

Nothing in this section shall be construed to restrict the study of options under consideration regarding the completion of Interstate 35E.

Sec. 2. **EFFECTIVE DATE.**

This act is effective the day following its enactment.

Approved June 1, 1981

CHAPTER 346 — S.F.No. 359

An act relating to workers' compensation; expressing the intent of the legislature with respect to chapter 176; providing for transition to competitive workers' compensation insurance rates; transferring compensation judges from the workers' compensation division to a separate division within the office of administrative hearings; making the workers' compensation court of appeals a separate and independent agency with appellate review powers; providing for a discount assumption with respect to calculating reserves for claims of insurance companies; authorizing the commissioner of insurance to initiate a rate hearing; transferring responsibility for the assigned risk plan to the commissioner of insurance; creating an assigned risk plan review board; permitting benefit payment transferring certain provisions with respect to the Minnesota workers' compensation reinsurance association; redefining the maximum reinsurance liability limitation as a prefunded limit; modifying filing procedures; providing for a survey of closed compensation claims and an examination of insurer reserving practices; removing the exemption of political subdivisions from the definitions of insurer and insurance in chapter 79; providing for the design and implementation of an improved records and information system in the department of labor and industry; providing for the addition of rehabilitation and computer support personnel in the department of labor and industry; permitting the commissioner of labor and industry to negotiate with his counterparts in other states in jurisdictional disputes; establishing a preponderance of the evidence standard in factual determinations under chapter 176; granting subrogation rights to the special compensation fund in third party actions; providing for lump sum permanent partial disability payments on return to work and weekly payments if an employee could but does not return to work; limiting attorneys' fees to only disputed portions of claims; providing a procedure for settlement offers by any litigant in a disputed claim proceeding; defining employee in certain situations; requiring claimants' attorneys to provide their clients with written information regarding fees under chapter 176; providing a penalty for attorneys who violate the fee provisions of chapter 176; providing a ten year limitation on death benefits to dependents; providing rehabilitation opportunities for dependent surviving spouses; requiring the commissioner of labor and industry to adopt disability degree schedules; prohibiting combined workers' compensation and government survivor benefits from exceeding the limit provided in chapter 176; providing a new formula for determining assessments against employers and insurers for the special compensation fund; providing for payment of attorneys' fees in disputes over supplementary benefits; requiring the commissioner of insurance to develop a medical fee schedule; requiring the commissioner to review the quality of care and other aspects

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of medical delivery under workers' compensation; establishing a pilot medical panel to resolve disputes over medical disability; providing for payment of wage replacement or disability payments by a group insurer under appropriate provisions pending resolution of liability dispute over compensability; providing for early payment of benefits and a penalty for delay; providing for an offset against welfare payments; requiring benefit payments to be made by immediately negotiable instrument; providing that notices of discontinuance of benefit payments be sent directly to claimant by insurer; delaying first benefit adjustment under chapter 176; mandating an insurance rate reduction by an amount reflecting cost savings due to benefit and administrative changes; providing penalties; changing procedures; creating and abolishing duties; appropriating money; amending Minnesota Statutes 1980, Sections 10A.01, Subdivision 18; 15.052, Subdivisions 1, 2, 3, 4 and 5; 15A.083, by adding a subdivision; 43.064; 60C.04; 60C.09, Subdivision 2; 79.01, Subdivisions 2 and 3; 79.071, Subdivision 1 and by adding subdivisions; 79.25; 79.26; 79.27; 79.34, Subdivisions 1 and 2; 79.35; 79.36; 175.007; 175.11, Subdivision 1; 175.14; 175.17; 176.011, Subdivisions 6 and 9; 176.021, Subdivisions 1 and 3, and by adding subdivisions; 176.041, by adding a subdivision; 176.061, Subdivisions 1, 3, 4, 5, 6 and 7; 176.081, Subdivisions 1, 2, 3, 4, 6, and by adding subdivisions; 176.101, Subdivision 3; 176.102, by adding a subdivision; 176.105, Subdivision 1; 176.111, Subdivisions 6, 7, 8, 10 and 21, and by adding a subdivision; 176.131, Subdivision 10; 176.132, Subdivision 2; 176.133; 176.136; 176.161, Subdivision 1; 176.181, Subdivisions 2 and 3, and by adding a subdivision; 176.191; 176.221; 176.225, by adding a subdivision; 176.231, Subdivisions 2 and 7; 176.241, Subdivisions 1, 2 and 3; 176.291; 176.301, Subdivision 1; 176.305; 176.311; 176.321, Subdivisions 1 and 3; 176.331; 176.341, Subdivision 1; 176.351; 176.371; 176.381; 176.391; 176.401; 176.411, Subdivisions 1 and 2; 176.421, Subdivisions 1, 4, 5, 6 and 7; 176.431, Subdivision 1; 176.441, Subdivision 1; 176.461; 176.471, Subdivisions 3, 5, 6 and 8; 176.491; 176.511, Subdivision 1; 176.521, Subdivisions 1 and 2; 176.531, Subdivision 3; 176.645; and 179.74, Subdivision 4; reenacting Laws 1980, Chapter 556, Sections 6 to 13; proposing new law coded as Minnesota Statutes, Chapter 175A; and proposing new law coded in Minnesota Statutes, Chapters 79 and 176; repealing Minnesota Statutes 1980, Sections 79.071, Subdivisions 1, 2, 3, 4, 5, 6, and 7; 79.072; 79.073; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15; 79.16; 79.17; 79.171; 79.18; 79.19; 79.20; 79.21; 79.22, Subdivision 1; 79.221; 79.23; 79.24; 79.25; 79.26; 79.27; 79.28; 79.29; 79.30; 79.31; 79.32; 79.33; 175.006, Subdivisions 1a and 2; 175.0061; 175.09; 176.111, Subdivision 11; and 176.441, Subdivision 2.

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

Section 1. Minnesota Statutes 1980, Section 10A.01, Subdivision 18, is amended to read:

Subd. 18. "Public official" means any:

- (a) Member of the legislature;
- (b) Constitutional officer in the executive branch and his chief administrative deputy;
- (c) Member, chief administrative officer or deputy chief administrative officer of a state board or commission which has at least one of the following

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powers: (i) the power to adopt, amend or repeal rules, or (ii) the power to adjudicate contested cases or appeals;

(d) Commissioner, deputy commissioner or assistant commissioner of any state department as designated pursuant to section 15.01;

(e) Individual employed in the executive branch who is authorized to adopt, amend or repeal rules or adjudicate contested cases;

(f) Executive director of the state board of investment;

(g) Executive director of the Indian affairs intertribal board;

(h) Commissioner of the iron range resources and rehabilitation board;

(i) Director of mediation services;

(j) Deputy of any official listed in clauses (e) to (i);

(k) Judge of the workers' compensation court of appeals;

(l) Hearing examiner or compensation judge in the state office of administrative hearings or hearing examiner in the department of economic security;

(m) Solicitor general or deputy, assistant or special assistant attorney general;

(n) Individual employed by the legislature as secretary of the senate, legislative auditor, chief clerk of the house, revisor of statutes, or researcher or attorney in the office of senate research, senate counsel, or house research; or

(o) Member or chief administrative officer of the metropolitan council, metropolitan transit commission; metropolitan waste control commission, metropolitan parks and open spaces commission, metropolitan airports commission or metropolitan sports facilities commission.

Sec. 2. Minnesota Statutes 1980, Section 15.052, Subdivision 1, is amended to read:

Subdivision 1. A state office of administrative hearings is created. The office shall be under the direction of a chief hearing examiner, who shall be learned in the law and appointed by the governor, with the advice and consent of the senate, for a term ending on June 30 of the sixth calendar year after appointment. The chief hearing examiner shall appoint additional hearing examiners and compensation judges to serve in his office as necessary to fulfill the duties prescribed in this section. All hearing examiners and compensation judges shall be in the classified service except that the chief hearing examiner shall be in the unclassified service, but may be removed from his position only for cause. ~~Additionally,~~ All hearing examiners shall have demonstrated knowledge of administrative procedures and shall be free of any political or economic

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association that would impair their ability to function officially in a fair and objective manner. All workers' compensation judges shall be learned in the law, shall have demonstrated knowledge of workers' compensation laws and shall be free of any political or economic association that would impair their ability to function officially in a fair and objective manner.

Sec. 3. Minnesota Statutes 1980, Section 15.052, Subdivision 2, is amended to read:

Subd. 2. When regularly appointed hearing examiners or compensation judges are not available, the chief hearing examiner may contract with qualified individuals to serve as hearing examiners or compensation judges. Such temporary hearing examiners or compensation judges shall not be employees of the state.

Sec. 4. Minnesota Statutes 1980, Section 15.052, Subdivision 3, is amended to read:

Subd. 3. All hearings of state agencies required to be conducted under this chapter shall be conducted by a hearing examiner assigned by the chief hearing examiner. All hearings required to be conducted under chapter 176 shall be conducted by a compensation judge assigned by the chief hearing examiner. In assigning hearing examiners or compensation judges to conduct such hearings, the chief hearing examiner shall attempt to utilize personnel having expertise in the subject to be dealt with in the hearing. Only hearing examiners learned in the law shall be assigned to contested case hearings. Only compensation judges shall be assigned to workers' compensation matters. It shall be the duty of the hearing examiner to: (1) advise an agency as to the location at which and time during which a hearing should be held so as to allow for participation by all affected interests; (2) conduct only hearings for which proper notice has been given; (3) see to it that all hearings are conducted in a fair and impartial manner; ~~and~~ (4). Except in the case of workers' compensation hearings involving claims for compensation it shall also be the duty of the chief hearing examiner to make a report on each proposed agency action in which the hearing examiner functioned in an official capacity, stating his findings of fact and his conclusions and recommendations, taking notice of the degree to which the agency has (i) documented its statutory authority to take the proposed action, (ii) fulfilled all relevant substantive and procedural requirements of law or rule, and (iii) in rulemaking proceedings, demonstrated the need for and reasonableness of its proposed action with an affirmative presentation of facts.

Sec. 5. Minnesota Statutes 1980, Section 15.052, Subdivision 4, is amended to read:

Subd. 4. The chief hearing examiner shall ~~promulgate~~ adopt rules to govern the procedural conduct of all hearings, relating to both rule adoption,

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amendment, suspension or repeal hearings ~~and~~, contested case hearings, and workers' compensation hearings. Temporary rule-making authority is granted to the chief hearing examiner for the purpose of implementing sections 2 to 6, 103 to 122, 127 to 135, and 141. ~~Such~~ The procedural rules for hearings shall be binding upon all agencies and shall supersede any other agency procedural rules with which they may be in conflict. The procedural rules for hearings shall include in addition to normal procedural matters provisions relating to recessing and reconvening new hearings when the proposed final rule of an agency is substantially different from that which was proposed at the public hearing. The procedural rules shall establish a procedure whereby the proposed final rule of an agency shall be reviewed by the chief hearing examiner to determine whether or not a new hearing is required because of substantial changes or failure of the agency to meet the requirements of section 15.0412, subdivisions 4 to 4f. Upon his own initiative or upon written request of an interested party, the chief hearing examiner may issue a subpoena for the attendance of a witness or the production of ~~such~~ books, papers, records or other documents as are material to the matter being heard. The subpoenas shall be enforceable through the district court in the district in which the subpoena is issued.

Sec. 6. Minnesota Statutes 1980, Section 15.052, Subdivision 5, is amended to read:

Subd. 5. The office of administrative hearings may maintain a court reporter system and in addition to or in lieu thereof may contract with non-governmental sources for court reporter services. The court reporters may additionally be utilized as the chief hearing examiner directs. Unless the chief hearing examiner determines that the use of a court reporter is more appropriate, an audio magnetic recording device shall be used to keep a record at any hearing which takes place under this chapter or under chapter 176. In cases arising under chapter 176, the chief hearing examiner, in consultation with the compensation judge, shall decide the method of recording.

Court reporters serving in the court reporter system of the office of administrative hearings shall be in the classified service. Notwithstanding the provisions of section 15.17, subdivision 4, copies of transcriptions of hearings conducted pursuant to this section may be obtained only through the office of administrative hearings.

Sec. 7. Minnesota Statutes 1980, Section 15A.083, is amended by adding a subdivision to read:

Subd. 7. **WORKERS' COMPENSATION COURT OF APPEALS AND COMPENSATION JUDGES.** Salaries of judges of the workers' compensation court of appeals shall be 90 percent of the salary for district judges as

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provided in subdivision 1. Salaries of compensation judges shall be 75 percent of the salary of district court judges as provided in subdivision 1.

Sec. 8. Minnesota Statutes 1980, Section 43.064, is amended to read:

43.064 OTHER SALARIES SET BY COMMISSIONER OF EMPLOYEE RELATIONS.

Notwithstanding any other law to the contrary, compensation for all unclassified positions in the executive branch not enumerated in the listing described in section 15A.081, shall be established by the commissioner except for the following: (1) positions listed in section 299D.03; (2) employees in the office of the governor whose salaries shall be determined by the governor; (3) employees in the office of the attorney general; (4) employees of the state board of investment; (5) positions in the state university system, the community college system, and in the higher education coordinating board whose primary duties consist of instructing and counseling students, directing academic programs of schools, divisions or departments of colleges and community colleges, or conducting research on academic subjects, or conducting academic support programs; and the positions of state university and community college presidents. Individual salaries for positions enumerated in clauses (3), (4), and (5) and for classified hearing examiners in the office of administrative hearings shall be determined by the attorney general, the state board of investment, the state university board, the state board for community colleges, the higher education coordinating board, and the chief hearing examiner, respectively, within the limits of salary plans which shall have been approved by the commissioner before becoming effective.

No provision of any subsequent law relating to salaries of state employees shall be construed as inconsistent with this section unless it is expressly provided in the subsequent act that the provisions of this section shall not be applicable or shall be superseded, amended, or repealed.

Sec. 9. Minnesota Statutes 1980, Section 79.01, Subdivision 2, is amended to read:

Subd. 2. **INSURER.** The word "insurer" means any insurance carrier authorized by license issued by the commissioner of insurance to transact the business of workers' compensation insurance in this state. ~~for purposes of this subdivision "insurer" does not include~~ and includes a political subdivision providing self insurance or establishing a pool under section 471.981, subdivision 3.

Sec. 10. Minnesota Statutes 1980, Section 79.01, Subdivision 3, is amended to read:

Subd. 3. **INSURANCE.** The word "insurance" means workers' compensation insurance and insurance covering any part of the liability of an

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employer exempted from insuring his liability for compensation, as provided in section 176.181, and includes a program of self insurance, self insurance revolving fund or pool established under section 471.981 is ~~not insurance for purposes of this subdivision.~~

Sec. 11. Minnesota Statutes 1980, Section 79.071, is amended by adding a subdivision to read:

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

Sec. 12. Minnesota Statutes 1980, Section 79.071, is amended by adding subdivisions to read:

Subd. 8. When an insurer's estimate of amounts required to be reserved is based in any part on the operation of section 176.645, any assumption as to reserves required due to the operation of section 176.645, shall, for the purposes of determining rates, be offset by an assumption that the amount initially reserved shall be invested and yield a return equal to the annual percentage increase in the statewide average weekly wage. With respect to other reserved amounts, the commissioner shall, in determining rates, cause those rates to fully reflect the investment earnings of insurers which arise from revenues derived from the sale of workers' compensation insurance, either by use of a discount rate of no less than six percent in determining the reserves necessary for all claims, or by the use of an alternative methodology which the commissioner finds is more appropriate. Insurers shall provide the commissioner with any information which he deems necessary to arrive at the determination required by this subdivision.

Subd. 9. In no case shall more than one insurer reserve amounts in anticipation of losses on a single claim, nor shall an insurer reserve amounts in anticipation of losses which are the responsibility of the reinsurance association.

Subd. 10. No modification by an insurer or the association of an experience rating plan, an experience rating plan formula or an experience rating factor is effective unless approved by the commissioner of insurance.

Sec. 13. Minnesota Statutes 1980, Section 79.25, is amended to read:

79.25 ASSOCIATION COMMISSIONER TO FIX PREMIUM RATES.

~~Subdivision 4.~~ When any rejected risk is called to its attention and it appears that the risk is in good faith entitled to coverage the ~~association~~

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commissioner of insurance shall fix the initial premium therefor and may fix an additional charge to compensate the agent of record for his services and, upon its payment, the association commissioner of insurance shall enter into a service contract with one or more qualified designate a member members of the association, or qualified group self-insurance administrators licensed pursuant to section 176.181, subdivision 2, clause (2) (a), whose duty it shall be to issue a policy, or a group self-insurance administration contract, containing the usual and customary provisions found in such policies or contracts therefor, but for which undertaking all members of the association shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by that member bears to the total compensation insurance written in this state during the preceding year by all the members of the association. The assigned risk plan shall be treated as a group self-insurer member of the reinsurance association for the purposes of sections 79.34 to 79.40 and shall be deemed to have selected the higher retention limit provided in section 79.34, subdivision 2. A qualified member or group self-insurance administrator shall possess sufficient financial, professional, administrative and personnel resources to serve the policies or self-insurance contracts contemplated in the service contract.

Subd. 2. An insurer that issues a policy pursuant to this section shall not receive an expense allowance that exceeds the expense allowance approved by the commissioner for other insurers.

Sec. 14. [79.251] ADMINISTRATION OF ASSIGNED RISK PLAN.

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

(2) The board shall consist of five members to be appointed by the commissioner of insurance. Two members shall be insureds holding policies issued pursuant to section 79.25. Two members shall be members of the association. The commissioner shall be the fifth member and shall vote.

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

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

(4) The assigned risk review board shall monitor the operations of sections 79.24 to 79.27 and shall periodically make recommendations to the

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commissioner, and to the governor and legislature when appropriate, for improvement in the operation of those sections.

(5) All members of the association issuing policies under 79.25 shall pay and the commissioner shall receive and disburse, on behalf of the board, a .25 percent assessment on premiums for policies issued under section 79.25 for the purpose of defraying the costs of the assigned risk review board.

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

Sec. 15. Minnesota Statutes 1980, Section 79.26, is amended to read:

79.26 ASSOCIATION COMMISSIONER TO ADOPT RULES.

The association shall commissioner of insurance may make and adopt such rules as may be necessary to carry this law into effect; subject to an appeal to the commissioner as in all other cases. Temporary rule-making authority is granted.

Sec. 16. Minnesota Statutes 1980, Section 79.27, is amended to read:

79.27 APPLICATION.

As a prerequisite to the transaction of workers' compensation insurance in this state every insurance carrier shall file with the commissioner of insurance written authority permitting the association commissioner of insurance to act in its behalf, as provided in sections 79.24 to 79.27.

Sec. 17. Minnesota Statutes 1980, Section 79.34, Subdivision 1, is amended to read:

Subdivision 1. A nonprofit association known as the workers' compensation reinsurance association is created, which may be incorporated under chapter 317 with all the powers of a corporation formed under that chapter, except that if the provisions of that chapter are inconsistent with sections 79.34 to 79.42 or any amendments thereto, sections 79.34 to 79.42 shall govern. Each insurer as defined by section 79.01, subdivision 2, shall as a condition of its authority to transact workers' compensation insurance in this state, be a member of the reinsurance association and shall be bound by the plan of operation of the reinsurance association; provided, that all affiliated insurers within a holding company system as defined in sections 60D.01 to 60D.13 shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association. Each self-insurer approved

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pursuant to section 176.181 and each political subdivision which self-insures shall, as a condition of its authority to self-insure workers' compensation liability in this state, be a member of the reinsurance association and shall be bound by its plan of operation; provided, that (a) all affiliated companies within a holding company system, as determined by the commissioner in a manner consistent with the standards and definitions in sections 60D.01 to 60D.13, shall be considered a single entity for purposes of the exercise of all rights and duties of membership in the reinsurance association, and (b) all group self-insurers granted authority to self-insure pursuant to section 176.181 shall be considered a single entity for purposes of the exercise of all the rights and duties of membership in the reinsurance association. The reinsurance association shall not be deemed a state agency. Actions of the reinsurance association and its board of directors and actions of the commissioner of insurance with respect to the reinsurance association shall not be subject to chapter 15. The reinsurance association shall be exempt from taxation under the laws of this state and all property owned by the association shall be exempt from taxation. The reinsurance association shall not be obligated to make any payments or pay any assessments to any funds or pools established pursuant to this chapter or chapter 176 or any other law.

Sec. 18. Minnesota Statutes 1980, Section 79.34, Subdivision 2, is amended to read:

Subd. 2. The reinsurance association shall provide and each member shall accept indemnification for 100 percent of the amount of ultimate loss sustained in each loss occurrence relating to one or more claims arising out of a single compensable event, including aggregate losses related to a single event or occurrence which constitutes a single loss occurrence, under chapter 176 on and after October 1, 1979, in excess of \$300,000 or \$100,000 retention limit, at the option of the member. In case of occupational disease causing disablement on and after October 1, 1979, each person suffering such disablement shall be considered to be involved in a separate loss occurrence. Each The lesser retention limit shall be increased to the nearest \$10,000, on January 1, 1981 1982 and on each January 1 thereafter by the percentage increase in the statewide average weekly wage, as determined in accordance with section 176.011, subdivision 20. On January 1, 1982 and on each January 1 thereafter, the greater retention limit shall be increased by the amount necessary to retain a \$200,000 difference between the two retention limits. Ultimate loss as used in this section means the actual loss amount which a member is obligated to pay and which is paid by the member for workers' compensation benefits payable under chapter 176 and shall not include claim expenses, assessments, damages or penalties. A loss is incurred by the reinsurance association on the date on which the accident or other compensable event giving rise to the loss occurs, and a member is liable for a loss up to its retention limit in effect at the time that the loss was incurred, except that members which are determined by the reinsurance association to be controlled by or under common control with

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another member, and which are liable for claims from one or more employees entitled to compensation for a single compensable event, including aggregate losses relating to a single loss occurrence, may aggregate their losses and obtain indemnification from the reinsurance association for the aggregate losses in excess of the higher retention limit in effect at the time the loss was incurred. Each member is liable for payment of its ultimate loss and shall be entitled to indemnification from the reinsurance association for the ultimate loss in excess of the member's retention limit in effect at the time of the loss occurrence.

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

Whenever it appears to the commissioner that any member that chooses the higher retention limit has participated in the transfer of liability to any other entity or reinsured or otherwise contracted for reimbursement or indemnification of losses below its retention limit in a manner inconsistent with the

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bases for exception provided under clauses (a), (b), (c), (d), and (e), the commissioner may, after giving notice and an opportunity to be heard, order the member to pay to the state of Minnesota an amount not to exceed twice the difference between the reinsurance premium for the higher and lower retention limit applicable to the member for each year in which the prohibited reinsurance or contract was in effect. Any member subject to this penalty provision shall continue to be bound by its selection of the higher retention limit for purposes of membership in the reinsurance association.

Sec. 19. Minnesota Statutes 1980, Section 79.35, is amended to read:

79.35 DUTIES; RESPONSIBILITIES; POWERS.

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

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

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

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

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

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

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

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

(g) Establish procedures for reviewing claims procedures and practices of members of the reinsurance association. If the claims procedures or practices of a member are considered inadequate to properly service the liabilities of the reinsurance association, the reinsurance association may undertake, or may contract with another person, including another member, to adjust or assist in the adjustment of claims which create a potential liability to the association and may charge the cost of the adjustment to the member; and

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

Sec. 20. Minnesota Statutes 1980, Section 79.36, is amended to read:

79.36 ADDITIONAL POWERS.

In addition to the powers granted in section 79.35, the reinsurance association may do the following:

(a) Sue and be sued. A judgment against the reinsurance association shall not create any direct liability against the individual members of the reinsurance association. The reinsurance association shall provide in the plan of operation for the indemnification, to the extent provided in the plan of operation, of the members, members of the board of directors of the reinsurance association, and officers, employees and other persons lawfully acting on behalf of the reinsurance association;

(b) Reinsure all or any portion of its potential liability, including potential liability in excess of ~~\$\$\$00,000~~ the prefunded limit, with reinsurers licensed to transact insurance in this state or otherwise approved by the commissioner;

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(c) Provide for appropriate housing, equipment, and personnel as may be necessary to assure the efficient operation of the reinsurance association;

(d) Contract for goods and services, including but not limited to independent claims management, actuarial, investment, and legal services from others within or without this state to assure the efficient operation of the reinsurance association;

(e) Adopt operating rules, consistent with the plan of operation, for the administration of the reinsurance association, enforce those operating rules, and delegate authority as necessary to assure the proper administration and operation of the reinsurance association;

(f) Intervene in or prosecute at any time, including but not limited to intervention or prosecution as subrogee to the member's rights in a third party action, any proceeding under this chapter or chapter 176 in which liability of the reinsurance association may, in the opinion of the board of directors of the reinsurance association or its designee, be established, or the reinsurance association affected in any other way;

(g) The net proceeds derived from intervention or prosecution of any subrogation interest, or other recovery, shall first be used to reimburse the reinsurance association for amounts paid or payable pursuant to this chapter, together with any expenses of recovery, including attorney's fees, and any excess shall be paid to the member or other person entitled thereto, as determined by the board of directors of the reinsurance association, unless otherwise ordered by a court.

(h) Hear and determine complaints of a company or other interested party concerning the operation of the reinsurance association; and

(i) Perform other acts not specifically enumerated in this section which are necessary or proper to accomplish the purposes of the reinsurance association and which are not inconsistent with sections 79.34 to 79.42 or the plan of operation.

Sec. 21. [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;

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

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(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. 22. [79.51] RULES.

Subdivision 1. ADOPTION; WHEN. The commissioner shall adopt rules to implement provisions of chapter 79. The rules shall be finally adopted after May 1, 1982. By January 15, 1982, the commissioner shall provide the legislature a description and explanation of the intent and anticipated effect of the rules on the various factors of the rating system.

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

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

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

(2) Experience rating plans;

(3) Retrospective rating plans;

(4) General expenses and related expense provisions;

(5) Minimum premiums;

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

(7) Loss development and trend factors;

(8) The workers' compensation reinsurance association;

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

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

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

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

(b) The rules shall provide for the following:

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

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

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

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

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

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

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

Subd. 4. ADVISORY COMMITTEE. The commissioner shall appoint an advisory committee which shall offer recommendations regarding rulemaking under this section. The advisory committee shall include representatives of insurers, employers, and employees.

Sec. 23. [79.52] DEFINITIONS.

Subdivision 1. GENERALLY. The following words or phrases shall have the meanings ascribed to them for the purposes of chapter 79, unless the context clearly indicates that a different meaning is intended.

Subd. 2. MARKET. "Market" means any reasonable grouping or classification of employers.

Subd. 3. DATA SERVICE ORGANIZATION. "Data service organization" means any entity which has ten or more members or is controlled

directly or indirectly by ten or more insurers and is engaged in collecting data for use in insurance ratemaking or other activities permitted by chapter 79. Affiliated members or insurers shall be counted as a single unit for the purpose of this definition. The workers' compensation insurers rating association of Minnesota shall be considered a data service organization.

Subd. 4. CLASSIFICATION PLAN; CLASSIFICATION. "Classification plan" or "classification" means the plan, system, or arrangement for rating insurance policyholders.

Subd. 5. RATES. "Rates" means the cost of insurance per exposure base unit.

Subd. 6. BASE PREMIUM. "Base premium" means the amount of premium which an employer would pay for insurance derived by applying rates to an exposure base prior to the application of any merit rating or discount factors.

Subd. 7. PREMIUM. "Premium" means the price charged to an insured for insurance for a specified period of time, regardless of the timing of actual payments.

Subd. 8. DISCOUNT FACTOR. "Discount factor" means any factor which is applied to the base premium and which is based upon insurer expenses or other factors not related to the risk of loss.

Subd. 9. MERIT RATING. "Merit rating" means a system or form of rating by which base premium is modified on the basis of loss experience or other factors which are reasonably related to loss or risk of loss and which may be reasonably affected by the action or activities of the insured. The sensitivity of a merit rating system to loss experience may vary by the size of risk. Merit rating shall include both prospective and retrospective methods for modifying base premium.

Subd. 10. LOSS DEVELOPMENT FACTORS. "Loss development factors" means factors applied to recorded incurred losses to estimate the amount of ultimate loss payments that will have been made for losses during the applicable period when all claims are paid.

Subd. 11. TREND OR TRENDING. "Trend" or "trending" means any procedure employing data for the purpose of projecting or forecasting the future value of that data or other data, or the factors resulting from such a procedure.

Subd. 12. INTERESTED PARTY. "Interested party" means any person, or association acting on behalf of its members, directly affected by a change in the schedule of rates and includes the staff of the insurance division.

Subd. 13. INSURER. "Insurer" means any insurer licensed to transact the business of workers' compensation insurance in this state.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 14. INSURANCE. "Insurance" means workers' compensation insurance.

Subd. 15. RATING PLAN. "Rating plan" means every manual, and every other rule including discount factors and merit rating necessary for the calculation of an insured's premium from an insurer's rates. An insurer may choose to adopt for use the rating plan of the data service organization in which it maintains membership.

Sec. 24. [79.53] PREMIUM CALCULATION.

Each insurer shall establish premiums to be paid by an employer according to its filed rates and rating plan as follows:

Rates shall be applied to an exposure base to yield a base premium which may be further modified by merit rating, premium discounts, and other appropriate factors contained in the rating plan of an insurer to produce premium. Nothing in this chapter shall be deemed to prohibit the use of any premium, provided the premium is not excessive, inadequate or unfairly discriminatory.

Sec. 25. [79.54] COMPETITIVE MARKET PRESUMPTION.

A competitive market is presumed to exist until the commissioner, after a hearing on the record, determines that a reasonable degree of competition does not exist and issues an order to that effect. The order shall include the conditions and procedures under which a determination of insufficient competition shall expire.

Sec. 26. [79.55] STANDARDS FOR RATES.

Subdivision 1. GENERAL STANDARDS. Premiums shall not be excessive, inadequate, or unfairly discriminatory.

Subd. 2. EXCESSIVENESS. No premium is excessive in a competitive market. In the absence of a competitive market, premiums are excessive if the expected underwriting profit, together with expected income from invested reserves for the market in question, that would accrue to an insurer would be unreasonably high in relation to the risk undertaken by the insurer in transacting the business.

Subd. 3. INADEQUACY. Premiums are inadequate if, together with the investment income associated with an insurer's Minnesota workers' compensation insurance business, they are clearly insufficient to sustain projected losses and expenses of the insurer and (a) if their continued use could lead to an insolvent situation for the insurer; or (b) if their use destroys or lessens competition or is likely to destroy or lessen competition.

Subd. 4. UNFAIR DISCRIMINATION. Premiums are unfairly discriminatory if differentials for insureds fail to reasonably reflect the differences

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in expected losses and expenses to the insurer attributable to the insureds. Rates are not unfairly discriminatory solely because different premiums result for insureds with like loss exposures but different expense factors, or like expense factors but different loss exposures, provided that rates reflect the differences with reasonable accuracy.

Sec. 27. [79.56] FILING RATES AND RATING INFORMATION.

Subdivision 1. AFTER EFFECTIVE DATE. Each insurer shall file with the commissioner a complete copy of its rates and rating plan, and all changes and amendments thereto, within 15 days after their effective dates. An insurer need not file a rating plan if it uses a rating plan filed by a data service organization. If an insurer uses a rating plan of a data service organization but deviates from it, then all deviations must be filed by the insurer.

Subd. 2. BEFORE EFFECTIVE DATE. The commissioner may order an insurer to file rates at least 30 days before the effective date of the rates (a) if the commissioner determines, based upon reasonable evidence, that an order is appropriate because of the insurer's financial condition or (b) due to a prior finding of unfairly discriminatory rating practices; or (c) due to a prior finding of inadequate rates. The order may require that supplementary rate and supporting information be included in a filing.

Subd. 3. PENALTIES. Any insurer using a rate or a rating plan which has not been filed shall be subject to a fine of up to \$100 for each day the failure to file continues. The commissioner may, after a hearing on the record, find that the failure is willful. A willful failure to meet filing requirements shall be punishable by a fine of up to \$500 for each day during which a willful failure continues. These penalties shall be in addition to any other penalties provided by law.

Subd. 4. PUBLIC INSPECTION. All filings shall be open to public inspection during normal business hours at the offices of the insurance division.

Sec. 28. [79.57] FILING RATES; NONCOMPETITIVE MARKET.

Upon making a determination that a market is not competitive, the commissioner shall require rates for use in that market to be filed 30 days prior to their effective date. The filing shall include, in a form prescribed by the commissioner, an explanation of the rates and any data supporting the use of the rates which are not on file with a data service organization.

The commissioner may issue an order for a hearing at any time prior to the effective date of the rates and the rates shall not become effective until the commissioner has ruled on the rates following the hearing.

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The commissioner may disapprove the rates subsequent to their effective date, except that rates so disapproved shall remain effective until the commissioner issues an order following a hearing.

Sec. 29. [79.58] DISAPPROVAL OF RATES OR RATING PLANS.

Subdivision 1. RATES. A rate filed by an insurer may be disapproved by the commissioner subsequent to its effective date. Following a disapproval and prior to a refiling the insurer shall use the rates as reasonably established by the commissioner.

The commissioner shall disapprove a rate if, after a hearing on the record, he finds that:

(a) The premium is inadequate or unfairly discriminatory; or

(b) A competitive market for workers' compensation does not exist and rates are excessive; or

(c) The insurer failed to comply with filing requirements.

A rehearing shall be held within 30 days of any disapproval under this section at the request of the insurer whose rates are disapproved.

Subd. 2. RATING PLANS. The commissioner may disapprove a rating plan of a data service organization if, after a hearing, the commissioner finds that it is unfairly discriminatory. Any order of disapproval shall require the data service organization to use an alternative rating plan until approval of a rating plan by the commissioner. The commissioner shall not approve any rating plan based upon any data other than Minnesota data, except that other data may be utilized as a supplement to Minnesota data when the commissioner determines that an exceptional case requires such data to establish the statistical credibility of an occupational classification.

Sec. 30. [79.59] INSURERS AND DATA SERVICE ORGANIZATIONS; PROHIBITED ACTIVITIES.

Subdivision 1. MONOPOLIZATION. No insurer or data service organization 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 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 chapter 79 or for the purpose of creating experience modifications for employers with employees in more than one state.

Subd. 3. TRADE RESTRAINT. No insurer 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.

Changes or additions are indicated by underline, deletions by strikeout.

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 subdivisions 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 chapter 79 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 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. 31. [79.60] INSURERS; REQUIRED AND PERMITTED ACTIVITY.

Subdivision 1. REQUIRED ACTIVITY. Each insurer shall perform the following activities:

(a) Maintain membership in and report loss experience data to a licensed data service organization in accordance with the statistical plan and rules of the organization as approved by the commissioner;

(b) Establish a plan for merit rating which shall be consistently applied to all insureds, provided that members of a data service organization may use merit rating plans developed by that data service organization;

(c) Provide an annual report to the commissioner containing the information and prepared in the form required by the commissioner; and

(d) Keep a record of the premiums and losses paid under each workers' compensation policy written in Minnesota in the form required by the commissioner.

Subd. 2. PERMITTED ACTIVITY. In addition to any other activities not prohibited by chapter 79, insurers may:

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(a) Through licensed data service organizations, individually, or with insurers commonly owned, managed, or controlled, conduct research and collect statistics to investigate, identify, and classify information relating to causes or prevention of losses;

(b) Develop and use classification plans and rates based upon any reasonable factors; and

(c) Develop rules for the assignment of risks to classifications.

Sec. 32. [79.61] DATA SERVICE ORGANIZATIONS; REQUIRED AND PERMITTED ACTIVITY.

Subdivision 1. REQUIRED ACTIVITY. Any data service organization shall perform the following activities:

(a) File statistical plans, including classification definitions, amendments to the plans, and definitions, with the commissioner for approval, and assign each compensation risk written by its members to its approved classification for reporting purposes;

(b) Establish requirements for data reporting and monitoring methods to maintain a high quality data base;

(c) Prepare and distribute a periodic report, in a form prescribed by the commissioner, on ratemaking including, but not limited to the following elements:

(i) development factors and alternative derivations;

(ii) trend factors and alternative derivations and applications;

(iii) pure premium relativities for the approved classification system for which data are reported, provided that the relativities for insureds engaged in similar occupations and presenting substantially similar risks shall, if different, differ by at least ten percent; and

(iv) an evaluation of the effects of changes in law on loss data.

The report shall also include explicit discussion and explanation of methodology, alternatives examined, assumptions adopted, and areas of judgment and reasoning supporting judgments entered into, and the effect of various combinations of these elements on indications for modification of an overall pure premium rate level change. The pure premium relativities and rate level indications shall not include a loading for expenses or profit and no expense or profit data or recommendations relating to expense or profit shall be included in the report or collected by a data service organization;

(d) Collect, compile, summarize, and distribute data from members or other sources pursuant to a statistical plan approved by the commissioner;

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(e) Prepare merit rating plan and calculate any variable factors necessary for utilization of the plan. Such a plan may be used by any of its members, at the option of the member provided that the application of a plan shall not result in rates that are unfairly discriminatory;

(f) Provide loss data specific to an insured to the insured at a reasonable cost;

(g) Distribute information to an insured or interested party that is filed with the commissioner and is open to public inspection; and

(h) Assess its members for operating expenses on a fair and equitable basis.

Subd. 2. PERMITTED ACTIVITY. In addition to any other activities not prohibited by chapter 79, any data service organization may:

(a) Collect and analyze data in order to investigate, identify, and classify information relating to causes or prevention of losses;

(b) Make inspections for the sole purpose of reporting and maintaining data quality;

(c) Contract with another data service organization to fulfill any of the above requirements; and

(d) Prepare and file with the commissioner a rating plan for use by any of its members, provided that no member may be required to use any part of the plan.

Sec. 33. [79.62] DATA SERVICE ORGANIZATIONS; LICENSING, EXAMINATION.

Subdivision 1. LICENSE REQUIRED. No data service organization shall provide any service and no insurer shall use the services of a data service organization unless the organization is licensed by the commissioner.

Subd. 2. PROCEDURE; APPLICATION. A data service organization shall apply for a license in a form and manner prescribed by the commissioner. The application of a data service organization shall include:

(a) A copy of its constitution, articles of incorporation, bylaws, and other rules pertaining to the conduct of its business;

(b) A plan and narrative describing how it will perform the activities required by section 32;

(c) A statement showing its technical qualifications; and

(d) Any other information that the commissioner may reasonably require.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. ISSUANCE. The commissioner, upon finding that the applicant organization is qualified to provide the services required and proposed, or has contracted with a licensed data service organization to purchase these services which are required by chapter 79 but are not provided directly by the applicant, and that all requirements of law are met, shall issue a license. Licenses shall remain in effect until the licensee withdraws from business or until the license is suspended or revoked.

Subd. 4. SUSPENSION; REVOCATION. The commissioner may, after a hearing on the record, revoke or suspend the license of a data service organization if he finds that the organization is not in compliance with the requirements of chapter 79 or rules issued thereunder.

Subd. 5. LICENSEE EXAMINATION. The commissioner may examine any licensed data service organization to determine whether its activities and practices comply with law. The cost of the examination shall be paid by the examined organization.

Sec. 34. [79.63] ASSIGNED RISK PLAN.

Subdivision 1. ADMINISTRATION. The commissioner shall appoint a licensed data service organization to administer the assigned risk plan. The appointed data service organization shall submit to the commissioner for approval a plan and rules for administering the assigned risk plan, including a method or formula by which the organization is to be paid for administrative services.

Subd. 2. REJECTION; NOTICE. An insurer that refuses to write insurance for an applicant shall furnish the applicant a written notice of refusal and shall file a copy of the notice of refusal with the data service organization appointed pursuant to subdivision 1. Servicing insurers designated pursuant to subdivision 3 shall accept and insure any applicant for workers' compensation insurance assigned pursuant to subdivision 3.

Subd. 3. ASSIGNMENT. An insurer or insurers shall be designated by the data service organization appointed pursuant to subdivision 1 to issue a policy of workers' compensation insurance to an applicant which has been refused insurance. A policy shall contain the usual and customary provisions of workers' compensation insurance policies, but for which undertaking all insurers doing workers' compensation business in this state shall be reinsurers among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by each insurer bears to the total compensation insurance written in this state during that calendar year by all insurers.

An insurer that issues a policy pursuant to this section shall receive an expense allowance which shall be adequate for services rendered, as approved by the commissioner.

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Subd. 4. PENALTY. The commissioner may revoke the license of an insurer or agent for refusing or failing to provide an applicant with written refusal pursuant to subdivision 2 or for any other violation of this section or of the approved rules of a data service organization.

Subd. 5. ASSIGNED RISK RATES. Insureds served by the workers' compensation insurance assigned risk plan shall be charged premiums based upon a rating plan, rates, and a merit rating plan adopted by the commissioner by rule. This rating plan shall include a feature by which rates shall vary in relation to the number or proportion of insureds in the assigned risk plan in the preceding calendar year. This relationship shall be such that assigned risk rates shall vary upward as the number or proportion of insureds in the assigned risk plan decreases and downward as the number or proportion increases. Assigned risk premiums shall not be lower than the rates generally charged by insurers for the business.

Sec. 35. Minnesota Statutes 1980, Section 60C.04, is amended to read:

60C.04 CREATION.

All insurers subject to the provisions of Laws 1971, Chapter 145 shall form an organization to be known as the Minnesota insurance guaranty association. All insurers defined as member insurers in section 60C.03, subdivision 6, are and shall remain members of the association as a condition of their authority to transact insurance business or to execute surety bonds in this state. The association shall perform its functions under a plan of operation established and approved under section 60C.07 and shall exercise its powers through a board of directors established under section 60C.08. For purposes of administration and assessment the association shall be divided into ~~four~~ five separate accounts: (1) the automobile insurance account, (2) the township mutuals account, (3) the fidelity and surety bond account ~~and~~, (4) the account for all other insurance to which Laws 1971, Chapter 145 applies, and (5) the workers' compensation insurance account.

Sec. 36. Minnesota Statutes 1980, Section 60C.09, Subdivision 2, is amended to read:

Subd. 2. LIMITATION OF AMOUNT. Payment of a covered claim is limited to the amount by which the allowance on any claim exceeds \$100 and is less than \$300,000. The limitation on the amount of payment for a covered claim does not apply to claims for workers' compensation insurance. In no event is the association obligated to the policyholder or claimant in an amount in excess of the obligation of the insurer under the policy from which the claim arises.

Sec. 37. Minnesota Statutes 1980, Section 79.071, Subdivision 1, is amended to read:

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

Sec. 38. Minnesota Statutes 1980, Section 175.007, is amended to read:

175.007 ADVISORY COUNCIL ON WORKERS' COMPENSATION; CREATION.

Subdivision 1. The commissioner of ~~labor and industry~~ shall appoint, ~~after consultation with the judges of the workers' compensation court of appeals,~~ an advisory council on workers' compensation, which shall consist of five representatives of employers and five representatives of employees and three members representing the general public. The council may consult with the judges of the workers' compensation court of appeals ~~shall be nonvoting members of the advisory council.~~ The council shall expire and the terms, compensation and removal of members shall be as provided in section 15.059.

Subd. 2. The advisory council shall study and present to the legislature and the governor, on or before November 15 of each even numbered year, its findings relative to the costs, methods of financing, and the formula to be used to provide supplementary compensation to workers who have been determined permanently and totally disabled prior to July 1, 1969, and its findings relative to alterations in the scheduled benefits for permanent partially disabled, and other aspects of the workers' compensation act. The council shall also study and present to the legislature and the governor on or before November 15 of 1981 and by November 15 of each even numbered year thereafter a report on the financial, administrative and personnel needs of the workers' compensation division.

Sec. 39. Minnesota Statutes 1980, Section 175.11, Subdivision 1, is amended to read:

Subdivision 1. The workers' compensation division ~~and the workers' compensation court of appeals~~ shall each have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words, "Workers' Compensation Division of Minnesota" or "~~Workers' Compensation Court of Appeals of Minnesota~~" respectively, as the division ~~or workers' compensation court of appeals~~ may prescribe. The courts of this state shall take judicial notice of such seal ~~and of the signatures of the judges of the workers'~~

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~~compensation court of appeals; and in all cases copies of orders, proceedings, or records of the division or workers' compensation court of appeals, certified by a judge of the workers' compensation court of appeals under his seal the commissioner, shall be received in evidence, with the same force and effect given to the originals.~~

Sec. 40. Minnesota Statutes 1980, Section 175.14, is amended to read:

175.14 TRAVELING EXPENSES.

~~The workers' compensation judges of the court of appeals and the commissioner of labor and industry and the officers, assistants, and employees of the workers' compensation court of appeals and department shall be paid out of the state treasury their actual and necessary expenses while traveling on the business of the workers' compensation court of appeals or department. Vouchers for such expenses shall be itemized and sworn to by the persons incurring the expense, and be subject to the approval of the workers' compensation court of appeals or the commissioner of labor and industry.~~

Sec. 41. Minnesota Statutes 1980, Section 175.17, is amended to read:

175.17 POWERS AND DUTIES, WORKERS' COMPENSATION COURT OF APPEALS, AND COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY.

~~(1) The workers' compensation court of appeals shall principally exercise appellate jurisdiction under the laws relating to workers' compensation and the laws governing employees of the state, a county, or other governmental subdivision who contract tuberculosis;~~

~~(2) The commissioner of the department of labor and industry shall administer the laws relating to workers' compensation and the laws governing employees of the state, a county, or other governmental subdivisions who contract tuberculosis;~~

~~(3) (2) The workers' compensation court of appeals and the commissioner of the department of labor and industry shall jointly prescribe adopt reasonable and proper rules and regulations governing rules of practice before the workers' compensation division in nonappellate matters which are not before a compensation judge;~~

~~(4) The workers' compensation court of appeals shall prescribe rules of practice before it in appellate matters;~~

~~(5) (3) The commissioner of the department of labor and industry shall collect, collate, and publish statistical and other information relating to work~~

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under ~~its~~ the department's jurisdiction and make public reports in his judgment necessary, including such other reports as may be required by law;

~~(6)~~ (4) The commissioner of the department of labor and industry shall establish and maintain branch offices as needed for the conduct of the affairs of the workers' compensation division.

Sec. 42. **[175A.01] CREATION.**

Subdivision 1. **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. 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. 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. **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.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

Sec. 43. [175A.02] OFFICERS.

The judges of the workers' compensation court of appeals shall choose a chief judge from among their number. The chief judge shall appoint one of the judges to serve as the administrator, who shall be custodian of the court's files and records and shall coordinate and make hearing assignments. The judge who is appointed the administrator may delegate the duties of administrator to an employee chosen to be the assistant administrator. The clerk of district court in each county shall be the clerk of the workers' compensation court of appeals in that county. Filing fees and library fees deposited with the clerk of district court in his 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 clerk of district court. The workers' compensation court of appeals clerk in each county shall be subject to the supervision of the administrator in workers' compensation court of appeals matters.

Sec. 44. [175A.03] POLITICAL NONPARTICIPATION.

Every judge of the workers' compensation court of appeals and every officer or employee of the workers' compensation court of appeals who by solicitation or otherwise exerts his influence, directly or indirectly, to induce other officers or employees of the state to adopt his political views, or to favor any particular person or candidate for office, or to contribute funds for campaign or political purposes, shall be removed from his office or position by the authority appointing him.

Sec. 45. [175A.04] OFFICE.

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

Sec. 46. [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 and all appeals shall be heard by at least three of the five judges. 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. 47. [175A.06] SESSIONS TO BE PUBLIC.

The hearings of the workers' compensation court of appeals shall be open to the public and may be adjourned from time to time. All the proceedings of the court shall be shown on its records, which shall be public records.

Sec. 48. [175A.07] POWERS.

Subdivision 1. PROCESS; PROCEDURES. The workers' compensation court of appeals shall keep such record of all its proceedings as it deems appropriate and shall issue necessary processes, writs, warrants, and notices which the workers' compensation court of appeals is required or authorized to issue. Notices and other documents required to be served or filed on the workers' compensation court of appeals shall be served on the administrator of the court or his delegate.

Subd. 2. PERSONNEL. The judges 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. 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.

Subd. 3. POWER TO REVIEW. The workers' compensation court of appeals shall have the powers of review provided in chapter 176.

Subd. 4. RULES. The workers' compensation court of appeals shall prescribe rules of practice before it in appellate matters.

Sec. 49. [175A.08] SEAL.

The workers' compensation court of appeals shall have a seal for the authentication of its orders and proceedings, upon which shall be inscribed the words, "Workers' Compensation Court of Appeals of Minnesota" as the court of appeals may prescribe. The courts of this state shall take judicial notice of such seal and of the signatures of the judges of the workers' compensation court of appeals; and in all cases copies of orders, proceedings, or records of the workers' compensation court of appeals, certified by a judge of the workers' compensation court of appeals under its seal, shall be received in evidence, with the same force and effect given to the originals.

Sec. 50. [175A.09] TRAVEL EXPENSES.

The workers' compensation judges of the court of appeals and the officers, assistants, and employees of the workers' compensation court of appeals shall be paid out of the state treasury their actual and necessary

expenses while traveling on the business of the workers' compensation court of appeals. Vouchers for such expenses shall be itemized and sworn to by the persons incurring the expense, and be subject to the approval of the workers' compensation court of appeals.

Sec. 51. [175A.10] APPEALS AND REVIEWS.

Unless an appeal is taken to the district court, the right of appeal provided in chapter 176 shall be the exclusive remedy for reviewing the actions of the commissioner, the workers' compensation division or a compensation judge in a matter arising under chapter 176. On any appeal taken by an employee or an employer or insurer to the workers' compensation court of appeals, or the supreme court, the decision of the workers' compensation court of appeals, or the decision of the supreme court on its review, as the case may be, shall be final and conclusive as to all parties to the proceedings as to all matters at issue determined by a decision. In all cases the decision of the workers' compensation court of appeals on appeal, or of the supreme court on review, as the case may be, shall stand in lieu of the order of the commissioner or the division or the compensation judge from whom the appeal was taken.

Sec. 52. [176.001] INTENT OF THE LEGISLATURE.

It is the intent of the legislature that chapter 176 be interpreted so as to assure the quick and efficient delivery of indemnity and medical benefits to injured workers at a reasonable cost to the employers who are subject to the provisions of chapter 176.

Sec. 53. Minnesota Statutes 1980, Section 176.011, Subdivision 6, is amended to read:

Subd. 6. (1) "Court of appeals" means the workers' compensation court of appeals of Minnesota.

(2) "Division" means the workers' compensation division of the department of labor and industry.

(3) "Department" means the department of labor and industry.

(4) "Commissioner", unless the context clearly indicates otherwise, means the commissioner of labor and industry.

Sec. 54. Minnesota Statutes 1980, Section 176.011, Subdivision 9, is amended to read:

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

(1) an alien;

(2) a minor;

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(3) a sheriff, deputy sheriff, constable, marshal, policeman, firefighter, a county highway engineer, and a peace officer while engaged in the enforcement of peace or in and about the pursuit or capture of any person charged with or suspected of crime and any person requested or commanded to aid an officer in arresting any person, or in retaking any person who has escaped from lawful custody, or in executing any legal process in which case, for purposes of calculating compensation payable under this chapter, the daily wage of the person requested or commanded to assist an officer or to execute a legal process shall be the prevailing wage for similar services where the services are performed by paid employees;

(4) a county assessor;

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

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

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

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

(9) a voluntary uncompensated worker participating in a program established by a county welfare board shall be an employee within the meaning of this subdivision. In the event of injury or death of the voluntary uncompensat-

ed worker, the wage of the worker, for the purpose of calculating compensation payable under this chapter, shall be the usual going wage paid in the county at the time of the injury or death for similar services where the services are performed by paid employees working a normal day and week;

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

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

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

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

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

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

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

Sec. 55. Minnesota Statutes 1980, Section 176.021, Subdivision 1, is amended to read:

Subdivision 1. **LIABILITY FOR COMPENSATION.** Except as excluded by this chapter all employers and employees are subject to the provisions of this chapter.

Every ~~such~~ employer is liable for compensation according to the provisions of this chapter and is liable to pay compensation in every case of personal injury or death of his employee arising out of and in the course of employment without regard to the question of negligence; ~~unless~~. The burden of proof of these facts is upon the employee.

If the injury was intentionally self-inflicted or when the intoxication of the employee is the proximate cause of the injury, then the employer is not liable for compensation. The burden of proof of ~~such~~ these facts is upon the employer.

Sec. 56. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

Subd. 1a. **BURDEN OF PROOF.** All disputed issues of fact arising under chapter 176 shall be determined by a preponderance of the evidence. Preponderance of the evidence means evidence produced in substantiation of a fact which, when weighed against the evidence opposing the fact, has more convincing force and greater probability of truth.

Questions of law arising under chapter 176 shall be determined in accordance with the rules of construction generally applied to all other civil matters.

Sec. 57. Minnesota Statutes 1980, Section 176.021, Subdivision 3, is amended to read:

Subd. 3. **COMPENSATION, COMMENCEMENT OF PAYMENT.** All employers shall commence payment of ~~the~~ 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 ~~those~~ of for medical, burial, and other non-periodic benefits, payments shall be made as nearly as may be possible at the intervals when the wage was payable; provided, however, that payments

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for permanent partial disability in cases in which return to work occurs prior to four weeks from the date of injury shall be made by lump sum payment, shall be governed by subdivision 3a and the provisions of section 176.165 shall not apply, without the necessity of any agreement, or order of the division, upon cessation of payments for temporary total disability and upon the employee's return to work. In cases in which return to work does not occur prior to four weeks after injury, payments for permanent partial disability shall be made according to the following schedule: 25 percent of the amount due after four weeks from the date of injury, 25 percent after eight weeks, 25 percent after 12 weeks and 25 percent after 16 weeks, provided that any and all payments remaining shall be paid upon the cessation of payments for temporary total disability and upon the employee's return to work. If doubt exists at that time as to the eventual permanent partial disability, payment, pursuant to subdivision 3a, shall be then made when due for the minimum permanent partial disability ascertainable in lump sum, and further lump sum payment shall be made upon any later ascertainment of greater permanent partial disability. At the time of the any tender of the lump sum payment, the employee and employer shall be furnished with a copy of the medical report upon which the payment is based, together with a statement by the insurer as to whether the tendered payment is for minimum permanent partial disability or final and eventual disability. Compensation for permanent partial disability is payable concurrently and in addition to compensation for temporary total disability and temporary partial disability as set forth in pursuant to section 176.101, subdivisions 1 and 2, and as provided in subdivision 3a. Compensation for permanent partial disability is payable concurrently and in addition to compensation for permanent total disability as defined in pursuant to section 176.101, subdivision 5; and such, as provided in subdivision 3a. Compensation for permanent partial disability shall not be deferred withheld pending completion of payment for temporary total and temporary partial disability but shall not be withheld pending payment of compensation for or permanent total disability, and no credit shall be taken for payment of permanent partial disability against liability for temporary total or permanent total disability. Liability on the part of an employer or his insurer for disability of a temporary total, temporary partial, and permanent total nature shall be considered as a continuing product and part of the employee's inability to earn or reduction in earning capacity due to injury or occupational disease and shall be payable accordingly, subject to subdivision 3a. Permanent partial disability is payable for functional loss of use or impairment of function, permanent in nature, and payment therefore shall be separate, distinct, and in addition to payment for any other compensation, subject to subdivision 3a. The right to receive temporary total, temporary partial, permanent partial or permanent total disability payments shall vest in the injured employee or his dependents under this chapter or, if none, in his legal heirs at the time the disability can be ascertained and the right shall not be abrogated by the employee's death prior to the making of the payment.

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Sec. 58. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

Subd. 3a. PERMANENT PARTIAL BENEFITS, PAYMENT. Payments for permanent partial disability as provided in section 176.101, subdivision 3, shall be made in the following manner:

(a) If the employee returns to work, payment shall be made by lump sum;

(b) If temporary total payments have ceased, but the employee has not returned to work, payment shall be made at the same intervals as temporary total payments were made;

(c) If temporary total disability payments cease because the employee is receiving payments for permanent total disability or because the employee is retiring or has retired from the work force, then payment shall be made by lump sum;

(d) If the employee completes a rehabilitation plan pursuant to section 176.102, but the employer does not furnish the employee with work he can do in his permanently partially disabled condition, and the employee is unable to procure such work with another employer, then payment shall be made by lump sum.

Sec. 59. Minnesota Statutes 1980, Section 176.021, is amended by adding a subdivision to read:

Subd. 8. AMOUNTS ADJUSTED. Amounts of compensation payable by an employer or his insurer under this chapter may be rounded to the nearest dollar amount. An employer or insurer who elects to make such adjustments shall do so for all compensation payments under this chapter.

Sec. 60. Minnesota Statutes 1980, Section 176.041, is amended by adding a subdivision to read:

Subd. 6. COMMISSIONER OF LABOR AND INDUSTRY; ADDITIONAL POWERS. Whenever an employee is covered by subdivision 2, 3 or 4, the commissioner may enter into agreements with the appropriate agencies of other states for the purpose of resolving conflicts of jurisdiction or disputes concerning workers' compensation coverage. An agreement entered into pursuant to this subdivision may be appealed in the same manner and within the same time as if the appeal were from an order or decision of a compensation judge to the workers' compensation court of appeals or the district court.

Sec. 61. Minnesota Statutes 1980, Section 176.061, Subdivision 1, is amended to read:

Subdivision 1. ELECTION OF REMEDIES. Where an injury or death for which compensation is benefits are payable occurs under circum-

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stances which create a legal liability for damages on the part of a party other than the employer and at the time of such injury or death that party was insured or self-insured in accordance with this chapter, the employee, in case of injury, or his dependents, in case of death, may proceed either at law against that party to recover damages or against the employer for ~~compensation benefits~~, but not against both.

Sec. 62. Minnesota Statutes 1980, Section 176.061, Subdivision 3, is amended to read:

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

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

Sec. 63. Minnesota Statutes 1980, Section 176.061, Subdivision 4, is amended to read:

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

Sec. 64. Minnesota Statutes 1980, Section 176.061, Subdivision 5, is amended to read:

Subd. 5. **CUMULATIVE REMEDIES.** Where an injury or death for which ~~compensation~~ is benefits are payable is caused under circumstances which created a legal liability for damages on the part of a party other than the employer, that party being then insured or self-insured in accordance with this chapter, and the provisions of subdivisions 1, 2, 3, and 4 do not apply, or the party other than the employer is not then insured or self-insured as provided by

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this chapter, legal proceedings may be taken by the employee or his dependents in accordance with clause (a), or by his employer, or by the attorney general on behalf of the special compensation fund, in accordance with clause (b), against the other party to recover damages, notwithstanding the payment by the employer, or the special compensation fund or his their liability to pay compensation benefits.

(a) If an action against the other party is brought by the injured employee or his dependents and a judgment is obtained and paid or settlement is made with the other party, the employer or the special compensation fund may deduct from the compensation benefits payable by him the amount actually received by the employee or dependents or paid on their behalf in accordance with subdivision 6. If the action is not diligently prosecuted or if the court deems it advisable in order to protect the interests of the employer, or the special compensation fund, upon application the court may grant the employer, or the special compensation fund, the right to intervene in any such action for the prosecution thereof. If the injured employee or his dependents agree to receive compensation or any party on their behalf receives benefits from the employer, or the special compensation fund, or institute proceedings to recover the same or accept from the employer, or the special compensation fund, any payment on account of the compensation benefits, the employer, or the special compensation fund, is subrogated to the rights of the employee or his dependents. This employer, or the attorney general on behalf of the special compensation fund, may maintain an action or continue an action already instituted. This action may be maintained in the name of the employee or the names of the dependents, or in the name of the employer or in the name of the attorney general on behalf of the special compensation fund against such other party for the recovery of damages. If the action is not diligently prosecuted by the employer, or the attorney general on behalf of the special compensation fund, or the court deems it advisable in order to protect the interest of the employee, the court, upon application, may grant to the employee or his dependents the right to intervene in the action for the prosecution thereof. The proceeds of such action or settlement thereof shall be paid in accordance with subdivision 6.

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

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

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

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

Sec. 65. Minnesota Statutes 1980, Section 176.061, Subdivision 6, is amended to read:

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

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

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

(c) Out of the balance remaining, the employer, or the special compensation fund, shall be reimbursed in an amount equal to all ~~compensation~~ benefits paid under this chapter to or on behalf of the employee or his dependents by the employer, or special compensation fund, less the product of the costs deducted under clause (a) divided by the total proceeds received by the employee or his dependents from the other party multiplied by all ~~compensation~~ benefits paid by the employer, or the special compensation fund, to the employee or his dependents.

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

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

Sec. 66. Minnesota Statutes 1980, Section 176.061, Subdivision 7, is amended to read:

Subd. 7. **MEDICAL TREATMENT.** The liability of an employer, or the special compensation fund, for medical treatment under this chapter shall not be affected by the fact that his employee was injured through the fault or

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negligence of a third party, against whom the employee may have a cause of action which may be sued under this chapter, but the employer, or the attorney general on behalf of the special compensation fund, shall have a separate additional cause of action against such third party to recover any amounts paid by him for medical treatment under this section resulting from the negligence of such third party. This separate cause of action of the employer, or the attorney general on behalf of the special compensation fund, may be asserted in a separate action brought by the employer, or the attorney general on behalf of the special compensation fund, against such third party or in the action commenced by the employee or the employer, or the attorney general on behalf of the special compensation fund, under this chapter, but in the latter case the cause of action shall be separately stated, the amount awarded thereon shall be separately set out in the verdict, and the amount recovered by suit or otherwise as reimbursement for medical expenses shall be for the benefit of the employer, or the special compensation fund, to the extent that the employer, or the special compensation fund, has paid or will be required to pay for medical treatment of the injured employee and shall not affect the amount of periodic compensation to be paid.

Sec. 67. Minnesota Statutes 1980, Section 176.081, Subdivision 1, is amended to read:

Subdivision 1. No claim for legal services or disbursements pertaining to any demand made or suit or proceeding brought under the provisions of this chapter is an enforceable lien against the compensation or is valid or binding in any other respect unless approved in writing by the division, commissioner of the department of labor and industry, a compensation judge, a judge of the district court, or the workers' compensation court of appeals, if the claim arises out of a proceeding for compensation under this chapter, or by the judge presiding at the trial in an action for damages, or by a judge of the district court in a settlement of a claim for damages without trial. The division, a compensation judge, a judge of the district court or the workers' compensation court of appeals shall in matters before him them, including settlement proceedings, have authority to approve a fee of up to 25 percent of the first \$4,000 of compensation awarded to the employee and up to 20 percent of the next \$20,000 \$27,500 of compensation awarded to employee. The workers' compensation court of appeals judge shall have authority only to approve fees in settlements upon appeal before them up to 25 percent of the first \$4,000 of compensation awarded to the employee and up to 20 percent of the next \$20,000 of compensation awarded to the employee. If the employer or his insurer or the defendant is given written notice of such claims for legal services or disbursements, the same shall be a lien against the amount paid or payable as compensation, subject to determination of the amount and approval provided by this chapter. Provided, however, that in no case shall fees be calculated on the basis of any undisputed portion of compensation awards. Allowable fees under this chapter shall be based solely upon genuinely disputed portions of claims.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 68. Minnesota Statutes 1980, Section 176.081, Subdivision 2, is amended to read:

Subd. 2. Any application for attorney fees in excess of the amount ~~which a compensation judge or the workers' compensation court of appeals may authorize~~ authorized in subdivision 1 shall be made to the ~~commissioner of labor and industry workers' compensation court of appeals.~~ The application shall set forth the fee requested and the basis for such request and whether or not a hearing is requested. The application, with affidavit of service upon the employee, shall be filed by the attorney requesting the fee. If a hearing is requested by an interested party, a hearing shall be set with notice of such hearing served upon known interested parties. In all cases the employee shall be served with notice of hearing.

Sec. 69. Minnesota Statutes 1980, Section 176.081, Subdivision 3, is amended to read:

Subd. 3. An employee who is dissatisfied with his attorney fees, may file an application for review by the ~~commissioner of labor and industry workers' compensation court of appeals.~~ Such application shall state the basis for the need of review and whether or not a hearing is requested. A copy of such application shall be served upon the attorney for the employee by the ~~commissioner 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 ~~commissioner of labor and industry workers' compensation court of appeals~~ shall have the authority to raise the question of the issue of the attorney fees at any time upon ~~his~~ its own motion and shall have continuing jurisdiction over attorney fees.

Sec. 70. Minnesota Statutes 1980, Section 176.081, Subdivision 4, is amended to read:

Subd. 4. The review of a determination by the commissioner of ~~labor and industry~~ or the workers' compensation court of appeals shall be only by supreme court by certiorari upon the ground that it is arbitrary and unwarranted by the evidence. There shall be no review under sections 176.421 and 176.442.

Sec. 71. Minnesota Statutes 1980, Section 176.081, Subdivision 6, is amended to read:

Subd. 6. The ~~commissioner of labor and industry workers' compensation court of appeals~~ may ~~prescribe~~ adopt reasonable and proper rules ~~and regulations~~ to effect ~~his and the division's~~ its obligations under this section without regard to the joint prescription required under section 175.17, subdivision 3.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 72. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

Subd. 7a. At any time prior to one day before a matter is to be heard, a party litigating a claim made pursuant to this chapter may serve upon the adverse party a reasonable offer of settlement of the claim, with provision for costs and disbursements then accrued. If before the hearing the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with the proof of service thereof, and thereupon judgment shall be entered.

If an offer by an employer or insurer is not accepted by the employee, it shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine attorney's fees. Notwithstanding the provisions of subdivision 7, if the judgment finally obtained by the employee is less favorable than the offer, the employer shall not be liable for any part of the attorney's fees awarded pursuant to this section.

If an offer by an employee is not accepted by the employer or insurer, it shall be deemed withdrawn and evidence thereof is not admissible, except in a proceeding to determine attorney's fees. Notwithstanding the provisions of subdivision 7, if the judgment finally obtained by the employee is at least as favorable as the offer, the employer shall pay an additional 25 percent, over the amount provided in subdivision 7, of that portion of the attorney's fee which has been awarded pursuant to this section that is in excess of \$250.

The fact that an offer is made but not accepted does not preclude a subsequent offer.

Sec. 73. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

Subd. 9. An attorney who is hired by an employee to provide legal services with respect to a claim for compensation made pursuant to this chapter shall prepare a retainer agreement in which the provisions of this section are specifically set out and provide a copy of this agreement to the employee. The retainer agreement shall provide a space for the signature of the employee. A signed agreement shall raise a conclusive presumption that the employee has read and understands the statutory fee provisions. No fee shall be awarded pursuant to this section in the absence of a signed retainer agreement.

Sec. 74. Minnesota Statutes 1980, Section 176.081, is amended by adding a subdivision to read:

Subd. 10. An attorney who knowingly violates any of the provisions of this chapter with respect to authorized fees for legal services in connection with any demand made or suit or proceeding brought under the provisions of this chapter is guilty of a gross misdemeanor.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 75. Minnesota Statutes 1980, Section 176.101, Subdivision 3, is amended to read:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(45) In cases of permanent partial disability due to injury to a member, resulting in less than total loss of the member, not otherwise compensated in this schedule, compensation shall be paid at the prescribed rate during that part of the time specified in the schedule for the total loss of the member which the extent of the injury to the member bears to its total loss;

(46) In cases of permanent partial disability caused by simultaneous injury to two or more members, the applicable schedules in this subdivision

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

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

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

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

Sec. 76. Minnesota Statutes 1980, Section 176.102, is amended by adding a subdivision to read:

Subd. 1a. SURVIVING SPOUSE. Upon the request of a qualified dependent surviving spouse, rehabilitation services shall be provided through the rehabilitation services section of the workers' compensation division. For the purposes of this subdivision a qualified dependent surviving spouse is a dependent surviving spouse, as determined under section 176.111, who is in need of rehabilitation assistance to become self-supporting. A spouse who is provided rehabilitation services under this subdivision is not entitled to compensation under subdivision 11.

Sec. 77. Minnesota Statutes 1980, Section 176.105, Subdivision 1, is amended to read:

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Subdivision 1. The commissioner of labor and industry ~~may~~ shall by rule establish a schedule of degrees of disability resulting from different kinds of injuries.

Sec. 78. Minnesota Statutes 1980, Section 176.111, Subdivision 6, is amended to read:

Subd. 6. **SPOUSE, NO DEPENDENT CHILD.** (a) If the deceased employee leaves a dependent surviving spouse and no dependent child, there shall be paid to the ~~dependent surviving spouse~~ 50 percent of the daily wage at the time of the injury of the deceased, at the option of the spouse, either:

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

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

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

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

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

Sec. 79. Minnesota Statutes 1980, Section 176.111, Subdivision 7, is amended to read:

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

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

(2) Weekly benefits at a rate which is 16 2/3 percent less than the last weekly workers' compensation benefit payment, as defined in subdivision 8a,

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while the surviving child was a dependent, for a period of ten years, including adjustments as provided in section 176.645.

(b) A surviving spouse who remarries shall receive:

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

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

Sec. 80. Minnesota Statutes 1980, Section 176.111, Subdivision 8, is amended to read:

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

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

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

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

Sec. 81. Minnesota Statutes 1980, Section 176.111, is amended by adding a subdivision to read:

Subd. 8a. **LAST WEEKLY BENEFIT PAYMENT.** For the purposes of subdivisions 7 and 8, "last weekly workers' compensation benefit payment"

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means the workers' compensation benefit which would have been payable without the application of subdivision 21.

Sec. 82. Minnesota Statutes 1980, Section 176.111, Subdivision 10, is amended to read:

Subd. 10. **ALLOCATION OF COMPENSATION.** In all cases where compensation is payable to the surviving spouse for the benefit of the surviving spouse and dependent children, the commissioner of ~~the department of labor and industry,~~ compensation judge, or workers' compensation court of appeals or district court in cases upon appeal ~~may shall~~ determine what portion of the compensation ~~shall be applied~~ applies for the benefit of any such child dependent children and may order ~~the same that portion~~ paid to a guardian. This subdivision shall not be construed to increase the combined total of weekly government survivor benefits and workers' compensation beyond the limitation established in section 176.111, subdivision 21.

Sec. 83. Minnesota Statutes 1980, 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 weekly wage being earned by the deceased employee at the time of the injury causing his 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 insurance benefits received pursuant to 42 U.S.C., 402 (g), are benefits under a government survivor program.

Sec. 84. Minnesota Statutes 1980, Section 176.131, Subdivision 10, is amended to read:

Subd. 10. The special compensation fund is created for the purposes provided in this chapter in the following manner:

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(1) In every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to monetary benefits of dependency compensation, the employer shall pay to the commissioner of ~~labor and industry~~ the sum of \$5,000 for the benefit of the special compensation fund; in every case of death of an employee resulting from personal injury arising out of and in the course of employment where there are no persons entitled to at least \$5,000 in monetary benefits of dependency compensation, the employer shall pay to the commissioner of ~~labor and industry~~ for the benefit of the special compensation fund the difference between the amounts actually paid for the dependency benefits and \$5,000; but in no event shall the employer pay the commissioner of ~~labor and industry~~ less than \$1,000;

(2) When an employee suffers a personal injury which results in permanent partial disability, temporary total disability, temporary partial disability, permanent total disability or death and which entitles him or his dependents to compensation under sections 176.101 or 176.111, the employer shall, in addition to compensation provided therein, pay to the commissioner of ~~labor and industry~~ for the benefit of the special compensation fund a lump sum without interest deduction equal to ~~seven~~ a percent of the total compensation; determined as provided in this subdivision as soon as the amount payable for the particular injury is determined, or arrived at by agreement of the parties, and the amount is approved by the commissioner of ~~labor and industry~~.

The provisions of clauses (1) and (2) shall apply to all workers' compensation payments, exclusive of medical costs, paid under sections 176.101 and 176.111 for all injuries or death occurring on or after June 1, 1971.

Personal injuries that occurred prior to June 1, 1971 shall be assessed at the rate in effect on the date of occurrence:

The ~~seven~~ a percent of the total compensation required to be paid by the employer to the commissioner of ~~labor and industry~~ for the benefit of the special compensation fund as provided in clause (2) of this subdivision shall remain fixed at said ~~seven~~ a percent for the period from June 1, 1971, to June 1, 1972. Effective June 1, 1972, through June 1, 1975, and thereafter on January 1, beginning in 1976, the rate shall be adjusted on the following basis: if the balance in the special compensation fund as of April 30 in any year through 1975 and as of September 30, 1975, and each September 30 thereafter, is below \$1,000,000, the rate of payment shall be increased by two percent over the then prevailing rate. If the balance is at least \$1,000,000 but below \$1,500,000, the rate will be increased by one percent. If the balance is at least \$1,500,000 but below \$2,000,000, there shall be no change. If the balance is at least \$2,000,000 but less than \$2,500,000, the rate shall be decreased by one percent. If the balance is at least \$2,500,000, the rate shall be decreased by two percent. If the balance is \$3,000,000 or more the commissioner of ~~labor and industry~~ shall

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within 30 days determine the percent of decrease, which shall be not less than two percent nor more than five percent.

In determining the percentage of the total compensation required to be paid by the employer to the commissioner for the benefit of the special compensation fund as provided in clause (2) beginning September 30, 1981 and each September 30 thereafter, the commissioner shall use the following schedule:

<u>Balance in the Fund</u>	<u>Permissible Range of Rate Adjustment</u>
<u>Less than \$2,000,000</u>	<u>+1 percent to +7 percent</u>
<u>At least \$2,000,000 but less than \$3,000,000</u>	<u>0 percent to +6 percent</u>
<u>At least \$3,000,000 but less than \$4,000,000</u>	<u>-2 percent to +4 percent</u>
<u>At least \$4,000,000 but less than \$5,000,000</u>	<u>-5 percent to +3 percent</u>
<u>At least \$5,000,000 but less than \$6,000,000</u>	<u>-6 percent to +2 percent</u>
<u>\$6,000,000 or more</u>	<u>-7 percent to +2 percent</u>

In determining the actual adjustment, the commissioner shall take into account his estimate of the likely amount of expenditures to be made from the fund in the next calendar year.

Sums paid to the commissioner of ~~labor and industry~~ pursuant to the provisions hereof, shall be deposited with the state treasurer for the benefit of the special compensation fund and be used to pay the benefits provided by this chapter. All money heretofore arising from the provisions of this section or similar law shall be transferred to this special compensation fund. Any interest or profit accruing from investment of these sums shall be credited to the special compensation fund.

The state treasurer shall be the custodian of this special fund and the workers' compensation division ~~and~~, compensation judges, the workers' compensation court of appeals or district court in cases before it them shall direct the distribution thereof, the same to be paid as other payments of compensation are paid. In case deposit is or has been made under the provisions of clause (1) and dependency later is shown, or if deposit is or has been made pursuant to either clause (1) or (2) by mistake or inadvertence, or under circumstances that justice requires a refund thereof, the state treasurer is authorized to refund the deposit under order of the workers' compensation division ~~or~~, a compensation judge, the workers' compensation court of appeals or a district court. There is appropriated to the persons entitled to the refunds from the fund an amount sufficient to make the refund and payment.

Costs within the department of ~~labor and industry~~ for the accounting, investigation and legal procedures necessary for the administration of the

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programs financed by the special compensation fund shall be paid from the moneys biennially appropriated to the department and not from the special compensation fund come from the fund during each biennium commencing July 1, 1981. Staffing and expenditures related to the administration of the fund shall be approved through the regular budget and appropriations process.

Sec. 85. Minnesota Statutes 1980, Section 176.132, Subdivision 2, is amended to read:

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

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

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

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

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

Sec. 86. Minnesota Statutes 1980, Section 176.133, is amended to read:

176.133 ATTORNEY'S FEES, SUPPLEMENTARY BENEFITS.

~~No attorneys~~ Attorney's fees shall may be permitted or approved by a compensation judge or by the workers' compensation court of appeals from the

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supplementary workers' compensation benefits provided by section 176.132; ~~or amendments thereto, unless if the case solely involves the obtaining of supplementary workers' compensation benefits.~~ When such fees are allowed an amount equal to 25 percent of that portion of the fee which is in excess of \$250 shall be added to the employee's benefit as provided in section 176.081 rather than deducted as a portion thereof. The fees shall be subject determined according to the limitations contained in section 176.081.

Sec. 87. Minnesota Statutes 1980, Section 176.136, is amended to read:

176.136 MEDICAL FEE REVIEW.

The commissioner of ~~labor and industry~~ insurance shall by rule establish procedures for determining whether or not the charge for a health service is excessive. In order to accomplish this purpose, the commissioner of insurance shall consult with insurers, associations and organizations representing the medical and other providers of treatment services and other appropriate groups. The procedures established by the commissioner of insurance shall limit the charges allowable for medical, chiropractic, podiatric, surgical, hospital and other health care provider treatment or services, as defined and compensable under section 176.135, to the 75th percentile of usual and customary fees or charges based upon billings for each class of health care provider during all of the calendar year preceding the year in which the determination is made of the amount to be paid the health care provider for the billing. The procedures established by the commissioner for determining whether or not the charge for a health service is excessive shall be structured to encourage providers to develop and deliver services for rehabilitation of injured workers. The procedures shall incorporate the provisions of sections 144.701, 144.702, and 144.703 to the extent that the commissioner finds that these provisions effectively accomplish the intent of this section or are otherwise necessary to insure that quality hospital care is available to injured employees. If the commissioner of insurance, a compensation judge, the workers' compensation court of appeals or a district court determines that the charge for a health service or medical service is excessive, he may limit no payment to in excess of the reasonable charge for that service shall be made under this chapter nor may the provider collect or attempt to collect from the injured employee or any other insurer or government amounts in excess of the amount payable under this chapter; however, the commissioner of insurance shall by rule establish procedures allowing for a provider to appeal such determination. The commissioner may of insurance shall contract with a review organization as defined in section 145.61 in making any determinations as to whether or not a charge is excessive for the purposes listed in section 145.61, subdivision 5, and report to the legislature by January 15, 1983 and thereafter on January 15 of every odd-numbered year, regarding the delivery of medical and health care services, including rehabilitation services, under the workers' compensation laws of this state.

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The commissioner of insurance shall also conduct a study of the qualifications and background of rehabilitation consultants and vendors providing services under section 176.102 for the purpose of determining whether there are adequate professional standards provided, including safeguards to protect against conflicts of interest.

The commissioner of insurance shall adopt temporary rules in order to implement the provisions of this subdivision. Notwithstanding the provisions of section 15.0412, subdivision 4, and any amendments, the temporary rules adopted by the commissioner of insurance pursuant to this subdivision may be extended for an additional 180 days if the procedures for adoption of a rule pursuant to section 15.0412, subdivisions 4 to 4g, or 4h, and other provisions of the administrative procedure act related to final agency action and rule adoption have not been concluded.

Sec. 88. [176.1361] TESTIMONY OF PROVIDERS.

When a compensation judge or the workers' compensation court of appeals has reason to believe that a medical or other provider of treatment services has submitted false testimony or a false report in any proceeding under this chapter, the compensation judge or the workers' compensation court of appeals shall refer the matter to an appropriate licensing body or other professional certifying organization for review and recommendations. Based upon their recommendation, the commissioner may bar the provider from making an appearance, and disallow the admission into evidence of written reports of the provider, in any proceeding under this chapter for a period not to exceed one year in the first instance and three years in the second instance, and may permanently bar the provider from appearance and his reports from admission in evidence thereafter.

Sec. 89. [176.152] PERMANENT PARTIAL DISABILITY PANEL.

Subdivision 1. BINDING OPINION; PERMANENT PARTIAL DISABILITY DISPUTES. Prior to a hearing before a compensation judge at which a significant issue of the extent of permanent partial disability is to be determined a permanent partial disability panel shall be constituted to render a determination on the dispute subject to the limitation in subdivisions 7 and 8.

Subd. 2. PANEL LIST. The administrator of the workers' compensation court of appeals shall compile and maintain a list of names of physicians, podiatrists, chiropractors and other health care providers qualified to determine the extent of permanent partial disability. Names may be added to the list and removed at any time by the administrator of the workers' compensation court of appeals. In maintaining the list the administrator of the workers' compensation court of appeals shall to the maximum extent possible select persons from varying geographical areas of the state.

Subd. 3. PANEL SELECTION. When a panel is required to be constituted by subdivision 1 the administrator of the workers' compensation court of appeals shall furnish the employer and employee parties to the dispute a list of seven appropriate health care providers from which the parties shall alternatively strike names until only three remain who shall constitute the panel. If both parties agree, the dispute may be decided by a single health care provider. If the parties are unable to agree on who shall strike the first name, priority shall be decided by a flip of the coin.

Subd. 4. REPORT; CONCLUSION. The compensation judge, or the chief hearing examiner in cases in which a compensation judge has not yet been assigned, shall propound specific written questions to the panel at the time they are notified of their selection. The questions shall be framed in such a manner that answers to them shall resolve the dispute as to the extent of permanent partial disability. The panel's report shall be binding upon any compensation judge before whom a hearing may be held subsequent to the panel's report, but may be reviewed by the workers' compensation court of appeals or supreme court, only if the report is found to be arbitrary, capricious or based on fraud, in which case the workers' compensation court of appeals or supreme court shall remand the matter to a compensation judge for the seating of a new panel.

Subd. 5. EXAM; REPORT. At least one member of the panel shall personally examine the employee within 30 days of the panel's selection. After reviewing the examination report and all other available pertinent information the panel shall report its conclusions to the compensation judge within 45 days after their selection. The compensation judge may extend the time limit for good cause. The report of the panel shall include the examination report and a record of any other evidence or information considered by the panel.

Subd. 6. COSTS; PAYMENT. Any physician, podiatrist, chiropractor or other health care provider who agrees to serve on a panel constituted pursuant to this section shall be deemed to agree that any dispute concerning his fees for serving on the panel shall be decided by the compensation judge hearing the case. The judge's decision shall be binding on the health care provider. A consent form to this effect shall be provided for the signature of the health care provider. No fee shall be approved which is excessive under the standards issued pursuant to section 87 for similar services. The employer shall pay all the panel members' fees, unless the employee has proceeded in bad faith, in which case the employee may be ordered to pay the fees.

Subd. 7. PILOT PROJECT; REPORT TO LEGISLATURE AND GOVERNOR. The administrator of the workers' compensation court of appeals shall establish the permanent partial disability panel provided for in this section on a pilot basis in three counties of his choice, including at least one rural county. The administrator of the workers' compensation court of appeals shall report to the legislature and governor by January 1, 1983, on the

number of cases reviewed, the number of health care providers participating, the number of cases settled prior to any hearing before a compensation judge, the cost of the program and his recommendations concerning the panel.

Subd. 8. LIMITATION. This section shall operate in lieu of section 176.155, subdivision 2, in the counties in which the medical panel is established pursuant to subdivision 7.

Sec. 90. Minnesota Statutes 1980, Section 176.161, Subdivision 1, is amended to read:

Subdivision 1. **RESIDING OUTSIDE UNITED STATES.** In case a deceased employee for whose injury or death compensation is payable leaves surviving him an alien dependent residing outside the United States the commissioner of the department of labor and industry shall direct the payment of all compensation due the dependent to be made to the duly accredited consular officer of the country of which the beneficiary is a citizen residing within the state, or to his designated representative residing within the state; or, if the commissioner of the department of labor and industry believes that the interests of the dependent will be better served and at any time prior to the final settlement the dependent files with the commissioner of the department of labor and industry a power of attorney designating any other suitable person residing in this state to act as attorney in fact in such proceedings, the commissioner of the department of labor and industry may appoint such person. If it appears necessary to institute proceedings to enforce payment of compensation due the dependent, the commissioner of the department of labor and industry may permit the consular officer to institute these proceedings. If during the pendency of these proceedings, such power of attorney is filed by the alien dependent, the commissioner of the department of labor and industry shall then determine whether such attorney in fact be substituted to represent such dependent or if the consular officer or his representative continue therein. The person so appointed may carry on proceedings to settle all claims for compensation and receive for distribution to such dependent all compensation arising under this chapter. The settlement and distribution of the funds shall be made only on the written order of the commissioner of the department of labor and industry. The person so appointed shall furnish a bond satisfactory to the ~~workers' compensation court of appeals~~ commissioner, conditioned upon the proper application of the money received by him. Before the bond is discharged, the person so appointed shall file with the commissioner of the department of labor and industry a verified account of his receipts and disbursements of such compensation.

Sec. 91. Minnesota Statutes 1980, Section 176.181, Subdivision 2, is amended to read:

Subd. 2. **COMPULSORY INSURANCE; SELF-INSURERS.** (1) Every employer, except the state and its municipal subdivisions, liable under

this chapter to pay compensation shall insure payment of compensation with some insurance carrier authorized to insure workers' compensation liability in this state, or obtain a written order from the commissioner of insurance exempting the employer from insuring his liability for compensation and permitting him to self-insure the liability. The terms, conditions and requirements governing self-insurance shall be established by the commissioner pursuant to chapter 15. The commissioner of insurance shall also adopt, pursuant to clause (2)(c), rules permitting two or more employers, whether or not they are in the same industry, to enter into agreements to pool their liabilities under this chapter for the purpose of qualifying as group self-insurers. With the approval of the commissioner of insurance, any employer may exclude medical, chiropractic and hospital benefits as required by this chapter. An employer conducting distinct operations at different locations may either insure or self-insure the other portion of his operations which may be determined by the commissioner of insurance to be a distinct and separate risk. An employer desiring to be exempted from insuring his liability for compensation shall make application to the commissioner of insurance, showing his financial ability to pay the compensation, whereupon by written order the commissioner of insurance may make an exemption as he deems proper. The commissioner of insurance may require further statements of financial ability of the employer to pay compensation. Upon ten days written notice the commissioner of insurance may revoke his order granting an exemption, in which event the employer shall immediately insure his liability. As a condition for the granting of an exemption the commissioner of insurance may require the employer to furnish security the commissioner of insurance considers sufficient to insure payment of all claims under this chapter. If the required security is in the form of currency or negotiable bonds, the commissioner of insurance shall deposit it with the state treasurer. In the event of any default upon the part of a self-insurer to abide by any final order or decision of the commissioner of labor and industry directing and awarding payment of compensation and benefits to any employee or the dependents of any deceased employee, then upon at least ten days notice to the self-insurer, the commissioner of insurance may by written order to the state treasurer require him to sell the pledged and assigned securities or a part thereof necessary to pay the full amount of any such claim or award with interest thereon. This authority to sell may be exercised from time to time to satisfy any order or award of the commissioner of labor and industry or any judgment obtained thereon. When securities are sold the money obtained shall be deposited in the state treasury to the credit of the commissioner of insurance and awards made against any such self-insurer by the commissioner of insurance shall be paid to the persons entitled thereto by the state treasurer upon warrants prepared by the commissioner of insurance and approved by the commissioner of finance out of the proceeds of the sale of securities. Where the security is in the form of a surety bond or personal guaranty the commissioner of insurance, at any time, upon at least ten days notice and opportunity to be heard, may require the surety to pay the amount of the award, the payments to be enforced in like manner as the award may be enforced.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(2)(a) *No association, corporation, partnership, sole proprietorship, trust or other business entity shall provide services in the design, establishment or administration of a group self-insurance plan under rules adopted pursuant to this subdivision unless it is licensed to do so by the commissioner of insurance. An applicant for a license shall state in writing the type of activities it seeks authorization to engage in and the type of services it seeks authorization to provide. The license shall be granted only when the commissioner of insurance is satisfied that the entity possesses the necessary organization, background, expertise, and financial integrity to supply the services sought to be offered. The commissioner of insurance may issue a license subject to restrictions or limitations, including restrictions or limitations on the type of services which may be supplied or the activities which may be engaged in. The license is for a two year period.*

(b) *To assure that group self-insurance plans are financially solvent, administered in a fair and capable fashion, and able to process claims and pay benefits in a prompt, fair and equitable manner, entities licensed to engage in such business are subject to supervision and examination by the commissioner of insurance.*

(c) *To carry out the purposes of this subdivision, the commissioner of insurance may promulgate administrative rules, including emergency rules, pursuant to sections 15.0411 to 15.052. These rules may:*

(i) *establish reporting requirements for administrators of group self-insurance plans;*

(ii) *establish standards and guidelines to assure the adequacy of the financing and administration of group self-insurance plans;*

(iii) *establish bonding requirements or other provisions assuring the financial integrity of entities administering group self-insurance plans;*

(iv) *establish standards, including but not limited to minimum terms of membership in self-insurance plans, as necessary to provide stability for those plans;*

(v) *establish standards or guidelines governing the formation, operation, administration and dissolution of self-insurance plans; and*

(vi) *establish other reasonable requirements to further the purposes of this subdivision.*

Sec. 92. Minnesota Statutes 1980, Section 176.181, Subdivision 3, is amended to read:

Subd. 3. **FAILURE TO INSURE, PENALTY.** Any employer who fails to comply with the provisions of subdivision 2 to secure payment of compensation is liable to the state of Minnesota for a penalty of ~~\$50~~ \$100, if the number of uninsured employees in his employment is less than five and for a penalty of ~~\$200~~ \$400 if the number of such uninsured employees in his

employment is five or more. If the commissioner determines that the failure to comply with the provisions of subdivision 2 was willful and deliberate, the employer shall be liable to the state of Minnesota for a penalty of \$500, if the number of uninsured employees in his employment is less than five, and for a penalty of \$2,000 if the number of his uninsured employees is five or more. If the employer continues his noncompliance, he is liable for five times the lawful premium for compensation insurance for such employer for the period he fails to comply with such provisions, commencing ten days after notice has been served upon him by the commissioner of the department of labor and industry by certified mail. These penalties may be recovered jointly or separately in a civil action brought in the name of the state by the attorney general in any court having jurisdiction. Whenever any such failure occurs the commissioner of the department of labor and industry shall immediately certify the fact thereof to the attorney general. Upon receipt of such certification the attorney general shall forthwith commence and prosecute such action. All penalties recovered by the state in any such action shall be paid into the state treasury and credited to the special compensation fund. If an employer fails to comply with the provisions of subdivision 2, to secure payment of compensation after having been notified of his duty, the attorney general, upon request of the commissioner of ~~the department of labor and industry~~, may proceed against the employer in any court having jurisdiction for an order restraining him from having any person in his employment at any time when he is not complying with the provisions of subdivision 2.

Sec. 93. Minnesota Statutes 1980, Section 176.181, is amended by adding a subdivision to read:

Subd. 6. No employer shall be required to provide financial statements certified by an "independent certified public accountant" or "certified public accountant" as a condition of approval for group self-insurance.

Sec. 94. **[176.182] BUSINESS LICENSES OR PERMITS; COVERAGE REQUIRED.**

Every state or local licensing agency shall withhold the issuance of a license or permit to operate a business in Minnesota until the applicant presents acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

Neither the state nor any governmental subdivision thereof shall enter into any contract before receiving from all other contracting parties acceptable evidence of compliance with the workers' compensation insurance coverage requirement of section 176.181, subdivision 2.

Sec. 95. Minnesota Statutes 1980, Section 176.191, is amended to read:

176.191 DISPUTE BETWEEN TWO OR MORE EMPLOYERS OR INSURERS REGARDING LIABILITY.

Subdivision 1. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more

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insurers as to which is liable for payment, the commissioner of ~~labor and industry~~, compensation judge, or workers' compensation court of appeals upon appeal ~~may~~ shall direct, unless action is taken under subdivision 2, that one or more of the employers or insurers make payment of the benefits pending a determination of liability.

When liability has been determined, the party held liable for the benefits shall be ordered to reimburse any other party for payments which the latter has made, including interest at the rate of ~~five~~ 12 percent a year. The claimant ~~may~~ shall also be awarded a reasonable attorney fee, to be paid by the party held liable for the benefits.

An order directing payment of benefits pending a determination of liability may not be used as evidence before a compensation judge, the workers' compensation court of appeals, or court in which the dispute is pending.

Subd. 2. Where compensation benefits are payable under this chapter, and a dispute exists between two or more employers or two or more insurers as to which is liable for payment, the commissioner of ~~labor and industry~~ may ~~shall~~ authorize, unless action is taken under subdivision 1, the special compensation fund established in section 176.131 to make payment of the benefits pending a determination of liability.

The personal injury for which the commissioner ~~may~~ shall order compensation from the special fund is not limited by section 176.131, subdivision 8.

When liability has been determined, the party held liable for benefits shall be ordered to reimburse the special compensation fund for payments made, including interest at the rate of 12 percent a year.

Subd. 3. If a dispute exists as to whether an employee's injury is compensable under this chapter and the employee is otherwise covered by an insurer pursuant to chapters 62A, 62C and 62D, that insurer shall pay any medical costs incurred by the employee for the injury and shall make any disability payments otherwise payable by that insurer in the absence of or in addition to workers' compensation liability. If the injury is subsequently determined to be compensable pursuant to this chapter, the workers' compensation insurer shall be ordered to reimburse the insurer that made the payments for all ~~medical~~ payments made under this subdivision by the insurer ~~for the injury~~, including interest at a rate of 12 percent a year.

Subd. 4. If the employee's medical expenses for a personal injury are paid pursuant to any program administered by the commissioner of public welfare, or he receives subsistence or other payments pursuant to such a program, and it is subsequently determined that the injury is compensable pursuant to this chapter, the workers' compensation insurer shall reimburse the commissioner of public welfare for the ~~medical expenses paid and attributable to the personal injury payments made~~, including interest at a rate of 12 percent a year.

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Amounts paid to an injured employee pursuant to such a program and attributable to the personal injury shall be deducted from any settlement or award of compensation or benefits under this chapter. The insurer shall attempt, with due diligence, to ascertain whether payments have been made to an injured employee pursuant to such a program prior to any settlement or issuance of a binding award and shall notify the commissioner when such payments have been made.

Sec. 96. Minnesota Statutes 1980, Section 176.221, is amended to read:

176.221 PAYMENT OF COMPENSATION AND TREATMENT CHARGES, COMMENCEMENT.

Subdivision 1. DENIAL OF LIABILITY, REQUEST FOR EXTENSION OF TIME COMMENCEMENT OF PAYMENT. Within 30 days from the date of notice to or knowledge by the employer of an injury compensable under the chapter, and unless within that 30 day period the employer or the insurer files with the commissioner of the department of labor and industry a denial of liability or a request for an extension of time within which to determine liability, the person responsible for payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 shall begin payment of compensation or charges for treatment. Within 14 days of notice to or knowledge by the employer of an injury compensable under this chapter the payment of compensation due pursuant to section 176.101, subdivision 1, shall commence. Commencement of payment by an employer or insurer does not waive any rights to any defense the employer may have on any claim or incident either with respect to the compensability of the claim under chapter 176 or the amount of the compensation due. Where there are multiple employers, the first employer shall pay, unless it is shown that the injury has arisen out of employment with the second or subsequent employer. When the employer determines that the disability is not a result of a personal injury, payment of compensation may be discontinued upon notice of discontinuance pursuant to section 176.241. Upon the determination, payments made may be recovered by the employer if the commissioner finds that the employee's claim of work related disability was not made in good faith.

Subd. 2. GRANT OF EXTENSION. Upon application made within the 30 day period referred to in subdivision 4 days after the date on which the first payment was due, the commissioner of the department of labor and industry may grant an extension of time within which to determine liability. The extension shall not exceed 30 days.

Subd. 3. PAYMENTS TO SPECIAL COMPENSATION FUND. Where an employer or insurer fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9, or to file a denial of liability, or to request an extension of time

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within the 30 day period referred to in subdivision 4 days after the date on which the first payment was due, he shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled because of the injury. In addition, each day subsequent to the end of the 30 day period and until a compensation payment is made to the injured employee, the person responsible for payment of compensation shall pay to the special compensation fund an amount equal to the total compensation to which the injured employee is entitled.

Subd. 4. FAILURE TO MAKE PAYMENTS AFTER EXTENSION. Where an employer or insurer has been granted an extension of time within which to determine liability and fails to begin payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 or to file a denial of liability within such extended period, he shall make the payments provided in subdivision 3.

Subd. 5. DOUBLE PAYMENTS TO SPECIAL COMPENSATION FUND. Where an employer or insurer has failed to make the payments required by subdivision 3 or subdivision 4 within ~~60~~ 30 days from the end of the 30 day period or the extended period, the division may require him to pay to the special compensation fund, each day subsequent to the end of the period and until a compensation payment is made to the injured employee, a sum equal to double the total amount of compensation to which the employee is entitled because of the injury. In addition, the person responsible for compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 shall pay to the special compensation fund an amount equal to the total amount of compensation to which the employee is entitled.

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

Subd. 7. INTEREST. Any payment of compensation, charges for treatment under section 176.135 or retraining expenses under 176.102, subdivision 9 not made when due shall bear interest at the rate of eight percent per annum from the due date to the date the payment is made.

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

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

Sec. 97. Minnesota Statutes 1980, Section 176.225, is amended by adding a subdivision to read:

Subd. 5. PENALTY. Where the employer is guilty of inexcusable delay in making payments, the payments which are found to be delayed shall be increased by 10 percent. Withholding amounts unquestionably due because the injured employee refuses to execute a release of his right to claim further benefits will be regarded as inexcusable delay in the making of compensation payments. If any sum ordered by the department to be paid is not paid when due, and no appeal of the order is made, the sum shall bear interest at the rate of 12 percent per annum. Any penalties paid pursuant to this section shall not be considered as a loss or expense item for purposes of a petition for a rate increase made pursuant to chapter 79.

Sec. 98. Minnesota Statutes 1980, Section 176.231, Subdivision 2, is amended to read:

Subd. 2. INITIAL REPORT, WRITTEN REPORT. Where subdivision 1 requires an injury to be reported within 48 hours, the employer may make his initial report by telephone, telegraph, or personal notice, and file a written report of the injury within seven days from its occurrence or within such time as the commissioner of labor and industry designates. All written reports of injuries required by subdivision 1 shall include the date of injury, amounts of payments made, if any, and the date of the first payment. The reports shall be in quadruplicate on a form designed by the commissioner, with two copies to the commissioner and one to the insurer.

If an insurer or self insurer repeatedly fails to pay benefits within three days of the due date, pursuant to section 176.221, the insurer or self insurer shall be ordered by the commissioner to explain, in person, the failure to pay benefits due in a reasonable time. If prompt payments are not thereafter made, the commissioner shall refer the insurer or self insurer to the commissioner of insurance for action pursuant to section 176.225, subdivision 4.

Sec. 99. Minnesota Statutes 1980, Section 176.231, Subdivision 7, is amended to read:

Subd. 7. MEDICAL REPORTS. If requested by the division ~~or by~~, a compensation judge, the workers' compensation court of appeals, or any member or employee thereof an employer, insurer, or employee shall file with the commissioner of ~~the department of labor and industry~~ the original or a verified copy of any medical report in his possession which bears upon the case and shall also file a verified copy of the same report with the agency or individual who made the request.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 100. Minnesota Statutes 1980, Section 176.241, Subdivision 1, is amended to read:

Subdivision 1. **NECESSITY FOR NOTICE AND SHOWING; CONTENTS.** Where an employee claims that the right to compensation continues, ~~or refuses to sign or objects to signing a final receipt for compensation;~~ the employer may not discontinue payment of compensation until he provides the division employee with notice in writing of his intention to do so, together with a statement of facts clearly indicating the reasons for the discontinuance. A copy of the notice shall be provided to the division by the employer.

The notice to the employee and the copy to the division shall state the date of intended discontinuance; ~~and the reason for the action; and the fact that the employee objects to the discontinuance.~~ The notice to the employee and the copy to the division shall be accompanied by a statement of facts in support of the discontinuance of compensation payments and whatever medical reports are in the possession of the employer bearing on the physical condition of the employee at the time of the proposed discontinuance.

Sec. 101. Minnesota Statutes 1980, Section 176.241, Subdivision 2, is amended to read:

Subd. 2. **CONTINUANCE OF EMPLOYER'S LIABILITY; SUSPENSION.** Except where the commissioner ~~of the department of labor and industry~~ orders otherwise, until the copy of the notice and reports have been filed with the division, the liability of the employer to make payments of compensation continues.

When the division has received a copy of the notice of discontinuance, the statement of facts and available medical reports, the duty of the employer to pay compensation is suspended pending an investigation, hearing, and determination of the matter by the division as provided in the following subdivisions.

Sec. 102. Minnesota Statutes 1980, Section 176.241, Subdivision 3, is amended to read:

Subd. 3. **COPY OF NOTICE TO EMPLOYEE, INVESTIGATION, HEARING.** ~~When the division has received a notice of discontinuance, it shall immediately send the employee a copy of the notice and supporting documents which have been submitted in conjunction with the notice.~~ When the employer has reason to believe compensation may be terminated within the requirements of this chapter, notice shall be given to the employee informing the employee of his right to object to the discontinuance and providing instructions as to how to contact the employer or insurer regarding the discontinuance and the procedures related to initiation of a claim. The commissioner ~~of labor and industry~~ shall make an investigation to determine whether the right to compensation has terminated. If it appears from the investigation that the right to compensation

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may not have terminated, the commissioner of labor and industry shall ~~schedule~~ refer the matter to the chief hearing examiner in order that a hearing before a compensation judge may be scheduled, to determine the right of the employee, or his dependent, to further compensation.

The hearing shall be held within a reasonable time after the division has received the notice of discontinuance. The ~~commissioner of labor and industry~~ compensation judge shall give eight days notice of the hearing to interested parties.

Sec. 103. [176.262] APPOINTMENT OF COMPENSATION JUDGES; LIMITATION.

No attorney acting pursuant to section 176.261 shall be hired or appointed as a compensation judge for a period of two years following termination of service with the division.

Sec. 104. Minnesota Statutes 1980, Section 176.291, is amended to read:

176.291 DISPUTES AND DEFAULTS; PROCEDURE.

Where there is a dispute as to a question of law or fact in connection with a claim for compensation, or where there has been a default in the payment of compensation for a period of ten days, a party may present a verified petition to the commissioner of the ~~department of labor and industry~~ stating the matter in dispute or the fact of default.

The petition shall also state:

- (1) names and residence of parties;
- (2) facts relating to the employment at the time of injury, including amount of wages received;
- (3) extent and character of injury;
- (4) notice to or knowledge by employer of injury;
- (5) facts which the commissioner of the ~~department of labor and industry and workers' compensation court of appeals~~ by rule requires; and,
- (6) such other facts as are necessary for the information of the commissioner of the ~~department of labor and industry and~~ a compensation judge or the workers' compensation court of appeals.

Sec. 105. Minnesota Statutes 1980, Section 176.301, Subdivision 1, is amended to read:

Subdivision 1. TRIAL BY COURT; REFERENCE TO COMMISSIONER OF THE DEPARTMENT OF LABOR AND INDUSTRY. When

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issue has been joined in the district court action, the court may try the action itself without a jury, or refer the matter to the commissioner of the department of labor and industry to be assigned for hearing. In the latter case, the commissioner shall refer the matter to the chief hearing examiner for assignment to a compensation judge or the workers' compensation court of appeals upon appeal shall hear the case in the manner in which it hears cases originally. The commissioner of the department of labor and industry shall report the findings and decision of the compensation judge, or the workers' compensation court of appeals shall report his findings and decisions to the district court. The court may approve or disapprove such decision in the same manner as it approves or disapproves the report of a referee. The court shall enter judgment upon such decision.

Sec. 106. Minnesota Statutes 1980, Section 176.305, is amended to read:

176.305 PETITIONS FILED WITH THE WORKERS' COMPENSATION DIVISION.

Subdivision 1. **HEARINGS ON PETITIONS.** The petitioner shall serve a copy of the petition on each adverse party personally or by first class mail. The original petition shall then be filed with the commissioner together with an appropriate affidavit of service. When any petition has been filed with the workers' compensation division, the commissioner of the department of labor and industry shall, pursuant to his general rules or those of the workers' compensation court of appeals or special order within ten days, direct that refer the matter presented by the petition to a settlement judge. The settlement judge shall schedule a settlement conference if appropriate within 60 days. If a settlement conference is not appropriate, or if such a conference or conferences do not result in progress toward a settlement, the settlement judge shall certify the matter for a hearing before a compensation judge and shall refer the matter to the chief hearing examiner to be heard by a compensation judge or presented to the workers' compensation court of appeals if it is a matter within its jurisdiction. The division shall hear petitions to commute further compensation.

Subd. 2. **SERVICE OF COPY OF PETITION.** Within ten days after a petition has been filed, the commissioner of the department of labor and industry shall serve upon each adverse party a copy of the petition and a notice stating whether the hearing will be held before a compensation judge or that the petition has been referred to the workers' compensation court of appeals. The commissioner of the department of labor and industry shall deliver the original petition and copies of the notice which have been served answer, after certification for a hearing before a compensation judge by a settlement judge, to the office of administrative hearings for assignment to a compensation judge or the workers' compensation court of appeals depending upon who will hear the matter.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 3. **TESTIMONY.** ~~Unless the workers' compensation court of appeals orders differently, testimony taken before a judge of the workers' compensation court of appeals or compensation judge is considered as though taken before the workers' compensation court of appeals. Where the commissioner of the department of labor and industry chief hearing examiner has substituted a compensation judge originally assigned to hear a matter, the testimony taken before the substitute compensation judge shall be considered as though taken before the judge before whom it was originally assigned.~~

Sec. 107. ~~[176.306]~~ **SCHEDULED HEARINGS.**

Subdivision 1. CHIEF HEARING EXAMINER. The chief hearing examiner shall schedule workers' compensation hearings on as regular a schedule as may be practicable in no fewer than six widely separated locations throughout the state, including at least four locations outside of the seven county metropolitan area and Duluth, for the purpose of providing a convenient forum for parties to a compensation hearing and shall maintain a permanent office in Duluth staffed by at least one compensation judge.

Subd. 2. DISTRICT ADMINISTRATORS; CLERKS OF COURT. The judicial district administrators or the clerks of court of the county or district courts nearest to the locations selected by the chief hearing examiner pursuant to subdivision 3 shall provide suitable hearing rooms at the times and places agreed upon for the purpose of conducting workers' compensation hearings.

Sec. 108. Minnesota Statutes 1980, Section 176.311, is amended to read:

176.311 REASSIGNMENT OF PETITION FOR HEARING.

Where a petition is heard before a compensation judge, at any time before an award or order has been made in such proceeding, the ~~commissioner of the department of labor and industry~~ chief hearing examiner may reassign the petition for hearing before another compensation judge.

Sec. 109. Minnesota Statutes 1980, Section 176.321, Subdivision 1, is amended to read:

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

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

Sec. 110. Minnesota Statutes 1980, Section 176.321, Subdivision 3, is amended to read:

Changes or additions are indicated by underline, deletions by strikethrough.

Subd. 3. EXTENSION OF TIME IN WHICH TO FILE ANSWER.

Upon showing of cause, the commissioner of the department of labor and industry may extend the time in which to file an answer or reply for not more than 30 additional days. The time to file an answer or reply may also be extended upon agreement of the petitioner. If an answer is not filed and there has been no extension by order of the commissioner or by agreement, the failure to file an answer shall be treated as a default.

Sec. 111. Minnesota Statutes 1980, Section 176.331, is amended to read:

176.331 AWARD BY DEFAULT.

Where an adverse party has failed to file and serve an answer, if the petitioner presents proof of such fact, the ~~commissioner of the department of labor and industry~~ or compensation judge shall enter whatever award or order to which petitioner is entitled on the basis of the facts alleged in the petition, but the ~~commissioner of the department of labor and industry~~ or compensation judge may require proof of any an alleged fact. If the commissioner of ~~the department of labor and industry~~ requires such proof, he shall request the chief hearing examiner to assign the matter to a compensation judge to summarily hear and determine the same and to promptly make an award or order.

Where in such a default case the petition does not state facts sufficient to support an award, the ~~commissioner of the department of labor and industry~~ or compensation judge shall give the petitioner or his attorney written notice of such fact this deficiency. The petitioner may thereupon file another petition as in the case of an original petition.

Sec. 112. Minnesota Statutes 1980, Section 176.341, Subdivision 1, is amended to read:

Subdivision 1. **TIME.** When the reply has been filed or the time has expired in which to file a reply, the ~~commissioner of the department of labor and industry~~ chief hearing examiner shall fix a time and place for hearing the petition. The hearing shall be held not less than ten days from the time the reply is filed or the expiration of the time in which the reply could have been filed or as soon thereafter as the parties can be heard as soon as practicable and at a time and place determined by the chief hearing examiner to be the most convenient for the parties, keeping in mind the intent of chapter 176 as expressed in section 52 and the requirements of section 107.

Sec. 113. Minnesota Statutes 1980, Section 176.351, is amended to read:

176.351 TESTIMONIAL POWERS.

Subdivision 1. **OATHS.** The compensation judge to whom a petition has been assigned for hearing shall administer an oath to each witness. ~~The~~

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

workers' compensation court of appeals shall also administer an oath to each witness appearing before it. The commissioner of the department of labor and industry may also administer an oath when required in the performance of his duties.

Subd. 2. **SUBPOENAS.** Upon his or its own initiative, or upon written request of an interested party, ~~the workers' compensation court of appeals, or the commissioner or compensation judge before whom a hearing is held~~ may issue a subpoena for the attendance of a witness or the production of such books, papers, records and documents as are material in the cause and are designated in the subpoena. The commissioner of the department of labor and industry may also issue a subpoena for the attendance of a witness or the production of such books, papers, records, and documents as are material in the cause pending and are designated in the subpoena.

Subd. 3. **ADVANCEMENT OF FEES AND COSTS.** The person who applies for issuance of a subpoena shall advance the required service and witness fees. The commissioner of the department of labor and industry shall pay for the attendance of witnesses who are subpoenaed by him; ~~or the workers' compensation court of appeals, or a judge of the workers' compensation court of appeals, or.~~ The chief hearing examiner shall pay for the attendance of witnesses who are subpoenaed by a compensation judge. The fees are the same as the service and witness fees in civil actions in district court.

Subd. 4. **PROCEEDINGS AS FOR CONTEMPT OF COURT.** Where a person does not comply with an order or subpoena, the commissioner of the department of labor and industry, ~~the workers' compensation court of appeals, or the commissioner or compensation judge concerned,~~ may apply to the district court in the county in which the petition is pending for issuance of an order compelling obedience. Upon such an application, the district court shall compel obedience to the order or subpoena by attachment proceedings as for contempt in the case of disobedience of a similar order or subpoena issued by the district court.

Sec. 114. Minnesota Statutes 1980, Section 176.371, is amended to read:

176.371 AWARD OR DISALLOWANCE OF COMPENSATION.

The workers' compensation court of appeals, or a judge of the workers' compensation court of appeals or compensation judge to whom a petition has been assigned for hearing, shall hear all competent evidence produced at the hearing, and, as soon after the hearing as possible, make such findings of fact, conclusions of law, and award or disallowance of compensation or other order as the pleadings, evidence, and this chapter and rule require.

Sec. 115. Minnesota Statutes 1980, Section 176.381, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

176.381 REFERENCE OF QUESTIONS OF FACT.

Subdivision 1. **HEARING BEFORE WORKERS' COMPENSATION COURT OF APPEALS.** In the hearing of any matter before the workers' compensation court of appeals, the chief judge of the workers' compensation court of appeals may refer any question of fact to a judge of the workers' compensation court of appeals or the chief hearing examiner for assignment to a compensation judge either to hear evidence and report it to the workers' compensation court of appeals or to hear evidence and make findings of fact and report them to the workers' compensation court of appeals. The workers' compensation court of appeals shall notify the commissioner of the department of labor and industry of any matter referred to a judge of the workers' compensation court of appeals or a compensation judge under this subdivision.

Subd. 2. **HEARING BEFORE COMPENSATION JUDGE.** In the hearing of any petition before a compensation judge, the commissioner of the department of labor and industry chief hearing examiner may refer any question of fact to another compensation judge to hear evidence and report it to the original compensation judge.

Sec. 116. Minnesota Statutes 1980, Section 176.391, is amended to read:

176.391 INVESTIGATIONS.

Subdivision 1. **POWER TO MAKE.** Before, during, or after any hearing, the commissioner of the department of labor and industry, or a compensation judge, or workers' compensation court of appeals, if the matter is before it, may make an independent investigation of the facts alleged in the petition or answer.

Subd. 2. **APPOINTMENT OF PHYSICIANS, SURGEONS, AND OTHER EXPERTS.** The workers' compensation court of appeals, or a judge of the workers' compensation court of appeals or compensation judge assigned to a matter, or the commissioner of labor and industry, may appoint one or more neutral physicians or surgeons from the list established by the commissioner to examine the injury of the employee and report thereon except as provided otherwise pursuant to section 88. Where necessary to determine the facts, the services of other experts may also be employed.

Subd. 3. **REPORTS.** The report of a physician, surgeon, or other expert shall be filed with the commissioner of the department of labor and industry and the compensation judge assigned to the matter if any. The report shall be made a part of the record of the case and be open to inspection as such.

Subd. 4. **COMPENSATION.** The commissioner of the department of labor and industry, or compensation judge, or workers' compensation court of

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

appeals, as the case may be, shall fix the compensation of a physician, surgeon, or other expert whose services are employed under this chapter. This compensation shall be paid initially out of the funds appropriated for the maintenance of the workers' compensation division, but shall be taxed as costs to either party, or both, or otherwise, as the commissioner of the department of labor and industry, or compensation judge, or the workers' compensation court of appeals directs.

Where a sum which has been taxed to a party has not been paid, it may be collected in the same manner as are costs generally.

Sec. 117. Minnesota Statutes 1980, Section 176.401, is amended to read:

176.401 HEARINGS PUBLIC.

All hearings before the workers' compensation court of appeals, a judge of the workers' compensation court of appeals, or a compensation judge are public.

Sec. 118. Minnesota Statutes 1980, Section 176.411, Subdivision 1, is amended to read:

Subdivision 1. **CONDUCT OF HEARINGS AND INVESTIGATIONS.** Except as otherwise provided by this chapter, when the workers' compensation court of appeals, a judge of the workers' compensation court of appeals or a compensation judge makes an investigation or conducts a hearing, it or he the compensation judge is bound neither by the common law or statutory rules of evidence nor by technical or formal rules of pleading or procedure. The investigation or hearing shall be conducted in a manner to ascertain the substantial rights of the parties.

Findings of fact shall be based upon competent evidence only and shall comport with section 176.021.

Sec. 119. Minnesota Statutes 1980, Section 176.411, Subdivision 2, is amended to read:

Subd. 2. **DEPOSITIONS.** Except where the workers' compensation court of appeals, a judge of the workers' compensation court of appeals, or a compensation judge orders otherwise, depositions may be taken in the manner which the law provides for depositions in civil actions in district court.

Sec. 120. Minnesota Statutes 1980, Section 176.421, Subdivision 1, is amended to read:

Subdivision 1. **TIME FOR TAKING; GROUNDS.** When a petition has been heard before a judge of the workers' compensation court of appeals or compensation judge, within 30 days after a party in interest has been served with notice of an award or disallowance of compensation, or other order

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

affecting the merits of the case, he may appeal to the workers' compensation court of appeals on any of the following grounds:

- (1) The order does not conform with this chapter; or
- (2) The ~~judge of the workers' compensation court of appeals or compensation judge~~ committed an error of law; or
- (3) The findings of fact and order were unwarranted by the evidence; or
- (4) The findings of fact and order were procured by fraud, or coercion, or other improper conduct of a party in interest.

Sec. 121. Minnesota Statutes 1980, Section 176.421, Subdivision 4, is amended to read:

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

- (1) Serve a copy of the notice of appeal on each adverse party;
- (2) File the original notice, with proof of service by admission or affidavit, with the ~~commissioner of the department of labor and industry~~ chief hearing examiner;
- (3) In order to defray the cost of the transcript of the proceedings appealed from, pay to the ~~commissioner of the department of labor and industry~~ chief hearing examiner the sum of \$10 or so much of that sum as is necessary to present the question raised on the appeal.

The appellant is liable for the cost of the transcript in excess of \$10, but is entitled to a refund of any part of that sum not used to pay the cost of the transcript.

Upon a showing of cause, the ~~commissioner~~ chief hearing examiner of the department of labor and industry may direct that a transcript be prepared without expense to the appellant, in which case the cost of the transcript shall be paid by the office of administrative hearings.

Sec. 122. Minnesota Statutes 1980, Section 176.421, Subdivision 5, is amended to read:

Subd. 5. **TRANSCRIPT.** When the notice of appeal has been filed with the ~~commissioner of the department of labor and industry~~ chief hearing examiner and the transcription fee has been paid, the ~~commissioner of the department of labor and industry~~ chief hearing examiner shall immediately prepare a typewritten transcript of the proceedings. The official reporter or other person designated by the chief hearing examiner who transcribes the proceedings shall certify to their correctness.

Sec. 123. Minnesota Statutes 1980, Section 176.421, Subdivision 6, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 6. **POWERS OF WORKERS' COMPENSATION COURT OF APPEALS ON APPEAL.** On an appeal taken under this section, the workers' compensation court of appeals may:

(1) disregard the findings of fact which the ~~judge of the workers' compensation court of appeals~~ or compensation judge has made;

(2) examine the ~~testimony and hear other evidence~~ record;

(3) substitute for the findings of fact made by the ~~judge of the workers' compensation court of appeals~~ or compensation judge such findings as the total evidence requires; and,

(4) make ~~such an~~ award or disallowance of compensation or other order as the facts and findings require.

Sec. 124. Minnesota Statutes 1980, Section 176.421, Subdivision 7, is amended to read:

Subd. 7. **RECORD OF PROCEEDINGS.** At the division's own expense, the commissioner of ~~the department of labor and industry~~ shall make a complete record of all proceedings before himself, ~~the workers' compensation court of appeals, a judge of the workers' compensation court of appeals, or compensation judge.~~ The commissioner of ~~the department of labor and industry~~ shall provide a stenographer to make a record of the proceedings before him.

The ~~stenographer~~ commissioner shall furnish a transcript of these proceedings to any person who requests it and who pays a reasonable charge. ~~The commissioner of the department of labor and industry and~~ shall fix the amount of this charge.

Sec. 125. Minnesota Statutes 1980, Section 176.431, Subdivision 1, is amended to read:

Subdivision 1. **HEARING.** Where an appeal has been taken to the workers' compensation court of appeals under this chapter on the ground that the compensation judge has made an error of law, the workers' compensation court of appeals shall grant a hearing, based on the record before the compensation judge, with an opportunity for oral argument. ~~The commissioner or chief hearing examiner of the department of labor and industry~~ shall notify the workers' compensation court of appeals promptly of the taking of any appeal.

The workers' compensation court of appeals shall fix a time and place for the hearing, and ~~notify the commissioner of the department of labor and industry who~~ shall give each party in interest at least five days written notice.

Sec. 126. Minnesota Statutes 1980, Section 176.441, Subdivision 1, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subdivision 1. **DISPOSITION BY WORKERS' COMPENSATION COURT OF APPEALS.** Where an appeal has been taken to the workers' compensation court of appeals under this chapter, on either the ground that the findings or order or both were unwarranted by the evidence, or were procured by fraud, coercion, or other improper conduct of a party, the workers' compensation court of appeals may:

(1) grant a hearing ~~de novo~~ based on the record before the compensation judge; or,

(2) ~~assign~~ remand the petition for a de novo hearing or a rehearing, and notify the commissioner of the department of labor and industry, who shall set chief hearing examiner, who shall assign the de novo hearing or the rehearing before a compensation judge; or,

(3) sustain, reverse, or modify the order appealed from.

Sec. 127. Minnesota Statutes 1980, Section 176.461, is amended to read:

176.461 SETTING ASIDE AWARD.

Except where a writ of certiorari has been issued by the supreme court and the matter is still pending in that court or where as a matter of law the determination of the supreme court cannot be subsequently modified, the workers' compensation court of appeals, for cause, at any time after an award, upon application of either party and not less than five days after written notice to all interested parties, may set the award aside and grant a new hearing ~~before itself or~~ and refer the matter for a determination on its merits to the chief hearing examiner for assignment to a compensation judge, who shall make such findings of fact, conclusions of law, and award or disallowance of compensation or other order as the pleadings and the evidence produced and the provisions of this chapter shall require.

Sec. 128. Minnesota Statutes 1980, Section 176.471, Subdivision 3, is amended to read:

Subd. 3. **SERVICE OF WRIT AND BOND; FILING FEE.** To effect a review upon certiorari, the party shall serve a writ of certiorari and a bond upon the ~~commissioner of the department of labor and industry administrator of the workers' compensation court of appeals~~ within the 30 day period referred to in subdivision 1. The party shall also at this time pay to the ~~secretary of the commissioner of the department of labor and industry administrator~~ the fee prescribed by rule 103.01 of the rules of civil appellate procedure which shall be disposed of in the manner provided by that rule.

Sec. 129. Minnesota Statutes 1980, Section 176.471, Subdivision 5, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 5. **BOND.** The bond required by subdivision 3 shall be executed in such amount and with such sureties as the ~~commissioner of the department of labor and industry~~ workers' compensation court of appeals directs and approves. The bond shall be conditioned to pay the cost of the review.

Sec. 130. Minnesota Statutes 1980, Section 176.471, Subdivision 6, is amended to read:

Subd. 6. **TRANSMITTAL OF FEE AND RETURN.** When the writ of certiorari has been served upon the ~~commissioner of the department of labor and industry~~ administrator of the workers' compensation court of appeals, the bond has been filed, and the filing fee has been paid, the ~~commissioner of the department of labor and industry~~ administrator shall immediately transmit to the clerk of the supreme court that filing fee and the return to the writ of certiorari and bond.

Sec. 131. Minnesota Statutes 1980, Section 176.471, Subdivision 8, is amended to read:

Subd. 8. **RETURN OF PROCEEDINGS TRANSMITTED TO COURT.** Within 30 days after the writ of certiorari, bond, and filing fee have been filed with the ~~commissioner of the department of labor and industry~~ administrator of the workers' compensation court of appeals, the ~~commissioner of the department of labor and industry~~ administrator shall transmit to the clerk of the supreme court a true and complete return of the proceedings of the workers' compensation court of appeals under review, or such part of those proceedings as is necessary to allow the supreme court to review properly the questions presented.

The ~~commissioner of the department of labor and industry~~ workers' compensation court of appeals shall certify the return of the proceedings under ~~his~~ its seal. The petitioner or relator shall pay to the ~~commissioner of the department of labor and industry~~ administrator of the workers' compensation court of appeals the reasonable expense of preparing the return.

Sec. 132. Minnesota Statutes 1980, Section 176.491, is amended to read:

176.491 STAY OF PROCEEDINGS PENDING DISPOSITION OF CASE.

Where a writ of certiorari has been perfected under this chapter, it stays all proceedings for the enforcement of the order being reviewed until the case has been finally disposed of either in the supreme court or, where the cause has been remanded to the ~~workers' compensation division~~ for a new hearing before a compensation judge or further proceedings, before the workers' compensation court of appeals ~~or compensation judge~~.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Sec. 133. Minnesota Statutes 1980, Section 176.511, Subdivision 1, is amended to read:

Subdivision 1. **PARTIES NOT AWARDED COSTS.** Except as provided otherwise by this chapter and specifically by this section, in hearings appeals before the workers' compensation court of appeals, ~~or a judge of the workers' compensation court of appeals,~~ or hearings before a compensation judge, costs shall not be awarded to either party.

Sec. 134. Minnesota Statutes 1980, Section 176.521, Subdivision 1, is amended to read:

Subdivision 1. **VALIDITY.** An agreement between an employee or his dependent and the employer or insurer to settle any claim, which is not upon appeal before the workers' compensation court of appeals, for compensation under this chapter is valid where it has been executed in writing and signed by the parties, and intervenors in the matter, and the division or a compensation judge has approved the settlement and made an award thereon. If the matter is upon appeal before the workers' compensation court of appeals or district court, the workers' compensation court of appeals or district court is the approving body.

Sec. 135. Minnesota Statutes 1980, Section 176.521, Subdivision 2, is amended to read:

Subd. 2. **APPROVAL.** Settlements shall be approved only where the terms conform with this chapter.

The division, a compensation judge, and the workers' compensation court of appeals shall exercise discretion in approving or disapproving a proposed settlement.

The parties to the agreement of settlement have the burden of proving that the settlement is reasonable, fair, and in conformity with this chapter. A settlement agreement where both the employee or his dependent and the employer or insurer and intervenors in the matter are represented by an attorney *shall be presumed to be reasonable, fair, and in conformity with this chapter.*

Sec. 136. Minnesota Statutes 1980, Section 176.531, Subdivision 3, is amended to read:

Subd. 3. **PROMPT PAYMENT.** It is the intent of this section shall be liberally construed to insure the that there be prompt payment of compensation.

Sec. 137. Minnesota Statutes 1980, Section 176.645, is amended to read:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

176.645 ADJUSTMENT OF BENEFITS.

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 ~~amount~~ total benefits due the employee or any dependents shall be adjusted in accordance with this section. On October 1, ~~1976~~ 1981, and ~~each October 1~~ thereafter on the anniversary of the date of the employee's injury the ~~amount~~ total benefits due shall be adjusted by multiplying the ~~amount~~ total benefits due prior to each adjustment by a fraction, the denominator of which is the statewide average weekly wage for December 31, ~~24 months prior of the year~~ two years previous to the adjustment and the numerator of which is the statewide average weekly wage for December 31, ~~nine months prior of the year~~ previous to the adjustment. For injuries occurring after October 1, 1975, all adjustments provided for in this section shall be included in computing any benefit due under this section. Any limitations of amounts due for daily or weekly compensation under this chapter shall not apply to adjustments made under this section. No adjustment increase made on October 1, 1977 or thereafter under this section shall exceed six percent a year. In those instances where the adjustment under the formula of this section would exceed this maximum the increase shall be deemed to be six percent.

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 deferred until the first anniversary of the date of the injury.

Sec. 138. Minnesota Statutes 1980, Section 179.74, Subdivision 4, is amended to read:

Subd. 4. The commissioner of employee relations shall meet and negotiate with the exclusive representative of each of the units specified in section 179.741, subdivision 1, in the manner prescribed by sections 179.61 to 179.76. The appropriate units provided for in section 179.741 shall be the only appropriate units for executive branch state employees. The positions and classes of positions in the classified and unclassified services defined as managerial by the commissioner of employee relations in accordance with the provisions of section 43.326 and so designated in the official state compensation schedules, all unclassified positions in the state university system and the community college system defined as managerial by their respective boards, all positions of physician employees compensated pursuant to section 43.126, the positions of all unclassified employees appointed by the governor, lieutenant governor, secretary of state, attorney general, treasurer and auditor, all positions in the bureau of mediation services and the public employment relations board, all hearing examiner and compensation judge positions in the office of administrative hearings, and the positions of all confidential employees shall be excluded from any appropriate unit. The governor may upon the unanimous

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

written request of exclusive representatives of units and the commissioner direct that negotiations be conducted for one or more units in a common proceeding or that supplemental negotiations be conducted for portions of a unit or units defined on the basis of appointing authority or geography.

Sec. 139. REENACTMENT.

Subdivision 1. Laws 1980, Chapter 556, Sections 6 to 13, are reenacted.

Subd. 2. All acts authorized by and complying with Laws 1980, Chapter 556, Sections 6 to 13, are legal and valid.

Sec. 140. TRANSITION AND VALIDATION; WORKERS' COMPENSATION COURT OF APPEALS.

Subdivision 1. PURPOSE. It is the purpose and intent of the legislature to constitute the workers' compensation court of appeals as an independent agency of the state and this act is not intended to affect any substantive rights beyond the extent necessary to accomplish said purpose. Any rules, decisions or other actions under chapter 175 and chapter 176 prior to the effective date of this section shall continue in full force and effect unless this act expressly provides otherwise. Matters currently before the workers' compensation court of appeals shall not be affected by the provisions of this act.

Subd. 2. PERSONNEL. All personnel appointed by the commissioner of labor and industry to perform full time duties for the workers' compensation court of appeals are transferred to the workers' compensation court of appeals. The transfer shall not affect any other term or condition of the transferred employee's employment.

Sec. 141. TRANSITION; COMPENSATION JUDGES.

Subdivision 1. PURPOSE. It is the purpose and intent of this act to transfer the compensation judges, except for the three settlement judges and their support staff, but including other hearing reporters, and other judicial support staff in the workers' compensation division of the department of labor and industry, to the office of administrative hearings as a separate unit in order to provide for a completely objective hearing process with regard to workers' compensation matters. The offices of the transferred compensation judges shall be physically located in a building separate from the offices of the department of labor and industry.

Notwithstanding the provisions of any law to the contrary, the provisions of this act shall not be construed to require that hearings in workers' compensation matters be subject to the contested case procedures of sections 15.041 to 15.052. Any provision of chapter 176 which would conflict with the provisions of this act with regard to the hearing procedures to be followed in workers' compensation matters are subordinate to the provisions of this act.

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

Subd. 2. PERSONNEL, EQUIPMENT. All personnel appointed by the commissioner to perform full time duties as compensation judges, hearing reporters or in support of the functions of the compensation judges, except for the settlement judge or judges, their hearing reporters and support staff, are transferred to the office of administrative hearings. No employee transferred pursuant to this section shall suffer a diminution of total compensation by reason of such transfer.

All equipment and supplies used solely by the transferred personnel in the performance of their duties are transferred to the office of administrative hearings.

Subd. 3. COOPERATION. Beginning on the effective date of this act, the commissioner, the commissioner of administration and the chief hearing examiner shall cooperate in assuring a smooth transfer of the compensation judges and related personnel and equipment and supplies as provided in this act.

Subd. 4. EFFECTIVE DATE. The transfers required under this section are effective on July 1, 1981. The physical relocation of the offices of the compensation judges shall be accomplished by no later than January 1, 1982.

Sec. 142. RATE REDUCTION.

Subdivision 1. AMOUNT. Within 15 days following the date of final enactment the commissioner of insurance shall make a final determination as to the impact of the provisions of this act on the schedule of rates which will be in effect on June 2, 1981. The commissioner shall then issue an order, pursuant to the authority granted in section 11, reducing the schedule of rates and making other necessary changes to that schedule to reflect the actual savings which will result from this act. The reduction shall be equal to or greater than the sum of the following factors:

(a) a reduction of 20.9 percent as a reflection of the impact of section 12;

(b) a reduction of 15 percent as a reflection of the impact of changes in the benefits payable pursuant to chapter 176 and in the administration and operation of the Minnesota workers' compensation system provided by this act.

Subd. 2. EXCEPTION. The commissioner may reduce any of the changes in the schedule of rates required in subdivision 1, clause (a), if he finds that a previous rate order issued pursuant to section 79.071 has already incorporated the required reductions.

Sec. 143. SEVERABILITY.

If any provision of this act is found to be unconstitutional and void, the remaining provisions of the act shall remain valid, unless the court finds the valid provisions of the act are so essentially and inseparably connected with,

Changes or additions are indicated by underline, deletions by strikeout.

and so dependent upon, the void provisions that the court cannot presume the legislature would have enacted the remaining valid provisions without the void one; or unless the court finds the remaining valid provisions, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Sec. 144. APPROPRIATIONS.

Subdivision 1. The sum of \$150,000 is appropriated from the general fund to the legislative coordinating commission for the purpose of conducting, in cooperation with the commissioner of insurance, a thorough study of the flow of all premium dollars paid to workers' compensation insurers in the state of Minnesota, including a closed compensation claim survey and an examination of insurer reserving practices, and the studies required under section 87. A report shall be made to the legislature by January 15, 1982.

Subd. 2. There is appropriated to the workers' compensation court of appeals for the fiscal years ending June 30 of the year indicated from the general fund in the state treasury:

1982	1983
<u>\$15,970</u>	<u>\$15,970</u>

Subd. 3. There is appropriated from the general fund to the commissioner of labor and industry for the fiscal year indicated for the purpose of hiring six additional support personnel and ancillary expenses needed in conjunction with the departmental improvements provided in section 96; and for the purpose of hiring four additional rehabilitation personnel.

1982	1983
<u>\$246,200</u>	<u>\$246,200</u>

Additional approved complement - 6

Subd. 4. The sum of \$5,000 is appropriated from the general fund to the workers' compensation court of appeals for the purpose of conducting the study provided for in section 89, subdivision 7.

Subd. 5. UNEXPENDED AND TRANSFERRED FUNDS. Any appropriation to the department of labor and industry for the purposes of any of its functions, powers, or duties which are transferred by this act to the workers' compensation court of appeals or the office of administrative hearings is hereby transferred to the workers' compensation court of appeals or the office of administrative hearings, allocated to each agency or department in appropriate amounts as determined by the commissioner of finance. When the functions, powers and duties that are affected by this act are the responsibility of the department of labor and industry and another department or agency, the commissioner of finance shall allocate any appropriation to the department or agency between the department of labor and industry and the other departments or agencies affected, as may be appropriate.

The unexpended balance of any appropriation to the department of labor and industry for the purposes of any of its functions, powers, or duties

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

which are transferred by this act to the workers' compensation court of appeals or the office of administrative hearings are hereby transferred to the workers' compensation court of appeals and the office of administrative hearings, allocated to each agency or department in appropriate amounts as determined by the commissioner of finance. When the functions, powers and duties that are affected by this act are the responsibility of the department of labor and industry and another department or agency, the commissioner of finance shall allocate any unexpended appropriation to the department or agency between the department of labor and industry and the other departments or agencies affected, as may be appropriate.

Subd. 6. There is appropriated from the general fund to the commissioner of insurance for the fiscal year indicated for the purpose of hiring two additional personnel to assist in the discharge of his responsibilities under sections 9 to 37, 87, 142, and 144:

1982	1983
<u>\$51,300</u>	<u>\$49,100</u>

Additional approved complement - 2.

Subd. 7. The following sums are appropriated from the general fund in the fiscal years indicated for the purposes of implementing the computerization of the records and information system of the department of labor and industry. The appropriations in this section shall be expended with the approval of the governor after consultation with the legislative advisory commission pursuant to section 3.30. The commissioner of insurance in consultation with the commissioners of labor and industry and of administration, shall propose a plan for implementation of this computerization no later than August 1, 1981. The commissioner of insurance shall consider use of the system evaluation and development methodology developed by the commissioner of administration pursuant to section 16.955, but this project is not subject to the requirements of that section. The installation and operation of computer equipment shall commence by October 1, 1981 and be completed by January 1, 1981.

1982	1983
<u>\$450,000</u>	<u>\$100,000</u>

Subd. 8. There is appropriated from the general fund to the chief hearing examiner for the fiscal years indicated the following sums for the purpose of funding the salary increase for compensation judges provided in section 7:

1982	1983
<u>\$68,970</u>	<u>\$68,970</u>

Subd. 9. The sum of \$90,000 is appropriated from the general fund to the chief hearing examiner for the purposes of section 141.

Sec. 145. REPEALER.

Minnesota Statutes 1980, Sections 79.071, Subdivision 1; 79.074, Subdivision 1; 79.075; 79.076; 79.08; 79.09; 79.11; 79.12; 79.13; 79.14; 79.15;

Changes or additions are indicated by underline, deletions by strikeout.

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

Sec. 146. EFFECTIVE DATE.

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

Approved June 1, 1981

CHAPTER 347 — S.F.No. 513

An act relating to interest; clarifying the usury exemption on certain loans; increasing rates of interest on loans for business and agricultural transactions and loans made by agricultural credit corporations; removing certain deficiencies and ambiguities; amending Minnesota Statutes 1980, Sections 334.01, Subdivision 2; 334.011, Subdivision 1; 334.061; and 334.16, Subdivision 1.

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

Section 1. Minnesota Statutes 1980, Section 334.01, Subdivision 2, is amended to read:

Subd. 2. A contract for the loan or forbearance of money, goods, or things in action, in the amount of \$100,000 or more, and any extensions, including extensions of installments and related changes in the terms thereof, shall be exempt from the provisions of this chapter and the interest for ~~such an~~ the indebtedness shall be at the rate of \$6 upon \$100 for a year, unless a different rate is contracted for in writing.

Sec. 2. Minnesota Statutes 1980, Section 334.011, Subdivision 1, is amended to read:

Subdivision 1. Notwithstanding the provisions of ~~section 334.01, subdivision 1, or other~~ any law to the contrary a lender person may, in the case of loans a contract for the loan or forbearance of money, goods, or other things in

Changes or additions are indicated by underline, deletions by ~~strikeout~~.