both results in permanent partial disability of 20 percent or more of the whole body and totally and permanently incapacitates the employee from working at an occupation which brings

the employee an income constitutes total disability.

(b) For purposes of paragraph (a), clause (2), totally and permanently incapacitated means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 16. Minnesota Statutes 1986, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee, ~~through physical and vocational rehabilitation,~~ so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that 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. 17. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 18. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member and ~~two members~~ *one member* each ~~from representing employers, insurers, rehabilitation, and medicine, one member representing chiropractors, and four~~ *two members* each representing labor and rehabilitation vendors, and ~~six members who are qualified rehabilitation consultants.~~ The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified

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

Sec. 19. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 3a, is amended to read:

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

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

Sec. 20. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (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 provided immediately after receipt of this information.~~

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time. A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant; except that, if the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of

the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation consultant. If the consultation indicates that rehabilitation services are appropriate pursuant to subdivision 1, the employer shall provide such services. If the consultation indicates that rehabilitation services are not appropriate pursuant to subdivision 1, the employer shall notify the employee of this determination within seven days after the consultation.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer must notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest. The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to the case, including or to any attorneys, doctors, or chiropractors.

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

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose request a different qualified rehabilitation consultant as follows:

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

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

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

(e) The employee and employer shall enter into a program if one is prescribed in develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

(b) (f) If the employer does not provide rehabilitation consultation, or the employee does not select a qualified rehabilitation consultant, as required by this section provided under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to appoint provide, or the employee fails to select, whichever is applicable, a qualified rehabilitation consultant or other persons as permitted by clause

(a) within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless the commissioner or compensation judge determines the consultation is not required.

(e) (g) 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) (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 21. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. *A plan that is not completed within six months or that will cost more than \$3,000 must be specifically approved by the commissioner. This approval may not be waived by the parties.*

Sec. 22. Minnesota Statutes 1986, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] (a) Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) *If a rehabilitation plan has not already been filed pursuant to subdivision 4, an employer shall report to the commissioner after 90 days from the date of the injury, but before 120 days therefrom, as to what rehabilitation consultation and services, if any, have been provided to the injured employee or why rehabilitation consultation and services have not been provided.*

Sec. 23. Minnesota Statutes 1986, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] (a) Retraining is limited to 156 weeks. 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 or compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge 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 or compensation judge determines the special circumstances are no longer present.

(b) Pursuant to section 176.101, subdivisions 1 and 2, temporary total disability or temporary partial disability shall be paid during a retraining plan that has been specifically approved under this section and for up to 90 days after the end of the plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (4). Compensation paid under this paragraph must cease if the employee terminates participation in the approved retraining plan without good cause.

Sec. 24. Minnesota Statutes 1986, section 176.105, subdivision 1, is amended to read:

Subdivision 1. *(a) The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. The commissioner, in consultation with the medical services review board, shall annually review these rules to determine whether any injuries omitted from the schedule should be compensable and, if so, amend the rules accordingly.*

(b) Disability ratings for permanent partial disability must be based on objective medical evidence.

Sec. 25. Minnesota Statutes 1986, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ 80 percent of the after-tax weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 26. Minnesota Statutes 1986, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] 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~~ 80 percent of the ~~daily~~ after-tax weekly 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 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.~~

Sec. 27. Minnesota Statutes 1986, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] 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~~ 80 percent of the ~~daily~~ after-tax weekly wage at the time of the injury of the deceased until the last dependent child is no longer dependent. ~~At that time the dependent surviving spouse shall be paid 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-

Sec. 28. Minnesota Statutes 1986, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66-2/3~~ 80 percent of the *wages after-tax weekly wage*.

Sec. 29. Minnesota Statutes 1986, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee leave no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on deceased, there shall be paid to such parents jointly ~~45~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ 80 percent of the *after-tax* weekly wage thereafter. If the deceased employee leave one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 30. Minnesota Statutes 1987 Supplement, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ 40 percent of the *after-tax* weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ 45 percent of the *after-tax* weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 31. Minnesota Statutes 1986, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66-2/3~~ 80 percent of the *after-tax* weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 32. Minnesota Statutes 1987 Supplement, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers'

compensation death benefits provided under this section shall not exceed 100 percent of the *after-tax* weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 33. Minnesota Statutes 1987 Supplement, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability from that injury alone that is substantially greater, because of a preexisting physical impairment, than what would have resulted from the personal injury alone, the employer or insurer shall pay all compensation provided by this chapter, but 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~~ \$3,500 in medical expenses, subject to the exceptions in paragraphs (a), (b), and (c):

(a) If the disability caused by the subsequent injury is made substantially greater by the employee's registered preexisting physical impairment, there shall be apportionment of liability among all injuries. The special compensation fund shall only reimburse for that portion of the compensation, medical expenses, and rehabilitation expenses attributed to the subsequent injury after the applicable deductible has been met.

(b) If the subsequent personal injury alone results in permanent partial disability to a scheduled member under the schedule adopted by the commissioner pursuant to section 176.105, the special compensation fund shall not reimburse permanent partial disability, medical expenses, or rehabilitation expenses.

(c) Reimbursement for compensation paid shall be at the rate of 75 percent.

Sec. 34. Minnesota Statutes 1986, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on-the-job training program pursuant to an approved rehabilitation plan under section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to enter the on-the-job training program, the on-the-job training employer shall pay the medical expenses and compensation required by this chapter, and shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury; *except that, reimbursement for compensation paid shall be at the rate of 75 percent.* The employer, at the time of the personal injury for which the employee has been approved for

on-the-job training, is liable for the portion of the disability that is attributable to that injury.

Sec. 35. Minnesota Statutes 1986, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury results in disability or death, and if the injury, death, or disability would not have occurred except for the preexisting physical impairment registered with the special compensation fund, the employer shall pay all compensation provided by this chapter, and shall be ~~fully~~ reimbursed from the special compensation fund for the compensation, except that:

(1) this ~~full~~ reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clause (t) or (u) unless the commissioner by rule provides otherwise; and

(2) *reimbursement for compensation paid shall be at the rate of 75 percent.*

Sec. 36. Minnesota Statutes 1987 Supplement, 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 except that physical impairment is limited to the following:

(a) Epilepsy,

(b) Diabetes,

(c) Hemophilia,

(d) Cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,

(f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) Residual disability from poliomyelitis,

(h) Cerebral Palsy,

(i) Multiple Sclerosis,

(j) Parkinson's disease,

(k) Cerebral vascular accident,

(l) Chronic Osteomyelitis,

(m) Muscular Dystrophy,

(n) Thrombophlebitis,

(o) Brain tumors,

(p) Pott's disease,

(q) Seizures,

(r) Cancer of the bone,

(s) Leukemia,

(t) Any other physical impairment resulting in a disability rating of at least ~~ten~~ 25 percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(u) Any other physical impairments of a permanent nature which the 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 rehabilitation.

Sec. 37. Minnesota Statutes 1986, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.

Sec. 38. Minnesota Statutes 1986, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, except as provided by clause (b), provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, and before August 1, 1988, 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.

(b) An employee who has suffered personal injury after August 1, 1988, that caused a permanent total disability, as defined in section 176.101, subdivision 5, is eligible to receive supplementary benefits after four years have elapsed since the first date of the total disability, provided that the employee continues to have a permanent total disability.

Sec. 39. Minnesota Statutes 1986, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually.

The supplementary benefit payable under this section is:

(1) *the sum of the amount the employee receives under section 176.101, subdivision 4, plus the amount of any disability benefits being paid by any government disability benefit program if those benefits are occasioned by the same injury or injuries giving rise to payments under section 176.101, subdivision 4, plus any old age and survivor's insurance benefits, subtracted from*

(2) *50 percent of the statewide average weekly wage, as computed annually.*

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 50 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

~~(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.~~

(e) (d) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

Sec. 40. Minnesota Statutes 1986, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer ~~currently paying total disability benefits, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless,~~ pay the supplementary benefits that are prescribed by law. The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 41. Minnesota Statutes 1986, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner 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 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 ~~shall~~ *must* 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.

(b) The medical fee rules for providers other than hospitals, which are promulgated on October 1, 1987, and based upon 1986 medical cost data, must remain in effect until September 30, 1989; and the medical fee rules for providers other than hospitals, which are promulgated on October 1, 1989, must be based on the 1987 medical cost data and must remain in effect until September 30, 1990.

(c) The procedures established by the commissioner for determining whether or not the charge for a health service is excessive ~~shall~~ *must* be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures ~~shall~~ *must* 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.

Sec. 42. Minnesota Statutes 1986, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [CHARGES FOR INDEPENDENT MEDICAL EXAMINATIONS.] The commissioner shall adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested by any party, including the amount that may be charged for depositions, witness fees, or other expenses. The scheduled amount for the examination itself may not exceed the scheduled amount for complex consultations by treating physicians, although additional reasonable charges may be permitted to reflect additional duties or activities. An insurer or employer may not pay fees above the amount in the schedule.

Sec. 43. Minnesota Statutes 1987 Supplement, section 176.221, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer

has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 60 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within 30 60 days of notice or knowledge. After the 30-day 60-day period, payment may be terminated only by the filing of a notice as provided under section 176.239. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 44. Minnesota Statutes 1986, 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 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~~ four 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~~ four percent.

Sec. 45. Minnesota Statutes 1986, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ is deferred until the first anniversary of the date of the injury. *For injuries occurring on or after August 1, 1988, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.*

Sec. 46. Minnesota Statutes 1986, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an occupational disease is ~~66-2/3~~ 80 percent of the employee's *after-tax* 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 eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 47. [176.90] [AFTER-TAX CALCULATION.]

For purposes of section 176.011, subdivision 18, section 176.101, subdivisions 1, 2, 3, and 4, section 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21, and section 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 48. [176.95] [ADMINISTRATIVE COSTS.]

The annual cost to the commissioner of labor and industry of administering the workers' compensation system under this chapter must be charged to the state general fund. Administrative costs include the cost of administering the workers' compensation division of the department of labor and industry and the workers' compensation division of the office of administrative hearings.

Sec. 49. [ADMINISTRATIVE COSTS CHANGE-OVER.]

For the biennium beginning July 1, 1989, 50 percent of the costs of administering the workers' compensation system must be charged to the state general fund and 50 percent to the special compensation fund.

Sec. 50. [EXISTING DISABILITY RATINGS.]

Existing disability ratings adopted under section 176.105, subdivision 1, may not be changed before June 1, 1989.

Sec. 51. [AFTER-TAX CALCULATION.]

Notwithstanding section 47, the commissioner of labor and industry shall publish by July 15, 1988, a table or formula for determining the after-tax weekly wage effective August 1, 1988, until October 1, 1988, as otherwise required under that section.

Sec. 52. [REPEALER.]

Minnesota Statutes 1986, sections 176.011, subdivision 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6, are repealed.

Sec. 53. [EFFECTIVE DATE.]

Sections 5, 17, 18, 19, 24, 43, 47, 50, and 51 are effective the day following final enactment. Section 48 is effective July 1, 1991. Notwithstanding section 176.1321, sections 1 to 4, 6 to 16, 20 to 23, 25 to 41, 44 to 46, 49, and 52 are effective August 1, 1988. Section 42 is effective January 1, 1989.

ARTICLE 2

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1986, section 79.01, subdivision 1, is amended to read:

Subdivision 1. [TERMS.] Unless the language or context clearly indicates that a different meaning is intended, the following terms, for the purposes of sections ~~79.01 to 79.23~~ 1 to 36, shall have the meanings ascribed to them.

Sec. 2. Minnesota Statutes 1986, section 79.074, is amended by adding a subdivision to read:

Subd. 3. [RATES.] One rate is unfairly discriminatory in relation to another if it clearly fails to reflect equitably the differences in expected losses, expenses, and the degree of risk. Rates are not unfairly discriminatory because different premiums result for policyholders with like loss exposures but different expense factors, or like expense factors but different loss exposures, so long as the rates reflect the differences with reasonable accuracy.

Sec. 3. Minnesota Statutes 1986, section 79.074, is amended by adding a subdivision to read:

Subd. 4. [FLEXIBLE RANGE OF RATES.] An insurer may write insurance at rates that are lower than the rates approved by the commissioner provided the rates are not unfairly discriminatory.

Sec. 4. [79.253] [PRIOR RATES.]

Subdivision 1. Rates and rating plans that have been filed with the commissioner prior to April 8, 1988, pursuant to section 79.56 by insurers are conclusively presumed to satisfy the requirements of this act until the initial schedule of rates has been approved by order of the commissioner.

Subd. 2. If a rate was not filed by an insurer prior to April 8, 1988, then an insurer may file a rate for any classification for which a rate was not previously filed. This rate shall not be used until it is approved by the commissioner. The commissioner may approve a rate up to the rate level approved for use by the assigned risk plan for that rate class. These rates may remain in force until August 1, 1988, when they must be adjusted to comply with provisions of section 33. The adjusted schedule of rates will remain in force until the commissioner has approved an initial schedule of rates pursuant to section 5, subdivision 1. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval shall not be subject to chapter 14 and the decision shall be final.

Subd. 3. Until the commissioner issues a rate order approving a schedule of rates pursuant to section 5, subdivision 1, an insurer may not, through the use of any rating plan, charge a rate higher than the rates applicable to the insurer pursuant to subdivision 1 or 2. This subdivision does not prohibit the use of approved experience rate plans or retrospective rating

plans which have been adopted in the filed rates by insurers, the assigned risk plan, or filed by a data service organization.

Sec. 5. [79.71] [RATES; HEARINGS.]

Subdivision 1. [ADOPTION OF INITIAL RATE SCHEDULE.] The commissioner shall adopt a schedule of workers' compensation insurance rates for use in this state for each classification under which business is written. The schedule of rates shall not be excessive, inadequate, or unfairly discriminatory. The adoption of the initial schedule of rates shall be by hearing held pursuant to the contested case procedures in chapter 14. In adopting a schedule of rates, the commissioner may act on the written petition of the association, the department of labor and industry, or any other interested party requesting that a hearing be held for modification of the schedule of rates.

Subd. 2. [PETITION FOR RATE HEARING.] Upon receipt of a petition requesting a hearing for modification of an existing schedule of rates, the commissioner shall determine whether the petition sufficiently sets forth facts that show that the existing schedule of rates is excessive, inadequate, unfairly discriminatory, or otherwise in need of modification so as to indicate the need to hold a hearing. If the association is a petitioner, the commissioner may decline to grant a hearing if the association has failed to provide information requested by previous orders modifying the schedule of rates, provided that the request was not unreasonable. The commissioner may accept or reject the petition for a hearing and shall give notice of a determination to the petitioning party within 90 days of receipt of the petition. If the commissioner rejects the petition, the commissioner shall notify the petitioning party of the reasons for the rejection. If the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this section or section 8, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court, enactment of a statute or other circumstance has effected a substantial change in the basis upon which the existing schedule of rates was adopted. Upon such certification by the commissioner of labor and industry, the commissioner may, by order, modify the existing schedule of rates to reflect the supreme court's decision, enactment of statute, or other circumstance. The order modifying the schedule of rates is not subject to chapter 14 and shall remain in effect until the commissioner has made a final determination as required by subdivisions 4 and 5.

Subd. 3. [HEARING.] The commissioner shall determine, within 90 days of receipt of the petition, whether to accept or reject the petition. If the commissioner accepts the petition for hearing, the commissioner shall order a hearing on matters set forth in the petition. The hearing shall be held pursuant to the contested case procedures in chapter 14. The burden of proof is on the petitioning party. The commissioner shall forward a copy of the order for hearing to the chief administrative law judge. The chief administrative law judge must, within 30 days of the receipt of the order, set a hearing date, assign an administrative law judge to hear the matter, and notify the commissioner of the hearing date and the administrative law judge assigned to hear the matter. The report of the administrative law judge must be issued within 180 days from the date of receipt of the order by the chief administrative law judge. The commissioner shall publish notice of the hearing in the State Register at least 20 days before the hearing date. The administrative law judge must admit documentary

and statistical evidence accepted and relied upon by an expert whose expertise is related to workers' compensation rate matters, without the traditional evidentiary foundation. Approval of the notice prior to publication by the administrative law judge is not required. Within 60 days of the completion of the hearing, the administrative law judge must submit a report to the commissioner. The parties or the administrative law judge, if the parties cannot agree, shall adjust all time requirements under the contested case procedures to conform with the the time requirements set forth in this subdivision. After the close of the hearing record, the administrative law judge shall transmit to the commissioner the entire record of the hearing, including the transcript, exhibits, and all other material properly accepted into evidence, together with the finding of facts, conclusions, and recommended order made by the administrative law judge. The time for filing the report may be extended by the chief administrative law judge for good cause.

Subd. 4. [HEARING DETERMINATION.] *The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for modifications of the schedule of rates or matters raised in the findings and recommendations of the administrative law judge. The commissioner's determination shall be based upon substantial evidence.*

Subd. 5. [DEADLINE FOR DETERMINATION.] *The commissioner shall make a final determination with respect to adoption of a schedule of rates within 90 days after receipt of the administrative law judge's report. If the commissioner fails to act within the 90-day period, the findings, conclusions, and recommended order of the administrative law judge become the final order of the commissioner on the 91st day.*

Subd. 6. [CONSULTANTS; COMMISSIONER OF COMMERCE.] *The commissioner of commerce may hire consultants, including a consulting actuary and other experts, deemed necessary to assist in the establishment or modification of the schedule of rates. A sum sufficient to pay the costs of conducting the hearing provided under subdivision 3, appeals therefrom, or the establishment or modification of the schedule of rates, including the costs of consultants, staff, and related costs, and the costs of the attorney general's office, is appropriated from the special compensation fund to the commissioner of commerce and assessed against the rating association and its members by the special compensation fund.*

Subd. 7. [CONSULTANTS; COMMISSIONER OF LABOR AND INDUSTRY.] *The commissioner of labor and industry may hire consultants, including a consulting actuary and other experts, deemed necessary to assist the commissioner of labor and industry in the hearing for modification of the schedule of rates and appeals therefrom. A sum sufficient to pay the costs of the commissioner of labor and industry in regard to the hearing provided under subdivision 3 and appeals therefrom, including the costs of consultants, staff, and related costs, and the costs of the attorney general's office, is appropriated from the special compensation fund to the commissioner of labor and industry and assessed against the rating association and its members by the special compensation fund.*

Subd. 8. [CONSULTANTS; ADMINISTRATIVE JUDGES.] *The office of administrative hearings, upon approval of the chief administrative law judge, may hire consultants necessary to assist the administrative law judge assigned to a workers' compensation rate proceeding.*

Subd. 9. [COMMISSIONER OF LABOR AND INDUSTRY AS A PARTY.]

The commissioner of labor and industry must be a party to all proceedings under this chapter and shall act to assure that the public interest is represented and protected. The commissioner of labor and industry may: (1) inspect at all reasonable times, and copy the books, records, memoranda, and correspondence or other documents and records of any person relating to any regulated business; and (2) cause the deposition to be taken of any person concerning the business and affairs of any business regulated by the department. Information sought through said deposition shall be for a lawfully authorized purpose and shall be relevant and material to the investigation or hearing before the commissioner. Information obtained from said deposition shall be used by the department only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department. Said deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court. The commissioner of labor and industry may, on the commissioner's own initiative, investigate any matter subject to the jurisdiction of the department of labor and industry. The costs of the commissioner of labor and industry in discharging this obligation shall be paid by the special compensation fund and assessed against the rating association and its members by the special compensation fund.

Subd. 10. [APPOINTMENT OF ACTUARY.] The commissioner of labor and industry shall employ the services of a casualty actuary experienced in workers' compensation whose duties shall include but not be limited to investigation of complaints by insured parties relative to rates, rate classifications, or discriminatory practices of an insurer. The salary of the actuary employed pursuant to this section is not subject to the provisions of section 43A.17, subdivision 1.

Sec. 6. [79.72] [PETITION FOR REHEARING.]

Subdivision 1. [PETITION CONTENTS.] Any interested party may petition the commissioner for rehearing and reconsideration of a determination made pursuant to section 5. The petition for rehearing and reconsideration shall be served on the commissioner and all parties to the rate hearing within 30 days after service of the commissioner's final order. The petition shall set forth factual grounds in support of its petition. An interested party adversely affected by a petition for review and reconsideration has 15 days to respond to factual matters alleged in the petition.

Subd. 2. [GRANT OF REHEARING.] The commissioner may grant a rehearing upon the filing of a petition under subdivision 1. On rehearing, the commissioner may limit the scope of factual matters that are subject to rehearing and reconsideration. The rehearing is subject to the provisions of section 5.

Subd. 3. [MODIFICATION OF ORDER.] Following rehearing, the commissioner may modify the terms of the initial order adopting a change in the schedule of rates upon a determination that adequate factual grounds exist to support modification. Adequate factual grounds include, but are not limited to, erroneous testimony by any witness or party to the hearing, material change in Minnesota loss or expense data occurring after a petition for modification of the schedule of rates has been filed, or any other mistake of fact that has a substantial effect upon the schedule of rates adopted in the initial order of the commissioner.

Sec. 7. [79.731] [JUDICIAL REVIEW.]

Final orders of the commissioner pursuant to sections 5 and 6 are subject to judicial review pursuant to sections 14.63 to 14.69 but shall remain in effect during the pendency of any appeal.

Sec. 8. [79.735] [INTERIM SCHEDULE OF RATES.]

The rating association, the commissioner of labor and industry, or any other interested party may file a petition for an adjustment in the schedule of rates when there has been a law change in the benefit payable under chapter 176. "Law change" means only statutory changes by the legislature or supreme court decisions. When a petition for a change in the schedule of rates due to a law change is received by the commissioner, the commissioner shall review any petition for up to 30 days to determine if it presents facts which warrant a hearing. If the commissioner accepts a petition for hearing it shall be conducted pursuant to the contested case procedures found in chapter 14. The chief administrative law judge shall assign an administrative law judge to hear a petition for a change in the schedule of rates within 30 days. The administrative law judge shall conclude the hearing within 60 days of assignment by the chief administrative law judge and file findings of fact, conclusions of law, and a proposed order with the commissioner within 30 days of concluding the hearing. The administrative law judge shall, after the close of the record, file a report with recommendations in the same manner as in section 5, subdivision 3. The time for holding the hearing and filing the report with the commissioner may be expanded by the chief administrative law judge upon a showing of good cause for an additional 30 days. The commissioner's order may affirm, reverse, or modify the findings and order of the administrative law judge. The petitioning party shall have the burden of proof in any hearing held pursuant to this subdivision. Interim rate hearings are only for changes in the schedule of workers' compensation rates resulting from law changes. All other evidentiary, procedural, and review standards in section 5 shall apply to interim rate hearings except for the time requirements in this subdivision. Interim rate hearings are subject to judicial review pursuant to chapter 14 except that the commissioner's interim rate order shall remain in effect during the pendency of any appeal by any party. The commissioner is an interested party if the commissioner's decision is appealed pursuant to chapter 14. Interim rate hearings may only be held after an initial schedule of rates has been approved by the commissioner unless requested by the commissioner of labor and industry.

Sec. 9. [79.74] [AUTOMATIC ADJUSTMENT OF RATES.]

The commissioner shall adopt a rule to automatically adjust a schedule of rates to reflect benefit changes mandated by operation of law after the most recent change in the statewide schedule of rates. This adjustment shall also reflect the annual change in the maximum weekly compensation made pursuant to section 176.101, an adjustment in the assessment rate for the special fund, and the annual adjustment made pursuant to section 176.645, any adjustment in the assessment for the assigned risk plan pursuant to section 79.251, subdivision 5, any adjustment in the assessment for the Minnesota insurance guaranty association pursuant to section 60C.05, or any other assessment required by law. The initial rule to automatically adjust the schedule of rates and any amendments made pursuant to this subdivision shall be effective no later than December 31, 1988, and is not subject to chapter 14, except the commissioner of commerce shall comply with section 14.38, subdivision 7.

At each rate hearing held pursuant to section 5 or rehearing pursuant to section 6, following an automatic adjustment, the commissioner shall review the rate adjustment to assure that the schedule of rates adopted subsequent to the adjustment are not excessive, inadequate, or unfairly discriminatory. If the commissioner finds that the schedule of rates adopted subsequent to the adjustment are excessive, inadequate, or unfairly discriminatory, the commissioner shall order appropriate remedial action.

Sec. 10. [79.75] [RATE REVISION ORDER; EFFECT.]

Subdivision 1. [POLICIES.] A revised schedule of rates, adopted under section 5 or 6, applies to new and renewal policies issued after the effective date of the commissioner's final order.

Subd. 2. [INSURED.] The revised schedule of rates applies to all insureds and prospective insureds under the workers' compensation rating manual adopted by the association and approved by the commissioner.

Sec. 11. [79.76] [COMMISSIONER MAY REQUIRE SURVEY.]

Following a complaint, the commissioner may require the association to conduct a survey and report. The commissioner may withdraw approval of any rate or classification upon ten days' notice to the parties interested.

Sec. 12. [79.77] [CLASSIFICATION OF WORKERS' COMPENSATION INSURANCE.]

No classification for compensation insurance purposes shall be effective until approved by the commissioner. No rule or regulation with reference to compensation risks filed by any insurer, or by the association, shall be effective until approved by the commissioner. No type of insurance covering any part of the liability of an employer allowed to self-insure as provided in section 176.181, is effective in this state unless approved by the commissioner. If it appears at any time that reasonable doubt on the part of the commissioner as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to establishing a rate and classification.

Sec. 13. [79.78] [INSURERS SHALL BE MEMBERS OF ASSOCIATION.]

Every insurer issuing workers' compensation insurance in this state shall be a member of the association organized under section 14, to be maintained in this state for the following purposes:

(1) to separate the industries of this state that are subject to workers' compensation insurance into proper classes for compensation insurance purposes; to inspect compensation risks and establish the merit and experience rating system approved for use in this state; to establish charges and credits under the system; and to report all facts affecting compensation insurance risks and those necessary for approving policies of compensation insurance as conforming with classifications and rates previously promulgated by the association and approved by the commissioner; and

(2) to assist the commissioner and insurers in approving rates, determining hazards and other material facts in connection with compensation risks, and to assist in promoting safety in the industries.

Sec. 14. [79.79] [ORGANIZATION OF ASSOCIATION.]

The association shall adopt articles of incorporation, bylaws, and a

plan of operation. These articles, bylaws, and plan of operation and all amendments thereto shall be filed with and approved by the commissioner and shall not be effective until so filed and approved. The association shall admit to membership any insurer authorized to transact workers' compensation insurance in this state. The charges and service of the association shall be fixed in the articles or bylaws and shall be equitable and non-discriminatory as between members. The initial articles, bylaws, and plan of operation shall be filed with the commissioner no later than June 15, 1988. If the initial articles, bylaws, and plan of operation are not filed by June 15, 1988, the commissioner shall adopt the initial articles, bylaws, and plan of operation.

Sec. 15. [79.80] [EXPENSE, HOW PAID.]

Each member of the association shall pay an equitable and nondiscriminatory share of the cost of operating the association. If the members of the association cannot agree upon an apportionment of cost, any member may in writing petition the commissioner to establish a basis for apportioning the cost. If any member is aggrieved by an apportionment made by the association, it may in writing petition the commissioner for a review of the apportionment. The commissioner shall, upon not less than five days' notice to each member of the association, hold a hearing upon any such petition at which all members are entitled to be present and be heard. The commissioner shall determine the matter and mail a copy of the determination to each member of the association. The decision of the commissioner shall be final and binding upon all members of the association.

Sec. 16. [79.81] [BOARD OF DIRECTORS.]

A board of directors of the rating association is created and is responsible for the operation of the rating association consistent with the plan of operation and this article. The board consists of seven directors. Four directors shall represent insurers and the commissioner of commerce shall appoint the remaining directors. Each director is entitled to one vote. Terms of the directors shall be two years. The board shall select a chair and other officers it deems appropriate.

A majority of the directors currently holding office constitutes a quorum. Action may be taken by a majority vote of the directors present.

The board shall take reasonable and prudent action regarding the management of the rating association including but not limited to the management of the daily affairs of the rating association.

Sec. 17. [79.82] [PLAN OF OPERATION.]

Subdivision 1. [PROVISIONS.] The plan of operation shall provide for all of the following:

- (a) the establishment of necessary facilities;
- (b) the management and operation of the rating association;
- (c) a preliminary assessment, payable by each member in proportion to its total premium in the year preceding the inauguration of the rating association, for initial expenses necessary to commence operation of the rating association;
- (d) procedures governing the actual payment of assessments to the rating association;

(e) reimbursement of each member of the board by the rating association for actual and necessary expenses incurred on rating association business; and

(f) any other matters required by or necessary to effectively implement this article.

Subd. 2. [AMENDMENTS.] (a) The plan of operation shall be subject to approval by the commissioner after consultation with the members of the association, representatives of the public and other affected individuals and organizations. If the commissioner disapproves all or any part of the proposed plan of operation, the directors shall within 15 days submit for review an appropriate revised plan of operation or part thereof. If a revised plan is not submitted within 15 days, the commissioner shall promulgate a plan of operation or part thereof, as the case may be. The plan of operation approved or promulgated by the commissioner shall become effective and operational upon order of the commissioner.

(b) Amendments to the plan of operation may be made by the commissioner or by the directors of the association, subject to the approval of the commissioner.

Sec. 18. [79.83] [APPLICABILITY OF CHAPTER 79.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] The rating association is subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any time and examine, audit, or evaluate the rating association's operations, records and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the departments of commerce or labor and industry or other parties retained by the commissioner.

Subd. 2. [COSTS AND EXPENSES.] The commissioner may order and the rating association shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. A sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 19. [79.84] [INITIAL FILING.]

Subdivision 1. [FILING REQUIRED.] On or before July 1, 1988, the association must file with the commissioner its proposed schedule of rates, its rating plans, and its underwriting and rating manuals which are used in the classification of risks and the calculation of rating plans, rates, and fees. The association must provide the commissioner with at least six copies of each manual. A copy of each manual filed shall also be provided to the commissioner of labor and industry.

The commissioner shall review the schedule of rates, rating plans, and manuals and on or before December 31, 1988, approve or disapprove the manuals or any part thereof. Until the commissioner has approved or disapproved the manuals, they shall remain in force. As to any rating plans or manual or part thereof that is not approved, a hearing pursuant to the contested case procedures of chapter 14 shall be held. The adoption of the schedule of rates shall be governed by section 5.

Until the conclusion of the contested case proceeding, the portions of the manuals or rating plans that were not approved shall remain in force.

Subd. 2. [AMENDMENTS.] *If the association amends a manual or rating plan, the amendment shall not be effective until approved by the commissioner. The commissioner shall approve or disapprove any amendment within 90 days of filing. Any amendment not approved within 90 days shall be deemed to be disapproved. As to a disapproved amendment, the association may contest the disapproval pursuant to the contested case procedures of chapter 14.*

Subd. 3. [BURDEN OF PROOF] *The burden of proof in a proceeding under this section shall be upon the party requesting the adoption of a rating plan or manual or an amendment of a rating plan or manual.*

Subd. 4. [COSTS.] *The costs of the commissioner and the commissioner of labor and industry in regard to a contested case proceeding under this section, including the costs of consultants, staff, and related costs, and costs billed by the attorney general's office shall be paid by the special compensation fund and assessed to the association and its members by the special compensation fund.*

Subd. 5. [PUBLIC ACCESS.] *Copies of all approved manuals must be made available to the public for inspection during regular business hours at the office of the association. Proposed manuals and amendments to manuals must be made available in the same manner.*

Sec. 20. [79.85] [EXEMPTION.]

The rating association is not subject to sections 15.0597 and 471.705 and chapter 13 nor any other law or rule that pertains to a public body. For purposes of Minnesota law or rule, the association is not a public body.

Sec. 21. [79.86] [LICENSE; FEE.]

The association shall procure annually from the commissioner a license to carry on its business. The license shall run from July 1 to the last day of June. An annual license fee of \$100 must be paid at the time of filing an application for license.

Sec. 22. [79.861] [ANNUAL STATEMENT.]

The association on or before March 1 each year shall file with the commissioner a statement covering its activities for the year ending on the preceding December 31. This report shall cover its financial transactions and other matters connected with its operation, including employee compensation and other specific expenditures as required by the commissioner. The commissioner shall prescribe the form of the report. The association and its members are subject to supervision and examination by the commissioner or any examiner authorized by the commissioner on such matters as the commissioner deems appropriate. Examination may be made as often as the commissioner deems necessary. A sum sufficient to pay the cost of all examinations is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 23. [79.862] [ASSOCIATION SHALL MAKE CLASSIFICATION.]

The association shall, on behalf of its members, assign each compensation risk and subdivision thereof in this state to its proper classification. The determination as to the proper classification by the association shall be subject to the approval of the commissioner as provided in this chapter. The association shall, on behalf of all members thereof, inspect and make

a written survey of each risk to which the system of merit rating approved for use in this state is applicable. It shall, on behalf of all the members thereof, file with the commissioner its classification of risks and keep on file at the office of the association the written surveys of all risks inspected by it, which surveys shall show the location and description of all items producing charges and credits, if any, and such other facts as are material in the writing of insurance thereon. It shall file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of these risks. The association classification shall be binding upon all insurers. The commissioner and the association and its representatives shall give all information as to classifications, rates, surveys, and other facts collected and intended for the common use of insurers subject to this article to all these insurers at the same time. A copy of the complete survey by the association, with the approved classification and rates based thereon and the effective date thereof, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall be furnished upon request to any other insurer upon the payment of a reasonable charge for the service. Every insurer shall promptly file with the association a copy of each payroll audit, which shall be checked by the association for correctness of classification and rate. The commissioner may require the association to file any such copy and may verify any payroll audit by a reaudit of the books of the employer or in such other manner as may appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the commissioner shall verify any payroll audit reported to the commissioner.

Sec. 24. [79.863] [INFORMATION.]

In addition to other information that the commissioner requests pursuant to section 5, the rating association shall: (a) separate the incurred but not reported losses of its members; (b) separate paid and outstanding losses of its members; (c) provide information indicating cases in which its members have established a reserve in excess of \$50,000; (d) provide information on the income on invested reserves of its members; and (e) provide information as to policies written at other than the filed rates. The rating association shall file information based solely on Minnesota premium income of its members concerning investment income, legal expenses, subrogation recoveries, administrative expenses, and commission expenses. The rating association shall file information based solely on Minnesota data concerning its members reserving practices, premium income, indemnity and medical benefit paid and lobbying expenses of its members. The rating association shall file an itemized breakdown of its lobbying expenses.

The commissioner shall consider this information in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 5 for purposes of considering a rate increase if the association fails to provide the information.

Sec. 25. [79.864] [RECORD; ASSOCIATION SHALL FURNISH INFORMATION.]

The association shall keep a careful record of its proceedings. It shall furnish, upon demand, to any employer whose workers' compensation risk has been surveyed, full information as to the survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The association shall provide a means, approved

by the commissioner, for hearing any member or employer whose risk has been inspected, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting the risk. Any insurer or employer may appeal from a decision of the association to the commissioner. The association shall make rules governing appeals, to be filed with and approved by the commissioner. The commissioner may require the association to file any information connected with its activities.

Sec. 26. [79.865] [INSURERS SHALL NOT DISCRIMINATE.]

No insurer shall make or charge any rate for workers' compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of merit or experience rating in use.

Sec. 27. [79.867] [RATES SHALL BE FILED.]

Every insurer writing workers' compensation insurance in this state, except as ordered by the commissioner, must file with the commissioner its rates for this compensation insurance and all additions or changes. All rates so filed must comply with the requirements of law and are not effective until approved by the commissioner. A rate which is filed and approved cannot be changed until 15 days after the substituted rate is filed and after approval by the commissioner.

Sec. 28. [79.868] [RATES TO BE UNIFORM; EXCEPTIONS.]

No insurer may write insurance at a rate above that established by the association and approved as reasonable by the commissioner. The association may reduce or increase a rate by the application to individual risks of the system of merit or experience rating which has been approved by the commissioner. This reduction or increase shall be set forth in the policy or by endorsement thereon. Upon written request, an insurer shall furnish a written explanation to the insured of how and why the individual rate was adjusted by application of a system of merit or experience rating. This explanation shall be mailed to the insured within 30 days of the request.

Sec. 29. [79.869] [DUTIES OF COMMISSIONER.]

The commissioner of commerce shall require compensation insurers, or their agents, to file such reports as may be necessary for the purposes of this article for use by the commissioner.

Sec. 30. [79.87] [VIOLATIONS; PENALTIES.]

In addition to any other penalties prescribed by law, any insurer, rating association, agent, or other representative or employee of any insurer or rating association that fails to comply with, violates any of the provisions of this article, or any order or ruling of the commissioner, shall be punished by a fine of not less than \$50 nor more than \$5,000. In addition, the license of any insurer, agent, or broker guilty of such violation may be revoked or suspended by the commissioner.

Sec. 31. [79.88] [RULEMAKING.]

Until July 1, 1989, the commissioner shall be exempt from the rule-making provisions of chapter 14. The commissioner must comply with section 14.38, subdivision 7, when adopting rules to carry out the commissioner's duties assigned by this section. Any rules adopted pursuant to

this exemption shall be subsequently adopted by a chapter 14 rules proceeding commencing no later than July 1, 1990.

Sec. 32. Minnesota Statutes 1986, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue such coverage.

Sec. 33. [MANDATED REDUCTIONS.]

As a result of the workers' compensation law changes in article 1 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on August 1, 1988, must be reduced by 15 percent and applied by the insurer to all policies issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 15 percent mandated rate reduction under this section. Insurers and data service organizations must file a new schedule of rates and rating plans which comply with the requirements of this section by August 1, 1988. The reduction must be computed on the basis of a 15 percent premium reduction prorated to the expiration of that policy. An insurer shall provide written notice by September 1, 1988, to all employers having an outstanding policy with the insurer as of August 1, 1988, to read as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1988 legislature, you are entitled to a credit or refund to your current premium in an amount of \$ which reflects a 15 percent mandated premium reduction prorated to the expiration of your policy."

Sec. 34. [OLD ASSOCIATION.]

Subdivision 1. [RECORDS DEPOSITED WITH THE COMMISSIONER.] All records of the rating association authorized by sections 79.61 and 79.62 or its predecessors pertaining to proceedings before the department of commerce or its predecessors regarding rates or classifications shall be deposited with the commissioner no later than the effective date of the repeal of sections 79.61 and 79.62.

Subd. 2. [ASSOCIATION ASSETS.] All assets of the rating association authorized by section 79.61 or 79.62 or its predecessors shall be transferred to the rating association organized under section 14.

Sec. 35. [TRANSITION PROVISIONS; EMPLOYEES.]

Until January 1, 1989, initial appointment to the professional positions authorized by section 37 shall be deemed to be provisional or exceptional appointments as defined by section 43A.15, subdivisions 4 and 8, and the commissioner of employee relations must authorize those appointments as requested by the commissioner of commerce or labor and industry. Upon request of the commissioner of commerce or labor and industry, the appointments under this section shall be considered an unusual employment condition as defined by section 43A.17, subdivision 3, and salaries may be set accordingly.

Sec. 36. [LEGISLATIVE INTENT.]

It is the intent of the legislature in enacting this article to reinstate the prior state law regarding rate regulation which was repealed effective January 1, 1984. Judicial and administrative decisions regarding the prior law shall be deemed to be applicable to this article in the same manner as to the prior law.

Sec. 37. [APPROPRIATION.]

Subdivision 1. \$630,000 is appropriated from the special compensation fund to the department of commerce for the purpose of this article, is available immediately, does not lapse, and is available until expended. The complement of the department of commerce is increased by 11 positions.

Subd. 2. \$600,000 is appropriated from the special compensation fund to the department of labor and industry for the purpose of this article, is available immediately, does not lapse, and is available until expended. The complement of the department of labor and industry is increased by ten positions.

Subd. 3. \$120,000 is appropriated from the special compensation fund to the attorney general for the purpose of this article, is available immediately, does not lapse, and is available until expended. The complement of the attorney general is increased by three positions.

Sec. 38. [REPEALER.]

Minnesota Statutes 1986, sections 79.50; 79.51; 79.52; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.59; 79.60; 79.61; and 79.62, are repealed.

ARTICLE 3

WORKERS' COMPENSATION COURT OF APPEALS ABOLISHED

Section 1. Minnesota Statutes 1986, section 176.421, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR TAKING; GROUNDS.] When a petition has been heard before a compensation judge, within 30 days after a party in interest has been served with notice of an award or disallowance of compensation, or other order affecting the merits of the case, the party may appeal to the workers' compensation court of appeals on any of the following grounds:

- (1) the order does not conform with this chapter; or
- (2) the compensation judge committed an error of law; or
- (3) the findings of fact and order were *clearly erroneous* and unsupported by substantial evidence in view of the entire record as submitted; or
- (4) the findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 2. Minnesota Statutes 1986, section 176.421, subdivision 6, is amended to read:

Subd. 6. [POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.] On an appeal taken under this section, the workers' compensation court of appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. *On review, the court may not substitute its judgment for that of the compensation judge as to the weight or credibility of the evidence on any finding of fact.* In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:

(1) grant an oral argument based on the record before the compensation judge;

(2) examine the record;

(3) ~~substitute for the findings of fact made by the compensation judge findings based on the total evidence;~~

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

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

Sec. 3. Minnesota Statutes 1986, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 4. Minnesota Statutes 1986, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45; ~~and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; ~~and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.~~

Sec. 5. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 2, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that, all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 6. [INCREASED JUDGES.]

(a) *The number of judges on the court of appeals as of June 1, 1989, shall be increased by three. The additional judges are subject to senate confirmation.*

(b) *For purposes of establishing the number of judges on the court of appeals pursuant to Minnesota Statutes, section 480A.01, subdivision 3, the number of appeals filed in the court of appeals for the calendar years 1987 and 1988 shall be considered to include three-fourths of the number of appeals filed in the workers' compensation court of appeals for those two years.*

Sec. 7. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 8. [REAPPROPRIATION.]

\$62,000 is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal year 1989 due to the abolishment of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 9. [REPEALER.]

Minnesota Statutes 1986, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; and 175A.10, are repealed. Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2, is repealed.

Sec. 10. [EFFECTIVE DATE.]

This article is effective June 1, 1989.

ARTICLE 4

REPORTS TO THE LEGISLATURE

Section 1. [REPORT TO THE LEGISLATURE ON MEDICAL ISSUES.]

The commissioner of labor and industry shall present a report to the legislature concerning medical issues in the workers' compensation system. Specifically, the report must include findings and recommendations designed to contain or reduce the cost of workers' compensation related medical services, including methods of controlling the cost of ongoing therapy treatments. The report must be presented by January 1, 1990.

The state fund mutual insurance company shall be consulted, as part of the medical services study, in order to assist the department in developing a proposal to collect and analyze all medical bills. The ultimate goal of this consultation will be the development of a flagging and monitoring system to identify cases which significantly deviate from normal utilization patterns, costs and outcomes. The department shall make a preliminary report on the progress of the proposal to the legislature on January 1, 1989. The department shall make a final recommendation on implementation of the proposal at the time it makes its report to the legislature concerning medical issues in the workers' compensation system on January 1, 1990.

Sec. 2. [REPORT TO THE LEGISLATURE ON USE OF NEUTRAL PHYSICIANS.]

The commissioner of labor and industry shall present a report to the legislature concerning workers' compensation before January 1, 1989, which develops and evaluates a detailed proposal for establishing a system of neutral doctors for use in such areas as determining maximum medical improvement and rating permanent partial disabilities. The report must contain a bill proposal to implement the commissioner's recommendations.

Sec. 3. [REPORT TO THE LEGISLATURE ON USE OF NEUTRAL QUALIFIED REHABILITATION CONSULTANTS.]

To reduce cost and contention in the rehabilitation system, the commissioner of labor and industry shall develop and evaluate a detailed proposal

to establish a system to ensure that qualified rehabilitation consultants will not be aligned with either insurers or claimants. The commissioner shall consider alternative methods of selection and payment to ensure neutrality. The commissioner shall present a report and proposal to the legislature by January 1, 1989.

Sec. 4. [REPORT TO THE LEGISLATURE ON LEGAL FEES.]

The commissioner of labor and industry shall present a report to the legislature concerning legal fee issues in the workers' compensation system. Specifically, the report must include findings and recommendations designed to contain or reduce legal fees related to workers' compensation dispute resolution. The report must be presented March 1, 1989.

Sec. 5. [REPORT TO THE LEGISLATURE ON IMPLEMENTATION OF MANDATED RATE REDUCTIONS.]

The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under article 2, section 33, have been implemented by insurers, both as to amount and in a manner that is uniform and non-discriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner must present a report detailing findings and conclusions to the legislature by February 1, 1989.

Sec. 6. [REPORT TO THE LEGISLATURE ON RECODIFICATION OF WORKERS' COMPENSATION LAW.]

The revisor of statutes shall recodify the workers' compensation law, including Minnesota Statutes, chapter 176, and its judicial and administrative interpretation.

The recodification must not make any substantive changes but shall provide a comprehensive, accurate, and complete restatement.

Each state department agency and legislative staff, including senate counsel and house of representatives research, shall provide assistance in the recodification as requested by the revisor of statutes.

The revisor shall report to the legislature by January 1, 1989, on the progress of the recodification. The revisor shall prepare a bill to implement its recommendations for recodification by January 1, 1990.

Sec. 7. [HEARINGS AT THE OFFICE OF ADMINISTRATIVE HEARINGS; REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE.]

The chief administrative law judge shall consider methods to reduce the formality and length of hearings in workers' compensation cases at the office of administrative hearings, with a goal of completing 50 percent of the hearings in less than two hours, 75 percent in less than four hours and nearly all of the cases in less than one day. Before January 1, 1989, the chief judge shall report to the legislature on the efforts to meet these goals, including any recommendations for legislation needed to achieve these goals.

Sec. 8. [APPROPRIATION.]

\$341,500 is appropriated from the special compensation fund to the commissioner of labor and industry for the purposes of sections 2, 3, 4, and 5.

Sec. 9. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation benefits and administration; regulating workers' compensation insurance; abolishing the workers' compensation court of appeals and transferring its jurisdiction to the court of appeals; requiring certain reports relating to workers' compensation; appropriating money; amending Minnesota Statutes 1986, sections 79.01, subdivision 1; 79.074, by adding subdivisions; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3; 176.061, subdivision 10; 176.081, subdivisions 1 and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, and 20; 176.131, subdivisions 1a, 2, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.136, subdivision 1, and by adding a subdivision; 176.421, subdivisions 1 and 6; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; and 480A.06, subdivisions 3 and 4; Minnesota Statutes 1987 Supplement, sections 176.041, subdivision 4; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, and 6; 176.111, subdivisions 15 and 21; 176.131, subdivisions 1 and 8; and 176.221, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 79 and 176; repealing Minnesota Statutes 1986, sections 79.50; 79.51; 79.52; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.59; 79.60; 79.61; 79.62; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6; and Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2."

CALL OF THE SENATE

Mr. Berg imposed a call of the Senate for the balance of the proceedings on S.F. No. 2428. The Sergeant at Arms was instructed to bring in the absent members.

Mr. Berg moved to amend the Chmielewski amendment to S.F. No. 2428 as follows:

Delete from page 1, line 3, "ARTICLE" to page 61, line 25, "2." and insert:

"ARTICLE 1**WORKERS' COMPENSATION SYSTEM CHANGES**

Section 1. Minnesota Statutes 1986, section 176.011, subdivision 11a, is amended to read:

Subd. 11a. [FAMILY FARM.] "Family farm" means any farm operation which (1) pays or is obligated to pay less than ~~\$8,000~~ \$20,000 in cash wages, exclusive of machine hire, to farm laborers for services rendered during the preceding calendar year, and (2) has total liability and medical payment coverage equal to \$250,000 and \$5,000, respectively, under a farm liability insurance policy. For purposes of this subdivision, farm laborer does not include any spouse, parent or child, regardless of age, of

a farmer employed by the farmer, or any executive officer of a family farm corporation as defined in section 500.24, subdivision 2, or any spouse, parent or child, regardless of age, of such an officer employed by that family farm corporation, or other farmers in the same community or members of their families exchanging work with the employer. Notwithstanding any law to the contrary, a farm laborer shall not be considered as an independent contractor for the purposes of this chapter; provided that a commercial baler or commercial thresher shall be considered an independent contractor.

Sec. 2. Minnesota Statutes 1986, section 176.011, subdivision 18, is amended to read:

Subd. 18. [WEEKLY WAGE.] "Weekly wage" is arrived at by multiplying the daily wage by the number of days and fractional days normally worked in the business of the employer for the employment involved. If the employee normally works less than five days per week or works an irregular number of days per week, the number of days normally worked shall be computed by dividing the total number of days in which the employee actually performed any of the duties of employment in the last 26 weeks by the number of weeks in which the employee actually performed such duties, provided that the weekly wage for part time employment during a period of seasonal or temporary layoff shall be computed on the number of days and fractional days normally worked in the business of the employer for the employment involved. If, at the time of the injury, the employee was regularly employed by two or more employers, the employee's days of work for all such employments shall be included in the computation of weekly wage. Occasional overtime is not to be considered in computing the weekly wage, but if overtime is regular or frequent throughout the year it shall be taken into consideration. The maximum weekly compensation payable to an employee, or to the employee's dependents in the event of death, shall not exceed ~~66 2/3~~ 80 percent of the ~~product of the daily wage times the number of days normally worked~~ employee's after-tax weekly wage, provided that the compensation payable for permanent partial disability under section 176.101, subdivision 3, and for permanent total disability under section 176.101, subdivision 4, or death under section 176.111, shall not be computed on less than the number of hours normally worked in the employment or industry in which the injury was sustained, subject also to such maximums as are specifically otherwise provided.

Sec. 3. Minnesota Statutes 1986, section 176.011, is amended by adding a subdivision to read:

Subd. 18a. [AFTER-TAX WEEKLY WAGE.] *After-tax weekly wage means the weekly wage reduced by the amounts required to be withheld by the Federal Insurance Contributions Act, United States Code, Title 16, sections 3101 to 3126, but without regard to the yearly maximum, and by state and federal income tax laws using as the number of allowances the number of exemptions that the employee is entitled to under federal law for the employee and the employee's dependents.*

Sec. 4. Minnesota Statutes 1986, section 176.021, subdivision 3, is amended to read:

Subd. 3. [COMPENSATION, COMMENCEMENT OF PAYMENT.] All employers shall commence payment of compensation at the time and in the manner prescribed by this chapter without the necessity of any agreement or any order of the division. Except for medical, burial, and other

nonperiodic benefits, payments shall be made as nearly as possible at the intervals when the wage was payable, provided, however, that payments for permanent partial disability shall be governed by section 176.101 13. If doubt exists as to the eventual permanent partial disability, payment for the economic recovery compensation or impairment compensation, whichever is due, pursuant to section 176.101, shall be then made when due for the minimum permanent partial disability ascertainable, and further payment shall be made upon any later ascertainment of greater permanent partial disability. Prior to or at the time of commencement of the payment of economic recovery compensation or lump sum or periodic payment of impairment compensation permanent partial disability 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. 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 but is payable pursuant to section 176.101. Impairment compensation is payable concurrently and in addition to compensation for permanent total disability pursuant to section 176.101. Economic recovery compensation or impairment compensation pursuant to section 176.101 shall be withheld pending completion of payment for temporary total disability, and no credit shall be taken for payment of economic recovery compensation or impairment compensation against liability for temporary total or future permanent total disability. Liability on the part of an employer or the insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and compensation is payable accordingly, subject to section 176.101. Economic recovery compensation or impairment compensation 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 section 176.101. The right to receive temporary total, temporary partial, or permanent total disability payments vests in the injured employee or the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained and the right is not abrogated by the employee's death prior to the making of the payment.

The right to receive economic recovery compensation or impairment permanent partial compensation vests in an injured employee or in the employee's dependents under this chapter or, if none, in the employee's legal heirs at the time the disability can be ascertained, provided that the employee lives for at least 30 days beyond the date of the injury. The right is not abrogated by the employee's death prior to the making of the payment. Upon the death of an employee who is receiving economic recovery compensation or impairment compensation, further compensation is payable pursuant to section 176.101. Impairment compensation is payable under this paragraph if vesting has occurred; the employee dies prior to reaching

maximum medical improvement, and the requirements and conditions under section 176.101, subdivision 3e, are not met.

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

Sec. 5. Minnesota Statutes 1987 Supplement, section 176.041, subdivision 4, is amended to read:

Subd. 4. [OUT-OF-STATE EMPLOYMENTS.] (a) *Except as provided in paragraph (b), if an employee who regularly performs the primary duties of employment outside of this state or is hired to perform the primary duties of employment outside of this state, receives an injury within this state in the employ of the same employer, such injury shall be covered within the provisions of this chapter if the employee chooses to forego any workers' compensation claim resulting from the injury that the employee may have a right to pursue in some other state, provided that the special compensation fund is not liable for payment of benefits pursuant to section 176.183 if the employer is not insured against workers' compensation liability pursuant to this chapter and the employee is a nonresident of Minnesota on the date of the personal injury.*

(b) An employee who has been hired outside of this state, or regularly performs the primary duties of employment outside of this state, and the employee's employer, are exempt from the provisions of this chapter while the employee is temporarily within this state performing work for the employer provided the employer has furnished workers' compensation insurance coverage under the workers' compensation law or other similar law of another state which covers the employee's employment while in this state. The benefits under the workers' compensation law or similar law of the other state, or other remedies under that state's law, are the exclusive remedy against the employer for any injury, whether resulting in death or not, received by the employee while working for that employer within this state. A certificate from the commissioner of labor and industry or other similar official of another state certifying that the employer is insured in that state and has provided extraterritorial coverage insuring its employees while working within this state is prima facie evidence that the employer carries workers' compensation insurance on those employees.

Sec. 6. Minnesota Statutes 1986, section 176.061, subdivision 10, is amended to read:

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. 7. Minnesota Statutes 1986, section 176.081, subdivision 1, is amended to read:

Subdivision 1. (a) A fee for legal services of 25 percent of the first \$4,000 of compensation awarded to the employee and 20 percent of the next \$27,500 of compensation awarded to the employee is permissible and does not require approval by the commissioner, compensation judge, or any other party except as provided in ~~clause~~ paragraph (b). If the employer or the insurer or the defendant is given written notice of claims for legal

services or disbursements, the claim shall be a lien against the amount paid or payable as compensation. In no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims, including disputes related to the payment of rehabilitation benefits or to other aspects of a rehabilitation plan. Fees for administrative conferences under ~~section 176.242, 176.2421, 176.243, or 176.244~~ *sections 176.106 and 176.239* shall be determined on an hourly basis, according to the criteria in subdivision 5.

(b) An attorney who is claiming legal fees ~~under this section~~ *for representing an employee in a workers' compensation matter* shall file a statement of ~~attorney's attorney~~ fees with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. A copy of the signed retainer agreement shall also be filed. The employee and insurer shall receive a copy of the statement. The statement shall be on a form prescribed by the commissioner and shall clearly and conspicuously state that the employee or insurer has ten calendar days to object to the attorney fees requested. If no objection is timely made by the employee or insurer, the amount requested shall be conclusively presumed reasonable providing the amount does not exceed the limitation in subdivision 1. The commissioner, compensation judge, or court of appeals shall issue an order granting the fees and the amount requested shall be awarded to the party requesting the fee. If a timely objection is filed, or the fee is determined on an hourly basis, the commissioner, compensation judge, or court of appeals shall review the matter and make a determination based on the criteria in subdivision 5. If no timely objection is made by an employer or insurer, reimbursement under subdivision 7 shall be made if the statement of fees requested this reimbursement.

(c) *An attorney representing employers or insurers shall file a statement of attorney fees or wages with the commissioner, compensation judge before whom the matter was heard, or workers' compensation court of appeals on cases before the court. The statement of attorney fees or wages must contain the following information: the average hourly wage or the value of hours worked on that case if the attorney is an employee of the employer or insurer, the number of hours worked on that case, and the average hourly rate or amount charged an employer or insurer for that case if the attorney is not an employee of the employer or insurer.*

(d) *Employers and insurers may not pay attorney fees or wages for legal services of more than \$6,500 per case unless the additional fees or wages are approved under subdivision 2.*

Sec. 8. Minnesota Statutes 1987 Supplement, section 176.081, subdivision 2, is amended to read:

Subd. 2. An application for attorney fees in excess of the amount authorized in subdivision 1 shall be made to the commissioner, compensation judge, or district judge, before whom the matter was heard. An appeal of a decision by the commissioner, a compensation judge, or district court judge on additional fees may be made to the workers' compensation court of appeals. The application shall set forth the fee requested ~~and, the number of hours spent on the case,~~ the basis for the request, and whether or not a hearing is requested. The application, with affidavit of service upon the ~~employee attorney's client,~~ shall be filed by the attorney requesting the

fee. If a hearing is requested by an interested party, a hearing shall be set with notice of the hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 9. Minnesota Statutes 1986, section 176.081, subdivision 3, is amended to read:

Subd. 3. ~~An employee who~~ *A party that* is dissatisfied with *its* attorney fees, may file an application for review by the workers' compensation court of appeals. Such application shall state the basis for the need of review and whether or not a hearing is requested. A copy of such application shall be served upon the *party's* attorney ~~for the employee~~ by the court administrator and if a hearing is requested by either party, the matter shall be set for hearing. The notice of hearing shall be served upon known interested parties. ~~The attorney for the employee shall be served with a notice of the hearing.~~ The workers' compensation court of appeals shall have the authority to raise ~~the question of~~ the issue of the attorney fees at any time upon its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 10. Minnesota Statutes 1986, section 176.101, subdivision 1, is amended to read:

Subdivision 1. [TEMPORARY TOTAL DISABILITY.] (a) For an injury producing temporary total disability, the compensation is ~~66-2/3~~ 80 percent of the *after-tax* 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;~~ (b) The maximum weekly compensation payable is 105 percent of the statewide average weekly wage for the period ending December 31, of the preceding year.

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

(d) ~~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, ~~and shall cease whenever any one of the following occurs:~~

- (1) *the disability ends;*
- (2) *the employee returns to work;*
- (3) *the employee retires by withdrawing from the labor market;*
- (4) *the employee refuses an offer of work that is consistent with a plan of rehabilitation filed with the commissioner, which meets the requirements of section 176.102, subdivision 1, or, if no plan has been filed, that the employee can do in the employee's physical condition; or*
- (5) *90 days have passed after the employee has reached maximum medical improvement, except as provided in section 176.102, subdivision 11, paragraph (b).*

(e) For purposes of paragraph (d), clause (5), the 90-day period after maximum medical improvement commences on the earlier of:

- (1) *the date that the employee receives a written medical report indicating that the employee has reached maximum medical improvement; or*

(2) the date that the employer or insurer serves the report on the employee and the employee's legal representative and files a copy with the division.

(f) Once compensation has ceased under paragraph (d), clauses (1), (2), and (3), it may be recommenced at a later date if: the employee returns to work, the employee is laid off due to economic conditions or is medically unable to continue at the job, and the layoff or inability to continue occurs prior to 90 days after the employee reaches maximum medical improvement. Compensation recommenced under this paragraph is subject to cessation under paragraph (d). Recommenced compensation may not be paid beyond 90 days after the employee reaches maximum medical improvement, except as provided under section 176.102, subdivision 11, paragraph (b).

(g) Once compensation has ceased under paragraph (d), clauses (4) and (5), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).

Sec. 11. Minnesota Statutes 1986, section 176.101, is amended by adding a subdivision to read:

Subd. 1a. [EXTENDED DISABILITY COMPENSATION.] (a) If an employee, who has a permanent partial disability, is not working because of the personal injury after payment of permanent partial disability benefits is complete, the employee shall be eligible for extended disability compensation. If an employee received any permanent partial compensation in a lump sum, payment will be considered complete after expiration of the period that the employee would have received permanent partial compensation had it been paid periodically.

(b) Extended disability compensation is paid at the rate for temporary total compensation, escalated under section 176.645, for the number of weeks equal to 246 multiplied by the employee's percentage rating of permanent partial disability, determined according to the rules adopted by the commissioner pursuant to section 176.105, subdivision 4. The total extended compensation for any injury may not exceed this product.

(c) Extended disability compensation shall cease if the employee is no longer disabled, returns to work, refuses a job offer described in subdivision 1, paragraph (d), clause (4), or retires from the labor market.

(d) An employee is not eligible for extended disability compensation if, at any time before the employee would have become eligible:

(1) the employee refuses a job offer, as described in subdivision 1, paragraph (d), clause (4); or

(2) the employee returns to work and terminates employment, unless the employee was medically unable to continue work or was terminated without just cause;

(e) An employee is eligible for extended compensation at any time after payment of permanent partial benefits is complete so long as the employee meets the qualifications of this section and has not been paid the maximum number of weeks under paragraph (b) for that injury; provided that, extended compensation may not be paid beyond 350 weeks after the date of injury.

Sec. 12. Minnesota Statutes 1986, section 176.101, subdivision 2, is amended to read:

Subd. 2. [TEMPORARY PARTIAL DISABILITY.] (a) In all cases of temporary partial disability the compensation shall be ~~66-2/3 percent~~ of

the difference between the weekly wage of the employee at the time of injury and the wage the employee is able to earn in the employee's partially disabled condition; paid as follows:

(1) for the first 26 weeks that the employee returns to work, the compensation shall be 80 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition;

(2) for the second 26 weeks that the employee returns to work, the compensation shall be 60 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition; and

(3) for the third 26 weeks that the employee returns to work, the compensation shall be 40 percent of the difference between the after-tax weekly wage of the employee at the time of injury and the after-tax weekly wage the employee is earning in the employee's partially disabled condition.

(b) This compensation shall be paid during the period of disability except as provided in this section, payment to be made at the intervals when the wage was payable, as nearly as may be, and subject to a maximum compensation equal to 105 percent of the statewide average weekly wage.

(c) Temporary partial compensation may be paid only while the employee is working and earning less than the employee's weekly wage at the time of the injury. Except as provided in section 176.102, subdivision 11, paragraph (b), temporary partial compensation may not be paid after the employee has returned to work for 78 weeks or after 350 weeks after the date of injury, whichever occurs first.

Sec. 13. Minnesota Statutes 1986, section 176.101, is amended by adding a subdivision to read:

Subd. 3. [PERMANENT PARTIAL DISABILITY.] (a) Compensation for permanent partial disability is as provided in this subdivision. For permanent partial disability up to the percent of the whole body shown in the following schedule, the amount of compensation is 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
96-100

360,000
400,000

An employee may not receive compensation for more than a 100 percent disability of the whole body, even if the employee sustains disability to two or more body parts.

(b) Permanent partial disability is payable upon cessation of temporary total disability under subdivision 1. If the employee is not working, the compensation is payable in installments at the same intervals and in the same amount as the initial temporary total disability rate. If the employee returns to work, the remaining compensation is payable in a lump sum 30 days after the employee returned to work provided the employment has not been substantially interrupted by the injury for any part of the 30 days and the employee is still employed at the job at the end of the period.

Sec. 14. Minnesota Statutes 1986, section 176.101, subdivision 4, is amended to read:

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

Sec. 15. Minnesota Statutes 1986, section 176.101, subdivision 5, is amended to read:

Subd. 5. [TOTAL DISABILITY DEFINITION.] (a) For purposes of subdivision 4, permanent total disability means only:

(1) the total and permanent loss of the sight of both eyes, the loss of both arms at the shoulder, the loss of both legs so close to the hips that no effective artificial members can be used, complete and permanent paralysis, total and permanent loss of mental faculties; or

(2) any other injury which both results in permanent partial disability of 20 percent or more of the whole body and totally and permanently incapacitates the employee from working at an occupation which brings the employee an income constitutes total disability.

(b) For purposes of paragraph (a), clause (2), totally and permanently incapacitated means that the employee's physical disability, in combination with the employee's age, education and training, and experience, causes the employee to be unable to secure anything more than sporadic employment resulting in an insubstantial income. Local labor market conditions may not be considered in making the total and permanent incapacitation determination.

Sec. 16. Minnesota Statutes 1986, section 176.102, subdivision 1, is amended to read:

Subdivision 1. [SCOPE.] (a) This section only applies to vocational rehabilitation of injured employees and their spouses as provided under subdivision 1a. Physical rehabilitation of injured employees is considered treatment subject to section 176.135.

(b) Rehabilitation is intended to restore the injured employee, through physical and vocational rehabilitation, so the employee may return to a job related to the employee's former employment or to a job in another work area which produces an economic status as close as possible to that 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. 17. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 2, is amended to read:

Subd. 2. [ADMINISTRATORS.] The commissioner shall hire a director of rehabilitation services in the classified service. The commissioner shall monitor and supervise rehabilitation services, including, but not limited to, making determinations regarding the selection and delivery of rehabilitation services and the criteria used to approve qualified rehabilitation consultants and rehabilitation vendors. The commissioner may also make determinations regarding fees for rehabilitation services and shall by rule, subject to chapter 14, establish a fee schedule or otherwise limit fees charged by qualified rehabilitation consultants and vendors. The commissioner may hire qualified personnel to assist in the commissioner's duties under this section and may delegate the duties and performance.

Sec. 18. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 3, is amended to read:

Subd. 3. [REVIEW PANEL.] There is created a rehabilitation review panel composed of the commissioner or a designee, who shall serve as an ex officio member and two members one member each from representing employers, insurers, rehabilitation, and medicine, one member representing chiropractors, and four two members each representing labor and rehabilitation vendors, and six members who are qualified rehabilitation consultants. The members shall be appointed by the commissioner and shall serve four-year terms which may be renewed. Compensation for members shall be governed by section 15.0575. The panel shall select a chair. The panel shall review and make a determination with respect to appeals from orders of the commissioner regarding certification approval of qualified rehabilitation consultants and vendors. The hearings are de novo and initiated by the panel under the contested case procedures of chapter 14, and

are appealable to the workers' compensation court of appeals in the manner provided by section 176.421.

Sec. 19. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 3a, is amended to read:

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

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

Sec. 20. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 4, is amended to read:

Subd. 4. [REHABILITATION PLAN; DEVELOPMENT.] (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 provided immediately after receipt of this information.

For purposes of this section "lost work time" means only those days during which the employee would actually be working but for the injury. In the case of the construction industry, mining industry, or other industry where the hours and days of work are affected by seasonal conditions, "lost work time" shall be computed by using the normal schedule worked when employees are working full time. A rehabilitation consultation must be provided by the employer to an injured employee upon request of the employee, the employer, or the commissioner. If a rehabilitation consultation is requested, the employer shall provide a qualified rehabilitation consultant; except that, if the injured employee objects to the employer's selection, the employee may select a qualified rehabilitation consultant of the employee's own choosing within 30 days following the first in-person contact between the employee and the original qualified rehabilitation

consultant. If the consultation indicates that rehabilitation services are appropriate pursuant to subdivision 1, the employer shall provide such services. If the consultation indicates that rehabilitation services are not appropriate pursuant to subdivision 1, the employer shall notify the employee of this determination within seven days after the consultation.

(b) In order to assist the commissioner in determining whether or not to request rehabilitation consultation for an injured employee, an employer must notify the commissioner whenever the employee's temporary total disability will likely exceed 13 weeks. The notification must be made within 90 days from the date of the injury or when the likelihood of at least a 13-week disability can be determined, whichever is earlier, and must include a current physician's report.

(c) The qualified rehabilitation consultant appointed by the employer or insurer shall disclose in writing at the first meeting or written communication with the employee any ownership interest or affiliation between the firm which employs the qualified rehabilitation consultant and the employer, insurer, adjusting or servicing company, including the nature and extent of the affiliation or interest. The consultant shall also disclose to all parties any affiliation, business referral or other arrangement between the consultant or the firm employing the consultant and any other party to the case, including or to any attorneys, doctors, or chiropractors.

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

(d) After the initial provision or selection of a qualified rehabilitation consultant as provided under paragraph (a), the employee may choose request a different qualified rehabilitation consultant as follows:

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

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

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

(e) The employee and employer shall enter into a program if one is prescribed in develop a rehabilitation plan within 30 days of the rehabilitation consultation if the qualified rehabilitation consultant determines that rehabilitation is appropriate. A copy of the plan, including a target date for return to work, shall be submitted to the commissioner within 15 days after the plan has been developed.

(b) (f) If the employer does not provide rehabilitation consultation, or the employee does not select a qualified rehabilitation consultant, as required by this section provided under paragraph (a), the commissioner or compensation judge shall notify the employer that if the employer fails to appoint provide, or the employee fails to select, whichever is applicable, a qualified rehabilitation consultant or other persons as permitted by clause (a) within 15 days to conduct a rehabilitation consultation, the commissioner or compensation judge shall appoint a qualified rehabilitation consultant to provide the consultation at the expense of the employer unless

the commissioner or compensation judge determines the consultation is not required.

(e) (g) 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) (h) The commissioner or compensation judge may waive rehabilitation services under this section if the commissioner or compensation judge is satisfied that the employee will return to work in the near future or that rehabilitation services will not be useful in returning an employee to work.

Sec. 21. Minnesota Statutes 1987 Supplement, section 176.102, subdivision 6, is amended to read:

Subd. 6. [PLAN, ELIGIBILITY FOR REHABILITATION, APPROVAL AND APPEAL.] The commissioner or a compensation judge shall determine eligibility for rehabilitation services and shall review, approve, modify, or reject rehabilitation plans developed under subdivision 4. The commissioner or a compensation judge shall also make determinations regarding rehabilitation issues not necessarily part of a plan including, but not limited to, determinations regarding whether an employee is eligible for further rehabilitation and the benefits under subdivisions 9 and 11 to which an employee is entitled. *A plan that is not completed within six months or that will cost more than \$3,000 must be specifically approved by the commissioner. This approval may not be waived by the parties.*

Sec. 22. Minnesota Statutes 1986, section 176.102, subdivision 7, is amended to read:

Subd. 7. [PLAN IMPLEMENTATION; REPORTS.] (a) Upon request by the commissioner, insurer, employer or employee, medical and rehabilitation reports shall be made by the provider of the medical and rehabilitation service to the commissioner, insurer, employer, or employee.

(b) *If a rehabilitation plan has not already been filed pursuant to subdivision 4, an employer shall report to the commissioner after 90 days from the date of the injury, but before 120 days therefrom, as to what rehabilitation consultation and services, if any, have been provided to the injured employee or why rehabilitation consultation and services have not been provided.*

Sec. 23. Minnesota Statutes 1986, section 176.102, subdivision 11, is amended to read:

Subd. 11. [RETRAINING; COMPENSATION.] (a) Retraining is limited to 156 weeks. 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 or compensation judge determines that this additional compensation is warranted due to unusual or unique circumstances of the employee's retraining plan, the commissioner or compensation judge 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 or compensation judge determines the special circumstances are no longer present.

(b) *Pursuant to section 176.101, subdivisions 1 and 2, temporary total*

disability or temporary partial disability shall be paid during a retraining plan that has been specifically approved under this section and for up to 90 days after the end of the plan; except that, payment during the 90-day period is subject to cessation in accordance with section 176.101, subdivision 1, paragraph (d), clauses (1) to (4). Compensation paid under this paragraph must cease if the employee terminates participation in the approved retraining plan without good cause.

Sec. 24. Minnesota Statutes 1986, section 176.105, subdivision 1, is amended to read:

Subdivision 1. (a) The commissioner of labor and industry shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries. *The commissioner, in consultation with the medical services review board, shall annually review these rules to determine whether any injuries omitted from the schedule should be compensable and, if so, amend the rules accordingly.*

(b) Disability ratings for permanent partial disability must be based on objective medical evidence.

Sec. 25. Minnesota Statutes 1986, section 176.111, subdivision 6, is amended to read:

Subd. 6. [SPOUSE, NO DEPENDENT CHILD.] If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the spouse weekly workers' compensation benefits at ~~50~~ 80 percent of the *after-tax* weekly wage at the time of the injury for a period of ten years, including adjustments as provided in section 176.645.

Sec. 26. Minnesota Statutes 1986, section 176.111, subdivision 7, is amended to read:

Subd. 7. [SPOUSE, ONE DEPENDENT CHILD.] 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~~ 80 percent of the ~~daily~~ *after-tax* weekly 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 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.~~

Sec. 27. Minnesota Statutes 1986, section 176.111, subdivision 8, is amended to read:

Subd. 8. [SPOUSE, TWO DEPENDENT CHILDREN.] 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~~ 80 percent of the ~~daily~~ *after-tax* weekly wage at the time of the injury of the deceased until the last dependent child is no longer dependent. ~~At that time the dependent surviving spouse shall be paid 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.~~

Sec. 28. Minnesota Statutes 1986, section 176.111, subdivision 12, is amended to read:

Subd. 12. [ORPHANS.] If the deceased employee leaves a dependent orphan, there shall be paid ~~55~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased, for two or more orphans there shall be paid ~~66-2/3~~ 80 percent of the ~~wages~~ *after-tax* weekly wage.

Sec. 29. Minnesota Statutes 1986, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee leave no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on deceased, there shall be paid to such parents jointly ~~45~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased. In case of the death of either of the wholly dependent parents the survivor shall receive ~~35~~ 80 percent of the *after-tax* weekly wage thereafter. If the deceased employee leave one parent wholly dependent on the deceased, there shall be paid to such parent ~~35~~ 80 percent of the *after-tax* weekly wage at the time of the injury of the deceased employee. The compensation payments under this section shall not exceed the actual contributions made by the deceased employee to the support of the employee's parents for a reasonable time immediately prior to the injury which caused the death of the deceased employee.

Sec. 30. Minnesota Statutes 1987 Supplement, section 176.111, subdivision 15, is amended to read:

Subd. 15. [REMOTE DEPENDENTS.] If the deceased employee leaves no surviving spouse or child or parent entitled to any payment under this chapter, but leaves a grandparent, grandchild, brother, sister, mother-in-law, or father-in-law wholly dependent on the employee for support, there shall be paid to such dependent, if but one, ~~30~~ 40 percent of the *after-tax* weekly wage at the time of injury of the deceased, or if more than one, ~~35~~ 45 percent of the *after-tax* weekly wage at the time of the injury of the deceased, divided among them share and share alike.

Sec. 31. Minnesota Statutes 1986, section 176.111, subdivision 20, is amended to read:

Subd. 20. [ACTUAL DEPENDENTS, COMPENSATION.] Actual dependents are entitled to take compensation in the order named in subdivision 3 during dependency until ~~66-2/3~~ 80 percent of the *after-tax* weekly wage of the deceased at the time of injury is exhausted. The total weekly compensation to be paid to full actual dependents of a deceased employee shall not exceed in the aggregate an amount equal to the maximum weekly compensation for a temporary total disability.

Sec. 32. Minnesota Statutes 1987 Supplement, section 176.111, subdivision 21, is amended to read:

Subd. 21. [DEATH, BENEFITS; COORDINATION WITH GOVERNMENTAL SURVIVOR BENEFITS.] The following provision shall apply to any dependent entitled to receive weekly compensation benefits under this section as the result of the death of an employee, and who is also receiving or entitled to receive benefits under any government survivor program:

The combined total of weekly government survivor benefits and workers' compensation death benefits provided under this section shall not exceed 100 percent of the *after-tax* weekly wage being earned by the deceased employee at the time of the injury causing death; provided, however, that no state workers' compensation death benefit shall be paid for any week

in which the survivor benefits paid under the federal program, by themselves, exceed 100 percent of such weekly wage provided, however, the workers' compensation benefits payable to a dependent surviving spouse shall not be reduced on account of any governmental survivor benefits payable to decedent's children if the support of the children is not the responsibility of the dependent surviving spouse.

For the purposes of this subdivision "dependent" means dependent surviving spouse together with all dependent children and any other dependents. For the purposes of this subdivision, mother's or father's insurance benefits received pursuant to United States Code, title 42, section 402(g), are benefits under a government survivor program.

Sec. 33. Minnesota Statutes 1987 Supplement, section 176.131, subdivision 1, is amended to read:

Subdivision 1. If an employee incurs personal injury and suffers disability from that injury alone that is substantially greater, because of a preexisting physical impairment, than what would have resulted from the personal injury alone, the employer or insurer shall pay all compensation provided by this chapter, but 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~~ \$3,500 in medical expenses, subject to the exceptions in paragraphs (a), (b), and (c):

(a) If the disability caused by the subsequent injury is made substantially greater by the employee's registered preexisting physical impairment, there shall be apportionment of liability among all injuries. The special compensation fund shall only reimburse for that portion of the compensation, medical expenses, and rehabilitation expenses attributed to the subsequent injury after the applicable deductible has been met.

(b) If the subsequent personal injury alone results in permanent partial disability to a scheduled member under the schedule adopted by the commissioner pursuant to section 176.105, the special compensation fund shall not reimburse permanent partial disability, medical expenses, or rehabilitation expenses.

(c) *Reimbursement for compensation paid shall be at the rate of 75 percent.*

Sec. 34. Minnesota Statutes 1986, section 176.131, subdivision 1a, is amended to read:

Subd. 1a. If an employee is employed in an on-the-job training program pursuant to an approved rehabilitation plan under section 176.102 and the employee incurs a personal injury that aggravates the personal injury for which the employee has been certified to enter the on-the-job training program, the on-the-job training employer shall pay the medical expenses and compensation required by this chapter, and shall be reimbursed from the special compensation fund for the compensation and medical expense that is attributable to the aggravated injury; *except that, reimbursement for compensation paid shall be at the rate of 75 percent.* The employer, at the time of the personal injury for which the employee has been approved for on-the-job training, is liable for the portion of the disability that is attributable to that injury.

Sec. 35. Minnesota Statutes 1986, section 176.131, subdivision 2, is amended to read:

Subd. 2. If the employee's personal injury results in disability or death, and if the injury, death, or disability would not have occurred except for the preexisting physical impairment registered with the special compensation fund, the employer shall pay all compensation provided by this chapter, and shall be ~~fully~~ reimbursed from the special compensation fund for the compensation, except that:

(1) this ~~full~~ reimbursement shall not be made for cardiac disease or a condition registered pursuant to subdivision 8, clause (t) or (u) unless the commissioner by rule provides otherwise; and

(2) reimbursement for compensation paid shall be at the rate of 75 percent.

Sec. 36. Minnesota Statutes 1987 Supplement, 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 except that physical impairment is limited to the following:

(a) Epilepsy,

(b) Diabetes,

(c) Hemophilia,

(d) Cardiac disease, provided that objective medical evidence substantiates at least the minimum permanent partial disability listed in the workers' compensation permanent partial disability schedule,

(e) Partial or entire absence of thumb, finger, hand, foot, arm or leg,

(f) Lack of sight in one or both eyes or vision in either eye not correctable to 20/40,

(g) Residual disability from poliomyelitis,

(h) Cerebral Palsy,

(i) Multiple Sclerosis,

(j) Parkinson's disease,

(k) Cerebral vascular accident,

(l) Chronic Osteomyelitis,

(m) Muscular Dystrophy,

(n) Thrombophlebitis,

(o) Brain tumors,

(p) Pott's disease,

(q) Seizures,

(r) Cancer of the bone,

(s) Leukemia,

(t) Any other physical impairment resulting in a disability rating of at

least ~~ten~~ 25 percent of the whole body if the physical impairment were evaluated according to standards used in workers' compensation proceedings, and

(u) Any other physical impairments of a permanent nature which the 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 rehabilitation.

Sec. 37. Minnesota Statutes 1986, section 176.131, is amended by adding a subdivision to read:

Subd. 13. [APPLICABLE LAW.] The right to reimbursement under this section is governed by the law in effect on the date of the subsequent injury.

Sec. 38. Minnesota Statutes 1986, section 176.132, subdivision 1, is amended to read:

Subdivision 1. [ELIGIBLE RECIPIENTS.] (a) An employee who has suffered personal injury prior to October 1, 1983 for which benefits are payable under section 176.101 and who has been totally disabled for more than 104 weeks shall be eligible for supplementary benefits as prescribed in this section after 104 weeks have elapsed and for the remainder of the total disablement. Regardless of the number of weeks of total disability, no totally disabled person is ineligible for supplementary benefits after four years have elapsed since the first date of the total disability, except as provided by clause (b); provided that all periods of disability are caused by the same injury.

(b) An employee who has suffered personal injury after October 1, 1983, and before August 1, 1988, 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.

(b) An employee who has suffered personal injury after August 1, 1988, that caused a permanent total disability, as defined in section 176.101, subdivision 5, is eligible to receive supplementary benefits after four years have elapsed since the first date of the total disability, provided that the employee continues to have a permanent total disability.

Sec. 39. Minnesota Statutes 1986, section 176.132, subdivision 2, is amended to read:

Subd. 2. [AMOUNT.] (a) The supplementary benefit payable under this section shall be the difference between the amount the employee receives on or after January 1, 1976, under section 176.101, subdivision 1 or 4, and 65 percent of the statewide average weekly wage as computed annually. The supplementary benefit payable under this section is:

(1) the sum of the amount the employee receives under section 176.101, subdivision 4, plus the amount of any disability benefits being paid by any

government disability benefit program if those benefits are occasioned by the same injury or injuries giving rise to payments under section 176.101, subdivision 4, plus any old age and survivor's insurance benefits, subtracted from

(2) 50 percent of the statewide average weekly wage, as computed annually.

(b) In the event an eligible recipient is currently receiving no compensation or is receiving a reduced level of compensation because of a credit being applied as the result of a third party liability or damages, the employer or insurer shall compute the offset credit as if the individual were entitled to the actual benefit or 65 50 percent of the statewide average weekly wage as computed annually, whichever is greater. If this results in the use of a higher credit than otherwise would have been applied and the employer or insurer becomes liable for compensation benefits which would otherwise not have been paid, the additional benefits resulting shall be handled according to this section.

(c) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of a valid agreement in settlement of a claim, no supplementary benefit shall be payable under this section. Attorney's fees shall be allowed in settlements of claims for supplementary benefits in accordance with this chapter.

(d) In the event an eligible recipient is receiving no compensation or is receiving a reduced level of compensation because of prior limitations in the maximum amount payable for permanent total disability or because of reductions resulting from the simultaneous receipt of old age or disability benefits, the supplementary benefit shall be payable for the difference between the actual amount of compensation currently being paid and 65 percent of the statewide average weekly wage as computed annually.

(e) (d) In the event that an eligible recipient is receiving simultaneous benefits from any government disability program, the amount of supplementary benefits payable under this section shall be reduced by five percent. If the individual does not receive the maximum benefits for which the individual is eligible under other governmental disability programs due to the provisions of United States Code, title 42, section 424a(d), this reduction shall not apply.

Sec. 40. Minnesota Statutes 1986, section 176.132, subdivision 3, is amended to read:

Subd. 3. [PAYMENT.] The payment of supplementary benefits shall be the responsibility of the employer or insurer ~~currently paying total disability benefits, or any other payer of such benefits. When the eligible individual is not currently receiving benefits because the total paid has reached the maximum prescribed by law the employer and insurer shall, nevertheless, pay the supplementary benefits that are prescribed by law.~~ The employer or insurer paying the supplementary benefit shall have the right of full reimbursement from the special compensation fund for the amount of such benefits paid.

Sec. 41. Minnesota Statutes 1986, section 176.136, subdivision 1, is amended to read:

Subdivision 1. [SCHEDULE.] (a) The commissioner 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

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 ~~shall~~ *must* 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.

(b) The medical fee rules for providers other than hospitals, which are promulgated on October 1, 1987, and based upon 1986 medical cost data, must remain in effect until September 30, 1989; and the medical fee rules for providers other than hospitals, which are promulgated on October 1, 1989, must be based on the 1987 medical cost data and must remain in effect until September 30, 1990.

(c) The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall must be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall must 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.

Sec. 42. Minnesota Statutes 1986, section 176.136, is amended by adding a subdivision to read:

Subd. 1a. [CHARGES FOR INDEPENDENT MEDICAL EXAMINATIONS.] The commissioner shall adopt rules that reasonably limit amounts which may be charged for, or in connection with, independent or adverse medical examinations requested by any party, including the amount that may be charged for depositions, witness fees, or other expenses. The scheduled amount for the examination itself may not exceed the scheduled amount for complex consultations by treating physicians, although additional reasonable charges may be permitted to reflect additional duties or activities. An insurer or employer may not pay fees above the amount in the schedule.

Sec. 43. Minnesota Statutes 1987 Supplement, section 176.221, subdivision 1, is amended to read:

Subdivision 1. [COMMENCEMENT OF PAYMENT.] Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of temporary total compensation shall commence. Within 14 days of notice to or knowledge by an employer of a new period of temporary total disability which is caused by an old injury compensable under this chapter, the payment of temporary total compensation shall commence; provided that the employer or insurer may file for an extension with the commissioner within this 14-day period, in which case the compensation need not commence within the 14-day period but shall commence no later than 30 days from the date of the notice to or knowledge by the employer of the new period of disability. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer has on any claim or incident either with respect to the compensability of the claim under this chapter or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown

that the injury has arisen out of employment with the second or subsequent employer. Liability for compensation under this chapter may be denied by the employer or insurer by giving the employee written notice of the denial of liability. If liability is denied for an injury which is required to be reported to the commissioner under section 176.231, subdivision 1, the denial of liability must be filed with the commissioner within 14 days after notice to or knowledge by the employer of an injury which is alleged to be compensable under this chapter. If the employer or insurer has commenced payment of compensation under this subdivision but determines within 30 60 days of notice to or knowledge by the employer of the injury that the disability is not a result of a personal injury, payment of compensation may be terminated upon the filing of a notice of denial of liability within 30 60 days of notice or knowledge. After the ~~30-day~~ 60-day period, payment may be terminated only by the filing of a notice as provided under section 176.239. Upon the termination, payments made may be recovered by the employer if the commissioner or compensation judge finds that the employee's claim of work related disability was not made in good faith. A notice of denial of liability must state in detail specific reasons explaining why the claimed injury or occupational disease was determined not to be within the scope and course of employment and shall include the name and telephone number of the person making this determination.

Sec. 44. Minnesota Statutes 1986, 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 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~~ four 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~~ four percent.

Sec. 45. Minnesota Statutes 1986, section 176.645, subdivision 2, is amended to read:

Subd. 2. [TIME OF FIRST ADJUSTMENT.] For injuries occurring on or after October 1, 1981, the initial adjustment made pursuant to subdivision 1 ~~shall be~~ is deferred until the first anniversary of the date of the injury. *For injuries occurring on or after August 1, 1988, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.*

Sec. 46. Minnesota Statutes 1986, section 176.66, subdivision 11, is amended to read:

Subd. 11. [AMOUNT OF COMPENSATION.] The compensation for an

occupational disease is ~~66-2/3~~ 80 percent of the employee's *after-tax* 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 eligible for supplementary benefits notwithstanding the provisions of section 176.132, after four years have elapsed since the date of last significant exposure to the hazard of the occupational disease if that employee's weekly compensation rate is less than the current supplementary benefit rate.

Sec. 47. [176.90] [AFTER-TAX CALCULATION.]

For purposes of section 176.011, subdivision 18, section 176.101, subdivisions 1, 2, 3, and 4, section 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21, and section 176.66, the commissioner shall publish by September 1 of each year tables or formulas for determining the after-tax weekly wage to take effect the following October 1. The tables or formulas must be based on the applicable federal income tax and social security laws and state income tax laws in effect on the preceding April 1. These tables or formulas are conclusive for the purposes of converting weekly wage into after-tax weekly wage. The commissioner may contract with the department of revenue or any other person or organization in order to adopt the tables or formulas. The adoption of the tables or formulas is exempt from the administrative rulemaking provisions of chapter 14.

Sec. 48. [176.95] [ADMINISTRATIVE COSTS.]

The annual cost to the commissioner of labor and industry of administering the workers' compensation system under this chapter must be charged to the state general fund. Administrative costs include the cost of administering the workers' compensation division of the department of labor and industry and the workers' compensation division of the office of administrative hearings.

Sec. 49. [ADMINISTRATIVE COSTS CHANGE-OVER.]

For the biennium beginning July 1, 1989, 50 percent of the costs of administering the workers' compensation system must be charged to the state general fund and 50 percent to the special compensation fund.

Sec. 50. [EXISTING DISABILITY RATINGS.]

Existing disability ratings adopted under section 176.105, subdivision 1, may not be changed before June 1, 1989.

Sec. 51. [AFTER-TAX CALCULATION.]

Notwithstanding section 47, the commissioner of labor and industry shall publish by July 15, 1988, a table or formula for determining the after-tax weekly wage effective August 1, 1988, until October 1, 1988, as otherwise required under that section.

Sec. 52. [REPEALER.]

Minnesota Statutes 1986, sections 176.011, subdivision 26; and 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6, are repealed.

Sec. 53. [EFFECTIVE DATE.]

Sections 5, 17, 18, 19, 24, 43, 47, 50, and 51 are effective the day following final enactment. Section 48 is effective July 1, 1991. Notwithstanding section 176.1321, sections 1 to 4, 6 to 16, 20 to 23, 25 to 41,

44 to 46, 49, and 52 are effective August 1, 1988. Section 42 is effective January 1, 1989.

ARTICLE 2

WORKERS' COMPENSATION INSURANCE

Section 1. Minnesota Statutes 1986, section 79.55, subdivision 2, is amended to read:

Subd. 2. [EXCESSIVENESS.] ~~No premium is excessive in a competitive market. In the absence of a competitive market,~~ Premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Sec. 2. Minnesota Statutes 1986, section 79.56, is amended by adding a subdivision to read:

Subd. 5. [RATE REGULATION.] (a) *Whenever an insurer files a change in its existing rate level or rating plan, the commissioner may hold a hearing to determine if the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. The hearing must be conducted pursuant to chapter 14. The commissioner shall give notice of intent to hold a hearing within 90 days of the filing of the change. It is the responsibility of the insurer to show that the rate level or rating plan is not excessive, inadequate, or unfairly discriminatory. The rate level or rating plan is effective unless it is determined as a result of the hearing that the rate level or rating plan is excessive, inadequate, or unfairly discriminatory. Upon such a finding, the rate level or rating plan is retroactively rescinded and any premiums collected thereunder must be refunded. This subdivision applies only to changes resulting from an insurer's utilization of either: (1) the pure premium base rate level filed by any data service organization, plus the insurer's loading for expenses and profit; or (2) the insurer's own filed rate levels and rating plan. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, or statutory benefit level changes to sections 176.101, subdivisions 1, 2, and 4, 176.111, 176.132, and 176.645 as a result of annual adjustments in the statewide average weekly wage. The disapproval of a rate level or rating plan under this subdivision must be done in the same manner as under section 70A.11, except that the standards of section 79.55 apply.*

(b) *Notwithstanding paragraph (a), if the commissioner of labor and industry petitions the commissioner for a hearing pursuant to this subdivision, the commissioner must hold a hearing if the commissioner of labor and industry certifies that the hearing is necessary because a decision of the supreme court or enactment of a statute has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner of labor and industry must make a prima facie showing that law change has effected a substantial change in the basis upon which the existing rate levels or rating plan was filed.*

(c) *Notwithstanding paragraph (a), the commissioner may hold a hearing if the commissioner determines that the hearing is necessary because of circumstances which result in a substantial change in the basis upon which the existing rate levels or rating plan was filed. The commissioner must make a prima facie showing that the circumstances resulted in a substantial*

change in the basis upon which the existing rate levels or rating plan was filed.

Sec. 3. [79.561] [PARTICIPATION.]

An employer, or person representing a group of employers, which will be directly affected by a change in an insurer's existing rate level or rating plan filed under section 2, and the commissioner of labor and industry, must be allowed to participate in any hearing under that subdivision challenging the change in rate level or rating plan as being excessive, inadequate, or unfairly discriminatory.

Sec. 4. Minnesota Statutes 1986, section 79.61, subdivision 1, is amended to read:

Subdivision 1. [REQUIRED ACTIVITY.] Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; and

(h) Assess its members for operating expenses on a fair and equitable basis;

(i) *Separate the incurred but not reported losses of its members;*

(j) *Separate paid and outstanding losses of its members;*

(k) *Provide information indicating cases in which its members have established a reserve in excess of \$50,000;*

(l) *Provide information on the income on invested reserves of its members;*

(m) *Provide information as to policies written at other than the filed rates;*

(n) *File information based solely on Minnesota premium income of its members concerning investment income, legal expenses, subrogation recoveries, administrative expenses, and commission expenses;*

(o) *File information based solely on Minnesota data concerning its members' reserving practices, premium income, indemnity, and medical benefits paid; and*

(p) *Provide any records of the data service organizations that are requested by the commissioner or otherwise required by statute.*

Sec. 5. [79.65] [CHAPTER APPLICABILITY TO DATA SERVICE ORGANIZATIONS.]

Subdivision 1. [EXAMINATION BY COMMISSIONER.] Data service organizations are subject to all the provisions of this chapter. The commissioner or an authorized representative of the commissioner may visit the rating association at any reasonable time and examine, audit, or evaluate the rating association's operations, records, and practices. For purposes of this section, "authorized representative of the commissioner" includes employees of the departments of commerce or labor and industry or other parties retained by the commissioner. Examination under this section may be done of any member of data service organizations for purposes of workers' compensation insurance regulation.

Subd. 2. [COSTS AND EXPENSES.] The commissioner may order and the data service organization shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1. A sum sufficient to pay these costs and expenses is appropriated from the special compensation fund to the commissioner of commerce.

Sec. 6. Minnesota Statutes 1986, section 176A.03, is amended by adding a subdivision to read:

Subd. 3. [COVERAGE OUTSIDE STATE.] Policies issued by the fund pursuant to this chapter may also provide workers' compensation coverage required under the laws of states other than Minnesota, including coverages commonly known as "all states coverage." The fund may apply for and obtain any licensure required in any other state in order to issue such coverage.

Sec. 7. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in article 1 and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on August 1, 1988, must be reduced by 15 percent and applied by the insurer to all policies

issued, renewed, or outstanding on or after that date. An insurer may not adjust its filed rating plan to recoup the 15 percent mandated rate reduction under this section. The reduction must be computed on the basis of a 15 percent premium reduction prorated to the expiration of that policy. An insurer shall provide written notice by September 1, 1988, to all employers having an outstanding policy with the insurer as of August 1, 1988, to read as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1988 legislature, you are entitled to a credit or refund to your current premium in an amount of \$ which reflects a 15 percent mandated premium reduction prorated to the expiration of your policy."

(b) An insurer may not file more than one rate increase between January 1, 1988, and August 1, 1988. A rate increase filed between April 11, 1988, and August 1, 1988, must not exceed 10.7 percent. No rate increases may be filed between August 1, 1988, and January 1, 1989.

Sec. 8. [NOTICE OF INTENT TO CHALLENGE RATE LEVEL CHANGE.]

Notwithstanding section 2, the commissioner shall have an additional 90 days to give notice of intent to hold a hearing pursuant to that section. This section applies only to challenges to an insurer's change in existing rate levels or rating plan filed between the date the 1989 rate-making report is approved by the commissioner of commerce and six months thereafter.

Sec. 9. [RECORDS DEPOSITED WITH THE COMMISSIONER.]

All records of data services organizations authorized by section 79.61, or its predecessors, pertaining to proceedings before the department of commerce or its predecessors regarding rates or classifications must be deposited with the commissioner no later than August 1, 1988.

Sec. 10. [CONTINGENT APPROPRIATION.]

(a) \$250,000 is appropriated from the special compensation fund to a workers' compensation contingent account for the purposes of this article. The appropriation in this section may only be spent with the approval of the governor after consultation with the legislative advisory commission under Minnesota Statutes, section 3.30. The appropriation in this section does not cancel but is available until June 30, 1989.

(b) \$100,000 from the general contingent account for workers' compensation appropriated under Laws 1987, chapter 404, section 44, is available for the purposes of article 2.

Sec. 11. [REPEALER.]

Minnesota Statutes 1986, sections 79.54, 79.57, and 79.58 are repealed.

Sec. 12. [EFFECTIVE DATE.]

Section 7, paragraph (b), is effective the day following final enactment.

ARTICLE 3

WORKERS' COMPENSATION COURT OF APPEALS ABOLISHED

Section 1. Minnesota Statutes 1986, section 176.421, subdivision 1, is amended to read:

Subdivision 1. [TIME FOR TAKING; GROUNDS.] When a petition has been heard before a compensation judge, within 30 days after a party in

interest has been served with notice of an award or disallowance of compensation, or other order affecting the merits of the case, the party may appeal to the workers' compensation court of appeals on any of the following grounds:

- (1) the order does not conform with this chapter; or
- (2) the compensation judge committed an error of law; or
- (3) the findings of fact and order were *clearly erroneous and unsupported* by substantial evidence in view of the entire record as submitted; or
- (4) the findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 2. Minnesota Statutes 1986, section 176.421, subdivision 6, is amended to read:

Subd. 6. [POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.] On an appeal taken under this section, the workers' compensation court of appeals' review is limited to the issues raised by the parties in the notice of appeal or by a cross-appeal. *On review, the court may not substitute its judgment for that of the compensation judge as to the weight or credibility of the evidence on any finding of fact.* In these cases, on those issues raised by the appeal, the workers' compensation court of appeals may:

- (1) grant an oral argument based on the record before the compensation judge;
- (2) examine the record;
- (3) ~~substitute for the findings of fact made by the compensation judge findings based on the total evidence;~~
- (4) sustain, reverse, make or modify an award or disallowance of compensation or other order based on the facts, findings, and law; and,
- (5) (4) remand or make other appropriate order.

Sec. 3. Minnesota Statutes 1986, section 480A.06, subdivision 3, is amended to read:

Subd. 3. [CERTIORARI REVIEW.] The court of appeals shall have jurisdiction to issue writs of certiorari to all agencies, public corporations and public officials, except the tax court ~~and the workers' compensation court of appeals~~. The court of appeals shall have jurisdiction to review decisions of the commissioner of jobs and training, pursuant to section 268.10.

Sec. 4. Minnesota Statutes 1986, section 480A.06, subdivision 4, is amended to read:

Subd. 4. [ADMINISTRATIVE REVIEW.] The court of appeals shall have jurisdiction to review on the record: the validity of administrative rules, as provided in sections 14.44 and 14.45, ~~and~~; the decisions of administrative agencies in contested cases, as provided in sections 14.63 to 14.69; ~~and workers' compensation cases and peace officer death benefits cases, as provided under chapters 176 and 176A.~~

Sec. 5. [TRANSFER OF JURISDICTION AND PERSONNEL.]

The jurisdiction of the workers' compensation court of appeals, as provided under Minnesota Statutes, section 175A.01, subdivision 2, is transferred to the court of appeals. All contracts, books, plans, papers, records, and property of every description of the workers' compensation court of appeals relating to its transferred responsibilities and within its jurisdiction or control are transferred to the court of appeals; except that, all case files are transferred to the clerk of the appellate courts. All classified employees and staff attorneys of the workers' compensation court of appeals must be given preference in the employment of personnel required to staff the increased caseload of the court of appeals as a result of transfer of jurisdiction under this section.

Sec. 6. [INCREASED JUDGES.]

(a) The number of judges on the court of appeals as of January 1, 1989, shall be increased by three. The additional judges are subject to senate confirmation.

(b) For purposes of establishing the number of judges on the court of appeals pursuant to Minnesota Statutes, section 480A.01, subdivision 3, the number of appeals filed in the court of appeals for the calendar years 1987 and 1988 shall be considered to include three-fourths of the number of appeals filed in the workers' compensation court of appeals for those two years.

Sec. 7. [INSTRUCTION TO REVISOR.]

In every instance in Minnesota Statutes in which the term "workers' compensation court of appeals" appears, the revisor of statutes shall change that reference to the "court of appeals."

Sec. 8. [REAPPROPRIATION.]

\$386,064 is reappropriated from the special compensation fund, as a result of the savings to that fund in fiscal year 1989 due to the abolishment of the workers' compensation court of appeals, to the court of appeals for the purposes of this article.

Sec. 9. [REPEALER.]

Minnesota Statutes 1986, sections 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; and 175A.10, are repealed. Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2, is repealed.

Sec. 10. [EFFECTIVE DATE.]

This article is effective January 1, 1989.

ARTICLE 4

REPORTS TO THE LEGISLATURE

Section 1. [REPORT TO THE LEGISLATURE ON MEDICAL ISSUES.]

The commissioner of labor and industry shall present a report to the legislature concerning medical issues in the workers' compensation system. Specifically, the report must include findings and recommendations designed to contain or reduce the cost of workers' compensation related medical services, including methods of controlling the cost of ongoing therapy treatments. The report must be presented by January 1, 1990.

The state fund mutual insurance company shall be consulted, as part of

the medical services study, in order to assist the department in developing a proposal to collect and analyze all medical bills. The ultimate goal of this consultation will be the development of a flagging and monitoring system to identify cases which significantly deviate from normal utilization patterns, costs and outcomes. The department shall make a preliminary report on the progress of the proposal to the legislature on January 1, 1989. The department shall make a final recommendation on implementation of the proposal at the time it makes its report to the legislature concerning medical issues in the workers' compensation system on January 1, 1990.

Sec. 2. [REPORT TO THE LEGISLATURE ON USE OF NEUTRAL PHYSICIANS.]

The commissioner of labor and industry shall present a report to the legislature concerning workers' compensation before January 1, 1989, which develops and evaluates a detailed proposal for establishing a system of neutral doctors for use in such areas as determining maximum medical improvement and rating permanent partial disabilities. The report must contain a bill proposal to implement the commissioner's recommendations.

Sec. 3. [REPORT TO THE LEGISLATURE ON USE OF NEUTRAL QUALIFIED REHABILITATION CONSULTANTS.]

To reduce cost and contention in the rehabilitation system, the commissioner of labor and industry shall develop and evaluate a detailed proposal to establish a system to ensure that qualified rehabilitation consultants will not be aligned with either insurers or claimants. The commissioner shall consider alternative methods of selection and payment to ensure neutrality. The commissioner shall present a report and proposal to the legislature by January 1, 1989.

Sec. 4. [REPORT TO THE LEGISLATURE ON LEGAL FEES.]

The commissioner of labor and industry shall present a report to the legislature concerning legal fee issues in the workers' compensation system. Specifically, the report must include findings and recommendations designed to contain or reduce legal fees related to workers' compensation dispute resolution. The report must be presented March 1, 1989.

Sec. 5. [REPORT TO THE LEGISLATURE ON IMPLEMENTATION OF MANDATED RATE REDUCTIONS.]

The commissioner of labor and industry shall survey Minnesota employers to determine if the mandated workers' compensation insurance rate reductions required under article 2, section 7, have been implemented by insurers, both as to amount and in a manner that is uniform and nondiscriminatory between employers having similar risks with respect to a particular occupational classification. The commissioner must present a report detailing findings and conclusions to the legislature by February 1, 1989.

Sec. 6. [REPORT TO THE LEGISLATURE ON RECODIFICATION OF WORKERS' COMPENSATION LAW.]

The revisor of statutes shall recodify the workers' compensation law, including Minnesota Statutes, chapter 176, and its judicial and administrative interpretation.

The recodification must not make any substantive changes but shall provide a comprehensive, accurate, and complete restatement.

Each state department agency and legislative staff, including senate counsel and house of representatives research, shall provide assistance in the recodification as requested by the revisor of statutes.

The revisor shall report to the legislature by January 1, 1989, on the progress of the recodification. The revisor shall prepare a bill to implement its recommendations for recodification by January 1, 1990.

Sec. 7. [HEARINGS AT THE OFFICE OF ADMINISTRATIVE HEARINGS; REPORT OF THE CHIEF ADMINISTRATIVE LAW JUDGE.]

The chief administrative law judge shall consider methods to reduce the formality and length of hearings in workers' compensation cases at the office of administrative hearings, with a goal of completing 50 percent of the hearings in less than two hours, 75 percent in less than four hours and nearly all of the cases in less than one day. Before January 1, 1989, the chief judge shall report to the legislature on the efforts to meet these goals, including any recommendations for legislation needed to achieve these goals.

Sec. 8. [REPORT TO THE LEGISLATURE ON STATE REGULATION OF WORKERS' COMPENSATION INSURANCE.]

Senate research and house of representatives research shall jointly prepare and present a report to the legislature surveying the different processes for regulation of workers' compensation insurance rating plans under other states' workers' compensation insurance laws. The report must be presented to the legislature by January 1, 1989.

Sec. 9. [APPROPRIATION.]

\$341,000 is appropriated from the special compensation fund to the commissioner of labor and industry for the purposes of sections 2, 3, 4, and 5.

Sec. 10. [EFFECTIVE DATE.]

Sections 1 to 8 are effective the day following final enactment."

Delete the title and insert:

"A bill for an act relating to workers' compensation; regulating workers' compensation benefits and administration; regulating workers' compensation insurance; abolishing the workers' compensation court of appeals and transferring its jurisdiction to the court of appeals; requiring certain reports relating to workers' compensation; appropriating money; amending Minnesota Statutes 1986, sections 79.55, subdivision 2; 79.56, by adding a subdivision; 79.61, subdivision 1; 176.011, subdivisions 11a, 18, and by adding a subdivision; 176.021, subdivision 3; 176.061, subdivision 10; 176.081, subdivisions 1 and 3; 176.101, subdivisions 1, 2, 4, 5, and by adding subdivisions; 176.102, subdivisions 1, 7, and 11; 176.105, subdivision 1; 176.111, subdivisions 6, 7, 8, 12, 14, and 20; 176.131, subdivisions 1a, 2, and by adding a subdivision; 176.132, subdivisions 1, 2, and 3; 176.136, subdivision 1, and by adding a subdivision; 176.421, subdivisions 1 and 6; 176.645, subdivisions 1 and 2; 176.66, subdivision 11; 176A.03, by adding a subdivision; and 480A.06, subdivisions 3 and 4; Minnesota Statutes 1987 Supplement, sections 176.041, subdivision 4; 176.081, subdivision 2; 176.102, subdivisions 2, 3, 3a, 4, and 6; 176.111, subdivisions 15 and 21; 176.131, subdivisions 1 and 8; 176.221, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 79

and 176; repealing Minnesota Statutes 1986, sections 79.54; 79.57; 79.58; 175A.01; 175A.02; 175A.03; 175A.04; 175A.05; 175A.06; 175A.07, subdivisions 1, 3, and 4; 175A.08; 175A.09; 175A.10; 176.011, subdivision 26; 176.101, subdivisions 3a, 3b, 3c, 3d, 3e, 3f, 3g, 3h, 3i, 3j, 3k, 3l, 3m, 3n, 3o, 3p, 3q, 3r, 3s, 3t, 3u, and 6; and Minnesota Statutes 1987 Supplement, section 175A.07, subdivision 2."

The question was taken on the adoption of the amendment to the amendment.

The roll was called, and there were yeas 25 and nays 42, as follows:

Those who voted in the affirmative were:

Anderson	Bertram	Gustafson	Langseth	Ramstad
Belanger	Brataas	Johnson, D.E.	Larson	Renneke
Benson	Decker	Knaak	McQuaid	Storm
Berg	Frederick	Knutson	Mehrrens	Stumpf
Bernhagen	Frederickson, D.R.	Laidig	Olson	Taylor

Those who voted in the negative were:

Adkins	Dicklich	Lantry	Novak	Schmitz
Beckman	Diessner	Lessard	Pehler	Solon
Berglin	Frank	Luther	Peterson, D.C.	Spear
Brandl	Frederickson, D.J.	Marty	Peterson, R.W.	Vickerman
Chmielewski	Freeman	Merriam	Piper	Waldorf
Cohen	Hughes	Metzen	Pogemiller	Wegscheid
Dahl	Johnson, D.J.	Moe, D.M.	Purfeerst	
Davis	Jude	Moe, R.D.	Reichgott	
DeCramer	Kroening	Morse	Samuelson	

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

The question recurred on the adoption of the Chmielewski amendment.

The roll was called, and there were yeas 36 and nays 31, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Luther	Peterson, D.C.	Stumpf
Beckman	DeCramer	Marty	Peterson, R.W.	Vickerman
Berglin	Frederickson, D.J.	Merriam	Piper	Waldorf
Bertram	Freeman	Moe, D.M.	Purfeerst	Wegscheid
Brandl	Hughes	Moe, R.D.	Reichgott	
Chmielewski	Jude	Morse	Schmitz	
Cohen	Langseth	Novak	Solon	
Dahl	Lessard	Pehler	Spear	

Those who voted in the negative were:

Anderson	Dicklich	Johnson, D.J.	McQuaid	Samuelson
Belanger	Diessner	Knaak	Mehrrens	Storm
Benson	Frank	Knutson	Metzen	Taylor
Berg	Frederick	Kroening	Olson	
Bernhagen	Frederickson, D.R.	Laidig	Pogemiller	
Brataas	Gustafson	Lantry	Ramstad	
Decker	Johnson, D.E.	Larson	Renneke	

The motion prevailed. So the amendment was adopted.

Mr. Marty moved to amend the Chmielewski amendment to S.F. No. 2428, adopted by the Senate April 12, 1988, as follows:

Page 35, after line 3, insert:

"Sec. 52. [APPROPRIATION.]

\$434,800 is appropriated from the workers' compensation special compensation fund to the commissioner of labor and industry to administer the workers' compensation system in accordance with this article. \$124,800 is for fiscal year 1988 and is available until June 30, 1989. \$310,000 is for fiscal year 1989. The approved complement of the department of labor and industry is increased by ten positions."

Page 35, line 14, delete "52" and insert "53"

Renumber the sections of article 1 in sequence

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

Mr. Knaak moved to amend the Chmielewski amendment to S.F. No. 2428, adopted by the Senate April 12, 1988, as follows:

Pages 32 and 33, delete sections 44 and 45

Page 35, line 6, delete "and"

Page 35, line 7, after "6" insert "; and 176.645, subdivisions 1 and 2"

Renumber the sections of article 1 in sequence and correct the 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 43, as follows:

Those who voted in the affirmative were:

Anderson	Brataas	Gustafson	Larson	Renneke
Belanger	Decker	Johnson, D.E.	McQuaid	Storm
Benson	Frederick	Knaak	Olson	Taylor
Bernhagen	Frederickson, D.R.	Knutson	Ramstad	

Those who voted in the negative were:

Adkins	DeCramer	Kroening	Morse	Samuelson
Beckman	Dicklich	Langseth	Novak	Schmitz
Berg	Diessner	Lantry	Pehler	Solon
Bertram	Frank	Lessard	Peterson, D.C.	Spear
Brandl	Frederickson, D.J.	Luther	Peterson, R.W.	Stumpf
Chmielewski	Freeman	Marty	Piper	Vickerman
Cohen	Hughes	Metzen	Pogemiller	Wegscheid
Dahl	Johnson, D.J.	Moe, D.M.	Purfeerst	
Davis	Jude	Moe, R.D.	Reichgott	

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

Mr. Marty moved to amend the Chmielewski amendment to S.F. No. 2428, adopted by the Senate April 12, 1988, as follows:

Pages 4 and 5, delete section 5

Renumber the sections of article 1 in sequence and correct the internal references

Amend the title accordingly

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 9 and nays 52, as follows:

Those who voted in the affirmative were:

Dicklich Frank	Kroening Lantry	Marty Novak	Peterson, D.C. Piper	Pogemiller
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Those who voted in the negative were:

Adkins	Cohen	Hughes	Mehrkens	Schmitz
Anderson	Dahl	Johnson, D.E.	Metzen	Solon
Beckman	Davis	Johnson, D.J.	Moe, D.M.	Spear
Belanger	Decker	Jude	Moe, R.D.	Storm
Benson	DeCramer	Knaak	Morse	Stumpf
Berg	Diessner	Knutson	Olson	Taylor
Bernhagen	Frederick	Langseth	Pehler	Vickerman
Bertram	Frederickson, D.I.	Larson	Peterson, R.W.	Wegscheid
Brandl	Frederickson, D.R.	Lessard	Ramstad	
Brataas	Freeman	Luther	Reichgott	
Chmielewski	Gustafson	McQuaid	Renneke	

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

Mr. Knaak moved to amend the Chmielewski amendment to S.F. No. 2428, adopted by the Senate April 12, 1988, as follows:

Page 57, line 19, delete "June" and insert "January"

Page 57, line 34, delete "\$62,000" and insert "\$380,064"

Page 58, line 10, delete "June" and insert "January"

The question was taken on the adoption of the amendment.

The roll was called, and there were yeas 24 and nays 35, as follows:

Those who voted in the affirmative were:

Anderson	Bertram	Gustafson	Larson	Purfeerst
Belanger	Brataas	Johnson, D.E.	Lessard	Ramstad
Benson	Decker	Knaak	McQuaid	Renneke
Berg	Frederick	Knutson	Mehrkens	Storm
Bernhagen	Frederickson, D.R.	Langseth	Olson	

Those who voted in the negative were:

Adkins	Davis	Johnson, D.I.	Moe, R.D.	Reichgott
Beckman	DeCramer	Jude	Morse	Samuelson
Berglin	Diessner	Kroening	Novak	Schmitz
Brandl	Frank	Lantry	Peterson, D.C.	Spear
Chmielewski	Frederickson, D.I.	Marty	Peterson, R.W.	Stumpf
Cohen	Freeman	Metzen	Piper	Vickerman
Dahl	Hughes	Moe, D.M.	Pogemiller	Wegscheid

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

Mr. Freeman moved to amend the Chmielewski amendment to S.F. No. 2428, adopted by the Senate April 12, 1988, as follows:

Page 58, delete line 10 and insert:

"Sections 1 and 2 are effective the day following final enactment. Sections 3 to 9 are effective June 1, 1989."

The motion prevailed. So the amendment to the amendment was adopted.

S.F. No. 2428 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 32 and nays 35, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Langseth	Novak	Spear
Beckman	DeCramer	Lessard	Pehler	Stumpf
Bertram	Frederickson, D.I.	Luther	Peterson, R. W.	Vickerman
Brandl	Freeman	Merriam	Purfeerst	Wegscheid
Chmielewski	Gustafson	Moe, D.M.	Reichgott	
Cohen	Hughes	Moe, R.D.	Schmitz	
Dahl	Jude	Morse	Solon	

Those who voted in the negative were:

Anderson	Decker	Johnson, D.I.	Marty	Pogemiller
Belanger	Dicklich	Knaak	McQuaid	Ramstad
Benson	Diessner	Knutson	Mehrkens	Renneke
Berg	Frank	Kroening	Metzen	Samuelson
Berglin	Frederick	Laidig	Olson	Storm
Bernhagen	Frederickson, D.R.	Lantry	Peterson, D.C.	Taylor
Brataas	Johnson, D.E.	Larson	Piper	Waldorf

So the bill, as amended, failed to pass.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate revert to the Order of Business of Messages From the House. The motion prevailed.

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 2182:

H.F. No. 2182: A bill for an act proposing an amendment to the Minnesota Constitution, article XIII, section 5; permitting state-run lotteries; providing for the distribution of their proceeds; establishing a Minnesota environment and natural resources trust fund; providing implementing legislation; creating a legislative commission, an advisory committee, and a review panel; providing for trust fund expenditures; amending Minnesota Statutes 1986, sections 86.72, subdivisions 2 and 3; and 290.431; Minnesota Statutes 1987 Supplement, sections 116C.69, subdivision 3; and 297.13, subdivision 1; proposing coding for new law as Minnesota Statutes, chapter 115C; repealing Minnesota Statutes 1986, sections 86.01; 86.02; 86.03; 86.06; 86.07; 86.08; 86.10; 86.11; 86.12; 86.31; 86.32; 86.33, subdivision 1; 86.34; 86.35; 86.41; 86.42; 86.51; 86.53; 86.61; and 86.75.

The House respectfully requests that a Conference Committee of 5 members be appointed thereon.

Munger; Wynia; Anderson, G.; Bishop and Osthoff have been appointed as such committee on the part of the House.

House File No. 2182 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 April 12, 1988

Mr. Moe, R.D. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 2182, 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 appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce that the House refuses to concur in the Senate amendments to House File No. 1966:

H.F. No. 1966: A bill for an act relating to zoning; providing for filing requirements of variances and certain official maps to real property; amending Minnesota Statutes 1986, section 462.36, subdivision 1.

The House respectfully requests that a Conference Committee of 3 members be appointed thereon.

Blatz, Jennings and Bauerly have been appointed as such committee on the part of the House.

House File No. 1966 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 April 12, 1988

Mr. Belanger moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1966, 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.

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:

S.F. No. 1268: Messrs. Marty, Frank and Johnson, D.E.

H.F. No. 2182: Messrs. Moe, R.D.; Merriam; Ms. Peterson, D.C.; Messrs. Knaak and Lessard.

H.F. No. 1966: Mr. Belanger, Mrs. Adkins and Mr. Frederickson, D.J.

Mr. Moe, R.D. moved that the foregoing appointments be approved. The motion prevailed.

MEMBERS EXCUSED

Ms. Berglin was excused from the Session of today from 12:00 noon to 12:35 p.m. Mr. Cohen was excused from the Session of today from 7:15 to 8:00 p.m.

The following member was excused from today's Session for brief periods of time: Ms. Reichgott.

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 1:00 p.m., Wednesday, April 13, 1988. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate