

FIFTY-FIFTH DAY

St. Paul, Minnesota, Thursday, May 18, 1989

The Senate met at 12:30 p.m. and was called to order by the President.

CALL OF THE SENATE

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

Prayer was offered by the Chaplain, Rev. William F. Moeller.

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

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

The President declared a quorum present.

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

EXECUTIVE AND OFFICIAL COMMUNICATIONS

The following communications were received.

May 15, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1989	Date Filed 1989
	545	116	0950 hours May 15	May 15
	97	117	0952 hours May 15	May 15
	627	118	0953 hours May 15	May 15
827		119	0954 hours May 15	May 15
858		120	0956 hours May 15	May 15
1258		121	0958 hours May 15	May 15

Sincerely,
Joan Anderson Growe
Secretary of State

May 16, 1989

The Honorable Robert E. Vanasek
Speaker of the House of Representatives

The Honorable Jerome M. Hughes
President of the Senate

I have the honor to inform you that the following enrolled Acts of the 1989 Session of the State Legislature have been received from the Office of the Governor and are deposited in the Office of the Secretary of State for preservation, pursuant to the State Constitution, Article IV, Section 23:

S.F. No.	H.F. No.	Session Laws Chapter No.	Time and Date Approved 1989	Date Filed 1989
	812	125	1628 hours May 16	May 16
	1626	128	1630 hours May 16	May 16
	43	135	1631 hours May 16	May 16

Sincerely,
Joan Anderson Growe
Secretary of State

May 16, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. No. 1269.

Sincerely,
Rudy Perpich, Governor

May 17, 1989

The Honorable Jerome M. Hughes
President of the Senate

Dear Sir:

I have the honor of informing you that I have received, approved, signed and deposited in the Office of the Secretary of State, S.F. Nos. 184, 206, 1191, 1374 and 1417.

Sincerely,
Rudy Perpich, Governor

MESSAGES FROM THE HOUSE

Mr. President:

I have the honor to announce the passage by the House of the following Senate Files, herewith returned: S.F. Nos. 46, 232, 1239, 1278, 54 and 1101.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1989

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. 299: A bill for an act relating to game and fish; providing for restitution for wild animals that are illegally killed or injured; providing for civil penalties for wild animals killed or injured; restricting expenditures from restitution to replacement and propagation of wild animals illegally killed or injured; amending Minnesota Statutes 1988, section 97A.065, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 97A.

Senate File No. 299 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1989

Mr. Merriam moved that the Senate do not concur in the amendments by the House to S.F. No. 299, 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. 353: A bill for an act relating to commerce; regulating currency exchanges; requiring currency exchanges to be licensed by the commissioner of commerce; requiring charges to be reasonable; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 53A.

Senate File No. 353 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 17, 1989

CONCURRENCE AND REPASSAGE

Mr. Spear moved that the Senate concur in the amendments by the House to S.F. No. 353 and that the bill be placed on its repassage as amended. The motion prevailed.

S.F. No. 353 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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Davis	Johnson, D.J.	Merriam	Reichgott
Anderson	Decker	Knaak	Metzen	Renneke
Beckman	DeCramer	Knutson	Moe, R.D.	Samuelson
Belanger	Dicklich	Kroening	Novak	Schmitz
Benson	Diessner	Laidig	Olson	Spear
Berglin	Frank	Langseth	Pariseau	Storm
Bernhagen	Frederick	Lantry	Pehler	Stumpf
Bertram	Frederickson, D.J.	Larson	Peterson, D.C.	Taylor
Brandl	Frederickson, D.R.	Luther	Peterson, R.W.	Vickerman
Brataas	Freeman	Marty	Piper	Waldorf
Chmielewski	Gustafson	McGowan	Pogemiller	
Cohen	Hughes	McQuaid	Purfeerst	
Dahl	Johnson, D.E.	Mehrckens	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 that the House refuses to concur in the Senate amendments to House File No. 1155:

H.F. No. 1155: A bill for an act relating to insurance; life and health; regulating policy and contract provisions, coverages, certain cost-containment mechanisms, cancellations and nonrenewals, trade and marketing practices, and remedies in these and other lines; making technical changes; amending Minnesota Statutes 1988, sections 45.025, subdivision 8; 45.027, subdivision 7; 45.028, subdivision 1; 61A.011, subdivision 1; 61A.092, subdivision 3; 61B.03, subdivision 6; 62A.01; 62A.041; 62A.08; 62A.09; 62A.15, subdivision 3a; 62A.17, subdivision 2; 62A.46, by adding a subdivision; 62A.48, subdivision 1; 62B.01; 62B.04, subdivision 1; 62D.12, by adding a subdivision; 62E.06, subdivision 1; 72A.20, subdivision 15, and by adding subdivisions; 72A.325; and 149.11; proposing coding for new law in Minnesota Statutes, chapters 60A; 62A; 65A; and 72A; repealing Minnesota Statutes 1988, sections 60A.23, subdivision 7; and 72A.13, subdivision 2.

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

Skoglund, Knickerbocker and Scheid have been appointed as such committee on the part of the House.

House File No. 1155 is herewith transmitted to the Senate with the request that the Senate appoint a like committee.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1989

Ms. Peterson, D.C. moved that the Senate accede to the request of the House for a Conference Committee on H.F. No. 1155, and that a Conference Committee of 3 members be appointed by the Subcommittee on Committees on the part of the Senate, to act with a like Conference Committee appointed on the part of the House. The motion prevailed.

Mr. President:

I have the honor to announce the passage by the House of the following House Files, herewith transmitted: H.F. Nos. 354, 661, 624, 1181 and 1532.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1989

FIRST READING OF HOUSE BILLS

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

H.F. No. 354: A bill for an act relating to elections; providing for handicap access to precinct caucuses and party conventions; providing for interpreters at precinct caucuses and party conventions; making convention and caucus materials available to the visually impaired; appropriating money; amending Minnesota Statutes 1988, sections 202A.13; and 202A.15, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 202A.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 556, now on the Calendar.

H.F. No. 661: A bill for an act relating to pollution; regulating the disposal of infectious and pathological wastes; providing for penalties for violation; appropriating money; amending Minnesota Statutes 1988, section 609.671, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 116.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 237, now on the Calendar.

H.F. No. 624: A bill for an act relating to commerce; regulating real estate appraisers; creating the real estate appraiser advisory board; providing for membership, compensation, powers, and duties; providing licensing and education requirements; regulating the issuance, renewal, suspension, and revocation of licenses; providing fees; prescribing penalties; appropriating money; proposing coding for new law as Minnesota Statutes, chapter 82B.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1076, now on General Orders.

H.F. No. 1181: A bill for an act relating to metropolitan government;

regulating budgets; clarifying the valuation of certain agriculture land; amending Minnesota Statutes 1988, sections 273.111, subdivision 4; 473.145; 473.1623, subdivision 4, and by adding subdivisions; 473.167, subdivisions 2, 3, and 5; 473.173, subdivisions 3 and 4; 473.249, subdivision 1; repealing Minnesota Statutes 1988, section 473.249, subdivision 3.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1067, now on the Calendar.

H.F. No. 1532: A bill for an act relating to utilities; low-income energy needs; designating the department of public service as the agency responsible for coordinating energy policy for low-income Minnesotans; requiring the department to gather certain information on low-income energy programs; appropriating money; amending Minnesota Statutes 1988, sections 216B.241, subdivisions 1 and 2; 216C.02, subdivision 1; 216C.10; 216C.11; and 268.37, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 216B.

Referred to the Committee on Rules and Administration for comparison with S.F. No. 1433, now on General Orders.

REPORTS OF COMMITTEES

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

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

H.F. No. 1203 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
				1203	525

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 1203 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 1203 and insert the language after the enacting clause of S.F. No. 525, the third engrossment; further, delete the title of H.F. No. 1203 and insert the title of S.F. No. 525, the third engrossment.

And when so amended H.F. No. 1203 will be identical to S.F. No. 525, and further recommends that H.F. No. 1203 be given its second reading and substituted for S.F. No. 525, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 391 for comparison with companion Senate File, reports the following House File was found identical and recommends the House File

be given its second reading and substituted for its companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F No.	S.F No.	H.F No.	S.F No.	H.F No.	S.F No.
391	161				

and that the above Senate File be indefinitely postponed.

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

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

H.F No. 42 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F No.	S.F No.	H.F No.	S.F No.	H.F No.	S.F No.
42	548				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F No. 42 be amended as follows:

Delete all the language after the enacting clause of H.F No. 42 and insert the language after the enacting clause of S.F No. 548, the second engrossment; further, delete the title of H.F No. 42 and insert the title of S.F No. 548, the second engrossment.

And when so amended H.F No. 42 will be identical to S.F No. 548, and further recommends that H.F No. 42 be given its second reading and substituted for S.F No. 548, and that the Senate File be indefinitely postponed.

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

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

H.F No. 927 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F No.	S.F No.	H.F No.	S.F No.	H.F No.	S.F No.
927	1200				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F No. 927 be amended as follows:

Delete all the language after the enacting clause of H.F No. 927 and insert the language after the enacting clause of S.F No. 1200, the third engrossment; further, delete the title of H.F No. 927 and insert the title of S.F No. 1200, the third engrossment.

And when so amended H.F No. 927 will be identical to S.F No. 1200,

and further recommends that H.F. No. 927 be given its second reading and substituted for S.F. No. 1200, and that the Senate File be indefinitely postponed.

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

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

H.F. No. 878 for comparison with companion Senate File, reports the following House File was found not identical with companion Senate File as follows:

GENERAL ORDERS		CONSENT CALENDAR		CALENDAR	
H.F. No.	S.F. No.	H.F. No.	S.F. No.	H.F. No.	S.F. No.
878	1404				

Pursuant to Rule 49, the Committee on Rules and Administration recommends that H.F. No. 878 be amended as follows:

Delete all the language after the enacting clause of H.F. No. 878 and insert the language after the enacting clause of S.F. No. 1404, the second engrossment; further, delete the title of H.F. No. 878 and insert the title of S.F. No. 1404, the second engrossment.

And when so amended H.F. No. 878 will be identical to S.F. No. 1404, and further recommends that H.F. No. 878 be given its second reading and substituted for S.F. No. 1404, and that the Senate File be indefinitely postponed.

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

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

S.F. No. 621: A bill for an act relating to courts; declaring that money or assets in court-supervised settlement accounts are not available to a minor child or the child's parent or guardian until released by the court; amending Minnesota Statutes 1988, section 540.08.

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

Mr. Merriam from the Committee on Finance, to which was referred

H.F. No. 1146: A bill for an act relating to traffic regulations; dedicating seat belt violation fines to emergency medical services relief account; amending Minnesota Statutes 1988, section 169.686, subdivision 3.

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

SECOND READING OF SENATE BILLS

S.F. No. 621 was read the second time.

SECOND READING OF HOUSE BILLS

H.F. Nos. 1203, 391, 42, 927, 878 and 1146 were read the second time.

MOTIONS AND RESOLUTIONS

Ms. Peterson, D.C. moved that her name be stricken as chief author, and the name of Mr. Dicklich be added as chief author to S.F. No. 553. The motion prevailed.

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

INTRODUCTION AND FIRST READING OF SENATE BILLS

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

Mr. Bertram introduced—

S.F. No. 1648: A bill for an act relating to retirement; Minnesota state retirement system correctional employees retirement plan; expanding the coverage of the plan; authorizing an election to obtain prior state service coverage; clarifying the provision specifying covered correctional service; amending Minnesota Statutes 1988, sections 352.91, subdivisions 1, 2, 3, 4, and by adding a subdivision; and 352.92, subdivision 2; repealing Minnesota Statutes 1988, section 352.91, subdivisions 3a and 3b.

Referred to the Committee on Governmental Operations.

Mr. Knaak introduced—

S.F. No. 1649: A bill for an act relating to taxation; disallowing a corporate deduction for oil spill cleanup costs; amending Minnesota Statutes 1988, section 290.01, subdivision 19c.

Referred to the Committee on Taxes and Tax Laws.

RECONSIDERATION

Mr. Diessner moved that the vote whereby H.F. No. 611 was passed by the Senate on May 17, 1989, be now reconsidered. The motion prevailed.

H.F. No. 611: A bill for an act relating to insurance; regulating agent licensing; regulating Medicare supplement plans; modifying required levels of coverages; prescribing penalties; amending Minnesota Statutes 1988, sections 60A.17, subdivision 6c, and by adding a subdivision; 62A.31, subdivisions 1 and 2; 62A.41; 62D.104; 62D.121, subdivision 3; 62D.181, subdivision 4; 62E.07; and 62E.14, subdivision 4; proposing coding for new law in Minnesota Statutes, chapter 62A; repealing Minnesota Statutes 1988, sections 62A.32; 62A.33; 62A.34; 62A.35; and Minnesota Rules, part 2795.0900.

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 62 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Mehrkens	Renneke
Anderson	Davis	Johnson, D.J.	Metzen	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	Pariseau	Stumpf
Bernhagen	Frederick	Larson	Pehler	Taylor
Bertram	Frederickson, D.J.	Lessard	Piper	Vickerman
Brandl	Frederickson, D.R.	Luther	Pogemiller	Waldorf
Brataas	Freeman	Marty	Purfeerst	
Chmielewski	Gustafson	McGowan	Ramstad	
Cohen	Hughes	McQuaid	Reichgott	

So the bill passed and its title was agreed to.

MOTIONS AND RESOLUTIONS - CONTINUED

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Peterson, R.W. moved that the following members be excused for a Conference Committee on H.F. No. 654 at 2:00 p.m.:

Messrs. DeCramer; Hughes; Pehler; Peterson, R.W. and Ms. Peterson, D.C. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Chmielewski in the chair.

After some time spent therein, the committee arose, and Mr. Chmielewski reported that the committee had considered the following:

H.F. No. 159, which the committee recommends to pass.

H.F. No. 306, which the committee recommends to pass with the following amendments offered by Messrs. Peterson, R.W. and Laidig:

Mr. Peterson, R.W. moved to amend H.F. No. 306, the unofficial engrossment, as follows:

Page 1, after line 26, insert:

“ARTICLE 1
TRUSTS”

Page 55, line 32, delete “*act*” and insert “*article*”

Page 56, after line 12, insert:

“ARTICLE 2

MISCELLANEOUS SECTIONS

Section 1. Minnesota Statutes 1988, section 315.365, subdivision 3, is amended to read:

Subd. 3. [CONTINUATION OF CORPORATE IDENTITIES.] When a merger and consolidation takes effect, the corporate identity of each party to it continues in the surviving corporation. The legal title to assets held

or owned by any property corporation that is a party to the merger and consolidation vests in the surviving corporation. The surviving corporation is entitled to receive gifts, devises, bequests, legacies, or other transfers or assignments of money or property, real, personal, or mixed, made after the merger directly or in trust to or intended for any of the constituent property corporations. Except as provided in ~~section 501.12~~ *article 1, section 23*, no properties or assets and no income of properties or assets held or received by a party to the merger and consolidation or by the surviving corporation shall be diverted from the uses and purposes for which they were received and held by the property corporations or from the uses and purposes for which they were expressed and intended.

Sec. 2. Minnesota Statutes 1988, section 501A.06, is amended to read:

501A.06 [SUPERSESSION; REPEAL.]

Sections 501A.01 to 501A.07 supersede the rule of the common law known as the rule against perpetuities and repeals ~~Minnesota Statutes, section 500.13~~.

Sec. 3. Minnesota Statutes 1988, section 524.1-404, is amended to read:

524.1-404 [NOTICE TO CHARITABLE BENEFICIARIES.]

If a will includes a gift, devise or bequest to a named charitable beneficiary, the initial written notice of the probate proceedings given to the beneficiary shall state that the beneficiary may request notice of the probate proceedings be given to the attorney general pursuant to ~~section 501.79~~ *article 1, section 33*, subdivision 5.

Sec. 4. Minnesota Statutes 1988, section 525.56, subdivision 4, is amended to read:

Subd. 4. [DUTIES OF GUARDIAN OR CONSERVATOR OF THE ESTATE.] The court may appoint a guardian of the estate if it determines that all the powers and duties listed in this subdivision are needed to provide for the needs of the incapacitated person. The court may appoint a conservator of the estate if it determines that a conservator is necessary to provide for the needs of the incapacitated person through the exercise of some, but not all, of the powers and duties listed in this subdivision. The duties and powers of a guardian or those which the court may grant to a conservator include, but are not limited to:

(1) The duty to pay the reasonable charges for the support, maintenance, and education of the ward or conservatee in a manner suitable to the ward's or conservatee's station in life and the value of estate. Nothing herein contained shall release parents from obligations imposed by law for the support, maintenance, and education of their children. The guardian or conservator has no duty to pay for these requirements out of personal funds. Wherever possible and appropriate, the guardian or conservator should meet these requirements through governmental benefits or services to which the ward or conservatee is entitled, rather than from the ward's or conservatee's estate. Failure to satisfy the needs and requirements of this clause shall be grounds for removal, but the guardian or conservator shall have no personal or monetary liability;

(2) The duty to pay out of the ward's or conservatee's estate all just and lawful debts of the ward or conservatee and the reasonable charges incurred for the support, maintenance, and education of the ward's or conservatee's spouse and dependent children and, upon order of the court, pay such sum

as the court may fix as reasonable for the support of any person unable to earn a livelihood who is legally entitled to support from the ward or conservatee;

(3) The duty to possess and manage the estate, collect all debts and claims in favor of the ward or conservatee, or, with the approval of the court, compromise them, institute suit on behalf of the ward or conservatee and represent the ward or conservatee in any court proceedings, and invest all funds not currently needed for the debts and charges named in clauses (1) and (2) and the management of the estate, in accordance with the provisions of ~~sections~~ *section 48.84 and 501.125 article 1, section 10*, subdivision 1, or as otherwise ordered by the court. The standard of a fiduciary shall be applicable to all investments by a guardian or conservator. A guardian or conservator shall also have the power to purchase certain contracts of insurance as provided in section 50.14, subdivision 14, clause (b);

(4) Where a ward or conservatee has inherited an undivided interest in real estate, the court, on a showing that it is for the best interest of the ward or conservatee, may authorize an exchange or sale of the ward's or conservatee's interest or a purchase by the ward or conservatee of any interest other heirs may have in the real estate.

Sec. 5. Minnesota Statutes 1988, section 525.831, is amended to read:

525.831 [NOTICE TO ATTORNEY GENERAL OF DEVISES FOR CHARITABLE PURPOSES.]

Whenever a will provides for a devise for a charitable purpose, as defined in ~~section 501.73~~ *article 1, section 27*, subdivision 2, the personal representative shall provide the attorney general with the notices or documents, if any, required by ~~section 501.79~~ *article 1, section 33*, subdivision 5.

Sec. 6. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, article 1, section 28, is amended to read:

Sec. 28. [501B.36] [REGISTRATION AND REPORTING.]

The registration and reporting provisions of sections 29 and 30 apply to a charitable trust, or an organization with a charitable purpose, that has gross assets of \$25,000 or more, except that the provisions do not apply to:

(1) a charitable trust administered by the United States or a state, territory, or possession of the United States, the District of Columbia, the Commonwealth of Puerto Rico, or any of their agencies or subdivisions;

(2) a religious association organized under chapter 315 or chapter ~~347~~ 317A;

(3) a charitable trust organized and operated exclusively for religious purposes and administered by a religious association organized under chapter 315 or chapter ~~347~~ 317A;

(4) an organization described in section 509(a)(3) of the Internal Revenue Code of 1986 and operated, supervised, or controlled by or in connection with one or more organizations described in clauses (2) to (5); a pooled income fund as defined in section 642(c)(5) of the Internal Revenue Code of 1986 maintained by an organization described in clauses (2) to (5); or a charitable remainder annuity trust or unitrust, as defined in section 664 of the Internal Revenue Code of 1986;

(5) a trust in which the only charitable interest is a contingent interest for which no charitable deduction has been allowed for Minnesota income, inheritance, or gift tax purposes or a trust in which not all of the unexpired interests are devoted to one or more charitable purposes and in which the only charitable interest is an annuity or an income interest with respect to which a charitable deduction is allowed the trust under applicable Minnesota income tax laws;

(6) an organization subject to sections 309.50 to 309.61;

(7) a trust for individual and charitable beneficiaries that is described in section 4947(a)(2) of the Internal Revenue Code of 1986, also known as a split-interest trust; or

(8) a charitable gift, bequest, or devise not held and continued by a private express trust or corporation even though the gift, bequest, or devise creates a fiduciary relationship, unless there is no named charitable beneficiary in existence or unless a named charitable beneficiary elects in a writing filed with the attorney general and with the fiduciary to come within the provisions of sections 29 and 30.

Sec. 7. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, article 1, section 36, is amended to read:

Sec. 36. [501B.44] [IMMUNITY OF CHARITABLE TRUSTS.]

A charitable trust is an "organization" for purposes of section ~~317.201~~ 317A.257, and that section applies to charitable trusts.

Sec. 8. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 22, subdivision 24, is amended to read:

Subd. 24. [MAY INVEST TRUST PROPERTY.] Except where the trust instrument prescribes otherwise, a corporation may invest trust property or its proceeds in accordance with ~~section 501.125~~ article 1, section 10.

Sec. 9. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 93, is amended to read:

Sec. 93. [317A.671] [CERTAIN ASSETS NOT TO BE DIVERTED.]

Except as provided in ~~section 501.12~~ article 1, section 23, when a corporation dissolves, merges or consolidates, transfers its assets, or grants a mortgage or other security interest in its assets, assets of the corporation or a constituent corporation, and assets subsequently received by a single corporation after a merger or consolidation, may not be diverted from the uses and purposes for which the assets have been received and held, or from the uses and purposes expressed or intended by the original donor.

Sec. 10. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 104, subdivision 4, is amended to read:

Subd. 4. [REMAINDER.] The distribution of assets held for or devoted to a charitable or public use or purpose is subject to ~~section 501.12~~ article 1, section 23.

Sec. 11. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 119, is amended to read:

Sec. 119. [317A.813] [REMEDIAL POWERS OF ATTORNEY GENERAL.]

The attorney general has the powers in ~~sections section 8.31, 501.78,~~

and ~~501.79~~ *article 1, sections 32 and 33*, to supervise and investigate corporations under this chapter and to bring proceedings to secure compliance.

Sec. 12. If 1989 H.F. No. 1203 is enacted in the 1989 legislative session, 1989 H.F. No. 1203, section 123, subdivision 2, is amended to read:

Subd. 2. [ATTORNEY GENERAL POWERS CONTINUED.] A corporation dissolved under this section continues for three years after the dissolution date for the sole purpose of supervision, investigation, and other actions by the attorney general under ~~sections section 8.317, 501.78, and 501.79~~ *article 1, sections 32 and 33*.

Sec. 13. [EFFECTIVE DATE.]

This article is effective January 1, 1990."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

Mr. Laidig moved to amend H.F. No. 306, the unofficial engrossment, as follows:

Page 3, after line 14, insert:

"Sec. 9. [501B.09] [RULE AGAINST PERPETUITIES.]

Subdivision 1. [RULE.] Except as provided in this section, a nonvested interest in real or personal property is invalid unless when the interest is created, it is certain to vest or terminate no later than 21 years after the death of an individual then alive.

Subd. 2. [INTEREST REFORMED.] Upon the petition of an interested person, a court shall reform an interest in real or personal property that violates subdivision 1. The interest must be reformed in a manner that most closely approximates the intention of the creator of the interest. An interest must be reformed under sections 14 to 23.

Subd. 3. [EXCEPTIONS TO RULE.] Subdivision 1 does not apply to:

(1) any future interest in real or personal property not held in trust that is subject to section 10, subdivision 3;

(2) any property interest held by a charity, government, or governmental agency or subdivision, if the property interest is preceded by an interest held by another charity, government, or governmental agency or subdivision;

(3) any property interest in a trust or other property arrangement forming part of a pension, profit-sharing, stock bonus, health, disability, death benefit, income deferral, or other current or deferred benefit plan for one or more employees, independent contractors, or their beneficiaries or spouses, to which contributions are made for the purpose of distributing to or for the benefit of the participants or their beneficiaries or spouses the property, income or principal in the trust or other property arrangement; or

(4) any property interest that is not subject to the common law rule against perpetuities or is excluded by another statute of this state."

Page 3, line 15, delete "501B.09" and insert "501B.10"

Page 4, line 13, delete "501B.10" and insert "501B.11"

Page 6, line 23, delete "501B.11" and insert "501B.12"

Page 7, line 5, delete "501B.12" and insert "501B.13"

Page 7, line 23, after "section" insert "9 or"

Page 56, line 12, delete "and" and before the comma, insert "; 501A.01; 501A.02; 501A.03; 501A.04; 501A.05; 501A.06; and 501A.07"

Renumber the sections in sequence and correct the internal references

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 1421, which the committee recommends to pass with the following amendment offered by Mr. Freeman:

Amend H.F. No. 1421, the unofficial engrossment, as follows:

Page 1, after line 10, insert:

"ARTICLE 1"

Page 1, after line 27, insert:

"ARTICLE 2

Section 1. [57.01] [SHORT TITLE.]

This chapter may be cited as the "home buyers' bill of rights."

Sec. 2. [57.02] [SCOPE.]

Subdivision 1. [RESIDENTIAL MORTGAGE LOANS.] Except as provided in subdivision 2, this chapter applies to any entity that engages in the business of making, brokering, or servicing mortgage loans.

Subd. 2. [EXEMPTION.] This chapter does not apply to:

(1) entities making or negotiating five or fewer mortgage loans in a period of 12 consecutive months;

(2) charitable or nonprofit corporations making mortgage loans to promote home ownership or improvements for the disadvantaged;

(3) agencies of the federal government, or a state government, or a quasi-governmental agency making mortgage loans under the specific authority of the laws of a state or the United States;

(4) entities acting as fiduciaries with respect to an employee pension benefit plan qualified under the Internal Revenue Code who make mortgage loans solely to plan participants from plan assets;

(5) persons licensed by the state of Minnesota as real estate brokers or salespersons who, in the course of representing a purchaser or seller of real estate, incidentally assist the purchaser or seller in obtaining financing for the real property in question if the licensee does not receive a separate commission, fee, or other valuable consideration including a referral fee for this service;

(6) an attorney authorized to practice law in this state, who incidentally acts as a mortgage broker in negotiating or placing a first mortgage loan in the normal course of legal practice if the attorney does not receive a separate commission, fee, or other valuable consideration including a referral fee for the service; or

(7) entities acting in a fiduciary capacity conferred by authority of a court.

Sec. 3. [57.03] [DEFINITIONS.]

Subdivision 1. [TERMS.] For purposes of this chapter, the terms in this section have the meanings given them unless the context requires a different meaning.

Subd. 2. [ADVERTISEMENT.] "Advertisement" means an oral, written, graphic, or pictorial statement made in the course of solicitation of business. Advertisement includes, without limitation, a statement or representation made in a newspaper, magazine, or other publication, or contained in a notice, sign, billboard, poster, display, circular, pamphlet, or letter, or on radio or television.

Subd. 3. [AGRICULTURAL PROPERTY.] "Agricultural property" has the meaning given the term in section 583.22.

Subd. 4. [BORROWER.] "Borrower" means a natural person who has submitted an application for a loan to a mortgage lender or has obtained a mortgage loan.

Subd. 5. [BUSINESS.] "Business" means a commercial or industrial enterprise that is carried on for the purpose of active or passive investment or profit.

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

Subd. 7. [ENTITY.] "Entity" means an individual acting as a sole proprietorship, corporation, partnership, association, trust, or any other commercial organization or group of individuals, however organized.

Subd. 8. [EQUAL CREDIT OPPORTUNITY ACT.] "Equal Credit Opportunity Act" means United States Code, title 15, sections 1691 to 1691f, and any regulations adopted under those sections.

Subd. 9. [ESCROW ACCOUNT.] "Escrow account" means an escrow, agency, or similar account for the payment of taxes or insurance premiums with respect to a mortgaged one- to four-family, owner-occupied residence located in this state.

Subd. 10. [MORTGAGE BROKER.] "Mortgage broker" means an entity other than a mortgage lender who for a fee directly or indirectly offers to find or finds mortgage loans for another.

Subd. 11. [MORTGAGE LENDER.] "Mortgage lender" means an entity making or servicing a mortgage loan.

Subd. 12. [MORTGAGE LOAN OR LOAN.] "Mortgage loan" or "loan" means a loan or advance of credit to an individual secured by a mortgage or other encumbrance upon real property of less than ten acres located in the state and containing one to four residential units or upon which at the time the loan is made it is intended that one to four residential units are to be constructed. The term does not include:

(1) a loan or advance of credit that is made primarily for a business or commercial purpose;

(2) a loan for which less than 50 percent of the proceeds are intended to be used to acquire legal title to the property or used to refinance the balance due on a contract for deed; or

(3) a loan or extension of credit made by the seller of real property for

the purchase of the property or the refinancing of a contract for deed on the property.

Subd. 13. [MORTGAGE LOAN SERVICER.] "Mortgage loan servicer" means an entity that is servicing a mortgage loan.

Subd. 14. [REAL ESTATE SETTLEMENT PROCEDURES ACT.] "Real Estate Settlement Procedures Act" means United States Code, title 12, sections 2601 to 2617, and any regulations adopted under those sections.

Subd. 15. [REFERRAL FEE.] "Referral fee" means the types of payments under the Real Estate Settlement Procedures Act.

Subd. 16. [SERVICING.] "Servicing" means the collection for any mortgage lender, noteowner, noteholder, or for the mortgage lender's own account, of payments, interest, principal, and escrow items such as hazard insurance and taxes on a residential mortgage loan in accordance with the terms of the residential mortgage loan. Servicing includes loan payment follow-up, delinquency loan follow-up, loan analysis, any notifications to the borrower that are necessary to enable the borrower to keep the loan current and in good standing, and the administration of escrow accounts for payment of items such as hazard insurance premiums and taxes on a residential mortgage loan.

Subd. 17. [SETTLEMENT SERVICES.] "Settlement services" includes any service provided in connection with a real estate settlement including, but not limited to, title searches, title examinations, the provision of title certificates, title insurance, services rendered by an attorney, the preparation of documents, property surveys, the rendering of credit reports or appraisals, pest and fungus inspections, services rendered by a real estate agent or broker, and the handling of the processing, and closing or settlement.

Subd. 18. [TRUTH-IN-LENDING ACT.] "Truth-in-Lending Act" means United States Code, title 15, sections 1601 to 1666j, and any regulations adopted under those sections.

Sec. 4. [57.04] [LICENSE REQUIREMENT; APPLICATION.]

Subdivision 1. [GENERALLY.] A person may not engage in business as a mortgage lender or mortgage broker unless that person or entity by whom the person is employed has first obtained a license under this chapter or is exempt from the licensing requirements of this chapter.

Subd. 2. [EXEMPTIONS.] The following entities are exempt from the licensing requirements of this section:

(1) banks, savings banks, savings associations, and credit unions organized under the laws of this state, and banks, savings banks, savings associations, and credit unions organized under the laws of the United States that have offices in this state from which deposits are accepted under the laws of this state or the United States, and their employees; provided, however, that subsidiaries and service corporations of these institutions are not exempt from the requirements of this chapter;

(2) regulated lenders licensed under chapter 56, and industrial loan and thrift companies licensed under chapter 53;

(3) insurance companies licensed to do business in this state; and

(4) persons licensed by the state of Minnesota as real estate brokers or salespersons.

Subd. 3. [MORTGAGE LENDERS.] A mortgage lender licensed under this section who brokers mortgage loans is not required to obtain a license as a mortgage broker.

Subd. 4. [FORM.] An application for a license under this section must be made in writing, and on a form approved by the commissioner.

Subd. 5. [CONTENTS.] The application for a mortgage lender or mortgage broker must set forth:

(1) the name and address of the applicant;

(2) if the applicant is a firm or partnership, the name and address of each member of the firm or partnership;

(3) if the applicant is a Minnesota corporation, the name and address of its officers and directors;

(4) if the applicant is a foreign corporation, a copy of its certificate of authority to transact business in this state and the name and address of its registered agent and each officer and director;

(5) the addresses of all offices in this state where business will be conducted by the applicant; and

(6) other information concerning the financial responsibility, background, experience, and activities of the applicant and its officers, directors, employees, and principal stockholders as the commissioner requires.

Subd. 6. [FINANCIAL RESPONSIBILITY FOR MORTGAGE LENDERS.] (a) An applicant for a mortgage lender license shall:

(1) demonstrate evidence of approval or certification by the United States Secretary of Housing and Urban Development, including as a loan correspondent mortgagee, or approval or certification of the Federal Home Loan Mortgage Corporation or the Federal National Mortgage Association;

(2) certify to the commissioner a bond; or

(3) provide evidence of, and continuously maintain, a line of credit for the funding of mortgage loans.

(b) If the applicant for a mortgage lender license provides a bond, it must be in the amount of \$100,000, issued by an insurer authorized to transact business in this state and covered by the Minnesota insurance guaranty association, with the state as obligee, conditioned for the prompt payment to a person entitled to it, other than an officer, partner, or employee of the licensee, from loss resulting from fraud, dishonesty, forgery, or theft in connection with a residential mortgage loan transaction by the licensee or an officer, agent, or employee. The aggregate liability of the surety to all persons for all losses is limited to the amount of the bond. The bond must remain operative for the term of the license.

(c) If the applicant for a mortgage lender license provides a line of credit, it must be for at least \$250,000 with a lending institution whose deposits are insured by the Federal Savings and Loan Insurance Corporation or the Federal Deposit Insurance Corporation, or with a person who is otherwise acceptable to the commissioner.

The requirement of a line of credit may be waived by the commissioner if all loans originated by the applicant are either closed in the name of a licensed lender or other financial institution or entity approved by the

commissioner under an agreement between the mortgage lender or other financial institution and the applicant, or assigned, under an agreement, to a licensed mortgage lender or other financial institution or entity approved by the commissioner, simultaneously with the closing.

The applicant shall provide the commissioner with a copy of the agreement, which must state the circumstances under which the mortgage lender or financial institution will be obligated to fund closings or purchase loans from the applicant. The licensee shall notify the commissioner of any modifications to the agreement.

(d) If there is any material change in any of the financial conditions upon which a license was granted under this section, the mortgage lender must notify the commissioner of that change within five business days of the change.

Subd. 7. [EXPERIENCE.] An entity applying for a mortgage lender's license must have at least one partner or employee, in a position to supervise the work of the entity, who must have at least two years of mortgage origination experience within the previous four years. The experience requirement may be waived if the applicant is, in the opinion of the commissioner, otherwise qualified by reason of education or practical experience.

Subd. 8. [FEES.] (a) An application for a mortgage lender or mortgage broker license must be accompanied by the following fees:

(1) for a mortgage lender with less than five employees, the license fee is \$250;

(2) for a mortgage lender with five or more employees, the license fee is \$750; and

(3) for a mortgage broker, the license fee is \$250.

(b) Fees collected under this subdivision must be deposited in the state treasury and credited to the general fund.

All fees are nonreturnable, except that an overpayment of a fee must be refunded upon proper application to the commissioner.

Subd. 9. [DENIAL OF LICENSE.] The commissioner may deny a license under this section if the applicant:

(1) fails to meet the criteria described under subdivisions 6 and 7;

(2) had an entry of a federal or state administrative order against the mortgage lender or mortgage broker for violation of any law or regulation applicable to the conduct of the licensed business; or

(3) had an entry of a judgment against the mortgage lender or mortgage broker involving fraud, misrepresentation, or deceit.

Subd. 10. [ANNUAL REPORT.] The commissioner may require a licensee to file an annual report with the commissioner that sets forth the information and is in the form the commissioner requires regarding the business conducted by the licensee during the preceding calendar year.

Sec. 5. [57.05] [RETENTION OF BOOKS, ACCOUNTS, AND RECORDS.]

Subdivision 1. [RECORDS MAINTAINED.] Each mortgage lender and mortgage broker shall maintain in the licensee's offices any books, accounts, and records the commissioner reasonably requires in order to determine

whether the licensee is in compliance with this chapter and the rules adopted under it. The books, accounts, and records must be maintained separately from any other business of the mortgage lender or mortgage broker.

Subd. 2. [RECORDS RETAINED.] A mortgage lender shall retain for at least two years after settlement of a mortgage loan, copies of the note, settlement statement, truth-in-lending disclosure, and other papers or records relating to the loan as may be required by rule. A mortgage broker must retain for at least two years after a mortgage loan is made the original contract for the individual mortgage broker's compensation, a copy of the settlement statement, and an account of fees received in connection with the loan, and other papers or records as may be required by rule.

Subd. 3. [OUT-OF-STATE LICENSEE.] A mortgage lender or mortgage broker may maintain the records required under this section in offices outside of this state if the licensee agrees to pay in advance for the cost of examination of those records by the commissioner.

Sec. 6. [57.06] [PROHIBITED PRACTICES; GENERAL.]

A mortgage lender or mortgage broker may not violate any provision of the Equal Credit Opportunity Act, Real Estate Settlement Procedures Act, or the Truth-in-Lending Act in the making or brokering of mortgage loans.

Sec. 7. [57.07] [ADVERTISING PRACTICES.]

Subdivision 1. [PROHIBITION.] Advertisements by mortgage lenders or mortgage brokers may not:

(1) state or imply that the advertised loan interest rates, points, terms, charges, or the contracts or services of the mortgage lender or mortgage broker are approved, recommended, or established by the state; or

(2) contain any statement that is false, misleading, or deceptive.

Subd. 2. [MORTGAGE BROKERS.] Advertisements by a mortgage broker must disclose that the mortgage broker does not make loans and that loan money, if available, is provided by other entities to qualified borrowers.

Sec. 8. [57.08] [LOAN APPLICATION PRACTICES.]

Subdivision 1. [BORROWER INFORMATION DOCUMENT.] At the time of the loan application but before the borrower signs the application or pays any consideration to a mortgage lender, the mortgage lender must provide the borrower with a "borrower information document" which must contain, in plain language, the following:

(1) the statement: "This document is being provided to you as required under Minnesota law. Its purpose is to tell you about the documents you should be receiving in connection with your mortgage loan application." ;

(2) an itemized list of all fees the borrower will be required to pay at the time of application, and a statement of those fees which will or will not be refunded if the application is withdrawn or denied;

(3) a copy of the loan application form;

(4) a description of the types of documents the borrower is usually requested to provide in order for the mortgage lender to provide the loan;

(5) a general description of the underwriting and other eligibility standards customarily used in determining whether a loan will be provided;

(6) a statement that the borrower may request the mortgage lender to provide the borrower:

(i) a copy of a sample blank mortgage note and mortgage contract that will be executed if the loan is approved;

(ii) a copy of a sample commitment letter, if offered by the mortgage lender; and

(iii) a sample interest rate or discount point agreement, if offered by the mortgage lender; and

(7) a statement that the mortgage lender may not require the borrower to contract with any specific person for any settlement services, although the lender may require that a person providing settlement services be acceptable to the lender.

Subd. 2. [COPIES; SIGNED DOCUMENTS.] A copy of each document signed by the borrower must be provided to the borrower at the time of signing of the document, except for releases for credit information and verifications of employment, bank accounts, and current mortgage history.

Subd. 3. [CLOSING COSTS.] The mortgage lender must inform the borrower in a separate written document that the borrower may inspect the completed uniform settlement statement containing the information required under section 9, subdivision 4, one day prior to the settlement of the loan, excluding Saturdays, Sundays, and legal holidays.

Subd. 4. [CHANGING TERMS; PROHIBITED.] A mortgage lender may not obtain any agreement or instrument in which blanks are left to be filled in after execution by the parties, except for verifications of employment, bank accounts, and other credit verifications, or fill in or change the loan amount, interest rate, number of discount points, or other terms contained in an interest rate or discount point agreement after the interest rate or discount point agreement is executed by the parties.

Subd. 5. [SECURITY INTEREST; PERSONAL PROPERTY.] A mortgage lender may not accept in connection with a mortgage loan a security interest in the borrower's personal property as described under the Code of Federal Regulations, title 16, section 444.2(4).

Subd. 6. [REFERRAL FEES.] (a) A mortgage lender may not pay or accept a referral fee in connection with making or processing a mortgage loan to the extent prohibited under the Real Estate Settlement Procedures Act.

(b) Any payments permitted under the Real Estate Settlement Procedures Act for services performed may not be paid to or accepted by a real estate broker or real estate salesperson unless written disclosure is made to and acknowledged by the borrower before the services are to be performed.

Subd. 7. [SETTLEMENT SERVICES.] A mortgage lender may not require a borrower to contract with any specific person for real estate settlement services other than credit reports, although the lender may require that a person providing settlement services be acceptable to the lender.

Subd. 8. [INSURANCE.] (a) A mortgage lender may not require a borrower to purchase insurance from a designated company, agent, or

agency. This does not prohibit a lender from requiring that insurance coverage be provided by companies with a certificate of authority to do business in the state of Minnesota or that meet financial criteria under section 72A.31, subdivision 1.

(b) A mortgage lender may not require a borrower to obtain a policy of insurance covering the property in an amount exceeding the amount of the mortgage.

Subd. 9. [COPIES OF REPORTS.] A mortgage lender must make available to the borrower, or send or transmit to another person as directed by the borrower, within two business days of a request, a copy of an appraisal report for which the borrower has paid, or other documents necessary to process the loan that the mortgage lender possesses, excluding verifications of employment and other financial information. If a credit report is requested by the borrower, the lender must disclose the name, address, and telephone number of the entity who prepared the credit report and that the borrower has the right to receive a copy from the entity. If a lender does not possess a document or report that has been requested, the lender must inform the borrower where the document may be obtained.

Sec. 9. [57.09] [CLOSING PRACTICES.]

Subdivision 1. [ACCEPTANCE OF MORTGAGE LENDER FEES NOT DISCLOSED; PROHIBITED.] (a) A mortgage lender may not charge a lender imposed fee, and a borrower may not be required to pay a lender imposed fee at settlement if the fee was not previously disclosed on the settlement statement as required under subdivision 4.

(b) The requirement of this subdivision may be specifically waived by the borrower in writing at the time of the settlement, only if the lender demonstrates that, acting in good faith and due to circumstances beyond its control, compliance with this subdivision is not feasible.

Subd. 2. [DISBURSAL OF FUNDS.] A mortgage lender must promptly upon closing disburse, or hold in an escrow account, all funds in accordance with the agreement, taking into account any applicable right of rescission.

Subd. 3. [CONFESSION OF JUDGMENT.] A mortgage lender may not take a confession of judgment or a power of attorney to confess judgment or appear for the borrower in any judicial proceeding.

Subd. 4. [SETTLEMENT STATEMENT.] (a) A mortgage lender must make available to the borrower at least one day prior to settlement, excluding Saturdays, Sundays, and legal holidays, the uniform settlement statement containing the information required under the Real Estate Settlement Procedures Act including a final listing of all items and fees to be charged at settlement.

(b) The mortgage lender must notify the borrower five business days prior to settlement or when the loan is approved of the borrower's right to inspect the completed uniform settlement statement under this subdivision. The notice must state that the lender may not charge a fee not disclosed to the borrower 24 hours prior to the settlement, excluding Saturdays, Sundays, and legal holidays, unless specifically waived by the borrower at settlement. The notice must also inform the borrower of the name, address, and telephone number of the entity closing the loan and the individual who should be contacted if the borrower desires to inspect

the completed settlement statement.

Sec. 10. [57.10] [REFUNDS.]

Subdivision 1. [THIRD-PARTY SERVICES.] If a mortgage loan fails to close, the mortgage lender shall refund to the borrower the unused or unearned portion of any fees paid by the borrower to the mortgage lender for third-party services including, but not limited to, credit reports and appraisal fees.

Subd. 2. [LOCK-IN FEES.] If a borrower fails to qualify for the mortgage loan, the mortgage lender must refund any fee, including any discount points, paid by the borrower to the mortgage lender for entering into an interest rate or discount point agreement as defined under section 47.206. This subdivision does not apply to fees negotiated between the borrower and the lender for a period of price protection in excess of 90 days.

Sec. 11. [57.11] [LOAN SERVICING PRACTICES.]

Subdivision 1. [PROMPT CREDITING OF PAYMENTS.] In servicing a mortgage loan, a mortgage lender or mortgage loan servicer shall process and properly credit any regularly scheduled payment from the borrower to the borrower's mortgage loan account no later than one business day after receipt by the lender or servicer of the payment.

Subd. 2. [LATE PAYMENTS.] A mortgage lender or loan servicer shall not impose or collect any fee for late payments of principal, interest, or other sums due under a note, unless the late fee is authorized by the note and payment is not actually received by the lender by the due date stated in the mortgage instrument.

Subd. 3. [COMMUNICATIONS WITH BORROWER.] In servicing a mortgage loan, a mortgage lender or mortgage loan servicer shall make a good faith effort to respond within ten business days to oral or written communications from a borrower about the borrower's loan that reasonably indicate to the mortgage lender or loan servicer that a response is requested or needed.

Subd. 4. [TOLL-FREE NUMBER.] In servicing a mortgage loan, a mortgage lender or mortgage loan servicer shall establish a toll-free telephone number or provide an alternative toll-free telephone arrangement for receiving telephone calls from a Minnesota resident borrower calling from Minnesota to the mortgage lender or mortgage loan servicer, if the mortgage lender's or mortgage loan servicer's office is located in an area code different from the borrower's Minnesota residence.

Subd. 5. [PAYOFF REQUESTS.] A mortgage lender or mortgage servicer shall, within five business days of receipt of a written request from the borrower, provide a payoff amount for the principal and interest owed as of a specific date.

Sec. 12. [57.12] [ESCROW ANALYSIS.]

A mortgage lender or mortgage loan servicer administering an escrow account shall:

(1) perform an annual analysis of the escrow account except for the first analysis relating to loans for new construction, which may be made up to 18 months after settlement; and

(2) provide the borrower a statement of the annual escrow account listing

the date and amount of each payment to and from the account and the balance of the account.

Sec. 13. [57.13] [MORTGAGE BROKERS.]

Subdivision 1. [WRITTEN AGREEMENT REQUIRED.] A mortgage broker may not receive compensation from a person for acting as a mortgage broker without first entering into a written contract with the person. The written contract must:

- (1) be in plain language;*
- (2) identify the trust account into which the fees or consideration will be deposited;*
- (3) state the circumstances under which the mortgage broker will be entitled to disbursement from the trust account;*
- (4) state the circumstances under which a person will be entitled to a refund of all or part of the fee;*
- (5) specifically describe the services to be provided by the mortgage broker and the dates by which the services will be performed;*
- (6) state the maximum rate of interest to be charged on any loan obtained;*
- (7) state that the state of Minnesota does not recommend or approve mortgage broker contracts, fees, or charges;*
- (8) disclose the length of time the entity has been engaged in business as a mortgage broker;*
- (9) disclose with respect to the previous calendar year the percentage of the mortgage broker's customers for whom loans have actually been funded as a result of the mortgage broker's services; and*
- (10) disclose the cancellation rights and procedures set forth in subdivision 6.*

Subd. 2. [TRUST ACCOUNT.] A mortgage broker must maintain a trust account in a depository financial institution located within Minnesota for deposit of fees collected and must deposit into that trust account within 48 hours of receipt all fees received before a loan is funded.

Subd. 3. [COMPENSATION BEFORE COMMITMENT.] A mortgage broker may not receive compensation from a person until a written commitment to make a mortgage loan is given to the person by a mortgage lender, except for documented out-of-pocket expenses paid to third parties and necessary to obtain a loan commitment.

Subd. 4. [COMPENSATION OUTSIDE AGREEMENT.] A mortgage broker may not receive compensation from a person relating to a mortgage loan, other than that specified in the written agreement signed by the person.

Subd. 5. [PROHIBITED PRACTICE.] A mortgage broker may not receive compensation from a person in connection with a mortgage loan transaction in which the mortgage broker is the mortgage lender, or a principal stockholder, partner, trustee, director, or officer of the mortgage lender.

Subd. 6. [CANCELLATION OF MORTGAGE BROKER CONTRACTS.] A customer of a mortgage broker who pays a fee before the loan is funded has an unconditioned right to rescind the contract for mortgage brokerage

services at any time until midnight of the third business day after the day the contract is signed. Cancellation is evidenced by the customer giving written notice of cancellation to the mortgage broker at the address stated in the contract. Notice of cancellation, if given by mail, is effective upon deposit in a mailbox properly addressed to the mortgage broker with postage prepaid. Notice of cancellation need not take a particular form and is sufficient if it indicates by any form of written expression the intention of the customer not to be bound by the contract.

Sec. 14. [57.14] [WAIVER PROHIBITED.]

Any waiver, modification, or attempt to waive or modify any of the borrower's rights secured by this chapter is void as contrary to public policy.

Sec. 15. [57.15] [MISREPRESENTATION.]

A mortgage lender or mortgage broker may not:

(1) engage in any act or practice constituting consumer fraud, false promise, misrepresentation, misleading statement, or deceptive practice, as prohibited under sections 325D.44 and 325F.69, subdivision 1; or

(2) fail to state a material fact if the failure has the effect of misrepresenting the terms or conditions of a mortgage loan.

Sec. 16. [57.16] [ENFORCEMENT.]

For the purposes of the commissioner's authority to enforce this chapter, an act of an officer, employee, director, partner, or principal stockholder, if performed in connection with the operation of the lender's or broker's business, is considered an act of the mortgage lender or mortgage broker.

Sec. 17. [57.17] [PRIVATE REMEDY.]

A cause of action for violation of sections 2 to 18 does not arise unless the person has made a written demand to the mortgage lender or mortgage broker for damages and the lender or broker has not responded to the demand within ten days after the demand or has denied paying the full amount of damages demanded, and the person can show that actual damages have been sustained as a direct result of the violation. If actual damages have been sustained, the mortgage lender or mortgage broker is liable to the person for actual damages, plus reasonable attorney fees. A mortgage lender or mortgage broker is not liable under this section for a disclosure made in a form approved by the commissioner under section 19, or for a violation that the lender shows by a preponderance of the evidence was not intentional and resulted from a bona fide error under United States Code, title 15, section 1640.

Sec. 18. [57.18] [RULES.]

The commissioner may adopt rules to administer this chapter.

Sec. 19. [57.19] [APPROVAL OF FORMS.]

A mortgage lender or mortgage broker may request the commissioner to approve a disclosure governed by this chapter. A request for approval of a disclosure must be accompanied by a fee of \$100, or a fee of \$50 for an amendment to a disclosure that had been previously approved. The fee must be deposited in the state treasury and credited to the general fund. The commissioner must approve or disapprove the disclosure within 60 days after receipt.

Sec. 20. Minnesota Statutes 1988, section 82.17, subdivision 4, is amended to read:

Subd. 4. "Real estate broker" or "broker" means any person who:

(a) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys or rents, manages, or offers or attempts to negotiate a sale, option, exchange, purchase or rental of an interest or estate in real estate, or advertises or holds out as engaged in these activities;

~~(b) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly negotiates or offers or attempts to negotiate a loan, secured or to be secured by a mortgage or other encumbrance on real estate;~~

(e) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly lists, sells, exchanges, buys, rents, manages, offers or attempts to negotiate a sale, option, exchange, purchase or rental of any business opportunity or business, or its good will, inventory, or fixtures, or any interest therein;

~~(d) (c) for another and for commission, fee or other valuable consideration or with the intention or expectation of receiving the same directly or indirectly offers, sells or attempts to negotiate the sale of property that is subject to the registration requirements of chapter 83, concerning subdivided land;~~

(e) (d) engages in the business of charging an advance fee or contracting for collection of a fee in connection with any contract whereby the person undertakes to promote the sale of real estate through its listing in a publication issued primarily for this purpose;

(f) (e) engages wholly or in part in the business of selling real estate to the extent that a pattern of real estate sales is established, whether or not the real estate is owned by the person. A person shall be presumed to be engaged in the business of selling real estate if the person engages as principal in five or more transactions during any 12-month period, unless the person is represented by a licensed real estate broker or salesperson;

~~(g) offers or makes more than five loans secured by real estate during any 12-month period and who is not a bank, savings bank, mutual savings bank, building and loan association, or savings and loan association organized under the laws of this state or the United States, trust company, trust company acting as a fiduciary, or other financial institution subject to the supervision of the commissioner of commerce, or mortgagee or lender approved or certified by the secretary of housing and urban development or approved or certified by the administrator of veterans affairs, or approved or certified by the administrator of the Farmers Home Administration, or approved or certified by the Federal Home Loan Mortgage Corporation, or approved or certified by the Federal National Mortgage Association.~~

Sec. 21. Minnesota Statutes 1988, section 82.18, is amended to read:

82.18 [EXCEPTIONS.]

Unless a person is licensed or otherwise required to be licensed under this chapter, the term real estate broker does not include:

(a) a licensed practicing attorney acting solely as an incident to the practice of law if the attorney complies in all respects with the trust account

provisions of this chapter;

(b) a receiver, trustee, administrator, guardian, executor, or other person appointed by or acting under the judgment or order of any court;

(c) any person owning and operating a cemetery and selling lots therein solely for use as burial plots;

(d) any custodian, janitor, or employee of the owner or manager of a residential building who leases residential units in the building;

(e) any bank, trust company, savings and loan association, industrial loan and thrift company, regulated lender under chapter 56, public utility, or land mortgage or farm loan association organized under the laws of this state or the United States, when engaged in the transaction of business within the scope of its corporate powers as provided by law;

(f) public officers while performing their official duties;

(g) employees of persons enumerated in clauses (b), (e) and (f), when engaged in the specific performance of their duties;

(h) any person who acts as an auctioneer bonded in conformity with section 330.02, when that person is engaged in the specific performance of duties as an auctioneer, and when that person has been employed to auction real estate by a person licensed under this chapter or when the auctioneer has engaged a licensed attorney to supervise the real estate transaction;

(i) any person who acquires real estate for the purpose of engaging in and does engage in, or who is engaged in the business of constructing residential, commercial or industrial buildings for the purpose of resale if no more than 25 such transactions occur in any 12-month period and the person complies with section 82.24;

(j) any person who offers to sell or sells an interest or estate in real estate which is a security registered pursuant to chapter 80A, when acting solely as an incident to the sale of these securities;

(k) any person who offers to sell or sells a business opportunity which is a franchise registered pursuant to chapter 80C, when acting solely to sell the franchise;

(l) any person who contracts with or solicits on behalf of a provider a contract with a resident or prospective resident to provide continuing care in a facility, pursuant to the Continuing Care Facility Disclosure and Rehabilitation Act (chapter 80D), when acting solely as incident to the contract;

(m) any broker-dealer or agent of a broker-dealer when participating in a transaction in which all or part of a business opportunity or business, including any interest therein, is conveyed or acquired pursuant to an asset purchase, merger, exchange of securities or other business combination, if the agent or broker-dealer is licensed pursuant to chapter 80A; *and*

(n) *any mortgage lender or mortgage broker licensed under sections 1 to 19 while engaged in the activities for which the license is required.*

Sec. 22. [APPROPRIATION.]

\$109,000 is appropriated from the general fund to the commissioner of commerce to administer sections 1 to 19. \$67,000 is for fiscal year 1990 and \$42,000 is for fiscal year 1991. The approved complement of the

department of commerce is increased by one position.

Sec. 23. [REPEALER.]

Minnesota Statutes 1988, section 82.175, is repealed.

Sec. 24. [EFFECTIVE DATE.]

Sections 1 to 21 and 23 are effective January 1, 1990. Section 22 is effective July 1, 1989."

Amend the title accordingly

The motion prevailed. So the amendment was adopted.

H.F. No. 762, which the committee recommends to pass with the following amendment offered by Mr. Frederickson, D.R.:

Amend H.F. No. 762, as amended pursuant to Rule 49, adopted by the Senate April 21, 1989, as follows:

(The text of the amended House File is identical to S.F. No. 666.)

Page 2, line 10, delete "twenty-six" and insert "twenty-seven"

Page 2, line 22, delete the first "and" and after the second semicolon, insert "and Idaho on March 28, 1989;"

The motion prevailed. So the amendment was adopted.

H.F. No. 564, which the committee recommends to pass with the following amendments offered by Mr. Stumpf:

Amend H.F. No. 564, the unofficial engrossment, as amended by the Senate May 16, 1989, as follows:

Page 1, after line 6, insert:

"ARTICLE 1

COMPENSATION BENEFITS

Section 1. Minnesota Statutes 1988, 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. 2. Minnesota Statutes 1988, 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 and without additional allowances.

Sec. 3. Minnesota Statutes 1988, 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, *subdivision 3*. 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~~ *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. 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. The right is not abrogated by the employee's death prior to the making of the payment.

Sec. 4. Minnesota Statutes 1988, 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. 5. Minnesota Statutes 1988, 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 110 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 payable is 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.

~~Subject to subdivisions 3a to 3u this (d) Temporary total 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 fails to diligently search for appropriate work;~~
- ~~(5) 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~~
- ~~(6) 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 (6), 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), (3), or (4), 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). Recommended 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 (5) and (6), it may not be recommenced at a later date except as provided under section 176.102, subdivision 11, paragraph (b).~~

Sec. 6. Minnesota Statutes 1988, 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 is 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 must cease if the employee is no longer disabled, returns to work, refuses a job offer described in subdivision 1, paragraph (d), clause (4), fails to diligently search for appropriate work, 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, provided the employee meets the qualifications of this section and has not been paid the maximum number of weeks under paragraph (b) for that injury; except that, extended compensation may not be paid beyond 350 weeks after the date of injury.

Sec. 7. Minnesota Statutes 1988, 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 52 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 able to earn in the employee's partially disabled condition;

(2) for the second 52 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 able to earn in the employee's partially disabled condition; and

(3) for the third 52 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 able to earn 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 the statewide average weekly wage.

(c) Temporary partial compensation may be paid only while the employee is working, earning less than the employee's weekly wage at the time of the injury, and the reduced wage the employee is able to earn in the employee's partially disabled condition is due to 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 156 weeks, including weeks in which the employee has no wage

loss, or after 350 weeks after the date of injury, whichever occurs first.

Sec. 8. Minnesota Statutes 1988, 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. Permanent partial disability must be rated as a percentage of the whole body in accordance with rules adopted by the commissioner under section 176.105. The percentage determined pursuant to the rules must be multiplied by the corresponding amount in the following table:

<i>Percent of Disability</i>	<i>Amount</i>
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. Permanent partial disability is not payable while temporary total compensation is being paid. Permanent partial disability is payable to permanently totally disabled employees in a lump sum at the time the disability can be ascertained.

Sec. 9. Minnesota Statutes 1988, 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 rates~~ 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. 10. Minnesota Statutes 1988, 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 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. 11. Minnesota Statutes 1988, section 176.101, subdivision 6, is amended to read:

Subd. 6. [MINORS.] If any employee entitled to the benefits of this chapter is a minor or is an apprentice of any age and sustains a personal injury arising out of and in the course of employment resulting in permanent total or a compensable permanent partial disability, for the purpose of computing the compensation to which the employee is entitled for the injury, the compensation rate for temporary total, temporary partial, a permanent total disability or economic recovery compensation shall be the statewide average weekly wage.

Sec. 12. Minnesota Statutes 1988, 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) If the employee is not working during a retraining plan that has been specifically approved under this section, temporary total compensation is payable for up to 90 days after the end of the retraining 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 (5). If the employee is working during the retraining plan but earning less than at the time of injury, temporary partial compensation is payable at the rate of 80 percent of the difference between the employee's after-tax weekly wage at the time of injury and the after-tax weekly wage the employee is able to earn in the employee's partially disabled condition, subject to the maximum rate for temporary total compensation. Temporary partial compensation is not subject to the 156-week phase-out or the 350-week limitation provided by section 176.101, subdivision 2, during the retraining plan, but is subject to those limitations before and after the plan.

(c) Retraining may not be approved if the employee has refused suitable gainful employment, as defined by rule.

Sec. 13. Minnesota Statutes 1988, 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. Disability ratings under the schedule for permanent partial disability must be based on objective medical evidence.*

(b) The commissioner, in consultation with the medical services review board, shall review the rules adopted under paragraph (a) to determine whether any injuries omitted from the schedule should be compensable and, if so, publish proposed amendments to the rules accordingly by January 1, 1991.

Sec. 14. Minnesota Statutes 1988, 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. 15. Minnesota Statutes 1988, 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 ~~the same 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. 16. Minnesota Statutes 1988, 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 *the same* 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. 17. Minnesota Statutes 1988, 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. 18. Minnesota Statutes 1988, section 176.111, subdivision 14, is amended to read:

Subd. 14. [PARENTS.] If the deceased employee ~~leave~~ *leaves* no surviving spouse or child entitled to any payment under this chapter, but leaves both parents wholly dependent on *the* 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~~ *leaves* 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. 19. Minnesota Statutes 1988, 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. 20. Minnesota Statutes 1988, section 176.111, subdivision 18, is amended to read:

Subd. 18. [BURIAL EXPENSE.] In all cases where death results to an

employee from a personal injury arising out of and in the course of employment, the employer shall pay the expense of burial, not exceeding in amount ~~\$2,500~~ \$7,500. In case any dispute arises as to the reasonable value of the services rendered in connection with the burial, its reasonable value shall be determined and approved by the commissioner, a compensation judge, or workers' compensation court of appeals, in cases upon appeal, before payment, after reasonable notice to interested parties as is required by the commissioner. If the deceased leaves no dependents, no compensation is payable, except as provided by this chapter.

Sec. 21. Minnesota Statutes 1988, 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. 22. Minnesota Statutes 1988, 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. 23. Minnesota Statutes 1988, 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 is payable at the rate of 75 percent.

Sec. 24. Minnesota Statutes 1988, 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 is payable 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. 25. Minnesota Statutes 1988, 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 is payable at the rate of 75 percent.

Sec. 26. Minnesota Statutes 1988, 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. 27. Minnesota Statutes 1988, 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. 28. Minnesota Statutes 1988, section 176.179, is amended to read:

176.179 [PAYMENTS OF COMPENSATION RECEIVED IN GOOD FAITH.]

Notwithstanding section 176.521, subdivision 3, or any other provision of this chapter to the contrary, except as provided in this section, no lump sum or weekly payment, or settlement, which is voluntarily paid to an injured employee or the survivors of a deceased employee in apparent or

seeming accordance with the provisions of this chapter by an employer or insurer, or is paid pursuant to an order of the workers' compensation division, a compensation judge, or court of appeals relative to a claim by an injured employee or the employee's survivors, and received in good faith by the employee or the employee's survivors shall be refunded to the paying employer or insurer in the event that it is subsequently determined that the payment was made under a mistake in fact or law by the employer or insurer. When the payments have been made to a person who is entitled to receive further payments of compensation for the same injury, the mistaken compensation may be taken as a full credit against future lump sum benefit entitlement and as a partial credit against future weekly benefits. The credit applied against further payments of temporary total disability, temporary partial disability, permanent total disability, retraining benefits, death benefits, or weekly payments of ~~economic recovery or impairment~~ *permanent partial* compensation shall not exceed 20 percent of the amount that would otherwise be payable.

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

Sec. 29. Minnesota Statutes 1988, section 176.221, subdivision 6a, is amended to read:

Subd. 6a. [~~MEDICAL, REHABILITATION, ECONOMIC RECOVERY, AND IMPAIRMENT PERMANENT PARTIAL COMPENSATION.~~] The penalties provided by this section apply in cases where payment for treatment under section 176.135, rehabilitation expenses under section 176.102, subdivisions 9 and 11, ~~economic recovery compensation or impairment~~ *permanent partial* compensation are not made in a timely manner as required by law or by rule adopted by the commissioner.

Sec. 30. Minnesota Statutes 1988, 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. 31. Minnesota Statutes 1988, 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 October 1, 1989, the initial adjustment under subdivision 1 is deferred until the third anniversary of the date of injury.

Sec. 32. [176.90] [AFTER-TAX CALCULATION.]

For purposes of sections 176.011, subdivisions 18 and 18a; 176.101, subdivisions 1, 2, 3, and 4; 176.111, subdivisions 6, 7, 8, 12, 14, 15, 20, and 21; and 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 the 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. 33. [REPEALER.]

Minnesota Statutes 1988, sections 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, and 3u; and 176.111, subdivision 8a, are repealed.

Sec. 34. [EFFECTIVE DATE.]

This article is effective October 1, 1989.

ARTICLE 2

OCCUPATIONAL DISEASES

Section. 1. Minnesota Statutes 1988, section 176.135, subdivision 5, is amended to read:

Subd. 5. [OCCUPATIONAL DISEASE MEDICAL ELIGIBILITY; ASBESTOS HEALTH SCREENINGS.] (a) Notwithstanding section 176.66, an employee who has ~~contracted~~ acquired an occupational disease is eligible to receive compensation under this section even if the employee is not disabled from earning full wages at the work at which the employee was last employed.

(b) An employee who has acquired asbestosis or other occupational disease resulting from exposure to asbestos is entitled to payment for reasonable charges for asbestos health screenings at reasonable frequencies in accordance with established medical practice but not to exceed once annually. Payment for the screening must be made in accordance with section 176.66, subdivision 10. Payment for screenings must be ordered under section 176.191, subdivision 1, provided the employee presents an affidavit and supporting medical report indicating that the employee has acquired asbestosis or other occupational disease resulting from exposure to asbestos which arose out of and in the course of such employment. Temporary orders under this paragraph are issued for the purpose of prompt payment to the employee; the existence of such an order may not be used against the payor as an indication that the payor must assume liability for any other compensation due under this chapter or that the payor is ultimately liable for the compensation paid under the order.

Sec. 2. [ASBESTOS HEALTH SCREENING PILOT PROJECT.]

The commissioner of health shall establish an asbestos health screening pilot project for residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment but who have not yet acquired an occupational disease under the workers' compensation law and, as such, are not yet eligible for asbestos health screenings under Minnesota Statutes, section 176.135, subdivision 5. The purpose of the pilot project is: to study the actual and estimated extent and risk of acquiring asbestos-related diseases among individuals exposed to asbestos on the job; to determine the types of counseling and prevention services that individuals exposed to asbestos may need and the best methods of administering such services; and to estimate the cost and effectiveness of screening, counseling, and preventive services for individuals exposed to asbestos on the job but who are not yet eligible to receive medical benefits or compensation under the workers' compensation law.

The commissioner of health may contract with a local board of health, or with any local, state, or nationally recognized experts in the diagnosis and treatment of asbestos-related diseases for conducting the health screenings and evaluating the results.

Residents of Aitkin, Carlton, Pine, and St. Louis counties who have been exposed to asbestos at their employment or former employment are eligible to receive an annual asbestos health screening under procedures determined by the commissioner of health.

The commissioner of health shall present a report and recommendations to the legislature on or before February 1, 1991, on the number of participants in, and the effectiveness of, the pilot project program as established under this section and on the advisability of continuing the pilot project to gain additional data.

\$150,000 is appropriated to the commissioner of health from the state general fund for the purposes of this section and is available until expended.

Sec. 3. [EFFECTIVE DATE.]

Section 1 is effective the day following final enactment. Section 2 is effective July 1, 1989.

ARTICLE 3

LEGAL, REHABILITATION, MEDICAL

Section 1. Minnesota Statutes 1988, 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, *shall report the number of hours spent on the case*, 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) *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. 2. Minnesota Statutes 1988, 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. 3. Minnesota Statutes 1988, 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~~ The application shall state the basis for the need of review and whether or not a hearing is requested. A copy of ~~such the~~ 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. 4. Minnesota Statutes 1988, 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. 5. Minnesota Statutes 1988, 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. 6. Minnesota Statutes 1988, 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 three members each from representing employers, insurers, rehabilitation, and medicine,~~ one member representing chiropractors, ~~and four one member representing medical doctors, three members representing labor, two members representing rehabilitation vendors, and five members representing 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. 7. Minnesota Statutes 1988, 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.~~

Sec. 8. Minnesota Statutes 1988, 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

shall 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, attorney, or health care provider involved in the case, including any attorneys, doctors, or chiropractors.~~

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

~~(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. 9. Minnesota Statutes 1988, 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 \$3,500 must be specifically approved by the commissioner. This approval may not be waived by the parties.*

Sec. 10. Minnesota Statutes 1988, 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. 11. Minnesota Statutes 1988, 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 ~~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 were promulgated on May 1, 1989, and based upon 1987 medical cost data, must remain in effect until September 30, 1990; and the medical fee rules for providers other than hospitals, which are promulgated on October 1, 1990, must be based on the 1988 medical cost data and must remain in effect until September 30, 1991.

(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. 12. Minnesota Statutes 1988, section 176.136, subdivision 5, is amended to read:

Subd. 5. [PERMANENT RULES.] (a) Where permanent rules have been adopted to implement this section, the commissioner shall annually give notice in the State Register of the ~~75th percentile reimbursement allowance~~ to meet the requirements of subdivision 1. The notice shall be in lieu of the requirements of chapter 14 *and shall be set at the 75th percentile of the billings for each service in the data base; provided that if the 75th percentile for the service meets the following requirements of paragraphs (a) to (e) are met:*

(a) (1) the data base includes at least three different providers of the service-;

(b) (2) the data base contains at least 20 billings for the service-;

(c) (3) ~~The standard deviation as a percentage of the mean of billings for the service is 50 percent or less. the data are taken from the data base of Blue Cross and Blue Shield of Minnesota where available; or if not available from Blue Cross and Blue Shield of Minnesota, the data will be taken directly from the health care providers, professional associations, or other available sources;~~

(d) ~~The means of the Blue Cross and Blue Shield data base and of the department of human services data base for the service are within 20 percent of each other. (4) the standard deviation is less than or equal to 50 percent of the mean of the billings for each service in the data base or the value of the 75th percentile is not greater than or equal to three times the value of the 25th percentile of the billings for each service in the data base;~~

(e) ~~The data is taken from the data base of Blue Cross and Blue Shield or the department of human services- (5) the 75th percentile logically reflects the usual and customary charges for the service.~~

(b) *If the commissioner identifies a problem with the data for a particular service such that the 75th percentile does not logically reflect the usual and customary charges for that service, the commissioner may, upon consultation with the medical services review board, set the reimbursement fee.*

Sec. 13. Minnesota Statutes 1988, section 176.138, is amended to read:

176.138 [MEDICAL DATA; ACCESS.]

(a) Notwithstanding any other state laws related to the privacy of medical data or any private agreements to the contrary, the release *in writing, by telephone discussion, or otherwise* of medical data related to a current claim for compensation under this chapter to the employee, employer, or insurer who are parties to the claim, or to the department of labor and industry, shall not require prior approval of any party to the claim. This

section does not preclude the release of medical data under section 175.10 or 176.231, subdivision 9. Requests for pertinent data shall be made, *and the date of discussions with medical providers about medical data shall be confirmed*, in writing to the person or organization that collected or currently possesses the data. ~~The Written medical data that exists at the time the request is made shall be provided by the collector or possessor within seven working days of receiving the request. All other medical data described above may be provided, but are not required to be provided, by the collector or possessor.~~ In all cases of a request for the data or discussion with a medical provider about the data, except when it is the employee who is making the request, the employee shall be sent written notification of the request by the party requesting the data at the same time the request is made *or a written confirmation of the discussion*. This data shall be treated as private data by the party who requests or receives the data and the party receiving the data shall provide the employee or the employee's attorney with a copy of all data requested by the requester.

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

(c) The commissioner may impose a penalty of up to \$200 payable to the special compensation fund against a party who does not *timely* release the data in a *timely manner as required in this section*. A party who does not treat this data as private pursuant to this section is guilty of a misdemeanor. ~~This section applies only to written medical data which exists at the time the request is made.~~

(d) *Workers' compensation insurers and self-insured employers may, for the sole purpose of identifying duplicate billings submitted to more than one insurer, disclose to health insurers, including all insurers writing insurance described in section 60A.06, subdivision 1, clause (5)(a), nonprofit health service plan corporations subject to chapter 62C, health maintenance organizations subject to chapter 62D, and joint self-insurance employee health plans subject to chapter 62H, computerized information about dates, coded items, and charges for medical treatment of employees and other medical billing information submitted to them by an employee, employer, health care provider, or other insurer in connection with a current claim for compensation under this chapter, without prior approval of any party to the claim and notwithstanding anything to the contrary in this section or in any other state law related to privacy of medical data or any private agreements to the contrary. The data may not be used by the health insurer for any other purpose whatsoever.*

Sec. 14. [EFFECTIVE DATE.]

This article is effective August 1, 1989.

ARTICLE 4

ADMINISTRATIVE COSTS

Section 1. [176.95] [ADMINISTRATIVE COSTS.]

The annual cost of administering the workers' compensation system under this chapter must be charged to the general fund. Administrative costs include the cost of administering the workers' compensation division of the department, the workers' compensation division of the office of administrative hearings, and the workers' compensation court of appeals, and the cost of insurance rate regulation.

Sec. 2. [APPROPRIATION.]

Notwithstanding section 1, for the biennium beginning July 1, 1989, \$5.5 million for fiscal year 1990 and \$5.5 million for fiscal year 1991 is appropriated from the general fund to the commissioner of labor and industry for the purpose of administering the workers' compensation system. The balance of the costs of administering the workers' compensation system for that biennium is appropriated from the special compensation fund to the commissioner of labor and industry.

Sec. 3. [EFFECTIVE DATE.]

This article is effective July 1, 1989.

ARTICLE 5
RECODIFICATION

Section 1. [REPORT TO THE LEGISLATURE ON RECODIFICATION AND SIMPLIFICATION OF WORKERS' COMPENSATION LAW.]

(a) The commissioner of labor and industry shall contract with a nationally recognized and neutral consultant having expertise in the workers' compensation field to make recommendations, including a draft proposal, on recodification and simplification of Minnesota's workers' compensation law. The project must be performed by a consultant who has the following qualifications:

(1) a working knowledge of Minnesota's workers' compensation law and procedures;

(2) experience with and understanding of the workers' compensation concept and its implementation in the United States;

(3) experience in legislative drafting; and

(4) an absence of ties with any organization with statewide membership having an interest in workers' compensation in Minnesota.

(b) The recodification and simplification proposal must reflect a comprehensive, accurate, and complete restatement of the workers' compensation statute. The goals of the recodification and simplification are as follows:

(1) to simplify the statutory provisions governing the workers' compensation system, while at the same time preserving the basic benefit levels and services currently available under the law and the existing dispute resolution process, in order to permit greater understanding of the law and the rights and obligations of the parties to the workers' compensation system;

(2) to limit the need for judicial interpretation of substantive aspects of the law and to limit the court system's involvement in policy decisions concerning the operation of the workers' compensation system;

(3) to provide greater certainty in the application of the law by clarifying provisions that are capable of multiple interpretations;

(4) to eliminate duplicate or unnecessary language in order to shorten the law itself; and

(5) to provide a structure for the law that supports greater understanding of the relationships between and among the various provisions of the law,

and permits changes to be made, if and when required, in a more precise and understandable manner.

(c) The recodification and simplification project must be conducted in the following manner:

(1) The consultant shall establish a basic structure for a recodified statute by breaking down the existing statute into its component parts and determining the relationships between and among the various provisions. Examination of the relevant case law supporting each component of the existing statute must also be undertaken as part of this preliminary work.

(2) After the preliminary work is completed, the consultant shall conduct an in-depth process of discussion with organizations with statewide membership having an interest in workers' compensation in Minnesota. The purpose of this discussion is to determine the areas in which there is agreement among the interested parties as to the meaning of the existing law, and those areas in which there is disagreement. In instances in which disagreement is found to exist, the consultant shall make special efforts to establish case law support for each of the positions and make a determination as to which position appears to be correct and supportive of legislative intent.

(3) The consultant shall then draft a proposal for recodification and simplification, with complete annotation to existing sections of the law and supporting case law, as well as cross-references among new and old sections. The consultant shall identify each instance in which there is any question as to the meaning of any provision contained in the proposal, together with support for the language chosen. The consultant shall also identify each provision contained in the proposal which has not yet been dealt with by the courts, and for which there might exist the possibility of multiple interpretations. Explanations of the possible interpretations, and their implications, must be provided.

(4) The consultant shall circulate an initial draft proposal among the organizations with statewide membership having an interest in workers' compensation for analysis and comment. After comments have been received, the consultant shall analyze and respond to any dissent with respect to provisions contained in the proposal, and provide a full discussion of supporting case law and explanations and implications of the position adopted. The final proposal must contain complete citations to existing statutory sections and case law, and must list each instance in which there is any disagreement as to the meaning of the existing law and each instance in which the meaning of the existing law has not been determined or is open to question.

(d) The commissioner shall make a preliminary report to the legislature by February 1, 1990, concerning the progress of the recodification and simplification project. The commissioner shall make a final report to the legislature by January 1, 1991, containing the consultant's recommendations for recodification and simplification of the workers' compensation law, including the consultant's final draft proposal and accompanying analysis and explanations.

Sec. 2. [APPROPRIATION.]

Up to \$150,000 is appropriated from the special compensation fund to the commissioner of labor and industry for the purpose of contracting with

a consultant to make recommendations and draft a proposal for recodification and simplification of the Minnesota workers' compensation law.

Sec. 3. [EFFECTIVE DATE.]

This article is effective July 1, 1989.

ARTICLE 6

REGULATION OF WORKERS' COMPENSATION COURT OF APPEALS

Section 1. Minnesota Statutes 1988, section 15A.083, subdivision 7, is amended to read:

Subd. 7. [WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.] *(a) Salaries of judges of the workers' compensation court of appeals shall be 90 percent of the salary for district court judges as provided in under section 15A.082, subdivision 3; except that, the salary of the chief judge shall be 95 percent of the salary for district court judges.*

(b) Salaries of compensation judges shall be 75 percent of the salary of district court judges as provided in under section 15A.082, subdivision 3. The chief workers' compensation settlement judge at the department of labor and industry may be paid an annual salary that is up to five percent greater than the salary of workers' compensation settlement judges at the department of labor and industry.

Sec. 2. Minnesota Statutes 1988, section 175A.01, is amended to read: 175A.01 [CREATION.]

Subdivision 1. [~~ESTABLISHMENT; MEMBERSHIP; APPOINTMENT; QUALIFICATIONS.~~] *The workers' compensation court of appeals as previously constituted is reconstituted as an independent agency in the executive branch.*

~~The workers' compensation court of appeals shall consist of five judges, each serving in the unclassified service. The five judges shall be learned in the law.~~

Subd. 2. [APPOINTMENT; TERMS; LIMITATION.] ~~Each judge of the workers' compensation court of appeals shall be appointed by the governor, by and with the advice and consent of the senate, for a term of six years commencing at the expiration of the preceding term. Any vacancy shall be filled by the governor for the unexpired term, subject to confirmation by the senate. The terms of the judges shall expire on the first Monday in January of the year in which they expire. The terms of the judges shall be staggered. The judges of the workers' compensation court of appeals as now created shall be the judges of the workers' compensation court of appeals until the expiration of the terms for which they have been appointed and qualified. They shall be selected on the basis of their experience with and knowledge of workers' compensation and the workers' compensation laws of Minnesota.~~

Subd. 3. [CONFIRMATION; RECONFIRMATION.] *(a) Appointments to the court are subject to confirmation by the senate.*

(b) A judge is subject to reconfirmation by the senate after two years of the judge's term have elapsed. The governor may submit a recommendation at that time either supporting or opposing reconfirmation. If the

senate reconfirms, the judge may continue to serve the remaining balance of the unexpired term. If the senate rejects reconfirmation, the judge shall not continue to serve and the vacancy shall be filled by the governor for the unexpired term.

(c) Reappointments are subject to confirmation by the senate, but they are not subject to reconfirmation as provided under paragraph (b) unless the reappointed judge was initially appointed to fill a vacancy for an unexpired term having less than two years remaining.

Subd. 4. [QUALIFICATIONS.] To qualify for appointment to the court, a candidate shall be learned in the law, have been licensed to practice law for at least five years, and have experience with and knowledge of workers' compensation and the workers' compensation laws of Minnesota.

Subd. 5. [ADVISORY COMMITTEE.] The governor, speaker of the house, and majority leader of the senate shall each appoint two members to a six-member advisory committee which shall screen applicants for appointment to the court and recommend at least three qualified candidates per vacancy. The committee shall be appointed and subject to the provisions of section 15.059, subdivisions 1, 2, 3, 4, and 6. The membership shall fairly represent the diverse groups having an interest in the efficient, just, and equitable administration of the state's workers' compensation laws, and the dispute resolution process thereunder.

Subd. 6. [STANDARDS OF CONDUCT.] The judges of the workers' compensation court of appeals shall be subject to the provisions of the Minnesota Constitution, article VI, section 6, the jurisdiction of the commission on judicial standards, as provided in sections 490.15 and 490.16, and the provisions of the code of judicial conduct.

Subd. 2 7. [JURISDICTION.] The workers' compensation court of appeals shall have statewide jurisdiction. Except for an appeal to the supreme court or any other appeal allowed under this subdivision, the workers' compensation court of appeals shall be the sole, exclusive, and final authority for the hearing and determination of all questions of law and fact arising under the workers' compensation laws of the state in those cases that have been appealed to the workers' compensation court of appeals and in any case that has been transferred by the district court to the workers' compensation court of appeals. The workers' compensation court of appeals shall have no jurisdiction in any case that does not arise under the workers' compensation laws of the state or in any criminal case, provided that the workers' compensation court of appeals shall exercise appellate jurisdiction under the laws governing employees of the state, a county, or other governmental subdivision who contract tuberculosis and under chapter 352E.

Subd. 3 8. [OATH.] Each judge of the workers' compensation court of appeals before entering upon the duties of office, shall take the oath prescribed by law.

Sec. 3. Minnesota Statutes 1988, section 175A.02, is amended to read:

175A.02 [ADMINISTRATIVE OFFICERS.]

Subdivision 1. [WCCA; CHIEF JUDGE.] The ~~judges of the workers' compensation court of appeals~~ governor shall ~~choose~~ designate a chief judge from among ~~their number~~ the judges. The chief judge shall ~~appoint one of the judges to serve as the administrator, who shall be have overall responsibility for administration of the court, including acting as custodian~~

of the court's files and records and ~~shall coordinate and make~~ *coordinator of hearing assignments. The chief judge who is appointed the administrator may delegate the duties of administrator to an employee chosen to be the appoint an assistant administrator to assist the judge in the performance of administrative duties. The chief judge shall also have responsibility for oversight of other judges and court personnel with respect to timely performance of duties in a professional manner.*

*Subd. 2. [DISTRICT COURTS.] The court administrator of district court in each county shall be the court administrator of the workers' compensation court of appeals in that county. Filing fees and library fees deposited with the court administrator of district court in the capacity as clerk of the workers' compensation court of appeals and in cases originally commenced in district court and transferred to the workers' compensation court of appeals shall be retained by the court administrator of district court. The workers' compensation court of appeals court administrator in each county shall be subject to the supervision of the ~~administrator~~ *chief judge appointed under subdivision 1* in workers' compensation court of appeals matters.*

Sec. 4. Minnesota Statutes 1988, section 175A.05, is amended to read:
175A.05 [QUORUM.]

A majority of the judges of the workers' compensation court of appeals shall constitute a quorum for the exercise of the powers conferred and the duties imposed on the workers' compensation court of appeals except that all appeals shall be heard by no more than *a panel of three of the five judges unless the appeal case appealed is determined to be of exceptional importance by the chief judge prior to assignment of the case to a panel, or by a four-fifths three-fifths vote of the judges prior to assignment of the case to a panel or after the case has been considered by the panel but prior to the service and filing of the decision.* A vacancy shall not impair the ability of the remaining judges of the workers' compensation court of appeals to exercise all the powers and perform all of the duties of the workers' compensation court of appeals.

Sec. 5. Minnesota Statutes 1988, section 175A.07, subdivision 2, is amended to read:

Subd. 2. [PERSONNEL.] The ~~judges~~ chief judge of the workers' compensation court of appeals shall appoint in the manner provided by law all personnel required by the workers' compensation court of appeals; except that, each judge shall appoint the judge's own law clerks. The law clerks are in the unclassified service. The commissioner of administration shall provide the court with necessary additional staff and administrative services, and the court shall reimburse the commissioner for the cost of these services.

Sec. 6. [176.325] [CERTIFIED QUESTION.]

Subdivision 1. [WHEN CERTIFIED.] The chief administrative law judge may certify a question of workers' compensation law to the workers' compensation court of appeals as important and doubtful under the following circumstances:

- (1) all parties to the case have stipulated in writing to the facts;*
- (2) the sole issue to be resolved is a question of workers' compensation law that has not been resolved by the workers' compensation court of appeals or the Minnesota supreme court;*

(3) *all parties request that the matter be resolved by certification to the workers' compensation court of appeals as an important and doubtful question; and*

(4) *the commissioner, the designee of the commissioner, the chief administrative law judge, or the designee of the chief administrative law judge has determined that resolution of the certified question would resolve a number of pending cases and would likely reduce further workers' compensation litigation involving the important and doubtful question of law.*

Subd. 2. [SUPREME COURT REVIEW.] Review by the supreme court of any decision of the workers' compensation court of appeals pursuant to this section shall be pursuant to section 176.471.

Subd. 3. [SPEEDY DECISION.] It is the legislature's intent that the workers' compensation court of appeals and the Minnesota supreme court resolve the certified question as expeditiously as possible, after compliance by the parties with any requirements of the workers' compensation court of appeals or the Minnesota supreme court regarding submission of legal memoranda, oral argument, or other matters, and after the participation of amicus curiae, should the workers' compensation court of appeals or Minnesota supreme court consider such participation advisable.

Subd. 4. [NOTICE.] The chief administrative law judge shall notify all persons who request to be notified of a certification under this section.

Sec. 7. [STATUS OF CURRENT JUDGES.]

Notwithstanding Minnesota Statutes, section 175A.01, subdivision 2, judges currently serving on the workers' compensation court of appeals who are reappointed are subject to confirmation by the senate, but not reconfirmation as provided under section 175A.01, subdivision 3.

Sec. 8. [APPROPRIATION.]

\$275,000 is appropriated from the special compensation fund for fiscal year 1990, and \$240,000 for fiscal year 1991, to the workers' compensation court of appeals to raise the salary of the chief judge as provided under section 1 and to provide additional staff and operations support to the court. The approved complement of the court is increased by seven.

Sec. 9. [EFFECTIVE DATE.]

This article is effective July 1, 1989.

ARTICLE 7

REGULATION OF INSURERS

Section 1. Minnesota Statutes 1988, section 79.252, is amended by adding a subdivision to read:

Subd. 6. [COVERAGE OUTSIDE STATE.] Policies issued by the assigned risk plan 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 commissioner, on behalf of the assigned risk plan, may apply for and obtain any licensure required in any other state to issue that coverage.

Sec. 2. Minnesota Statutes 1988, section 79.58, is amended by adding a subdivision to read:

Subd. 3. [FLEX RATING.] (a) Whenever an insurer files a change in

its existing rate level that is greater than 12 percent in a 12-month period, the commissioner may hold a hearing to determine if the rate is excessive. The hearing must be conducted as provided under chapter 14. The commissioner shall give notice of intent to hold a hearing within 60 days of the filing of the change. The commissioner of labor and industry may appear as an interested party at the hearing. At the hearing, the insurer has the responsibility of showing the rate is not excessive. The rate is effective unless it is determined as a result of the hearing that the rate is excessive. The disapproval of a rate under this subdivision must be done in the same manner as provided under section 70A.11.

(b) 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. This subdivision does not apply to any changes resulting from assessments for the assigned risk plan, reinsurance association, guarantee fund, special compensation fund, benefit level changes, or other rates or rating plans utilized by an insurer.

Sec. 3. Minnesota Statutes 1988, 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. 4. [MANDATED REDUCTIONS.]

(a) As a result of the workers' compensation law changes in this act and the resulting savings to the costs of Minnesota's workers' compensation system, an insurer's approved schedule of rates in effect on October 1, 1989, must be reduced by ten 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 ten percent mandated rate reduction under this section. The reduction must be computed on the basis of a ten percent premium reduction prorated to the expiration of that policy. An insurer shall provide written notice by January 1, 1990, to all employers having an outstanding policy with the insurer as of October 1, 1989, to read as follows: "As a result of the changes in the workers' compensation insurance system enacted by the 1989 legislature, you are entitled to a credit or refund to your current premium in an amount of \$ which reflects a ten percent mandated premium reduction prorated to the expiration of your policy."

(b) No rate increases may be filed between May 23, 1989, and January 1, 1990.

Sec. 5. [EFFECTIVE DATE.]

Sections 1 and 3 are effective the day following final enactment. Section 2 is effective October 1, 1989. Section 4, paragraph (a), is effective October 1, 1989, and section 4, paragraph (b), is effective the day following final enactment.

ARTICLE 8

CONTINGENT INSURANCE REGULATION

Section 1. Minnesota Statutes 1988, 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 79.211 and sections 6 to 33, shall have the meanings ascribed to them.

Sec. 2. Minnesota Statutes 1988, section 79.074, is amended by adding a subdivision to read:

Subd. 3. [UNFAIRLY DISCRIMINATORY.] A rate, rating plan, or schedule of rates 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, rating plans, or schedules of 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, rating plan, or schedule of rates reflect the differences with reasonable accuracy.

Sec. 3. Minnesota Statutes 1988, section 79.074, is amended by adding a subdivision to read:

Subd. 4. [EXCESSIVENESS.] Rates, rating plans, or schedules of rates 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 unreasonable in relation to the risk undertaken by the insurer in transacting the business.

Sec. 4. Minnesota Statutes 1988, section 79.074, is amended by adding a subdivision to read:

Subd. 5. [INADEQUACY.] Rates, rating plans, or schedules of rates are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business, they are insufficient to sustain projected losses and expenses of the insurer and if their continued use could lead to an insolvent situation for the insurer.

Sec. 5. Minnesota Statutes 1988, section 79.074, is amended by adding a subdivision to read:

Subd. 6. [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. 6. [79.253] [PRIOR RATES.]

Subdivision 1. Rates, schedules of rates, and rating plans that have been filed with the commissioner prior to July 1, 1991, are conclusively presumed to satisfy the requirements of this article 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 July 1, 1991, an insurer may file a rate for any classification for which a rate was not previously filed. This rate may 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 the commissioner has approved an initial schedule of rates pursuant to section 9. If the commissioner disapproves of any rate or rating plan pursuant to authority granted in this subdivision, the disapproval is not subject to chapter 14 and the decision is final.

Subd. 3. Until the commissioner issues an order approving a schedule of rates pursuant to section 9, an insurer may not, through the use of any rating plan, charge a rate higher than the rates applicable to the insurer under 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. This section also does not prohibit the adjustment of a schedule of rates to reflect adjustments in the assessment rate for the special compensation fund, 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 guarantee association pursuant to section 60C.05, or any other assessment required by law.

Subd. 4. Rates, schedules of rates, and rating plans filed after June 30, 1991, may not be used after the effective date of this article and the rates, schedules of rates, and rating plans in effect prior to July 1, 1991, are reinstated.

Subd. 5. This section applies only to policies issued to be effective after the effective date of this section.

Sec. 7. Minnesota Statutes 1988, section 79.50, is amended to read:

79.50 [PURPOSES.]

The purposes of chapter 79 are to:

(a) Promote public welfare by regulating insurance rates so that premiums are not excessive, inadequate, or unfairly discriminatory;

(b) Promote quality and integrity in the data bases used in workers' compensation insurance ratemaking;

(c) Prohibit price fixing agreements and anticompetitive behavior by insurers; and

(d) ~~Promote price competition and provide rates that are responsive to competitive market conditions;~~

(e) ~~Provide a means of establishment of proper rates if competition is not effective;~~

(f) ~~Define the function and scope of activities of data service organizations;~~

(g) ~~Provide for an orderly transition from regulated rates to competitive market conditions; and~~

(h) Encourage insurers to provide alternative innovative methods whereby employers can meet the requirements imposed by section 176.181.

Sec. 8. Minnesota Statutes 1988, section 79.59, is amended to read:

79.59 [INSURERS ~~AND~~, DATA SERVICE ORGANIZATIONS, AND RATING ASSOCIATION; PROHIBITED ACTIVITIES.]

Subdivision 1. [MONOPOLIZATION.] No insurer or data service organization or rating association shall attempt to monopolize or combine or

conspire with any other person to monopolize the business of insurance.

Subd. 2. [AGREEMENT PROHIBITED.] No insurer shall agree with any other insurer, *rating association*, or with a data service organization to adhere to or to use any rate, rating plan, rating schedule, rating rule, or underwriting rule except as specifically authorized by this chapter or for the purpose of creating experience modifications for employers with employees in more than one state.

Subd. 3. [TRADE RESTRAINT.] No insurer, *rating association*, or data service organization shall make an agreement with any other insurer, data service organization, or other person which has the purpose or the effect of restraining trade or of substantially lessening competition.

Subd. 4. [EXCEPTIONS.] ~~The fact that insurers writing not more than 25 percent of the workers' compensation premiums in Minnesota use the same rates, rating plans, rating schedules, rating rules, underwriting rules, or similar materials shall not alone constitute a violation of subdivision 1 or 2.~~

Two or more insurers under common ownership or operating under common management or control may act in concert between or among themselves with respect to matters authorized under this chapter as if they constituted a single insurer, provided that the rating plan of such insurers shall be considered to be a single plan for the purposes of determining unfair discrimination.

Subd. 5. [ADDITIONAL PROHIBITION.] In addition to other prohibitions contained in this chapter, no data service organization *or rating association* shall:

(a) Refuse to supply any service for which it is licensed or any data, except for data identifiable to an individual insurer, to any insurer authorized to do business in this state which offers to pay the usual compensation for the service or data;

(b) Require the purchase of any specific service as a condition to obtaining any other services sought;

(c) Participate in the development or distribution of rates, rating plans, or rating rules except as specifically authorized by this chapter or by rules adopted pursuant to this chapter; or

(d) Refuse membership to any licensed insurer.

Sec. 9. [79.71] [RATES; HEARINGS.]

Subdivision 1. [PETITION FOR ADOPTION OF RATE SCHEDULE.]

(a) *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 may not be excessive, inadequate, or unfairly discriminatory.*

(b) *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 to adopt a schedule of rates. Upon receipt of a petition requesting a hearing for adoption of a 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. 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, the commissioner shall 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.

Subd. 2. [HEARING.] (a) 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 must be held pursuant to the contested case procedures in chapter 14. The burden of proof is on the petitioning party.

(b) 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 commissioner shall publish notice of the hearing in the State Register at least 20 days before the hearing date. Approval of the notice prior to publication by the administrative law judge is not required.

(c) The administrative law judge may 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. The commissioner of labor and industry is responsible for presenting the public's case.

(d) The hearing must be completed within 180 days of assignment of the matter to the administrative law judge. 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 submitting the report may be extended by the chief administrative law judge for good cause.

Subd. 3. [HEARING DETERMINATION.] The commissioner may accept, reject, or modify, in whole or in part, matters raised in the petition for adoption 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. The commissioner is an interested party if the commissioner's decision is appealed.

Subd. 4. [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 after receipt.

Subd. 5. [CONSULTANTS; COMMISSIONER OF COMMERCE.] The commissioner may hire consultants, including a consulting actuary and other experts, considered necessary to assist in the establishment or modification of the schedule of rates.

Subd. 6. [CONSULTANTS; COMMISSIONER OF LABOR AND INDUSTRY.] The commissioner of labor and industry may hire consultants, including a consulting actuary and other experts, considered necessary to assist the commissioner of labor and industry in the hearing for modification of the schedule of rates and appeals therefrom.

Subd. 7. [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. 8. [COMMISSIONER OF LABOR AND INDUSTRY AS PUBLIC REPRESENTATIVE.] (a) The commissioner of labor and industry is 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 business regulated under this chapter; and (2) cause the deposition to be taken of any person concerning the business and affairs of any business regulated under this chapter.

(b) Information sought through a deposition must be for a lawfully authorized purpose and must be relevant and material to the investigation or hearing before the commissioner of labor and industry. Information obtained from a deposition may be used by the commissioner of labor and industry only for a lawfully authorized purpose and pursuant to powers and responsibilities conferred upon the department of labor and industry. A deposition is to be taken in the manner prescribed by law for taking depositions in civil actions in the district court.

(c) 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.

Subd. 9. [APPOINTMENT OF ACTUARY.] The commissioner of labor and industry shall employ the services of a casualty actuary experienced in workers' compensation whose duties include but are not 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. 10. [79.72] [PETITION FOR REHEARING.]

Subdivision 1. [PETITION CONTENTS.] Any party may petition the commissioner for rehearing and reconsideration of a determination made pursuant to section 9. 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 must set forth factual grounds in support of its petition. Any 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 9.

Subd. 3. [MODIFICATION OF ORDER.] Following a 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 adoption 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 prior orders of the commissioner.

Sec. 11. [79.73] [JUDICIAL REVIEW.]

Final orders of the commissioner pursuant to sections 9 and 10 are subject to judicial review pursuant to sections 14.63 to 14.69 but must remain in effect during the pendency of any appeal.

Sec. 12. [79.74] [INTERIM SCHEDULE OF RATES.]

(a) 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 and determine within 30 days if it presents facts which warrant a hearing. If the commissioner accepts a petition for hearing, the commissioner shall order a hearing on the matters set forth in the petition. The hearing must be conducted pursuant to the contested case procedures found in chapter 14.

(b) The chief administrative law judge shall set a hearing date, assign an administrative law judge to hear a petition for a change in the schedule of rates, and notify the commissioner of the hearing date and the administrative law judge to hear the matter, within 30 days of receipt of the commissioner's order. The commissioner shall publish notice of the hearing in the State Register at least 20 days before the hearing date. The administrative law judge shall conclude the hearing within 60 days of assignment of the matter to the administrative law judge and file findings of fact, conclusions of law, and a proposed order with the commissioner within 30 days of conclusion of 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 9. 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.

(c) The commissioner shall make a final determination with respect to adoption of an interim adjustment to the schedule of rates within 30 days after receipt of the administrative law judge's report. The commissioner's

order may affirm, reverse, or modify the findings and order of the administrative law judge. The petitioning party has the burden of proof in any hearing held pursuant to this subdivision. All other evidentiary, procedural, and review standards in section 9 apply to interim rate hearings except for the time requirements in this subdivision.

(d) Interim rate hearings are subject to judicial review pursuant to chapter 14 except that the commissioner's interim rate order remains 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.

(e) Interim rate hearings are only for changes in the schedule of workers' compensation rates resulting from law changes and 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. 13. [79.75] [AUTOMATIC ADJUSTMENT OF RATES.]

(a) The commissioner shall adopt a rule to establish a mechanism to automatically adjust a schedule of rates to reflect benefit changes mandated by operation of law after the most recent change in the schedule of rates, an adjustment in the assessment rate for the special fund, 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 guarantee association pursuant to section 60C.05, or any other assessment required by law.

(b) At each rate hearing held pursuant to section 9 or rehearing pursuant to section 10, 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. 14. [79.76] [INSURERS SHALL BE MEMBERS OF ASSOCIATION.]

Every insurer issuing workers' compensation insurance in this state shall be a member of the rating association, known as the Minnesota insurers rating association, organized under section 15, 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;

(2) to inspect compensation risks and establish the merit and experience rating system approved for use in this state;

(3) to establish charges and credits under the system;

(4) to report all facts affecting compensation insurance risks and those necessary for approving policies of compensation insurance as conforming with classifications, rates, and rating plans previously promulgated by the association and approved by the commissioner; and

(5) to assist the commissioner and insurers in determining rates, hazards, and other material facts in connection with compensation risks, and to

assist in promoting safety in the industries.

Sec. 15. [79.77] [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 must be filed with and approved by the commissioner and are not 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 must be fixed in the articles or bylaws and must be equitable and non-discriminatory as between members. The initial articles, bylaws, and plan of operation must be filed with the commissioner no later than August 1, 1991. If the initial articles, bylaws, and plan of operation are not filed by August 1, 1991, the commissioner shall adopt the initial articles, bylaws, and plan of operation.

Sec. 16. [79.78] [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 is final and binding upon all members of the association.

Sec. 17. [79.79] [BOARD OF DIRECTORS.]

(a) 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 chapter. The board consists of 12 directors. Ten directors shall represent insurers and the commissioner shall appoint the remaining two directors. Each director is entitled to one vote. Terms of the directors are for two years. The board shall select a chair and other officers it considers appropriate.

(b) 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.

(c) The initial board of directors shall consist of the current board of directors of the data service organization authorized by section 79.62 who shall serve until their current data service organization terms expire.

Sec. 18. [79.80] [PLAN OF OPERATION.]

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

- (1) the establishment of necessary facilities;*
- (2) the management and operation of the rating association;*

(3) 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;

(4) procedures governing the actual payment of assessments to the rating association;

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

(6) any other matters required by or necessary to effectively implement chapter 79.

Subd. 2. [AMENDMENTS.] (a) The plan of operation is 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 is 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. 19. [79.81] [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 department of commerce or labor and industry or other parties retained by the commissioner.

Subd. 2. [COSTS AND EXPENSES.] The commissioner shall order and the rating association shall pay the costs and expenses of any examination, audit, or evaluation conducted pursuant to subdivision 1.

Sec. 20. [79.82] [MANUALS.]

Subdivision 1. [INITIAL FILING REQUIRED.] (a) On or before August 1, 1991, the association shall file with the commissioner all underwriting and rating manuals which are used in the classification of risks and the calculation of rating plans, rates, and fees. The association shall provide the commissioner with at least six copies of each manual. A copy of each manual filed must also be provided to the commissioner of labor and industry.

(b) The commissioner shall review the manuals and on or before November 1, 1991, approve or disapprove the manuals or any part thereof. The evidentiary, procedural, and review standards of section 9 apply to the review of the manuals. Until the commissioner has approved or disapproved the manuals, they remain in force. As to any manual or part thereof that

is not approved, the association may contest the disapproval pursuant to the contested case procedures of chapter 14. Until the conclusion of the contested case proceeding, the portions of the manuals that were not approved shall remain in force.

Subd. 2. [NEW MANUALS AND AMENDMENTS.] If the association adopts or amends a manual, the manual or the amendment to the manual is not effective until approved by the commissioner. The association shall provide the commissioner with at least six copies of each manual or amendment. A copy of each manual or amendment filed must also be provided to the commissioner of labor and industry. The commissioner shall approve or disapprove any manual or amendment within 30 days of filing. The evidentiary, procedural, and review standards of section 9 apply to the review of the manuals. Any manual or amendment not approved within 30 days is considered to be disapproved. As to a disapproved manual or 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 is upon the party requesting the adoption of a manual or an amendment of a manual.

Subd. 4. [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. 21. [79.83] [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. 22. [79.84] [ANNUAL STATEMENT.]

On or before March 1 each year, the association shall file with the commissioner a statement covering its activities for the year ending on the preceding December 31. This report must 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 considers appropriate. Examination may be made as often as the commissioner considers necessary.

Sec. 23. [79.85] [ASSOCIATION SHALL MAKE CLASSIFICATION.]

(a) 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 is subject to the approval of the commissioner.

(b) 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. The association 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 survey must 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. The association 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 is binding upon all insurers.

(c) 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 chapter 79 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, must be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk must be furnished upon request to any other insurer upon the payment of a reasonable charge for the service.

(d) Every insurer shall promptly file with the association a copy of each payroll audit, which must 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 association shall verify any payroll audit reported to the commissioner.

Sec. 24. [79.86] [INFORMATION.]

(a) In addition to other information that the commissioner requests pursuant to section 9, the rating association shall file with the commissioner the following information on its Minnesota experience:

- (1) reserves for incurred but not reported losses of its members;*
- (2) paid claims;*
- (3) reserves for open claims;*
- (4) a schedule of claims in which its members have established a reserve in excess of \$50,000;*
- (5) the income on invested reserves of its members;*
- (6) an itemized list of policies written at other than the filed rates;*
- (7) loss adjustment expenses;*
- (8) subrogation recoveries;*
- (9) administrative expenses; and*
- (10) commission expenses and lobbying expenses.*

(b) Losses and reserves must be reported separately as to medical and indemnity expenses. The rating association shall file an itemized breakdown of its lobbying expenses.

(c) The commissioner shall consider the information filed under paragraph (a) in an appropriate manner in adopting a schedule of rates and shall decline to grant a hearing pursuant to section 9 for purposes of considering a rate increase if the association fails to provide the information.

(d) The rating association shall be domiciled, chartered, and principally located in the state of Minnesota. Except with the approval of the commissioner, the rating association may not contract for its data collection

responsibilities with data service organizations domiciled, chartered, or principally located outside the state of Minnesota.

Sec. 25. [79.87] [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. [79.88] [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 filed must comply with the requirements of law and are not effective until approved by the commissioner.

Sec. 27. [79.89] [RATES TO BE UNIFORM; EXCEPTIONS.]

No insurer may write insurance at a rate above that established by the association and approved by the commissioner. The insurer 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 must 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 must be mailed to the insured within 30 days of the request.

Sec. 28. [79.90] [DUTIES OF COMMISSIONER.]

The commissioner of commerce shall require compensation insurers, or their agents, to file all reports as may be necessary for the purposes of chapter 79 for use by the commissioner.

Sec. 29. [79.91] [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, or violates any of the provisions of, chapter 79 or any order or ruling of the commissioner, is subject to 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. 30. [79.92] [RULEMAKING.]

The commissioner may adopt rules, including emergency rules effective until January 1, 1993, to carry out the commissioner's duties assigned by this article.

Sec. 31. [79.93] [LIABILITY UNDER OTHER LAW.]

The regulatory scheme established by chapter 79 does not relieve any person from liability under sections 325D.49 to 325D.66 or United States Code, title 15, sections 1 to 36.

Sec. 32. [79.94] [LEGISLATIVE INTENT.]

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

Sec. 33. [79.95] [DATA SERVICE ORGANIZATION CONTINUED EXISTENCE.]

A licensed data service organization shall continue to operate pursuant to sections 79.61 and 79.62 until December 31, 1991, or until the plan of operation of the rating association has been approved by the commissioner, whichever occurs first.

Sec. 34. [INSTRUCTION TO REVISOR.]

The revisor of statutes is directed to change the words "Workers' Compensation Insurers Rating Association of Minnesota" wherever they appear in Minnesota Statutes to "Minnesota Insurers Rating Association" in Minnesota Statutes 1992 and subsequent editions of the statutes.

Sec. 35. [REPEALER.]

Minnesota Statutes 1986, sections 79.51; 79.52, subdivisions 2 and 12; 79.53; 79.54; 79.55; 79.56; 79.57; 79.58; 79.60; 79.61; and 79.62, are repealed.

Sec. 36. [ADVISORY COMMITTEE.]

An eight-member advisory committee is created to make a recommendation by January 1, 1991, to the governor concerning implementation of this article. The advisory committee shall consist of the commissioner of commerce, the commissioner of labor and industry, and one member each, appointed by the governor, representing labor, employers, insurers, the state fund, the workers' compensation insurers rating association, and the general public. Appointed members of the advisory committee shall be compensated as provided pursuant to Minnesota Statutes, section 15.059. The existence of the advisory committee shall terminate on January 1, 1991.

The advisory committee shall study the advisability of implementing a "prior approval" system of insurance regulation as provided in this article. In making its recommendation, the committee shall examine the performance of the current system of workers' compensation insurance regulation in Minnesota as compared to surrounding states who have prior approval or competitive rating systems.

Sec. 37. [EFFECTIVE DATE.]

(a) Sections 1 to 35 are effective July 1, 1991, contingent upon the following notification. The governor shall notify the speaker of the house and the majority leader of the senate of the governor's intent to have sections 1 to 35 take effect on July 1, 1991. The notification must be made no earlier than February 1, 1991, and not later than February 15, 1991.

Failure to notify the speaker and majority leader during this time period will result in sections 1 to 35 not taking effect. Following notification, the governor shall cause to be published in the State Register by March 1, 1991, notification of the governor's intent to have sections 1 to 35 take effect on July 1, 1991.

(b) Section 36 is effective the day following final enactment.

ARTICLE 9

MISCELLANEOUS"

Amend the title accordingly

Mr. Stumpf then moved to amend the Stumpf amendment to H.F. No. 564 as follows:

Page 35, delete article 4

Renumber the articles in sequence and correct the internal references

The motion prevailed. So the amendment to the amendment was adopted.

The question recurred on the Stumpf amendment, as amended.

The motion prevailed. So the amendment, as amended, was adopted.

The question was taken on the recommendation to pass H.F. No. 564.

The roll was called, and there were yeas 35 and nays 15, as follows:

Those who voted in the affirmative were:

Adkins	Bertram	Frederickson, D.R.	McQuaid	Ramstad
Anderson	Brataas	Gustafson	Mehrkens	Renneke
Beckman	Chmielewski	Knaak	Moe, D.M.	Schmitz
Belanger	Davis	Laidig	Moe, R.D.	Solon
Benson	Decker	Langseth	Morse	Storm
Berg	Frederick	Larson	Olson	Stumpf
Bernhagen	Frederickson, D.J.	McGowan	Pariseau	Vickerman

Those who voted in the negative were:

Brandl	Diessner	Kroening	McCriram	Pogemiller
Cohen	Frank	Luther	Metzen	Reichgott
Dahl	Johnson, D.J.	Marty	Novak	Spear

The motion prevailed. So H.F. No. 564 was recommended to pass.

On motion of Mr. Moe, R.D., the report of the Committee of the Whole, as kept by the Secretary, was adopted.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Lessard moved that the following members be excused for a Conference Committee on H.F. No. 66 at 2:30 p.m.:

Messrs. Lessard, Knaak, Purfeerst, Mrs. Lantry and Ms. Peterson, D.C. 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. 1625 at 2:45 p.m.:

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Beckman moved that the following members be excused for a Conference Committee on H.F. No. 513 from 3:00 to 3:30 p.m.:

Messrs. Beckman; Frederickson, D.J. and Ms. Piper. The motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED**SUSPENSION OF RULES**

Remaining on the Order of Business of Motions and Resolutions, Mr. Moe, R.D. moved that the Senate take up the General Orders Calendar and that the rules of the Senate be so far suspended as to waive the lie-over requirement. The motion prevailed.

GENERAL ORDERS

The Senate resolved itself into a Committee of the Whole, with Mr. Chmielewski in the chair.

After some time spent therein, the committee arose, and Mr. Chmielewski reported that the committee had considered the following:

S.F. No. 890, which the committee recommends to pass.

On motion of Mr. Luther, the report of the Committee of the Whole, as kept by the Secretary, was adopted.

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. 1734 at 3:50 p.m.:

Messrs. Johnson, D.J.; Brandt; Novak; Pogemiller and Stumpf. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Samuelson moved that the following members be excused for a Conference Committee on H.F. No. 1759 from 3:00 to 4:00 p.m.:

Messrs. Samuelson, Knutson, Mrs. Lantry, Mses Piper and Berglin. The motion prevailed.

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Stumpf moved that the following members be excused for a Conference Committee on H.F. No. 245 from 4:30 to 5:00 p.m.:

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

CONFERENCE COMMITTEE EXCUSED

Pursuant to Rule 21, Mr. Freeman moved that the following members be excused for a Conference Committee on H.F. No. 46 at 4:30 p.m.:

Messrs. Freeman, Waldorf, Samuelson, Morse and Johnson, D.E. The

motion prevailed.

MOTIONS AND RESOLUTIONS - CONTINUED

Remaining on the Order of Business of Motions and Resolutions, Mr. Luther 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 has adopted the recommendation and report of the Conference Committee on House File No. 729, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 729 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 729

A bill for an act relating to marriage dissolution; requiring courts to consider the existence of domestic abuse in determining whether to award joint custody; providing for the appointment of visitation expeditors to resolve ongoing visitation disputes; providing for visitation by persons who have resided with a child; providing that either parent may request visitation rights on behalf of the child; requiring the court to restrict or modify visitation under certain circumstances; permitting agreements about modification of maintenance; amending Minnesota Statutes 1988, sections 257.022, by adding a subdivision; 518.17, subdivision 2; 518.175, subdivisions 1 and 5; 518.552, by adding a subdivision; and 518.58, subdivision 1; proposing coding for new law in Minnesota Statutes, chapter 518.

May 16, 1989

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. 729, 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. 729 be further amended as follows:

Page 2, after line 5, insert:

“Sec. 2. Minnesota Statutes 1988, section 518.17, subdivision 1, is amended to read:

Subdivision 1. [THE BEST INTERESTS OF THE CHILD.] (a) “The best interests of the child” means all relevant factors to be considered and evaluated by the court including:

(a) (1) the wishes of the child’s parent or parents as to custody;

(b) (2) the reasonable preference of the child, if the court deems the child to be of sufficient age to express preference;

(3) *the child's primary caretaker;*

(4) *the intimacy of the relationship between each parent and the child;*

(e) (5) the interaction and interrelationship of the child with a parent or parents, siblings, and any other person who may significantly affect the child's best interests;

(d) (6) the child's adjustment to home, school, and community;

(e) (7) the length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity;

(f) (8) the permanence, as a family unit, of the existing or proposed custodial home;

(g) (9) the mental and physical health of all individuals involved;

(h) (10) the capacity and disposition of the parties to give the child love, affection, and guidance, and to continue educating and raising the child in the child's culture and religion or creed, if any;

(i) (11) the child's cultural background; and

(j) (12) the effect on the child of the actions of an abuser, if related to domestic abuse, as defined in section 518B.01, that has occurred between the parents.

The court may not use one factor to the exclusion of all others. The court must make detailed findings on each of the factors and explain how the factors led to its conclusions and to the determination of the best interests of the child.

(b) The court shall not consider conduct of a proposed custodian that does not affect the custodian's relationship to the child."

Page 4, line 21, before "The" insert "If a visitation dispute arises,"

Page 4, line 22, delete "after"

Page 4, line 23, delete "appointment"

Renumber the sections in sequence

Amend the title as follows:

Page 1, line 12, after the semicolon, insert "including the primary caretaker standard as a factor to be considered in custody decisions; requiring specific findings on each factor and prohibiting courts from relying exclusively on one factor in determining custody; modifying provisions dealing with the valuation of marital property;"

Page 1, line 14, delete the second "subdivision" and insert "subdivisions 1 and"

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

House Conferees: (Signed) Sandy Pappas, Randy C. Kelly, Terry Dempsey, Jean Wagenius, Kris Hasskamp

Senate Conferees: (Signed) Allan H. Spear, William P. Luther, Richard J. Cohen, LeRoy A. Stumpf, Gary W. Laidig

Mr. Spear moved that the foregoing recommendations and Conference Committee Report on H.F. No. 729 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. 729 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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.J.	Merriam	Purfeerst
Anderson	Davis	Knaak	Moe, R.D.	Ramstad
Beckman	Decker	Kroening	Morse	Reichgott
Belanger	Diessner	Laidig	Novak	Renneke
Benson	Frank	Larson	Olson	Solon
Berglin	Frederickson, D.J.	Luther	Pariseau	Spear
Bernhagen	Frederickson, D.R.	Marty	Pehler	Storm
Bertram	Freeman	McGowan	Piper	Stumpf
Cohen	Gustafson	McQuaid	Pogemiller	Vickerman

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 has adopted the recommendation and report of the Conference Committee on House File No. 300, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 300 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 300

A bill for an act relating to occupational safety and health; increasing certain penalties; proposing changes to the employee right-to-know act of 1984; amending Minnesota Statutes 1988, sections 182.651, subdivisions 7, 14, 15, and by adding a subdivision; and 182.653, subdivisions 4b, 4c, and 4f; repealing Minnesota Statutes 1988, section 182.651, subdivision 16.

May 16, 1989

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. 300, 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. 300 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 182.651, subdivision 7, is amended to read:

Subd. 7. “Employer” means a person who ~~has~~ employs one or more employees and includes any person ~~acting~~ who has the power to hire, fire, or transfer, or who acts in the interest of, or as a representative of, an employer and includes a corporation, partnership, association, group of persons, and the state and all of its political subdivisions.

Sec. 2. Minnesota Statutes 1988, section 182.651, subdivision 16, is amended to read:

Subd. 16. (a) “Technically qualified individual” means a ~~person~~ physician, dentist, pharmacist, or lead research individual, other than a student in one of these fields, who, because of professional or technical education, training or experience, understands, at the time of exposure, the health risks and the necessary safety precautions associated with each hazardous substance, harmful physical agent, infectious agent or mixture handled or utilized by the person.

(b) The commissioner shall by rule adopt a standard which specifies the criteria to be considered in determining whether or not a person is a technically qualified individual under this subdivision.

Sec. 3. Minnesota Statutes 1988, section 182.651, is amended by adding a subdivision to read:

Subd. 20. [INFECTIOUS AGENT.] “Infectious agent” means a communicable bacterium, rickettsia, parasites, virus, or fungus determined by the commissioner by rule, with approval of the commissioner of health, which according to documented medical or scientific evidence causes substantial acute or chronic illness or permanent disability as a foreseeable and direct result of any routine exposure to the infectious agent. Infectious agent does not include an agent in or on the body of a patient before diagnosis.

Sec. 4. Minnesota Statutes 1988, section 182.653, subdivision 4f, is amended to read:

Subd. 4f. Each employer who ~~operates a hospital or clinic~~ shall provide training according to a program developed by the commissioner by rule with approval of the commissioner of health to its employees who ~~are~~ routinely exposed to an infectious agent. The training shall include the information required by the rule for that agent as developed by the commissioner and shall include, if known, names of infectious agents to which the employee is routinely exposed, proper techniques for the employee to avoid self-contamination, and symptoms and effects of contamination. Training shall be provided upon the initial assignment of the employee to a job where that person will be routinely exposed to an infectious agent. Existing in-service, hospital licensure or certification programs which the commissioner determines substantially comply with the rules adopted pursuant to this subdivision may be certified by the commissioner to satisfy all or a part of the rules. ~~“Infectious agent” means a communicable bacterium, rickettsia, parasites, virus, or fungus determined by the commissioner by rule, with approval of the commissioner of health, which according to~~

documented medical or scientific evidence causes substantial acute or chronic illness or permanent disability as a foreseeable and direct result of any routine exposure to the infectious agent. Infectious agent does not include an agent in or on the body of a patient before diagnosis.

Infectious agent does not include an agent being developed or regularly utilized by a technically qualified individual in a research, medical research, medical diagnostic or medical educational laboratory or in a health care facility or in a clinic associated with a laboratory or health care facility, or in a pharmacy registered and licensed under chapter 151.

~~Employees who have been routinely exposed to an infectious agent prior to the effective date of Laws 1983, chapter 316 and who continue to be routinely exposed to that infectious agent after the effective date of Laws 1983, chapter 316, shall be trained with respect to that infectious agent within six months of the effective date of Laws 1983, chapter 316.~~

Training to update the information required to be provided under this subdivision shall be repeated at intervals no greater than one year.

Any technically qualified individual shall be notified of and may elect to participate in any training or update programs required to be provided under this subdivision to employees who are not technically qualified individuals. The employer shall make a reasonable attempt to allow technically qualified individuals to attend training or update programs which may be held during the employee's scheduled work hours.

Sec. 5. Minnesota Statutes 1988, section 182.669, subdivision 1, is amended to read:

Subdivision 1. Any employee believed to have been discharged or otherwise discriminated against by any person because such employee has exercised any right authorized under the provisions of sections 182.65 to 182.674, may, within 30 days after such alleged discrimination occurs, file a complaint with the commissioner alleging the discriminatory act. Upon receipt of such complaint, the commissioner shall cause such investigation to be made as the commissioner deems appropriate. If upon such investigation the commissioner determines that a discriminatory act was committed against an employee the commissioner shall refer the matter to the office of administrative hearings for a hearing before an administrative law judge pursuant to the provisions of chapter 14. ~~The administrative law judge may order rehiring of the employee, reinstatement of the employee's former position, fringe benefits, seniority rights, back pay, recovery of compensatory damages, and reasonable attorney fees, or other appropriate relief. In all cases where the administrative law judge finds that an employee has been discharged or otherwise discriminated against by any person because the employee has exercised any right authorized under sections 182.65 to 182.674, the administrative law judge may order payment to the employee of back pay and compensatory damages. The administrative law judge may also order rehiring of the employee; reinstatement of the employee's former position, fringe benefits, and seniority rights; and other appropriate relief. In addition, the administrative law judge may order payment to the commissioner or to the employee of costs, disbursements, witness fees, and attorney fees. Interest shall accrue on, and be added to, the unpaid balance of an administrative law judge's order from the date the order is signed by the administrative law judge until it is paid, at the annual rate provided in section 549.09, subdivision 1, paragraph (c). An employee may bring a private action in the district court for relief under~~

this section.

Sec. 6. [TRANSITION TRAINING PERIOD.]

This section applies to employees who are subject to the training requirements of section 182.653, subdivision 4f, because of the amendment in section 4. Employees who have been routinely exposed to an infectious agent prior to August 1, 1989, and who continue to be exposed after August 1, 1989, must be trained with respect to that infectious agent by no later than February 1, 1990."

Delete the title and insert:

"A bill for an act relating to occupational safety and health; proposing changes to the employee right-to-know act of 1983; amending Minnesota Statutes 1988, sections 182.651, subdivisions 7, 16, and by adding a subdivision; 182.653, subdivision 4f; and 182.669, subdivision 1."

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

House Conferees: (Signed) Karen Clark, Sandy Pappas, Warren E. Limmer

Senate Conferees: (Signed) Pat Piper, James C. Pehler, Jim Gustafson

Ms. Piper moved that the foregoing recommendations and Conference Committee Report on H.F. No. 300 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. 300 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 48 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Gustafson	McGowan	Ramstad
Anderson	Dahl	Johnson, D.E.	McQuaid	Reichgott
Beckman	Davis	Johnson, D.J.	Moe, R.D.	Renneke
Belanger	Decker	Knaak	Morse	Solon
Benson	Diessner	Knutson	Olson	Spear
Berglin	Frank	Kroening	Pariseau	Storm
Bernhagen	Frederick	Laidig	Pehler	Stumpf
Bertram	Frederickson, D.J.	Larson	Piper	Vickerman
Brataas	Frederickson, D.R.	Luther	Pogemiller	
Chmielewski	Freeman	Marty	Purteerst	

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 has adopted the recommendation and report of the Conference Committee on House File No. 472, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 472 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 17, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 472

A bill for an act relating to transportation; motor carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; and 169.86, subdivision 5.

May 15, 1989

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. 472, report that we have agreed upon the items in dispute and recommend as follows:

That the Senate recede from its amendments and that H.F. No. 472 be further amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 1988, section 169.01, is amended by adding a subdivision to read:

Subd. 74. [MOBILE CRANE.] "Mobile crane" means a vehicle (1) not designed or used to transport persons or property, (2) operated only incidentally on the highway and not subject to vehicle registration under chapter 168, and (3) comprising a boom and hoisting mechanism used in the construction industry. Mobile crane does not include a motor vehicle, designed to transport persons or property, to which a boom, hoist, crane, or other machinery has been attached.

Sec. 2. Minnesota Statutes 1988, section 169.81, subdivision 2, is amended to read:

Subd. 2. [LENGTH OF VEHICLES.] (a) No single unit motor vehicle, except mobile cranes which may not exceed 45 48 feet, unladen or with load may exceed a length of 40 feet extreme overall dimensions inclusive of front and rear bumpers, except that the governing body of a city is authorized by permit to provide for the maximum length of a motor vehicle, or combination of motor vehicles, or the number of vehicles that may be fastened together, and which may be operated upon the streets or highways of a city; provided, that the permit may not prescribe a length less than that permitted by state law. A motor vehicle operated in compliance with the permit on the streets or highways of the city is not in violation of this chapter.

(b) No single semitrailer may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer adjacent to the truck or truck-tractor, in excess of 48 feet, except that a single semitrailer may have an overall length in excess of 48 feet *but not greater than 53 feet* if (1) the distance from the kingpin to the centerline of the rear axle group of the semitrailer does not exceed 41 feet; ~~and (2) if the semitrailer is operated only in a combination~~

of vehicles which does not exceed an overall length of 65 feet. No single trailer may have an overall length inclusive of tow bar assembly and exclusive of rear protective bumpers which do not increase the overall length by more than six inches, in excess of 45 feet. For determining compliance with the provisions of this subdivision, the length of the semitrailer or trailer must be determined separately from the overall length of the combination of vehicles.

(c) No semitrailer or trailer used in a three-vehicle combination may have an overall length, exclusive of non-cargo-carrying accessory equipment, including refrigeration units or air compressors, necessary for safe and efficient operation mounted or located on the end of the semitrailer or trailer adjacent to the truck or truck-tractor, and further exclusive of the tow bar assembly, in excess of 28-1/2 feet. The commissioner may not grant a permit authorizing the movement, in a three-vehicle combination, of a semitrailer or trailer that exceeds 28-1/2 feet, except that the commissioner may renew a permit that was granted before April 16, 1984, for the movement of a semitrailer or trailer that exceeds the length limitation in this paragraph.

Sec. 3. Minnesota Statutes 1988, section 169.86, subdivision 5, is amended to read:

Subd. 5. [FEES.] The commissioner, with respect to highways under the commissioner's jurisdiction, may charge a fee for each permit issued. All such fees for permits issued by the commissioner of transportation shall be deposited in the state treasury and credited to the trunk highway fund. Except for those annual permits for which the permit fees are specified elsewhere in this chapter, the fees shall be:

(a) \$15 for each single trip permit.

(b) \$36 for each job permit. A job permit may be issued for like loads carried on a specific route for a period not to exceed two months. "Like loads" means loads of the same product, weight and dimension.

(c) \$60 for an annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) refuse compactor vehicles that carry a gross weight up to but not in excess of 22,000 pounds on a single rear axle and not in excess of 38,000 pounds on a tandem rear axle;

(2) motor vehicles used to alleviate a temporary crisis adversely affecting the safety or well-being of the public;

(3) motor vehicles which travel on interstate highways and carry loads authorized under subdivision 1a;

(4) motor vehicles operating with gross weights authorized under section 169.825, subdivision 11, paragraph (a), clause (3).

(d) \$120 for an oversize annual permit to be issued for a period not to exceed 12 consecutive months. Annual permits may be issued for:

(1) ~~truck~~ mobile cranes;

(2) construction equipment, machinery, and supplies;

(3) manufactured homes;

(4) farm equipment when the movement is not made according to the

provisions of section 169.80, subdivision 1, paragraphs (a) to (f);

(5) double-deck buses;

(6) commercial boat hauling.

(e) for vehicles which have axle weights exceeding the weight limitations of section 169.825, an additional cost added to the fees listed above. The additional cost is equal to the product of the distance traveled times the sum of the overweight axle group cost factors shown in the following chart:

Overweight Axle Group Cost Factors

Weight (pounds) exceeding weight limitations on axles	Cost Per Mile For Each Group Of:		
	Two consecutive axles spaced within 8 feet or less	Three consecutive axles spaced within 9 feet or less	Four consecutive axles spaced within 14 feet or less
0-2,000	.100	.040	.036
2,001-4,000	.124	.050	.044
4,001-6,000	.150	.062	.050
6,001-8,000	Not permitted	.078	.056
8,001-10,000	Not permitted	.094	.070
10,001-12,000	Not permitted	.116	.078
12,001-14,000	Not permitted	.140	.094
14,001-16,000	Not permitted	.168	.106
16,001-18,000	Not permitted	.200	.128
18,001-20,000	Not permitted	Not permitted	.140
20,001-22,000	Not permitted	Not permitted	.168

The amounts added are rounded to the nearest cent for each axle or axle group. The additional cost does not apply to paragraph (c), clauses (1) and (3).

(f) As an alternative to paragraph (e), an annual permit may be issued for overweight, or oversize and overweight, construction equipment, machinery, and supplies. The fees for the permit are as follows:

Gross Weight (pounds) of vehicle	Annual Permit Fee
90,000 or less	\$200
90,001 - 100,000	\$300
100,001 - 110,000	\$400
110,001 - 120,000	\$500
120,001 - 130,000	\$600
130,001 - 140,000	\$700
140,001 - 145,000	\$800

If the gross weight of the vehicle is more than 145,000 pounds the permit fee is determined under paragraph (e).

(g) for vehicles which exceed the width limitations set forth in section 169.80 by more than 72 inches, an additional cost equal to \$120 added to the amount in paragraph (a) when the permit is issued while seasonal load restrictions pursuant to section 169.87 are in effect.

Sec. 4. Minnesota Statutes 1988, section 221.022, is amended to read:

221.022 [METROPOLITAN TRANSIT COMMISSION; EXCEPTION.]

The powers granted to the board under sections 221.011 to 221.296 do not include the power to regulate any service or vehicles operated by the metropolitan transit commission *or to regulate passenger transportation service provided under contract to the department. A provider of passenger transportation service under contract to the department may not provide charter service without first having obtained a permit to operate as a charter carrier.*

Sec. 5. Minnesota Statutes 1988, section 221.025, is amended to read:

221.025 [EXEMPTIONS.]

Except as provided in sections 221.031 and 221.033, the provisions of this chapter do not apply to the intrastate transportation described below:

(a) the transportation of students to or from school or school activities in a school bus inspected and certified under section 169.451;

(b) the transportation of rubbish as defined in section 443.27;

(c) a commuter van as defined in section 221.011, subdivision 27;

(d) authorized emergency vehicles as defined in section 169.01, subdivision 5, including ambulances, and tow trucks when picking up and transporting disabled or wrecked motor vehicles and when carrying proper and legal warning devices;

(e) the transportation of grain samples under conditions prescribed by the board;

(f) the delivery of agricultural lime;

(g) the transportation of dirt and sod within an area having a 50-mile radius from the home post office of the person performing the transportation;

(h) a person while exclusively engaged in the transportation of sand, gravel, bituminous asphalt mix, concrete ready mix, concrete blocks or tile, or crushed rock to or from the point of loading or a place of gathering within an area having a 50-mile radius from that person's home post office or a 50-mile radius from the site of construction or maintenance of public roads and streets;

(i) the transportation of pulpwood, cordwood, mining timber, poles, posts, decorator evergreens, wood chips, sawdust, shavings, and bark from the place where the products are produced to the point where they are to be used or shipped;

(j) a person while engaged exclusively in transporting fresh vegetables from farms to canneries or viner stations, from viner stations to canneries, or from canneries to canneries during the harvesting, canning, or packing season, or transporting potatoes, sugar beets, wild rice, or rutabagas from the field of production to the first place of delivery or unloading, including a processing plant, warehouse, or railroad siding;

(k) a person engaged in transporting property or freight, other than household goods and petroleum products in bulk, entirely within the corporate limits of a city or between contiguous cities except as provided in section 221.296;

(l) the transportation of unprocessed dairy products in bulk within an area having a 100-mile radius from the home post office of the person providing the transportation;

(m) a person engaged in transporting agricultural, horticultural, dairy, livestock, or other farm products within an area having a 25-mile radius from the person's home post office and the carrier may transport other commodities within the 25-mile radius if the destination of each haul is a farm;

(n) a person providing limousine service that is not regular route service in a passenger automobile that is not a van, and that has a seating capacity, excluding the driver, of not more than 12 persons-;

(o) *passenger transportation service that is not charter service and that is under contract to and with operating assistance from the department.*

Sec. 6. [COST ALLOCATION STUDY.]

Subdivision 1. [STUDY REQUIRED.] The commissioner of transportation shall contract with a qualified and impartial consultant to conduct a study of how the costs of state and local highways in Minnesota, including costs and revenues attributable to federal aid programs, are allocated among users. This study shall:

(1) determine the costs of designing, constructing, administering, and maintaining state and local highways in Minnesota;

(2) determine the extent to which those costs are attributable to various classes of vehicles using those highways;

(3) determine the extent to which various classes of vehicles contribute revenue, including federal highway user taxes, for the design, construction, administration, and maintenance of those highways; and

(4) recommend changes in highway financing which would make the payments of various classes of vehicles for the design, construction, administration, and maintenance of state and local highways more nearly equal the costs those classes impose on those highways.

The commissioner shall regularly consult with the commissioner's motor carrier advisory board on the design of the request for proposals for the study, the selection of the consultant to perform the study, and the periodic review and evaluation of the study.

Subd. 2. [REPORT.] The commissioner shall report the results of the study to the chairs of the senate and house committees on transportation not later than October 1, 1990."

Delete the title and insert:

"A bill for an act relating to transportation; motor carriers; increasing maximum length of certain semitrailers; defining mobile cranes and providing for their maximum length; deregulating persons who provide passenger transportation service under contract to and with assistance from the department of transportation; requiring a highway cost allocation study; amending Minnesota Statutes 1988, sections 169.01, by adding a subdivision; 169.81, subdivision 2; 169.86, subdivision 5; 221.022; and 221.025."

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

House Conferees: (Signed) Henry J. Kalis, Connie Morrison, Harold Lasley

Senate Conferees: (Signed) Clarence M. Purfeerst, Mel Frederick, Gary M. DeCramer

Mr. Purfeerst moved that the foregoing recommendations and Conference Committee Report on H.F. No. 472 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. 472 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 44 and nays 4, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Gustafson	McQuaid	Purfeerst
Anderson	Dahl	Johnson, D.E.	Moe, R.D.	Reichgott
Beckman	Davis	Johnson, D.J.	Morse	Renneke
Belanger	Diessner	Knutson	Novak	Solon
Benson	Frank	Laidig	Olson	Spear
Berglin	Frederick	Larson	Pariseau	Storm
Bernhagen	Frederickson, D.J.	Luther	Pehler	Stumpf
Bertram	Frederickson, D.R.	Marty	Piper	Vickerman
Chmielewski	Freeman	McGowan	Pogemiller	

Messrs. Decker, Knaak, Merriam and Ramstad voted in the negative.

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 has adopted the recommendation and report of the Conference Committee on House File No. 489, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 489 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 489

A bill for an act relating to employment; regulating fair share fees, unfair labor practices, arbitration procedures and grievance procedures; amending Minnesota Statutes 1988, sections 179.02, by adding a subdivision; 179A.03, subdivision 7; 179A.05, subdivision 6; 179A.06, subdivision 3; 179A.13, subdivision 1; 179A.14, subdivision 1; 179A.16, subdivisions 1, 2, 3, and 4; and 179A.20, subdivision 4.

May 8, 1989

The Honorable Jerome M. Hughes
President of the Senate

The Honorable Robert Vanasek
Speaker of the House of Representatives

We, the undersigned conferees for H.F. No. 489, report that we have

agreed upon the items in dispute and recommend as follows:

That the House concur in the Senate amendments and that H.F No. 489 be further amended as follows:

Page 5, line 1, after "employer" insert "of a unit of employees other than essential employees"

Page 7, line 17, delete "written"

Amend the title as follows:

Page 1, line 2, delete "public"

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

House Conferees: (Signed) Andy Dawkins, Joseph R. Begich, Elton R. Redalen

Senate Conferees: (Signed) Michael O. Freeman, Bob Decker, David J. Frederickson

Mr. Freeman moved that the foregoing recommendations and Conference Committee Report on H.F No. 489 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. 489 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 46 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Merriam	Schmitz
Anderson	Davis	Johnson, D.J.	Morse	Solon
Beckman	Decker	Knaak	Novak	Spear
Belanger	Diessner	Knutson	Olson	Storm
Benson	Frank	Laidig	Pariseau	Stumpf
Bernhagen	Frederick	Larson	Pehler	Vickerman
Bertram	Frederickson, D.J.	Luther	Piper	
Brataas	Frederickson, D.R.	Marty	Ramstad	
Chmielewski	Freeman	McGowan	Reichgott	
Cohen	Gustafson	McQuaid	Renneke	

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 has adopted the recommendation and report of the Conference Committee on House File No. 412, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 412 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

CONFERENCE COMMITTEE REPORT ON H.F. NO. 412

A bill for an act relating to education; changing the definitions of teachers and of supervisory and support personnel for the purpose of licensure; changing the kinds of personnel licensed by the board of teaching and the state board of education; changing the composition of the board of teaching; providing for teacher performance effectiveness plans; amending Minnesota Statutes 1988, sections 125.03, subdivisions 1 and 4; 125.05, subdivisions 1 and 2; 125.08; and 125.183, subdivisions 1 and 3; proposing coding for new law in Minnesota Statutes, chapter 125.

May 16, 1989

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. 412, 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. 412 be further amended as follows:

Delete everything after the enacting clause and insert:

“Section 1. Minnesota Statutes 1988, section 125.03, subdivision 1, is amended to read:

Subdivision 1. The term “teachers” for the purpose of licensure, means ~~and includes any and all persons employed in a public school or education district or by an ECSU as members of the instructional and, supervisory, and support staff such as including~~ superintendents, principals, supervisors, *secondary vocational and other classroom teachers, and librarians, counselors, school psychologists, school nurses, school social workers, audio-visual directors and coordinators, recreation personnel, media generalists, media supervisors, and speech therapists.*

Sec. 2. Minnesota Statutes 1988, section 125.03, subdivision 4, is amended to read:

Subd. 4. “Supervisory ~~and support~~ personnel” for the purpose of licensure means: superintendents; principals; *and professional employees who devote 50 percent or more of their time to administrative or supervisory duties over other personnel, and includes athletic coaches; counselors; school nurses; athletic coaches; and other professional employees who engage primarily in nonclassroom activities.* ~~The term does not include: librarians; school psychologists; school social workers; audio-visual directors and coordinators; recreation personnel; media generalists; media supervisors; or speech therapists.~~

Sec. 3. Minnesota Statutes 1988, section 125.05, subdivision 1, is amended to read:

Subdivision 1. [QUALIFICATIONS.] The authority to license teachers as defined in section 125.03, subdivision 1, is vested in the board of teaching except that the authority to license supervisory ~~and support~~ personnel as defined in section 125.03, subdivision 4, is vested in the state board of education. *The authority to license post-secondary vocational*

and adult vocational teachers, support personnel, and supervisory personnel in technical institutes is vested in the state board of vocational technical education according to section 136C.04, subdivision 9. Licenses ~~shall~~ must be issued to ~~such~~ persons as the board of teaching or the state board of education finds to be competent for their respective positions. For teachers, as defined in section 125.03, subdivision 5, competency includes successful completion of an examination of skills in reading, writing, and mathematics for persons applying for initial licenses. Qualifications of teachers and other professional employees except supervisory ~~and support~~ personnel ~~shall~~ must be determined by the board of teaching under the rules it ~~promulgates~~ adopts. Licenses under the jurisdiction of the board of teaching ~~shall~~ must be issued through the licensing section of the department of education. Licenses under the jurisdiction of the state board of education ~~shall~~ must be issued through the licensing section of the department of education.

Sec. 4. Minnesota Statutes 1988, section 125.05, subdivision 2, is amended to read:

Subd. 2. [EXPIRATION AND RENEWAL.] Each license issued through the licensing section of the department of education ~~shall~~ must bear the date of issue. Licenses ~~shall~~ must expire and be renewed in accordance with the respective rules ~~promulgated~~ adopted by the board of teaching or the state board of education. ~~Renewal~~ Requirements for the renewal of a license ~~shall~~ must include the production of satisfactory evidence of successful teaching experience for at least one school year during the period covered by the license in grades or subjects for which the license is valid or ~~the~~ completion of such additional preparation as the board of teaching shall prescribe. Requirements for the renewal of the licenses of supervisory ~~and support~~ personnel ~~shall~~ must be established by the state board of education.

Sec. 5. Minnesota Statutes 1988, section 125.05, is amended by adding a subdivision to read:

Subd. 7. [LIMIT ON FIELDS OF LICENSURE.] *Unless the action of the board of teaching is approved by specific law, the board may not, after July 1, 1989:*

- (1) *develop additional fields of licensure;*
- (2) *divide existing fields of licensure; or*
- (3) *extend any licensure requirements to any duties that could be performed on March 15, 1989, without a license.*

The board may establish fields for provisional licensure, but shall submit each field to the legislature for approval. If approval by specific law is not obtained within one year after the provisional license is established, the board shall discontinue the field of provisional licensure.

Sec. 6. Minnesota Statutes 1988, section 125.08, is amended to read:

125.08 [TEACHERS' AND ADMINISTRATORS' LICENSES, FEES.]

Each application for the issuance, renewal, or extension of a license to teach ~~shall~~ must be accompanied by a processing fee in an amount set by the board of teaching by rule. Each application for the issuance, renewal, or extension of a license as supervisory or ~~support~~ personnel ~~shall~~ must be accompanied by a processing fee in an amount set by the state board

of education by rule. The processing fee for a teacher's license ~~shall~~ *must* be paid to the executive secretary of the board of teaching. The processing fee for the licenses of supervisory and support personnel ~~shall~~ *must* be paid to the commissioner. The executive secretary of the board of teaching and the commissioner shall deposit the fees with the state treasurer, as provided by law, and report each month to the commissioner of finance the amount of fees collected. The fees as set by the boards ~~shall be~~ *are* nonrefundable for applicants not qualifying for a license; ~~provided~~. However, ~~that~~ a fee ~~shall~~ *must* be refunded by the state treasurer in any case in which the applicant already holds a valid unexpired license. The boards may waive or reduce fees for applicants who apply at the same time for more than one license, even if the licenses are under the jurisdiction of different boards.

Sec. 7. Minnesota Statutes 1988, section 125.183, subdivision 1, is amended to read:

Subdivision 1. ~~A~~ *The* board of teaching ~~consisting~~ *consists* of ~~15~~ *11* members appointed by the governor ~~is hereby established~~. Membership terms, compensation of members, removal of members, the filling of membership vacancies, and fiscal year and reporting requirements shall be as provided in sections 214.07 to 214.09. No member ~~shall~~ *may* be reappointed for more than one additional term.

Sec. 8. Minnesota Statutes 1988, section 125.183, subdivision 3, is amended to read:

Subd. 3. [MEMBERSHIP.] Except for the representatives of higher education and the public, to be eligible for appointment to the board of teaching a person must be fully licensed for the position held and have at least five years teaching experience in Minnesota, including the two years immediately preceding nomination and appointment. *Each nominee, other than a public nominee, must be selected on the basis of professional experience and knowledge of teacher education, accreditation, and licensure.* The board ~~shall~~ *must* be composed of ~~one teacher whose responsibilities are those either of a librarian, psychologist, remedial reading teacher, speech therapist, or vocational teacher, three elementary school classroom teachers, three secondary:~~

- (1) ~~six~~ classroom teachers;
- (2) one higher education representative, ~~from a higher education who must be a faculty member~~ preparing teachers;
- (3) one school administrator; and ~~six~~
- (4) ~~three~~ members of the public, two of whom ~~shall~~ *must* be present or former members of ~~local~~ school boards. ~~Each nominee other than a public nominee shall be selected on the basis of professional experience, and knowledge of teacher education, accreditation and licensure.~~

Sec. 9. [TIME OF EFFECT.]

The changes in the composition of the board of teaching required by section 8 must be made as soon as possible after the effective date of section 8 as vacancies occur or terms of members expire."

Delete the title and insert:

"A bill for an act relating to education; changing the definitions of teachers and of supervisory and support personnel for the purpose of licensure; clarifying and changing the kinds of personnel licensed by the board

of teaching, the state board of vocational technical education, and the state board of education; changing the composition of the board of teaching; placing certain limits on the board of teaching; making stylistic changes; amending Minnesota Statutes 1988, sections 125.03, subdivisions 1 and 4; 125.05, subdivisions 1, 2, and by adding a subdivision; 125.08; and 125.183, subdivisions 1 and 3."

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

House Conferees: (Signed) Bob McEachern, Ken Nelson, Dennis Ozment

Senate Conferees: (Signed) James C. Pehler, Donna C. Peterson, David J. Frederickson

Mr. Pehler moved that the foregoing recommendations and Conference Committee Report on H.F. No. 412 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. 412 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 46 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Johnson, D.E.	Moe, R.D.	Schmitz
Anderson	Davis	Johnson, D.J.	Morse	Solon
Beckman	Decker	Knaak	Novak	Spear
Benson	Diessner	Knutson	Olson	Storm
Berglin	Frank	Larson	Pariseau	Stumpf
Bernhagen	Frederick	Luther	Pehler	Vickerman
Bertram	Frederickson, D.J.	Marty	Piper	
Brataas	Frederickson, D.R.	McGowan	Pogemiller	
Chmielewski	Freeman	McQuaid	Ramstad	
Cohen	Gustafson	Merriam	Renneke	

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 has adopted the recommendation and report of the Conference Committee on House File No. 1506, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 1506 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 18, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 1506

A bill for an act relating to commerce; regulating certain rentals of real property, membership camping practices, and subdivided land sales; amending Minnesota Statutes 1988, sections 82A.02, by adding a subdivision;

82A.04, subdivision 2; 82A.13, subdivision 2; 83.20, by adding a subdivision; and 83.30, subdivision 1.

May 11, 1989

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. 1506, 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) Wally Sparby, John J. Sarna, Tony L. Bennett

Senate Conferees: (Signed) Sam G. Solon, James Metzen, Don Anderson

Mr. Solon moved that the foregoing recommendations and Conference Committee Report on H.F. No. 1506 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. 1506 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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Cohen	Freeman	McGowan	Ramstad
Anderson	Dahl	Gustafson	McQuaid	Reichgott
Beckman	Davis	Johnson, D.E.	Moe, R.D.	Renneke
Belanger	Decker	Johnson, D.J.	Morse	Schmitz
Benson	Diessner	Knaak	Novak	Solon
Berglin	Frank	Knutson	Olson	Spear
Bernhagen	Frederick	Larson	Pariseau	Storm
Bertram	Frederickson, D.J.	Luther	Piper	Stumpf
Chmielewski	Frederickson, D.R.	Marty	Pogemiller	Vickerman

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 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. 139: A bill for an act relating to liquor; increasing age for provisional driver's license to 21 years; changing provisional licenses to "under-21" licenses; prohibiting the issuance of both a Minnesota identification card and a driver's license, other than an instruction permit, to the same person; providing for fees; providing for license suspension for minors misrepresenting their age for purposes of purchasing alcoholic beverages;

providing penalty for misuse of Minnesota identification card; increasing the period for suspension of a drivers license for use of a license to illegally purchase alcohol; including other forms of identification and persons who lend identification; increasing the penalty for counterfeiting a drivers license or Minnesota identification card; prohibiting lending any form of identification for use by an underage person to purchase alcohol; clarifying the application of the carding defense for illegal sales; providing for transfer of confiscated identification; amending Minnesota Statutes 1988, sections 171.02, subdivisions 1 and 3; 171.06, subdivision 2; 171.07, subdivisions 1 and 3; 171.171; 171.22; 171.27; 260.195, subdivision 3; 340A.503, subdivisions 2 and 6; and 340A.801, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 340A.

There has been appointed as such committee on the part of the House: Johnson, A.; Seaberg and Brown.

Senate File No. 139 is herewith returned to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Returned May 18, 1989

Mr. President:

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

S.F. No. 262: A bill for an act relating to protection of groundwater; protecting sensitive areas; promoting and requiring certain best management practices; providing financial assistance for certain groundwater protection activities; authorizing local government groundwater and resource protection programs; establishing a joint legislative committee on water; providing for determination of water research needs; developing a water education curriculum; regulating wells, borings, and underground drillings and uses; regulating water conservation, water appropriations, and setting fees; establishing regulations, enforcing violations, and establishing civil and criminal penalties for violations relating to pesticide, fertilizer, soil amendment, and plant amendment manufacture, storage, sale, use, and misuse; providing a mechanism to aid cleanup and response to incidents relating to agricultural chemicals; providing a task force relating to sustainable agriculture; providing penalties; appropriating money; amending Minnesota Statutes 1988, sections 18B.01, subdivisions 5, 12, 15, 19, 21, 26, 30, and by adding subdivisions; 18B.04; 18B.07, subdivisions 2, 3, 4, and 6; 18B.08, subdivisions 1, 3, and 4; 18B.26, subdivisions 1, 3, 5, and by adding a subdivision; 18B.31, subdivisions 3 and 5; 18B.32, subdivision 2; 18B.33, subdivisions 1, 3 and 7; 18B.34, subdivisions 1, 2 and 5; 18B.36, subdivisions 1 and 2; 18B.37, subdivisions 1, 2, 3, and 4; 40.42, by adding a subdivision; 40.43, subdivisions 2 and 6; 43A.08, subdivision 1; 105.41, subdivisions 1, 1a, 1b, 5, and by adding a subdivision; 105.418; 110B.04, subdivision 6; 115B.20; 116C.41, subdivision 1; 144.381; 144.382, subdivision 1, and by adding a subdivision; and 473.877, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 3; 17; 18B; 40; and 144; proposing coding for new law as Minnesota Statutes, chapters

Adkins	Chmielewski	Gustafson	McQuaid	Pogemiller
Anderson	Dahl	Johnson, D.E.	Mehrkens	Ramstad
Beckman	Davis	Johnson, D.J.	Metzen	Reichgott
Belanger	Decker	Knaak	Moe, D.M.	Renneke
Benson	Diessner	Knutson	Moe, R.D.	Samuelson
Berg	Frank	Laidig	Morse	Schmitz
Berglin	Frederick	Larson	Novak	Storm
Bernhagen	Frederickson, D.J.	Lessard	Olson	Stumpf
Bertram	Frederickson, D.R.	Luther	Pariseau	Vickerman
Brandl	Freeman	Marty	Piper	

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 has adopted the recommendation and report of the Conference Committee on House File No. 266, and repassed said bill in accordance with the report of the Committee, so adopted.

House File No. 266 is herewith transmitted to the Senate.

Edward A. Burdick, Chief Clerk, House of Representatives

Transmitted May 19, 1989

CONFERENCE COMMITTEE REPORT ON H.F. NO. 266

A bill for an act relating to taxation; making technical corrections and clarifications and administrative changes to premium taxes, cigarette taxes, sales taxes, motor vehicle excise taxes, gasoline and special fuel taxes, liquor taxes, marijuana and controlled substances taxes, lodging taxes, and the metropolitan solid waste landfill fee; providing for unmarked vehicles for use by the department of revenue; providing for sales of unstamped tobacco products and liquor to Indian tribes; providing for cancellation of sales tax permits; repealing obsolete or unnecessary terms or provisions; repealing express company, freight line company, and sleeping car company gross earnings taxes; requiring notification of the commissioner prior to selling cigarettes at prices other than those presumed by law; amending Minnesota Statutes 1988, sections 16B.54, subdivision 2; 41A.09, subdivision 3; 69.011, subdivision 2; 69.54; 168.012, subdivision 1; 270.06; 270.60; 296.18, subdivision 1; 297.041, subdivisions 1, 2, and 4; 297A.06; 297A.17; 297A.20; 297A.21, subdivision 4; 297A.25, subdivisions 11 and 16; 297B.01, subdivision 5; 297B.02, subdivision 1; 297B.03; 297D.13, by adding a subdivision; 325D.32, subdivision 10; 325D.37, by adding a subdivision; 469.190, subdivision 1; 473.843, subdivision 1; proposing coding for new law in Minnesota Statutes, chapters 297, 297A, 297C, and 297D; repealing Minnesota Statutes 1988, sections 295.01, subdivisions 4, 5, 6, 7, and 8; 295.15; 295.21; 295.23; 295.24; 295.25; 295.27; 295.29; 295.30; 295.31; 297A.19; 297A.253; 477A.018; and 477A.019.

May 16, 1989

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. 266, 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. 266 be further amended as follows:

Delete everything after the enacting clause and insert:

“ARTICLE I

DEPARTMENT SALES AND SPECIAL TAXES

Section 1. Minnesota Statutes 1988, section 16B.54, subdivision 2, is amended to read:

Subd. 2. [VEHICLES.] (a) [ACQUISITION FROM AGENCY; APPROPRIATION.] The commissioner may direct an agency to make a transfer of a passenger motor vehicle or truck presently assigned to it. The transfer must be made to the commissioner for use in the central motor pool. The commissioner shall reimburse an agency whose motor vehicles have been paid for with funds dedicated by the constitution for a special purpose and which are assigned to the central motor pool. The amount of reimbursement for a motor vehicle is its average wholesale price as determined from the midwest edition of the national automobile dealers association official used car guide.

(b) [PURCHASE.] To the extent that funds are available for the purpose, the commissioner may purchase or otherwise acquire additional passenger motor vehicles and trucks necessary for the central motor pool. The title to all motor vehicles assigned to or purchased or acquired for the central motor pool is in the name of the department of administration.

(c) [TRANSFER AT AGENCY REQUEST.] On the request of an agency, the commissioner may transfer to the central motor pool any passenger motor vehicle or truck for the purpose of disposing of it. The department or agency transferring the vehicle or truck shall be paid for it from the motor pool revolving account established by this section in an amount equal to two-thirds of the average wholesale price of the vehicle or truck as determined from the midwest edition of the National Automobile Dealers Association official used car guide.

(d) [VEHICLES; MARKING.] The commissioner shall provide for the uniform marking of all motor vehicles. Motor vehicle colors must be selected from the regular color chart provided by the manufacturer each year. The commissioner may further provide by rule for the use of motor vehicles without uniform coloring or marking by the governor, the lieutenant governor, the division of criminal apprehension, arson investigators of the division of fire marshal in the department of public safety, financial institutions division of the department of commerce, *the department of revenue*, and the office of the attorney general.

Sec. 2. Minnesota Statutes 1988, section 41A.09, subdivision 3, is amended to read:

Subd. 3. [PAYMENTS FROM FUND.] The commissioner of revenue shall make cash payments from the development fund to producers of ethanol or agricultural grade alcohol; ~~for use as a motor fuel~~, located in the state. The amount of the payment for each producer's annual production shall be as follows:

638.04 [MEETINGS.]

The board of pardons shall hold regular meetings on the second Monday in January, April, July, and October, of at least twice each year, and such other meetings as it shall deem expedient, and all shall be held in the executive chamber in the state capitol, or at such other place as may be ordered by the board."

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

House Conferees: (Signed) Phil Carruthers, Randy C. Kelly, Kathleen A. Blatz

Senate Conferees: (Signed) Donna C. Peterson, Allan H. Spear, William V. Belanger, Jr.

Ms. Peterson, D.C. moved that the foregoing recommendations and Conference Committee Report on H.F. No. 193 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. 193 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 45 and nays 0, as follows:

Those who voted in the affirmative were:

Adkins	Dahl	Gustafson	McQuaid	Pogemiller
Anderson	Davis	Johnson, D.E.	Merriam	Ramstad
Beckman	Decker	Knaak	Moe, R.D.	Reichgott
Belanger	Diessner	Knutson	Morse	Renneke
Benson	Frank	Kroening	Novak	Schmitz
Berglin	Frederick	Larson	Olson	Spear
Bernhagen	Frederickson, D.J.	Luther	Pariseau	Storm
Bertram	Frederickson, D.R.	Marty	Peterson, D.C.	Stumpf
Cohen	Freeman	McGowan	Piper	Vickerman

So the bill, as amended by the Conference Committee, was repassed 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:

S.F. No. 299: Messrs. Merriam, Bernhagen and Berg.

H.F. No. 796: Messrs. Chmielewski, Schmitz and Gustafson.

H.F. No. 341: Messrs. Merriam, Stumpf and Frederickson, D.R.

H.F. No. 1155: Ms. Peterson, D.C.; Messrs. Solon and Laidig.

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

ADJOURNMENT

Mr. Moe, R.D. moved that the Senate do now adjourn until 12:30 p.m., Friday, May 19, 1989. The motion prevailed.

Patrick E. Flahaven, Secretary of the Senate