

SENATE
STATE OF MINNESOTA
NINETY-FOURTH SESSION

S.F. No. 3407

(SENATE AUTHORS: MCEWEN and Utke)		
DATE	D-PG	OFFICIAL STATUS
04/22/2025	3719	Introduction and first reading Referred to Labor
05/12/2025	4880a	Comm report: To pass as amended and re-refer to Finance
05/13/2025	4886	Pursuant to Senate Concurrent Resolution No. 4, referred to Rules and Administration Comm report: Adopt previous comm report Senate Concurrent Resolution 4 suspended HF substituted in committee HF3228

1.1

A bill for an act

1.2

relating to workers' compensation; adopting recommendations from the Workers'

1.3

Compensation Advisory Council; amending Minnesota Statutes 2024, sections

1.4

176.011, subdivisions 9, 11; 176.041, subdivision 1; 176.135, subdivision 1;

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176.151; 176.175, subdivision 2; 176.361, subdivision 2; 176.421, subdivision 4;

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repealing Minnesota Rules, part 5220.2840.

1.7

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.8

Section 1. Minnesota Statutes 2024, section 176.011, subdivision 9, is amended to read:

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Subd. 9. **Employee.** (a) "Employee" means any person who performs services for another

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for hire including the following:

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(1) an alien;

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(2) a minor;

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(3) a sheriff, deputy sheriff, police officer, firefighter, county highway engineer, and

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peace officer while engaged in the enforcement of peace or in the pursuit or capture of a

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person charged with or suspected of crime;

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(4) a person requested or commanded to aid an officer in arresting or retaking a person

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who has escaped from lawful custody, or in executing legal process, in which cases, for

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purposes of calculating compensation under this chapter, the daily wage of the person shall

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be the prevailing wage for similar services performed by paid employees;

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(5) a county assessor;

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(6) an elected or appointed official of the state, or of a county, city, town, school district,

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or governmental subdivision in the state. An officer of a political subdivision elected or

appointed for a regular term of office, or to complete the unexpired portion of a regular term, shall be included only after the governing body of the political subdivision has adopted an ordinance or resolution to that effect;

(7) an executive officer of a corporation, except those executive officers excluded by section 176.041;

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

(9) a voluntary uncompensated worker engaged in emergency management as defined in section 12.03, subdivision 4, who is:

(i) registered with the state or any political subdivision of it, according to the procedures set forth in the state or political subdivision emergency operations plan; and

(ii) acting under the direction and control of, and within the scope of duties approved by, the state or political subdivision.

The daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed by paid employees;

(10) a voluntary uncompensated worker participating in a program established by a local social services agency. For purposes of this clause, "local social services agency" means any agency established under section 393.01. In the event of injury or death of the worker, the wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid in the county at the time of the injury or death for similar services performed by paid employees working a normal day and week;

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

(12) a voluntary uncompensated worker in the building and construction industry who renders services for joint labor-management nonprofit community service projects. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

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

(14) a voluntary uncompensated worker, accepted by the director of the Minnesota Historical Society, rendering services as a volunteer, pursuant to chapter 138. The daily wage of the worker, for the purposes of calculating compensation under this chapter, shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

(15) a voluntary uncompensated worker, other than a student, who renders services at the Minnesota State Academy for the Deaf or the Minnesota State Academy for the Blind, and whose services have been accepted or contracted for by the commissioner of education, as authorized by law. In the event of injury or death of the worker, the daily wage of the worker, for the purpose of calculating compensation under this chapter, shall be the usual wage paid at the time of the injury or death for similar services performed in institutions by paid employees;

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

(17) a worker performing direct support services, including any of the following:

(i) under section 256B.0659 for a recipient in the home of the recipient or in the community under section 256B.0625, subdivision 19a, who is paid from government funds through a fiscal intermediary under section 256B.0659, subdivision 33. For purposes of maintaining workers' compensation insurance, the employer of the worker is as designated in law by the commissioner of the Department of Human Services, notwithstanding any

~~other law to the contrary~~ where the personal care assistance provider agency is responsible for maintaining workers' compensation insurance for any employments not excluded under this chapter;

(ii) under section 256B.85 where the worker is either employed by an agency-provider or by a participant. When the worker is employed by a participant, the financial management services provider must require and verify that the participant maintains workers' compensation insurance for any employments not excluded under this chapter. When the worker is employed by an agency-provider, the agency-provider is responsible to maintain workers' compensation insurance for any employments not excluded under this chapter;

(iii) under section 256B.4911 where the worker is employed by the consumer-directed community supports participant. The financial management services provider must require and verify the participant maintains workers' compensation insurance for any employments not excluded under this chapter; and

(iv) under section 256.476 where the worker is employed by the consumer support grant participant. The financial management services provider must require and verify the participant maintains workers' compensation insurance for any employments not excluded under this chapter;

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

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

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

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

(20) a worker who performs volunteer ambulance driver or attendant services is an employee of the political subdivision, nonprofit hospital, nonprofit corporation, or other

entity for which the worker performs the services. The daily wage of the worker for the purpose of calculating compensation under this chapter shall be the usual wage paid at the time of injury or death for similar services performed by paid employees;

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

(22) a voluntary uncompensated worker rendering service directly to the Pollution Control Agency. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(23) a voluntary uncompensated worker while volunteering services as a first responder or as a member of a law enforcement assistance organization while acting under the supervision and authority of a political subdivision. The daily wage of the worker for the purpose of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees;

(24) a voluntary uncompensated member of the civil air patrol rendering service on the request and under the authority of the state or any of its political subdivisions. The daily wage of the member for the purposes of calculating compensation payable under this chapter is the usual going wage paid at the time of injury or death for similar services if the services are performed by paid employees; and

(25) a Minnesota Responds Medical Reserve Corps volunteer, as provided in sections 145A.04 and 145A.06, responding at the request of or engaged in training conducted by the commissioner of health. The daily wage of the volunteer for the purposes of calculating compensation payable under this chapter is established in section 145A.06. A person who qualifies under this clause and who may also qualify under another clause of this subdivision shall receive benefits in accordance with this clause.

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

(b) For purposes of this chapter "employee" does not include farmers or members of their family who exchange work with other farmers in the same community.

6.1 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.2 Sec. 2. Minnesota Statutes 2024, section 176.011, subdivision 11, is amended to read:

6.3 Subd. 11. **Executive officer of a corporation.** "Executive officer of a corporation"
6.4 means any officer of a corporation elected or appointed in accordance with its charter or
6.5 bylaws or pursuant to section 302A.011, subdivision 18.

6.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

6.7 Sec. 3. Minnesota Statutes 2024, section 176.041, subdivision 1, is amended to read:

6.8 Subdivision 1. **Employments excluded.** This chapter does not apply to any of the
6.9 following:

6.10 (1) a person employed by a common carrier by railroad engaged in interstate or foreign
6.11 commerce and who is covered by the Federal Employers' Liability Act, United States Code,
6.12 title 45, sections 51 to 60, or other comparable federal law;

6.13 (2) a person employed by a family farm as defined by section 176.011, subdivision 11a;

6.14 (3) the spouse, parent, and child, regardless of age, of a farmer-employer working for
6.15 the farmer-employer;

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

6.18 (5) a partner engaged in a farm operation or a partner engaged in a business and the
6.19 spouse, parent, and child, regardless of age, of a partner in the farm operation or business;

6.20 (6) an executive officer, as defined in section 176.011, subdivision 11, of a family farm
6.21 corporation;

6.22 (7) an executive officer, as defined in section 176.011, subdivision 11, of a closely held
6.23 corporation having less than 22,880 hours of payroll in the preceding calendar year, if that
6.24 executive officer owns at least 25 percent of the stock of the corporation;

6.25 (8) a spouse, parent, or child, regardless of age, of an executive officer of a family farm
6.26 corporation as defined in section 500.24, subdivision 2, and employed by that family farm
6.27 corporation;

6.28 (9) a spouse, parent, or child, regardless of age, of an executive officer of a closely held
6.29 corporation who is referred to in clause (7);

(10) another farmer or a member of the other farmer's family exchanging work with the farmer-employer or family farm corporation operator in the same community;

(11) a person whose employment at the time of the injury is casual and not in the usual course of the trade, business, profession, or occupation of the employer;

(12) persons who are independent contractors as defined by sections 176.043 and 181.723, and any rules adopted by the commissioner pursuant to section 176.83 except that these exclusions do not apply to an employee of an independent contractor;

(13) an officer or a member of a veterans' organization whose employment relationship arises solely by virtue of attending meetings or conventions of the veterans' organization, unless the veterans' organization elects by resolution to provide coverage under this chapter for the officer or member;

(14) a person employed as a household worker in, for, or about a private home or household who earns less than \$1,000 in cash in a three-month period from a single private home or household provided that a household worker who has earned \$1,000 or more from the household worker's present employer in a three-month period within the previous year is covered by this chapter regardless of whether or not the household worker has earned \$1,000 in the present quarter;

(15) persons employed by a closely held corporation who are related by blood or marriage, within the third degree of kindred according to the rules of civil law, to an officer of the corporation, who is referred to in clause (7), if the corporation files a written election with the commissioner to exclude such individuals. A written election is not required for a person who is otherwise excluded from this chapter by this section;

(16) a nonprofit association which does not pay more than \$1,000 in salary or wages in a year;

(17) persons covered under the Domestic Volunteer Service Act of 1973, as amended, United States Code, title 42, sections 5011, et seq.;

(18) a manager of a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year, if that manager owns at least a 25 percent membership interest in the limited liability company;

(19) a spouse, parent, or child, regardless of age, of a manager of a limited liability company described in clause (18);

(20) persons employed by a limited liability company having ten or fewer members and having less than 22,880 hours of payroll in the preceding calendar year who are related by

blood or marriage, within the third degree of kindred according to the rules of civil law, to a manager of a limited liability company described in clause (18), if the company files a written election with the commissioner to exclude these persons. A written election is not required for a person who is otherwise excluded from this chapter by this section; or

(21) members of limited liability companies who satisfy the requirements of clause (12).

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 4. Minnesota Statutes 2024, section 176.135, subdivision 1, is amended to read:

Subdivision 1. **Medical, psychological, chiropractic, podiatric, surgical, hospital.** (a)

The employer shall furnish any medical, psychological, chiropractic, podiatric, surgical and hospital treatment, including nursing, medicines, medical, chiropractic, podiatric, and surgical supplies, crutches and apparatus, including artificial members, or, at the option of the employee, if the employer has not filed notice as hereinafter provided, Christian Science treatment in lieu of medical treatment, chiropractic medicine and medical supplies, as may reasonably be required at the time of the injury and any time thereafter to cure and relieve from the effects of the injury. This treatment shall include treatments necessary to physical rehabilitation.

(b) The employer shall pay for the reasonable value of nursing services provided by a member of the employee's family or household in cases of permanent total disability.

(c) Exposure to rabies is an injury and an employer shall furnish preventative treatment to employees exposed to rabies.

(d) The employer shall furnish replacement or repair for artificial members, glasses or spectacles, artificial eyes, podiatric orthotics, dental bridge work, dentures or artificial teeth, hearing aids, canes, crutches, or wheel chairs damaged by reason of an injury arising out of and in the course of the employment. If an item under this paragraph is customized specifically for the injured worker, the item is the property of the injured worker. For the purpose of this paragraph, "injury" includes damage wholly or in part to an artificial member. In case of the employer's inability or refusal to timely provide the items required to be provided under this paragraph, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing the same, including costs of copies of any medical records or medical reports that are in existence, obtained from health care providers, and that directly relate to the items for which payment is sought under this chapter, limited to the charges allowed by subdivision 7, and attorney fees incurred by the employee.

(e) Both the commissioner and the compensation judges have authority to make determinations under this section in accordance with sections 176.106 and 176.305.

(f) An employer may require that the treatment and supplies required to be provided by an employer by this section be received in whole or in part from a managed care plan certified under section 176.1351 except as otherwise provided by that section.

(g) An employer may designate a pharmacy or network of pharmacies that employees must use to obtain outpatient prescription and nonprescription medications. An employee is not required to obtain outpatient medications at a designated pharmacy unless the pharmacy is located within 15 miles of the employee's place of residence.

(h) Notwithstanding any fees established by rule adopted under section 176.136, an employer may contract for the cost of medication provided to employees. All requests for reimbursement from the special compensation fund formerly codified under section 176.131 for medication provided to an employee must be accompanied by the dispensing pharmacy's invoice showing its usual and customary charge for the medication at the time it was dispensed to the employee. The special compensation fund shall not reimburse any amount that exceeds the maximum amount payable for the medication under Minnesota Rules, part 5221.4070, subparts 3 and 4, notwithstanding any contract under Minnesota Rules, part 5221.4070, subpart 5, that provides for a different reimbursement amount.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 5. Minnesota Statutes 2024, section 176.151, is amended to read:

176.151 TIME LIMITATIONS.

The time within which the following acts shall be performed shall be limited to the following periods, respectively:

(a) Actions or proceedings by an injured employee to determine or recover compensation, three years after ~~the employer has made~~ a written report of the injury has been made to the commissioner of the Department of Labor and Industry, but not to exceed six years from the date of the accident.

(b) Actions or proceedings by dependents to determine or recover compensation, three years after the receipt by the commissioner of the Department of Labor and Industry of written notice of death, given by the employer, but not to exceed six years from the date of injury, provided, however, if the employee was paid compensation for the injury from which the death resulted, such actions or proceedings by dependents must be commenced within three years after the receipt by the commissioner of the Department of Labor and Industry

of written notice of death, given by the employer, but not to exceed six years from the date of death. In any such case, if a dependent of the deceased, or any one in the dependent's behalf, gives written notice of such death to the commissioner of the Department of Labor and Industry, the commissioner shall forthwith give written notice to the employer of the time and place of such death. In case the deceased was a native of a foreign country and leaves no known dependent within the United States, the commissioner of the Department of Labor and Industry shall give written notice of the death to the consul or other representative of the foreign country forthwith.

(c) In case of physical or mental incapacity, other than minority, of the injured person or dependents to perform or cause to be performed any act required within the time specified in this section, the period of limitation in any such case shall be extended for three years from the date when the incapacity ceases.

(d) In the case of injury caused by x-rays, radium, radioactive substances or machines, ionizing radiation, or any other occupational disease, the time limitations otherwise prescribed by Minnesota Statutes 1961, chapter 176, and acts amendatory thereof, shall not apply, but the employee shall give notice to the employer and commence an action within three years after the employee has knowledge of the cause of such injury and the injury has resulted in disability.

EFFECTIVE DATE. This section is effective the day following final enactment.

Sec. 6. Minnesota Statutes 2024, section 176.175, subdivision 2, is amended to read:

Subd. 2. **Nonassignability.** No claim for compensation or settlement of a claim for compensation owned by an injured employee or dependents is assignable. Except as otherwise provided in this chapter, any claim for compensation owned by an injured employee or dependents is exempt from seizure or sale for the payment of any debt or liability, up to a total amount of ~~\$1,000,000~~ \$10,000,000 per claim and subsequent award.

EFFECTIVE DATE. This section is effective for dates of injury on or after October 1, 2025.

Sec. 7. Minnesota Statutes 2024, section 176.361, subdivision 2, is amended to read:

Subd. 2. **Written motion.** (a) A person desiring to intervene in a workers' compensation case as a party, including but not limited to a health care provider who has rendered services to an employee or an insurer who has paid benefits under section 176.191, shall submit a

11.1 timely written motion to intervene to the commissioner, the office, or to the court of appeals,
11.2 whichever is applicable.

11.3 ~~(a)~~ (b) The motion must be served on all parties, except for other intervenors, either
11.4 personally, by first class mail, or by registered mail, return receipt requested. A motion to
11.5 intervene must be served and filed within 60 days after a potential intervenor has been
11.6 served with notice of a right to intervene or within 30 days of notice of an administrative
11.7 conference or expedited hearing. Upon the filing of a timely motion to intervene, the potential
11.8 intervenor shall be granted intervenor status without the need for an order. Objections to
11.9 the intervention may be subsequently addressed by a compensation judge. Except where a
11.10 member of the employee's family or household is supplying nursing services pursuant to
11.11 section 176.135, subdivision 1, paragraph (b), where a motion to intervene is not timely
11.12 filed under this section, the potential intervenor interest shall be extinguished and the potential
11.13 intervenor may not collect, or attempt to collect, the extinguished interest from the employee,
11.14 employer, insurer, or any government program.

11.15 ~~(b)~~ (c) The motion must show how the applicant's legal rights, duties, or privileges may
11.16 be determined or affected by the case; state the grounds and purposes for which intervention
11.17 is sought; and indicate the statutory right to intervene. The motion must be accompanied
11.18 by the following:

11.19 (1) an itemization of disability payments showing the period during which the payments
11.20 were or are being made; the weekly or monthly rate of the payments; and the amount of
11.21 reimbursement claimed;

11.22 (2) a summary of the medical or treatment payments, or rehabilitation services provided
11.23 by the Vocational Rehabilitation Unit, broken down by creditor, showing the total bill
11.24 submitted, the period of treatment or rehabilitation covered by that bill, the amount of
11.25 payment on that bill, and to whom the payment was made;

11.26 (3) copies of all medical or treatment bills for which payment is sought;

11.27 (4) copies of the work sheets or other information stating how the payments on medical
11.28 or treatment bills were calculated;

11.29 (5) a copy of the relevant policy or contract provisions upon which the claim for
11.30 reimbursement is based;

11.31 (6) the name and telephone number of the person representing the intervenor who has
11.32 authority to represent the intervenor, including but not limited to the authority to reach a
11.33 settlement of the issues in dispute;

12.1 (7) proof of service or copy of the registered mail receipt evidencing service on all parties
12.2 except for other intervenors;

12.3 (8) at the option of the intervenor, a proposed stipulation which states that all of the
12.4 payments for which reimbursement is claimed are related to the injury or condition in dispute
12.5 in the case and that, if the petitioner is successful in proving the compensability of the claim,
12.6 it is agreed that the sum be reimbursed to the intervenor; and

12.7 (9) if represented by an attorney, the name, address, telephone number, and Minnesota
12.8 Supreme Court license number of the attorney.

12.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

12.10 Sec. 8. Minnesota Statutes 2024, section 176.421, subdivision 4, is amended to read:

12.11 Subd. 4. **Service and filing of notice; cost of transcript.** Within the 30-day period for
12.12 taking an appeal, the appellant shall:

12.13 (1) serve a copy of the notice of appeal on each adverse party; and

12.14 (2) pursuant to section 176.285, file the original notice of appeal, with proof of service
12.15 by admission or affidavit, with the chief administrative law judge ~~and file a copy with the~~
12.16 ~~commissioner.~~

12.17 In order to defray the cost of the preparation of the record of the proceedings appealed
12.18 from, each appellant and cross-appellant shall pay to the commissioner of management and
12.19 budget, Office of Administrative Hearings account the sum of \$25. The filing fee must be
12.20 received by the Office of Administrative Hearings within ten business days after the end of
12.21 the appeal period. If the filing fee is not received within ten days after the appeal period,
12.22 the appeal is not timely filed.

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

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

13.1 All fees received by the Office of Administrative Hearings for the preparation of the
13.2 record for submission to the Workers' Compensation Court of Appeals or for the cost of
13.3 transcripts prepared by the office shall be deposited in the Office of Administrative Hearings
13.4 account in the state treasury and shall be used solely for the purpose of keeping the record
13.5 of hearings conducted under this chapter and the preparation of transcripts of those hearings.

13.6 **EFFECTIVE DATE.** This section is effective the day following final enactment.

13.7 Sec. 9. **REPEALER.**

13.8 Minnesota Rules, part 5220.2840, is repealed.

13.9 **EFFECTIVE DATE.** This section is effective the day following final enactment.

**5220.2840 FAILURE TO MAKE PAYMENT OR REPORT TO SPECIAL FUND;
PENALTY.**

Subpart 1. **Due date.** For workers' compensation benefits paid from January 1 through June 30, the due date of the completed assessment form and corresponding assessment amount is August 15 of the same calendar year.

For workers' compensation benefits paid from July 1 through December 31, the due date of the corresponding assessment amount is March 1 of the following calendar year.

Notice of the assessment rate and instructions for payment will be issued by the fund 45 or more days before the due date.

Insurers no longer licensed to provide, or no longer providing workers' compensation insurance in Minnesota, and employers no longer self-insured to provide workers' compensation benefits must continue to file the assessment form until five years have elapsed since a policy of workers' compensation insurance or self-insurance was provided, or three years after the last indemnity payment was made, whichever is later. Insurers not owing an assessment must report zero liability during the required reporting years.

Subp. 2. **Basis.** A penalty will be assessed under Minnesota Statutes, section 176.129, subdivision 10, where either:

A. the completed assessment form and payment of the special compensation fund assessment; or

B. written certification that the assessment report and assessment payment will not be made by the due date because of reasons beyond the control of the insurer or because no assessment is owing, is not received by the special compensation fund on or before the due date.

Subp. 3. **Amount.** Within 30 days of the due date, the special compensation fund will give notice of penalty to those who have neither filed the completed assessment form and paid the assessment amount, nor submitted a certified reason for nonpayment by the due date as follows:

A. Either:

(1) 2.5 percent of the assessment amount due if the assessment payment is received at the fund within five days after the due date;

(2) five percent of the assessment amount due if the assessment payment is received at the fund within six to 30 days after the due date;

(3) ten percent of the assessment amount due if the assessment payment is received at the fund within 31 to 60 days after the due date; or

(4) 15 percent of the assessment amount due if the assessment payment is received at the fund 61 or more days after the due date;

B. \$1,000, whichever is greater; or

C. \$200 for failure to timely report under subpart 2, item B, that no assessment is due.

Subp. 4. **Payable to.** The penalty is payable to the commissioner for deposit in the assigned risk safety account.

Subp. 5. **Continued nonpayment.** If the insurer penalized does not make payment within six months of the due date, the fund director shall refer the file to the Department of Commerce for consideration of license or permit revocation.